

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 7<sup>th</sup> day of November 2018 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	Councilmember
	Michael Sherry	Councilmember
	John C. Bailey	Town Attorney
	Kathleen Swarbrick	Deputy Town Clerk
	Wayne Bieler	Town Engineer
	Andrew Geist	Building Inspector
	Frederick Piasecki, Jr.	Highway Superintendent
	Mark Pacholec	Chief of Police
	Absent:	Remy Orffeo

**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 COUNCILMEMBER MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on October 17, 2018, Executive Session held on October 17, 2018 and Special Session held on October 24, 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.**

**PUBLIC HEARING**

**Local Law for 2018 – Short Term Rentals**

At 7:05 PM (local time) Supervisor Keem called for a Public Hearing to hear all interested parties regarding proposed Local Law 14 for 2018: Short Term Rentals

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

Brian Obrist fears there is a property in his neighborhood that is going to be used as an extended stay motel. He wanted to know if that property is properly zoned for that kind of business. He also has concerns as how this will affect property values, as well as unknown, transient people in their neighborhood.

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

**RESOLVED**, that the Town Board does hereby close the Public Hearing for a proposed local law for 2018 regarding “Short Term Rentals” at 7:14pm

**The resolution was unanimously adopted.**

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

**WHEREAS**, following due and timely notice a public hearing relating to the matter of a Local Law for 2018 was held on October 24, 2018 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 #14 for the Year 2018 which provides as follows:

Amending Chapter 144: Zoning; Article V Supplementary Use Regulations; §144-30 Accessory. Uses to add §144-30(F) Short Term Rentals as follows:

SECTION 1:

F. SHORT TERM RENTALS

1. PURPOSE

The purpose of this Chapter is to control and regulate the use of Short-Term Rentals within the Town of Orchard Park. The Orchard Park Town Board finds that Unhosted Short-Term Rentals threaten the residential character and quality of life of the neighborhoods where such uses exist because they tend to attract excessive noise, disorderly conduct, the accumulation of refuse, and other nuisances. The provisions of this local law are intended to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods where such uses may exist, and to mitigate the adverse effects of Short Term Rentals.

2 DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated:

HOSTED - the on-site presence of the Owner at the property during the duration of the rental period.

OWNER - the permanent resident of the Dwelling, and/or person(s) or entity that holds legal and/or equitable title to the Short-Term Rental, or an agent of the Owner who is authorized to take remedial action and to respond to any violation of this Chapter.

OCCUPANTS - the person(s) renting the Short-Term Rental. For purposes of this Chapter, Occupants includes their guests and any sub-lessees.

SHORT-TERM RENTAL - one or more Dwellings, as that term is defined in Section 144-5, and excluding Bed and Breakfasts, for which rent is received by the Owner, directly or indirectly, in exchange for residential occupation:

- (i) For periods of not less than one night and not more than thirty (30) consecutive days to the same Occupants for the same dwelling; and

- (ii.) Where the total days the Dwelling is rented to all Occupants in one calendar year exceeds thirty (30) days.

The advertisement of the potential availability (as stated above) of the Dwelling for rent on short-term rental websites shall create a presumption that the Dwelling is a Short-Term Rental.

Ongoing month-to-month tenancies are excluded from the provisions of this Chapter.

UNHOSTED - the absence of the Owner on-site at the property during the duration of the rental period.

3. Short-Term Rental Requirements.

Unhosted Short-Term Rentals shall be prohibited in all zoning districts.

Hosted Short-Term Rentals shall be prohibited unless a Short-Term Rental Permit (hereinafter STRP) is issued by the Planning Board as provided herein. A separate STRP shall be required for each Short-Term Rental property. The STRP requirements of this Chapter are in addition to any business license, tax registration, or any other permit or licensing requirements that may be required under state or county law.

4. Application for STRP.

- (a) Application Information. An application for a STRP shall be made to the Planning Board, and shall be subject to public notice and hearing. STRP applications shall contain the following information:
  - (i) The name, address, telephone number, emergency telephone number, and email address of the Owner {including any authorized agent(s)} who will be on-site for the duration of any rental period, and a secondary emergency contact individual;
  - (ii) The number of bedrooms and approximate square footage of the dwelling and the maximum number of overnight Occupants;
  - (iii) An acknowledgment that the subject property meets all local building code and Uniform Code requirements;
  - (iv) A diagram and/or photograph of the property showing and indicating the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight Occupants;
  - (v) If the application is for the renewal of a STRP, the record of all calls or complaints made in the preceding five years, as set forth in § 144-30(7)(vii)(G)(1)(g).

