

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 7<sup>th</sup> day of July 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 Gallagher	Town Attorney
	Steve Bremer	Building Inspector
	E. Joseph Wehrfritz	Chief of Police
	Ernest Matthews	Deputy Highway Superintendent
	Wayne Bieler	Town Engineer
	Ed Leak	Director of Rec., Parks & Forestry
Absent	Frederick Piasecki, Jr.	Highway Superintendent

**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: June 16, 2021 and Executive Session: June 16, 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 Approve Change Order #2 to the contract with DiDonato Associates for the Bussendorfer Forsythia Storm Drainage Upstream Improvements Phase II Project.**

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

**WHEREAS**, the Engineering Department is working with DiDonato Associates and Earth Dimensions to progress the plans and specifications for the Bussendorfer Drainage Upstream Improvements (Phase 2) project. Currently, the mitigation plan has been submitted to the NYSDEC for final review. Once accepted by the DEC, the proposed improvements design within the mitigation area design will need to be formally completed and incorporated into the construction documents; and

**WHEREAS**, the proposal includes all work that was/is necessary to advance the mitigation area design from draft to final design as well as the work necessary to place an additional culvert behind 20 Pinewood Drive, that the additional culvert was requested by the homeowner in an effort to further protect the property from future damage due to flooding, as well as the work needed for the Bussendorfer Pond and existing Mitigation Area Improvements; and

**WHEREAS**, there is presently \$836,781 allocated in "Bussendorfer Drainage" Capital Account for this project.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby approve the Deputy Supervisor to sign the agreement for Change Order #2 for the contract with DiDonato Associates, 689 Main St., Buffalo, NY 14203 for the additional supplemental surveying/drainage design at 20 Pinewood, Bussendorfer Pond, and existing mitigation area Improvements & design's in an amount not to exceed \$12,300.00 as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #2 Award contract to North Spur Construction LLC for the Duerr Road Creek Crossing Waterline Replacement Project.**

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

**WHEREAS**, the approved bids were opened for the Duerr Road Creek Crossing Watermain Replacement Project on July 1, 2021. The Project includes installing two valves and replacing the watermain under the creek and in the vicinity of the bridge. The replacement of the Duerr Road Watermain Creek Crossing was requested by ECWA, as the existing line is leaking and is essential to provide continued, uninterrupted water service to the serviced area; and

**WHEREAS**, the contractor submissions were checked for math errors and very minor errors were found and noted. The low bidder for this project is North Spur Construction, LLC; and

**WHEREAS**, there is presently \$75,124 allocated under "Duerr Road Watermain" Capital Project FX003 to fund this project.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby award the contract for the Duerr Road Creek Crossing Watermain Replacement Project to the lowest responsible bidder, North Spur Construction, LLC., 156 Garrison Road, Buffalo, New York 14221, in the amount not to exceed \$54,500 as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #3 Authorize the Deputy Supervisor to sign an agreement with Professional Civil Engineering LLC for professional services for Floodplain work for Berg Rd. Pump Station Replacement Project.**

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

**WHEREAS**, the Berg Road Pump Station was recommended for a complete replacement. The consultant, B&L, was hired and is currently in the early design phase of the project. This project will include the obtaining of land and easements for the new station. As originally thought, topo mapping shows these areas. Under the updated FEMA mapping, these areas are shown in the floodway and floodplain of Smokes Creek; and

**WHEREAS**, with the topo mapping done, the Engineering Department has received a proposal from Professional Civil Engineering, LLC (PCE) (Mr. Timothy M. Lavocat, PE, CFM) to perform the necessary

engineering services to review Town ordinances, review proposed property/easement limits, perform a site visit, review survey information and request additional information if needed; and

**WHEREAS**, they will determine areas to be removed from FEMA, areas based on elevations, review deed and legal descriptions, assemble application packet to FEMA for LOMA request. PCE will coordinate all required items for the submittal package and make the formal submittal to FEMA for a Letter of Map Amendment (LOMA) to remove the needed areas (up to two separate applications). PCE will then address reasonable comments from FEMA and solicit formal approval; and

