

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 16<sup>th</sup> day of September 2020 at 7:00 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
	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: September 2, 2020 Executive Sessions: September 2, & 9, 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.**

**PROCLAMATIONS**

**Presentation of Tree City, USA Designation to Town of Orchard Park by Nate Morey, NYS DEC**

**WHEAREAS**, the Town of Orchard Park wishes to gain Tree City USA status to further emphasize the importance of trees for the health and well-being of its citizens, and;

**WHEREAS**, the Town recognizes the need for its Tree Conservancy Board to meet publicly each month and discuss matters related to the proper growth and maintenance of trees within the Town of Orchard Park limits, and;

**WHEREAS**, the Town of Orchard Park believes strongly that maintaining its existing public tree care ordinance will reflect the value of trees within the community, encourage beautification, air cooling and purification, noise abatement, property value enhancement, avoid unnecessary costs and liability from hazardous trees and tree-related accidents, and enable the Town to prevent and control destructive insects and diseases, and;

**WHEREAS**, the Town of Orchard Park wishes to formally commit to a Community Forestry program of at least \$2 per capita (at least \$58,108) dedicated to tree planting, maintenance, and removal. The Town already allocates funds for tree care on an annual basis, and wishes to continue to do so for the health and wellness of both trees and citizens.

NOW THEREFORE, it is hereby proclaimed The TOWN of ORCHARD PARK to be designated as a

**TREE CITY, USA DESIGNATED TOWN**

**Presentation of Designation of Orchard Park as a Purple Heart Town**

**WHEREAS**, The Town of Orchard Park has always supported its military population; and

**WHEREAS**, the Purple Heart is the oldest military decoration in present use and was initially created as the Badge of Military Merit by General George Washington in 1782; and

**WHEREAS**, Was The First American Service Award Or Decoration Made Available To The Common Soldier And Is specifically awarded to members of all United States Armed Forces who have been wounded or paid the ultimate sacrifice in combat with a declared enemy of the United States of America; and

**WHEREAS**, the mission of the Military Order of the Purple Heart is to Honor those who were killed during wartime, foster an environment of goodwill among combat wounded members and their families, promote patriotism, support legislative initiatives *and* most importantly-make sure we never forget the many decorated soldiers and veterans including Purple Heart recipients; and

**WHEREAS**, The Town of Orchard Park honors the sacrifices all Purple Heart recipients who defended our freedoms and believes it is important that we acknowledge them for their courage and show them the honor and support they have earned.

NOW THEREFORE, we do hereby proclaim The Town of Orchard Park to be designated as a

**PURPLE HEART DESIGNATED TOWN**

The Town of Orchard Park shows their appreciation for the sacrifices of Purple Heart Recipients as more than a million military personnel have been killed and millions more have been wounded in combat defending the principals and freedoms of our great Nation of America.

**PUBLIC COMMENT ON OLD BUSINESS**

No one came forward

**Old Business #1 Change Order #17 to Contract with Javen Construction for Brush Mt. Activity Ctr.**

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

**WHEREAS**, during the punch list and close out process for the Brush Mountain Community Activity Center, a number of smaller, yet critical items were discovered to be deficient or in need of attention. Two punch list items include the painting of the interior conduit and the installation of the magnetic door security locks (maglocks). One close out item in need of attention is a claim made by Javen for reimbursement of blocking required for the mounting of exterior fixtures and security cameras supplied by IPL, and

**WHEREAS**, after months of discussions and negotiations between Javen, IPL, Wendel, and the Town, all parties have come to mutually acceptable terms. Javen and IPL have agreed to split the cost of both the interior conduit painting and exterior fixture supports. The Maglocks will be address in IPL's change order. This change order reflects the 50% contribution from IPL to Javen for the painting (\$5,547.76) and blocking (\$5,723.27). The total amount of \$11,271.03 will be deducted from IPL's contract. It is important to note that

work has already been completed by Javen as directed by Wendel and the Engineering Department. This change order is a resolution for a dispute between two prime contractors, and

**WHEREAS**, if approved, this change order will increase Javen's total contract to \$12,776,236.40, representing a 0.09% increase, and

**WHEREAS**, there is currently funding allocated under capital projects ABOO4 Brush Mountain Community Activity Center Building for this project work. However, the entire amount will be deducted from IPL's contract.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve change order #17 to our contract with Javen Construction Co., Inc., 2575 Baird Road, Penfield, NY 14526 for interior conduit painting and exterior fixture support work previously completed in an amount of \$11,271.03 for the Brush Mountain Community Activity Center, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #2 Change Order #12 to Contract with IPL Electrical for Brush Mt. Activity Ctr.**

