

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 6th day of February 2019 at 7:10 PM, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:	Patrick J. Keem	Supervisor
	Eugene Majchrzak	Councilmember
	Michael Sherry	Councilmember
	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 COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Meeting Minutes for January 16, 2019, 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 COMMENT ON OLD BUSINESS

No one came forward.

Old Business # 1 Change Order #1 to our contract with Earth Dimension Inc.

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

WHEREAS, the Bussendorfer Regional Retention Basin has recently been constructed allowing for the up-stream improvements to move forward and

WHEREAS, the Engineering Department has recently received, from DiDonato Associates, a preliminary design of the outlet alignment and newly proposed conveyance system and

WHEREAS, due to the constraints of both National Grid and Kiantone Pipeline Corp., an alternative crossing had to be configured for the up-stream storm water to enter into the pond. The outlet and the conveyance ditch both require additional wetland impacts and mitigation.

WHEREAS, a proposal has been received from Earth Dimensions Inc. to provide a wetland mitigation plan as well as assist in permit preparation, and post construction monitoring.

WHEREAS, the Town has allocated funds under Capital Project AD002 Bussendorfer, available for this purpose. The Capital Account AD002 must remain open and funded through the completion of the monitoring period, anticipated December 2024.

NOW, THEREFORE, be it

RESOLVED, that the Town Board authorizes the Supervisor to sign an agreement with Earth Dimensions, Inc., 1091 Jamison Road, Elma, NY 14059 to provide the professional services for the Bussendorfer Regional Retention Pond Project in conformance with the wetland mitigation plan and permit in the amount not to exceed \$26,265.00 as recommended by the Town Engineer.

The resolution was unanimously adopted

Old Business # 2 Change Order #1 to our contract with GHD Inc.

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

WHEREAS, the Mid County Pump Station Replacement Project has reached a point of substantial completion and is currently operational and

WHEREAS, there have been a number of delays due to material and equipment vendors for general and electrical contractors as well as inclement weather issues. The Town has previously recognized the delays and has issued no cost time extensions to both CIR and Kandey Co.

WHEREAS, GHD Inc. was retained by the Town to provide construction administration services on the project prior to commencement of the work. The extended timeframe, coupled with unforeseen complications in submittal reviews, has caused GHD to expel all of the man hours allotted within their original proposal and is currently not authorized to continue and exceed the original agreement cost.

WHEREAS, outstanding items that must be completed include continued technical assistance, attendance of the final field walk and punch list creation, as well as preparation of the record drawings. They have submitted a proposal to provide these services at the originally agreed upon hourly rates not to exceed \$4,000.00.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 with GHD Inc., 285 Delaware Avenue, Suite 500, Buffalo, NY 14202 to provide continued professional services for the Mid-County Pump Station Replacement Project on a time and expenditures basis with a not to exceed cost of \$4,000.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Change Order #8 to our contract with Wendel for the CAC

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

WHEREAS, work progresses on the C.A.C. and the Engineering Department remains working on the athletic football field relocation within Brush Mountain Park, discussions have continued about how to best construct and maintain the fields.

WHEREAS, proper irrigation will be a crucial element moving forward with construction of the new football field this spring, especially if sod is to be utilized in an effort to utilize the field for the 2019 season.

WHEREAS, within the C.A.C. design, a 4" irrigation line tie in has been allocated for future expansion running to the north side of the Park for connection installation point for the water wheels currently owned by the Town.

WHEREAS, Wendel has submitted a proposal to design the future expansion in two phases. The first phase could be sent to the C.A.C. general contractor in an RFP to expedite construction, and the second phase could be bid in the future as the need and funding become available.

WHEREAS, there is presently funding allocated under Capital Projects ABOO4 & ABOO5 Community Activity Center however, additional funding is needed.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve change order #8 to our contract with Wendel WD Architecture, Engineering, Surveying & Landscape Architecture, P.C. Centerpointe Corporate Park, 375 Essjay Road, Suite 200, Williamsville, NY 14221, for the design of the football field irrigation line extension in an amount not to exceed \$7,500.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward.

New Business #1 Approve 5K Fundraiser for OPMS

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

RESOLVED, the Town Board does hereby approve the Special Events Permit for Eclipse Multi-Sport to hold a Dye & Dash 5K on May 17, 2019 from 6pm to 7pm pending receipt of their certificate of Liability Insurance.

The resolution was unanimously adopted.