**WHEREAS**, there is presently \$667,503 allocated in Capital Project G0006 (Berg Road Sanitary Sewer Pump Station). Additional funding may be needed for construction.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby authorize the Deputy Supervisor to sign an agreement with Professional Civil Engineering LLC., 8150 Salt Road, Clarence Center, NY 14032 to provide professional services for the Berg Road Sanitary Sewer Pump Station Replacement (FEMA LOMA — Floodplain & Floodway) for a fee not to exceed \$4,600 as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #4 Approve the “Redevelopment of the former American Legion Post”**

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

**RESOLVED**, that the Planning Board, at their March 11, 2021 meeting, recommended approval of the "Redevelopment of the former American Legion Post" structure to include construction of a 2,950 +/- gsf Atrium, a new 4,100 gsf Brewery Building and miscellaneous Site Improvements, including an Outdoor Patio and Deck, with Landscape improvements based on submissions received on 3/5/21 as follows:

- All public notices have been filed.
- This is an Unlisted SEQR Action, based on the Short EAF Part 1, and a Negative Declaration is recommended.
- 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.
- No outside storage or display is permitted.
- The Landscape Plan (updated), received 3/5/21, meets all Green Space regulations with 19.7% Total Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$14,328.50 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$7,164.25) Conservation Board approval was granted on 3/2/21.
- Dumpsters shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- The Architectural Overlay District Committee approved the project at its April 22, 2021 meeting.
- Town Engineering has no issues with the project, nor has the Building Inspector.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON NEW BUSINESS**

No one came forward.

**New Business #1 Post a Speed Limit sign on Kathryn Drive.**

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

**WHEREAS**, upon recommendation of the Chief of Police and the Deputy Highway Superintendent, and pursuant to the authority granted by Section 1662-A of the Vehicle and Traffic Law of the State of New York,

**NOW, THEREFORE, it is hereby**

**ORDERED**, that signs be erected designating a speed limit of 30 mph on Kathryn Drive at the west end of the roadway.

**And it is further**

**ORDERED**, that the Orchard Park Highway Superintendent is hereby directed to post the proper and necessary signs indicating the area speed limit on the above referenced highway.

**The resolution was unanimously adopted.**

**New Business #2 Post a speed Limit sign on Burton Road.**

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

**WHEREAS**, upon recommendation of the Chief of Police and the Deputy Highway Superintendent, and pursuant to the authority granted by Section 1662-A of the Vehicle and Traffic Law of the State of New York,

**NOW, THEREFORE, it is hereby**

**ORDERED**, that signs be erected designating a speed limit of 35 mph on Burton Road to be posted on both the north and south ends of the roadway.

**And it is further**

**ORDERED**, that the Orchard Park Deputy Highway Superintendent is hereby directed to post the proper and necessary signs indicating the area speed limit on the above referenced highway.

**The resolution was unanimously adopted.**

**New Business #3 Approve an Operating and Mobile Vending Permit for Fat Bob's Food Truck.**

8) 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 Fat Bob's Food Truck, and

**WHEREAS**, the Town of Orchard Park Fire Inspector has approved an Operating Permit for the Fat Bob 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**, Fat Bob’s Food Truck has agreed to comply with the Town of Orchard Park Town Code and policies;

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board of Orchard Park approves the Operating Permit and the town Mobile Food Vending Permit of the Fat Bob’s Food Truck in the Town of Orchard Park for the year 2021.

**The resolution was unanimously adopted.**

**New Business #4 Approve Stadium Parking Permits**

9) 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 approve the following 2021 Commercial Parking Permits, as approved by the Chief of Police and Building Inspector:

- 2549 Group, LLC, 4297 Abbott Rd.
- 3819 SWSTRN Blvd., LLC, 3819 Abbott Rd.
- 3920 SWTRN LLC, 3920 SWTRN Blvd
- Bell, Benjamin, 3847 Southwestern Blvd.
- DeMarco, Joe & Diane, 3964 California Rd.
- Eagan, Jim, 3785 Southwestern Blvd.
- Hanley, Sean, 3944 California Rd.
- Jakubowski, Maureen, 3796 Abbott Rd.
- Janish, Joelle, 3719 Abbott Rd.
- Kane, Sue & Patrick, 3952 SWTRN Blvd
- Kowalski, Ray & Sue, 3972 SWTRN Blvd
- Leitzan, Mark, 3808 Abbott Rd.
- Leitzan, Mark, 3816 Abbott Rd.
- Leitzan, Mark, 3830 Sheldon Rd.
- Liberatore, Victor, 3807 SWTRN Blvd
- Matwijow, Eric Am. Hammer Hold, 4170 Abbott Rd.
- Matwijow, Lisa, 4155 Abbott Rd.
- Niagara Frontier Recovery, 3958 SWTRN Blvd

