

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 4th day of September, 2013 at 7:00 PM, the meeting was called to order by Supervisor Colarusso and there were:

<b>PRESENT AT ROLL CALL:</b>	Janis Colarusso	Supervisor
	David Kaczor	Councilmember
	Eugene Majchrzak	Councilmember
	John C. Bailey	Town Attorney
	Carol Hutton	Town Clerk
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
	Andrew Geist	Building Inspector
	Mark Pacholec	Chief of Police

**Supervisor Colarusso read into the record the following:** “If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics.”

There was a moment of silence for former Town Councilmember David M. Buyer.

1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**RESOLVED**, that the Special Session Meeting held on August 28, 2013 is hereby approved and the Executive Session Meetings held on August 21, 2013, and be it further

**RESOLVED**, that the reading of these minutes be dispensed with as each member of the Town Board has previously received copies thereof.

**The resolution was unanimously adopted.**

**SPECIAL PRESENTATION**  
**Tom Halter**  
**Office of Real Property Tax Service**  
**Re-Registration Program for the BASIC STAR**

Mr. Halter explained that New York State for the first time since its inception is requiring everyone to reapply for the Star exemptions by the end of the year. The purpose of the re-registration was designed to eliminate waste, fraud and duplication. He went over the simple process to re-register on the website or by telephone. This will not affect the Enhanced Star residents.

**Old Business #1 Close Public Hearing of Orchard Park Drainage District 03-07**

2) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**RESOLVED**, that the Town Board does hereby close the Public Hearing for Orchard Park Drainage District 03-07 and Adopt Order Establishing the Creation of Town Drainage District OPDD 3-7, Public Hearing was held on 8/21/13.

**The resolution was unanimously adopted.**

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**WHEREAS**, a map, plan and report relating to the establishment of a proposed Town of Orchard Park drainage district number 3-7 as prepared by Carmina Wood Morris, P.C., duly licensed civil engineers of the State of New York, in a manner and in such detail as has been determined by this Town Board, has been duly filed with the Town Clerk, in accordance with the requirements of Article 12 of the Town Law; and

**WHEREAS**, an Order was duly adopted by this Town Board on September 4, 2013, reciting the filing of said map, plan and report, the improvements proposed, the boundaries of the proposed district, the proposed method of financing, the fact that the map, plan and report describing the same are on file in the Town Clerk's Office for public inspection, and stating all other matters required by law to be stated, and specifying October 19th, at 7:00 in the afternoon of said day as the time, at the Town of Orchard Park Town Hall, at S 4295 South Buffalo Street, Orchard Park as the place where this Town Board would meet and consider said map, plan and report, and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law; and

**WHEREAS**, such order was duly published and posted as required by law; and

**WHEREAS**, a hearing on said matter was duly held by said Town Board on August 21 & September 4, 2013 at 7:00 p.m. in the afternoon of said day, in the Orchard Park Town Hall, as 4295 South Buffalo Street, Orchard Park, New York, and no person appearing in opposition to and the petitioner appearing in favor of the petition; and

**WHEREAS**, pursuant to said petition, it is the intention of the petitioner, as sole owner of all the taxable property in said drainage district, to construct said drainage improvements solely at its own expense, now, after due deliberation, it is

**RESOLVED AND DETERMINED:**

- A. That the notice of hearing was published and posted as required by law, and is otherwise sufficient;
- B. That all property and property owners in the proposed district are benefitted thereby;
- C. That all property and property owners benefitted are included within the limits of the proposed district;
- D. That it is in public interest to establish said district; and be it further

**RESOLVED AND DETERMINED:**

That the establishment of the proposed district as set forth in said map, plan and report be approved; that the improvements therein mentioned be constructed by the petitioner; and such district shall be known and designated as the "Town of Orchard Park drainage district number 3-7 and shall be bounded and described as set forth as "Exhibit A" and be it further

**RESOLVED AND DETERMINED:**

That the improvements for such drainage district are to be constructed by, Webster Block, LCC, the owner of the "Exhibit A" premises, solely at its own expense, and it has offered to convey the same without cost to the Town of Orchard Park, free and clear of encumbrances except the right of access to said improvements by adjoining land owners; that the costs of maintaining said drainage district shall be born by the owners of properties benefitted thereby; and be it further

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**RESOLVED AND DETERMINED:**

That the Town Clerk be and hereby is authorized and directed to file a certified copy of this resolution in the office of the Clerk of the County of Erie, which is the County in which the said Town of Orchard Park is located, and the office of the State Department of Audit and control, within 10 days after the adoption of this resolution, pursuant to the provisions of Section 195 of the Town Law.