- (vi) An acknowledgment that the Owner, agent(s), and secondary emergency contact individual have read and are familiar with the regulations contained in this Chapter; and
  - (vii) A certification of the accuracy of the information submitted and an agreement to comply with any and all conditions of the STRP.
- (b) Pre-Existing Short-Term Rentals. Notwithstanding any other provision of this Chapter, Short-Term Rentals already in existence at the effective date of this Chapter, whether Hosted or Unhosted, shall be required to comply with the requirements of this Chapter within sixty (60) days of its effective date.
- (c) Inspection. In evaluating an application for a STRP, the subject property shall be inspected by the Town Code Enforcement Officer to determine maximum parking capacity for the property and to verify compliance with the provision of this Chapter and the New York State Uniform Fire Prevention and Building Code. Upon an application for renewal of a STRP the subject property shall be reinspected to insure continued compliance with this Chapter.
- (d) Public Hearing Notification. The Town shall notify all property owners within 1000 feet of the subject property, in writing, that an application has been submitted for a STRP to allow the subject property to be used as a Short-Term Rental. This notification shall clearly state the following information:
- (I) The name of the Owner, agent(s), and secondary emergency contact individual for the property and a telephone number at which those parties may be reached on a 24-hour basis;
  - (ii) The maximum number of Occupants allowed to stay overnight in the Dwelling; and
  - (iii) The maximum number of vehicles allowed to be parked on-site on the subject property overnight.

#### 5. Application Fee.

An application fee for a STRP under this Chapter shall be accompanied by a nonrefundable fee in such amount as the Town Board of the Town of Orchard Park may from time to time establish by resolution.

#### 6. Application Review Process.

The application review process for the issuance of a STRP under this Chapter shall comply with the considerations and provisions:

- a. Where the appropriate use of neighboring property will not be substantially injured thereby.
- b. Where the use is permitted, specifically in R-3 and R-4 zones.
- c. Where the use is designed and located and proposed to be operated such that the public health, safety, and welfare and convenience will be protected.
- d. Where the use will not cause substantial injury to the value of other property in the neighborhood where it is located.

- e. Where the use will be compatible with adjoining development and the proposed character of the district where it is to be located.
  - f. Where adequate landscaping and screening are provided in accordance with the circumstances with a view to aesthetic considerations.
  - g. Where adequate off-street parking and loading are provided and ingress and egress are so designed as to cause minimal interference with traffic on abutting street.
  - h. Where the use conforms to all applicable regulations governing the district in which it is located.
7. Conditions.
- (a) All STRPs issued pursuant to this Chapter are subject to the following standard conditions:
    - (i) The Owner shall, by written agreement with the renter, limit the number of overnight Occupants and their vehicles to the number approved in the STRP application.
    - (ii) The Owner shall demonstrate consistent efforts to ensure that the Occupants of the property do not create Excessive Noise, as defined in §87-3 and §87-4 and/or engage in conduct that either annoys, disturbs, injures, or endangers the-comfort, repose, health, peace or safety of others, or violate provisions of this Chapter. The use of illegal drugs or controlled substances by occupants is prohibited. The Owner shall promptly respond to any complaints of violations of this Chapter by any Occupants of the subject property or by any third-parties.
    - (iii) The Owner, upon notification of that Occupants of the property have created Excessive Noises and/or engaged in conduct which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, or otherwise violated the provisions of this Chapter, shall promptly use best efforts to prevent a recurrence of such conduct.
    - (iv) The Owner shall post a copy of the STRP and a copy of these standard conditions set forth in this Chapter and any other conditions imposed by the Town, in a conspicuous place within the subject property.
    - (v) The subject property shall, at all times, regardless of whether the property is occupied, be in compliance with the Town Code and the New York State Uniform Fire Prevention and Building Code, and any other applicable laws and codes.
    - (vi) All Occupants of the subject property shall observe Quiet Hours, which shall be between the hours of 10 p.m. and 7 a.m., Sunday through Thursday, and 11 p.m. and 7 a.m., Friday and Saturday. Excessive Noises and/or conduct which either annoy, disturb, injures, or endangers the comfort, repose, health, peace or safety of others shall constitute a violation of this Chapter and may be grounds for revocation of the STRP.

