

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 18<sup>th</sup> day of October 2017 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

<b>PRESENT AT ROLL CALL:</b>	Patrick J. Keem	Supervisor
	Eugene Majchrzak	Councilman
	Michael Sherry	Councilman
	John C. Bailey	Town Attorney
	Remy Orffeo	Town Clerk
	Wayne Bieler	Town Engineer
	Andrew Geist	Building Inspector
	Frederick Piasecki, Jr.	Highway Superintendent
	Mark Pacholec	Chief of Police

**Supervisor Keem 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.”

**1) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on October 4, 2017, Executive Sessions: October 4 & 11 2017, 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.**

**PUBLIC HEARINGS**

At 7:00 PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding proposed Local Law 14 – 2017 “Over-ride Tax Levy Limit” established in General Municipal Law §3-c.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud, and filed with the Town Board by the Town Clerk.

No one came forward

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

**RESOLVED**, that the Public Hearing for Local Law #14-2017- “Over-ride Tax Levy Limit” is hereby closed at 7:06 PM.

**The motion was unanimously adopted.**

**3) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:**

**WHEREAS**, following due and timely notice a public hearing relating to the matter of Local Law 14 of 2017 was conducted, at which all interested parties were given an opportunity to hear.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board is hereby authorized to adopt Local Law #14 of 2017 which provides as follows:

SECTION 1 Legislative Intent

It is the intent of this local law to allow the Town of Orchard Park to adopt a budget for the fiscal year commencing January 1, 2018 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law Sec 3-c.

SECTION 2: Authority

This local law is adopted pursuant to subdivision 5 of the General Municipal Law Sec 3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

SECTION 3: Tax Levy Limit Override

The Town Board of the Town of Orchard Park, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2018 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Sec 3-c.

Section 4: Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgement shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstances, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5: Effective Date

This local law shall take effect upon filing in the Office of the Secretary of State.

**The resolution was unanimously adopted.**

At 7:06 PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding proposed Local Law 15 for 2017 "Amend Chapter 144-17.1 – Conservation Overlay (CMO) District".

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud, and filed with the Town Board by the Town Clerk.

No one came forward

4) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

**RESOLVED**, that the Public Hearing for Local Law #15-2017- "Amend Chapter 144-17.1 – Conservation Overlay (CMO) District" is hereby closed at 7:09 PM.

**The resolution was unanimously adopted.**

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SHERRY, TO WIT:

**WHEREAS**, following due and timely notice a public hearing relating to the matter of Local Law 15 of 2017 was conducted, at which all interested parties were given an opportunity to hear.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board is hereby authorized to adopt Local Law #15 of 2017 which provides as follows:

**SECTION 1:**

**A. Intent**

To create a floating zone to provide areas within the Town's **R-1 Residential** District for Single-Family detached residential development in groups on lots which vary in size but where the maximum gross density within the overall development does not exceed one residential lot per acre or fraction of an acre in order to preserve the natural and scenic qualities of open land. The maximum gross density is determined by § 144-17.16(6). This overlay district is intended to permit single-family detached housing to be sited in closer proximity to each other, with privately contracted maintenance provided by formation of a Homeowners' Association approved by the New York State Department of Law (Attorney General's Office) and to further provide greater flexibility and creativity in the location of structures on the land and to utilize topography and site features to the best advantage.  
[Amended 5-25-2011 by L.L. No. 2-2011]

**B. Permitted structures and uses:**

- (1) One-Family Dwelling and other Accessory Uses customarily incidental to the Principal Use, and Recreation areas maintained by New York State, Erie County, or the Town of Orchard Park.
- (2) Open space (common area).
- (3) Permitted district. The Conservation Management Overlay shall only be permitted within the **R-1 Residential** District.