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Legal Description for OPDD #3-7 – Exhibit A

DESCRIPTION FORMER SAVILLE’S PROPERTY REDEVELOPMENT, NORTH BUFFALO ROAD (56± ACRES), TOWN OF ORCHARD PARK

DESCRIPTION VETERINARIAN PARCEL, 3930 NORTH BUFFALO ROAD (3.054± ACRES), TOWN OF ORCHARD PARK

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Orchard Park, County of Erie and State of New York, and being part of Lot 16, Township 9, Range 7 of the Holland Land's Company Survey and further bounded and described as follows:

BEGINNING at a point on the centerline of North Buffalo Road, said point being the southeast corner of lands conveyed to Saville Farms, Inc. by deed recorded in the Erie County Clerk's Office in Liber 5695 of Deeds at page 498 and said point also being the southeast corner of lands conveyed to S.M. Flickinger Co., Inc. by deed recorded in the Erie County Clerk's Office in Liber 9261 of Deeds at page 370; thence north along the centerline of North Buffalo Road 280.00 feet to a point being the northeast corner of lands conveyed to S.M. Flickinger Co., Inc. by deed recorded in the Erie County Clerk's Office in Liber 9261 of Deeds at page 370; thence westerly on a line parallel to the south line of lands conveyed to Saville Farms, Inc. by deed recorded in the Erie County Clerk's Office in Liber 5695 of Deeds at page 498, 400.06 feet to a point; thence southerly parallel to the centerline of North Buffalo Road and along the west line of lands conveyed by deed recorded in the Erie County Clerk's Office in Liber 9310 of Deeds at page 435 and the east line of lands conveyed to S.M. Flickinger Co., Inc. to Saville Stores, Inc. by deed recorded in the Erie County Clerk's Office in Liber 9310 of Deeds at page 431, 377.00 feet to a point in the south line of lands conveyed to S.M. Flickinger by deed recorded in the Erie County Clerk's Office in Liber 7899 of Deeds at page 95; thence east along the south line of lands conveyed to S.M. Flickinger Co., Inc. by deed recorded in the Erie County Clerk's Office in Liber 7899 of Deeds at page 95, 367.02 feet to the west right of way line of North Buffalo Road; thence north along the west right of way line of North Buffalo Road 97.00 feet to the south line of lands conveyed to Saville Farms, Inc. by deed recorded in the Erie County Clerk's Office in Liber 5695 of Deeds at page 498; thence east along the south line, 33.04 feet to the centerline of North Buffalo Road, the point or place of beginning.

EXCEPTING that part of premises acquired by the New York State Department of Transportation (Project SH 27, Orchard Park, Part 1, Map No. 49, Parcel 53) by Notice of Appropriation dated February 12, 2001 and recorded in the Erie County Clerk's Office on February 12, 2001 in Liber 10976 of Deeds at page 8961.

**The resolution was unanimously adopted.**

**New Business #1 Public Informational Hearing Set**

4) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**WHEREAS**, the Enforcement Officer of the Town of Orchard Park has filed his report in writing with the Town of Orchard Park containing his findings and recommendations regarding certain structures on the premises located at 3428 Southwestern Boulevard, SBL # 152.19-1-15, in which report said

Enforcement Officer states his opinion that said structures are unsafe and dangerous to the public and recommends their immediate securing or removal, and

**WHEREAS**, the Town of Orchard Park after reviewing said report and after hearing said Enforcement Officer in regard thereto and after having duly deliberated upon the same, having determined the said report warrants the removal of said structure.

**NOW, THEREFORE, be it**

**RESOLVED**, that (1) notice be given to Naseem M. Malik, (2) said notice be served personally upon Naseem M. Malik or the county Clerk if such persons cannot reasonably be found for such personal service and by affixing a copy thereof upon said structures, (3) said notice shall order that the structure on the said premises is to be demolished and the debris from that demolition is to be removed from the premises within thirty (30) days of the service of said notice and to be completed within sixty (60) days thereafter, (4) a public hearing has been scheduled at 7:00 pm on September 4, 2013 at the Municipal Building, 4295 South Buffalo Street, Orchard Park, in relation to such dangerous or unsafe structures, and (5) the Building Inspector of the Town of Orchard Park be and hereby is directed to prepare said notice and arrange for the service thereof in accordance with the requirements of said Local Law and by filing in the office of the County Clerk.

