

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 2nd day of November 2011 at 7:00 PM, the meeting was called to order by Supervisor Colarusso and there were:

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

Supervisor Colarusso 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.”

New Business #1 Appointment to the Public Safety Committee

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

RESOLVED, the Town Board does hereby appoint Ryan Crawford, 59 Briar Hill Road, to the Public Safety Committee for a term which will expire on 12/31/2012.

Councilman Graber introduced Mr. Crawford and welcomed him to the Public Safety Board and thanked him for volunteering his time.

The resolution was unanimously adopted.

New Business #2 Schedule Public Hearing for Proposed Local Law for Collegiate Residential Dist.

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

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday November 16, 2011 at 7:00 pm for the proposed 2011 Local Law for the purpose of review and revision of the Orchard Park Town Code of Ordinances as follows:

144-46.2 Collegiate Residential District (CR)

- A. Statement of intent and objectives.
 - (1) It is the intent of this section to regulate the construction of residential apartments in R-3 and R-4 Multiple Dwellings for full time students matriculated at an accredited college or university. Housing specifically designed for students is a desirable need within the community; it is equally important to maintain and safeguard community ambiance, character and environmental quality.

- (2) This section recognizes that while standard zoning criteria are important to the protection of the community as a whole, in the instance of collegiate housing developments, standards can be tailored to meet the special conditions and uses. This section protects the community through the adoption of standards and regulations that encourage collegian residential development while protecting health, safety and general welfare of the entire community.
- (3) It is the specific intent of this section to provide the Town of Orchard Park with the flexibility to designate property with the CR designation. The Town Board, with the advice and assistance of the Planning Board, may assign the CR designation in areas of the town currently zoned R-3 or R-4 within 1000 feet of the main campus of an accredited college or university.

B. Permitted uses in CR District

- (1) The housing of full time matriculated students at an accredited college or university or a college or university that is a member of the State University System of New York (SUNY). The housing development shall have a written contractual relationship with the accredited college or university to regulate the residents to those attending their educational institute.

C. Lot Regulations

- (1) Lot size, set backs, coverage shall be per the R-3 or R-4 requirements in which the CR district is.
- (2) Emergency vehicle access. A perimeter road around the building shall be provided for emergency vehicles. Said road shall be a minimum of 16 feet wide, hard surface and restricted from parking thereon. Furthermore, parking shall be restricted between the building and the perimeter road. The perimeter road shall be designated as a fire lane.
- (3) At least one (1) ingress and egress shall be located on a public highway.

D. Maximum number of stories shall be three (3).

E. Maximum height of buildings. The maximum mean building height shall be 40 feet.

F. Lot Density. Based on a review of the site plan which meets the required set backs and details required by this section, the Planning Board shall recommend the appropriate number of units to the Town Board for its consideration and adoption for the specific project.

G. Parking. There shall be ¾ parking space provided for each bedroom in the apartment. One visitor parking shall be provided for every 10 units.

H. Collegiate housing conditions or approval. Standards and procedure for approval of collegian housing not covered by regulations herein shall be covered by the procedures set forth in Section 144-46 (Multiple dwellings and town houses) of this chapter.

The resolution was unanimously adopted.

New Business #3 Enforce Various Unpaid Accounts for Town Services

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUCNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby in accordance with New York State Town Law, §198, opt to enforce various unpaid accounts for water, sewer, refuse and other unpaid Town services, by placing a lien upon the real property for which such services were provided, and be it further

RESOLVED, that in light of the aforementioned, the Erie County Legislature shall levy in such sums as indicated against the applicable properties as provided for on the Town Assessor’s master computer assessment role file, which is also hereby being delivered by the Assessor with this letter of authorization.

• Total Unpaid Water – EC & OP	\$ 6,159.43
• Total Unpaid Sewer	
• Total Unpaid Refuse – Pro rated garbage	\$ 2,432.93
• Total Agric Penalty	
• Total Other Charges – Lot clearing	\$ 1,175.00
• Total Omitted Taxes – Veterans	\$ 448.88
Total	\$ 10,216.24

The resolution was unanimously adopted.

