

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 16th 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."

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

RESOLVED, that the Regular Town Board Meeting minutes held on October 19, 2011 and November 2, 2011 and the Executive Session Meeting minutes held on October 26, 2011 and November 2 & 9, 2011 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 has previously received copies thereof.

The resolution was unanimously adopted.

**Public Hearing
2011 Proposed Local Law Regarding Amendment to the Town Codes
Collegiate Residential District (CR)**

At 7:00 PM (local time) Supervisor Colarusso called for the Public Hearing to hear all interested parties for or against a 2011 Proposed Local Law for the year 2011 which provides as follow: 144-46.2 Collegiate Residential District (CR).

Affidavits of Publication and Posting of the Legal Notice for the Public Hearing were presented, read aloud, and filed with the Town Board by the Town Clerk.

Ralph Lorigo – Attorney for the Developers, Regent Companies & Matrix Development. Mr. Lorigo stated that these two companies have done student housing for Community Colleges in other locations. Most of the other Community Colleges in New York State have student housing, but Erie Community College does not. This will be a private development in conjunction with the College, as the College Board voted in favor of this project. The Town needs to adopt a Collegiate Housing ordinance for this type of housing.

Councilmember Ackerman asked about Public Safety issues and wanted to know if a provision should be added to the ordinance regarding that. Town Attorney Berkowitz stated that Public Safety could be handled under the site plan review. Mr. Lorigo noted that they are in the process of formulating an agreement with ECC South to utilize their campus security in conjunction with the security they would have for the project itself. Mr. Lorigo also explained that since this is a private development, the Town would benefit from the increase in taxes from this development, bringing more revenue to the Town.

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

RESOLVED, that the Public Hearing for the 2011 Proposed Local Law for the amendment to the Town Codes is hereby closed at 7:11 PM.

The resolution was unanimously adopted.

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

WHEREAS, following due and timely notice a Public Hearing relating to the matter of a Proposed Local Law for the Year 2011, which reads as follows: 144-46.2 Collegiate Residential District (CR), at which time all interested parties were given an opportunity to be heard.

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to adopt Local Law 2011-04 which provides 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 $\frac{3}{4}$ 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.

Old Business #1 Adoption of the 2012 Proposed Ad Valorem & Tentative Basic District Budgets

Town Accountant, Wayne Drescher, discussed the Budgets, what they encompassed and outlined the changes made to the 2012 Budget proposed by the Supervisor. Some of the changes are:

- The proposed wage increases for the Elected Officials, Department Heads and non-union employees were reduced so there are 0% raises
- The stipend for the Budget Officer was reduced
- Cultural expenses were reduced.

- In the Police Department one civilian dispatcher was reinstated, \$300,000 was reduced from the Police Saving Program and was off set by \$300,000 that was placed in Special Items, so the Town Board will determine if it is appropriate to reinstate all those dollars, based on subsequent actions. In 2012 the tax rate will increase 18 cents per thousand of assessed valuation.

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

RESOLVED, that the Town Board does hereby adopt the Town of Orchard Park 2012 Ad Valorem budget (includes General, Town Outside Village and Highway Funds) as previously filed by the Town Supervisor and known as the "Preliminary" 2012 Ad Valorem Budget with the changes that were made by the Town Board. (The changes may be reviewed in the Town Clerk's office).

Councilmember Ackerman said the Town Board found the budget process to be extremely difficult and painful, as they are faced with rising costs and stagnant revenues. She also said they have to find a way to slow down the depletion of the Town's reserves, which took 25 years to build. If the Town continues on the current rate of using the reserves, it will be gone in three years. Councilmember Ackerman said that she could not bring herself to vote for a budget that accelerates the utilization of the Towns reserves, and she feels that this budget does not go far enough. The reserves should be used for emergencies, not day to day expense. Councilmember Ackerman thanked everyone for their involvement in the budget process.

Councilmember Graber stated that the Town has expenses in excess of the revenue by \$700,000 according to the budget, but there will be the \$300,000 for the police officers and there will be no lay offs in that department, subject to future negotiations.

Councilmember Majchrzak stated that input from the citizens helped shape the adopted budget.

