

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 1st day of November 2017 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	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 18, 2017, Executive Session: October 18, 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 HEARING

Bargaining Representatives of the Town and Civil Service Employees Association, Local 815, representing the Town of Orchard Park Blue Collar Unit to explain their positions with respect to the Report of the Fact Finder in PERB Case No. M2015-160.

Sean Beiter, Atty., represents the Town on labor matters, and was a member and chief spokesperson for the Town Negotiating Committee in the negotiations of the Blue Collar Union Contract. Mr. Bieter gave an overview of the negotiation process for the Blue Collar Union. He then recommended that the Town Board take legislative action that would start the next round of negotiations for 2016 instead of 2015.

Supervisor Keem said that Mr. Beiter received a letter stating that there would be no one would be here to represent the Civil Service Employees Association, Local 815, Blue Collar Unit. He asked if anyone else would like to speak on this matter. No one else came forward.

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

RESOLVED, that the Public Hearing in the matter of Town and Civil Service Employees Association, Local 815, Blue Collar Unit, is hereby closed at 7:25pm

The resolution was unanimously adopted.

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

WHEREAS the collective bargaining agreement between the Town of Orchard Park (“Town”) and the Civil Service Employees Association, Local 1000, Town of Orchard Park Blue Collar Unit (“Union”) expired on December 31, 2014; and

WHEREAS after meeting four times for the purpose of negotiating a successor agreement, the Union filed a Declaration of Impasse with the Public Employment Relations Board (“PERB”) on September 21, 2015; and

WHEREAS pursuant to Civil Service Law §209 (3) (a), PERB’s Regional Director, Gregory Poland was designated as the Mediator in the impasse between the Town and the Union in PERB Case M2015-160 on February 12, 2016; and

WHEREAS the Tentative Agreement between the Town and the Union reached with the assistance of Mediator Poland on April 25, 2016 was not ratified by the members of the Union on May 6, 2016; and

WHEREAS pursuant to Civil Service Law §209 (3) (b), PERB then appointed Lise Gelernter to serve as the Fact Finder to assist the Town and the Union in PERB Case M2015-160 on February 21, 2017; and

WHEREAS pursuant to Civil Service Law §209 (3) (c) (i), Fact Finder Gelernter issued her Findings of Fact and Recommendations to the Town and the Union in PERB Case M2015-160 on July 27, 2017, which was transmitted to the Town Board on that date;

WHEREAS neither the Town nor the Union expressed a willingness to accept to the Recommendations of the Fact Finder, pursuant to section 209 (3) (e) (iii) of the Civil Service Law, the Town Board scheduled a Public Hearing for the Town and the Union to present their positions with respect to Fact Finder Gelernter’s Recommendations in PERB Case M2015-160; and

WHEREAS the required Notice of this Public Hearing was given for 7:00 p.m. on Wednesday, November 1, 2017; and

WHEREAS the Chief Negotiator for the Town in these negotiations, Sean P. Beiter, Esq. of Goldberg Segalla, LLP, presented the position of the Town Supervisor at the November 1, 2017 Public Hearing and recommended that the Town impose a contract for the period of January 1, 2015 through December 31, 2015 with no increases to wages or other forms of compensation and no other changes to the collective bargaining agreement; and

WHEREAS the CSEA Labor Relations Specialist advised that the Union would not be participating in a public hearing in the impasse; and

WHEREAS there were no other presentations or members of the public wishing to be heard on this subject, the Town Board voted unanimously to close the Public Hearing; and upon the closure of the Public Hearing, the Town Board of the Town of Orchard Park

NOW, THEREFORE, be it

RESOVED, pursuant to section 209 (3) (e) (iv) of the Civil Service Law, to impose a one year contract between the Town of Orchard Park and the Civil Service Employees Association, Local 1000, Town of Orchard Park Blue Collar Unit for the period of January 1, 2015 to December 31, 2015, with no increase to employee wages or other forms of compensation.

