

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 1<sup>st</sup> day of February 2017 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

<b>PRESENT AT ROLL CALL:</b>	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 January 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.**

**Old Business # 1 West Gate Estates project back to the Planning Board for further review**

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

**WHEREAS**, the developer of the Westgate Estates apartment project has prepared plans for the construction of an apartment on the property of the corner of Westgate Boulevard and Reserve Road, and

**WHEREAS**, such a project is allowed as a Special Exception Use, and

**WHEREAS**, this project has passed through the initial planning review as required by the Code of the Town of Orchard Park, and

**WHEREAS**, the Town Board of Orchard Park has held a public hearing on December 21, 2016 on the question of approval of this project as is required by the Code of Orchard Park, and

**WHEREAS**, public comment at that public hearing raised significant issues related to this project which need further review.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board of Orchard Park hereby returns consideration of this project to the Orchard Park Town Planning Board for closer scrutiny of issues raised at the Town Board's public hearing,

and Specifically, with regard to § 144-43 of the Code of the Town of Orchard Park "Special Exceptions", the Town Board asks the Planning Board to more carefully review and comment on the following Special Exception review items in a specific evidentiary manner:

- a) The relation of the proposed project to the long range comprehensive plan of development of the Town.
- b) The need for the proposed project at the present time: Specifically with regard to whether or not there presently is an excess number of vacant apartments or units in Orchard Park. The Town Board is requesting The Planning Board provide concrete figures concerning present occupancy rates and occupancy rates over a statistically significant period of time.
- c) The compatibility of the proposed project with adjoining land uses and with other proposed development, having particular reference to its probable effect on the value of other land and to the adequacy of features intended to promote public safety and the general purposes of this chapter, with specific regard to the overwhelming single family residence nature of the surrounding neighborhood. Please present an, ultimate determination of the probable effect of this development on the neighborhood as either negative, positive, or neutral with description of the basis for reaching that conclusion.
- d) The orderly flow of traffic or effect on normal traffic patterns and satisfactory methods of ingress and egress, given that Westgate Boulevard is a thoroughfare with narrower dimensions than is now presently required.
- e) The nearness and impact on schools and other public utilities, in that the proposed development is close to the St. John Vianney Parochial School, and the southeast corner of West Seneca is suffering from sanitary sewer overload issues.
- f) The health and safety of the residents or workers on adjacent properties and in the general neighborhood, as occasioned by the greater traffic and demographic density offered by the development as a general matter and with specific reference to greater vehicular traffic as well as young children at play.
- g) Other pertinent requirements of the Town of Orchard Park Zoning Ordinance.

**And be it further,**

**RESOLVED**, that the Town Board does hereby request that in the preparation of the response to the Town Board anticipated by this resolution that The Planning Board give all due consideration, deliberation, and reasonable response to the many concerns and issues raised by the neighborhood residents at the Town Board hearing on this "Special Exception Use" application.

**New Business #1 Set a Public Hearing for 7690 Ellicott Road for Historic Designation**

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

**RESOLVED**, that the Town Board does hereby set a public hearing on March 1, 2017 to consider the historic designation of 7690 Ellicott Road. The historic designation request was made by the owner, Cheryl A. Hall and recommended by the Historic Preservation Board.

**The resolution was unanimously adopted.**

**New Business #2 Authorize Budget Amendment**

**4) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUCILMEMBER SHERRY, TO WIT:**

**WHEREAS**, the Town Clerk is required to shred certain documents costing the Town approximately \$2,000, and

**WHEREAS**, these expenditures were not included in the 2017 Adopted Budget, and

WHEREAS, the Town did budget for such contingencies in the 2017 Adopted Budget.

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the following transfer:

<u>Increase Appropriations:</u>	
A.1410.0419 Town Clerk — Other Expenses	\$2,000.00
 <u>Decrease Appropriations:</u>	
A.1910.0480 Contingent	\$2,000.00

The resolution was unanimously adopted.

**New Business #3 Sign Application for NYSDEC as part of the Pond / Lake Requirements**

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

WHEREAS, the environmental services to be provided for the maintenance of Town lakes/ponds are proposed as an annual lake/pond maintenance service agreement and will include: (if necessary) NYSDEC Permit Procurement (Currently \$300.00/ea.), Aquatic Macrophyte Herbicide Treatment (no treatment in 2017 for Green Lake), Algae Herbicide Treatment (if needed), Aeration Assessment and Adjustment.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the application for NYSDEC permit to use a pesticide for the control of aquatic pest for Aquatic, Vegetation and Algae Control for any necessary Town Pond/Lake that requires treatment, as recommended by the Town Engineer.

The resolution was unanimously adopted.

**New Business #4 Sign Agreement for Lake and Pond Maintenance**

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

WHEREAS, similar to previous years, to complete the algae/plant treatments for various ponds/lakes(+/-19) including Green Lake; it is necessary to hire an environmental consulting firm New York Certified in Aquatic Vegetation and Algae Control.