Councilmember Kaczor said that as hard as this budget process was, it was good more people got involved and now they have a better understanding of the budget process and what the Board members face in union negotiations. The Board has established new parameters with the Police Benevolent Association and the working unions and next year will have to look at every single department to find ways to cut back.

Supervisor Colarusso said one of the good things to come out of the budget process is the Board's opening up of the lines of communication and increased interaction with the unions and the Fire Company.

Supervisor Colarusso	Aye
Councilmember Ackerman	Nay
Councilmember Kaczor	Aye
Councilmember Graber	Aye
Councilmember Majchrzak	Aye

The resolution was duly adopted.

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

RESOLVED, that the Town Board does hereby adopt the Town of Orchard Park 2012 Benefit Basis Budgets (includes various special district funds) as previously filed by the Town Supervisor and known as the "Preliminary" 2012 Benefit Basis Budget.

The resolution was unanimously adopted.

Old Business #2 Saville's, 4020 N. Buffalo Road, request for a Building Permit

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

RESOLVED, that the Town Board does hereby authorize a Building Permit for Saville's Country Florist, 4020 North Buffalo Road, Zoned B-1, for the construction of a 3,140-sq.ft. addition to the existing building and two-green houses, totaling 1080-sq.ft., and approve the Site Plan received 10/19/11, as recommended by the Planning Board based on the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Full EAF Parts 1 & 2 a Negative Declaration is made.
- The owner shall deposit with the Town Clerk, a certified check amounting to 50% of the cost of completion of all landscaping (\$1,957.50) as set forth in the Landscaping Plan and as shown on the Value Estimation form. In the event that the owner shall fail to comply with the provisions of this §144-44C(1), the deposit shall be forfeited to the Town of Orchard Park. The project includes 78% green space.
- The site lighting is limited to those fixtures and poles indicated on the approved Site Plan.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- Engineering Approval was granted on 11/2/11.
- AOD approval for the proposed architectural plans was granted on 8/3/10 and 8/2/11.

The resolution was unanimously adopted.

Old Business #3 Quaker Town Car Wash & Laundromat request for a Building Permit

7) 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 authorize a Building Permit, as petitioned by Steve Becker for Quaker Town Car Wash & Laundromat, 3705 North Buffalo Road, Zoned B-3, to rebuild the existing car wash site and construct a laundromat within the existing footprint and approve the Site Plan received 11/07/11, as recommended by the Planning Board, based on the following conditions and stipulations:

- This is a Type II SEQR action based on the submitted Short EAF and no determination is necessary.
- The owner shall deposit with the Town Clerk a certified check amounting to 50% of the cost of completion of all landscaping (\$415.00) as set forth in the Landscaping Plan and as shown on the Value Estimation form. In the event that the owner shall fail to comply with the provisions of this §144-44C(1), the deposit shall be forfeited to the Town of Orchard Park. The project includes 43.8% green space.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- Engineering Approval was granted on 11/9/11.
- The AOD Board granted approvals for the proposed architectural renderings on 4/5/11 and for the proposed signage on 8/2/11.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release to Orchard Park Commerce Centre, 80 Curtwright Drive, Williamsville, New York 14221, the \$8,000 held in escrow for Final Seeding and Grading within the Town right-of-way in the Orchard Park Commerce Centre Phase 3 for the Windward and Redtail Roads Extensions public improvements under PIP #2010-02, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Authorize payment of Hydrant Fee for Lyrica Park

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

WHEREAS, as requested by the Erie County Water Authority (ECWA), the Town of Orchard Park is required to pass a resolution to pay the hydrant fee amount upon dedication of the various phases of the subdivision per the lease management agreement between the Town of Orchard Park and ECWA, and

WHEREAS, the total construction of the above referenced subdivision will result in six hydrants in service.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the payment of the six hydrant fee amounts upon dedication of the Lyrica Park Subdivision and associated hydrants per the lease management agreement between the Town of Orchard Park and ECWA.

The resolution was unanimously adopted.

New Business #6 Authorize payment of Hydrant Fee for Riley Meadows Estates

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

WHEREAS, as requested by the Erie County Water Authority (ECWA), the Town of Orchard Park is required to pass a resolution to pay the hydrant fee amount upon dedication of the various phases of the subdivision per the lease management agreement between the Town of Orchard Park and ECWA.

