

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 1st day of September 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 D. Gallagher	Town Attorney
	Steve Bremer	Building Inspector
	E. Joseph Wehrfritz	Chief of Police
	Wayne Bieler	Town Engineer
	Ernest Matthews	Deputy Highway Superintendent
Absent	Frederick Piasecki, Jr.	Highway Superintendent
	Ed Leak	Director of Rec., Parks & Forestry

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: August 4, 2021 and Executive Session: August 4, 11 & 25, 2021 and Special Session: August 11 & 25, 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 HEARING
Proposed Local Law 2021**

At 7:03PM (local time) Councilmember Majchrzak continued the Public Hearing from August 4, 2021 regarding the proposed Local Law “Over-Ride Tax Levy limit” established in General Municipal Law Section 3-c.

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 adjourn the Public Hearing for Proposed Local Law #2021 Over-Ride Tax Levy Limit established in General Municipal Law Section 3-c. at 7:05PM, until a later date but prior to the Budget Hearing in November 2021.

The resolution was Tabled.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Approve The Holly Jolly 5K on December 4, 2021

3) 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 a Special Events Permit for The Holly Jolly 5K to be held on Saturday December 4, 2021 at 10:00 AM contingent upon receipt of the required fees.

The resolution was unanimously adopted.

New Business #2 Approve Special Olympics Torch Run

4) 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 a Special Events Permit for The Special Olympics Torch Run to be held on September 16, 2021 at 1:00 PM.

The resolution was unanimously adopted.

New Business #3 Approve 2021 Commercial Parking Permits

5) 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:

Julicher, John & Carol, 3748 Southwestern Blvd
Schummer, Abby, 5554 West Webster Rd
Simoncelli, Dave, 3730 California Rd
Simoncelli, Dave, 3740 California Rd

Simoncelli, Ed, 5455 West Webster Rd
Teeter, Christopher, 3904 Abbott Rd
Trella, Gary, 4317 Abbott Rd

The resolution was unanimously adopted.

New Business #4 Approve Water & Out of District Sanitary Sewer Agreement for 19 Westview Place.

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

WHEREAS, Lawrence & Samantha Board have submitted correspondence requesting approval to pursue an Out of District Sanitary Sewer Connection for property on Westview Place, SBL#172.08-4-38, Orchard Park, with Erie County Sewer District #3 in the Village of Orchard Park; and

WHEREAS, there are no Town owned municipal sanitary sewer lines adjacent to Westview Place, the property owner's only option to build their new home and have public sanitary sewer to connect to the ECSD #3 owned sanitary sewer line that crosses the property out letting the Village system.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby approve the request of Lawrence & Samantha Board to pursue an Out of District Sanitary Sewer Agreement for connection with the ECSD #3 Village of Orchard Park sanitary sewer system for their Westview Place property SBL# 172.80-4-38 as recommended by the Town Engineer; and

WHEREAS, Lawrence & Samantha Board have submitted correspondence requesting approval to pursue an Out of District Water Connection for property on Westview Place, SBL#172.08-4-38, Orchard Park, with the Village of Orchard Park Water District; and

WHEREAS, there are no Town owned municipal water lines adjacent to Westview Place, the property owner's only option to build their new home is to extend and connect to the Village owned water line along Westview Place (near side service).

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby approve the request of Lawrence & Samantha Board to pursue an Out of District Water Agreement for connection with the Village of Orchard Park water system for their Westview Place property SBL# 172.80-4-38 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Award Contract for Brush Mountain Little Loop Football Electrical Project.

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

This item was removed from the Agenda and will be rebid.

The resolution was removed from the Agenda

New Business #6 Approve Brush Mountain Little League 90ft. Baseball Diamond Misc. Lamp Replacement Project.

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

WHEREAS, Orchard Park little Loop Football has requested to use the 90 foot baseball diamond outfield at Brush Mountain Park, at their practice field this fall again. In order to practice safely, 22 lamps need to be replaced, and

WHEREAS, three local electrical contractors were solicited to provide a proposal for this work. Industrial Power and Lighting Corp was the only contactor that submitted a proposal at a cost of \$5,100.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby award the contract for the Brush Mountain Park 90 foot baseball diamond miscellaneous lamps replacement to the lowest responsible bidder, Industrial Power and Lighting Corp., 60 Depot Street, Buffalo, NY 14206, amount not to exceed \$5,100 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Award contract for Work Order #3 for CIPP Lining Project