- (vi) Call Response Availability: The Owner and/or agent(s), and second emergency contact person shall be personally available by telephone on a 24-hour basis to respond to calls or complaints regarding the condition or operation of the subject property. Failure to respond to calls or complaints in a reasonable time and appropriate manner shall constitute a violation of this Chapter and may be grounds for revocation of the STRP. For the purpose of this Chapter, responding in a reasonably timely and appropriate manner means that an initial call shall be responded to within one (1) hour of the initial call, and any corrective action shall be commenced within twenty-four(24) hours of the initial call. The Owner shall maintain a record of each caller or complainant, details of the call or complaint, the date, and time of each call or complaints, details of the Owner's response and corrective action, and any other documentation associated with such call or complaint, and shall provide such records to the Town upon demand, and/or as part of any revocation hearing or application for renewal of the STRP.
- (b) The Planning Board shall have the authority to impose additional conditions related to the use of the subject property as a Short-Term Rental as may be deemed necessary to achieve the objectives of this Chapter.

8. Permit Term.

A STRP issued under this Chapter shall be valid for one (1) year from the date of issuance, subject to subsequent renewal periods of one (1) to three (3) years, at the discretion of the Planning Board based on the history of complaints and violations under this Chapter relating to the subject property during the preceding permit period.

9. Notification requirements.

Each Short-Term Rental shall have a clearly visible and legible notice posted within the property on or adjacent to the interior of the front door, containing the following information:

- (a) The name of the Owner, agent(s), and secondary emergency contact individual, and a telephone number at which each individual may be reached on a 24-hour basis;
- (b) The maximum number of Occupants permitted to stay in the Short-Term Rental;
- (c) The maximum number of vehicles allowed to be parked on the subject property;
- (d) Quiet hours shall be between the hours of 10 p.m. to 7 a.m., Sunday through Thursday, and 11 p.m. to 7 a.m. Friday and Saturday, and that Excessive Noises and/or conduct which either annoy, disturb, injures, or endangers the comfort, repose, health, peace or safety of others shall be a violation of this Chapter.
- (e) Rules for the disposal of refuse, including but not limited to the refuse of pick-up day.

- (f) Notification that Occupants may be cited and fined for creating a disturbance or for violating other provisions of this Chapter of the Town Code; and
- (g) Notification that failure to conform to the parking and occupancy requirements of the subject property is a violation of this Chapter.

10. Enforcement, penalties for offenses.

- (a) Enforcement Officials. It shall be the duty of the Code Enforcement Officer to enforce this chapter and to bring to the attention of the Town Board any violations or lack of compliance herewith.
- (b) Violations. Any person, firm, company, or corporation who or which fails to comply with or violates any of the provisions of this chapter shall be guilty of an offense and subject to the penalties for that offense or offenses.
- (c) Penalties. For each violation, any person, firm, company, or corporation who or which neglects or refuses to do any act required by this chapter shall be guilty of an offense and shall be punishable as follows:
  - (i) For the first offense: A fine of up to \$350 or imprisonment for up to six months, or both.
  - (ii) For the second offense within five years: A fine of \$350 to \$700 or imprisonment for up to six months, or both.
  - (iii) For the third offense within five years: A fine of \$700 to \$1,000 or imprisonment for up to six months, or both.
  - (iv) Each subsequent offense after the third offense within five years shall be punishable by a fine of \$1,000 or imprisonment for up to six months or both.
  - (v) Upon the fourth offense within five years and upon each offense thereafter within the preceding five years, the STRP may be revoked by the Code Enforcement Officer.
  - (vi) Civil enforcement. Appropriate actions and proceedings may be taken by law or in equity proceedings to prevent any violation of this Chapter, to recover damages, to restrain, correct or abate a violation and to prevent: illegal occupancy of a building, structure or premises. These remedies shall be in addition to the penalties described above. Consequently, the Town Board may institute any appropriate action or proceeding to prevent and to restrain, correct or abate such violation or to prevent an illegal act, conduct, business or use in and about such premises.