WHEREAS, the total construction of the above referenced subdivision will result in four hydrants in service.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the payment of the four hydrant fee amounts upon dedication of the Riley Meadows Subdivision Phases or Parts, and associated hydrants per the lease management agreement between the Town of Orchard Park and ECWA.

The resolution was unanimously adopted.

New Business #7 Authorize attendance for the NYS Association of Professional Land Surveyors

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

WHEREAS, annually the New York State Association of Professional Land Surveyors Inc. (NYSAPLS) hosts a 3-day conference, which provides the most comprehensive training available for those involved in Surveying. It is given by leading industry professionals so that those involved in Surveying can be up-to-date on Continuing Education for licensing requirements Credits (24 CE hours for 3 year re-licensing) as well as state-of-the-art surveying procedures and programs to help operate an efficient Engineering Department., and

WHEREAS, the NYSAPLS Conference begins on Monday, January 9th, with three (3) concurrent Days for Professional Development, Legal Sessions and Technical Sessions, and

WHEREAS, the NYSAPLS 3-day conference is a valuable Survey & Engineering recognized source of training, which is strongly recommended by those in the field of Surveying and Civil Engineering in general. Kenneth W. Partridge P.L.S. has attended this conference for many years since licensure.

NOW, THEREFORE, be it

RESOLVED, that the Town Board recommend that you authorize Kenneth W. Partridge to attend NYSAPLS 53rd Annual Conference to be conducted January 9th, 10th and 11th, 2012 in Saratoga Springs, New York in an amount not to exceed \$675 as budgeted in Engineering Department.

The resolution was unanimously adopted.

New Business #8 Approve transfer of money for Library Renovations Capital Project

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

WHEREAS, the Town owns the library building and is responsible for capital improvements to such facility, and

WHEREAS, the Town Board believes the Orchard Park Library to be a valuable community resource and wishes to provide additional funding for improvements to the library building, and

WHEREAS, the funding for such improvements is available in other funds,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby approves the transfer of \$315,000 to the Library Renovations Capital Project (project H81), with funding from the following sources:

1. Transfer of \$95,421.80 from account T.72 Ecology Trust
2. Transfer of \$19,578.80 from account H14 Municipal Buildings Capital Reserve
3. Transfer of \$200,000.00 from T.87 Public Improvement Permits

The resolution was unanimously adopted.

New Business #9 Town Board to provide required matching funds for Senior Center

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

WHEREAS, the Town has received a grant for renovations and improvements for the Town's Senior Citizens Center, and

WHEREAS, the Town Board believes the Orchard Park Senior Center to be a valuable community resource and wishes such renovations and improvements to proceed, and

WHEREAS, the renovation and improvement grant requires matching Town contributions of \$25,325.00,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby provide the required matching funds with the transfer of \$18,106.00 from the General Capital Reserve (project H27) to the Senior Center Building Repair Project (project H49). This transfer along with funds previously in the Senior Center Building Repair Project will provide adequate funding for the Town's required matching contribution.

The resolution was unanimously adopted.

Refer to Planning Board and Conservation Board

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

RESOLVED, that the Town Board does hereby refer the request of John Wabick for a proposal for expansion of parking lot at West Herr Nissan, 3580 Southwestern Blvd, located on the north east corner, Zoned B-2, to the Planning & Conservation Boards.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

John Mariano – Police Benevolent Association President. Officer Mariano stated that it has been brought to his attention that there has been an automated phone message going out to the residents of Orchard Park, which contained a personal attack on Councilmember Majchrzak and his plans to dismantle the Police Department. This was not the work of the Orchard Park PBA. Officer Mariano stated that could not be farther from the truth. Councilman Majchrzak and Councilman Kaczor have been in constant touch with him, and they have met on several occasions in an attempt not to reduce the PBA in any way, and to look for ways to fiscally achieve these goals.

Bruce Dearborn – Vice President of the Command Officers Association of the Police Department. Officer Dearborn stated that on behalf of COA, that none of their members had any connection to the Robo calls that went out to the residents regarding Councilmember Majchrzak. He stated that over the past couple of weeks, there has been a noticeable improvement in communications between the Town Board and members of the Police Department, and this will result in positive quantitative changes. Both the PBA & the COA stated they are looking into the source of origin of the automated phone calls attacking Councilmember Majchrzak.