- Pagano, Jeremy, 3964 Southwestern Blvd.
- Passucci, Michael (5/17), 5100 Big Tree Rd.
- Przybyl, Dennis 3976 SWTRN Blvd
- Red Carpet Inn, 3940 SWTRN Blvd
- Simoncelli, Michael, 3848 California Rd.
- Smith, Scott & Linda, 3879 SWTRN Blvd
- Stadium Mobil, Inc, 3856 SWTRN Blvd
- Tempestoso, David, 3912 SWTRN Blvd
- Tripodi, Stephen, 3800 SWTRN Blvd
- Violanti, Samuel/ Gillardo, Ramon, 3763 Abbott Rd.
- W.J. Milligan / JM Productions 3864 Abbott Rd.
- W.J. Milligan / JM Productions 3880 Abbott Rd.
- W.J. Milligan /JM Productions 3892 Abbott Rd.
- Wannamacher, Lee, 3746 Abbott Rd.
- Whytas, Henry 5528, W. Webster Rd.
- Windom Community Church, 3766 Abbott Rd.
- Yemma, Joseph, 3785 Abbott Rd.
- DeMarco, Joe Jr, 4000 California Rd.

**The resolution was unanimously adopted.**

**New Business #5 Appoint Raymond George Stevens III to the Highway Department**

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 approve the appointment of Raymond George Stevens III to the Orchard Park Highway Department effective July 12, 2021. He will be starting at step 1 at \$22.00 per/hour as recommended by the Deputy Highway Superintendent.

**The resolution was unanimously adopted.**

**New Business #6 Appoint Jason J. Napierala to the position of Police Officer.**

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 approve the appointment of Jason J. Napierala to the position of Police Officer in the Orchard Park Police Department, conditional, 1 year, effective July 26<sup>th</sup>, 2021, at the salary of \$62,254.

**The resolution was unanimously adopted.**

**New Business #7 Appoint promotional position of Civil Engineer for the Engineering Department.**

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

**WHEREAS**, with the resignation of Garrett R. Chilson to pursue opportunities of higher wages in the private sector, on June 2, 2021, the Town Board approved the advertisement for the vacated Civil Engineering Position. Per Civil Service, there is not currently an active civil service list for that title. On April 20, 2016, the Town Board created the Civil Engineering Title which was approved by Erie County Department of Personnel for the Town of Orchard Park based on job classifications and duties; and

**WHEREAS**, with the current workload of the Engineering Department, this title is recommended to assist in completing the various projects that develop as the Town's infrastructure ages. The proposed position description of duties includes the following: A Civil Engineer performs engineering duties and liaison work in connection with the design, construction and maintenance of municipal projects; computes pipe analysis in main extensions and service connections; leads a field survey party; prepares field notes of survey work and prepares rough sketches for entry on final plates of system; receives, reviews and processes requests for utility extensions and service connections; works with accounting division in preparing bills for contractors and consumers; assists in making project cost estimates; inspects construction in progress for adherence to specifications and for recommending changes in plans for specifications; assists the legal division by preparing maps and other data for easements; assists in supervising the maintenance of a variety of equipment used in the division; may be assigned to supervise the maintenance of buildings, grounds and other properties of the municipality; witnesses and/or assists in the conduct of field tests; supervises engineering crews and construction inspectors; supervises the plotting of utilities and related information on permanent system maps; confers with developers on utility layouts, extensions, service connections, their cost, timing of construction and related matters; assists in the preparation of specifications and bid documents for work to be done by contractors including preliminary cost estimates; and

**WHEREAS**, daily work scope includes performing entry level professional engineering work in the office or field in connection with design, inspection, maintenance and/or construction of civil engineering projects. Work also entails complex technical duties that apply the principles of civil engineering to a variety of engineering problems either as a regular assignment or as a training experience. Work is performed under the direct supervision of higher ranking engineering staff with limited leeway for the exercise of independent judgement. Supervision is exercised over lower level technical and labor class employees; and

