

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 17th day of July 2019 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	Councilmember
	John C. Bailey	Town Attorney
	Remy Orffeo	Town Clerk
	Steve Bremer	Building Inspector
	Frederick Piasecki, Jr.	Highway Superintendent
	E. Joseph Wehrfritz	Chief of Police
Absent:	Wayne Bieler	Town Engineer
	Michael Sherry	Councilmember

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: July 3, 2019 Executive Session: June 26 & July 3 & 10, 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 Authorize extension of Transition/Training Consultant Patrick J. McMaster

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

RESOLVED, that the Town Board is hereby authorized to continue the extension of Patrick J. McMaster to the position of transition/training consultant as of July 7th, 2019 at a rate of \$28.50 per hour, not to exceed 60 days.

The resolution was unanimously adopted.

Old Business # 2 Approve Grant Site Plan and Building Permit for 2911 Southwestern Blvd.

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

RESOLVED, that the Town Board does hereby grant Site Plan Approval and Declares a Negative Declaration for this previously approved Unlisted Action, per the plan received on 7/31/15, based on the following conditions and stipulations:

1. This is an Unlisted SEQR Action, based on the Short EAF Parts 1 and 2, and a Negative Declaration is recommended.
2. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
3. No outside storage or display is permitted.
4. The Landscape Plan, received 2/13/15, meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$4,315.00 Landscaping Estimate Value shall be deposited with the Town Clerk.
5. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
6. The Zoning Board of Appeals granted an Area variance on 12/16/14 for Front Yard Parking.
7. Town Engineering or the original proposal Approval was granted on 9/9/15.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

Kathryn Gorkiewicz spoke of her hopes to have Buffalo Topsoil rebuild and reopen.

Charlene Huegel stated she is the owner of “Buffalo Topsoil” and inquired about her business being on today’s agenda and wondering why.

New Business #1 Approve Office Closure Policy.

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

WHEREAS, the Town of Orchard Park has determined it necessary to adopt a written policy concerning office closing during weather events, and

WHEREAS, a Committee was formed to adopt that policy, and

WHEREAS, that Committee has drafted such a written policy acceptable to the Town Board, and

WHEREAS, the Town Board wishes copies of that policy to be distributed to all Department Managers,

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Orchard Park hereby adopts the Office Closing Due to Weather Events policy prepared by the Committee assigned to prepare that document and the original which is on file for review with the Town of Orchard Park Town Clerk a copy of which is attached hereto and made a part hereof, and be it further

RESOLVED, the Town of Orchard Park hereby directs copies of that policy to be provided to every Town of Orchard Park Department Manager for further distribution to employees in his or her department.

The resolution was unanimously adopted.

New Business #2 Recreational Seasonal Staff Appointments

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

RESOLVED, that the Town Board does hereby approve the following 2019 Summer Seasonal Recreation Staff Appointments, dependent upon the applicant providing the required certifications:

(2019 Summer Seasonal part time Staff Appointments Rate Change effective July 1st, 2019)

<u>Name</u>	<u>Old Rate</u>	<u>New</u>	<u>Rate Position (Title*)</u>
Jordyn Malinowski	\$12.50 PT5-A (Att)	\$14.00 PT6-B (Att)	
Shannon Callaghan	\$13.00 PT5-C (Lg)	\$13.50 PT5-E (Lg)	
Madeline Musterait	\$12.50 PT5-A (Lg)	\$13.50 PT5-E (Lg)	

(2019 Summer Seasonal part time Staff Appointments effective July 8th, 2019)

<u>Name</u>	<u>Rate Position (Title*)</u>
Sydney Grossman	\$12.50 PT5-A (LG)

The resolution was unanimously adopted.

New Business #3 Approve Block Party Permits

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

RESOLVED, the Town Board does hereby approve the Block Party Permits for Dennis Road on August 3, 2019 and Sonnet Drive on August 17, 2019.

The resolution was unanimously adopted.

New Business #4 Supervisor to sign agreement with Alpha Analytical for Green Lake water testing.

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

WHEREAS, the Engineering Department has solicited water sampling services and received a proposal from a local chemistry consultant firm, Alpha Analytical, which is qualified and completes this type of work on a regular basis, and

WHEREAS, the sampling services to be provided for the testing of Green Lake water include the following parameters:

- Volatile Organics - EPA624.1
- Acid/Base/Neutral Extractables — EPA625.1
- Herbicides — EPA 8151A Long List
- Total Phenol — EPA 420.1
- Pesticides — EPA 608.3
- Total Cyanide — SM 4500
- Total PP13 Metals — EPA 6010D/7470 (Zinc, Lead, Copper, Nickel, Mercury, Silver, Selenium, Chromium, Cadmium, Beryllium, Thallium, Prept, Arsenic)

WHEREAS, the field sampling will also be completed by Alpha Analytical employees to ensure the samples are taken and handled correctly from the field to the lab. After analyzing and testing is complete, a standard lab report will be generated and sent to the Town for review, and

WHEREAS, there are presently funds (\$15,000.00+/-) allocated under Orchard Park Engineering Department "Water Quality Consultants" A.1440.000.50541 for this work.