**C. Standards and general requirements.**

[Added 4-27-2011 by L.L. No. 1-2001(1)]

- (1) Minimum area. The minimum area required to qualify for the Conservation Management Overlay District shall be 50 contiguous acres. Any parcel or parcels of contiguous conforming acreage donated to the Town as parkland, by the applicant, may be considered as part of the overall minimum acreage required.
- (2) Permitted district. The Conservation Management Overlay District shall only be permitted within the **R-1 Residential** District.
- (3) Buffer strips. A buffer strip consisting of at least 40 feet shall be provided between the subject property and adjacent properties or roads. These buffer strips shall be part of the common area owned and maintained by the homeowners' association. No buildings shall be fewer than 60 feet from any exterior lot line. A buffer strip may be crossed to access an exterior public street from an interior public street. Such streets shall comply with the minimum requirement of streets in the Town of Orchard Park.
- (4) Open space regulation. Overall, the minimum amount of open space preservation shall be no less than 25% of the gross acreage of the parcel or parcels to be developed. Designated open space shall not include setbacks and lawns and existing rights-of-way and utility easements. At least 75% of designated open space shall be contiguous. At least 50% of designated open space shall be defined as "green space"

and shall be maintained in a natural, undisturbed condition. Limited access to green space may be allowed in the form of a walking or biking path. All paths are subject to approval by the Planning Board. The remaining designated open space shall be defined as "common area" and may be used for passive or active recreation. If used for active recreation, impervious surface shall not exceed 5% of this area.

- (5) Open space management. Open space or "common area" in the Conservation Management Overlay District is a parcel or parcels of land, together with improvements thereon, the use and enjoyment of which are shared by the owner-occupants of the individual building sites. Where such property exists, the landowner shall provide for and establish a homeowners' association, approved by the New York State Department of Law (Attorney General's Office), for the ownership and maintenance of any common property. Each lot owner shall be required to maintain membership in the homeowners' association, which shall be formed prior to conveyance of the first lot. Such homeowners' association shall not be dissolved, nor shall it dispose of any common property by sale or otherwise. Development in designated open spaces is prohibited.
- (6) Stormwater management. Stormwater control design shall be in compliance with all provisions of Chapter 144, Article XII (Stormwater Control), of the Town Code. Stormwater system design shall also be in compliance with all NYSDEC Phase II stormwater regulation requirements except where Town requirements are more restrictive.
- (7) Design standards. Design standards and submittal requirements for the Infrastructure of the CMO shall be the same as outlined in Chapter 121 (Subdivision) except as otherwise noted in this section.
- (8) Landscape design standards.
  - (a) Landscape treatment for roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire site.
  - (b) Primary landscape treatment shall consist of shrubs, ground cover and street trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to local growing conditions.
  - (c) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
  - (d) Landscape plans shall be submitted to the Conservation Board for recommendation to the Planning Board.

**D. Design regulations for principal structure and uses.**

- (1) Minimum lot area. Having achieved all goals of the Conservation Management Overlay District, the minimum lot size may be reduced to no less than 8500 square feet, provided that any and all such area that is not designated to serve as residential areas, roads, or other public purposes be set aside and restricted on the subdivision plat for use by inhabitants as common open space, parkland, or recreational purposes of an active or passive nature.
- (2) Minimum lot width. The required minimum lot width shall be no less than 60 feet.
- (3) Minimum front setback.
  - (a) Interior public streets: minimum front setback measured from right-of-way is 30 feet.

- (4) Minimum side setback. The side setback may vary depending on the design and arrangement of the building, drives and common open space. However, there shall be a minimum setback distance of five feet from any property line, and the total side lot setback shall be a minimum of 20 feet for each lot. Additionally, the minimum distance between adjacent dwellings shall not be less than 20 feet.
- (5) Minimum rear setback. No principal building shall extend closer than 30 feet to the rear lot line. The minimum distance between dwellings backing up to each other shall not be less than 60 feet.
- (6) Maximum lot coverage. The maximum lot coverage shall be 42%.
- (7) Maximum structure height. The maximum structure height shall not exceed two stories or 35 feet and shall be in accordance with R-1 Residential District with the Town of Orchard Park. The maximum unattached accessory height shall not exceed 18 feet.
- (8) Minimum habitable floor area, for dwellings only, shall be in accordance with R-1 Districts, Town of Orchard Park minimum.
- (9) Arrangement, access and other requirements.
  - (a) Dwelling units may only be arranged on interior public streets.
  - (b) Each dwelling unit must be accessible by means of a public street to service vehicles and emergency vehicles.
  - (c) The standards of design and construction for interior public streets shall meet applicable Town specifications for public streets. However, pavement widths may be reduced to 24 feet. In addition to pavement widths, thirty-inch concrete gutters must be installed on each side of all designated interior public streets.  
[Amended 10-3-2007 by L.L. No. 8-2007]
  - (d) Within the CMO District, the center line radius of curves can be reduced to a minimum of 100 feet.
  - (e) The location, design, and construction of all public facilities shall meet all applicable specifications and must be adequate to serve the needs of the development.
  - (f) The procedures for the preservation and maintenance of all pedestrian ways and common open space shall be the responsibility of the homeowners' association identified in Subsection C(5).
  - (g) Sidewalks (optional) are to be a minimum width of four feet and are to be placed on both sides of the road one foot inside the ROW. The maintenance and repair of sidewalks as defined in Chapter 120, Article II, of the Town Code is to be the responsibility of the homeowners' association for the CMO. [Added 4-27-2011 by L.L. No. 1-2011].

