

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 December 2020 at 7:00 PM, the meeting was called to order by Deputy Supervisor Joseph Liberti and there were:

**PRESENT AT ROLL CALL:**

	Joseph Liberti	Supervisor
	Eugene Majchrzak	Deputy Supervisor
		Councilmember
Present Via Phone	Conor Flynn	Councilmember
	Remy Orffeo	Town Clerk
	John C. Bailey	Town Attorney
	E. Joseph Wehrfritz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
ABSENT:	Steve Bremer	Building Inspector

**Deputy Supervisor Liberti 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.”

Councilmember Majchrzak stated the Town of Orchard Park has lost an iconic member of the community. Nan Ackerman passed away after a valiant effort to forestall a long and debilitating illness. Mrs. Ackerman leaves behind a legacy of energetic service to the community including numerous civic organizations such as the League of Woman Voters, the Orchard Park Symphony Woman’s Committee, the Orchard Park Symphony Board, the Boy Scouts, and she was a prodigious fundraiser for so many causes.

Mrs. Ackerman served as a Councilwoman from 1992 to 2009 and her many accomplishments while a Town Board Member included creating the Architectural Overlay District and rewriting the Town’s Comprehensive Plan. Mrs. Ackerman was a founding member of the Environmental Conservation Advisory Council in 1971 which was established with the Conservation Board pursuant to New York State Law in 1982 and she served on the Planning Board, Tree Conservancy Committee and the Youth Court. She made her mark on the fabric of life in Orchard Park, her legacy will long outlive her days on Earth.

**1) 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 approve the Regular Meeting Minutes: December 2, 2020 and Executive Sessions: December 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.**

**PUBLIC HEARING  
Conservation Easements**

At 7:00 PM (local time) Deputy Supervisor Liberti called for the Public Hearing to hear all interested parties Conservation Easements for Henry Lewandowski – 6106 Cole Rd. and Donald & Jennifer Brady-6215 Scherff Rd.

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.

Deputy Supervisor Liberti asked if any communications came in regarding these Conservation Easements, Councilmember Majchrzak and Town Clerk Orffeo stated they have not received any communications.

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 at 7:08PM.

**The resolution was unanimously adopted.**

3) 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 accept the following Conservation Easements: Henry Lewandowski – 6106 Cole Road, and Donald & Jennifer Brady – 6215 Scherff Road, as recommended by the Conservation Board, and be it further

**RESOLVED**, the Town Assessor is to determine the valuation of the properties, taking into account the limitation on the future use of the land, imposed by such Conservation Easements.

**The resolution was unanimously adopted.**

At 7:09 PM (local time) Deputy Supervisor Liberti called for the Public Hearing to hear all interested parties regarding the proposed Local Law §45-10 Building Permits, Subparagraph 1.

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.

Deputy Supervisor Liberti asked if any communications came in regarding these this Local Law, Councilmember Majchrzak and Town Clerk Orffeo stated they have not received any communications.

Thomas Johnson came forward and stated that this proposed local law would place an unwarranted hardship on the builders and developers because of seasonal issues, product line shortages, work shortages and other issues that cannot always be controlled.

4) 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 a proposed Local Law regarding §45-10 at 7:15PM.

**The resolution was unanimously adopted.**

The Town Board will take no action on this proposed Local Law tonight, and it will be addressed at the January 6, 2021 meeting.

At 7:16 PM (local time) Deputy Supervisor Liberti called for the Public Hearing to hear all interested parties regarding the proposed Local Law regarding §144-49 “Approval Required”

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.

Liberti asked if any communications came in regarding these this Local Law, Councilmember Majchrzak and Town Clerk Orffeo stated they have not received any communications.

**5) 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 regarding §144-49 “Approval Required” at 7:19 PM.

**The resolution was unanimously adopted.**

**6) 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 adopt Local Law 9-2020 which states as follows:

**§ 144-49. Approvals required.**

C. Nonresidential districts. Telecommunications facilities requiring construction of a new tower on non-municipal or government-owned property in any non-residential zoning district shall require a site plan review, proof that at least two unrelated cellular carriers will use the newly constructed tower, approval by the ZBA, and the issuance of a tower permit, as set forth in this article. Proof that two unrelated cellular carriers will use the newly constructed tower shall consist of valid and binding written leases, each being of at least 10 years in duration.

D. Residential districts. Telecommunications facilities requiring construction of a new tower on non-municipal or government-owned property in any residential zoning district shall require a site plan review, proof that at least two unrelated cellular carriers will use the newly constructed tower, approval by the ZBA, and the issuance of a tower permit, as set forth in this article. Proof that two unrelated cellular carriers will use the newly constructed tower shall consist of valid and binding written leases, each being of at least 10 years in duration.