The resolution was unanimously adopted.

PUBLIC HEARING
2018 Ad Valorem Budget or Benefit Basis Budget

At 7:26 PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding proposed 2018 Ad Valorem & Benefit Basis Budget.

Affidavits and Publication 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 there was anyone in the audience who would like to speak for or against the proposed 2018 Ad Valorem Budget or Benefit Basis Budget.

Thomas Malecki, the Town Accountant gave a presentation on the Town Budgets.

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 in the matter of 2018 Ad Valorem Budget or Benefit Basis Budget, is hereby closed at 7:40pm.

The resolution was unanimously adopted.

PUBLIC HEARING

Local Law 17 – 2017 Delete “Peace and Good Order” Article II “Unlawful Trespass: §99-3(D)

At 7:40 PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding proposed Local Law 17 – 2017 Delete “Peace and Good Order” Article II “Unlawful Trespass: §99-3(D) 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

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

RESOLVED, that the Public Hearing in the matter of Local Law 2017-17 is hereby closed at 7:42pm

The resolution was unanimously adopted.

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

WHEREAS, following due and timely notice a public hearing relating to the matter of Local Law 17 of 2017 was conducted, at which all interested parties were given an opportunity to speak.

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to adopt Local Law #17 of 2017 which provides as follows:

2017 Delete "Peace and Good Order" Article II "Unlawful Trespass: §99-3(D)

The resolution was unanimously adopted.

Old Business #1 Appoint fulltime clerk/typist in the Building Inspector's office

7) 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 appoint Kathleen Creagan to the permanent position of full time clerk/typist in the Building Inspector's Office as she has successfully completed the 6 month probationary period as of October 20, 2017.

The resolution was unanimously adopted.

Old Business #2 Change order #3 to contract with Kheops for Green Lake Dredging

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

WHEREAS, the Engineering Department is requesting your approval of a Change Order to the contract with KHEOPS Architecture, Engineering & Survey, DPC 300 Pearl Street Suite 100, Buffalo, New York 14202 for Green Lake Dredging and Dam Reconstruction Project in an amount of \$1,713.73. If approved, this would increase the total contract amount with KHEOPS to \$175,198.73 representing an increase of 0.98%, and

WHEREAS, the Change Order involves the cost for special inspection services to ensure design, site conditions and actual construction were adequate. This included providing inspections by a professional licensed geotechnical engineer from Golder Associates to observe the installation of footers on existing soils for the Dam's proposed emergency spillway, to observe the general earth reconstruction and ground water of the Dam interface of the concrete and the earthen work proposed for the emergency spillway and the Dam itself, and to provide a professional licensed structural engineer from KHARFRA to perform field inspections of the spillway's construction.

NOW, THEREFORE, be it

RESOLVED, the Town Board does hereby approve Change Order #3 (Final Change Order) to our contract with KHEOPS Architecture, Engineering & Survey, DPC, 300 Pearl Street Suite 100, Buffalo, New York 14202 for Green Lake Dredging & Dam Reconstruction Project in the amount of \$1,713.73, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Proceed with Dedication for PIP 2017-01

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

WHEREAS, on October 25, 2017, a final inspection was conducted of the public improvements constructed in Knoche Farms Estates Subdivision Phase 2. The project included the construction of a portion of Christina Lane and Knoche Way, and the construction of Solitude Court as shown on the attached location map. The completion of this subdivision phase will allow 32 new single-family residential lots to be developed. All work has been satisfactorily completed in accordance with Town specifications with the exception of the following, which will be completed as weather permits:

- Complete the street light installation provide spare pole and light fixture, and fuses to the Town and provide UL Inspection Certification. \$5,000
- Seed all disturbed areas outside of the ROW's and other lands (sublots and rear yard swale areas) and establish grass; approximately 5-acres. \$10,000