11. Revocation of STRP.

- (a) Upon the occurrence of the events identified in § 144-30.(11)(e), the Town Code Enforcement Officer shall notify the Town Board, Planning Board, and the Owner of the same, in writing, and the Planning Board may, in its discretion, hold a public hearing to determine whether the STRP should be revoked.

- (b) Such public hearing shall be held by the Planning Board no more than sixty (60) days from the date the notification from the Code Enforcement Officer in §144-30(11)(a) is delivered to the Owner. Notice of the hearing shall be delivered to the Owner in person, or by mail to the address given in the application and shall be published once in a newspapers having a circulation within the Town of Orchard Park. Said notice to the Owner and publication shall be not less than ten (10) days before the date of the hearing. Written notice of such public hearing shall also be given, personally or by mail, to property owners within 1000 feet at least ten (10) days before the date set for the public hearing; if such notice is given by mail, the ten (10) day period shall be deemed to commence upon deposit with the United States Postal Service.
- (c) At the time and place set for the public hearing, the Planning Board shall take the testimony, under oath, of the Owner and all other persons wishing to be heard, as to why the STRP should not be revoked, and shall receive into the record any documentary evidence submitted either for or against revocation.
- (d) After the public hearing, the Planning Board shall, within thirty (30) days, determine in writing whether or not the STRP should be revoked, or permitted to continue, either with or without additional conditions, and shall give notice of its determination to the Owner by mail.
- (e) A STRP may be revoked upon any of the following grounds:
- (i) Fraud, misrepresentation or false statement contained in the application for the STRP;
  - (ii) Upon the occurrence of the events identified in § 144-30(11);
  - (iii) Any failure or refusal to maintain the Short-Term Rental in compliance with the Town Code and the New York State Uniform Fire Prevention and Building Code, and any other applicable laws and codes;
  - (iv) Any violation of this Chapter or any standard or additional conditions of the STRP; or
  - (v) Upon the occurrence of any conduct at the property which results in the issuance of a misdemeanor or felony complaint against the Owner or any Occupant of the Short-Term Rental.
- (f) If a STRP is revoked, all uses of the property as a Short-Term Rental shall cease within thirty (30) days of the date of the Planning Board's determination revoking said permit. A property for which a STRP was previously revoked may be subject of a new STRP no sooner than twelve (12) months after revocation.

**SECTION II:**

This local law shall take effect upon filing in the Office of the Secretary of State or from the date of its service as against a person served personally with a copy thereof.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON OLD BUSINESS**

David Schuster thanked the Town Board for posting the grants that the Town has obtained in the last two years



**Old Business # 1 Adopt 2019 Ad Valorem and Benefit Basis Budget**

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

**WHEREAS**, officers and employees in charge of various administrative units of the government of the Town of Orchard Park have submitted estimates of revenues and expenditures for the fiscal year ending December 31, 2019, and

**WHEREAS**, the Supervisor, as the Town's Budget Officer, has caused a tentative ad valorem budget to be prepared, and the Town Clerk has presented such budget to this Town Board, and

**WHEREAS**, the Town Board has met and considered the preliminary budget for the year ending December 31, 2019, and a public meeting was conducted on October 24, 2018 as required by Section 108 of Town Law,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the preliminary budget as changed, altered and revised and as hereinafter set forth, is hereby adopted as the annual Ad Valorem (General, Public Safety, Town Outside Village, and Highway Funds) budget and Benefit Basis Budget of the Town of Orchard Park for the fiscal year ending December 31, 2019.