**The resolution was unanimously adopted.**

At 7:20 PM (local time) Deputy Supervisor Liberti called for the Public Hearing to hear all interested parties regarding the proposed Local Law regarding §144-51 “Communications Facility Permits Standards (b) Aesthetics (B)(7)”

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.

Liberti asked if any communications came in regarding these this Local Law, Councilmember Majchrzak and Town Clerk Orffeo stated they have not received any communications.

7) 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 regarding § 144-51 “Communications Facility Permits Standards (b) Aesthetics (B)(7)” at 7:21 PM.

**The resolution was unanimously adopted.**

8) 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 adopt Local Law 10-2020 which states as follows:

§ 144-51 Communications Facility Permit Standards (B) Aesthetics (7)

B.

(7) Towers are to be located in wooded areas of trees of at least 100 to 125 feet in height and the towers themselves are to be disguised as trees. The applicant must enter into an agreement with the Town of Orchard Park to maintain the wooded area and the trees located therein for so long as the cell tower remains standing which obligation is to be secured by a Performance Bond provided by the applicant to the Town of Orchard.

**The resolution was unanimously adopted.**

#### **PUBLIC COMMENT ON NEW BUSINESS**

This portion was waived due to COVID regulations.

#### **New Business #1 Schedule a Public Hearing for proposed 2021 Organizational Meeting**

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

**RESOLVED**, that the Town Board is hereby authorized to schedule the 2021 Organizational Meeting and 1<sup>st</sup> Regular Meeting of 2021 for Wednesday, January 6, 2021 in the Municipal Building, 4295 South Buffalo Street, at 7:00 PM. The work session, also to be held in the Municipal Building, will begin at 6:00 PM, and be it further

**RESOLVED**, that the Town Clerk is hereby directed to publish due notice thereof.

**The resolution was unanimously adopted.**

#### **New Business #2 Accept Resignation John Bailey at Town Attorney effective 12/31/20**

10) 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 accept, with regret, the resignation of John C. Bailey as the Orchard Park Town Attorney effective December 31, 2020.

Councilmember Majchrzak stated that it has been a joy working with Mr. Bailey and thanked him for his service to the Town of Orchard Park.

**The resolution was unanimously adopted.**

**New Business #3 Approve PIP 2020-05 Knoche Farms Estate Subdivision Phase 3**

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

**WHEREAS**, the Town has received from Mark Tufillaro, 5255 Mallard Roost, Williamsville, New York, representing Knoche Farms LLC, an application for a Public Improvement Permit to construct the Knoche Farms Estates Phase 3. The project consists of the installation of 2,400 L.F. of new roadways, 2,150 L.F. of sanitary mainline, 2,600 L.F. of watermain, and seven (7) street lights to service thirty-two (32) home sublots as shown on the attached location map. The existing retention basin was constructed in Phase 1 and the existing stormwater treatment units were installed in Phases 1 and 2, and

**WHEREAS**, the Town Engineer has reviewed the plans and specifications for this proposed project and have found them to be in compliance with current Town Specifications and Standards. Renewal of ECDOH Watermain Extension and Sanitary Mainline Extension Permits are forth coming (delayed due to COVID-19), and associated work will not commence until such time. We are in receipt of all necessary fees, insurances, and the performance bond.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve Public Improvement Permit #2020-05 for the Knoche Farms Estates Subdivision, Phase 3, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #4 Authorize the Chief of Police to Sign a Memorandum of Agreement**

**12) 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 authorize the Chief of Police to sign a Memorandum of Agreement with the CSEA for Public Safety Dispatcher Eric Knavel to sell back up to two weeks of unused vacation for the year ending December 31, 2020

**The resolution was unanimously adopted.**

**New Business #5 Approve the Year End Budget Transfer/Amendment – Town Outside Village**

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

**WHEREAS**, the Town is in the process of closing the accounting records for the fiscal year ending December 31, 2020, and

**WHEREAS**, certain appropriation accounts were noted to need adjustment to allow for the appropriate closing of accounts, and

**WHEREAS**, the funding for these adjusted appropriations is available within other appropriation accounts in the Town's 2020 budget and from the sale of equipment.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the amending of the Town’s 2020 Budget as included below:

Increase Appropriations:

B03620 50214	Building Inspector Vehicle	\$18,898
B03620 50412	Building Inspector Mileage	\$221
B03620 50445	Building Inspector Vehicle Repair & Maint	\$772
B09062 50862	Part Town Insurance Waivers	\$4,200

Increase Estimated Revenues:

B00000 42665	Part Town Sale of Equipment	\$4,875
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Decrease Appropriations:

B01910 50550	Part Town Contingency	\$12,000
B01680 50443	Part Town IT Copier Lease	\$1,775
B03620 50401	Building Inspector State Fire Code	\$425
B03620 50413	Building Inspector Travel & Conf	\$816
B09060 50860	Part Town Hospital & Medical	\$4,200

**The resolution was unanimously adopted.**

**New Business #6 Approve Closure of Capital Project**

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

**WHEREAS**, project AB009 Senior Center Legislative was set up from funding received for Reconstruction and Renovation of Various Municipal Buildings, and

**WHEREAS**, the purpose of the Senior Center Legislative project was to update the former Senior Center owned by the Town, and

**WHEREAS**, the Town no longer owns the Senior Center,

**WHEREAS**, the project has \$24,072, and

**WHEREAS**, the funds need to be utilized for Reconstruction and Renovation of Various Municipal Buildings.

**NOW, THEREFORE, be it**

**RESOLVED** that the Town Board authorizes the closure of capital project AB009 Senior Center Legislative by transferring \$24,072 to the following project: AB007 OP Municipal Buildings.

