

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 March 2018 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 February 21, 2018 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 Approve Change Order #1 for joint testing of the sanitary sewer mainline for Burmon Drive Reconstruction Project.

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

WHEREAS, the Engineering Department is requesting approval of Change Order #1 to the contract with Accadia Site Contracting, Inc. for Burmon Drive Reconstruction Project in the amount of \$1,600.00. If approved, this would increase the total original contract amount of \$2,545,289.42 to \$2,546,889.42, representing an increase of 0.0063%.

WHEREAS, this Change Order covers the cost for Accadia to perform additional work under their contract for this Burmon Drive Reconstruction Project. The additional work involves joint testing on the sanitary mainline segment from SAN MH#12 east to the tie-in sanitary manhole at the corner of Bielak and Burmon only because several existing sanitary sewer laterals needed to be tied-in immediately with the new sanitary mainline due to vertical conflicts prior to conventional standard testing of mainline.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 (sanitary mainline joint testing) to the original contract with Accadia Site Contracting, Inc., 5636 Transit Road, Depew, New York 14043 for Burmon Drive Reconstruction Project in the amount not to exceed \$1,600.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #2 Approve Change Order #1 for additional soil boring work for Brush Mountain Community Center Project.

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

WHEREAS, SJB/Empire Geo Services was retained by the Town on August 1, 2017 to complete additional soil borings and finalized a subsurface exploration report with recommendations for the Community Activity Center Site. The estimated not to exceed cost was \$13,850.00.

WHEREAS, an invoice from SJB/Empire Geo for the above-mentioned services was received February 9, 2018 has an amount due of \$14,817.20. The \$967.20 overrun was due to an additional 46-feet in boring depth, 1.7 feet in monitoring well depth, locking covers for monitoring wells, and the installation of an additional protective casing requested by Wendel.

WHEREAS, the additional services rendered, as invoiced, were necessary to complete the investigation and report.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 to the agreement with SJB/Empire Geo Services, 5167 South Park Ave, Hamburg, NY, 14075 in the amount of \$967.20 and issue final payment in the amount of \$14,817.20 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #1 Schedule a Public Hearing for LL #2 - 2018

4) 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 schedule a Public Hearing in the matter of the proposed Local Law #2 - 2018, "Extension of LL #1 - 2017 Establish a Moratorium on the Expansion of Parking Facilities around New Era Field" on March 21st at 7:00pm at the Orchard Park Municipal Center.

The resolution was unanimously adopted.

New Business #2 Schedule a Public Hearing for LL #3 - 2018

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

RESOLVED, that the Town Board does hereby schedule a Public Hearing in the matter of proposed Local Law #3 - 2018, Amending Chapter 74 "Historic Preservation" §74-5 "Town of Orchard Park Historic Preservation Board, (B) "Membership" on April 4th at 7:00PM at the Orchard Park Municipal Center.

The resolution was unanimously adopted.

New Business #3 Schedule a Public Hearing for LL #4 - 2018

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

RESOLVED, that the Town Board does hereby schedule a Public Hearing in the matter of proposed Local Law #4 - 2018, Amending Chapter 12 "Ethics" Article II "Administrative Provisions" Section 12-11 "Ethics Board: establishment: qualifications of members: appointment of members; term of office" on April 4, 2018 at 7:00PM.

The resolution was unanimously adopted.

New Business #4 Recreation Seasonal Staff Appointments

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 approve the following 2018 Winter/Spring Seasonal Recreation Staff Appointments, dependent upon the applicant providing the required certifications:

<u>Name</u>	<u>Rate</u>	<u>Position (Title*)</u>
Catherine Capriotto	\$11.00	PT4-D (Att)
Samuel Gura	\$12.50	PT5-C (LG)
Sarah Gura	\$12.50	PT5-C (LG)
Nick Ramage	\$16.50	PT7-E (Att)
Kobe York	\$11.00	PT4-D (Att)
Robert Amabile	\$13.75	PT6-A (Att)

The resolution was unanimously adopted.

New Business #5 Appointment to Tree Conservancy Board

8) 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 appoint Remy Orffeo to the Tree Conservancy Board for the year 2018 with the term ending as of December 31, 2018.

The resolution was unanimously adopted.

New Business #6 Purchase of 2018 John Deere Loader.

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

WHEREAS, in accordance with our Loader replacement program, the Highway Department is looking to purchase one (1) new 2018 John Deere Loader, Model 544 K-11 (4WD).

WHEREAS, the cost of this new Loader is \$100,000.00 under New York State Bid Contract. They will be trading in their 2010 John Deere Loader and 2001 John Deere Loader towards the purchase of this new loader.