**Amendments to the Preliminary Ad Valorem Budget**

<b>Fund, Department &amp; Description</b>	<b>Budget Code</b>	<b>2019 Original Proposed</b>	<b>Added</b>	<b>Deleted</b>	<b>2019 Adjusted Total</b>
<b>General Fund:</b>					
<b>Informational Technology Services</b>					
Telephone	A.1680.420	\$ 60,000	\$ 27,003	\$ -	\$ 87,003
<b>Special Items</b>					
Unallocated Insurance	A.1910.431	\$ 295,610	\$ 1,399	\$ -	\$ 297,009
Erie County Chargebacks	A.1910.465	\$ 2,182	\$ -	\$ 1,683	\$ 499
<b>Superintendent of Highways</b>					
Telephone	A.5010.420	8,003		8,003	
<b>Recreation Department - Playgrounds</b>					
Telephone	A.7020.420	10,000		10,000	
<b>Senior Citizens Program</b>					
Telephone	A.7610.420	9,000		9,000	
<b>Conservation. Board</b>					
Board Members (7)	A.8730.100	7,181	144		7,325
Board Alternate	A.8730.101	987	20		1,007
Salary Clerk - Part-time	A.8730.139	640	13		653
<b>Employee Benefits</b>					
State Retirement	A.9010.810	397,687	13		397,700
Social Security	A.9010.812	212,848	11		212,859
Medicare	A.9010.817	49,779	3		49,782
<b>Appropriated Fund Balance - Reserve</b>	A.599	-		(188,000)	(188,000)
<b>Tax Levy</b>	<b>A.1001.000</b>	<b>(1,583,839)</b>	188,080		(1,395,759)
<b>Public Safety Fund:</b>					
<b>Employee Benefits</b>					
State Retirement	PS.9010.810	104,685		3	104,682

<b>Tax Levy</b>	PS1001.000	(5,935,038)	3		(5,935,035)
<b><u>General Fund - Town Outside Village:</u></b>					
<b>Employee Benefits</b>					
State Retirement	B.9010.810	53,721		1	53,720
<b>Appropriated Fund Balance</b>	B.599	(49,876)	1		(49,875)
<b>Tax Levy</b>	B.1001.000				
<b><u>Highway Fund:</u></b>					
<b>Special Items</b>					
Erie County Chargebacks	<b>DB.1910.465</b>	1	284		285
<b>Appropriated Fund Balance</b>	DB.599	(150,000)		(72,413)	(222,413)
<b>Tax Levy</b>	DB.1001.000	(4,280,739)	72,129		(4,208,610)

**Amendments to the Preliminary Benefit Basis Budget**

<b>Fund, Department &amp; Description</b>	<b>Budget Code</b>	<b>2019 Original Proposed</b>	<b>Added</b>	<b>Deleted</b>	<b>2019 Adjusted Total</b>
<b><u>Consolidated Water &amp; Sewer Operations</u></b>					
<b>Employee Benefits</b>					
State Retirement	001.9010.000.810	98,808		(16,555)	82,253
Social Security	001.9030.000.812	26,928		(4,512)	22,416
Hospitalization Insurance	001.9060.000.814	118,575		(3,575)	115,000
Medicare	001.9090.000.817	6,297		(1,055)	5,242
<b>Personal Services</b>					
Crew Chief & Laborers	001.8346.000.111	365,000		(61,153)	303,847
Seasonal Help	001.8346.000.149	50,000		(25,000)	25,000
Inter-District Charges		(1,219,215)	111,851	-	(1,107,364)
<b>Sewer District No. 3</b>					
Serial Bond Principal	503.8120.030.910	44,728		(13,418)	31,310
Serial Bond Interest	503.8120.030.911	22,636		(7,417)	15,219
<b>Sewer District No. 18</b>					
Erie County Chargebacks	518.8120.180.465	337		(329)	8
Serial Bond Principal	518.8120.180.910	25,272	23,419		48,691
Serial Bond Interest	518.8120.180.911	12,789	12,320		25,109
Bond Anticipation Notes - Interest	518.8120.180.931	4,500	-	(4,500)	
Appropriated Fund Balance	518.599	(550,000)		(10,500)	(560,500)
<b>Tax Levy</b>	Sewer.1001.000	(951,679)	56,782		(894,897)
<b>Water District No. 4</b>					
Erie County Chargebacks	040.8340.040.465		16		16
<b>Water District No. 8</b>					
Erie County Chargebacks	080.8340.080.465		64		64
<b>Water District No. 17</b>					
Erie County Chargebacks	170.8340.170.465	125		(125)	-
<b>Inter-District Charges Water &amp; Sewer</b>	Sewer & Water	1,219,215		(111,851)	1,107,364
<b>Tax Levy</b>	Water.1001.000	(1,268,237)	55,014		(1,213,223)
<b><u>General Lighting District</u></b>					
Erie County Chargebacks	700.5182.000.465		29		29
<b>Tax Levy</b>	700.1001.000	(311,775)		(29)	(311,804)

Councilmember Sherry stated that he is not going to vote in favor of this budget. This was a very tough budget so he did not feel the elected Board members should take a pay raise, and the reduction for the 2019 budget was achieved by drawing down from the tax stabilization fund, which is only to kick the proverbial can down the road by one year. Not only will that withdrawn money now be gone, it will necessarily push that same amount into the 2020 budget, thereby generating a greater tax increase in 2020 than would otherwise have been necessary.

