

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 6th day of October at 7:00 PM, the meeting was called to order by the Supervisor and there were:

| | | | |
|------------------------------|-------------------------|------------------------|------------|
| PRESENT AT ROLL CALL: | Nancy Ackerman | Councilwoman | |
| | Edward Graber | Councilman | |
| | David Kaczor | Councilman | |
| | Carol Hutton | Town Clerk | |
| | Leonard Berkowitz | Town Attorney | |
| | Andrew Geist | Building Inspector | |
| | Andrew Benz | Chief of Police | |
| | Frederick Piasecki, Jr. | Highway Superintendent | |
| | Wayne Bieler | Town Engineer | |
| | ABSENT | Janis Colarusso | Supervisor |
| | | Eugene Majchrzak | Councilman |

Councilwoman Ackerman was the directing Supervisor of the meeting in the absence of Supervisor Colarusso.

Councilwoman Ackerman 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 COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Regular Town Board minutes held on September 1, 2010 and September 15, 2010 and the Executive Session/Special Meeting minutes held on September 15, 2010, September 22, 2010 and September 29, 2010 are hereby approved, 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 Hearing
Town of Orchard Park
2010-2011 Federal Community Development Block Grant Funds**

At 7:02 PM (local time) Councilwoman Ackerman called for the Public Hearing to hear all interested parties for or against the 2010-2011 Community Development Block Grant Funds.

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.

Town Engineer, Wayne Bieler, prepared the following statement: The Town of Orchard Park may be eligible to receive Community Development Block Grant (CDBG) Funds from the U.S. Department of Housing and Urban Development (HUD) for the 2011-2012 Program Year.

The purpose of a public hearing is to provide an opportunity for citizens to discuss the needs of the community. The Town is one of 34 municipalities in the Erie County CDBG Consortium. To be eligible for CDBG funding, the proposed project must satisfy one or more of the following national objectives:

Benefit Low and Moderate Income Persons: To benefit low and moderate income persons, it is required that at least 41.9% of the residents of the specific area targeted be at or below the criteria of the income eligibility schedule.

Correct Slums and Blight: A slum or blighted area must be a substantial number of deteriorated or deteriorating buildings or public improvements throughout the area. Currently there are no such areas in the Town of Orchard Park.

Meet an Urgent Community Need: Meeting an urgent community need, the project must alleviate existing conditions that have developed or become critical within the past 18 months and poses a serious and immediate threat to the health and welfare of the community; the grantee is unable to finance, and other resources of funds are not available.

Eligible Activities must include:

- Acquisition of Real Property for a Project
- Public Facilities and Improvements
- Public Services
- Removal of Architectural Barriers
- Historic Preservation
- Commercial or Industrial Rehabilitation
- Special Economic Development
- Program Administration Costs
- Limited Clientele: All elderly, homeless, and handicapped residents are presumed eligible regardless of their location within the Town or their income levels. For a project to be considered under this category, at least 51% of the benefiting persons must be classified as limited clientele.

Since its inception in 1976, the Town has received over \$2.5 million in grants and loans under this Federal Program. It is estimated that the 2011 allotment for the Erie County CDBG Consortium Community's projects will be \$950,000. Funds will be granted on a competitive basis to those municipalities whose projects best meet the HUD goals described above. There is a maximum grant of \$100,000 per project with a maximum of three projects funded per municipality. Applications for this year's Community Development Block Grant funds must be submitted by October 25, 2010.

Some suggested projects recommended for the Town of Orchard Park which may qualify for funding are:

| Project | Estimate |
|---|-----------------|
| • Iroquois Drive Reconstruction (pending survey results) | \$750,000 |
| • Iroquois Drive Drainage | \$210,000 |
| • Rural Transit Service (participation in program w/18 towns, 7 villages) | \$ 27,335 |
| • Dorchester Drive Reconstruction (pending survey results) | \$310,000 |

Town Engineer Bieler stated that last year these same projects were submitted, but only received the Rural Transit Service funding. Councilwoman Ackerman stated that the Rural Transit Service is always granted every year.