New Business #2 Approve 5K Fundraiser for Tommy's Run

6) 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 approve the Special Events Permit for Thomas R. Gardner Memorial Scholarship to hold Tommy's Run 5K on July 6, 2019 from 10:00am to 12:30 pm pending receipt of their certificate of Liability Insurance.

The resolution was unanimously adopted.

New Business #3 Schedule a Public Hearing for LL # 2019-02

7) 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 schedule a Public Hearing in the matter of the proposed Local Law #2019-02, Solar as an Accessory Use or Structure on February 20, 2019 at 7:00pm at the Orchard Park Municipal Center.

The resolution was unanimously adopted.

New Business #4 Approve Agreement with C&S Companies

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

WHEREAS, a detailed scope of work and proposed fee has been negotiated with C&S Companies to complete the design documents for 2-emergency stand-by generator systems. The design scope is to provide detailed design construction drawings, construction design documents and specification for the Orchard Park Highway Garage and the Orchard Park Sewer, Water, and Lighting Department's Garage.

WHEREAS, the Orchard Park Highway Garage's emergency stand-by generator is grossly undersized to properly service the facility and the Orchard Park Sewer, Water, and Lighting Department's Garage is not even equipped with a standby generator system.

WHEREAS, there is presently money allocated under Capital Project AB-008, Highway Buildings and Sewer and Water Garage, for this project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with C&S Companies, 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212 to provide professional design services for 2-Emergency Stand-by Generator Systems' Design Project for a cost not to exceed \$8,930 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Recreational Staff Appointments

9) 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 approve the following 2019 Winter/Spring Recreation Staff Appointments, dependent upon the applicant providing the required certifications:

RE: Item 1 (2019 Seasonal part time Staff Appointments retroactive January 26th, 2019

<u>Name</u>	<u>Rate Position (Title*)</u>
Nathaniel Burnard	\$11.75 PT4-C (Att)
Wayne Martin	\$15.00 PT6-D (Att)

Note: The above appointment is *dependent* upon the applicant providing the required certifications.

The resolution was unanimously adopted.

New Business #6 AIM Funding Resolution

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

WHEREAS, Governor Cuomo’s proposed 2020 NYS Budget includes unprecedented cuts to unrestricted State Revenue Sharing program known as Aid and Incentives to Municipalities (AIM) in the amount of \$49 million for all municipalities in the State of New York, effectivity eliminating the program, and

WHEREAS, this proposed cut would result in a loss of \$119,524 from the Town of Orchard Park’s general budget, and

WHEREAS, funding has not been increased in the last several years as unfunded mandates and cost of Town and Village services have risen, and

WHEREAS, if these cuts go through, a shocking 91% of Towns and Villages will permanently lose their AIM funding, and

WHEREAS, incentives for shared services, consolidation, and infrastructure remediation directed by consent orders in no way replace the needed financial assistance to fund and manage the increasing costs of day to day services and capital projects needed in sustainable Town and Village planning and management, and

WHEREAS, the proposal to eliminate AIM funding unfairly punishes State residents, making financial planning aligned with the NYS Tax Cap virtually impossible and

WHEREAS, the Governor is proposing to make the Tax Cap permanent, discontinue the \$65 Million in Extreme Winter Recovery Program and proposes no increase for CHIPs funding, for which there has been widespread vocal support, and

WHEREAS, the proposal to eliminate AIM funding is not proactive, but a method to cut a small percent from the State Budget, yet a significant amount of revenue to Town and Village budgets.

NOW, THEREFORE, be it

RESOLVED, that the Town of Orchard Park strongly opposes the elimination of AIM funding, and be it further

RESOLVED, the AIM funding benefits all of our residents not only in the Town of Orchard Park but throughout New York State and eliminating it could result in reduction of services, program cuts and layoffs. Every dollar that the State shared is a dollar that doesn’t have to be levied on backs of local taxpayers, and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Honorable Governor Andrew M. Cuomo, Honorable Senator Christopher Jacobs, Honorable Assemblyman Patrick Burke, Honorable Legislator John Mills and Erie County Executive Mark Poloncarz.

The resolution was unanimously adopted.

New Business #7 Boys and Girl Club Agreement

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

WHEREAS, the Town is desirous of assisting in providing a program for the promotion of a recreational club for the boys and girls of the community; and

WHEREAS, representatives of the Orchard Park Boys and Girls Club appeared before the Town Board and explained the purpose of their organization; and

WHEREAS, the residents of the Town of Orchard Park will benefit from such a program;

NOW, THEREFORE be it

RESOLVED, the Town agrees to pay the Orchard Park Boys and Girls Club on the terms and conditions set forth herein, the sum of Six Thousand Five Hundred Dollars (\$6,500.00).