WHEREAS, the Town is in receipt of the cash securities for the items noted above. A two-year maintenance bond in the amount of \$600,000.00 has been submitted along with all other necessary documents.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Knoche Farms Estates Subdivision Phase 2 constructed under PIP #2017-01, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the performance security in the amount of \$120,000.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #4 Adopt Traffic Orders for Knoche Way

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

WHEREAS, per the request from the Police Chief, Town Engineer and the Highway Superintendent, and pursuant to the authority granted by §1660 of the Vehicle and Traffic Law of the State of New York it is hereby

ORDERED, that a **STOP SIGN** be posted on Christina Lane at the intersection of Knoche Way

And it is further

ORDERED, that a **STOP SIGN** be posted on Solitude Court at the intersection of Knoche Way.

And it is further

ORDERED, that the Superintendent of Highways be and is hereby directed to post the proper and necessary sign at said location.

The resolution was unanimously adopted.

New Business #1 Schedule Public Hearing for Proposed Local Law for 2017

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 schedule a Public Hearing in the matter of a proposed Local Law for 2017, "A New Drone Law", on November 15, 2017 at 7:00PM at the Orchard Park Municipal Center.

The resolution was unanimously adopted.

New Business #2 Approve Stable Permit

12) 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 a 2017 Stable Permit for Quaker Field Equestrian, 4760 Freeman Rd.

The resolution was unanimously adopted.

New Business #3 Adopt Special Charges to Enforce Unpaid Accounts for Town Services

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

WHEREAS, in accordance with New York State Law, Section 198, the Town Board had opted to enforce unpaid accounts for water, sewer, refuse and other unpaid town services as indicated below, by placing a lien upon the real property for which such services were provided, and

WHEREAS, in light of the aforementioned, the Erie County Legislature shall levy in such sums as indicated below and against the applicable properties as provided for on the Town Assessor's master computer assessment roll file, which is also hereby being delivered by the assessor with this letter of authorization:

Total Unpaid Water Erie County & Orchard Park	\$2,315.11
Total Unpaid Refuse & Pro-Rated Garbage	4,218.56
Total Property Maintenance & Code Enforcement	4,362.00 (\$3,635.00 + \$727.00)
Total Omitted Taxes	<u>837.95</u>
Total of Items above	\$11,733.62

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park in accordance with New York State Law, Section 198, does hereby adopt all special charges as outlined on the "Letter of Authorization", as recommended by the Town Accountant.

The resolution was unanimously adopted.

New Business #4 Fall/Winter/Spring Seasonal Part-time Recreation Staff Appointments

14) 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 appoint the following:

Fall / Winter / Spring Seasonal part time Staff Appointments effective 10/30/17).

<u>Name</u>	<u>Rate</u>	<u>Position (Title*)</u>
Robert Amabile	\$15.00	PT6-D (Att)

Seasonal part time Staff Appointments Rate Change effective 10/30/17.

<u>Name</u>	<u>Old Rate</u>	<u>New Rate</u>	<u>Position (Title*)</u>
Susan Hemmingway	\$20.00	\$17.50	PT8-D (Att)

Note: The above appointment is dependent upon the applicant providing the required certifications.

The resolution was unanimously adopted.

New Business #5 Supervisor to Sign US Army Core of Engineers Permit Validation Paperwork

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

WHEREAS, the Engineering Department is in receipt of the necessary ACOE permit validation paperwork to construct the Bussendorfer Regional Retention Basin. To validate the ACOE permit, the Supervisor must sign the original and duplicate copies of the permit accepting the terms and conditions and remit to the ACOE with an authorization letter. This will complete the validation process and upon receipt of signed permit work may commence, and

WHEREAS, as part of the ACOE permit, the Town must purchase 1.6 wetland credits from the Ducks Unlimited In-Lieu Fee Program to offset the 0.8ac of unavoidable loss to federally jurisdictional wetlands. The fee for this project is anticipated to be \$150,400.00 but needs to be finalized with Ducks Unlimited. This fee must be paid and accepted prior to commencing work on the project, and

WHEREAS, the Town must also provide the ACOE with a Performance Bond in the amount of \$102,000.00 to provide financial assurance that all of the obligations, covenants, terms, conditions, and agreements required will be fulfilled. The Performance Bond must conform to the standards set forth in 33 CFR 332.3(n) and be submitted to Ms. Heather Adams, U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York, 14207 prior to commencement of any work, and

WHEREAS, a third requirement of the permit will be to place perpetual deed restrictions on the wetland mitigation sites. These restrictions must be filed by December 31st of the year work begins and conform to special condition #8 in the permit. A copy of the permit requirements will be supplied to the Town Attorney.