Councilwoman Ackerman asked if there was anyone in the audience that would like to speak on behalf of the 2011-2012 CDBG Funds. **No one spoke.**

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Public Hearing in the matter of the 2010-2011 Erie County Community Block Grant Funds for the Town of Orchard Park, is hereby closed at 7:08 PM.

The resolution was unanimously adopted.

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

WHEREAS, the Town of Orchard Park may be eligible to receive Community Development Block Grant (CDBG) Funds from the U.S. Department of Housing and Urban Development (HUD) for the 2011-2012 Program Year, and

WHEREAS, the Town of Orchard Park held a public hearing this evening to provide an opportunity for citizens to express community development and housing needs and to discuss possible projects which would benefit low and moderate income areas in the Town of Orchard Park.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign, submit and execute a contract with Erie County Community Development Block Grant Consortium requesting \$100,000.00 per each of the following projects:

| | |
|---------------------------------|-------------------------------|
| <u>1st</u> Priority; | Iroquois Drive Reconstruction |
| <u>2nd</u> Priority; | Iroquois Drive Drainage |
| <u>3rd</u> Priority; | Rural Transit Service |

The resolution was unanimously adopted.

New Business #1 Re-appointment to the Board of Assessment Review

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the re-appointment of Linda Daniels, 65 Independence Drive, to the Board of Assessment Review for a five year term ending September 30, 2015.

The resolution was unanimously adopted.

New Business #2 Re-appointments to the Orchard Park Historic Preservation Committee

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

RESOLVED, that the Town Board does hereby re-appoint Suzanne Kulp, 24 Timothy Lane and Thomas E. Jaeger, 10 Chase Road, to the Orchard Park Historic Preservation Committee for a four year term ending May, 13, 2013.

The resolution was unanimously adopted.

New Business #3 Authorize the Supervisor to sign Service Agreement with Waste Management

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Service Agreement with Waste Management that will cover the period from 10/01/2010 to 9/30/2013 for dumpsters at the Highway Department, Senior Center and the Recreation Department, pending the review and recommendation of the Town Attorney.

The resolution was unanimously adopted.

New Business #4 Authorize Supervisor, Engineering Dept. & Planning Dept. to attend Workshop

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Supervisor, Engineering Department and the Planning Department to attend the 3rd annual "Municipal Dollar and Sense Work Shop" , October 22, 2010, at 7:45 a.m. – 4:00 p.m., hosted by TVGA Consultants, 4885 Southwestern Blvd, Hamburg, NY at a cost of \$35.00 per employee.

The resolution was unanimously adopted.

New Business #5 Authorize Amendment to the 6/02/2010 Town Board Mtg. Minutes, Resolution #15

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, the Town Board did hereby authorize Mercy Ambulatory Care Center, 3669 Southwestern Blvd, located on the south side of Southwestern Blvd. east of Taylor Road, a Building Permit to construct an area totaling approximately 625 sq.ft. to contain bulk oxygen tanks and equipment enclosed with a chain link fence/gate and steel bollards, and

WHEREAS, the Town Board does hereby approve an amendment to the 6/02/2010 Town Board Meeting Minutes, specifically, Resolution #15

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the change to be as follows:

Remove:

- The dimensions will be no greater than 80 ft. x 40 ft. of the tent, which are depicted on the submitted site plans with the approximate location.

Change:

- There will be two tanks, one has a (delete 5,000 lb.) (replace with 3,000 lb.) capacity and the other has a (delete 3,000 lb.) (add 500 lb.) capacity and they will be coming from Praxair.