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

**WHEREAS**, during the punch list and close out process for the Brush Mountain Community Activity Center, a number of smaller yet critical items were discovered to be deficient or in need of attention. Two punch list items include the painting of the interior conduit and the installation of the magnetic door security locks (maglocks). One close out item in need of attention is a claim made by Javen for reimbursement of blocking required for the mounting of exterior fixtures and security cameras supplied by IPL, and

**WHEREAS**, after months of discussions and negotiations between Javen, IPL, Wendel, and the Town, all parties have come to mutually acceptable terms. Javen and IPL have agreed to split the cost of both the interior conduit painting and exterior fixture supports. The maglocks, although shown on the plans, were not specifically and clearly called out to be supplied separate from the door hardware. The agreement reached with IPL concludes that the locks will be supplied and installed by IPL and the cost will be split equally between Wendel, IPL, and the Town, and

**WHEREAS**, this change order reflects the 50% contribution from IPL to Javen for the painting (\$5,547.76) and blocking (\$5,723.27). The total amount of \$11,271.03 being deducted from IPL's contract. The total amount of the maglocks is \$6,715.80. The amount included in this change order is \$4,477.20, representing both Wendel's and the Town's contribution of \$2,238.60 each, and

**WHEREAS**, if approved, this change order will decrease IPL's total contract to \$1,933,922.72 representing a 0.35% decrease.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve change order #12 to our contract with Industrial Power & Lighting Corporation, 60 Depot St, Buffalo, NY 14206 for the deduction of monies for interior conduit painting and exterior fixture support work completed, and the installation of the maglocks in an amount of \$6,793.83 for the Brush Mountain Community Activity Center Project, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #3 Town Clerk to Release Escrow of PIP#2019-01 for Sanitary Mainline Easement**

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

**WHEREAS**, on May 6, 2020, the Town Board accepted dedication of the public improvements constructed in the Shadow Lane Extension, PIP 2019-01, with the stipulation that an escrow in the amount of \$90,000 be held until the installation of a public stoned sanitary mainline easement access road per plan on the north side of Shadow Lane was completed, and

**WHEREAS**, the Contractor has since completed the above referenced work. The work was inspected by the Engineering Department and found to be in compliance with Town specifications.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Town Clerk to release \$90,000 held in escrow under PIP 2019-01 for the completion of the public stoned sanitary mainline easement access road on the north side of Shadow Lane for the Shadow Lane Extension, PIP #2019-01, to Andrew Romanowski, Oak Grove Holdings, LLC, 4727 Camp Road, Hamburg, NY 14075, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #4 Authorize Extension of Woodhaven Rd. Excavation, Storage Permit 2016-02**

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

**WHEREAS**, the Town has received from Zoladz Construction Co., Inc. of 13600 Railroad Street, Alden, New York 14004-0157 a request to renew their application for Excavation, Removal, and Storage of Materials to fill (approximately 45,000 cubic yards of soil) for the vacant property at the end of Woodhaven Road for future development of the property to extend Woodhaven Road into Diller Drive, and

**WHEREAS**, the Town Engineer has reviewed the request and have found it acceptable per Town code. All necessary insurances have been updated and are acceptable, and the required bonds are still in place.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve the 1-year extension of the Woodhaven Road Excavation, Removal, and Storage of Materials Permit #2016-02 to fill the vacant property at the end of Woodhaven Road, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON NEW BUSINESS**

No one came forward

**New Business #1 Proclamation for Purple Heart Designation** was read at beginning of meeting.

**New Business #2 Lifting the Suspension of Commercial Satellite Parking Permits**

**This item was tabled.**

**New Business ##3 Appointment to the Board of Assessment Review**

6) 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 re-appoint John McCarthy to the Board of Assessment Review with a term to expire September 30, 2025.

**The resolution was unanimously adopted.**

**New Business #4 Award Bid for Stump Grinding**

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

**WHEREAS**, the Town of Orchard Park Department of Parks and Grounds has a need for services of a tree stump grinder, and

**WHEREAS**, the Town of Orchard Park has sent out bid requests to provide this service, and

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does here award the Department of Parks and Grounds stump grinding contract to Michael Spahn, DBA Avalon Services.

**The resolution was unanimously adopted.**

**New Business #5 Appoint Seasonal Employee to Engineering Department**

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

**WHEREAS**, funds have been allocated in the 2020 budget for seasonal help in the Engineering Department, and

**WHEREAS**, with the current work load, vacations, and medical leaves (FMLA), the Engineering Department is requesting additional help. Matt Deubell, an Ormsby graduate from the CADD program currently working toward an ECC CADD Associate degree is interested in working for the Town again, and

**WHEREAS**, Matt worked with the department over the 2019 summer and part time last 2020 year during the winter and was an asset to the team.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby appoint Matt Duebell, to a seasonal position in the Engineering Department starting September 21, 2012 for an 18 week period, while he is on break from college, at a wage rate of \$13.00 per hour, as recommended by the Town Engineer.