NOW, THEREFORE, BE IT

RESOLVED, the Town Board does hereby authorize the Supervisor to sign an agreement with Alpha Analytical, 8 Walkup Drive, Westborough, Massachusetts 01581 for an amount not to exceed \$1,107.00 to provide water collection, testing, analyzing and reporting for Green Lake as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Supervisor to sign letter of support to participate in the WNY Storm Water Coalition Vac Truck Project

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, 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; and

WHEREAS, the proposed project will result in a purchase of a vacuum truck for cleaning stormwater catch basins and storm sewers as well as training on proper techniques to ensure pollutant dispersal is prevented; and

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 does hereby authorize the Supervisor to sign the commitment letter to participate in the Western New York Storm Water Coalition: Round 16 Water Quality Improvement Projects — Municipal Separate Storm System — Western New York Stormwater Coalition: Vac Truck 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 #6 Make a Determination regarding request for Non-Conforming Use of 3340 North Benzing Road

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

WHEREAS, Buffalo Topsoil, 3340 North Benzing Road, Zoned 1-1, SBL #152.13-3-23.3, suffered the loss of over 50% of its building in a fire, and

WHEREAS, Buffalo Topsoil, through its owner Alan Huegal, is seeking the continuation of a Non-Conforming Use at 3340 North Benzing Road, and

WHEREAS, the Orchard Park Planning Board has reviewed the request of Buffalo Topsoil and recommends by unanimous vote that the Orchard Park Town Board deny the request, pursuant to Town Code 144-61 (A) and (B),

NOW, THEREFORE be it

RESOLVED, that the Orchard Park Town Board does hereby deny the request for a continuation of a Non-Conforming Use for Buffalo Topsoil, 3340 North Benzing Road as recommended by the Orchard Park Planning Board, July 11, 2019.

The resolution was unanimously adopted.

New Business #7 Set a Public Hearing for proposed Local Law #2019-5

10) 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 schedule a Public Hearing in the matter of proposed Local Law #2019-5, Amending Chapter 144 "Zoning", Section 144-75 "North Buffalo Road and South Buffalo Street/Ellicott Road Architectural Overlay District" on August 7, 2019 at 7:00 PM at the Orchard Park Municipal Center.

The resolution was unanimously adopted.

New Business #8 Address employment needs in the Assessor's Office

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

WHEREAS, the retirement of David Benes, from the Town of Orchard Park Assessor's Department has created several employment needs that the Town Board of Orchard Park wishes to address, and

WHEREAS, the Orchard Park Town Board wishes to promote Nancy Kenlon to "Assistant to the Assessor" at Step A of the Civil Service Range with an hourly rate of \$30.12, and

WHEREAS, the Orchard Park Town Board also wishes to retain the services of GAR Associates, LLC at an annual fee not to exceed \$45,000, and

WHEREAS, the Orchard Park Town Board wishes to hire a part time Seasonal Clerk for the Assessor's Office with a pay range of \$12-\$14/hour, with maximum cost of \$20,000,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board does hereby approve the following:

1.) Nancy Kenlon is promoted to the post of Assistant to the Assessor, effective July 8th, 2019, at Step A on the Civil Service Range for Assistant Assessor for an hourly rate of \$30.12, and

2.) GAR Associates, LLC is hereby retained as Real Estate Appraisers and Consultants for an annual fee not to exceed \$45,000, which fee would be billed monthly. GAR Associates, LLC will work on site 2 times/week and do building permits only, and

3.) The Town Assessor is hereby authorized to hire a part time seasonal clerk effective July 13, 2019 with a pay range of \$12-\$14/hour at a total cost to the 2019 budget not to exceed \$20,000.

The resolution was unanimously adopted.

New Business #9 Promote Lt. Patrick Fitzgerald to Administrative Captain (probationary)

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

WHEREAS, the Board of the Town of Orchard Park has approved a reorganization of the command structure of the Orchard Park Police Department, and

WHEREAS, as a part of that reorganization the Town of Orchard Park has created a new position of Administrative Captain (probationary), and

WHEREAS, on recommendation of Police Chief E. Joseph Wehrfritz, the Town of Orchard Park wishes to appoint Lieutenant Patrick Fitzgerald to the position of Administrative Captain (probationary) with pay and benefits as set out in the Command Officers Association Collective Bargaining Agreement effective as of this date,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board does hereby approve the following:

- 1.) Lieutenant Patrick Fitzgerald is hereby promoted to the position of Administrative Captain (probationary) with pay and benefits as set out in the Command Officers Association Collective Bargaining Agreement as of the date hereof. And,
- 2.) This promotion shall take effect at 12:01 a.m. on July 19th, 2019.

The resolution was unanimously adopted.

New Business #10 Promote Lt. Jason Schiedel to Patrol Captain (probationary)

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

WHEREAS, the Board of the Town of Orchard Park has approved a reorganization of the command structure of the Orchard Park Police Department, and

WHEREAS, as a part of that reorganization the Town of Orchard Park has created a new position of Patrol Captain (probationary), and

WHEREAS, on recommendation of Police Chief E. Joseph Wehrfritz, the Town of Orchard Park wishes to appoint Lieutenant Jason Schiedel to the position of Patrol Captain (probationary) with pay and benefits as set out in the Command Officers Association Collective Bargaining Agreement effective as of this date,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board does hereby approve the following:

- 1) Lieutenant Jason Schiedel is hereby promoted to the position of Patrol Captain (probationary) with pay and benefits as set out in the Command Officers Association Collective Bargaining Agreement as of the date hereof. And,
- 2) This promotion shall take effect at 12:01 a.m. on July 18th, 2019.

The resolution was unanimously adopted.

Chief of Police Wehrfritz spoke of the Officer's Promotions

New Business #11 Supervisor to sign agreement with J. O'Connell & Assoc. Inc. Grant Consultants.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign a one year agreement with J. O'Connell & Associates, Inc. Grant Consultants, for professional services for a sum of \$3,500.00 per month.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Saundra Mercado spoke of the delinquency of the maintenance of the retention pond in her back yard. It is infested with mosquitos, ticks and fleas. This limited her use of her yard and cost her money to have it sprayed for insects. She also asked for Superintendent Piasecki to be held accountable for never returning her phone calls. If he is understaffed and doesn't have the correct equipment where is the budget money going?

AnnMarie McManus asked where her Street Tree is. She moved in three years ago and has been waiting for one since then. She would like the Orchard Park Town Board to look at the rate of development and their ability to provide basic resources/services needed.

JoAnn Drake has been trying to contact Superintendent Piasecki regarding the Town's trees and brush growing over on to her property and endangering her home and health. Trash from the Buffalo Bill's games is collecting in the sewer lines, raccoons and rats are living in the overgrown brush and getting into her garbage. She has tried to contact Mr. Piasecki but hasn't received a return phone call for months.

Dave Lewandowski is inquiring about not receiving his Street Tree for 5 years and wondering when Superintendent Piasecki will be returning his phone call.

Brian Kelly inquired about the storm drain he was promised 3 years ago to take care of all the flooding in his front yard. He hasn't received a phone call back for years.

Charlene Huegel from Buffalo Topsoil wants to know what Non-Conforming Use means. She wants to be informed about what actions the Town is taking regarding the rebuilding of her company.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem asked Highway Superintendent Piasecki about specific street trees that were promised at the last Town Board meeting and not planted. He also asked about who inspects and plans out which streets are to be repaved next. He was impressed with the work done but not happy with where they stopped paving. Valley View Drive looked great but Pine Terrace should have been done also. He wanted to know who assessed the road and chose to stop short of paving a road that is falling apart.

Councilmember Majchrzak asked about street trees that need to be planted and if Highway could have the utilities mark the property weeks in advance in case the weather permits them to plant sooner than they planned on.

Building Inspector Bremer offered to stay after the meeting to answer Ms. Huegel’s questions regarding her company.

Chief of Police Wehrfritz thanked the Town Board for moving forward with the restructuring of the Police Department and promoting the two Captains tonight and look forward to more changes in the near future.

Highway Superintendent Piasecki is still double cutting retention ponds and struggling against the rain to keep up. The paving schedule is continuing through this week. They are working on the retention ponds and entrance area of the CAC. He will be planting the trees as the weather makes it possible. Addressing Mr. Kelly’s flooding issue, he is working with the gas company to figure out how to run lines to fix the problem. He will also meet with Ms. Drake after the meeting to discuss her property issues.

15) 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 #14 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$45,772.77
Public Safety Fund	\$2,483.64
Part Town Fund	\$372.21
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$48,470.97
Special Districts	\$152,940.56
Trust & Agency	\$5,678.49
Capital Fund	\$1,410,748.10

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:45 pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**