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

WHEREAS, United Survey Inc. was awarded a contract to perform Cured-In-Place Pipe Lining throughout various areas in the Town in the amount of \$550,000. The contract was awarded as bid through the Erie County Division of Purchasing Contract 217039-002. The areas are being identified through video inspections performed by the SW&L Dept. Work Order #1 was released in September 2020 to rehabilitate the sanitary main on the west side of North Benzing Road. Cost of Work Order #1 was \$82,878. The lining portion of the work order has been completed. Work Order #2 released in February 2021 of this year and USI is coordinating with the Engineering Department to finalize a schedule to grout one lateral and line a portion of sanitary sewer main on California Road. The anticipated final cost to W.O. #2 is \$181,175. This brings the total contract amount completed/paid to date to \$264,053; and

WHEREAS, the Engineering Department has assembled and is recommending the release of Work Order #3. This work order includes lining Southwestern Blvd. from Pleasant Ave. to Mid County Drive, approximately 3,305 LF of Asbestos Cement Pipe (ACP) showing signs of corrosion and deterioration that will require repair if nothing is done to this section of sanitary sewer. Also in W.O. #3, +/-878LF sewers on Schultz Road, +/-1743LF of sewers on Meadowlawn Road and ±1646LF of sewers on Middlesex Road will be rehabilitated. The lines on these roads are clay tile pipe showing signs of infiltration and inflow that contribute to the documented surcharging of Abbott Road sewer main. The Total cost of W.O. #3 is expected to be +/- \$244,354.00 without spot repairs. If any spot repairs are needed, we may have to use assistance of a subcontractor as before; and

WHEREAS, this will bring the current contract expenditures to \$510,242, roughly 99% of the authorized original contract amount. Once work commences on W.O. #3, we will begin to assemble future lining projects targeting older, smaller neighborhoods within District 18 such as Forsythia & Redfox, Oakwood, Allen, Glen, and other areas of need. As you know, some of the older neighborhoods in need of rehabilitation are part of a small sanitary sewer district, and no work is currently being proposed within the small districts due to the pending consolidation of all Town Sanitary Sewer Districts. Once the consolidation process is completed, we will look to begin work in these areas. There is presently funding allocated under Capital Project G0007, "Sanitary Sewer Main Televising and Relining" for this work.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby award the contract for Cured-In-Place Pipe Rehabilitation Phase II, as bid with the Erie County Division of Purchasing, to United Survey, Inc., 25145 Broadway Avenue, Cleveland, Ohio 44146, in the additional amount of \$500,000; and be it further

RESOLVED, that the Town Board does hereby approve Work Order #3 for the CIPP Rehabilitation contract with United Survey Inc., 25145 Broadway Avenue, Cleveland, Ohio 44146, in the amount not to exceed \$244,254 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #8 Approve APWA Professional Education Program

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

WHEREAS, the American Public Works Association would like to hold a Professional education speaking event about the Green Lake management program. As you know, the Town of Orchard Park has been a member of APWA for many years and been recognized as the winner of several awards for various projects over the past few years. This association holds lunch and learn events, where Professional Engineers obtain continuing education credits needed to hold Licensing certification, and also distributes scholarships to students furthering their education in our field. Due to COVID, many learning events were canceled, and opportunities to have presentations dwindled; and

WHEREAS, our goal is to hold an event that will provide CEU credits in a safe and educational environment. This venue has the potential for promoting a positive perspective of Green Lake and share the proactive measures the Town of Orchard Park has implemented to maintain these valuable resources. In order to promote safety, this event will be held outdoors (weather permitting) and social distancing will be recommended; and

WHEREAS, the speaker for this event will be David Adrian, from Aquatech Environmental, Inc. Dave has provided many years of pond management throughout the Town of Orchard Park at several ponds the Town maintains. His presentation will include a history of Green Lake, and summary of management over the years. The presentation will be approximately an hour, with an afternoon start time of around 4 pm.

NOW, THEREFORE be it

RESOLVED, that the Town of Orchard Park does hereby approve the APWA to hold a Lunch and Learn event on September 22, 2021 at 4:00PM. The APWA will cover all expenses. Attendance is estimated to be about 30 people as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #9 Approve 2021 Summer/Fall Recreation Staff

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 approve the following resident appointment to the 2021 Summer/Fall program season effective August 16, 2021:

Bradley Casto PT6-B \$14.00

The resolution was unanimously adopted.

New Business #10 Appoint Lisa McClean to Payroll Specialist

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 appoint Lisa McClean to the position of Payroll specialist, Non-Union Group 4, effective August 30, 2021 at a rate of \$24.04 per hour with an increase to \$25.00 January 1, 2022 based on performance.

The resolution was unanimously adopted.