Councilmember Flynn stated this hire is because the Engineering Department is currently understaffed.

**The resolution was unanimously adopted.**

**New Business #6 Authorize Public Hearing for the 2021-22 Community Development Block Grant**

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

**WHEREAS**, in order to be eligible to continue to receive County CDBG Consortium, the Town of Orchard Park is required to conduct a public hearing to provide citizens the opportunity for input into the project selection process. Project applications are due near the end of October, and

**WHEREAS**, prior to the hearing, the Engineering Department will prepare an information packet which will describe the CDBG program, a list of previous HUD funded projects in our Town, and a list of potential projects to be considered for next year's funding applications.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby schedule a public hearing for Wednesday, October 7, 2020 at 7:00 PM on the possible use of 2021-2022 Community Development Block Grant Funds, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Robert Bell – Mr. Bell lives on Eaglebrook Road and has suffered from flooding for the last 5 years after the Credit Union was built on the corner by his house. There are drainage issues and the retention pond is not working property. He has been to the Town many times regarding this issue and nothing has been done to rectify the situation. Mr. Bell is asking for help again.

Sandy Bell – Ms. Bell said the flooding has been from a few inches outside their house and up to two feet in their basement. This causes a dangerous situation with the pilot lights and a lot of damage to their property and belongings.

Tom Clouden – Mr. Clouden also lives on Eaglebrook and has been there for many years. When the Credit Union was built, the land was clear cut and built up to four feet higher than Mr. Bells property. Before the Credit Union was built, they did not have these problems. He is here to support the Bell's request for help.

Terry Eagan – Ms. Eagan lives on Eaglebrook Dr. and is here to support the Bells. Residents should not have to live in fear of losing their house to something that is not their problem.

Don Eagan – Mr. Eagan lives on Eaglebrook. He is here in support of the Bells. He said this has been a problem for quite a while and needs to be addressed.

Andy Gernold – Mr. Gernold would like to see a side walk between East Quaker Road and the high school, and feels it is long overdue. It is a serious safety concern.

**ELECTED OFFICIALS & DEPARTMENT MANAGERS**

Supervisor Keem stated the Town has looked at a sidewalk from the High School to East Quaker Rd. last winter, and then COVID 19 hit. Town Engineer Bieler said that Freeman Road is a County Road and there is not a lot of room for a sidewalk. Baker Road is a town road and they did have plans before. Supervisor Keem stated they are going to look at this again.

Supervisor Keem also asked the Town Engineer to have the drainage system at the Credit Union on the corner of Eaglebrook checked and see what can be done regarding the problems Mr. & Mrs. Bell are having with flooding.

Councilmember Majchrzak said Mrs. Bell was at the meeting two weeks ago, and he talked with her after the meeting, and several times after that. He let her know that he has moved their project up to the top of the list of projects for the town. Councilmember Majchrzak stated that he did not know if it is going to be an easy fix, a full road reconstruction, or something in between. The Town will solve the problem. Town Engineer Bieler said they have had people out investigating the problem this week.

Councilmember Flynn thanked Assemblyman Sean Ryan, Chairperson of the State Assembly Library Committee, for attending the meeting of the Orchard Park Library Board.

Town Clerk Orffeo said that we have received the Tax Bills from Erie County and hope to have them mailed out by next week. He said, to keep the residents and staff safe during the COVID 19 crisis, the office would appreciate it if people pay their bills by check in the mail, or drop it off in the Deposit Box in the Town Hall lobby.

Highway Superintendent Fred Piasecki stated the Highway projects for the week included drainage work, cleaning receivers and repairing them, and patching roadways.

Chief of Police Wehrfritz stated that with the opening of schools, there has been a lot more traffic around the schools. With COVID 19, more parents are dropping off their children at school, and there are more students walking to school, so be mindful when driving around the schools. The police department has been working with the schools to set up appropriate traffic patterns to accommodate the excess traffic.

Town Engineer Bieler, regarding capital projects, they have been working together with the accountants and will be putting together a memo regarding some of the funding for the projects, including Eagle Brook.

**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 authorize the approval of all entries on Warrant # 18 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$41,122.39
<b>Public Safety Fund</b>	\$7,034.12
<b>Part Town Fund</b>	\$462.86
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$23,642.88
<b>Special Districts</b>	\$182,383.48
<b>Trust &amp; Agency</b>	\$375.00
<b>Capital Fund</b>	\$1,633.42

**The resolution was unanimously adopted.**

11) 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 Building Inspectors August 2020 report, 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 7:44 pm (local time).

**Respectfully Submitted,**

**Remy C. Orffeo**  
**Town Clerk**