The resolution was unanimously adopted.

New Business #8 Change Order #4 Cable-Crete Failures

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

WHEREAS, the Engineering Department is requesting your approval of Change Order #4 to the Contract with Zoladz Construction for Bussendorfer Regional Detention Pond Project, which consists of 2 items.

Item No. 1 work scope includes the removal of the eroded Southwest Channel Light Stone Filling and Cable-crete Down Chute, the removal of the sediment in the pond, and the replacement of the cable-crete with a 42-inch culvert. The cost of this work is \$30,965.89.

Item No.2 includes the removal and replacement of the eroded Southeast Channel Light Stone Filling and Cable-crete Down Chute and the removal of the sediment in the pond. The cost for this work is \$42,943.96.

WHEREAS, this change order would increase the Contract amount of \$1,487,674.84 to \$1,561,583.80, representing an increase of 4.96%, and this work will add two weeks to the Contract.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #4- Cable-crete Repairs to the Contract with Zoladz Construction, 13600 Railroad Street, Alden, New York 14004 for the Bussendorfer Regional Detention Pond Project, in the amount not to exceed \$73,908.96 and with a two week time extension to the Contract as recommended by the Town Engineer.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

The following people spoke in opposition to the Erie Cattaraugus Rail Trail and their reasons why:

- | | | | |
|----------------|-------------------|----------------|------------|
| Tom Pieczynski | Michelle McCarthy | Mark Williams | Carla Benz |
| Gary Dolster | Carolyn Coppola | Sherry Pomeroy | |

Natalie Schaffer did not appear before the Town Board, but did email a letter opposing the Erie Cattaraugus Rail Trail, it will be kept on file in the Town Clerk’s office.

The following people spoke in favor of the Erie Cattaraugus Rail Trail and their reasons why:

Dan Hay Tom Provost Rob Case Ron Guido

Kathryn Gorkiewicz spoke of her dissatisfaction with the new Town website and the late posting of the agenda for the Town Board Meetings.

Dan Hay spoke of showing community support for NY Healthcare Act and Medicare for All.

Pat O’Brien thanked the Police and Highway for their efforts during the storm and spoke of other town issues.

Dave Schuster spoke of his displeasure with the Town’s website, late publishing of the agenda online and it’s incomplete archive of Town Board meeting minutes. He also spoke of the loss of AIM funding and his disapproval of the CAC.

Glen Coe spoke of issues regarding his son.

Jan Robinson spoke on the Healthcare for All issue and asked for the Town to support it and educate the Town’s people about it.

New Business #9 Budget Transfer

13) 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 Engineering Dept.:

\$3,948.85 From: 518.8120.0497 – Mid County Pump Station Project
 To: 518.8120.0493 – SD #18 Replace Pump Station

The resolution was unanimously adopted.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem thanked Councilmember Majchrzak, Chief Pacholec and Highway Superintendent Piasecki for doing their jobs so well during the winter storms. He also thanked the residents for obeying the travel ban.

Councilmember Majchrzak thanked the Highway Department and Superintendent Fred Piasecki for doing a great job during the storm. He also thanked the Police Department and first responders.

Councilmember Sherry thanked the Highway plows for being so efficient during the storm.

Town Clerk Remy Orffeo spoke of the successful installation of Diaper Changing Stations in the Town Hall restrooms. He also reminded citizens of the February 15th due date for Town/County Taxes. A late fee will be imposed if it is received after the 15th, the fee is set by the County and State.

Chief Pacholec spoke of two winter storm events and thanked the citizens for obeying the travel ban & State of Emergency.

Highway Superintendent Piasecki complimented the Highway workers for doing a great job plowing the roads and clearing the gutters. The pothole crew is out repairing Town roads and are informing the State & County pothole crews of the areas in need on their roads. They are also picking up Christmas trees and brush.

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

General Fund	\$132,590.74
Public Safety Fund	\$12,025.45
Part Town Fund	\$3,211.70
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$106,782.03
Special Districts	\$52,571.81
Trust & Agency	\$1,766.80
Capital Fund	\$736,784.75

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board hereby receive and file the Building Inspector’s Monthly Report for January 2019.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 8:08pm (local time).

Respectfully Submitted,

Remy C. Orffeo
Town Clerk