**The resolution was unanimously adopted.**

**New Business #2 Authorize Orchard Park Jaycees request for Annual Quaker Arts Festival**

5) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**WHEREAS**, the Orchard Park Jaycees wish to sponsor the Quaker Arts Festival on September 21<sup>st</sup> and 22<sup>nd</sup>, 2013 with setup on September 20<sup>th</sup>, and request support, approval and assistance from the Town Board.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Orchard Park Jaycees to hold the Quaker Arts Festival and be it further

**RESOLVED**, that the Town Board support the Jaycees by providing the following:

- One large dumpster to keep the trash under control
- Approximately 30 trash containers
- Supply the Festival with picnic tables to be used by attendees
- Supply and erect snow fencing to section off the exhibitor areas on the Festival grounds
- Pickup & return of cones and barricades from the Comet Flasher by the Highway Department

**The resolution was unanimously adopted.**

**New Business #3 Approval of Commercial Parking Permits for 2013**

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR COLARUSSO, TO WIT:

**RESOLVED**, that the Town Board does hereby approve the following Commercial Parking Permits for 2013:

Thomas Carrow	4243 Abbott Rd.
2549 Group LLC	4297 Abbott Rd.
Danny's South	4300 Abbott Rd.
Dan DeMarco	4270 Abbott Rd.
Joe & Diane DeMarco	3964 California Rd.
Kenneth Doeing	3920 Southwestern Blvd.
Maureen Jakubowski	3796 Abbott Rd.
Thomas & Paul Kam	3775 Southwestern Blvd.
Linda Stanley	3781 Abbott Rd.
Deborah McDonell	3904 Abbott Rd.
Michael & Karen Todd	3752 Abbott Rd.
Twin Oak Motel	3949 Southwestern Blvd.
Lee Wannemacher	3746 Abbott Rd.
Arthur Petch	3719 Abbott Rd.

**The resolution was unanimously adopted.**

**New Business #4 Authorize the Replacement of Performance Security Check Deposit**

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**WHEREAS**, the Town has received from Ellicott Development, 295 Main Street, Buffalo, New York, 14203, a request to replace the cash performance security with a performance bond for PIP 2013-05, and

**WHEREAS**, the project consists of relocating the existing sewer and installing 5 new sanitary manholes, 521 lineal feet of 8" PVC sewer line and 4 wyes – 1 for the O.P. Veterinary Hospital and 3 for future building connections on the former Saville's Parcel – 3910 North Buffalo Street, now owned by Ellicott Development, and

**WHEREAS**, the submitted performance bond has been forward to the Town Attorney for review.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby direct the Town Attorney to review the submitted performance security bond and if appropriate, authorize the Town Clerk to release the submitted performance security check or cash for PIP 2013-05 – Relocation of Sanitary Sewer 3910 North Buffalo Street, Ellicott Development, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #5 Authorize Payment of Hydrant Fees for Ellicott Development**

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**WHEREAS**, requested by the Erie County Water Authority (ECWA), the Town of Orchard Park is required to pass a resolution to pay the hydrant fee amount upon dedication of the phases of a public improvement project per the lease management agreement between the Town of Orchard Park and ECWA, and

**WHEREAS**, the total construction of the above referenced Phase 1 Proposed Public Road will result in three new hydrants in service.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the payment of hydrant fee amount upon dedication of the Ellicott Development – 3910 North Buffalo Street Proposed Public Road Phase 1 and associated hydrants per the lease management between the Town of Orchard Park and ECWA, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #6 Adopt Traffic Order to Post a Stop Sign**

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**WHEREAS**, the Police Chief, Highway Superintendent and the Town Engineer have reviewed the street layout for Lyrica Park CMO Subdivision Phase 1, PIP #2012-04, and

**WHEREAS**, upon dedication of Lyrica Park CMO Subdivision Phase 1, they recommend that the Town Board adopt the following traffic order.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the posting of a “STOP” sign on Sonnet Drive at the intersection of Milestrip Road.