**The resolution was unanimously adopted.**

**New Business #7 Approve Transfer of Capital Projects Funds**

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

**WHEREAS**, the Town needs funding for the Townwide Drainage District Consolidation Project (AD004) in the amount of \$75,000, and

**WHEREAS**, project AD005 Benning Road Drainage is on hold and has funding available, and

**WHEREAS**, the Town has reviewed the source of funds and determined that the funds can be transferred to project AD004 Townwide Drainage District Consolidation.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board authorizes the transfer of funds in the amount of \$75,000 from AD005 Benning Road Drainage to AD004 Townwide Drainage District Consolidation

**The resolution was unanimously adopted.**

**New Business #8 Refer to Planning & Conservation Boards**

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

- Vacant land located on Lake Avenue, south side of Lake Avenue, between #6007 & #5971 Lake Avenue, Zoned I-1. Paul Reamsnyder, Owner, is requesting approval to construct a steel 40-ft. x 60-ft. Warehouse Building with an office for "Spectrum Landscaping Services. (SBL#152.15-1-16)

**The resolution was unanimously adopted.**

### **BUSINESS FROM THE FLOOR**

This portion was waived due to COVID regulations, and there were no communications.

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

Councilmember Majchrzak stated that on December 30, 2020 there will be no work session. In a conference call with County Executive Poloncarz regarding COVID 19 updates, it was stated that the Town of Orchard Park had 90 cases of COVID 19 and that amounts to 4 ½ %, which is lower than the county and most of the other Towns. Councilmember Majchrzak wanted to thank the community for all their hard work, and sacrifice for keeping that number down.

Councilmember Flynn said he is attending an online meeting on December 18<sup>th</sup> with the Chief of Infectious Disease at the University of Buffalo discussing COVID 19 related items. On December 21<sup>st</sup> there is going to be an Orchard Park Chamber of Commerce small business round table concerning restrictions that COVID 19 has placed on them. Councilmember Flynn said his wife has been diagnosed with cancer and is going to be receiving Chemo therapy, so with COVID 19, he cannot risk contracting any illness. He wanted to thank all the Town personnel that has made it possible for him to work remotely.

Town Clerk Orffeo thanks Town Attorney Bailey for his service to the Town and the Town Clerk's office. He stated that he had served on several committees with Nan Ackerman, and she always had the best interest of the Town of Orchard Park at heart. Nan had a real positive impact on this community, and did so many things behind the scenes that people were unaware of, that benefitted the residents of Orchard Park.

Town Attorney Bailey said it has been an honor to serve this Town and Community.

Police Chief Wehrfritz stated that winter weather has arrived, drive appropriately and winter parking restrictions are in place. He said that the new crosswalk lights have been installed, and drivers need to be aware that the pedestrians have the right of way in the crosswalks. He also thanks Town Attorney Bailey for all his help.

Highway Superintendent Piasecki said that there have been two large brush pickups, and feels that the Town is in good shape with that. He thanked Town Attorney John Bailey for his service. Highway Superintendent Piasecki stated that Nan Ackerman was at the forefront of the establishment of the Compost Facility, as well as many other things. She was a great lady.

Town Engineer Bieler said it has been a pleasure working with Town Attorney Bailey, and thanked him for his service. Regarding Nan Ackerman, she was active in so many projects and was not above making pies for the developers to smooth things through. She went above and beyond for the Town of Orchard Park and its residents.

17) 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 authorize the approval of all entries on Warrant #24 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$133,337.12
<b>Public Safety Fund</b>	\$53,628.74
<b>Part Town Fund</b>	\$2,958.66
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$20,509.47
<b>Special Districts</b>	\$246,203.47
<b>Trust &amp; Agency</b>	\$280.00
<b>Capital Fund</b>	\$3,126.25

**The resolution was unanimously adopted.**

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 Building Inspector’s Report for November 2020.

**The resolution was unanimously adopted.**

There being no further business, on a motion by Councilmember Majchrzak, seconded by Councilmember Flynn, the meeting adjourned in the Memory of Nan Ackerman, at 7:46 pm (local time).

**Respectfully Submitted,**

**Remy C. Orffeo  
Town Clerk**