

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 21st day of October 2015 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:	Patrick J. Keem	Supervisor
	Eugene Majchrzak	Councilmember
	Michael Sherry	Councilmember
	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 COUNCILMEMBER SHERRY, TO WIT:

RESOLVED, that the Town Board does hereby approve:
Regular Town Board Meeting Minutes held on October 21, 2015
Special Session September 23, 2015, October 5, 2015
Executive Sessions: September 16 and 23, 2015 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

Local Law #7-2015

Town of Orchard Park to over-ride tax levy limit established in General Municipal Law Section 3-c

At 7:00 PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties for or against Local Law #7-2015

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.

Supervisor Keem asked if anyone is interested in speaking or making a comment. 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 # 7-2015 is hereby closed at 7:11PM.

The motion was unanimously adopted.

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

WHEREAS, following due and timely notice of a public hearing related to the matter of Local Law #7-2015, for the Town of Orchard Park to over-ride tax levy limit established in General Municipal Law Sec 3-c, conducted on the 21st day of October 2015, at which time all interested parties were given an opportunity to be heard,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby adopt Local Law No. 7 of the Year 2015 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, 2016 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, 2016 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 motion was unanimously adopted.

Old Business # 1 Authorize Building Permit for 2911 Southwestern Blvd.

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

RESOLVED, that the Town Board does hereby approve the request for a Building Permit for 2911 Southwestern Boulevard to construct a two (2) story, 3200 GSF retail space addition with outdoor seating area and grant Site Plan Approval, as recommended by the Planning Board with 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 made.
- 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 2/13/15, meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$4,315.00 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 an Area Variance on 12/16/14 for Front Yard Parking.
- Town Engineering approval was granted in 9/9/15.

The resolution was unanimously adopted.

Old Business #2 Funding Resolution for CDBG and a Negative SEQR Declaration

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

WHEREAS, the New York 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, and

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 has not been a capital account set up and funded for this project, the entire project, minus the possible grant award of \$100,000, will have to be bonded as discussed at previous meetings. The project cost is estimated at \$2,325,000 and the funds will not have to be used at this time unless the grant is awarded to the Town.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby determine that the Burmon Drive Road Reconstruction 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, and be it further

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 2016-2017 CDBG Grant Application with project being funded by 2015 bond resolution that will fund the amount of \$2,325,000 for Burmon Drive Road Reconstruction Project, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #1 Advertise for Bids for Philson Dr. Concrete Gutter & Driveway Project

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT.

WHEREAS, the Engineering Department had previously requested to advertise for bids for this project on August 5, 2015. Due to a scheduling change with the Highway Reconstruction Project for Philson Drive, the plans were held until a revised schedule had been determined, and the bid specifications updated. At this time, it is anticipated for the road reconstruction to begin spring 2016, weather depending, and

WHEREAS, the Highway Department does not have the available manpower to install the amount of linear footage, +/- 2,000 LF, required for this project in the necessary timeframe. In addition, the cost is estimated over \$30,000 and therefore the concrete gutter and apron installation work must be completed through the formal bidding process, and

WHEREAS, in order to keep the project on schedule, the Advertisement for Bids should be authorized to be published on October 21, 2015. Plans and specifications will be available for purchase on November 17, 2015, with the bid opening to be held on December 10, 2015

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize advertisement in the Orchard Park Bee for sealed bids to be opened for the Concrete Gutter and Apron Installations for Philson Drive Reconstruction Project at 11:00 A.M. on December 10, 2015 in the Supervisor's Conference Room at the Orchard Park Municipal Center, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #2 Authorize purchase of new Compact Bobcat Loader w/attachments

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

WHEREAS, as discussed at the Capital Projects Meetings, and per Town Board Memo dated 10/14/15, the Engineering Department researched the use of a new compact track loader for the Sewer, Water, and Lighting Department (SWLD). Track loaders are highly functional and portable pieces of equipment that have the ability to access tight areas, can rotate 360 degrees, and can be equipped with rubber tracks, and

WHEREAS, the track loader would primarily be utilized to clean sanitary sewers and clear the sanitary sewer right-of-way and easements with the easement machine, and brush hog attachment respectfully. The easement machine attachment would give the department additional hose length (added onto the combination truck's hose) to clean "hard to reach" areas improving the level of service and minimizing sewer service disruptions, or damage from surcharging, and

WHEREAS, a track loader would streamline the SWLD's many tasks performed on a daily basis. In addition to cleaning sewers and mowing right of ways, the skid steer would be used on sewer repairs, clearing snow at lift stations and at the SWLD shop, and unloading pallets or large/heavy deliveries, and

WHEREAS, it was determined that a Bobcat Track Loader will best suit the department needs. Bobcat's are proven to be durable and dependable, and

WHEREAS, sufficient funds have been allocated in the Sewer, Water & Lighting Department Budget under Capital – Sewer & Water Equipment Acquisition (H-56) for the purchase.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Engineer to purchase a S550 T4 Bobcat Compact Track Loader (w/forks and bucket, brush hog, snow blower, and trailer attachments) for a cost not to exceed \$58,927.34, and to purchase a Sewer Equipment Companies of America Track Loader Easement Machine (JAJ-600SK) for a cost not to exceed \$23,000.00 using the National Joint Powers Alliance (NJPA) for both purchases.