New Business #11 Appoint Loida Cordero to Laborer, Non-Union

13) 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 Loida Cordero to the position of Laborer, Non-Union Part time Group 9 effective September 7, 2021 at a rate of \$13.50 per hour.

The resolution was unanimously adopted.

New Business #12 Approve Site Plan and Building Permit for 5455 Webster Rd.

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 approve a Site Plan and building permit to construct a 5,800 +/- sq. ft. metal building addition with associated site improvements for 5455 Webster Road, located on the north side of Webster Road Zoned I-1.(SBL #161.09-5-3.21) per the plan received on 7/18/21, 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 submitted on 8/06/21, and a Negative Declaration is recommended.
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. An updated Landscape Plan, received 7/29/21, meets all Green Space regulations with and exceeds the 20% Green Space request. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$6,130 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$3,065) Conservation Board approval was granted on 8/3/21.
6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. The Site Plan and authorization of a Building Permit are approved conditionally upon Town Engineering approval.

The resolution was unanimously adopted.

New Business #13 Set a Public Hearing for a Special Use Permit at Quaker Crossing

15) 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 a Public Hearing for September 15, 2021 at 7:00PM for a Special Use Permit allowing the former “Northwest Bank” site at Quaker Crossing to be converted to an “Urgent Care Facility” per the Town Schedule of Use Controls, and be it further

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

The resolution was unanimously adopted.

New Business #14 Set a Public Hearing for 6435 Webster Rd.

16) 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 a Public Hearing on September 15, 2021 at 7:00PM to consider a re-zoning application of Prodigy Webster Road LLC for V/L 6435 Webster from R-3 to B-3. Prodigy Webster Road LLC is seeking to construct a parking lot and annex building for Wayland Brewery, and be it further

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

The resolution was unanimously adopted.

New Business #15 Refer the following to the Planning & Conservation Boards &/or AOD Committee

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

Please refer the following to the Planning and Conservation Boards for review & recommendation:

- 3538 California Road, located on the west side of California Road, south of Milestrip Road, Zoned I-1. Best Bros. Development is seeking to construct a storage facility at this site. (SBL#161.05-3-1-11)
- 3185 Orchard Park Road, located on the east side of Orchard Park Road, north of Delta Sonic, (currently site of Tabernacle Food Panty), Zoned B-2. Jim's SteakOut is requesting to locate a restaurant with a drive-thru at this location. (SBL#152.16-4-14)
- 3588 N. Buffalo Road, located on the west side of N. Buffalo Road, south of Milestrip Road, Zoned B-3. Kevin Bieler is seeking a permit to demolish a building in the Architectural Overlay District. (SBL 161.08-2-25)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Carol Eberhardt spoke in favor of opting out of cannabis dispensaries and on-site cannabis consumption.

Dan Teplesky spoke regarding the duties of the Deputy Supervisor.

Howie Holmes spoke in favor of opting out of cannabis dispensaries and on-site cannabis consumption.

Matt Hartung (Deputy OP Village Mayor) spoke regarding the tax levy limit.

Bob Fortenbaugh spoke regarding the ongoing Woodhaven Rd construction work.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Deputy Supervisor Liberti spoke regarding a cannabis referendum.

Councilmember Majchrzak addressed residents’ concerns regarding cannabis referendum, tax levy limit.

Councilmember Flynn thanked town residents for speaking at meeting, notified residents of goats in the Birdsong nature trails 9/8/21-9/10/21, and discussed possible town employee vaccine requirement.

Town Clerk Remy Orffeo spoke regarding the 2020 Orchard Park Census results and the 20th anniversary of 9/11.

Town Engineer Wayne Bieler addressed concerns regarding the Woodhaven Rd. construction work.

Police Chief Wehrfritz spoke of anticipated increased stadium traffic due to Wingfest & Buffalo Bills games.

18) 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 #16 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$82,626.32
Public Safety Fund	\$15,272.58
Part Town Fund	\$1,616.97
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$60,366.53
Special Districts	\$12,554.57
Trust & Agency	\$876.00
Capital Fund	\$15,198.16

The resolution was unanimously adopted.

COMMUNICATIONS

19) 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 Agricultural District Annual Enrollment Period; and be it further
- **RESOLVED** that the Town Board does hereby receive and file the NYS Dept. of State’s 2020 Population Total of the Town of Orchard Park.

The resolution was unanimously adopted.

REPORTS

20) 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:

- July 2021 Building Inspector’s Monthly Report.

The resolution was unanimously adopted.

There being no further business, on a motion by Councilmember Majchrzak, seconded by Councilmember Flynn, the meeting adjourned at 7:53 pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**