

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 7th day of December 2005 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	Toni M. Cudney	Supervisor
	Nancy W. Ackerman	Councilwoman
	Stanley A. Jemiolo, Jr.	Councilman
	David R. Kaczor	Councilman
	John J. Mills	Councilman
	Janis A. Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Samuel McCune	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:

RESOLVED, that the minutes of the Town Board Meetings held on November 2, 2005 and November 16, 2005, 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.

Old Business #1 Jim Ball Auto, Authorize Building Permit for New Location on Mid County Drive

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, AMENDED BY COUNCILWOMAN ACKERMAN, AND SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board is hereby authorized to approve the request of Jim Ball Auto Center, vacant land on the northwest corner of Southwestern Boulevard and Mid County Drive, for a Building Permit to construct a new auto center facility, including a 12,000 square foot car wash, service and accessory sales building and a 16,855 square foot auto dealership building. The Planning Board, 9/14/05, recommends approval of this request and of the site plan with the following stipulations:

- This is an Unlisted SEQRA Action and a Negative Declaration is declared based on the submitted Long EAF, Parts One and Two.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.
- No outside storage or display is permitted other than automobile inventory.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.

- A Landscape Completion Bond in accordance with Conservation Board minutes shall be provided for the approved landscape plan prior to the receipt of a Building Permit in the amount of \$76,377.00 as a Bond or \$38,188.00 in Cash.
- A six-foot high solid fence shall be installed on Jim Ball's property adjacent to the land to be placed in a conservation easement (east of the residences on Auckland Avenue) and shall be permanently maintained by the petitioner.
- There shall be no disturbance of any kind inside the conservation easement area during or after construction, including from the residential side of the easement, with the exception of necessary construction work during the building period.

At this time Councilwoman Ackerman amended the motion:

AND BE IT FURTHER RESOLVED, that the Town Board does hereby establish a committee of Town Officials, Residents and the Petitioner to resolve design issues regarding the conservation easement (50 feet of buffer) to be completed and approved by the end of March, 2006, and be it further

RESOLVED, if an agreement cannot be reached, the fence alternative approved by the Conservation Board will be adopted.

At this time Councilman Jemiolo stated the fence issue that has been approved by the Planning Board and Conservation Board needs to be revisited. He stated he is not pleased with the idea of putting a fence up and feels there may be a better way of buffering. He stated that if all parties can not agree on a new plan, the fence can be put up.

The resolution was unanimously adopted.

Old Business #2 Award the Bid for the FM Communications for the Orchard Park Police Dept.

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

WHEREAS, the Town of Orchard Park did receive and open sealed bid on the 17th day of November, 2005, at 11:00 AM, in the Supervisor's Conference Room

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to award the bid for the Joint Central Police Service/Orchard Park Police Department "Electronic Ticket and Accident Report Project", as per bid specifications by Erie County Central Police Services through a Grant from the New York State Governor's Traffic Safety Committee to FM Communications, Inc., 1914 Colvin Boulevard, Tonawanda NY, 14150, at a cost not to exceed \$44.50 per hour/Service at their facility or \$54.50 per hour/Field Service, as recommended by the Chief of Police.

The resolution was unanimously adopted.

New Business #1 Schedule the 2006 Org. Meeting & the 1st Regular Meeting of the Town Board

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby Schedule the 2006 Organizational Meeting & the 1st Regular Meeting of the Town Board for Wednesday, January 4, 2006, with the Town Board

Organizational Meeting commencing at 6:00 PM and the 1st Regular Meeting of the Town Board to immediately follow, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #2 Schedule Public Hearing for DeMarco Masonry for Rezoning 3964 California Rd.

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MILLS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

RESOLVED, that the Town Board does hereby Schedule a Public Hearing for Wednesday, December 21, 2005 at 7:00 PM to hear all interested persons for against the rezoning of 6 +/- acres of vacant property located at 3964 California Road, from R-4 to I-1, as petitioned by DeMarco Masonry. A complete metes and bounds description of this property is on file in the Town Clerk's Office for on site inspection during regular business hours, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #3 Chief of Police requesting to hold Bid Opening for 2006 Police Patrol Cars

6) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Chief of Police to solicit for bids for Three (3) New 2006 Marked Police Patrol Cars and One (1) New 2006 Unmarked Vehicle. Bid opening to be held December 15, 2005 at 11:00 AM, in the Town Clerk's Office, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #4 Chief of Police requesting to hold Bid Opening for Dodge Sprinter Van

7) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Chief of Police to solicit for bids for One (1) Dodge Sprinter Van, as stipulated in Grant WM05153856 (Buffer Zone Protection). Bid opening to be held December 19, 2005 at 11:00 AM, in the Town Clerk's Office, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #5 Approve Change Order #5 to the Contract w/Janik Paving & Construction

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MILLS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, the Engineering Department is requesting your approval of a Change Order to the contract with Janik Paving & Construction, Inc. for the Comprehensive Water System Improvement Project, Part 1 in the amount of a decrease of \$4,785.70. If approved, this would decrease the total contract amount to \$2,556,246.97, representing a decrease of 0.19%, and

WHEREAS, this Change Order consists of modifying the interconnection number #1 at California Road and materials supplies by ECWA, and