NOW, THEREFORE, be it

RESOLVED, the Town Board does hereby authorize the purchase of this loader as per the recommendation of the Highway Superintendent and that monies are in place in the budget for this purchase.

The resolution was unanimously adopted.

New Business #7 Approve Request to attend Conference

10) 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 approve Paul Pepero to attend the ASIS 28th New York City Security Conference & Expo on May 16th and 17th. The conference will be held at the Javits Center, NY, NY. The conference and expo will run both days from 8:00 am until 4:00 pm. The cost will be \$250.00. All costs will be charged back to the IT training budget line.

The resolution was unanimously adopted.

New Business #8 Approve Stable Permit

11) 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 2018 Stable Permits for Ridgewood Farm, 7613 Behm Rd., and Hammersmith Farms, 6243 Benning Rd.

The resolution was unanimously adopted.

New Business #9 Approve Request to attend Conference

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 Jennifer Brady and Kathy Swarbrick to attend the NYS Town Clerk Association's 2018 Conference April 22-24. The conference will be held at the Desmond Hotel and Conference Center in Albany, New York.

The resolution was unanimously adopted.

New Business #10 Approve Excavation, Removal and Storage of Materials at Westview Place.

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

WHEREAS, the Town Board has received from Mr. Larry Broad of 50 Shirley Drive, West Seneca, New York 14218, an application for an Excavation, Removal, and Storage of Materials to fill (approximately 1,200 cubic yards of soil) the lot at the end of Westview Place (SBL #172.08-4-38) to construct his future home at the same location.

WHEREAS, we have reviewed the plan and have found it acceptable per Town Code. All necessary fees and bonds have been received.

NOW, THEREFORE, be it

RESOLVED, the Town Board approves the Excavation, Removal, and Storage of Materials Permit #2018-01 to fill the lot at the end of Westview Place (SBL #172.08-4-38) to facilitate a home construction as per the Town Engineer.

The resolution was unanimously adopted.

NEW BUSINESS #11 Award of Bid for Bussendorfer Regional Detention Pond Project

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

WHEREAS, bids were opened for the Bussendorfer Regional Detention Pond Project on March 5, 2018 at 11:00 AM.

WHEREAS, the project was bid with a base bid and 5 alternates, Alt. #1 National Grid Crossing, Alt. #2 Extension and realignment of inlet ditch, Atl. #3 Widening and additional clearing for access road, Alt #4 Stockpiling of all excavated material on site, and Alt #5 Stockpiling of 46,000cubic yards of excavated material.

WHEREAS, the Engineering Department has reviewed the itemized prices of the five (5) contractors submitting bids and have an extended tabulation of bid results showing the itemized bid amounts submitted from contractors.

WHEREAS, Zoladz Construction is the apparent low bidder with a submitted Base Bid for \$1,312,234.69, Alternate #1 \$5,926.88 Alternate #2 for \$4,021.98, Alternate #3 for \$2,581.64, Alternate #4 for -\$130,659.15, and Alternate #5 for -\$57,067.31.

WHEREAS, Zoladz Construction's Alternate #3 bid (Widening and additional clearing for access road), represents an increase of \$2,581.64 from the base bid. Widening of the access road will allow for greater ease of maintenance for the pond once completed. A wider clearing will also allow for possible storm water connections onto the pond necessary for future developments within Brush Mountain Park.

WHEREAS, Zoladz Construction's Alternate #5 bid (Stockpiling of 46,000cubic yards of excavated material), represents a decrease of (-\$57,067.31) from the base bid. It is anticipated, that approximately 46,000 cubic yards of material will be needed to raise the existing grades within Brush Mountain Park to the elevations necessary to construct the Proposed Community Activity Center. This material is not proposed to be utilized under the building foundations, but under the proper placement conditions, may be utilized for parking areas, roadways, and general fill areas. Stockpiling this material not only decreases the cost of the base bid of the current project but will also reduce costs associated with construction of the Community Center.

WHEREAS, it is recommended that the base bid be awarded to Zoladz Construction for \$1,312,234.69 along with Alternate #3 for \$2,581.64 and Alternate #5 for -\$57,067.31. Zoladz Construction has successfully completed major earth work projects within the Town of Orchard Park including Green Lake Rehabilitation and Knoche Farms Subdivision Phase 1. Zoladz Construction has been found to have the qualifications and experience necessary to perform this work adequately. We have no reservation about their capabilities.

WHEREAS, there is currently \$1,118,075.83 and \$998,590 in Capital Account H-06 Bussendorfer Drainage and Z-35 Bussendorfer Rd/Brush Mountain Detention Pond respectfully from Town bond authorization of \$2million of the \$3million estimated to complete the project.