**WHEREAS**, minimum qualifications include A) Graduation from a regionally accredited or New York State registered college or university with a Bachelor's degree in Civil Engineering and three years of experience in civil engineering field or B) Graduation from a regionally accredited or New York State registered college or university with a two year college or university with a degree in Engineering with five years of experience or C) An equivalent combination of training and experience as defined by limits of A) and B); and

**WHEREAS**, this is the replacement of a vacant position within the Engineering Department which is currently funded with the 2021 budget. The wage range for Civil Engineer union title per the White Collar agreement is range 0014 \$29.84-\$37.60/hr. (\$62,305.92-\$78,508.80); and

**WHEREAS**, after interviewing several candidates for possible replacements, it has been concluded that the best-qualified individual for the position is Kenneth W. Kostowniak. Mr. Kostowniak has worked assisting

in the completion of various projects for the Town of Orchard Park for the last two years, the Village of Springville for five years as Superintendent of Public Works and the Village of Williamsville as a General Foreman for four years. Mr. Kostowniak graduated from the Erie Community College with an Associate in Mechanical Engineering Technology. Mr. Kostowniak has completed the challenges of the duties and responsibilities with the Town of Orchard Park with enthusiasm and has performed his assignments with diligence and effectiveness receiving excellent recommendations. Mr. Kostowniak's current title with Orchard Park is Principal Engineering Assistant Step E \$32.95/hr.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby appoint Mr. Kostowniak, to the position of "Promotional" Civil Engineer assigned to the Engineering Department at Range 0014, Step E \$37.60/hr. of the union wage schedule effective July 17, 2021 with a six-month probation period and pending meeting all Civil Service rules and regulations as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #8 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 does hereby refer the following to the Planning and Conservation Boards:

- Quaker Crossing Plaza. located on the north side of Milestrip Road. Zoned B-1. Gerald Buchheit is seeking to construct a 31,000-sq.ft. Outparcel Building at the North West side of the plaza. (Town Board granted a Special Exception Use Permit on 4/15/2020.)
- Quaker Crossing Plaza. located on the north side of Milestrip Road. Zoned B-1. Gerald Buchheit is seeking a Special Exception Use permit to convert the former Northwest Bank site to an Urgent Care Facility.

**The resolution was unanimously adopted.**

### **BUSINESS FROM THE FLOOR**

Mr. Daniel Teplesky questioned why there are only 2 voting members on the Board and why Deputy Supervisor Liberti was appointed with no voting privileges.

Mr. Robert Fortenbaugh inquired about the 5 years of excavation activity occurring within a 10 acre parcel at the end of Woodhaven Rd.

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

Deputy Supervisor Liberti welcomed Jason Napierala & Raymond Stevens III and spoke of the dormant trains on Taylor Rd.

Councilmember Majchrzak welcomed Jason Napierala & Raymond Stevens III and addressed Mr. Teplesky's concerns.

Councilmember Flynn addressed Mr. Fortenbaugh's & Mr. Teplesky's concerns and proposed new Ethics Code.

Town Engineer Wayne Bieler discussed Jolls House renovations and addressed Mr. Fortenbaugh's concerns.

Deputy Highway Superintendent Ernest Matthews welcomed Raymond Stevens III.

Police Chief Wehrfritz welcomed Jason Napierala and reminded residents that aerial fireworks are illegal without a permit.

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 # 13 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$105,955.95
<b>Public Safety Fund</b>	\$13,748.23
<b>Part Town Fund</b>	\$1,152.43
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$75,322.55
<b>Special Districts</b>	\$38,888.32
<b>Trust &amp; Agency</b>	\$10,985.68
<b>Capital Fund</b>	\$18,450.00

**The resolution was unanimously adopted.**

**COMMUNICATIONS**

15) 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 received and file the Notice of Public Hearing for Erie County Agricultural and Farmland Protection Board.

**The resolution was unanimously adopted.**

There being no further business, on a motion by Councilmember Majchrzak, seconded by Councilmember Flynn, the meeting adjourned at 7:38 pm (local time).

**Respectfully Submitted,**

**Remy C. Orffeo  
Town Clerk**