WHEREAS, after exposing the existing pipe system at California Road Pump Station per the contract, the laying schedule was slightly different than the record plans. This, along with ECWA requesting solid sleeve connections, resulted in a design change and additional work completed per Change Order #1. ECWA supplied materials to assist the Town and the Contractors in facilitating the installation of this interconnection, and correct design concerns with the existing 24" flange connections. The materials supplied by ECWA were #1-24" Price Bros. Bell x MJ Adapter and #1-24" Price Bros. Spigot x MJ Adapter. The contractor refused to use the #2-24" Butterfly Valves which he stated were used valves and could cause a possible problem

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve of Change Order #5 to the Contract with Janik Paving & Construction, Inc., for the Comprehensive Water System Improvement Project, Part 1, in the amount of a decrease of \$4,785.70, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Fellowship Wesleyan Church Requesting a Temp. Sign for Xmas Church Services

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:

RESOLVED, that the Town Board does hereby approve the request from Fellowship Wesleyan Church, 1645 Southwestern Boulevard, to put a temporary lighted sign (4 x 8 feet) in front of the church, from December 8, 2005 to December 28, 2005, for the purpose to advertise the Christmas Eve Services.

The resolution was unanimously adopted.

New Business #7 & 8 Refer to the Planning Board and/or Conservation Board

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

RESOLVED, that the Town Board does hereby refer to the Planning Board and/or Conservation Board the following items: Jeremy Lindstrom, 3776 N. Buffalo Road, Zoned B-3. Requesting a "Change of Use" from residential to commercial. Mr. Lindstrom is a doctor of Chiropractic and would like to practice from this location and Avis Rent A Car, 6494 Lake Avenue, Zoned B-2. Requesting a "Change of Use" in order to operate a local market rental location.

The resolution was unanimously adopted.

ELECTED OFFICIALS & DEPARTMENT HEADS**Budget Transfer**

11) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:

RESOLVED, that the Town Board does hereby authorize the following budget transfer:

Building Inspector:

\$200.00	From: B.3620.0200	Computer Hardware
	To: B.3620.0400	Office Supplies
\$500.00	From: B.3620.0200	Computer Hardware
	To: B.3620.0475	Gasoline
\$700.00	From: B.3620.0201	Computer Software
	To: B.3620.0445	Vehicle Repair & Maintenance

Highway Superintendent:

\$5,000.00	From: DA.5110.0473	Ready Mix
	To: DA.5130.0419	Machinery Parts

The resolution was unanimously adopted.

12) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

RESOLVED, that the Town Board does hereby authorize the balance of all compost 2005 budget lines #8161 to be encumbered for the purchase of a John Deere 444J wheel loader with additions and deletions and the remaining balance to be taken from the 2006 budget.

The resolution was unanimously adopted.

13) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize Latina Food Service, Inc., 4050 N. Buffalo Road, to locate two (2) temporary signs on N. Buffalo Road at the entrance to the store. The four (4) foot signs will read "NOW OPEN 7:00 am – 10:00 PM", and will be displayed for three (3) weeks starting December 8, 2005, as recommended by Building Inspector.

The resolution was unanimously adopted.

DEPARTMENT HEADS FROM THE FLOOR

No reports given.

14) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #23 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$843,445.63
Part Town Fund	\$33,266.75
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$244,833.84
Special Districts	\$581,627.43
Trust & Agency	\$16,029.09
Capital Fund	\$524,657.47

The resolution was unanimously adopted.

15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

RESOLVED, that the Town Board does hereby authorize to receive and file the following Communications and Reports as entered on the agenda:

Communications:

- **Erie County Legislature:** Resolution submitted to amend the Erie County Tax Act to allow Towns in Erie County to accept partial payment in any dollar amount. The resolution was sent to Town and County Officials.

Reports:

- The Chief of Police's monthly report for November 2005.

- Building Inspector's Monthly Report and Building Permits for November 2005.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Marion Snyderman, 38 Woodview Court: She asked for an update on the progress in regard to the Woodview Drive and Highland Avenue flooding solution. Councilman Mills stated that Highway Superintendent Piasecki will start extracting debris from around the bridge at Highland Avenue. Councilman Mills stated that he and Mayor Wilson discussed the need for a Study and the Mayor will bring this before the Village Board of Trustees. Town Engineer Bieler stated that FEMA is updating their maps of this area. Supervisor Cudney suggested that with neighborhood financial participation, grant money would more likely be obtained. Councilman Jemiolo stated that this is why he feels a Town wide water district plan is necessary.

Robert Frantsits, 4270 California Road: He asked about information concerning his drainage problems.

Nicholas Taneff, 279 Summit Avenue: He thanked all the veterans on this Pearl Harbor anniversary. He also stated that our veterans fought for our right to vote and shame on anyone who did not exercise that right.

Raymond Waite, 48 Auckland Avenue: He thanked the Town Board for including him in the study of the Jim Ball project next to his neighborhood. He doesn't trust that the Jim Ball Dealership will work with the residents since they haven't been cooperative so far and now that they have their building permit, why should they do so now. Mr. Waite and his neighbors are very skeptical.

There being no more business from the floor, on motion by Supervisor Cudney, seconded by Councilman Jemiolo to wit; the meeting was adjourned at 8:22 PM (local time).

Respectfully Submitted,



**Janis A. Colarusso
Town Clerk**

