

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 5th day of August 2020 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:

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| Patrick J. Keem | Supervisor |
| Eugene Majchrzak | Councilmember |
| Conor Flynn | Councilmember |

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| 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: July 15, 2020 Executive Sessions: July 15, 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.

Supervisor Keem called Roberta Buczkowski, who has just retired, up to the front and presented her with a plaque to honor her 20 years of service to four of the Supervisors of Orchard Park and the residents of Orchard Park. He thanked her for all that she has done for him over the years they had together, and especially when he first came into office and she helped guide him through the system.

PUBLIC HEARING

Proposed Local Law #4-2020 Amending §144, Zoning Article VI, Special Uses §144-461(E) Maximum Height of Buildings

At 7:00PM (local time) Supervisor Keem called for the Public Hearing to hear all interested parties regarding the proposed Local Law. 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 asked if anyone is interested in speaking or making a comment.

John Bernard was opposed, as he felt in the way it was drafted relaxed the law.

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, 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 #4-2020 Amending §144, Zoning Article VI, Special Uses §144-461(E) , Maximum Height of Buildings is hereby closed at 7:12PM.

The resolution was unanimously adopted.

3) 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 adopt Proposed Local Law #4-2020 Amending §144, Zoning Article VI, Special Uses §144-461(E), Maximum Height of Buildings which states as follows:

§144-46.1(E) Maximum Height of Buildings. The height of a building, at any point, shall be no more than 35 feet and 2 ½ stories.

The resolution was unanimously adopted.

PUBLIC COMMENT ON OLD BUSINESS

No one came forward

Old Business #1 Pinto Construction Landscaping

This resolution is incorporated into Old Business # 5 for Pinto Construction.

The resolution was unanimously adopted.

Old Business #2 Final Payment Release of Retention to Telco Construction Inc. for Renovations

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

WHEREAS, the construction work on the Renovations to the Animal Control Office, Highway and Sewer, Water & Lighting Buildings 2019 Remodeling Project has been completed. A final inspection was conducted on Tuesday, July 28th at 2 pm and all of the work has since been satisfactorily completed in accordance with the contract documents and specifications, and

WHEREAS, the two-year maintenance bond in the amount of \$402,749.00 will be submitted along with the Affidavit of Release of Liens, Affidavit of Subcontractor Payment, NYS Grant MWBE paperwork and any other necessary legal documents. All of these items will be obtained and approved before the final check is released to Telco Construction.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve and authorize the Final Payment/Release of Retention to Telco Construction Inc., 500 Buffalo Road, East Aurora, New York 14052 for the Orchard Park - Renovations to the Animal Control Office, Highway and Sewer, Water & Lighting Buildings 2019 Remodeling Project in the amount of \$91,862.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Proceed with Dedication of PIP 2020-01, Barrington Heights Subdivision Part 2

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

WHEREAS, on July 30, 2020, a final inspection was conducted of the public improvements installed in the Highcrofte Extension, formally Barrington Heights Part 2. The project included the extension of Highcrofte Lane as shown on the attached location map. The completion of this Subdivision's Phase 2 will allow 3 new single-family residential lots to be developed, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of the barricade type of wood installed. We are in receipt of \$12,000 cash security for the barricade installations, and

WHEREAS, a two-year maintenance bond in the amount of \$40,000 has been submitted along with all other necessary documents.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Highcrofte Extension - Barrington Heights Part 2 constructed under PIP #2020-01, and authorize the Town Clerk to release the bank check submitted in the amount of \$8,000.00 in lieu of a Performance Bond the performance security, as recommended by the Town Engineer.

The resolution was unanimously adopted.

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

WHEREAS, the following is required by NYSDOT and will allow these new roadways to be included into the Local Highway Inventory (LHI) program, which is used to calculate Chips funding, and

WHEREAS, Highcrofte Lane extension was constructed as a Town street in accordance with plans and specifications prepared by Carmina Wood Morris, P.C.; and

WHEREAS, the lane extension is 0.04-miles in length and consists of a new drainage system, waterline, gutters, asphalt pavement, and street signage; and

WHEREAS, construction of the Highcrofte Lane extension has been completed in accordance with as-built drawings and has been accepted for maintenance by the Town and is currently open to vehicular traffic for the public; now, therefore be it, and

RESOLVED, that the Highcrofte Lane extension shall be included in the 2020 Town Local Highway Mileage Inventory of Town Streets; and, be it further, and

RESOLVED, that New York State Department of Transportation is requested to include the Highcrofte Lane extension in the Town of Orchard Park's 2020 Inventory of Streets.

The resolution was unanimously adopted.