**E. Site plan Review.**

- (1) A petitioner seeking to create Conservation Management Overlay District shall make application in compliance with Article X of the Zoning Ordinance: Amendments. Creation of a Conservation Management Overlay District shall be considered an amendment to the Zoning Ordinance.

- (2) The Planning Board shall review the proposed development in accordance with the subdivision review process, landscape and screening regulations in section §144-46C(5), Proper landscaping.
- (3) Subdivision lots shall be created to allow owners flexibility in the private use of their lot. The homeowners' association shall regulate and control any changes to private lots that are requested by the owner of the lot. The minimum lot size for each dwelling unit is in accordance with supplemental height, lot, yard and bulk regulations as listed in Subsection D.
- (4) All other lands are to be common (area) property, which is a parcel or parcels of land, together with improvements therein, the use and enjoyment of which are shared by the owner/occupants of the single-family detached housing and who are members of the homeowners' association approved by the State of New York Department of Law (Attorney General's Office).
- (5) The architectural style of all new structures must be reviewed and approved by the Planning Board. The applicant shall provide the Planning Board with building elevations, plans, and color renderings. A list of proposed building design materials shall also be provided.
- (6) Any applicant seeking a Conservation Management Overlay District designation will be prohibited from using §339-y of the Real Property Law of New York State. [Amended 10-3-2007 by L.L. No. 8-2007]
- (7) Fees. The Conservation Management Overlay District shall be subject to the following fees: public hearing fees, recreation fees (if land is not taken in lieu of recreation fees) and subdivision development fees. [Added 8-24-2001 by L.L. No. 3-2011]

**SECTION II:**

This local law shall take effect upon filing in the Office of the Secretary of State or from the date of its service as against a person served personally with a copy thereof.

**The resolution was unanimously adopted.**

At 7:09 PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding proposed Local Law 16 for 2017 Amend Chapter 144 – Zoning, Article VII, add §144-55 “Solar Energy Ordinance”.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud, and filed with the Town Board by the Town Clerk.

No one came forward

**6) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM WHO MOVED ITS ADOPTION, SECONDED BY COUCLMEMBER MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Public Hearing for Local Law #16-2017- Amend Chapter 144- Zoning, Article VII, add §144-55 “ Solar Energy Ordinance” is hereby closed at 7:12 PM.

**The resolution was unanimously adopted.**

7) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM WHO MOVED ITS ADOPTION, SECONDED BY COUCILMEMBER MAJCHRZAK, TO WIT:

**WHEREAS**, following due and timely notice a public hearing relating to the matter of Local Law #16 of 2017 was conducted, at which all interested parties were given an opportunity to head.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board is hereby authorized to adopt Local Law #16 of 2017 which provides as follows:

**SECTION 1:**

**§ 144-55 Solar Energy**

**A. Authority**

This Ordinance is adopted pursuant to Sections 261-263 of the Town Law of the State of New York, which authorize the Town of Orchard Park to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

**B. Statement of Purpose**

1. This Zoning for Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Orchard Park, including:
  - a) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
  - b) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
  - c) Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

**C. Definitions**

**BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM:** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

**LARGE-SCALE SOLAR ENERGY SYSTEM:** A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

**SOLAR ENERGY EQUIPMENT:** Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

**SOLAR ENERGY SYSTEM:** An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**D. Applicability**

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective dates, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