New Business #4 Authorize Supervisor to Execute 2012 Van Contract

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

RESOLVED, that the Town does hereby authorize the Supervisor to execute the 2012 yearly Van Contract between the Town of Orchard Park and the County of Erie.

The resolution was unanimously adopted.

New Business #5 Authorize Supervisor to Execute 2012 Senior Nutrition Contract

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2012 yearly Senior Nutrition Contract between the Town of Orchard Park and the County of Erie.

The resolution was unanimously adopted.

New Business #6 Authorize Dedication for Pleasant Acres West Subdivision Part I PIP #2010-01

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

WHEREAS, on October 27, 2011, a final inspection was conducted of the public improvement constructed in the Pleasant Acres West Subdivision Part I. The project included the installation of Airmont Drive, Conway Circle and a portion of Golden Crescent Way, which consists of the installation of 1,895 L.F. of new roadways and public utilities including 2360 L.F. of sanitary mainline and 1900 L.F. of watermain with four hydrants to serve 24 residential sublots, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of the following, which will be completed when the weather permits:

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| ○ Install light bases and poles and fixtures, and all associated conduits, wiring and 'special' pull boxes and UL Inspection Certification (Bond) | \$45,000 |
| ○ Complete of field seeding and mulching in 15.16 acres of undisturbed areas | \$15,000 |
| ○ Complete remaining final grading, seeding and mulching in ROW area | \$ 4,500 |
| ○ Install trail gate on pond access road and installing street barricade at the end of Golden Crescent Way and split rail fencing near property corners | \$ 5,000 |
| ○ Provide confirmatory surveys and associated survey data for all required survey monuments (16 property and 1 "GPS" monuments) | \$ 1,500 |
| ○ Complete landscaping planting in cul-de-sac (9 trees) | \$ 2,700 |
| ○ Misc. items, hydrant markers, saw cutting, etc. | \$ 2,000 |

WHEREAS, the Town is in receipt of the bond and cash securities for the items noted above, the performance bond is for the street lighting which was approved by the Town Attorney. The cash security and bond will be held in escrow until that work has been satisfactorily completed in the spring. A two year maintenance bond in the amount of \$550,000.00 has been submitted along with all the 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 Pleasant Acres West Subdivision Part I constructed under PIP #2010-01, and authorize the Town Clerk to release the performance bond in the amount of \$110,000.00, as recommended by Town Engineer.

The resolution was unanimously adopted.

New Business #7 Authorize Traffic Order for Pleasant Acres West Subdivision Part I PIP #2010-01

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

RESOLVED, that the Town Board does hereby authorize the posting of "Stop" signs on Airmont Drive at the intersection of New Taylor Road and Airmont Drive at the intersection of Conway Circle and Golden Crescent Way, as recommended by the Police Chief and Highway Superintendent.

The resolution was unanimously adopted.

New Business #8 Public Safety Recommendations

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

RESOLVED, that the Town Board does hereby authorize a letter, in referral, be sent to the Engineering Department for evaluation of the request for additional street lighting on Angle Road between Southwestern Blvd. and Michael Road, as recommended by the Public Safety Committee.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize a letter be sent to the Erie County Department of Transportation to request a 3-Way “Stop” sign at the intersection of New Taylor, South Taylor and Taylor Roads, as recommended by the Public Safety Committee.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Before the public comment, Councilmember Graber thanked everyone for attending the meeting. He stated that there have been many inquiries and wanted to clarify any confusion there might be about eliminating the Police Department. The Town Board has no intention dissolving the Police Department under the budget. There is a proposal for the Police Department to help the Town Board find some savings. Councilmember Ackerman stated that there is no plan to eliminate the D.A.R.E. program. Councilmember Kazcor stated that correspondence from the Municipal Center went out to the schools that stated that there would be elimination of some programs, which was never discussed by the Town Board. The budget is not even completed and the Town Board has always been an advocate of the D.A.R.E. program as well as the other programs. Councilmember Majchrzak added that in the work session the issue of dispatch was discussed with the Fire Commissioners. It was very productive and they will be submitting a proposal to the Town Board at the next work session.