The resolution was unanimously adopted.

New Business #3 Authorize 2015 FEMA reimbursement funds transferred to 2016 for Police Dept.

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

RESOLVED, that the Town Board does hereby authorize the Police portion of the 2015 FEMA reimbursement funds be transferred to 2016 budget to be used for equipment purchases and training aids costs.

The resolution was unanimously adopted.

New Business #4 Declare 1996 Saturn in Police Department as surplus

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

RESOLVED, that the Town Board does hereby authorize the Chief of Police to declare a 1996 Saturn used by the police department as surplus, and return it to its donor.

The resolution was unanimously adopted.

New Business #5 Public Safety Dispatcher appointments

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

RESOLVED, that the Town Board does hereby authorize the appointment of Kevin M. Jewett to the position of Public Safety Dispatcher (full time, probationary) effective November 9, ²⁰¹⁵ and Daniel L. Schnorr to the position of Public Safety Dispatcher (full time, probationary) effective November 10, 2015, at pay range 0003 step 1st year, \$13.35 per hour, as recommended by the Chief of Police.

The resolution was unanimously adopted.

New Business #6 Recreation Department Fall/Winter/Spring part-time appointments

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

RESOLVED, that the Town Board does hereby appoint the following to the 2015-16 Fall /Winter/Spring Seasonal part-time staff to the Recreation Department retroactive to 9/14/2015. The appointments are

dependent upon the applicant providing the required certifications, as recommended by the Recreation Director.

<u>Name</u>	<u>Rate</u>	<u>Position (Title)</u>
Daniel Kritkauskay	\$9.00	PT2-B (Att)

The resolution was unanimously adopted.

New Business #7 Town Support for new Countywide sales tax revenue distribution

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

WHEREAS, on December 30, 1977, the County of Erie, the City of Buffalo, the City of Lackawanna and the City of Tonawanda entered into an Agreement in regard to the sales tax revenues distribution; and

WHEREAS, the Agreement provided a disposition of 25.6858 percent to the cities and the areas outside the cities in proportion to their respective populations as determined in accordance with the latest decennial federal census; and

WHEREAS, the Agreement provided an additional disposition of 10.0087 percent to the cities, but no additional disposition to the areas outside of the cities; and

WHEREAS, having not been updated in almost four decades, this formula now results in the cities of Erie County receiving more than twice as much sales tax revenue as the towns of Erie County on a per capita basis; and, the largest component of property taxes are school district taxes; and

WHEREAS the combination of the property tax cap and state mandates have led to services and programs being cut by both towns and school districts; and

WHEREAS, a more equitable formula would allow towns and school districts to reduce property taxes and to increase services and programs; and

WHEREAS, section 3 of the Agreement dated December 30, 1977 provides that any time subsequent to November 30, 1982, each party to the agreement shall have the right to terminate said Agreement by giving one (1) year's prior written notice, served upon each of the parties.

NOW, THEREFORE, be it

RESOLVED, that the Town of Orchard Park supports the terminating of the current 1977 Sales Tax Revenue Distribution Agreement; and be it further

RESOLVED, that the Town of Orchard Park further supports that a new formula for sales tax revenue distribution be put into place, which provides for a more fair and equitable distribution of the sales tax to the cities and the areas outside the cities in proportion to their respective populations; and be it further

RESOLVED, that the Town of Orchard Park further supports that any new formula for sales tax revenue distribution provides additional funds to school districts in order to allow school districts to provide more opportunities for their students and to reduce property taxes; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to each member of the Erie County Legislature, the Erie County Executive, the Town Supervisors and Village Mayors of Erie County.

The resolution was unanimously adopted.

New Business #8 Refer to Planning, Conservation and Architectural Review

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

RESOLVED, that the Town Board does hereby refer the following to the Planning, Conservation and Architectural Overview Boards:

- 3394 Orchard Park Road located on the west side, south of Rte. 20, Zoned B4. Joseph Scinta requests a "Change-In-Use Permit" from Residential Use to Commercial Use.
- 6352 Webster Rd. Mr. Stanley Frazier, requesting a Perpetual Conservation Easement on eleven (11) acres.

The resolution was unanimously adopted.