**E. Solar as an Accessory Use or Structure**

1. Roof-Mounted Solar Energy Systems.
  - a) Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
  - b) Height. Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
  - c) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
    - 1) Panels facing the front yard must be mounted at the same angle as the roofs surface with a maximum distance of 18 inches between the roof and highest edge of the system.
  - d) Panels are prohibited on the front roof and face of buildings.
  - e) Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from the site plan review under the local zoning code or other land use regulations.
  - f) Permit. A Building Permit for Solar Panels is required from the Building Department with a fee to be established from time to time by Resolution of the Town Board.
2. Ground-Mounted Solar Systems.
  - a) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all zones.
  - b) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
  - c) Lot Coverage. Systems are limited to the current overall coverage pursuant to the existing zone. The surface covered by Ground-Mounted Solar Panels shall be included in total lot coverage.
  - d) All such Systems in residential district shall be installed in rear yards.
  - e) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite shall be exempt from site plan review under the local zoning code or other land use regulations.
  - f)

**F. Large-Scale Solar Energy Systems**

1. Large-Scale Energy Systems are specifically prohibited.

**G. Abandonment and Decommissioning**

Solar Energy Systems are considered abandoned after one year without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Town Board of Orchard Park for a period of one year.

**H. Enforcement**

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Orchard Park .

**I. Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be



unconstitutional shall not affect the validity or enforceability of any other section, subsection paragraph, sentence, clause, provision phrase, which shall remain in full force and effect.

**SECTION II:**

This local law shall take effect upon filing in the Office of the Secretary of State or from the date of its service as against a person served personally with a copy thereof.

**The resolution was unanimously adopted.**

**Old Business #1 Reschedule Public Hearing**

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

**RESOLVED**, that the Town Board does hereby reschedule a Public Hearing for the Bargaining Representatives of the Town and Civil Service Employees Associations Local 815, representing the Town of Orchard Park Blue Collar Unit to explain their positions with respect to the Report of the Fact Finders in PERB Case No. M2015-160 to November 1, 2017 at 7:00 PM.

**The resolution was unanimously adopted.**

**Old Business #2 Schedule Public Hearing for Proposed Local Law**

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

**RESOLVED**, that the Town Board does hereby schedule a Public Hearing in the matter of a proposed Local Law to rescind the Drone Ordinance §99, Article II for November 1, 2017 at 7:00 PM.

**The resolution was unanimously adopted.**

**Old Business #3 Burmon Dr. Sidewalk Project be classified as A Type II Action - SEQR**

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

**WHEREAS**, New York's State Environmental Quality Review Act (SEQR) requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. The Town must assess the environmental significance of all actions they have discretion to approve, fund, or directly undertake, and

**WHEREAS**, the Town has determined the project is classified as a "Type II Action" in accordance with section 617.5 (c) (5) of the SEQR regulations as replacement in kind. Actions that can be classified as a "Type II Action" under the SEQR regulations do not require any further SEQR review, including an Environmental Assessment Form. The Short Environmental Assessment Form has been completed and is attached to provide documentation of this review and determination, znc

**WHEREAS**, in addition, the Erie County DEP has requested formal proof that funding for the recently applied grant projects has been dedicated and is secure. As there have been capital accounts set up and funded for this project, the entire project, including the possible grant award of \$78,759, has been bonded. The total sidewalk project cost is estimated at \$157,518 and will be completed by the same contractor as the recently awarded Burmon Drive Reconstruction Project.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby determine that the Burmon Drive Sidewalk Replacement Project be classified as a "Type II Action" as the project will not have a significant impact on the environment and is precluded from further environmental review under New York State Environmental Conservation Law, Article 8, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #4 Certified Resolution for 2018-19 CDBG Grant Application**

**11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board does hereby authorize the Town Clerk to complete a certified funding resolution for submittal to the Erie County Department of Planning for the 2018-2019 CDBG Grant Application with the project being funded by a 2016 bond resolution that will fund the project and the grant matching amount of \$78,759 for the Burmon Drive Sidewalk Replacement Project, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #5 Brush Mtn. Comm. Ctr., Senior Wing Project be classified as A Type II Action - SEQR**

**12) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:**

**WHEREAS**, New York's State Environmental Quality Review Act (SEQR) requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. The Town must assess the environmental significance of all actions they have discretion to approve, fund, or directly undertake, and

**WHEREAS**, the Town has determined the project is classified as a "Type II Action" in accordance with section 617.5 (c) (20) of the SEQR regulations as decisions to relocate an office from one building to another, providing funding for an existing agency to allow it to conduct current programs. Actions that can be classified as a "Type II Action" under the SEQR regulations do not require any further SEQR review, including an Environmental Assessment Form. The Short Environmental Assessment Form has been completed and is attached to provide documentation of this review and determination, and

