

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 March 2021 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
Conor Flynn	Councilmember
	Councilmember
Remy Orffeo	Town Clerk
Timothy Donovan Gallagher	Town Attorney
Steve Bremer	Building Inspector
E. Joseph Wehrfritz	Chief of Police
Frederick Piasecki, Jr.	Highway Superintendent
Wayne Bieler	Town Engineer

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.”

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: March 3, 2021 and Executive Session: March 3 & 10, 2021 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 COMMENT ON OLD BUSINESS

No one came forward

Old Business #1 Deputy Supervisor to sign and adopt NYS Public Employee Health Emergency Plan.

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

WHEREAS, to meet the requirements of the New York State Labor Law the Town of Orchard Park must adopt the Public Employer Health Emergency Plan by April 1, 2021. The Plan was given to all Department Managers for their review and input, and

WHEREAS, under the New York State Labor Law, all Unions in the Town received the plan according to the requirements of the law for their review. The Department Heads nor the Unions had any comments on the Plan.

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby adopt the Plan and authorize the Deputy Supervisor to sign the Public Employer Health Emergency Plan. The Plan will be incorporated into the Town's Employee handbook and in the Comprehensive Emergency Management Plan as recommended by the Town Emergency Manager.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Appoint Seasonal Compost Employee

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 appoint Ron Henning to the position of Seasonal Compost employee, to be effective March 18, 2021 with a pay rate of \$20.40 per hour (the same rate as the previous year) coding SR8161 50104, as recommended by the Highway Supervisor.

The resolution was unanimously adopted.

New Business #2 Accept the resignation of Jon Pierowicz from the Board of Assessment Review

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 accept the resignation of Jon Pierowicz from the Board of Assessment Review, effective March 10, 2021.

The resolution was unanimously adopted.

New Business #3 Approve the Highway Department to purchase a new Wheel Loader.

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

WHEREAS, in accordance with our Equipment Replacement program the Town Board approves the purchase of one (1) new 2021 John Deere 624P Wheel Loader.

WHEREAS, the cost of this new Wheel Loader is \$189,286.00, under New York State Bid Contract. This replaces the Highway Department's 2009 John Deere Wheel Loader.

NOW, THEREFORE, be it

RESOLVED, that the Town Board authorizes the purchase of this truck. Monies are in place in the budget for this purchase per the Town Highway Superintendent.

The resolution was unanimously adopted.

New Business #4 Authorize NYSEG to connect five LED Decorative Light Fixtures in Pleasant Acres West Part 3 Phase 1 Subdivision PIP #2019-02

6) 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 has requested the Town submit a new resolution reflecting the price change for the connection of four (4) decorative street light fixtures on Golden Crescent Way and one (1) on Wentworth Drive in the Pleasant Acres West Part 3 Phase 1 Subdivision. At present, there are fourteen (14) single-family homes currently planned to be constructed in Part 3 Phase 1 of the Subdivision; and

WHEREAS, the L.E.D. luminaires, which are owned by the Town, have been installed under PIP # 2019-02. The Town will maintain the poles, bulbs, and the electric eye of the luminaires, NYSEG is providing energy only per the SC4 classification. The Town purchases the electricity from the supplier, which is *estimated* to be \$42.03/ea. for an annual estimated cost of \$210.15 (5). The application 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 five (5) L.E.D. decorative light fixtures in the Pleasant Acres West Part 3 Phase 1 Subdivision PIP #2019-02 at an estimated annual increased energy cost of \$210.15 to the Consolidated Light District in accordance with the NYSEG proposal as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Award Contract for the Highway Building Generator Replacement and Sewer, Water, Lighting/Parks Building Generator Installation Project.

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

WHEREAS, bids were opened for the Highway Department Generator Replacement, SW&L, Parks Bldg. Generator Installation Project Bid Award on March 12, 2021, and the 3 apparent low bidders have been called in and de-scoped. This project includes the replacement of the automatic emergency stand-by generator located at the Highway building, as well as the installation of a new automatic emergency standby generator for the Sewer, Water & Lighting and Parks/Grounds building; and

WHEREAS, after the de-scoping meetings, it is apparent that Numarco, Inc. is the lowest responsible bidder and is qualified to complete the work. They have performed well for the Town in the past and there are no reservation about their abilities to complete the work; and

WHEREAS, the total cost of the Highway generator replacement is \$31,448 and the SW&L, Parks/Grounds generator installation is \$15,152. The overall cost of the entire project is \$46,600.00. This figure is below the engineers estimate for the job. The Town has appropriated adequate funding for the project under capital account AB013 "Highway Building, Sewer, Water & Lighting and Parks Building Generator Installations Project".