William Szewc – Mr. Szewc said as a long time resident, he feels it is time that the Public Officials and the workers need to get together, you can not have a functional community with miscommunication and contracts left hanging open for years. As a member of the Board of Fire Commissioners, they are looking forward to getting dispatch in place, and getting everything resolved and in place for Public Safety.

ELECTED OFFICIALS & DEPARTMENT HEADS

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

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

Maintenance

\$1,500 From: A.1620.0445 Buildings – Remodeling & Renovations
 To: A.16200145 Buildings – Maintenance Overtime

Town Justice Court

\$1,284.00 From: A.1110.0139 – Town Justice – P/T Clerical
 To: A.1110.0200 – Town Justice – Office Equipment

\$3,880.00 From: A. 1110.0139 – Town Justice – P/T Clerical
 To: A. 1110.0200 – Town Justice – Office Equipment

Highway

\$1,200.00 From: A.7110.0238 Park – Lake Water Quality
 To: A.5132.0423 – Highway Garage Water

\$8,500.00 From: DA.5130.0200 Machinery – Highway Equipment
 To: DA.5130.0419 Machinery – Other Expenses

The resolution was unanimously adopted.

Councilmember Kaczor told Officer Mariano that he has a copy of the Robo dial message on his cell phone if he would like to hear it.

Councilmember Graber said he enjoyed working with the Police Department, even though it was under a lot of stress. The process of trying to economize, making things run better, more efficiently and effectively is going to take time, as there is a lot going on with the Fire Company and Dispatch as well. He looks forward to taking part in that process over the next several years. He feels encouraged that we will be able to work things out.

Councilmember Majchrzak said, regarding the Robo calls, that it is unfortunate that someone would take it upon themselves to put out false information to the citizens of Orchard Park, it is a cowardly act. He wanted to thank the PBA & COA officers for their comments, as they stated Councilmembers Majchrzak & Kaczor have been working with them to resolve the many issues. He looks forward to continuing the work that they have done so far with the two unions, and getting things resolved.

Chief of Police Andy Benz requested that people do not push their leaves out into the street for pickup as it causes a safety hazard. For the safety of everyone, keep the leaves out of the street.

Highway Superintendent Fred Piasecki stated the Highway Department is out in full force picking up the leaves.

Town Engineer wished to discuss the two communications the Town has received. The first is from the Erie County Environmental Management Commission regarding the Emerald Ash Borer infestation, as they feel the infestation could equal that of the Dutch Elm disease. Several towns have already been infected, and this is expected to have a significant impact on town budgets and landscape. The DEC has developed an Emerald Ash Borer management strategy and has a specialist to help the Towns with this challenge. The DEC's goal is to slow down the spread of the disease to minimize impacts on storm water management, natural ecosystems and property values. The DEC will help private property owners as well.

The second communication is regarding the Town of Orchard Park considering applying to Erie Co. for federal assistance under the Community Development Block Grant for the Burmon Drive area. Prior to preparing the grant proposal the Town must demonstrate our eligibility for the Federal assistance; the Town is required to provide information regarding household characteristics of the population that would benefit from the improvements. So a survey has been mailed out to this area. The Town Board is requesting that the residents participate and provide the information needed, as data from 90% of the households in the service area is needed in order to have a valid survey to submit for the grant.

19) 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 authorize the approval of all entries on Warrant #22 which were reviewed and approved.

General Fund	\$39,880.30
Part Town Fund	\$1,425.70
Risk Retention	\$0.00
Cemetery Fund	\$480.00
Highway Fund	\$12,045.67
Special Districts	\$51,902.19
Trust & Agency	\$15,495.13
Capital Fund	\$74,978.69

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby receive and file the following:

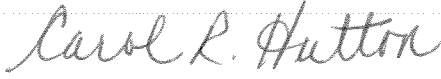
Communications

- Announce NYSDEC Emerald Ash Borer services, goals and recommendations.
- Announce CDBG survey for Burmon Drive.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Graber, the meeting was adjourned at 7:56 PM (local time).

Respectfully Submitted,



Carol R. Hutton
Town Clerk