**WHEREAS**, in addition, the Erie County DEP has requested formal proof that matching funding for the recently applied grant projects has been dedicated and is secure. The capital account has been set up and funded for the design and construction of the new facility. The Town also has a 2016 BAN of \$16,000,000 for the entire project, including the possible grant award of \$100,000. The total Meals on Wheels program (Facility & Equipment) is estimated at \$204,000 and will be relocated to the new Brush Mountain Community Activity Center, Senior Wing.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby determine that the Meals on Wheels program (Facility & Equipment) be classified as a "Type II Action" as the project will not have a significant impact on the environment and is precluded from further environmental review under New York State Environmental Conservation Law, Article 8, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #6 Certified Resolution for 2018-19 CDBG Grant Application**

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

**RESOLVED**, that the Town Board does hereby authorize the Town Clerk to complete a certified funding resolution for submittal to the Erie County Department of Planning for the 2018-2019 CDBG Grant Application with the grant match amount of \$104,000 being funded by a 2016 BAN that will cover the remaining funding necessary for the facility and required equipment to support the relocation and continued operation of the Meals on Wheels program.

**The resolution was unanimously adopted.**

**Old Business #7 Grant Site Plan Approval and Issue Building Permit to Enidine, 7 Centre Dr.**

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

**RESOVLED**, that the Town Board is hereby authorized to grant Site Plan Approval and issue a Building Permit to Enidine, 7 Centre Drive, Zoned I-1, to construct an 11,811-sq.ft. expansion and a 1,340-sq.ft. covered and screened dumpster enclosure, per the plans received on 8/31/17, as recommended by the Planning Board based on the following conditions and stipulations:

- This is an Unlisted SEQR Action, based on the Short EAF Parts 1 and 2, and a Negative Declaration is recommended.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
- No outside storage or display is permitted.
- The Landscape Plan, received 8/31/17, meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$9,000 Landscaping Estimate Value shall be deposited with the Town Clerk.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- The Zoning Board of Appeals granted a Use Variance for partial Front Yard Parking on 10/18/16.
- Town Engineering Approval was granted on October 11, 2017.

**The resolution was unanimously adopted.**

**New Business #1 Supervisor to sign an Agreement with SJB Services for Knoche Farm**

15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

**WHEREAS**, on March 1, 2017, the Town Board approved the Public Improvement Permit 2017-1 to construct the Knoche Farms Estates Phase 2. During the placement of the concrete gutters for this Subdivision Phase, we received less than acceptable concrete cylinder compression testing results on two (2) separate concrete cylinder pairs, which is non-typical for the type J concrete mix that is used in the concrete gutters installation, and

**WHEREAS**, the Engineering Department is requesting SJB / Empire GEO Services, Inc., 5167 South Park Avenue, Hamburg, New York 14075, to perform two (2) compressive strength tests on concrete gutter cores taken from the area the concrete truck load was installed which resulted in the unacceptable concrete cylinder test results, and

**WHEREAS**, there is presently funding allocated under T87 for inspection of this project.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign an agreement with SJB / Empire GEO Services, Inc., 5167 South Park Avenue, Hamburg, New York 14075, to provide professional services to perform two (2) compressive strength tests on concrete gutter cores for the Knoche Farms Estates Subdivision Phase 2 PIP#2017-01 in an amount not to exceed \$550.00, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #2 Appointment to Engineering Department**

**16) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MAJCHRZAK, WHO MOVED ITS ADOPTION COUNCILMAN SHERRY, SECONDED BY, TO WIT:**

**RESOLVED**, that the Town Board does hereby appoint Ruth Abdulai to a part-time position in the Orchard Park Engineering Department throughout the remainder of the 2017 calendar year.

**The resolution was unanimously adopted.**

**New Business #3 Appointment to Senior Center**

**17) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board does hereby appoint Parma Calswell as laborer, part-time, to fill in when the Nutrition Coordinator is off at the Orchard Park Senior Center.