Supervisor Keem said that the preliminary budget was a 7.45% increase, with review and amending some of the budget lines the final budget is going to be a 5.675% increase. They did use some of the tax stabilization funds, which can only be used for this purpose. He feels that the elected officials deserve a raise as they work for the Town as well.

Supervisor Keem	Aye
Councilmember Majchrzak	Aye
Councilmember Sherry	Nay

**The Resolution was duly Adopted**

**Old Business # 2 Approve Extension of Contract with Kandy Co. for Mid-County Pump Station**

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

**WHEREAS**, due to long lead time, material orders such as the pre-manufactured building and pump package, Kandy Co. has requested a no cost time extension for the above-mentioned project until December 14, 2018. This extension must also be granted to the contract with CIR Electrical due to the correlation of work that must be completed.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve the contractual completion date for Kandy Co., 19 Rainseir Dr., West Seneca, NY 14224 to December 14, 2018 for the Mid County Pump Station Replacement Project 2018.

**The resolution was unanimously adopted.**

**Old Business #3 Approve Extension of contract with CIR for Mid-County Pump Station**

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

**WHEREAS**, due to long lead time, material orders such as the pre-manufactured building and pump package, Kandy Co. has requested a no cost time extension for the above-mentioned project until December 14, 2018. This extension must also be granted to the contract with CIR Electrical due to the correlation of work that must be completed.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby Approve the contractual completion date for CIR Electrical, 400 Ingham, Lackawanna, NY 14228 to December 14, 2018 for the Mid County Pump Station Replacement Project 2018.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON NEW BUSINESS**

No one came forward to speak.

**New Business #1 Adopt all Special Charges on “Letter of Authorization”**

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

**WHEREAS**, in accordance with New York State Law, Section 198, the Town Board had opted to, enforce unpaid accounts for water, sewer, refuse and other unpaid town services as indicated below, by placing a lien upon the real property for which such services were provided, and

**WHEREAS**, in light of the aforementioned, the Erie County Legislature shall levy in such sums as indicated below and against the applicable properties as provided for on the Town Assessor's master computer assessment roll file, which is also hereby being delivered by the assessor with this letter of authorization:

Total Unpaid Water Erie County and Orchard Park	\$1,477.77 (\$741.70 + \$736.07)
Total Unpaid Refuse & Pro-Rated Garbage	\$2,569.70
Total Property Maintenance & Code Enforcement	\$2,119.50 (\$1,766.25 + \$353.25)

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board of the Town of Orchard Park in accordance with New York State Law, Section 198, does hereby adopt all special charges as outlined on the "Letter of Authorization", as recommended by the Town Accountant.

**The resolution was unanimously adopted.**

**New Business #2 Approve Payroll Clerk and Recreation Director to transfer vacation days**

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

**RESOLVED**, that the Town Board does hereby approve Payroll Clerk Connie Fitzpatrick and Recreation Director Ed Leak’s request to transfer up to five unused vacation days to 2019.

**The resolution was unanimously adopted.**

**New Business #3 Emergency Manager to attend Advanced Active Shooters Command School**

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

**RESOLVED**, that the Town Board does hereby authorize Emergency Manager Richard Mrugalski to attend a one day Advanced Active Shooters Command Workshop (A2S2) to be held on November 7,2018 at the State Preparedness Training Center in Oriskany, New York. There is no cost for this training, except tolls and fuel.

**The resolution was unanimously adopted.**

**New Business #4 Village to use Town Property at Railroad Depot for Holiday in the Park**

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

**RESOLVED**, that the Town Board does hereby approve the request of the Village of Orchard Park to hold their annual “Holiday in the Park” Celebration scheduled on Saturday, December 1, 2018, from noon to 3:00pm on Town property east of the Railroad Depot, and to display their tree in Steinwach’s Oak Grove Green south of the library until the first week of January 2018. A Certificate of Liability is in place.

