

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 7th day of October 2009 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

- PRESENT AT ROLL CALL:**
- | | |
|-------------------------|------------------------|
| Mary Travers Murphy | Supervisor |
| David Kaczor | Councilman |
| Mark Dietrick | Councilman |
| Edward Graber | Councilman |
| Janis Colarusso | 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:** Nancy Ackerman Councilwoman

The Town Clerk noted Councilwoman Ackerman absence this evening is due to her attending a funeral that was located out of State.

The Supervisor 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."

Special Presentation: Buffalo Bills Donation to the D.A.R.E. Program

Supervisor Travers Murphy introduced Chris Clark, Director of Security for the Buffalo Bills and Police Chief, Andrew Benz. Mr. Clark presented a donation of \$100.00, Buffalo Bills yearbooks and football cards to Chief Benz for the D.A.R.E. program. Mr. Clark stated that the Buffalo Bills appreciate all the work the police department provides throughout the football season.

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

RESOLVED, that the Executive Session minutes of the Town Board held on September 16, 2009, as presented by the Town Clerk are hereby approved, and be it further

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

The resolution was unanimously adopted.

**Public Hearing
Town of Orchard Park
2009-2010 Federal Community Development Block Grant Funds**

At 7:00 PM (local time) the Supervisor 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 2010-2011 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.

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 2010 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 26, 2009.

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

Project	Estimate
• Iroquois Drive Reconstruction (includes Iroquois Drive Drainage/pending survey)	\$955,000
• Iroquois Drive Drainage (pending survey results)	\$220,000
• Rural Transit Service (participation in program w/18 towns, 7 villages)	\$ 27,400
• Dorchester Drive Reconstruction (pending survey results)	\$310,000

Supervisor Travers Murphy asked if there was anyone in the audience that would like to speak on behalf of the 2010-2011 CDBG Funds. **No one spoke.**

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, 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 GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, 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 2010-2011 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 Funds as follows:

1st Priority; Iroquois Drive Reconstruction

2nd Priority; Iroquois Drive Drainage

3rd Priority, Rural Transit Service

The resolution was unanimously adopted.

New Business #1 Release of Cash Performance Bond for Excavation Permit #2009-04

4) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

WHEREAS, on September 16, 2009 the Town Board granted approval of the Excavation Permit 2009-04 for 7961 Ellicott Road property to excavate a pond as borrow pit source for house embankment (approximately 800 cubic yards of soil) for grading at the same address around the house that is under construction. A cash bond security in the amount of \$2,000.00 was paid by the applicant in lieu of a standard construction bond to be held in escrow until the work was completed and accepted by the Town, and

WHEREAS, the applicant has since completed his excavation/filling operation, and the area has been seeded. The work was inspected by the Engineering Department and found to be in compliance with Town specifications.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the cash bond security in the amount of \$2,000.00 to Mr. Neal F. Ryan of 7961 Ellicott Road, West Falls, New York 14170 for Excavation Permit #2009-04, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #2 Recreation Department Staff Appointments for Fall & Winter 2009-2010

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 authorize the following 2009-2010 Fall/Winter, Part-time Staff Appointments, to the Orchard Park Recreation Department (dependent upon the applicant providing the required certifications) as recommended by the Recreation Director:

Name	Address	Rate	Position
Jackie Lex	Town of Orchard Park	\$9.50	PT2-D (Att.)
Vincent Nicosia	Town of Orchard Park	\$8.00	PT1-C (Att.)

The resolution was unanimously adopted.