NOW, THEREFORE be it

RESOLVED, that the Town Board award the contract for the Bussendorfer Regional Detention Pond Project to the lowest responsible bidder, Zoladz Construction, 13600 Railroad Street, Alden, New York 14004 in the amount not to exceed \$1,257,749.02, which includes the Base Bid of \$1,312,234.69, Alternate #3 for \$2,581.64, and Alternate #5 for (-\$57,067.31) as per the Town Engineer.

The resolution was unanimously adopted.

NEW BUSINESS #12 Consultant Agreement with Geotechnical Services & Testing of Material for Brush Mountain C.A.C.

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

WHEREAS, the Town Board has discussed investigating the possible use of soils borrow sources for embankment use under the building, soil testing and evaluation was required. This could possibly reduce the amount of CR#2 under the building.

WHEREAS, SJB/Empire Geo Services has submitted a proposal to test surplus material located at the Knoche Farms Subdivision and the Thorn Avenue staging area for its suitability as fill material for the proposed Community Activity Center. If the +/- 15,000 cubic yards of material is suitable for use as structural fill, the amount of select fill material (2" crushed limestone) would greatly reduce, resulting in substantive savings in excess of \$600,000.00.

WHEREAS, the proposal is broken down into three phases, including Observation of stockpiles, Laboratory Testing, (Sieve Analysis w/Hydrometer, Moisture Content, Modified Proctor test) and evaluations of samples and test results with recommendations for use.

WHEREAS, there is presently \$1,500,000.00 allocated under Capital Project #H89 "Community Activity Center -Building" but with the site layout design changes additional funding will be needed.

NOW, THEREFORE be it

RESOLVED, that the Town Board authorizes the Supervisor to sign an agreement with SJB/Empire Geo Services, 5167 South Park Ave, Hamburg, NY, 14075 for an amount not to exceed \$1,480.00 for testing of the existing stockpiled materials at Knoche Subdivision and Thorn Ave staging site as per the Town Engineer.

The resolution was unanimously adopted.

NEW BUSINESS #13 Consultant Agreement Bussendorfer Regional Retention Basin Project Earth Dimensions, Inc.

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

WHEREAS, along with the construction of the Bussendorfer Regional Retention Basin, the Town must also perform wetland mitigation as outlined in the ACOE and NYSDEC permits obtained for this project. The corresponding mitigation tasks include creating 1.02 acres of forested swamp, the planting of 200 trees within the 100' wetland buffer along the edge of Brush Mountain Park, removal of invasive species from 1.58 acres of adjacent upland area, mowing identified areas of common reed plants (3) times per growing season, and purchasing 1.6 credits from the Ducks Unlimited Program.

WHEREAS, the Contractor selected for the construction of the Pond will be responsible for the creation of the 1.02ac of forested wetland, the Town has already secured the 1.6cr from Ducks Unlimited. The Town Parks Department can include mowing of the common reed plants within regularly scheduled mowing and maintenance activities.

WHEREAS, EDI, Inc., has proposed to complete the necessary tree plantings, meeting all requirements of

the DEC permit, for a cost of \$16,250.00. They have also proposed to complete the required invasive species removal, as per the accepted mitigation plan, for a cost of \$7,510.00 as shown in the attached proposal. This work does not require specialty training or equipment and may be completed by the Town Highway and Parks Departments if the work force is available. The mitigation work must be completed by December 31, 2018.

WHEREAS, the Town has allocated funds under Capital Project H-06 Bussendorfer, Project, and Project Z-35 Bussendorfer Road/ Brush Mountain Retention Basin for this project. These funds may be used for purchasing the materials required to complete the mitigation by Town forces or to pay a consultant to complete the tasks.

NOW, THEREFORE be it

RESOLVED, the Town Board will:

- 1) Authorize the Supervisor to sign an agreement with Earth Dimensions, Inc., 1091 Jamison Road, Elma, NY 14059 to provide mitigation services as shown in the attached proposal for the Bussendorfer Regional Retention Pond Project in conformance with the wetland mitigation plan and permit application in the amount not to exceed \$23,760.00.
- 2) Instruct the Orchard Park Parks Department to complete the required mitigation mowing as outlined in the Mitigation Plan prepared by Earth Dimensions Inc. and approved by the NYSDEC and ACOE as per the Town Engineer.

The resolution was unanimously adopted.

NEW BUSINESS #14 Round 13 Water Quality Improvement Projects – Municipal Separate Storm System Western New York Stormwater Coalition: MS4 Maps Online Project

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

WHEREAS, the New York State Department of Environmental Conservation is making available Environmental Protection Funds. The Water Quality Improvement Projects program provides reimbursement for eligible portion of the cost of implementing projects that include Municipal Separate Storm Sewer Systems (MS4) Phase II Stormwater Implementation.