The resolution was unanimously adopted

New Business #6 Approval of 2010-2011 Commercial Parking Permits

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby approve the following 2010 Commercial Parking Permits as recommended by the Building Inspector:

| | |
|--------------------|----------------|
| Danny's South | 4300 Abbott Rd |
| Edmund Trella | 4317 Abbott Rd |
| Maureen Jakubowski | 3796 Abbott Rd |

The resolution was unanimously adopted.

New Business # 7 Fall/Winter 2010 "Seasonal" Staff Appointments to the Recreation Department

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

RESOLVED, that the Town Board does hereby approve the appointments to the Orchard Park Recreation Department as follows contingent upon completion of required certifications:

| Name | Address | Rate | Position (Title) |
|----------------------|----------------------|--------|------------------|
| Alycia Bobak | Town of Webster | \$8.50 | PT2-B (LG) |
| Sawyer Dina | Town of Orchard Park | \$8.50 | PT2-B (LG) |
| Elizabeth Funigiello | Town of Hamburg | \$9.50 | PT2-D (Att) |
| Erin Miller | Town of Orchard Park | \$8.50 | PT2-B (Att) |
| Maggie Miller | Town of Orchard Park | \$8.50 | PT2-B (Att) |
| Michael Zarbo | Town of Cheektowaga | \$8.50 | PT2-B (LG) |

| | |
|-----------------------|---------|
| Councilwoman Ackerman | Aye |
| Councilman Kaczor | Recused |
| Councilman Graber | Recused |

The resolution was duly adopted.

New Business #8 Schedule Public Hearing for October 20, 2010 for the 2011 Preliminary Budgets

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, October 20, 2010, at 7:00 PM, for the 2011 Tentative AD Valorem Budget & the Benefit Basis Special District Budget, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business # 9 Approve Public Improvement Permit #2010-02 OP Commerce Center Phase #3

12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, the Town has received from George Wallenfels, Acquest Development, 80 Curtwright Drive, Williamsville, NY 14221, representing Acquest Development, an application for a Public Improvement Permit to construct the Orchard Park Commerce Center Phase 3 – Windward and Retail Extensions, and

WHEREAS, the project consists of the installation of 1,690 L.F. of new roadways and public utilities to serve seven commercial sublots. Three stormwater treatment units and modifying the existing detention basin, will be completed in this Orchard Park Commerce Center Phase 3 Construction Project, and

WHEREAS, the Town Engineer has reviewed the plans and specifications for the proposed project and has found them to be in compliance with current Town Specifications and Standards. The Town is in receipt of all necessary fees, bond and insurances, and

WHEREAS, per the Town Attorney, the current Orchard Park Commerce Center Covenants does not meet the Stormwater Phase II agreement requirement, resulting in an additional private agreement, or the formation of a stormwater public improvement district before dedication.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the approval of Public Improvement Permit #2010-02 for the Orchard Park Commerce Center Phase 3, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #10 Approve Change Order #4 to Contract with R.B. Mac Const. /Municipal Ctr.

Item was Tabled.

Refer to Planning Board and/or Conservation Board

13) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby refer the following to the Planning Board and/or Conservation Board: Towne Ford, 3535 Southwestern Boulevard, located on the east side of Southwestern Boulevard, south of Milestrip Road, Zoned B-2.(SBL# 161.07-7-8.1) Applicant proposes to construct a 1,300 sq.ft. addition to the existing drive-thru service area and implement site renovations to the existing building.

The resolution was unanimously adopted.

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby refer the following Conservation Easement requests to the Conservation Board:

Maintenance Department:

\$5,000.00 From: A.1620.0144 (Buildings –Maintenance Personnel)
To: A.1620.0149 (Buildings – P/T Personnel)

Highway Department:

\$7,980.00 From: A.7110.0238 (Parks Lake Water)
To: A.7110.0200 (Milestrip – Field Equipment)

\$5,000.00 From: A.7110.0217 (Parks – Tennis Court)
To: A.7110.0215 (Parks – Equipment)

\$5,000.00 From: DA.5110.0472 (Hwy – Stone & Gravel)
To: DA.5130.0419 (Machinery Expense)

Central Computer Software:

\$4,027.00 From: A.1910.0480 (Contingent)
To: A.1670.0442 (Central Computer – Software)

Courts:

\$634.92 From: A.1110.0420 (Law Books)
To: A.1110.0419 (Other Expense)

The resolution was unanimously adopted.

16) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

WHEREAS, Town Board approval of a Building Permit for Taco Bell was contingent upon the exterior materials and lighting plan being accepted by the Town Board, and

WHEREAS, the lighting plan has been recommended and approved by the Planning Board designee John Bernard, and

WHEREAS, the exterior materials that have been recommended and accepted by Taco Bell are:

- Eastern Mountain Ledge – Dakota Bronze (Base)
- Coronado Chablis (Watertable)
- Coronado Rookedwood (Soldier’s stand)
- Coronado Amber and Coronado Palomino (for the facade)

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Building Inspector to issue a Building Permit upon the receipt of the Landscape Bond and the appropriate fees and proper plan review.

The resolution was unanimously adopted.

17) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the disposal of Highway trucks and small equipment to be sold at the Municipal Auction on Saturday, October 9, 2010 pursuant to the list provided by the Highway Superintendent and filed with the Town Clerk’s Office.

The resolution was unanimously adopted.

Highway Superintendent Piasecki reported on the progress of the Ellis Road project and thanked the residents and businesses for their cooperation and patience. The Duerr Road Bridge should be completed by November 19, 2010. Mr. Piasecki reported on the Open House held at the Highway Department on Saturday, October 2, 2010 sponsored by Northeast Sustainable Energy Association regarding Solar Panels which have been installed at the Highway building for a cost savings of \$4700.00.

18) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #19 following auditing by members of the Town Board and in the funds indicated:

| | |
|---------------------------|--------------|
| General Fund | \$75,401.11 |
| Part Town Fund | \$4,460.94 |
| Risk Retention | \$0.00 |
| Cemetery Fund | \$0.00 |
| Highway Fund | \$33,390.91 |
| Special Districts | \$149,147.45 |
| Trust & Agency | \$10,520.82 |
| Capital Fund | \$98,849.15 |

The resolution was unanimously adopted.

COMMUNICATIONS

19) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby receive & file the following communication & reports:

Communications:

- Orchard Park High School Homecoming 2010 will take place on Saturday October 9th at 10:30 a.m. The parade route begins at the High School parking lot on Baker Road, turning right onto Baker Road, right on 20A (Quaker Road), right on North Freeman Road to the Athletic Field parking lot on North Freeman Road.
- Time Warner Cable has updated information for the month of October for their subscribers in the Western New York Division. On or about October 15, 2010, the cost for the Digital Sports Tier will now be \$5.95. Any questions or concerns should be directed to Sharon L. Hanson, Director, Government Relations at 716-558-8559.
- The Erie County Legislature has designated November 1 through November 30 each year as the annual thirty-day time period within which a landowner may request predominantly viable agricultural land to be included into a certified agricultural district in accordance to Section 303-b of N.Y.S. Agricultural and Markets Law. Applications may be picked up at the Town Clerks office during regular business hours.
- The Village Board of Trustees will hold a Public Hearing at 8:00 p.m. on Monday October 25, 2010 in the Municipal Center, 4295 S. Buffalo Street, Orchard Park, NY, on the following special use application: Frank Muggia/Jacquelyn Ennis 6438 W. Quaker St., Orchard Park. Applicant is requesting permission to operate a Non Retail Business Office, specifically a Manufactures Representative Office.

Reports:

- Chief of Police's Monthly Report & Building Permits for August, 2010.

The resolution was unanimously adopted.

There being no further business, on motion by Councilwoman Ackerman, seconded by Councilman Kaczor, the meeting was adjourned at 7:45 PM (local time).

Respectfully Submitted,

**Carol R. Hutton
Town Clerk**