Mark Pacholec – Lt. Pacholec, President of the Command Officers Police Association, stated that the Police Department was directed to eliminate \$300,000 more from the 2012 budget. He asked why there was almost \$200,000 extra in the health care line and over \$110,000 extra in the retirement line. The explanation from the Town Accountant was that it was there for contract settlements, arbitration costs and overtime. Lt. Pacholec asked why these monies are put in those lines, as it inflates the figures which are hot public topics. He asked again for a Town Board appointed committee composed of citizens, Police Officers, emergency services personnel and Town Board members to determine what the residents expect from public safety and its Police Officers. He stated that the Police Department requires three things, those being manpower, training and tools.

Pat Fitzgerald – Officer Fitzgerald is a D.A.R.E. Officer with Orchard Park Police Department, and is against the proposed elimination of two unfilled police officer positions along with the additional \$300,000 additional cuts to the Police Department. He gave positive facts on the D.A.R.E. program.

Al McClmonds – Mr. McClmonds moved back to Orchard Park because of the safety of the community and supports the Police Department. Safety should not be taken for granted. The Police are at risk every day for our safety.

Dale Kasprzyk – Mr. Kasprzyk stated that he works in law enforcement and has worked with officers in the Orchard Park Police Department and has found them to be professional, competent and hard working individuals.

Christine Rassow – Ms. Rassow stated that she is a resident and the Principal at the South Davis Elementary School. She spoke on behalf of her Elementary School colleagues Dr. Krueger, Principal of Eggert, Mrs. Gloss, Principal of Windom and Mr. Spicola, Principal of Ellicott. She spoke about the safety and security of the students and staff and the importance of the Police Department and the D.A.R.E. Program.

David Lilleck – Mr. Lilleck is a resident and the Principal of the Middle School and reiterated Ms. Rassow's sentiments.

John Wolf – Mr. Wolf is a resident and the Principal of the High School and echoed his colleagues' statements.

Janet Jahnke – Ms. Jahnke is a Council of the Arts President and Vice President of the Orchard Park Symphony Orchestra and is concerned with the proposed budget cuts to these programs as well as the D.A.R.E. program. She asked the Town Board to re-examine the proposed budget and find ways to balance the funding, as cuts to these programs will erode the safety, wellness and fine arts.

Kathy Wiktor – Ms. Wiktor is the PTO President of Ellicott Elementary and stressed the importance of the D.A.R.E. program.

Christina Warmington – Ms. Warmington is a Dispatcher with the Orchard Park Police Department and read a letter she received in response for a special exemption for the residency rule she requested from the Town Board in August 2003. She has an issue with the denial for the waiver, as another employee was granted one. Ms. Warmington stated that dispatch and the Police Department belongs in Orchard Park.

Pat O'Brien – Mr. O'Brien voiced his frustration and outrage with the money spent on the ICMA study, purchase of property and not sharing information with the residents.

Linda Babcock – Ms. Babcock is a member of the Orchard Park Community Youth Council and gave data from a Search Institute Survey of 9th and 12th grade students showing the positive side of the D.A.R.E. and the Police Department.

Ed Hempling – Mr. Hempling was a member of the Buffalo Police Department for 30 years and is still involved with training at ECC Law Enforcement Training Academy. He has worked with John Payne and Mark Pacholec, Chief Benz and Sam McCune. Mr. Hempling commented that the ICMA report focused on all the ways to save money related to the negative issues and overlooked what should be done in terms of funding, such as more training, domestic violence, active shooter, layers of supervision between the Chief and Lieutenants or supervision around the clock. He stated that this was a quantitative analysis and not a qualitative report which should have involved the Chief of Police, Schools and the residents. Councilmember Graber asked Mr. Hempling if he would be willing to work with Lt. Pacholec on the proposed committee and he agreed.

Carla Marrazzo – Ms. Marrazzo stated that safety should never be compromised to save money. Last year three lives were saved in Orchard Park by routine patrol. D.A.R.E. is needed due to the threat and realization of drugs and alcohol within the Schools.

Matt McGarrity – Mr. McGarrity is the Superintendent of the Schools for Orchard Park. He realizes the magnitude of the financial constraints of the Town. He stated that the prevention through education is the most effective tool in arming our children against the many challenges they face. The current partnership with the Police force allows this accomplishment of this daunting task.