WHEREAS, the Town solicited services and received a proposal from a local environmental consultant firm AquaTech Environmental, Inc., which is qualified and capable to complete lake management work for Green Lake and other various Town owned ponds. Fish stocking of eleven Town owned lakes/ponds will also be completed in the necessary time frame and correct seasons (spring & fall stockings), and

WHEREAS, the environmental services to be provided for the maintenance of Town lakes/ponds are proposed as an annual lake/pond maintenance service agreement and will include: (if necessary) NYSDEC Permit Procurement (Currently \$300.00/ea.), Aquatic Macrophyte Herbicide Treatment (no treatment in 2017 for Green Lake), Algae Herbicide Treatment (if needed), Aeration Assessment and Adjustment, Stocking Permit Procurement, Fish Stocking, Fishery Assessment and Consultation Services. Aqua Tech

Environmental, Inc. lump sum cost to provide the above mentioned treatments for 2017 is \$2,300.00, normally \$4,600.00, and

**WHEREAS**, the services proposed for Birdsong Subdivision Retention Pond are again being discontinued this year, due to the Homeowners Associations refusal to pay 50% of treatment and permitting costs, and

**WHEREAS**, the Pleasant Acres Retention Pond is being included in the agreement once again this year for treatment. The developer of the subdivision decided it would be a good option to have in place, if the pond needs treatment. The developer has agreed to pay for 50% of the permitting fee and the same if treatment is needed. The permitting process (\$300.00) will not be completed at this time, if needed the permit can be applied for and obtained in a few weeks. The services and costs will be in the contract once again, with zero quantities, so if treatment is warranted it can still be completed as a per treatment basis. The treatments will be Filamentous Algae treatments for \$975.00/each and \$1,825.00/each for rooted plants treatment. The total anticipated cost for 2017 is \$0.00 for the year. The other eight (8) Town owned water bodies are also listed with costs and zero quantities, in case any treatment is needed this year. The 2017 proposal includes \$2,401.00 for possible water treatment, and

**WHEREAS**, the continuation of the Town of Orchard Park Fish Stocking Program recommendations for 2017 with the baitfish stocking (crayfish, fathead minnows & golden shiners), game fish stocking (largemouth bass, black crappie & yellow perch) and grass carp stocking to aid in weed and insect control. The 2017 proposed stocking cost is \$5,299.00.

**WHEREAS**, the entire projected cost for Town Lake and Pond maintenance, treatment and stocking for calendar year 2017, is not to exceed \$10,000.00. There are presently funds (\$10,000.00) allocated under Orchard Park Engineering Department "Water Quality Consultants" A.1440.000.448 for this work.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign an agreement with AquaTech Environmental, Inc., 45 Kent Avenue, Blasdell, New York 14219, for an amount not to exceed \$10,000.00 to provide the following, as recommended by the Town Engineer;

- 1) Annual environmental services for Green Lake in an amount of \$2,300.00 annually. (2017 will be used for fish stocking and possible algae treatments)
- 2) Environmental permitting and treatment services for various Town Ponds / Lake; including Pleasant Acres Retention Pond Maintenance.
- 3) Stock fish to specified Town-Owned ponds as per attachment 3.0 & 3.1 Fishery Management Agreement.

**The resolution was unanimously adopted.**

**New Business #5 Advertise for Testing Backflows Prevention Devices Town Facilities**

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

**WHEREAS**, the Town is required to test the Town owned backflow prevention devices to keep in compliance with the New York State Health Department and the Erie County Water Authority regulations. Currently the Town has ten backflow prevention devices; two located in the Municipal Center, one each located in the Library, Senior Center, Orchard Meadows Playground and Honey Crest Playground, two for the Compost Facility, and two for Green Lake Park / Little League, and

**WHEREAS**, the scope of work includes testing each of the ten backflow prevention devices during the course of the year and to perform any maintenance that may be needed if the backflow prevention device does not pass the test, and

**WHEREAS**, the Town has appropriated funding for contracted building repair and maintenance, A.1620.0446.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize advertisements in the Orchard Park Bee for sealed bids to be opened for the Testing Backflow Prevention Devices 2017 at 2:00 P.M. on February 23, 2017 in the Supervisor's Conference Room at the Orchard Park Municipal Center.

**The resolution was unanimously adopted.**

**New Business #6 Authorize Tree Removal with cost applied to the Tax Roll of the Property**

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

**WHEREAS**, after receiving several complaints about falling limbs and branches, the town asked the Town Arborist to inspect two willow trees in the rear yard of 12 Greenfield Street. The Arborist determined that the trees need to be removed, and

**WHEREAS**, the Code Enforcement Office has sent Mr. Tedesco a letter giving him 60 days to get the trees removed as described in the town ordinance, but he has failed to act, and

**WHEREAS**, the Code Enforcement Office has received bids to get these trees taken down, with Branch Managers LLC being the lowest bidder.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize Branch Managers to remove trees in the rear yard of 12 Greenfield Street, with the \$2,250.00 cost applied to the tax roll of the property, as recommended by the Code Enforcement Officer.