Not on agenda

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

RESOLVED, that the Town Board does hereby authorize the Chief of Police to staff the artist "50 cent" signing event at a local retail store on October 24, 2015, all requirements of this special event have been met.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Jeffery Sweet – Village Code Enforcement Officer, came to talk about the success of the Village going to recycling and garbage carts. Before the Village used the carts only 17% of the residents recycled, now it is up to 23% and this has saved about \$10,000.00, and when the Village goes to the garbage carts, they expect to save about \$24,000.00 a year. The estimated Return on Investment is 3 to 5 years. The carts are ergonomic and safe, and will help contain any rodent problems. The Village may eventually try to include businesses in this program. It has been very successful and they are pleased with the program.

Barbara Little – Had questions regarding totes in the Town. If the Town goes with recycling totes, will there be smaller ones for people who do not have that much to recycle, or have problems pulling the totes. She also wanted to know if the Town will eventually go to garbage totes as well. She asked if there was going to be a fee per household for these totes, and if so, how will it be handled.

Melissa Lovanovski – Lives on Lake Ave. and said that with the road reconstruction there are no shoulders and the width of the street is much narrower now. She almost hit the mailman today because of the narrow road. Is the speed limit going to be lowered because the road is so much smaller, are they going to get the shoulders back on the road? Many of the residents enjoy walking on the road and are concerned about the lack of shoulders, and they also worry about getting hit when going to the mail because the mailboxes are so close to the road.

Carolyn Piccareto – Lives on Old Orchard Lane and has had brush out to be picked up for over a month. She has called about it for three weeks and they keep saying it will be picked up by the end of the week. They had this problem last year too, and then the snow fell on the brush. She is irritated and at her wits end and does not know what to do.

Rachel Baksa – Ms. Baksa (from West Seneca) inquired about emailed FOIL requests that were sent to the Town regarding the Orchard Park Little Loop League.

Scott Manne – Principle of Baker Road Educational Center. Mr. Manne is here regarding the Town Board's decision to pull the full time Police School Resource Officer from the Baker Road Educational Center. He wanted to clarify that this school is not an Erie County entity, it is a separate school system where residents of different communities can send children that are not doing well in traditional settings. Mr. Manne is asking the Board to reconsider their decision and negotiate with Erie 2 BOCES to keep the full-time police resource officer in place, as having a Resource Officer has been a critical component in their success.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem stated that regarding the possible use of totes, they have a 65 gallon size and a 95 gallon size. He said that they are not that hard to roll. He has a 95 gallon one at home and it works great. With the recyclables, the Town may go to picking them up every other week, so people may need a little larger size. There is a possibility that the Town may also go to totes for the garbage as well, they will know more after the "Garbage and Refuse" bids come in on October 30th. As far as the fees, there are no separate fees, the cost is on your County/Town tax bills.

Regarding Lake Avenue, that is a County Project. Ms. Lozanovski was directed to call Legislator Mills for further information. Regarding the Brush pickup, Supervisor Keem said there have been very little problems this year, but he will make sure the brush gets picked up. Regarding the FOIL request, Town Clerk Remy Orffeo said he just got the request yesterday, but previously did not have an address to send the paperwork to, he will send out the paper work tomorrow. Regarding the Baker Road Educational Center, Supervisor Keem said he would sit down with the school officials to try to negotiate a way to implement a full time SRO, but he could not make any promises.

Councilmember Sherry said that the Town Board has a really tough budget this year, the current tax cap is not sustainable. The issues with the totes has to do more with costs, upfront costs and less to do with long term investments. He asked Mr. Sweet to put in writing the benefits that he outlined and get them to the Town Board by next week for review. Regarding the SRO at Baker Road School, there were additional costs that were not disclosed up front, and the Town Board is still looking at it. Councilmember Sherry said the Town Board is going to hold two forums to discuss the budget and some of the services that are provided, and looking forward. The Town Board is looking for feedback from the citizens and hope people will show up for this information.

Town Clerk Remy Orffeo wanted to thank Chief Mark Pacholec for stationing police officers in the office during the last week of tax collection.

Highway Superintendent Fred Piasecki said they were finishing up some drainage projects and that the leaf pickup trucks are now out picking up the leaves. Councilmember Sherry asked if there was going to be a schedule of leaf pickup posted on the website. Mr. Piasecki stated they were working on it.

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

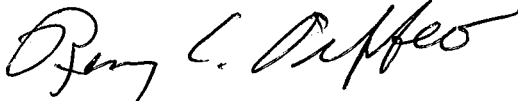
RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #20 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$18,902.83
Public Safety Fund	\$36,554.46
Part Town Fund	
Risk Retention	
Cemetery Fund	
Highway Fund	\$13,535.85
Special Districts	\$33,119.22
Trust & Agency	\$2,857.50
Capital Fund	\$98,698.40

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:47pm (local time).

Respectfully Submitted,



Remy Orffeo
Appointed Town Clerk