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Highway Generator Replacement, SW&L/Parks Generator Installation Project to the lowest responsible bidder, Numarco, Inc., 1021 Maple Rd, Elma, NY 14059, for a cost not to exceed \$46,600.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Authorize Deputy Supervisor to sign agreement with C & S Companies for professional services for States BridgeNY Grant Program.

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

WHEREAS, the Town of Orchard Park requires consultant assistance with applying for funding through the New York State's BridgeNY Program; and

WHEREAS, the engineering firm of C&S Companies will be the Town's consultant for the BridgeNY Program. The Town Engineer has met with representatives of that firm to review contract language, refined the scope of services to determine, in advance, the need for additional services, optional service elements, which may be required on this project, are also included in this contract; and

WHEREAS, there is presently \$68,759.00 plus interest allocated under Capital Project DB002, Bridge Emergency Repairs for funding.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the acting Deputy Supervisor to sign the agreement with C&S Companies, 141 Elm Street, Suite 100, Buffalo, New York, 14203, to provide professional services for the BridgeNY Program in an amount not to exceed \$4,000.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Authorize Deputy Supervisor to sign agreement with NW Contracting for Lakeview Ave. Reconstruction Project.

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

WHEREAS, to complete the Lakeview Avenue 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. The Town of Orchard Park will directly contract the test boring services for Lakeview Avenue Reconstruction and add the findings the bid documents as well as the Town's soil boring records book; and

WHEREAS, in order to keep the project on schedule; and assemble bid documents pavement cores and soil-boring work must be completed. The Town Engineer has solicited services from three local consultants, NW Contracting, who is qualified and capable to complete this work in the necessary time frame.

WHEREAS, the test boring work will include three pavement core locations (4" asphalt core, sample subbase to determine thickness, spit spoon samples to 3 feet), three soil borings to a depth of 10-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. NW Contracting estimated the cost to complete the above mentioned work is \$2,785.00. The estimated time necessary to complete the work is one day.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Deputy Supervisor to sign an agreement with NW Contracting, 3553 Crittenden Rd., Alden, NY 14004, to provide pavement cores & soil borings for the Lakeview Avenue Reconstruction Project in an amount not to exceed \$2,785.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #8 Approve the request to construct a stand-alone, 1,910 sq.ft. "Mighty Taco" Restaurant with a drive-thru.

10) 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 approve the request with regards to Benderson Development, to construct a stand-alone, 1,910-sq.ft. "Mighty Taco" Restaurant with a drive-thru and on-site improvements, at 3340-3350 Southwestern Boulevard, located on the north side of Southwestern Boulevard in the Commons/Creekside Plaza, Zoned B-1, as recommended by the Planning Board based on the following conditions and stipulations:

1. All public notices have been filed.
2. The Town Board granted a Special Exception Use Permit on 3/18/20.
3. The Zoning Board of Appeals granted an Area Variance to allow parking spaces within 50-feet of the street line on 2/18/20.
4. This is a Type 1 SEQR action based on the submitted Full EAF Parts 1 & 2, and a Negative Declaration is made.
5. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
6. No outside storage or display is permitted.
7. The Landscape Plan, received 1/02/20, meets all Green Space regulations with 22% Green Space. In accordance with Section 144-44(c) (1) (a)(2), a Certified Check amounting to 50% of the \$4,065 Landscaping Estimate Value shall be deposited with the Town Clerk (\$2,032.50). Conservation Board approval was granted on 1/7/2020.
8. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
9. A Drive-thru trip generation and queuing study was submitted by SRF Associates on 1/9/2020 and compared the 3340 - 3350 Southwestern Boulevard proposed location with three (3) other local Mighty Tacos. The study indicated that any overflow in the queuing would be handled in the Mighty Taco parking lot and would have no impact on the "Commons-Creekside Plaza".
10. The Board tabled their review of this project, at the February 11, 2021 Planning meeting, citing existing code violations at another Benderson Development Plaza. The Town Building Inspector reports that demolition and clean-up efforts took place at the site. The members are satisfied with those efforts.
11. Benderson Development, at their expense on behalf of the Town of Orchard Park, is to provide the Town of Orchard Park Assessor with an "independent" appraisal for the completed project by a Certified Commercial Appraiser.
12. Town Engineering Approval was granted on 2/11/2021.

