

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 18<sup>th</sup> day of March 2020 at 7:08 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	
	Tim Gallagher	Deputy Town Attorney	
	Remy Orffeo	Town Clerk	
	Wayne Bieler	Town Engineer	
	Steve Bremer	Building Inspector	
	Frederick Piasecki, Jr.	Highway Superintendent	
	E. Joseph Wehrfritz	Chief of Police	
	Attended via audio conference:	John C. Bailey	Town Attorney
		Conor Flynn	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: March 11, 2020 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 to our Contract with Carmina Wood Morris DPC**

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

**WHEREAS**, the Town has the bid results for the Little Loop Announcer's and Storage Booth came in with pricing above what was anticipated. After meeting with Town Officials, the Architect, and the Little Loop organization, it was decided that the building would be redesigned in an effort to lower construction costs to \$150,000, including design, and

**WHEREAS**, CW&M have proposed a cost of \$2,000 to make the necessary plan revisions. This will increase their total contract to \$8,000, and

**WHEREAS**, there is funding allocated and are included under the Brush Mountain Community Activity Capital Account AP009 Fund, which was approved by the Town Board in 2019 bond resolutions.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve Change Order #1 with Carmina, Woods, Morris DPC for professional architectural and structural re-design services for the Brush Mountain Park Little Loop Football Field, in an amount not to exceed \$2,000.00 as recommended by the Town Engineer. Town Clerk Orffeo called for a roll call vote:

Supervisor Patrick Keem	Aye
Councilmember Majchrzak	Aye
Councilmember Flynn	Nay

**The resolution was duly adopted.**

**Old Business #2 Grant request for a Special Exception Use Permit for Mighty Taco**

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 the Special Exception Use for the proposed Mighty Taco Restaurant with a drive-through to be built at 3340-3350 Southwestern Blvd. tabled from the March 11, 2020 Town Board Meeting.

**The resolution was unanimously adopted.**

**New Business #1 Set a Public Hearing for New York Beer Project**

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

**WHEREAS**, the Orchard Park Town Board has received a request for a Special Exception Use Permit by New York Beer Project, LLC/K Squared Properties LLC, to construct a two-story 28,000 +/- total sq. ft. Facility, with an 8,000-sq.ft. Covered Porch, Vacant Land located on Windward Road, in the Sterling Park Business Center, Zoned I-1, and

**NOW, THEREFORE be it**

**RESOLVED**, that a public hearing regarding the request for a “Special Exception Use” for property located on Windward Road, in the Sterling Park Business Center, Zoned I-1 is set for April 15, 2020 at 7 PM.

**The resolution was unanimously adopted.**

**New Business #2 Set a Public Hearing for Quaker Crossing**

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

**WHEREAS**, the Orchard Park Town Board has received a request by Quaker Crossing, located on the north side of Milestrip Road, Zoned B-1, to construct a 20,000-sq. ft. out-parcel building, and

**WHEREAS**, the out-parcel building will be constructed in space no longer utilized for parking by Regal Cinemas, and

**NOW, THEREFORE be it**

**RESOLVED**, that a public hearing regarding the request for a “Special Exception Use” at Quaker Crossing is set for April 15, 2020 at 7 PM.

**The resolution was unanimously adopted.**

**New Business #3 Appoint Caretaker**

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

**RESOLVED**, that the Orchard Park Town Board appoints Andrew Coppola to the Full-Time position of Caretaker with a start date of March 23, 2020 and a rate of \$17.27 per hour Range 0003 — White Collar Union position. This is a transfer from the Village of Orchard Park to the Town of Orchard Park and Mr. Coppola shall immediately transfer over 184.5 days of earned sick time; have 25 days of earned vacation time; and 3 personal days as of June 1, 2020. The accruals going forward and all other terms will be in compliance with the White Collar Union Contract.

**The resolution was unanimously adopted.**

**New Business #4 Supervisor to sign Agreement with OPLL**

7) 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 the 2020 Parks & Grounds Agreement with Orchard Park Little League.

**The resolution was unanimously adopted.**

**New Business #5 Approve Highcrofte Extension**

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

**WHEREAS**, the Town Board has received from Andrew Romanowski, ARR Holdings, LLC; 4727 Camp Road, Hamburg, New York 14075, an application for a Public Improvement Permit to construct the Highcrofte Extension, formally Barrington Heights Part 2, and

**WHEREAS**, the project consists of the installation of 230 L.F. of new roadway to extend Highcrofte Lane with a "T" turn-around and public utilities to serve 3 residential sublots, and

**WHEREAS**, we have reviewed the plans and specifications for the proposed project and have found them to be in compliance with current Town Specifications and Standards. We are in receipt of all necessary fees, bank check in lieu of a Performance Bond, and insurances.

**NOW THEREFORE, be it,**

**RESOLVED**, that the Town Board does hereby approve of Public Improvement Permit #2020-01 for the Highcrofte Extension - Barrington Heights Part 2 as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #6 Approve advertisement for Final Seeding and Grading of CAC**

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

**WHEREAS**, during the design phase of the Community Activity Center, it was discussed that the Town would perform the final grading, seeding, and landscaping for the overall project. Due to delays in the exterior finishes being applied by the General Contractor, the Highway Department was unable to finish the balance of work remaining before the fall and winter months, and

**WHEREAS**, the Highway Superintendent issued a memorandum on 2/7/2020 stating that the Highway Department would be unable to complete the work remaining in the 2020 calendar year. The Engineering Department is currently developing plans and specifications to publicly bid the restoration work including grading, placing and working top soil, seeding, landscaping, as well as ancillary items such as trail gate installations, and

**WHEREAS**, in order for the SWPPP to be closed for the project and ensure a safe and aesthetically pleasing finish to the project, the restoration should be completed as soon as the weather permits in the spring months, and

**WHEREAS**, the Advertisement for Bids should be authorized to be published, with plans and specifications available for purchase on March 20, 2020 and the bid opening to be held on April 9, 2020 at 2:00 pm in the Supervisor's conference room, and

**NOW THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize advertisement in the Orchard Park Bee for sealed bids to be opened for the Community Activity Center Grading, Seeding, & Landscaping Project on April 9, 2020, at 2:00 pm in the Supervisor's Conference Room at the Orchard Park Municipal Center.

**The resolution was unanimously adopted.**

**New Business #7 Approve Zoning Ordinance for CAC**

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

**WHEREAS**, as part of the process of issuing a final Certificate of Occupancy for the Community Activity Center it has been determined that certain zoning issues need to be addressed, and

**WHEREAS**, the Town of Orchard Park Board has appointed an ad hoc committee composed of the Town of Orchard Park Planning Coordinator, the Town of Orchard Park Building Inspector, and the Town of Orchard Park Attorney to consider and resolve any such issues, and

**WHEREAS**, said ad hoc committee has reviewed the pertinent issues relative to the issuance of the Certificate of Occupancy in light of the nine factors laid out by the New York State Court of Appeals in the Monroe County versus City of Rochester case and has made a recommendation to the Town of Orchard Park based on that review, and

**WHEREAS**, that review is now complete, the report has been presented to the Town of Orchard Park Board, and a recommendation to the Town of Orchard Park Board made therein,

**NOW, THEREFORE, be it**

**RESOLVED**, that:

- 1) The Town of Orchard Park Board accepts the report from the ad hoc committee and directs that copies of the same be filed with the Town of Orchard Park Planning Coordinator and Building Inspector, and,
- 2) The Town of Orchard Park Board accepts and adopts the recommendations laid out in that report to grant the Community Activity Center building, grounds, and infrastructure immunity from any and all of the requirements of §144 of the Code of the Town of Orchard Park entitled "Zoning", and
- 3) The Building Inspector is directed to complete the process of issuing a Certificate of Occupancy for the Community Activity Center as appropriate.

**The resolution was unanimously adopted.**

**New Business #8 Approve payment of Hydrant Fees for PIP #2020-01**

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

**WHEREAS**, requested by the Erie County Water Authority (ECWA), the Town of Orchard Park is required to pass a resolution to pay the hydrant fee amount upon dedication of the various phases of the subdivision, per the lease management agreement between the Town of Orchard Park and ECWA, and

**WHEREAS**, the total construction of the above referenced public improvement project will result in one (1) hydrant in service, and

**NOW THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the payment of the one (1) hydrant fee amount upon dedication of the Highcrofte Extension - Barrington Heights Part 2 PIP #2020-01 and associated hydrant, per the lease management agreement between the Town of Orchard Park and ECWA as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #9 Supervisor to sign application agreement with NYS Electric & Gas**

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

**WHEREAS**, the Town of Orchard Park’s Engineering Department has received the proposed contract, inventory, and cost savings analysis from New York State Electric & Gas (NYSEG). The Town currently has 1,467 existing fixtures to be converted, and

**WHEREAS**, the Town lighting inventory was verified by an independent auditor Troy & Banks in 2016 and any discrepancies found were addressed and corrected by NYSEG. NYSEG is proposing to replace all existing light fixtures with NEW LED fixtures which will generate a savings of 189,053 per year in energy reduction. The cost of this upgrade will be \$55,854.07 which includes purchase and installation of the

fixtures. The fixtures will still be Service Class 3 (SC3) where everything is maintained by NYSEG. The Simple Payback on this project will be approximately 0.63 years, and

**WHEREAS**, in order for the work to be completed, a Certified Resolution from the Town Board authorizing the Application for Street Lighting service must be provided. This work will be completed by NYSEG approximately 6 months after the application is submitted.

**NOW, THEREFORE** be it

**RESOLVED**, that the Town Board hereby authorizes the Town Supervisor to sign the Application for Street Light Service with New York State Electric & Gas to perform the replacement of existing street lighting to LED fixtures. This project will save taxpayer dollars, save energy and promote a green environmental practice for years to come as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #10 Approve a Building Permit for Marathon Roofing**

**13) 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 building permit for Marathon Roofing, 3310 N. Benzing Road, located on the west side of N. Benzing Road, south of Lake Avenue, Zoned I-1, to construct a 10,300-sq.ft. Building addition and approve the Site Plan received 1/31/2020 per recommendation of the Planning Board, with the following conditions and stipulations:

1. This is an Unlisted SEQR action, based on the submitted Short EAF, Part One, and a Negative Declaration is declared.
2. The site lighting is limited to those fixtures indicated on the approved site plan. Light fixtures shall have flat lens.
3. No outside storage or display is permitted.
4. Any dumpsters added in the future shall be screened in accordance with Section 144-25 of the Town Code.
5. The Conservation Board Chair determined that as the addition is to be built on an impervious surface, and no green space is affected, there is no need for the project to be reviewed by the Conservation Board.
6. The Town Engineering Department researched the project and found that approval was granted in 1996; the approval lapsed, but they recommend it proceed directly to the Building Inspector as no complaints have been filed with the Town Engineering Department.

**The resolution was unanimously adopted.**

**New Business #11 Refer to Planning & Conservation Boards**

**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 refer the following to the Planning and Conservation Boards:

1. 4182 South Taylor. LLC, at 4182 South Taylor Road located on the west side of South Taylor Road, north of Route 20A. Zoned I-1. Mr. Johnson is requesting to construct two buildings for storage and industrial shop space, totaling 14,175 sq.ft. (SBL#161.19-2-5.2)
2. J.D. Mobile Kitchens. 3964 California Road. located on the west side of California Road, south of Route 20. Zoned I-1. Mr. Joseph DeMarco, Jr. would like to remove their existing kitchen, and build a larger kitchen area.

**The resolution was unanimously adopted.**

### **ELECTED OFFICIALS & DEPARTMENT MANAGERS**

Supervisor Keem stated as our Orchard Park residents continue to calmly heed the advice of our public health experts, I now urge everyone to carefully practice social distancing throughout our town — both for the sake of our entire community and particularly our neighbors who are most at risk of infection, including older adults and individuals with underlying medical conditions.

As our Emergency Management Team, led by Rich Mrugalski, works with Erie County officials to secure items which help us in the battle against this virus, I encourage everyone to take the necessary precautions to prevent person-to-person spread. This includes postponing large public and private gatherings, encouraging teleconferencing and remote working, and taking all necessary precautions to protect others; especially our medically fragile residents.

In addition to commonsense hygiene practices, social distancing is proving to be successful in helping to mitigate the spread of coronavirus in other countries and communities, and it is what our healthcare experts are advising at this pivotal moment. Our Town Board members, Department Managers and the Emergency Management Team will continue to closely monitor and respond to this ongoing situation throughout Orchard Park and Erie County, but everyone in our community has a part to play in protecting themselves and their neighbors.

Through our community's strength and resiliency, we will overcome the challenge of the coronavirus disease and at some point during the months ahead, our normal lifestyle will return. Residents can stay up to date on the latest COVID-19 updates by visiting our town website at [orchardparkny.org](http://orchardparkny.org)

Councilmember Majchrzak stated at the beginning of the meeting that we have changed the format of this meeting to accommodate the health criteria set up by the County. He stated the Town Board members must be 6 feet apart and can only meet for two hours. That is why we have omitted Business from the Floor during this meeting. If time permits, we will take some comments from callers for Business from the floor. Thank you for your understanding and patience.

Councilmember Majchrzak stated the panic purchasing at stores is not helpful to the community. If you go about your normal purchasing practices the delivery trucks will be coming in as routinely scheduled. It isn't fair to the rest of the community. Buffalo is known as "The Good Neighbor Community" during snow storms, everyone is so proud of Buffalo for helping out their neighbors. This is another crisis, we need to band together and be considerate of others. He also stated he would like to see a freeze on nonessential spending at the next April Town Board Meeting. He doesn't want to eliminate it just put a freeze on it.

Police Chief Wehrfritz updated the public on how the police are limiting unnecessary contact in relation to the COVID-19. The Police Department has suspended police station tours, intern program, car seat installation program, and finger print appointments. They have signs on the outer doors in the lobby to not enter with instructions of calling 911 for an emergency or regular phone number for non-emergencies. Some crimes don't need direct contact with the dispatchers or officers. It is not the way we like to do business but we are trying to keep everyone as safe as we can.

Councilmember Flynn thanked everyone in Town Government for working together as a team to make sure Orchard Park residents remain safe, and what a great job Pat has been doing to coordinate everyone. He gave special recognition to Rich Mrugalski and the Emergency Management team for their around-the-clock efforts to make sure this crisis is handled smoothly. He also agreed with Councilmember Majchrzak regarding cutting spending for nonessential items. He also stated in order to keep the overall community safe we need to take a look at who really needs to be coming into work and what jobs absolutely must be done to keep the Town functioning for the next several weeks. Of those jobs, whoever can't perform that job from home should report to work. Whoever can work from home should. And whoever can't work from home but whose job also isn't needed to keep the town functioning for the next several weeks should be sent home with pay. He also wanted to stress to his fellow members of the millennial generation how important it is to obey the CDC guidelines and help stop the spread of this virus and remain home. He was very disappointed to see the number of people out at the bars celebrating St. Patrick's Day.

Highway Superintendent Fred Piasecki stated the Highway Department will be splitting into two crews and alternate to decrease exposure. He also stated that with the good weather they have started on bigger drainage projects, they started on Berkley drive and are ditching and swale cleaning. They are out for the whole day picking up brush and leaves when they get a list together.

**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 # 6 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$19,601.62
<b>Public Safety Fund</b>	-0-
<b>Part Town Fund</b>	\$1,097.82
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$39,847.04
<b>Special Districts</b>	\$1,153.59
<b>Trust &amp; Agency</b>	-0-
<b>Capital Fund</b>	-0-

**The resolution was unanimously adopted.**

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:29 pm (local time).

**Respectfully Submitted,**

**Remy C. Orffeo  
Town Clerk**