Jeanne Dryja – Ms. Dryja is a Middle School Health and Wellness Teacher and stated that the Police and students have a strong bond. She stated that the D.A.R.E. Officers and the Police Department are always there for the students.

David Bailey – Mr. Bailey stated that there is no question that the Town has a great Police Department and School System. The question is cost and challenged anyone to come up with a solution to solve the problem of coming up with the money. He offered that the residents scrutinize the State instead of the Town Board.

Lisa Krueger – Ms. Krueger is a resident and Principal of Eggert Elementary School. She spoke about safety and security, bullying and support of the community in relationship to the Police Department and D.A.R.E. program.

Jessica Nichols – Ms. Nichols is a student at Ellicott Road and wanted children to learn how to say “No” to alcohol, drugs and bullying. She asked for support for the Orchard Park Police Department.

Dave Harris – Mr. Harris relayed an incident that happened to him in the Spring. He collapsed and due to the quick action taken by three people, one of which was Officer Jason Schiedel who applied the defibrillator which saved his life. If the proposed cuts to the Police and Dispatch had occurred prior to April 2010, he might not be here today.

Mary Chase – Ms. Chase is displeased and opposed the proposed cuts to the Police Department. She relayed a personal experience with a Police Officer who helped her son and wants to keep the men and women who protect us.

James Lupini – Mr. Lupini is the Principal of the Erie II Chautauqua Cattaraugus BOCES Baker Road Educational Center. He has worked with many of the Police Officers and has always found them to be professional, efficient and competent, particularly D.A.R.E. Officers Govenettio and Officer Fitzgerald.

Mary Ellen Kolodziejczak – Ms. Kolodziejczak is a resident and teacher in Orchard Park. In August her son was hit by a car while riding his bike. She stated that due to quick response he is fine and credits this to the Orchard Park Police Department.

James Berlin – Mr. Berlin stated that he approached the Town Board about a *Neighborhood Watch Program* in July, which was being organized with the Police, but hasn't heard anything lately. He stated that it was probably due to lack of morale with the distraction of the budget issues. Mr. Berlin was in a bad accident in September 2007 and credits his recovery in part to the quick response of the Police.

Jeffrey Sweet – Mr. Sweet asked the Town Board to examine their priorities.

Patricia Longboat – Ms. Longboat wants the Town to have its own Police Department. She asked why the technology and dispatch issues for the Police Department were not addressed years ago. Ms. Longboat stated that as a taxpayer, she is willing to pay more in taxes for the Police Department, but wants it to be only to the Police Department. Supervisor Colarusso asked Ms. Longboat if she would be willing to be on the committee with Lt. Pacholec and she agreed.

Jason Schiedel – Mr. Schiedel is an Orchard Park Police Officer and Vice President with the PBA. He stated that with the vacancies and proposed cuts to the Police Department it will make it difficult to do their jobs. He stated that recently they have had good conversations with some of the Town Board members and have given their commitment as a PBA and as a Union to try and assist in the fiscal problems. Officer Schiedel stated that they appreciated the work by the Town Board, but the cuts have to stop. He submitted a list of signatures in opposition.

Howie Holmes – Mr. Holmes asked that the Town Board permanently abolish the budget officer's stipend.

Kevin Kolesar – Mr. Kolesar is upset by the proposed budget cuts to the Police Department and D.A.R.E. Program.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Colarusso outlined the steps and figures of the Proposed Budget which had to be filed in September. She stated that she stayed under the New York State 2% cap by getting rid of many positions and the increase to the tax base would only be 14 cents per thousand. She explained the oversight on the money for the matching upgrade on the Library grant. The Town Board decided to use money from the fund balance. Supervisor Colarusso stated that outside funding was reduced from the groups such as the Seniors, Orchard Park Symphony, Chamber of Commerce, Council of the Arts, Little League and others. They eliminated more job positions, but the tax rate didn't change and more money was put back into the fund balance. Supervisor Colarusso stated that she has spoken to residents who all want to keep the funding in the budget to keep the departments, programs and outside funding. She stated that the Town needs to fix the internal inefficiency problems within the Police Department, before any budget cuts should occur. She stated that she supports the Police Department and employees. Supervisor Colarusso stated that the Town needs to update Union contracts to accommodate the money spent in the future.