NOW, THEREFORE, be it.

RESOLVED, that the Town Board does hereby Authorize the Supervisor to sign the validation permit paperwork for the Bussendorfer Regional Detention Basin Project and pay the required fee, and be it further

RESOLVED, that the Town Board does hereby Authorize the Town Attorney to provide the performance bond confirming to ACOE standard (33 CFR 332.3(n) and file required deed restrictions per permit conditions, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Town Clerk to provide Certified Resolutions for U.S. Army Corp of Engineers

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

WHEREAS, as required by the Army Corps of Engineers, an Authorization Letter signed by a Town Official, other than the Official signing the permit, must accompany the ACOE Permit to construct the Bussendorfer Regional Retention Basin. The Authorization Letter certifies that Patrick J. Keem, Town Supervisor, has the authority to execute the permit on behalf of the Town.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize Remy Orffeo, Town Clerk, to sign the Authorization Letter certifying that Patrick Keem is Supervisor and has full authority to execute the permit as required for the Army Corps of Engineers Permit.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Dr. Steven Pearl – Dr. Pearl would like a stop sign posted at the intersection of Valley View and Pine Terrace, which is the busiest intersection in Eagle Heights, and this is the point most of the Eagle Heights roads funnel onto Jewett Holmwood. On Pine Terrace the school buses cannot turn around, so the school children have to all wait at the intersection of Valley View and Pine Terrace. This is an accident waiting to happen, and with winter approaching, the situation worsens. Dr. Pearl repeated his request for a stop sign, and stated that School Superintendent McGarrity agreed.

ELECTED OFFICIALS & DEPARTMENT HEADS

John Mills, the Town of Orchard Park’s County Legislator. Legislator Mills talked about the upcoming County Budget, and he feels the current proposed budget is taking too much from the fund balance. His main interest as legislator to develop a preventative maintenance schedule for the infrastructure in Erie County, currently there is none. He also wants to set up schedule for road repairs, his latest success was getting the Boston Springville Road repaved. The County has also been involved in some drainage project in Orchard Park too.

Supervisor Keem said next Tuesday is Election Day, get out and vote, it is a privilege that not everyone has.

Councilman Sherry asked the Chief of Police if the intersection of Valley View and Pine Terrace has come before the Public Safety Committee yet. Chief Pacholec stated that it has been. Councilman Sherry discussed the new “drone” local law for the Town. Previous legislation contained language regarding the air space, which is really regulated by the FAA. The new legislation will address the takeoff and landing of “unmanned” air crafts, and give the Police the ability to enforce the law, as the FAA is only a regulatory agency, not an enforcement agency.

Chief of Police Pacholec stated the new “unmanned aircraft” law is for all events in Orchard Park.

Highway Superintendent Piasecki said they are into leaf pickup season, and are working to get all the leaves up. They are also preparing for the winter season, and doing maintenance on the parks & buildings.

15) 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:

General Fund	\$101,947.32
Public Safety Fund	\$29,043.14
Part Town Fund	\$802.51
Risk Retention	-
Cemetery Fund	-
Highway Fund	\$93,478.73
Special Districts	\$164,957.75
Trust & Agency	\$3,381.45
Capital Fund	\$3,456.53

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilman Majchrzak, the meeting adjourned at 8:10 pm (local time).

Respectfully Submitted,


Remy C. Orffeo
 Town Clerk