**The resolution was unanimously adopted.**

**New Business #4 Appointments to Recreation Staff**

**18) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board appoint the following to the 2017-18 Fall/Winter/Spring Seasonal part-time Recreation Staff, the appointments are dependent upon the applicant providing the required certifications:

2017-18 Fall / Winter / Spring Seasonal part time Staff Appointments retroactive to 9/1/17)

<u>Name</u>	<u>Rate</u>	<u>Position (Title)</u>
Toby Burns	\$15.00	PT6-D (Att)
Jody Burnard	\$15.00	PT6-D (Att)
Shannon Callaghan	\$11.00	PT3-E (LG)
Annie Emerling	\$11.00	PT3-E (Att)
Mary Genzel	\$11.00	PT3-E (LG)
Janie George	\$11.00	PT3-E (Att)
Shannon Goodman	\$12.50	PT5-A (LG)
Jim Guzzino	\$15.00	PT6-D (Att)
Brett Hall	\$11.00	PT3-E (LG)
Patrick Higgins	\$10.00	PT3-A (ATT)
Tess Kjellstrom	\$11.00	PT3-E (LG)

Salvatore LaDuca	\$16.50	PT7-E (Att)
Jordyn Malinowski	\$11.00	PT3-E (Att)
Janet Marks	\$15.00	PT6-D (Att)
Mason McMullen	\$13.00	PT5-C (Att)
Tanner McMullen	\$10.00	PT3-A (Att)
Dylan McNichol	\$11.00	PT3-E (LG)
Emily Mielcarek	\$11.00	PT3-E (Att)
Caitlin O'Rourke	\$11.00	PT3-E (LG)
Claire Otis	\$11.00	PT3-E (Att)
Nicholas Ramage	\$15.00	PT6-D (Att)
Maxim Reilly	\$11.50	PT4-B (LG)
Rachael Reimondo	\$13.00	PT5-C (Att)
Heidi Schneider	\$15.00	PT6-D (Att)
Grace Scott	\$11.00	PT3-E (LG)
Benjamin Shular	\$12.50	PT5-A (LG)
Alexis Tarnowski	\$15.00	PT6-D (LG)
Dan Towle	\$11.00	PT3-E (Att)
Madeline Ventura	\$11.00	PT3-E (LG)
Brendan Wenger	\$11.00	PT3-E (LG)
Gabrielle Zafonte	\$15.00	PT6-D (Att)
Darcy Zappia	\$13.00	PT5-C (Att)

Seasonal part time Staff Appointments Rate Change retroactive to 9/1/17

<u>Name</u>	<u>Old Rate</u>	<u>New Rate</u>	<u>Position (Title)</u>
Leah Berst	\$13.00	\$15.00	PT6-D (Att)
Heather Reimondo	\$10.00	\$11.00	PT3-E (Att)

**The resolution was unanimously adopted.**

**New Business #5 Appointments to Town Clerk's Office**

19) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

**RESOLVED**, that the Town Board does hereby continue the appointments of the following part-time staff in the Town Clerk's office at a rate of \$14.70 per hour, for the period of October 1, 2017 to December 31, 2017: Virginia Lignos, Erin O'Rourke, Grant Merkel, Caitlin O'Rourke and Catherine McHugh.

**The resolution was unanimously adopted.**

**New Business #6 Approve Building Inspector's Staff to attend Conference**

20) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

**RESOLVED**, that the Town Board does hereby approve the request of the Supervising Building Inspector for himself, Tom Minor and John Wittman to attend the 2018 NFBOA Conference to be held at the Walden Millennium Hotel on January 22, 23 & 24, 2018. This conference satisfies their requirement for 24 hours of continuing education, and the money is in the budget.

**The resolution was unanimously adopted.**

**New Business #7 Chief of Police & Asst. Chief of Police to sell back unused vacation days**

21) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

**RESOLVED**, that the Town Board does hereby approve the Chief of Police and the Assistant Chief of Police to sell back unused vacation and personal days, and/or transfer up to 5 vacation days to 2018.