Councilmember Ackerman discussed the budget and the reasons for not giving raises and reducing the outside funding to Town groups. Donors have given money to help support some of these groups. She stated that in these times, everyone has to share the pain of not receiving a 3% raise, including the Police Department. If the Police would forego a raise for three years, it would help to return the money to the tax stabilization fund. The Town Board suggested this to the Police Department. The Town Board is trying to protect the taxpayers and to preserve the Police Department. They in turn, need to help by not being so demanding and grieving everything. No one else in the Town is receiving a raise and the Town Board just asks that the Police agree to do the same. There have been mandates handed to the Towns by the State and it is not mismanagement by the Town Board. There needs to be dialog and compromise to resolve these issues.

Councilmember Kaczor stated that the Town Accountant, Wayne Drescher, gave the Town Board a formal presentation in regard to the state of finances in the Town. He stated that the Town has enough money in reserves for current economy for about three years. The Town Board looked at each department and everyone had to sacrifice. He stated that he is probably the biggest proponent of external funding of outside groups, but all had to be involved with cuts. Councilmember Kaczor stated that the Town Board has the responsibility in dealing with any Union to get the best deal for the Town in the current economy, not what was promised 20 years ago. Councilmember Kaczor defended the ICMA Study and it brought to light the need to look at the Police Department operation and find more efficient ways to address the problems. He stated that the positions that were cut were unfilled positions. He explained the reasons for the land acquisitions to the audience.

Councilmember Graber thanked everyone for attending and was encouraged by the input from the work session in regard to Dispatch. There is still time to resolve the issues and no one wants to eliminate the Police Department.

Councilmember Majchrzak stated that the reason he was involved with the consultant for the ICMA Study was to improve efficiency. He stated that he would work to keep the Dispatch and is not in favor of eliminating the Police Department. He stated that the building permits are down, which brings a tremendous amount of income. If WalMart should be built, it would bring in approximately \$250,000 to \$300,000 in tax revenue to the Town. Without the building of homes and developments, there is no way to replenish the savings. If the Town keeps borrowing money on the savings, the taxes will have to be raised by 10%. Councilmember Majchrzak is a supporter of the D.A.R.E. Program and it was never discussed to disband it. The Town Board is going to need the departments and the unions help. He appreciated everyone attending and their comments.

Chief of Police Andy Benz wanted to clarify the Town Board directive to speak to the Police Department about the \$300,000 cuts necessary from their department's budget and the miscommunication. He stated he was told not to divulge any early retirement his staff until notified after hearing from the Attorneys. Chief Benz stated that he told the Town Board he did not want to discuss Union Contract issues without talking to the Attorney, and to make sure that he didn't do anything that would be considered negotiating in bad faith. He tried to contact the lawyer twice, but he never returned the call. Chief Benz stated that he met with the Lieutenants and there were 19 specific items of services that might be eliminated. Chief Benz stated that the information concerning D.A.R.E. came from the Police Department, and it is what people were most concerned about. Chief Benz stated he has concerns about the reduction in manpower and funding. He stated that we need those things to accomplish the Police Department's mission of public safety. With the Town's continued growth and expansion of the business base, it does not seem like the appropriate time to be thinking about downsizing the Police Department. As pointed out by citizens, business owners and the Police Department, they feel as though the Police Department is not receiving the tools to provide the job the residents expect, request and deserve. He is concerned with any decision to make more cuts in the Police budget that would place the taxpayers and employees of this Town at greater risk of harm and liability.

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

RESOLVED, that the Town Board does hereby approve the following budget transfer within the 2011 Highway Department Budget.

\$3000.00 **From:** DA.5110.0440 Equipment Rental
 To: DA.5130.0419 Machinery-other expense

The resolution was unanimously adopted.

11) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, 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 #21 which were reviewed and approved.

General Fund	\$101,518.12
Part Town Fund	\$196.01
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$30,412.13
Special Districts	\$106,330.26
Trust & Agency	\$375.00
Capital Fund	\$21,479.70

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Kaczor, the meeting was adjourned at 9:35 PM (local time).

Respectfully Submitted,



Carol R. Hutton
Town Clerk