Old Business #4 Release Performance Security to Fairway Contracting for Hazel Court

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

WHEREAS, on July 30, 2020, a final inspection was conducted of the Hazel Court Sanitary Sewer Extension Phase 2 Project. The project included the installation of +1- 1,216 LF of 8-inch PVC sanitary sewer mainline along Southwestern Boulevard to service seven residences and two commercial businesses, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of over seeding with hydroseed and mulch along the properties when the weather permits this September. In lieu of receiving a cash security for this over seeding, we will continue to retain the contract's retention in the amount of \$10,334.15 until such time the work is deemed complete, and

WHEREAS, a two-year maintenance bond in the amount of \$206,683.01 has been submitted and this final Contract amount represents a decrease of 1.33% from the original amount bid.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release the performance security in the amount of \$209,453.50 to Fairway Contracting, Inc., for the Hazel Court Sanitary Sewer Extension Phase 2 Project, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #5 Change Order #1 with Pinto Construction for Brush Mt. Community Activity Ctr.

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

WHEREAS, the Community Activity Center Grading, Seeding, & Landscaping Project was bid and awarded to Pinto Construction. To date, they have successfully re-graded the area around the building, near California Rd, deposited fill and graded the field area adjacent to the pond, disposed of excess fill to Thorn Ave, have top soiled and seeded appx. 95% of the area immediately adjacent to the C.A.C., and are on track to meet the completion dates, and

WHEREAS, due to the unusually hot and dry weather experienced, this year they have had to water the seeded areas daily and the grass is beginning to grow. However, due to the unusual weather, they have also experienced a delay in shipping and receiving the trees and shrubs that are to be planted. Engineering has contacted the distributor previously and was aware of the possible delay, and

WHEREAS, the contract, as awarded with two completion dates; July 31, 2020 for the area immediately surrounding the C.A.C. and August 28st for the balance of the work. Pinto has requested a time extension to the contract until August 28th, solely for the completion of the landscaping (tree & bush plantings) located adjacent to the front entrance of the C.A.C., and expects all other work to be completed on time. All trees and bushes are now planted as of August 2, 2020.

NOW, THEREFORE, be it

RESOVLED, that the Town Board approve Change Order #1, a no cost time extension until August 28, 2020, for the entire project to the contract for the Brush Mountain Community Activity Center Grading, Seeding, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #6 Authorize Pedestal Sign to be Placed on Town Property

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

WHEREAS, Scott Bieler, President of West-Herr Auto Group, for many years has actively supported the Orchard Park Community, and

WHEREAS, Scott Bieler has been financially supportive of the Orchard Park Buffalo, Rochester & Pittsburgh (BR&P) Railway Depot, and

WHEREAS, the Western New York Railway Historical Society (NYRHS) is grateful for the support Scott Bieler has provided the Railway Depot, and

WHEREAS, Scott Bieler has proposed a pedestal sign to be placed on Town of Orchard Park property parallel to South Buffalo Street and adjacent to the Scenic By-Ways sign, and

WHEREAS, the WNYRHS and Town of Orchard Park representatives have given their approval of the pedestal sign, its verbiage “Bieler Family Memorial, Orchard Park BR & R Railway Depot” and its placement.

NOW, THEREFORE, be it

RESOLVED, that the Town of Orchard Park Town Board does hereby give its permission for a pedestal sign to be placed on town property parallel to South Buffalo Street and adjacent to the Scenic By-Way sign.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Set Public Hearing for Local Law to Over-Ride Tax Levy Limit

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 a proposed Local Law to “override tax levy limit established in General Municipal Law Section 3-c for September 2, 2020 at 7:00pm and be it further

RESOLVED, that the Town Clerk shall publish due notice thereof.

The resolution was unanimously adopted.

New Business #2 Award Contract to United Survey, Ind. For Cured-In-Place-Pipe

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

WHEREAS, the SW&L Dept. is continuing to perform video inspections of the Town's sanitary sewer infrastructure and has +1- 28,000LF completed to date. The truck has been out a total of 39 days: since May 4th and has complete 120 sections of pipe. This puts them on track to complete about 60,000LF of inspections this year, and

WHEREAS, as the videos and pipe condition assessment reports become available it is apparent that there are sections of pipe that will require immediate rehabilitation. Along with immediate needs, the continuous maintenance of the Town's sanitary sewer infrastructure is a top priority. To provide the best service at the most reasonable expense the Engineering Department is proposing to utilize cured-in-place pipe lining as a method to rehabilitate older infrastructure as an alternative to traditional, and more expensive, open cut direct replacement of the lines, and