**The resolution was unanimously adopted.**

**New Business #8 Budget Transfer**

22) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:

**WHEREAS**, the Town desires to host a CPR/first aid class for Town Employees, and

**WHEREAS**, these expenditures in the amount of \$1,539 were not included in the amount budgeted for the fiscal year ended December, 31, 2017, and

**WHEREAS**, the funding for these appropriations in the amount of \$1,500 is expected to be available within the First Aid expense line and \$39.00 within other appropriation accounts in the Town’s 2017 budget,

**NOW, THEREFORE**, be it

**RESOLVED**, that the Town Board does hereby authorize the following transfer:

Increase Appropriations:

A.1910.0408 General – First Aid Expenses           \$39.00

Decrease Appropriations:

A.1910.0480 General Contingent                         \$39.00

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Kathryn Gorkiewicz – Ms. Gorkiewicz expressed her concern with the idea of seasonally re-assigning some of the Highway Department personnel to the Recreation Department to oversee upkeep of the Playgrounds. The Highway Department is already understaffed and has a lot to do. She feels the Town should explore other ways to maintain the parks.

James Arlotta – Mr. Arlotta explained why he didn’t stand for the Pledge, and he meant no offense to any service personnel or veterans. He feels his civil rights have been violated as explained in three (3) police reports he filed. Mr. Arlotta also feels the NFTA is ignorant of the transportation needs of poor rural and suburban people.

**ELECTED OFFICIALS & DEPARTMENT HEADS**

Supervisor Keem stated that they held a press conference today to announce that State Senator Chris Jacobs has secured a \$500,000 grant for the proposed Community Center. He said that the Town’s elected officials meet with other State and Federal representatives often to express the needs of the Town.

Councilman Majchrzak responded to Ms. Gorkiewicz concern stating that the individuals who take care of the Parks and Grounds do just that. They may be assigned to other jobs but their main focus is Parks & Grounds. He also noted that the decision regarding the Parks & Grounds maintenance has not been finalized, as the Board needs to discuss it further. Councilman Majchrzak stated that the Bill of Rights gives everyone the right to stand up, and he expressed his opinion that there are so many different ways that an individual can protest in this country, but the Statue of Liberty, the Flag and the Pledge of Allegiance should be off limits.

Councilman Sherry echoed what Councilman Majchrzak said about the Recreation Commission’s Report. The employees they are referencing are assigned to the Highway Department, but they are already taking care of the parks. The issues they raised was whether or not they are being assigned under the supervision of the Recreation Department would render the service to the parks more efficient. The Highway Superintendent, now that they (Recreation Commission) have issued their report, will be issuing his response to that report. It is not a decision that the Board is going to rush into.

Councilman Sherry stated that the Local Law over-riding the tax cap is something they do every year in order to sustain the kinds and quality of services we have in Orchard Park in a fiscally responsible way. They do not get all they typically do not receive all the financial information they need, specifically regarding revenues, until the end of the year. So if we do not pass this Local Law now, which is when the New York State law requires them to do so, then if we get any surprises before we actually adopt our budget for 2018, we are locked out.

Town Clerk Orffeo stated that Monday, October 16, 2017 was the last day to pay taxes without a penalty, and again it was another frantic tax season. He thanked Chief Pacholec for courteously stationed an officer in our office during the really busy time. He also thanked the two Town Judges for not scheduling any court dates until after 5:00 PM so the traffic in the parking lot does not get congested. Town Clerk Orffeo also thanked his staff for doing a super job.

Chief Pacholec said that there is a sold out Bills Game Sunday, so Abbott Road will be closed about 8:00 AM and Big Tree Road west bound will be closed at 4:00 PM. He stated that November 1<sup>st</sup> is the effective date for the overnight parking. He asked residents to not place leaves or branches on the road as it can cause accidents. He also asked that the residents drive safely and slowly on Halloween.

Highway Superintendent stated that they are working on receivers, drainage issues and doing leaf pickup.

**23) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAJCHRZAK, TO WIT:**

**RESOLVED,** that the Town Board does hereby authorize the approval of all entries on Warrant # 20 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$58,720.40
<b>Public Safety Fund</b>	10,206.88
<b>Part Town Fund</b>	\$2,041.64
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$28,500.32
<b>Special Districts</b>	\$58,792.98
<b>Trust &amp; Agency</b>	\$10,382.31
<b>Capital Fund</b>	\$18,075.00

**The resolution was unanimously adopted.**

There being no further business, on a motion by Supervisor Keem, seconded by Councilman Majchrzak, the meeting adjourned at 7:36pm (local time).

Respectfully Submitted,

A handwritten signature in black ink that reads "Remy C. Orffeo". The signature is written in a cursive style with a large, prominent initial 'R'.

**Remy C. Orffeo**  
**Town Clerk**