**The resolution was unanimously adopted.**

**New Business #7 Declare Barn as Dangerous and Unsafe and Start Removal**

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

**WHEREAS**, the Code Enforcement Office has sent several letters and violation notices to Mr. Smith since January 2014 regarding the collapsed barn on his property at 7503 Quaker Road, and

**WHEREAS**, last year he was in the Code Enforcement Office, and was told the town could take action to remove the barn if he did nothing, and

**WHEREAS**, Mr. Smith has done nothing about the barn and does not respond to notices or letters from the Code Enforcement Office and, and the Town Code Enforcement Officer has had complaints about the hazardous eye sore that exists on his property.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby declare the collapsed barn located at 7503 Quaker Road, owned by Mr. Smith as dangerous and unsafe and begin process for its removal as described in Chapter 45 of the Town Code, as recommended by the Code Enforcement Officer.

**The resolution was unanimously adopted.**

**New Business #8 Authorize staff to attend Public Assistance Workshop Training Session**

**10) 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 Andy Geist and Rich Mrugalski to attend a half day Public Assistance Workshop Training session to be held on February 8, 2017 from 9:00 am to 12:00 pm at Erie County Fire Training Academy located in Cheektowaga. There is no cost for this training.

**The resolution was unanimously adopted.**

**New Business #9 Authorize staff to attend Community Preparedness for Cyber Incidents**

**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 authorize Rich Mrugalski to attend a two day course on Community Preparedness for Cyber Incidents to be held on February 15 & 16, 2017 located at Erie County Fire Training Academy located in Cheektowaga. There is no cost for this training.

**The resolution was unanimously adopted.**

**New Business #10 Authorize Pay level for Town Employee**

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

**WHEREAS**, the Town of Orchard Park maintains an Animal Control Department and a Maintenance Department, and

**WHEREAS**, the Town of Orchard Park has need for a part-time Animal Control Officer and a part-time Maintenance Worker, and

**WHEREAS**, the Town of Orchard Park is willing to pay \$15.00 per hour for a person willing to serve in the capacity of a part-time Animal Control Officer and Maintenance Worker.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize to offer the position of part-time Animal Control Officer and part-time Maintenance Worker to Wendy Mulawka, with the pay for both positions at \$15.00 per hour.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

No one spoke.

**ELECTED OFFICIALS & DEPARTMENT HEADS**

Chief of Police Pacholec mentioned that there will be enhanced DWI checks this weekend due to the Superbowl on Sunday.

Highway Superintendent Piasecki discussed the highway staff is working on brush pick up, chippers, and clearing drainage, and working on signage that needs to be replaced around town.

**BUDGET TRANSFERS**

**13) 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 following 2016 Budget Transfers from the Orchard Park Highway Department:

<u>From:</u>	<u>To:</u>	<u>Amount:</u>
DA 5110.0149 Highway - Laborers P/T	DA 5142.0402 Highway Snow Supplies	\$15,107.74
DA 5110.0416 Highway - Gas & Oil	DA 5142.0402 Highway Snow Supplies	\$ 1,491.59
DA 5110.0420 Highway Telephones	DA 5142.0402 Highway Snow Supplies	\$ 4,351.60
DA 5120.0149 Bridges – Laborers P/T	DA 5142.0402 Highway Snow Supplies	\$ 7,000.00
DA 5130.0419 Machinery-OTHER EXP	DA 5142.0402 Highway Snow Supplies	\$ 1,048.28
DA 5140.0416 Brush Gas & Oil	DA 5142.0402 Highway Snow Supplies	\$ 1,447.99
DA 5142.0419 Snow – OTHER EXP.	DA 5142.0402 Highway Snow Supplies	\$ 1,337.19

**The resolution was unanimously adopted.**

**14) 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 # 3 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$66,127.78
<b>Public Safety Fund</b>	\$26,087.67
<b>Part Town Fund</b>	\$955.51
<b>Risk Retention</b>	\$0
<b>Cemetery Fund</b>	\$0
<b>Highway Fund</b>	\$59,535.25
<b>Special Districts</b>	\$141,278.68
<b>Trust &amp; Agency</b>	\$1,842.56
<b>Capital Fund</b>	\$1,283.50

**The resolution was unanimously adopted.**

**15) 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 receive and file the 2016 Annual Report of the Board of Ethics.

**The resolution was unanimously adopted.**

There being no further business, on a motion by Supervisor Keem, seconded by Councilman Majchrzak, the meeting adjourned at 7:19pm (local time).

**Respectfully Submitted,**

A handwritten signature in black ink, appearing to read "Remy C. Orffeo". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Remy Orffeo  
Town Clerk**