WHEREAS, the Town of Orchard Park is listed on the current Erie County Division of Purchasing Contract for Cured-In-Place Pipe (CIPP) Rehabilitation and is able to award a contract with United Survey Inc., the County's contractor, in accordance with the Town's procurement policy. We have met with representatives of United Survey Inc., and they are amenable to executing a contract with the Town of Orchard Park. The Contract will be awarded with all of the included 36 bid items however; work orders will only be issued utilizing the necessary items. The County's standard specifications, technical specifications, and other contractual requirements, as included in the original bid package, will be utilized for this work, and

WHEREAS, the Engineering Department is proposing to award a not to exceed contract with United Survey Inc. in the amount of \$500,000 for the start of relining problem areas. Once awarded, the Town will issue individual work orders to the Contractor as pipe sections in need of rehabilitation are identified, approved, and bid items are needed. The first work order to be issued will be approximately 400 to 2,500LF of 8" asbestos pipe currently in disrepair along North Benzing Rd in an amount not to exceed \$80,000, and

WHEREAS, there is presently funding for the project, in capital account G0007, Sanitary Sewer Videoing and Relining in the amount of \$2,012,366. This will allow the Town to award up to \$500,000 in rehabilitation work as needed. Additional funding should be allocated to continue the rehabilitation as areas are identified.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for Cured-In-Place Pipe Rehabilitation, as bid with the Erie County Division of Purchasing, to United Survey Inc., 25145 Broadway Ave, Cleveland, Ohio 44146, in the amount not to exceed \$500,000, and be it further

RESOLVED, that the Town Board does hereby approve work order No.1 for the CIPP Rehabilitation contract for 400 to 2,500 LF along North Benzing Rd., as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #3 Sign Agreement with GHD Consulting Services for Townwide Drainage Dist.

This item was tabled.

New Business #6 Budget Amendment for Forestry Costs

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

WHEREAS, there is a need for additional tree removal due to damage from previous storms and dead trees on town properties, and

WHEREAS, the estimated cost exceeds the amount budgeted for the fiscal year ended December 31, 2020, and

WHEREAS, the funding for these adjusted appropriations is expected to be available within other appropriation accounts in the Town’s Forestry Department 2020 budget,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the following transfer:

Increase Appropriations:

A08560 50471 General – Forestry Tree and Stump Removal \$14,302

Decrease Appropriations:

A08560 50103 General – Forestry Salary Nonunion FT \$14, 302.

The resolution was unanimously adopted.

New Business #7 Budget Transfer for Tree Removal

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

WHEREAS, the Superintendent of Highways has needs to have trees removed in right of ways and,

WHEREAS, these expenditures were not included in the amount budgeted for the fiscal year ended December 31, 2020 under the Superintendent of Highways, and

WHEREAS, the funding for these adjusted appropriations is available within other appropriation accounts in the Town's 2020 budget,

NOW, THEREFORE, be it

RESOLVED that the Town Board hereby authorizes the following transfer:

Increase Appropriations:

A05010 50471 General — Supt of Highways — Tree and Stump Removal \$3,000

Decrease Appropriations:

A01910 50550 General — Contingency (\$3,000)

The resolution was unanimously adopted.

New Business #8 Refer to Planning & Conservation Boards

16) 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 refer the following to the Planning Board and Conservation Board:

10 Centre Drive, T Squared Putters, a subsidiary of Titan Instruments, located on the east side of Centre Drive, Zoned I-1 (SBL #161.19-1-1). Daryl Martin, Architect, is requesting a Special Use Permit for the expansion of this business with the addition of a practice putting green, game simulator and a wet bar for drinks and light meals.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Suzanne Milton lives on Hawthorn Dr. and there is flooding on the roads and lawns every year, when there is flooding the water flows into her and her neighbors basements. Her neighbor has a retention pond next to them which does not hold the water, and they were told by someone from the Town that there is a broken pipe under the street. Ms. Milton would like the Town to look into this and fix the situation.

Brian Barco wanted to know if Commercial Parking was going to be allowed around the Stadium this year. The income that he makes off of the parking is his main form of income.

Eric Matwijou also wanted to know if the Commercial Parking permits were going to be issued, as he feels there will be a football season this year. He also had some questions about the regulations with the Commercial Parking.

John Vinti was at the meeting tonight with other residents on Powers Road that pay Erie County Sanitary District-3 Sewer tax since 1963, but have no Sanitary Sewer service. He talked with Erie County Legislator Mills who said that the Town owns the sewer lines and did a referendum in 1963 that included their residents in the Sanitary Sewer District, even though they do not have the sewer lines. Mr. Vinti, on behalf of himself and his neighbors, respectfully asked the Town Board to have another referendum, or resolution, removing them from the Sanitary Sewer District #3. If that does not happen, on advice of Counsel, they could serve a Notice of Claim with the Town and seek damages for all Erie County Sanitary Sewer District #3 homeowners without sewer service.