**The resolution was unanimously adopted.**

**New Business #5 Landowner Permission for Right of Entry for NYSEG for Big Tree Substation**

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

**WHEREAS**, the Town received a request from NYSEG to enter Town properties at Big Tree Road and 4520 California Road in the Town of Orchard Park in order to conduct testing around NYSEG's Big Tree Substation.

**WHEREAS**, this Right of Entry Request will expire on January 19, 2019.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Supervisor will sign the NYSEG's Right of Entry to grant permission to enter Town properties at Big Tree Road and 4520 California Road in the Town of Orchard Park in order to conduct testing around NYSEG's Big Tree Substation per the recommendation of the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #6 Private Fire Protection & Domestic Service Agreement with ECWA for Brush Mt.**

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

**WHEREAS**, the C.A.C. is now under construction and progressing expeditiously, the construction of the domestic water service and private fire protection line, agreements for both lines must be completed and filed with the Erie County Water Authority

**WHEREAS**, a one-time fee of \$18,400.00 must be made for the domestic water service and a one-time fee of \$4,200.00 must be made for the private fire protection line.

**WHEREAS**, there will also be a yearly fee of \$396.00 for the private fire protection line and a minimum monthly charge of \$877.50 for the domestic water service with additional usage charges if over minimum.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign an agreement with, and issue payment to, The Erie County Water Authority 295 Main Street, Buffalo, NY 14203, for the connection of the private fire protection line in the amount of \$4,200.00, and be it further

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign an agreement with, and issue payment to, The Erie County Water Authority 295 Main Street, Buffalo, NY 14203, for the connection of the domestic water service in the amount of \$18,400.00, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #7 Agreement – DiDonato for Design of Bussendorfer Drainage Improvements Ph. II**

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

**WHEREAS**, with the completion of the Bussendorfer regional detention basin Part II, improvements to the drainage system in the Bussendorfer/Forsythia/Willowbrook area may now be possible.

**WHEREAS**, the Town retained the services of DiDonato Associates to complete detailed engineering drainage studies for the expanded areas scope and now the next step is to prepare design plans so the necessary NYSDEC or U.S. Army Corps permits can be obtained with bidding and construction work started thereafter.

**WHEREAS**, the design scope is based on the final recommendations contained in the Drainage Report prepared by DiDonato Associates for the Bussendorfer & Forsythia Roads Drainage Improvement Project. There is presently \$909,775 plus interest allocated under Capital Project H-06 for this drainage project.

**NOW, THEREFORE, be it**

**RESOLVED**, the Supervisor will sign an agreement with DiDonato Associates, 689 Main Street, Buffalo, NY 14203 to provide professional design services for the Bussendorfer, Forsythia, Willowbrook Storm Drainage Improvements Part II Project for a cost not to exceed \$81,600 as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #8 Agreement – DiDonato for Design of Bussendorfer Water Main Replacement Proj.**

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

**WHEREAS**, as the Engineering Department furthers design of the Bussendorfer Drainage Part II Project, it has become apparent that a section of the existing six-inch water main is in conflict with the proposed improvements. This was cause to investigate the appropriateness of replacing the entire six-inch line along Bussendorfer Rd. with a larger eight-inch PVC line. The Erie County Water Authority has also requested that this line be replaced since 2009. The residents of Bussendorfer Rd. and the connecting communities will benefit from the new line with increased flows, better residual pressures, and increased fire protection, and

**WHEREAS**, while the Engineering Department is capable of providing the professional services required, the current and anticipated workload will not allow us to take on additional projects with the current staffing. Depending on Town field personnel availability, construction inspection could be added at a cost of \$37,500 with an approximate estimate of 500 hours needed. There is presently \$889,790.80 in Capital Project H-48 that can be utilized for this project.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to execute the agreement with DiDonato Associates, 689 Main Street, Buffalo, NY 14203 to provide professional design services for the Bussendorfer Water Line Replacement Project for a total cost not to exceed \$42,300.00, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #9 Seasonal, Part-time Recreation Staff Appointments.**

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

**RESOLVED**, that the Town Board does hereby approve the following Seasonal part time Staff Appointment retro-active to October 25<sup>th</sup> 2018, which is dependent upon the applicant providing the required certifications.