New Business #3 Schedule Public Hearing for November 4th for the 2010 Preliminary Budgets

6) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, November 4, 2009, at 7:00 PM, for the 2010 Preliminary 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 #4 Approve the 2009-2010 Commercial Parking Permits

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, TO WIT:

RESOLVED, that the Town Board does hereby approve the following 2009-2010 Commercial Parking Permits, as recommended by the Building Inspector:

Veronica, Benes, 3964 Southwestern Blvd.
 Giancarlo & Roberta Bruni, 5100 Big Tree Rd.
 Zachary Clark, 4180 Abbott Rd.
 Dan DeMarco, 4270 Abbott Rd.
 Joe & Diane DeMarco, 3964 California Rd.
 Christopher Drewiega, vacant lot on Webster Rd.
 Sue & Patrick Kane, 3952 Southwestern Blvd.
 Ray & Sue Kowalski, 3972 Southwestern Blvd.
 Victor Liberatore, 3807 Southwestern Blvd.
 John Mariano, 3916 Southwestern Blvd.
 WJ Milligan, 3892 Abbott Rd.
 Nia. Frontier Recovery, 3858 Southwestern Blvd.
 On the Go/Petro, Inc, 3975 Southwestern Blvd.
 Dave Simoncelli, 3730 & 3740 California Rd.
 Scott & Linda Smith, 3879 Southwestern Blvd.

Kevin Bieler, 3946 Southwestern Blvd.
 Ron & Paul Yoviene, 3763 Abbott Rd.
 Frank & Vittoria Corsi, 4297 Abbott Rd.
 Sean Hanley, 3944 California Rd.
 Kenneth Doeing, 3920 Southwestern Blvd.
 Tom & Paul Kam, 3775 Southwestern Blvd.
 Deborah McDonell, 3904 Abbott Rd.
 Mark Leitzan, 3808 & 3816 Abbott Rd.
 Mark Leitzan, 3830 Sheldon Rd.
 Lisa Matwijow, 4155 & 4170 Abbott Road.
 Quaker Boy, 5455 W. Webster Rd.
 Red Carpet Inn, 3940 Southwestern Blvd.
 Dennis Przybyl, 3976 Southwestern Blvd.
 Michael Simoncelli, 3848 California Rd.
 Stadium Mobil, 3856 Southwestern Blvd.

David Tempestoso, 3912 Southwestern Blvd.
Tailgaters Bar & Grill, 3847 Southwestern Blvd.
Stephen Tripodi, 3800 Southwestern Blvd.
Lee Wannemacher, 3746 Abbott Rd.
Windom Comm. Church, 3766 Abbott Rd.

Patrick Sullivan, 3819 Abbott Road
Michael & Karen Todd, 3752 Abbott Road
Twin Oak Motel, 3949 Southwestern Blvd.
Henry Whytas, 5528 W. Webster Rd.
Joe Yemma, 3785 Abbott Rd.

AND, BE IT FURTHER RESOLVED, that the following 2009-2010 Commercial Parking Permit has been denied, as recommended by the Building Inspector: Thomas Carrow, 4243 Abbott Road.

The resolution was unanimously adopted.

New Business #'s 5, 6 & 7 Refer to the Planning Board and/or Conservation Board:

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, TO WIT:

RESOLVED, that the Town Board does hereby refer to the Planning Board and/or Conservation Board the following items listed on the agenda: **HSBC Bank**, 3049 Orchard Park Road, bordered by Orchard Park Road & Union Road, Zoned B-2. Requesting a Building Permit and Site Plan approval. Applicant purposes to add a Drive-Up ATM and a curb with a bypass lane, and **Epic Contracting**, 3576 South Benzing Road, located on the West side of South Benzing, South of Milestrip Road, Zoned I-1. Requesting a Building Permit and Site Plan approval to construct a 99' x 100' Pole Barn addition to the existing building for cold storage and add approximately 30 parking spaces at the site, and **Steven Schneckenberger**, 2861 Southwestern Blvd., Zoned B-2 & R-3. Applicant requesting rezoning of property from R-3 to B-2 in order to construct a 100' x 60' Pole Barn for cold storage.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Lou Boehm – He commented on the downsizing vote that took place September 23rd Special Election, and he handed in his comments to the Clerk.

Mark Manley – He stated he was appointed to the Orchard Park Comprehensive Committee over a year ago and has not done anything on that committee. He asked the board permission for the list of volunteers on that committee and also asked if he could start up the first meeting.