The resolution was unanimously adopted.

New Business #9 Grant Site Plan approval and issue a Building Permit for Eco Serve, 3573 North Buffalo Road.

11) 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 request with regards to Eco Serve, 3573 North Buffalo Road, as recommended by the Planning Board. The Town Board does hereby GRANT Site Plan Approval and issue a Building Permit to expand the existing parking lot to 22 spaces total, per the plans received on 2/12/21, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR Action, based on the Short EAF Part 1, and a Negative Declaration is made.
3. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. No outside storage or display is permitted.
5. The Landscape Plan, received 1/27/21, meets all Green Space regulations with 58.9% Total Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$1,500 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$750) Conservation Board approval was granted on 2/2/21.
6. There are no Dumpsters at this site.
7. The AOD granted a "Certificate of Appropriateness" on 12/15/2020.
8. Town Engineering Approval was granted on 3/09/21.

The resolution was unanimously adopted.

New Business #10 Grant Site Plan Approval and issue a Building Permit for 4370 South Taylor Road.

12) 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 approve the request with regards to Bliss Office Building, 4370 South Taylor Road, as recommended by the Planning Board. The Town Board does hereby GRANT Site Plan Approval and issue a Building Permit to construct a 2-story 12,000 gsf Office Building, with 44-parking spaces and on-site utility improvements, per the plans received on 5/15/2020, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR Action, based on the Short EAF Part 1, and a Negative Declaration is made.
3. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. No outside storage or display is permitted.
5. The Landscape Plan, received 1/27/21, meets all Green Space regulations with 61.1% Total Green Space. In accordance with Section 144-44(c)(1)(a) (2), a Certified Check amounting to 50% of the \$16,825 Landscaping Estimate Value shall be deposited with the Town Clerk (\$8,412.50), Conservation Board approval was granted on 3/03/21.
6. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
7. Town Engineering Approval was granted on 3/09/21.
8. Construction hours are to be 8:00 A.M. to 5:00 P.M.

9. The Petitioner is to review with the neighbor screening and advise the Board of the outcome of that discussion.

The resolution was unanimously adopted.

New Business #11 Refer to the Planning and Conservation Boards.

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

RESOLVED, that the Town board is hereby authorized to refer to the Planning Board and Conservation Board the following: 5732 Big Tree Road, located on the north side of Big Tree Road (20A), west of 219 Expressway, Zoned I-1, Polymer Conversions is requesting a Building Permit and Site Plan Approval to construct expansions on the north and west sides of their existing building. (SBL#161.18-2-15)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

No one came forward.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Deputy Supervisor Liberti spoke of a virtual presentation to be made at the 4/14/21 work session from a Verizon representative regarding the benefits of 5-G coming to Orchard Park.

Councilmember Majchrzak commented on an article from the Orchard Park Bee and spoke of the history of the Pledge of Allegiance with relation to Town Government and its responsibility to act as a Republic for the people.

Councilmember Flynn wished everyone a Happy St. Patrick's Day and notified residents that they are allowed paid leave as designated by the State to get vaccinated. He also informed the public that election season is upon us and wanted to inform the public that he is in favor the Orchard Park Police Force and Police Forces everywhere.

Highway Superintendent Fred Piasecki stated the Highway Department is working on drainage and ditching projects. He also stated the street sweepers will be repaired and out working next week.

Police Chief Wehrfritz stated the Police reform and collaboration plan is on the Town's website and asked residents to please look at it before 4/1/21.

14) 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 # 6 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$43,239.44
Public Safety Fund	\$14,006.62
Part Town Fund	\$260.85
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$83,241.48
Special Districts	\$5,050.75
Trust & Agency	\$3,049,935.25
Capital Fund	\$30,786.65

The resolution was unanimously adopted.

COMMUNICATIONS

15) 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 receive and file correspondences speaking against the limited Park’s Department staffing for the maintenance of the Soccer fields.

The resolution was unanimously adopted.

REPORTS

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 receive and file the February 2021 Building Inspector’s Monthly Report.

The resolution was unanimously adopted.

There being no further business, on a motion by Deputy Supervisor Liberti, seconded by Councilmember Majchrzak, the meeting adjourned at 7:23 pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**