WHEREAS, the proposed project will result in an online storm system mapping program. The online program will allow the Town to generate up-to-date maps of the Towns storm sewer system, access their system maps in the field, and view maps of neighboring MS4s.

WHEREAS, Erie County Department of Environment and Planning will oversee the administration of the grant for the Western New York Storm Water Coalition members that participate.

NOW, THEREFORE be it

RESOLVED, that the Town Board authorizes the Supervisor to sign the commitment letter to participate in the Western New York Storm Water Coalition: Round 13 Water Quality Improvement Projects – Municipal Separate Storm System – Western New York Stormwater Coalition: MS4 Maps Online Project, with the required matching contributions being in-kind services by the Orchard Park Engineering Department personnel as recommended by the Town Engineer.

The resolution was unanimously adopted.

NEW BUSINESS #15 Burmon Drive Reconstruction Project Asbestos Abatement Professional Services

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

WHEREAS, The Engineering Department requests approval for asbestos abatement professional special services with Arric Corp., 5033 Transit Road, Depew, New York 14043.

WHEREAS, the special asbestos abatement services are needed because it was found that some of the home sanitary sewer laterals were installed using ACP Piping – asbestos piping, which was in use in the 1950’s and 1960’s. Arric Corp. is a certified asbestos abatement professional contractor in the State of New York. This Town has contracted their services before during the Highway Department and the Court Room Renovation Projects.

WHEREAS, Arric Corp. will provide an asbestos licensed labor with materials and equipment, excluding generator for power, at the work site at a daily rate of \$875.00 per day under prevailing wage, non-union rate. Every time licensed labor has to remove a 5-foot section of sanitary sewer lateral pipe, Arric Corp. will remove and dispose of each section at a cost of \$85.00. This Department did contact several other firms and Arric Corp.’s rate were found to be fair and reasonable. Accadia was also given an opportunity to supply the sub-contractor for this scope of work.

NOW, THEREFORE be it

RESOLVED, the Town Board approves professional service contract with Arric Corp. 5033 Transit Road, Depew, New York 14043 for asbestos abatement professional special services for the Burmon Drive Reconstruction Project for a time and material contract with rates not to exceed \$875.00 per day and \$85.00 per unit disposal rate per the Town Engineer.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

No one came forward.

ELECTED OFFICIALS & DEPARTMENT HEADS

Highway Superintendent Piasecki stated he has two crews out cleaning up the Town and cutting back damaged trees from the most recent snow storm. We will be mulching them up and taking them to the compost site. We also have a crew out to patch up potholes. The freeze/thaw has stopped us from hot patching them but as soon as the weather breaks we will be attending to that. We are also working on speed limit signs in the subdivisions.

Town Clerk Remy Orffeo thanked the Town Board for his appointment to the Tree Conservancy Board.

Police Chief Mark Pacholec reminded the public to not drink and drive. He also stated that the Orchard Park police as well as all other law enforcement agencies will be out in force St. Patrick’s Day weekend. Enjoy the holiday but don’t drink and drive.

BUDGET TRANSFERS

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

WHEREAS, the Town originally budgeted and issued debt in the amount \$250,000.00 for project Z20-Playgrounds, and

WHEREAS, the final cost for the project is \$262,611.20, and

WHEREAS, the Town has identified that the additional funding of \$12,611.20 is available within project Z21-Yates Park Trail, and

WHEREAS, the Town has ascertained that the funds being transferred are related to the 2017 bond anticipation note authorized for "reconstruction of various parks, playgrounds & recreation area" which falls within the scope of project Z20-Playgrounds.

NOW, THEREFORE, be it

RESOLVED, that the Town Board authorizes the transfer of cash and related bond anticipation note liability in the amount of \$12,611.20 from project Z21-Yates Park Trail to Z20-Playgrounds.

The resolution was unanimously adopted.

20) 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 # 5 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$71,520.35
Public Safety Fund	\$20,028.16
Part Town Fund	\$2,465.16
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$51,013.36
Special Districts	\$145,337.25
Trust & Agency	\$7,705.50
Capital Fund	\$29,582.28

The resolution was unanimously adopted.

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

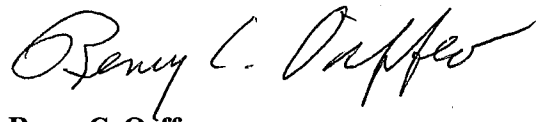
RESOLVED, that the Town Board does hereby receive and file the following:

- Building Inspector’s Report for March 2018
- 2017 Compost Site Summary.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilman Majchrzak, the meeting adjourned at 7:22 pm (local time).

Respectfully Submitted,

A handwritten signature in cursive script that reads "Remy C. Orffeo". The signature is written in black ink and is positioned above the printed name and title.

Remy C. Orffeo
Town Clerk