<u>Name</u>	<u>Rate Position (Title*)</u>
Anna Bond	\$15.00 PT6-D (Att)

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Richard Leonard would like to see the Police Officers to carry Narcan while on duty, as they are often the first on the scene.

David Schuster said he hopes the Town Board takes into consideration the information regarding the downside of the "Rails to Trails" that was presented to them two weeks ago. The Town does not need to take on another expensive recreational project.

John Poltowski came here tonight to learn more about the possible football field on the Webster Road site.

Linda Bruecle is concerned with the lack of communication regarding what is going on in the Burmon Drive project. She came home on Tuesday to find a note stuck in their door saying they could not use the street on Wednesday and Thursday. When did the Town actually know when the street was going to be shut down? If they had known in advance she would have changed her appointments, it was so poor to advise them in that way with such short notice. They deserve better.

Gary Weiser said that he is sure they will not have sidewalks this year, and the driveway aprons have not been done. He is concerned because winter is coming and they need to clear their driveways. He is looking for an update on what is going to be done and when.

**ELECTED OFFICIALS & DEPARTMENT HEADS**

**BUDGET TRANSFERS**

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

**RESOLVED**, that the Town Board hereby authorizes the following 2018 Budget Transfers from the Orchard Park Justice Court:

<u>\$400.00</u>	<u>From:</u> A.1110.0445 – Town Justice Equipment Maintenance
	<u>To:</u> A.1110.0420 – Town Justice Law Books

**The resolution was unanimously adopted.**

Supervisor Keem said that he and Town Engineer Wayne Bieler did talk about the letter that was given to the Burmon Road people. He responded to Mr. Schuster stating that more information regarding grants will be up on the web site soon. Supervisor Keem stated that the ground breaking for the new Community Center took place, and it was well attended. For many of the seniors, it was very emotional.

Supervisor Keem reviewed the process that the Town has gone through regarding the placement of different football, soccer and baseball fields. The building of the Community Activity Center made it necessary to move the current football field, and the Webster Road site was on the table. After the residents in that area stated their concerns regarding a football field with lights, the Town Board examined other options. Now the football field is going to be placed back at Brush Mountain on a different site. Down the road some soccer fields could be put on the Webster Road site, and some baseball fields at the corner of Duerr Road and Thorn Avenue.

Town Attorney John Bailey stated that our former Town Clerk, Carol Hutton passed away last week, and he sent regards to the family, and stated that she will truly be missed.

Town Engineer Bieler said that notification letters go out to residents at specific stages of a project. There is one at the beginning of a project and an informational meeting with the residents to outline the whole process and answer their questions. Then they follow up with a letter when they do the sanitary sewer lines, with the water lines, storm water line, and paving where they outline what to expect. With the Burmon Road Project, they are three months behind because of the previous contractor, and there have been weather issues. The current contractor is having as many crews working there as they can. At this time the Engineering office is not always sure what is going to happen next, so they use the letters in the doors or mailboxes to let the residents know as soon as they know. Town Engineer Bieler then outlined what was going to take place in the next couple of weeks, but he could not give specific dates when it would happen.

**16) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, 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 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$80,026.20
<b>Public Safety Fund</b>	\$30,180.15
<b>Part Town Fund</b>	\$841.45
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$43,391.40
<b>Special Districts</b>	\$35,074.11
<b>Trust &amp; Agency</b>	\$17,922.30
<b>Capital Fund</b>	\$799,085.98

**The resolution was unanimously adopted.**

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

**RESOLVED**, that the Town Board does hereby receive and file the Orchard Park Fire District 2019 Budget Summary.

**The resolution was unanimously adopted.**



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

**RESOLVED**, that the Town Board does hereby receive and file the Building Inspector's Report for October 2018.

**The resolution was unanimously adopted.**

Supervisor Keem closed the meeting in memory of former Town Clerk, Carol Hutton. She started in the Tax Office in 1994 after her husband Skip Hutton, the current Tax Receiver passed away. She worked hard to bring the office up to date and modernized it. In 2010, the Town Clerk's office and Tax Receiver's office were combined and Carol was then made Town Clerk. She was highly respected by all who worked with her, and she made sure all our residents were well taken care of. She retired in 2014 to spend more time with her family. She will certainly be missed.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:57 pm (local time).

**Respectfully Submitted,**

**Remy C. Orffeo  
Town Clerk**