Dave Schuster – He commented on Wal-Mart and stated he would be handing in petitions to the Clerk that he gathered at the Quaker Arts Festival. He commented on a few of the petitions and the remarks that he had heard about Wal-Mart. He also gave comments on the downsizing vote and the election and he handed in the petitions to the Clerk.

Howie Holmes – He talked about the event that will be taking place in Birdsong Park on October 17, 2009, "Bark in the Park" at Birdsong Parklands. He invited everyone to come and enjoy the fun.

Sal Cerrone – He commented on the personal attack to Mr. Gaughan that took place on September 23rd 2009. He also commented on other subjects that he found appalling in the Town, such as healthcare, retirement, stipends, traffic, etc.

Jeff Lyons – He lives on Bieler Road and once again requested some help with the traffic issues. He thought it was ironic that “Duck Crossing” signs could be posted within months of the request compared to the many years of requests for help from the residents on Bieler Road.

June Kritzer – She told the Town Board she would volunteer to be on a committee of three to blend the offices of the Tax Receiver and Town Clerk.

ELECTED OFFICIALS & DEPARTMENT HEADS

9) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

WHEREAS, the Highway Department has received revenue from the sale of culvert pipe and installed such pipe at local residents homes upon the home owners request, and

WHEREAS, the Town’s 2009 adopted budget does not contain appropriations relating to such requests, and

WHEREAS, the funding for these adjusted appropriation are supported by the home owners paying for the culvert pipe.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorizes the amending of the Town’s 2009 budget to increase estimated revenues and authorize additional appropriations as follows:

Increase appropriation account:

DA.5110.0474 – Highway – Culvert Pipe \$7,721.08

Increase estimated revenues:

DA.0000.2655 – Highway – Sale of Culvert Pipe \$7,721.08

AND BE IT FURTHER RESOLVED, that the Town Board does hereby approve the following budget transfers that have been pre-filed with the Supervisor:

Town Clerk:

\$1,000	From: A.1410.0141	Records Management P/T Clerk
	To: A.1410.0139	P/T Clerk
\$2,000	From: A.1910.0480	Contingent
	To: A.1410.0450	Publishing

Receiver of Taxes:

\$250	From: A.1330.0413	Travel & Conference
	To: A.1330.0419	Other Expenses
\$250	From: A.1330.0413	Travel & Conference
	To: A.1330.0450	Publishing

The resolution was unanimously adopted.

Police Chief Andrew Benz thanked all of the businesses and organizations who have helped and contributed to the D.A.R.E Program.

Fred Piasecki reported on the wind storm that occurred today and the progress on the Short Drive Reconstruction.

Supervisor Travers Murphy responded to Mr. Manley comments and that she would make sure he received the list of the Comprehensive Plan committee members. She stated she would contact Councilwoman Ackerman to tell her of his request.

10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, 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	\$69,549.18
Part Town Fund	\$711.15
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$166,794.46
Special Districts	\$39,296.57
Trust & Agency	\$24,143.62
Capital Fund	\$194,643.46

The resolution was unanimously adopted.

11) 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 authorize to receive and file the following *Communications* listed on the agenda:

Town of Marilla & Village of Depew: Sent a proclamation to the State Senate and Assembly requesting a law to allow smaller government agencies to have the opportunity to choose the lowest salt prices when contracts are presented to them by the State. Presently, smaller municipalities are currently locked into a higher road salt price with the State than are larger municipalities.

Senator Dale Volker & Assemblywoman Jane Corwin: Sent a letter to American Rock Salt Company, LLC, requesting their support in helping municipalities with the cost of road salt. They stated with the state's economy facing declining revenues and budget deficits, counties, towns, villages and cities face unprecedented pressure to reduce services or increase taxes.

The resolution was unanimously adopted.

12) 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 authorize to receive and file the following *Reports* listed on the agenda: The Supervisor's 2010 Tentative Ad Valorem Budget for the Town of Orchard Park, and the Building Inspector's Monthly Report & Building Permits for September 2009.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Kaczor, the meeting was adjourned at 7:38 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk