

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 June 2020 at 7:12 PM, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:	Patrick J. Keem	Supervisor
	Eugene Majchrzak	Councilmember
	Conor Flynn	Councilmember
	Remy Orffeo	Town Clerk
	John C. Bailey	Town Attorney
	Steve Bremer	Building Inspector
	E. Joseph Wehrfritz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

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: June 3, 2020 Executive Sessions: May 27, 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.

PUBLIC HEARING

Proposed Local Law #3-2020 Peddling, Soliciting, Transient Business and Mobile Food Vending

At 7:13PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding the proposed Local Law 3-2020 regarding amending “Chapter 101, Peddling, Soliciting, Transient Businesses and Mobile Food Vending”

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

Supervisor Keem read into the public record the following emails:

John Bernard spoke in favor of the revised Local Law 3-2020.
Susan Yox and Mitchel Stenger spoke against the revised Local Law 3-2020.

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

RESOLVED, that the Town Board does hereby close the Public Hearing for proposed Local Law 3-2020, regarding Amending Chapter 101, Peddling, Soliciting, Transient Businesses and Mobile Food Vending at 7:26PM.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby adopt the proposed Local Law #3-2020 Chapter 101. Peddling, Soliciting, Transient Businesses and Mobile Food Vending which reads as follows:

Chapter 101. Peddling, Soliciting, Transient Businesses and Mobile Food Vending

§101-1. Purpose.

The purpose of this chapter is, to promote and protect the health, safety and general welfare of the community, and the preservation and protection of property of the Town of Orchard Park and its residents.

§ 101-2. Definitions

The following words and phrases shall have the meanings, set forth unless the context of their use clearly indicates otherwise:

APPLICANT

Any person by or for whom an application is made under this chapter.

CHARITABLE ORGANIZATION

A. Any benevolent, philanthropic, patriotic, military veterans, not-for-profit, educational or religious association, society or other organization or any other association, society or organization qualified as a tax-exempt organization under Section. 501 of the Internal Revenue Code.

B. Any governmental entity or organization, including, without limitation, a school district, fire district and fire company.

MOBILE FOOD VEHICLE

A self-contained mobile food unit in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale, or distribution.

MOBILE FOOD VENDOR

The owner or owner's agent of a mobile food vehicle.

PEDDLER

A person who engages in peddling.

PEDDLING

A. Selling or offering for sale, barter or exchange any property or service, either for immediate or future delivery or performance upon any street, road or highway or from house to house in the Town, and including, without limitation, activities commonly known as "hawking."

B. Delivery or distribution of advertising matter, literature, pamphlets, samples or handbills house to house or on any of the streets, roads or highways or by going from place to place in the Town, but not including the delivery or distribution of newspapers, magazines or political or religious materials.

PERSON

A natural person, corporation, partnership, association, joint venture, society or other organization or association of any kind, whether acting as principal, agent, employer or employee.

PROPERTY

Any goods, wares, merchandise or other article or thing of every kind or nature except newspapers.

SOLICITING

A. Seeking, taking or offering contracts or orders for any property for future sale or delivery or performance of any service upon any street, road or highway or from house to house in the Town.

B. Seeking or taking subscriptions or contributions of money or property, upon any street, road or highway or from house to house in the Town.

SOLICITOR

A person who engages in soliciting.

STADIUM VENDOR

A person who engages in vending at, or around, New Era Field during stadium events.

TOWN

The Town of Orchard Park outside the Village of Orchard Park

TRANSIENT BUSINESS

A retail or wholesale business, other than a mobile food vehicle vendor (as regulated separately in this Local Law), conducted from a temporary structure or tent, truck, van or trailer, stand, parking lot or vacant parcel of land, in a public right-of-way or in or on any other place in the Town, but not (1) outdoor sales of property or services accessory to a business conducted within a permanent structure on a same premises or (2) the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other ordinances of the Town.

§ 101-3. Permit or registration required.

A. No person shall engage in peddling, soliciting, mobile food vehicle vending or a transient business in the Town of Orchard Park without first obtaining a permit or registering or both as required by this chapter.

B. No motor vehicle shall be used for peddling, mobile food vehicle vending or conducting a transient business unless a permit shall first have been obtained, which permit shall at all times be displayed in a conspicuous location that is visible from the outside of the vehicle.

C. All mobile food vehicles shall be subject to inspection by the Code Enforcement office prior to a permit being issued (2020 Fire Code of NYS Section 319 – Mobile Food Preparation Vehicles) and will be issued an operating permit (2020 Fire Code of NYS Section 105.6) after inspection.

§ 101-4. Exemptions.

No permit under this chapter shall be required:

A. By any charitable organization or its agents or employees or veterans licensed pursuant to General Business Law § 32.

B. By any business, service or activity licensed under any other ordinance or law of the Town of Orchard Park.

C. For lawn cutting, leaf raking and snow shoveling services for residential property.

D. By political parties and candidates for public office.

E. For peddlers and solicitors not over sixteen (16) years old.

§ 101-5. Hours.

No peddling, soliciting or transient business activities, whether or not exempt from the permit requirements of this chapter, shall be conducted before 9:00 a.m. or after the earlier of 8:00 p.m. or dusk.

Mobile food vending shall not be conducted before 8:00 a.m. or after 11:00 p.m. on a non-residential property or in a right-of-way adjacent to a non-residential property, unless otherwise stipulated on the permit.

New Era Field vending permits shall be valid only on the day of the event for a period of four (4) hours prior to, during and four (4) hours after the end of the stadium event.

§ 101-6. Application requirements.

A. An application for a permit under this chapter shall contain the following:

(1) The name, home address and local address, if any, of the applicant.

(2) A physical description of the applicant, giving date of birth, height, weight and color of hair and eyes. A photograph may be required.

(3) The name and address of the person, if any, by whom the applicant is employed and for whom or through whom orders are to be solicited, cleared, filled or delivered.

(4) A description of the business or activity in which the applicant intends to engage and of the nature of any property or services involved.

(5) For peddlers or solicitors, a list of crimes for which the applicant has been arrested or convicted, including the dates and places.

(6) A statement as to the period of time during which the applicant intends to engage in the business or activity regulated under this chapter.

(7) Proof that the applicant, or his or her employer or principal, is registered for sales tax purposes, if the business or activity to be conducted is subject to sales or use tax.

(8) A description of any motor vehicle that will be used for pickup or delivery of property or for the purpose of bringing any such property into the Town for peddling, soliciting or transient business purposes, or from which a transient business will be conducted, to include the name of manufacturer, year, type of vehicle,

vehicle identification number, registration plate number, title holder and name of the person other than the title holder to whom the vehicle is registered, if any.

(9) The location where a transient business or mobile food vending operation is to be conducted, if known.

(10) Further information required by the Town Clerk or the Police Department.

B. The application shall be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.

C. New Era Field events, mobile food vending or a transient business is to be conducted on private property, the written consent of the property owner, if other than the applicant, shall be filed with the application or shall be prominently displayed on the mobile food vending vehicle or at the transient business site.

§ 101-7. Investigation of applicant.

For peddling or soliciting permit applications, the Town Clerk shall forward a copy of the application to the Police Department, A copy of any application for a transient business or mobile food vendor shall be forwarded to the Building Department. The Police Department shall, to the extent possible, determine whether or not the applicant has accurately reported convictions and is otherwise a person of good moral character and reputation. The Police and Building Departments shall report the results of their investigations of applications to the Town Clerk within ten (10) business days of the receipt of the copy.

A. The Police Department shall perform the same investigation and provide the report of the results to the Town Clerk within ten (10) business days of the receipt of a copy of a list filed pursuant to the requirements of § 5 of this chapter.

§ 101-8. Fees.

The fees shall be paid to the Town Clerk with an application for a permit, the fees will be set by the Town Board at the yearly Organizational Meeting and then posted on the Town of Orchard Park website. The fees are nonrefundable.

§ 101-9. Permit regulations.

A. After receipt of reports from the Police Department and Building Department, when required, the Town Clerk shall issue the permit requested unless the applicant for a peddler's or solicitor's permit has been convicted of a felony at any time or a misdemeanor involving moral turpitude within five (5) years prior to the application, and has not been granted relief from civil disabilities, or otherwise is found not to be a person of good moral character and reputation.

B. Solicitors' & peddlers' permits are effective from January 1 to December 31 for the year. Transient business permits issued pursuant to this chapter will expire 30 days after issued. New Era Field vendors' permits are effective from January 1 of the year to December 31 of that year. Mobile food vendor permits shall be effective from January 1 of the year to December 31 of that year.

C. Permits issued under this chapter shall not be transferable.

D. A permit issued pursuant to this chapter may be revoked if, following its issuance, the Police Department determines that the applicant was convicted for any crime not reported in the application or is otherwise not a person of good moral character and reputation. A permit may also be revoked for any violation of this chapter committed after its issuance.

E. A transient business permit shall be limited to a single location. If the location is in a public right-of-way, it must be approved by the state, county or town authority having jurisdiction. If the location is not in a public right-of-way, it must be approved by the Building Department.

F. For Mobile Food Vendors:

(1) It shall be unlawful to conduct business from a mobile food vehicle within a public right-of-way or on private property within the Town without having first obtained a valid mobile food vendor permit for each mobile food vehicle.

(2) It shall be unlawful for a mobile food vendor to conduct business in a location within one hundred (100) feet of the primary entrance of an establishment that is open to the public and where ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale, or distribution. This requirement shall be waived if permission for the mobile food vending operation is obtained from the owner of the property that contains the establishment where ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale or distribution.

(3) Within non-residential zoning districts, it shall be unlawful for a mobile food vendor to conduct business at a single location within a public right-of-way for a duration exceeding three (3) hours. Within residential zoning districts, it shall be unlawful for a mobile food vendor to conduct business within a public right-of-way except for mobile food vehicles that operate for less than twenty (20) minutes at a single location or that operate within an area where a block party is being conducted.

(4) At all times, mobile food vendors must abide by the New York State Transportation Law and all applicable Parking, Vehicle and Traffic Laws, Ordinances, Rules and Regulations.

(5) All signage associated with a mobile food vendor must be permanently affixed to the mobile food vehicle. No accessory signage shall be placed outside or around the mobile food vehicle.

(6) All mobile food vendors must provide trash receptacles of sufficient capacity to contain all trash and waste generated in association with the business of the mobile food vendor. All waste and trash shall be placed in the trash receptacles. All trash, waste, litter and debris shall be removed from the site of the vending operation at the end of each daily operation.

(7) It shall be unlawful to discharge liquid waste, fats, oils or grease on the land. Such discharges shall be held in appropriate containers and then disposed in a legally permissible manner.

(8) Mobile food vendors shall not conduct operation from a site that contains a gasoline service.

(9) Each mobile food vehicle shall be inspected annually by the Building Department for fire-safety code compliance.

(10) All required permits shall be posted conspicuously on the mobile food vehicle.

(11) Each mobile food vehicle shall be registered as a commercial vehicle with the New York State Department of Motor Vehicles.

(12) When parked on a public or private right-of-way, products shall not be dispensed from the street side of the mobile food vehicle.

(13) A mobile food vehicle shall not be operated in reverse in order to attempt or make a sale.

(14) When parked on a public or private right-of-way, a mobile food vehicle shall not be parked within sixty (60) feet of an intersection with another public or private right-of-way boundary.

§ 101-10. Prohibited acts.

A. No person shall use private real property for any activity requiring a permit under this chapter without the written consent of the owner, and in compliance with § 7C.

B. No person regulated by this Local Law shall hawk or cry property, offers, contracts or services upon any location in the Town, or use any loudspeaker, horn or other sound making device.

C. No person holding a permit under this chapter shall engage in any activity regulated hereunder unless he or she has the permit on his or her person or as it pertains to a mobile food vendor, on the mobile food vehicle.

§ 101-11. Trespassing.

A. The owner or occupant of a residential building may post a notice prohibiting peddlers and solicitors. The notice shall be placed in a conspicuous place adjacent to the entrance door of the building. The letters of the notice shall be at least 1/2 inch in height and shall contain a statement saying in substance that "peddlers or solicitors are prohibited." No person shall engage in any activity regulated by this chapter by attempting to enter a building or ringing a doorbell or knocking on an entrance door to any residence building at which entrance such a notice has been posted.

B. Any person engaged in an activity regulated under this chapter, whether that person is exempt or not, who has entered upon private property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by any occupant.

§ 101-12 Stadium Event Vendor License

The Town of Orchard Park stadium event vendor license is a license to sell goods, wares, or merchandise upon privately owned parcels within a one-mile radius from the center of the stadium. The license shall be valid only on event days for a period of four hours prior to, during and four hours after the end of the stadium event. This license shall be valid only during the time period designated on the license. This license shall be issued in compliance with Peddlers and Solicitors §101-3 and §101-5 through §101-10. The license fee shall be set by resolution of the Town Board of the Town of Orchard Park from time to time and be administered by the Town Clerk of the Town of Orchard Park.

§ 101-13. Penalties for offenses.

Any person who violates any provision of this chapter shall be guilty of a violation. Each violation shall be punishable by a fine not to exceed \$250 or by imprisonment for a period not to exceed fifteen (15) days, or both.

§ 101-14. Enforcement.

This chapter shall be enforced by the Police Department and the Building Department of the Town of Orchard Park.

Primary enforcement of the Mobile Food Vending regulations contained in this Local Law shall be the responsibility of the Building Department. Matters concerning the Vehicle and Traffic Law, the New York State Transportation Law, illegal parking and trespassing shall be the responsibility of the Police Department. If the Building Department determines an issue to be a police matter, the Building Department shall refer that issue to the Police Department.

§ 101-15. Severability.

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision of this Local Law.

The resolution was unanimously adopted.

PUBLIC COMMENT ON OLD BUSINESS

No comments were presented.

Old Business #1 Approve additional Locations & Dates for Lloyd’s Food Truck.

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

WHEREAS, the Town Board approved Lloyd Products Inc. Food Truck’s Operating Permit and Mobile Food Vending License on June 3, 2020; and

WHEREAS, they are submitting a request for additional dates and times for vending.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize Lloyd Products Inc. to vend at Nottingham Village Tuesday June 16, 2020 5-8pm, Pawtucket Park Wednesday June 17, 2020 and September 2, 2020 4-7pm, Southtown Radiology Thursday June 25, 2020 11-1:30pm, and The Hammocks at Orchard Park Mondays June 22, 2020 – July 13, 2020 5-8pm.

The resolution was unanimously adopted.

Old Business #2 Approve Contract of Purchase & Sale of 70 Linwood Ave. in Orchard Park

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

WHEREAS, the Town of Orchard Park entered into a contract of Purchase and Sale dated December 18, 2019 with Tuscan Properties, LLC for the Town owned property at 70 Linwood Avenue in Orchard Park, and

WHEREAS, in light of the changes in economic circumstances occasioned by the COVID-19 pandemic both parties to that contract have agreed that an amendment to that contract would be appropriate, and

WHEREAS, the proposed amended terms include a new price of \$500,000 and an increase in the deposit to \$100,000 which deposit will become liquidated damages for the Town of Orchard Park if Tuscan Properties, LLC does not close within fourteen days of the end of the Permissive Referendum period associated herewith,

NOW THEREFORE, BE IT

RESOLVED that:

1. The Town of Orchard Park Supervisor is hereby authorized to sign an amendment to the December 18, 2019 contract of Purchase and Sale between the Town of Orchard Park and Tuscan Properties LLC for the sale of 70 Linwood Avenue, Orchard Park, New York, and
2. The terms of the amendment include a reduction in price to \$500,000 and an increase in the deposit to \$100,000 which deposit will become liquidated damages if Tuscan Properties LLC does not close within 14 days of the end of the Permissive Referendum period associated herewith.
3. Subject to a Permissive Referendum, the Town of Orchard Park is hereby authorized to sell 70 Linwood Avenue pursuant to the underlying contract of purchase and sale as amended by the new terms as set out herein.

The resolution was unanimously adopted.

Old Business #3 Award Contract for CAC Grading, Seeding & Restoration Project to Pinto Construction Inc.

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

WHEREAS, bids were opened for the Brush Mountain Community Activity Center Grading, Seeding & Landscaping on June 12, 2020. The Town received four (4) bids from local contractors. This project consists of spreading and grading the large fill stockpiles at locations around Brush Mountain Park, installation of drainage for both the access road and future playground, the placement of topsoil and seed on all disturbed areas around the Community Center and fill areas, tree and shrub plantings, as well as includes an alternate to remove +/- 2,300CY of fill from the site and stockpile at Thorn Ave.; and

WHEREAS, the two apparent low bidders both contained mathematical errors in their bids. The Town Attorney has confirmed we can award and math errors were addressed in bid tab as directed. The two low bidders were de-scoped and references checked. Both contractors were okay with the plans and specifications/bid documents and all references on both contractors were very positive; and

WHEREAS, the low bid contractor for this project was Pinto Construction Services at \$358,722.00. Their bid contained an error in the mobilization calculation and is addressed in bid tab by (-) \$543.92. This item error was based on 4% of their total contract inclusive of mobilization rather than 4% of the total exclusive of mobilization, as the specifications require. This bid is below the Engineer's Estimate of \$450,000. Per the de-scoping meeting, and follow up correspondence, Pinto is aware of the error impact. Their Bid price for Alternate #1 is \$14,950 and includes all loading, trucking, stockpiling, and stabilization of fill at the Thorn Ave. site for use on the future Little League field construction. The Company has successfully completed various projects for neighboring municipalities in the past and has provided professional references. Pinto Construction Services has been found to have the qualifications and experience to perform this work adequately. We have no reservation about their capabilities; and

WHEREAS, there is presently funding for the project, in capital account AB005, Brush Mountain Community Activity Center Site \$364,000.00. A transfer of funds from ABOO4 Brush Mountain Community Activity Center Building to ABOO5 should be authorized in the amount of \$36,000 to take balance in ABOO5 to \$400,000.

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the transfer of funds in the amount of \$36,000 from ABOO4 Brush Mountain Community Activity Center Building to ABOO5 Brush Mountain Community Activity Center Site, and be it further

RESOLVED, that the Town Board does hereby award the contract for the Brush Mountain Community Activity Center Grading, Seeding, & Landscaping Project including Alternate #1 to the lowest responsible bidder, Pinto Construction Services, 132 Dingens Street Buffalo, NY 14206 in the amount not to exceed \$373,672.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #4 Authorize Supervisor to sign agreement with SJB Services.

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

WHEREAS, to complete the Lexington Avenue & Brenner Drive Reconstruction bid documents and design work, existing soil conditions along the project needs to be known. With the final design work underway, test bore locations were marked in the field and depths determined depending on utility depths' standards per SJB Services, Inc., and

WHEREAS, the Town of Orchard Park will directly contract the test boring services for Lexington Avenue & Brenner Drive Reconstruction and add the findings to the Town's soil boring records book, and

WHEREAS, in order to keep the project on schedule; pavement cores and soil-boring work must be completed. The Town has solicited services from a local consultant, SJB Services Inc., who is qualified and capable to complete this work in the necessary time frame, and

WHEREAS, the test boring work will include two pavement core locations (6" asphalt core, sample subbase to determine thickness, spit spoon samples to 3 feet), two soil borings to a depth of 15-feet for the fill areas and deeper utility work, and all associated boring reports. All boring locations are to be tied into survey with elevations. SJB Services, Inc. estimated the cost to complete the above mentioned work is \$2,400.00. The estimated time necessary to complete the work is one day.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with SJB Services, Inc., 5167 South Park Avenue, Hamburg, New York 14075, to provide pavement cores & soil borings for the Lexington Ave & Brenner Drive Reconstruction Project in an amount not to exceed, \$2,400.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No comments were presented.

New Business #1 Authorize the Supervisor to sign Agreement with the Town of Aurora for use of the Compost site.

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an Agreement with the Town of Aurora for use of the compost site.

The resolution was unanimously adopted.

New Business #2 Appoint Ernest Matthews to Deputy Superintendent of Highways.

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

WHEREAS, the Orchard Park Town Board appointed Ernest Matthews to the position of Deputy Highway Superintendent for the period running from January 1, 2020 to June 30, 2020, and

WHEREAS, the Town of Orchard Park wishes to extend Ernest Matthews's appointment for the period beginning July 1, 2020 and ending December 31, 2020 on the same terms and conditions of his present appointment,

NOW THEREFORE, be it

RESOLVED, that Ernest Matthews is hereby appointed Deputy Highway Superintendent for the term beginning July 1, 2020 and ending on December 31, 2020 on the same terms and conditions of his present appointment.

The resolution was unanimously adopted.

New Business #3 Appoint Seasonal Part Time staff to the Recreation Department.

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

WHEREAS, the Town Board does here by approve the following 2020 Summer Seasonal Recreation and Parks and Grounds Staff appointments, dependent upon the applicant providing the appropriate certification.

2020 Summer Seasonal Part Time Staff Appointments effective 6-18-20 Camp Staff & Lifeguards

<u>Name</u>	<u>Rate</u>	<u>Position (Title*)</u>
Mary Genzel	\$14.00	PT6-B (LG)
Katherine Powers	\$13.50	PT5-E (ATT)
Alexandra Canaple	\$13.00	PT5-C (Att)
Griffin Harrigan	\$13.50	PT5-E (Att)
Emily Blake	\$13.00	PT5-C (Att)
Jack Kinsman	\$13.50	PT5-E (Att)
David Hoelscher	\$14.00	PT6-B (LG)

2020 Summer Seasonal part time Staff Appointments effective 6-18-20 Parks and Grounds

<u>Name</u>	<u>Rate</u>	<u>Position (Title*)</u>
Andrew Doran	\$13.00	PT5-C (Att)
Julie Fregelette	\$15.00	PT6-D (Att)
Benjamin Shoop	\$13.00	PT5-C (Att)
John Schmelzinger	\$13.00	PT5-C (Att)
Mark Nemece	\$13.00	PT5-C (Att)
Edwin Rossy	\$13.00	PT5-C (Att)
Amy Masciale	\$13.00	PT5-C (Att)

The resolution was unanimously adopted.

New Business #4 Approve an Operating Permit and Mobile Food Vending Permit for Fat Bob’s Food Truck

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

WHEREAS, the Town of Orchard Park has completed an inspection of the food truck for Fat Bob’s; and

WHEREAS, the Town of Orchard Park Fire Inspector has approved an Operating Permit for Fat Bob’s Food Truck; and

WHEREAS, the Operating Permit fee and Town of Orchard Park Mobile Food Vending Permit fee have been paid; and

WHEREAS, a certificate of liability insurance has been provided; and

WHEREAS, the approved location for Fat Bob’s Food Truck is Pawtucket Park July 15, 2020 5-7:30pm; and

WHEREAS Fat Bob’s has agreed to comply with the Town of Orchard Park Town Code and policies.

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the operating permit, town Mobile Food Vending Permit and locations of Fat Bob’s Food Truck in the Town of Orchard Park for the year 2020.

The resolution was unanimously adopted.

New Business #5 Appoint Seasonal Help to the Engineering Department

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

WHEREAS, funds have been allocated in the 2020 budget for seasonal help in the Engineering Department. With the current work load of the Engineering Department, the Town Engineer is recommending Jacob Kinderman.

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Jacob Kinderman, to a seasonal position in the Engineering Department for a ten-week period beginning July 1, 2020 at a wage rate of \$13.00 per hour as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Authorize Memorandum of Agreement with the Command Officers Association.

13) 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 **table** approving the Memorandum of Agreement with the Command Officers Association and will be addressed at the July 1, 2020 Town Board Meeting.

The resolution was unanimously adopted.

New Business #7 Authorize Advertisement in the OP Bee for Reconstruction of Lexington Ave. & Brenner Drive Project.

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

WHEREAS, the Engineering Department is in the final stages of preparing design plans, specifications, maps, and is coordinating utility relocations for the Brenner Drive —Lexington Avenue Reconstruction Project, and

WHEREAS, in order to keep the project on schedule, the Advertisement for Bids should be authorized to be published on June 17, 2020. Construction Plans and Bids Documents will be available for purchase on July 3, 2020 at the Town Clerks office with the bid opening to be held on July 27, 2020 at 2:00 PM and

WHEREAS, it is expected that the construction work will start in August 2020 with completion of final restoration in October 2020, weather permitting, or the spring of 2021.

NOW THEREFORE, be it

RESOLVED, the Town Board of Orchard Park does hereby authorize advertisement in the Orchard Park Bee for sealed bids to be opened for the Brenner Drive — Lexington Avenue Reconstruction Project on July 27, 2020 at 2:00 PM. in the Supervisor's Conference Room at the Orchard Park Municipal Center as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #8 Authorize Advertisement for bid of Solid Waste.

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

WHEREAS, bid documents were developed for the bidding of the Collection, Hauling and Disposal of Mixed Municipal Solid Wastes, Bulky Wastes and White Good, and Collection, Hauling and Processing of Recyclables Contract in an attempt to secure the recommended contract changes. In the event the bids are

not acceptable to the Town Board, per the Town Attorney, the Town still has the option to renew the existing contract in writing before July 31, 2020.

WHEREAS, the Town is in the final stages of updating bid documents packets with alternates for the Town Board's review on May 21, 2020, with the final Bid documents available June 15, 2020, for bidders to pick up, and

WHEREAS, there is presently funding allocated within the Town Consolidated Garbage District Budgets.

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 Collection, Hauling and Disposal of Mixed Municipal Solid Wastes, Bulky Wastes, and White Goods 2020 at 10:00 A.M. on July 9, 2020, in the Supervisor's Conference Room.

The resolution was unanimously adopted.

New Business #9 Authorize NYSEG to connect 10 L.E.D. light fixtures along Shadow Lane for Shadow Lane Extension, PIP 2019-01

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

WHEREAS, per the tariff agreement between NYSEG and the Town, NYSEG requested the Town submit a new resolution authorizing the energizing of ten (10) decorative street light fixtures along the Shadow Lane Extension. At present, there are seven (7) proposed apartment complexes currently under construction along the south side of the Shadow Lane Extension; and

WHEREAS, the L.E.D. luminaires, which are owned by the Town, have been installed under PIP # 2019-01. The Town will maintain the poles, bulbs, and the electric eye of the luminaires, NYSEG is providing energy only per the SC4 classification; and

WHEREAS, the Town purchases the electricity from the supplier, which is *estimated* to be \$42.03/ea. for an annual estimated cost of \$420.30 (10). This will add the new LED lights to our existing SC4 (service classification) account. Charges for energy to the lights may vary due to the electricity pricing trends from summer and winter month rate fluctuation.

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize NYSEG to connect ten (10) L.E.D. decorative light fixtures along the Shadow Lane Extension at an estimated annual increased energy cost of \$420.30 to the Consolidated Light District in accordance with the NYSEG proposal as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #10 Approve PIP #2020-02 for Riley Meadows West Subdivision Phase II.

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

WHEREAS, the Town Board has received, from Andrew Romanowski, Oak Orchard Development, LLC, 4727 Camp Road, Hamburg, New York 14075, an application for a Public Improvement Permit to construct the Riley Meadows West Subdivision Phase 2; and

WHEREAS, the project consists of the installation of 2,100 L.F. of new roadway and public utilities to serve 19 residential sublots; and

WHEREAS, two bioretention ponds and a retention basin system were installed during Riley Meadows West Subdivision Phase 1 construction; and

WHEREAS, the Town has 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, bond, and insurances.

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby approve of Public Improvement Permit #2020-02 for the Riley Meadows West Subdivision Phase 2 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #11 Appoint Ruth Hromchak to the position of Secretary to the Supervisor.

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

WHEREAS, a vacancy due to retirement is pending in the Secretary to the Supervisor position, and

WHEREAS, such a vacancy is filled at the pleasure of the Town Supervisor, and

WHEREAS, Supervisor Keem has identified Ruth Hromchak as his choice to fill this vacancy, and

WHEREAS, Ruth Hromchak is ready willing and able to start work on June 29, 2020 as a Group Four non-union employee for the rate of \$20.50 per hour,

NOW THEREFORE, be it

RESOLVED, that Ruth Hromchak is hereby appointed Secretary to the Supervisor, with a starting date of June 29, 2020 as a Group Four non-union employee for the rate of \$20.50 per hour.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

No comments were presented.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Supervisor Keem stated he is pleased to see Orchard Park residents observing social distancing policies.

Councilmember Majchrzak stated he is not in favor of defunding the Police Departments.

Councilmember Flynn asked that residents be careful as businesses reopen.

Town Clerk Remy Orffeo thanked residents who attended the last Planning Board Meeting who abided by the social distancing, hand sanitizing and mask policies.

Highway Superintendent Piasecki stated the Highway Department is continuing to mill, pave and sweep the roads.

19) 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 # 12 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$198,900.67
Public Safety Fund	\$1,336.42
Part Town Fund	\$1,083.35
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$268,097.90
Special Districts	\$249,193.98
Trust & Agency	\$340.00
Capital Fund	\$381,562.91

The resolution was unanimously adopted.

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

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

- NYS Department of Transportation Designation of Restricted Highway will be kept on file in the Town Clerk’s Office.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:46 pm (local time).

Respectfully Submitted,

Remy C. Orffeo
Town Clerk