John Park lives on Brenner Drive where the Town is currently doing a Lexington Ave. Brenner Dr. reconstruction. There is about a 100ft. turnaround that the Town has maintained for years, and it is used by the Town trucks, school buses and others, but it is privately owned by the residents. They have been told that the Town is not going to do reconstruction work on that 100 ft. extension. The residents feel that this 100ft. extension should be included in the project, as it is used by many of the Town vehicles, buses and garbage trucks.

Rolands Row lives on Powers Road, and is a senior citizen living on a fixed income. He wants the Town to eliminate the Sanitary Sewer Tax.

Greg Taskel lives on Lexington, and feels that the 100ft. extension should be included in the reconstruction project. If it is not, the elevation of the road will be different than their driveways.

Carol DiGori is also a resident on Powers Road that pays for sewers but does not get service, she wants this tax removed. She asked for the Town Boards help in getting this tax removed.

Scott Hartung lives on Highland Avenue, and is concerned with flooding with the Smokes Creek project, and other projects planned along Smokes Creek. This area used to be considered a flood zone until the creek repairs removed them from the DEC flood plains. With the new projects up stream, the residents have been assured by the developer that the retention ponds and other remedial plans will contain any water runoff. Mr. Hartung contacted his insurance agent and found out if this area gets a "flooding" designation the cost of flood insurance would be between \$6,000 and \$7,000. He asked that he Town do its due diligence on this project to make sure that the developer completes this project appropriately properly. He also asked who is responsible for maintaining the retention ponds.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Supervisor Keem said that he was unaware of the issue regarding Hawthorn Drive and asked Highway Superintendent to explain if he knew about it. As far as the tailgating issues, they are not even sure there will be a football season yet. For the residents on Powers Road, he feels bad for them paying for something they do not have, but the Town has checked into it, and the county gets most all the money except \$5.00. Supervisor Keem said he hope full that something can be done about the tax. He is also going to look into the Brenner/Lexington Reconstruction issue.

Supervisor Keem said they put up a Wounded Warrior parking spot at the Community Activity Center on Friday as it was Wounded Warrior Day. There was a special ceremony for the Wounded Warriors and Veterans. Regarding the Community Activity Center, it has become quite a blessing to the seniors and residents with its programs, and meeting spaces. He outlined the many activities, events and meetings that take place there. Supervisor Keem then asked Councilmember Flynn why he voted against the garbage totes for the Town residents, when he lives in the Village and has the benefits he voted against.

Councilmember Flynn stated he got a lot of public input regarding the garbage contract, and voted for what he thought was best for the Town residents.

Councilmember Majchrzak stated that he will look into the Sanitary Sewer tax on Powers Road with the Town Engineer. But he cautioned the residents that if a sanitary sewer trunk line is put in along there, it will open up the area for much more development. Regarding the Brenner/Lexington Reconstruction project he asked the Town Engineer to check into the contractor doing the work for the residents, as that section was used by Town Trucks, garbage trucks, school buses and other entities. Councilmember Majchrzak asked the Town Superintendent to examine the area and the pipe, and asked the Town Engineer to run the camera in the pipe to look for damage or blockages.

Councilmember Flynn stated the Commercial Parking, and tailgating issue around the stadium is going to be a tough issue for the Town Board to handle. He then asked everyone to register to vote, and to complete the census information.

Highway Superintendent Fred Piasecki said Highway is handling drainage issues around town, and will check out the ditch line on Hawthorne.

Chief of Police Wehrfritz said this is speed awareness week, so there will be more patrols out this week checking speed.

Town Engineer Bieler said that there has been extensive work done regarding Smokes Creek on the bridges and downstream to alleviate flooding issues. As far as the Smokes Creeks subdivision, as required by the Town, they have gone above and beyond what is normally required for storm drainage detention. They also did some flood plain mitigation which is not normally done. Regarding the residents on Powers Road, he will reach out to see who could help them, as the County and Sewer District have authority over that tax.

17) 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 #15 following auditing by members of the Town Board and in the funds indicated:

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|---------------------------|--------------|
| General Fund | \$123,464.72 |
| Public Safety Fund | \$34,066.07 |
| Part Town Fund | \$276.00 |
| Risk Retention | -0- |
| Cemetery Fund | -0- |
| Highway Fund | \$184,866.46 |
| Special Districts | \$33,094.61 |
| Trust & Agency | \$200.00 |
| Capital Fund | \$287,375.27 |

The resolution was unanimously adopted.

REPORTS

18) 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:

- Comprehensive Annual Financial Report for 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 8:39 pm (local time).

Respectfully Submitted,

Remy C. Orffeo
Town Clerk