**The resolution was unanimously adopted.**

**New Business #7 Authorize Police Department to Order off NYS Bid List for Vehicle**

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the Police Department to order off the New York State bid list, for an unmarked patrol vehicle. The total cost of the vehicle fully equipped shall be approximately \$49,683.

**The resolution was unanimously adopted.**

**New Business #8 Authorize Chief of Police to sign Memorandum of Understanding/ Hamburg CSD**

**This item was Tabled.**

**New Business #9 Authorize Chief of Police to Discuss Security Issues with Hamburg Central SD**

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize Chief of Police Mark F. Pacholec to discuss security issues with the Hamburg Central School District.

**The resolution was unanimously adopted.**

**New Business #10 Authorize Pheo-Para Patient, Inc. 5 K Run**

12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR COLARUSSO, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the Pheo-Para Patient, Inc. 5K run on September 21, 2013. The application is on file for the race and the Town Recreation Director and Chief of Police have coordinated with the race director.

**The resolution was unanimously adopted.**

**New Business #11 Authorize Supervisor & Chief of Police to Sign School Resource Officer**

13) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR COLARUSSO, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the Supervisor and the Chief of Police to sign an agreement between the Town of Orchard Park and Erie 2 BOCES to provide a School Resources Officer to the Alternate School on Baker Road for the 2013-2014 school year. Erie 2 BOCES will reimburse the Town for this service, as recommended by the Chief of Police.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

**Barbara Little** – She stated that there are numerous projects underway in the Town. New York State mandates regular inspections on public buildings be conducted annually or on a three year basis. All these requirements and responsibilities are under the control of the Building Inspector/Code Enforcement Department. She asked how the Town could have only two full-time and now as of two weeks ago, three full-time personnel, to handle all this work. She questioned why the Town has the money in the budget for part-time and seasonal employees in the Recreation, Engineering and Highway Departments, but not for the Building Department. Ms. Little stated there is a great liability on the Town to complete these inspections and planning for the next budget concerning the safety of the residents is imperative.

**Dave Schuster** – He asked Supervisor Colarusso if she was a property owner in Orchard Park or East Aurora.

**ELECTED OFFICIALS & DEPARTMENT HEADS**

**Supervisor Colarusso** – She stated she lives in Orchard Park, but does not own a home here, and the property in East Aurora she purchased is an investment.

**Councilmember Kaczor** – He stated that the Town Board works with the Town Accountant when increasing or decreasing personnel in comparison with other towns. The workload determines these actions. The cutbacks in personnel have been in different areas of the Town and they are based on what is good for the community. Councilmember Kaczor reported that it has been a gentlemen's agreement with political parties in the Town not to post political signs, but citizens do have the right to do so. Councilmember Kaczor said that research is being done on absentee landlords & new codes for the Town.

**Police Chief Pacholec** – He reminded the residents that there is a Buffalo Bills home game on Sunday. He stated school has begun and to stop for school busses.

**Highway Superintendent Piasecki** – He gave a report of the drainage schedule in the Town. He stated that the Town and County snowplowing contract expired on August 31, 2013. The Town is negotiating with the County to renew the contract for 31 lane miles in Orchard Park.

**14) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board does hereby authorize the approval of all entries on Warrant #17 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$81,395.74
<b>Public Safety Fund</b>	\$8,009.76
<b>Part Town Fund</b>	\$207.79
<b>Risk Retention</b>	\$0.00
<b>Cemetery Fund</b>	\$0.00
<b>Highway Fund</b>	\$35,210.78
<b>Special Districts</b>	\$120,020.71
<b>Trust &amp; Agency</b>	\$2,659.54
<b>Capital Fund</b>	\$7,914.89

**The resolution was unanimously adopted.**

**15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR COLARUSSO, TO WIT:**

**RESOLVED**, that the Town Board does hereby receive and file the following:

**Communication**

- Erie County Department of Public Works Division of Highways reporting that the construction work to replace the South Abbott Road Bridge was unexpectedly delayed due to unforeseen circumstances and the bridge will not be reopened by September 1, 2013, the new bridge may not be open to traffic until mid-November.

**The resolution was unanimously adopted.**

There being no further business, on a motion by Supervisor Colarusso, seconded by Councilmember Kaczor, the meeting adjourned at 7:46 pm (local time).

**Respectfully Submitted,**



**Carol R. Hutton  
Town Clerk**