

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 5th day of October 2022 at 6:38PM, the meeting was called to order by Supervisor Eugene Majchrzak and there were:

PRESENT AT ROLL CALL:

Eugene Majchrzak	Supervisor
Conor Flynn	Councilmember
Scott Honer	Councilmember
Joseph Liberti	Councilmember
Julia Mombrea	Councilmember
Remy Orffeo	Town Clerk
Timothy D. Gallagher	Town Attorney
Steve Bremer	Building Inspector
Patrick Fitzgerald	Chief of Police
Andrew Slotman	Highway Superintendent
Ed Leak	Director of Rec., Parks & Forestry
Wayne Bieler	Town Engineer

Supervisor Majchrzak 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 MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Meeting Minutes: September 21, 2022 and Special Session: September 28, 2022 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 Amending Chapter 144-22 Yard Regulations**

At 7:00PM (local time) Supervisor Majchrzak called for the Public Hearing to hear all interested parties regarding the proposed Local Law amending Chapter 144-22 Yard Regulations.

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.

Supervisor Majchrzak asked if anyone is interested in speaking or making a comment.

No one came forward.

2) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR 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 amending Chapter 144-22 Yard Regulations at 7:03PM.

The resolution was unanimously adopted.

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

WHEREAS, following due and timely notice, a public hearing relating to the matter of Local Law 6-2022 was conducted on October 5, 2022, at which time all interested parties were given an opportunity to speak.

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to adopt Local Law 6-2022 which provides as follows:

Terms 144-5

Yard, Front

A yard extending the full width of a lot and situated between the street line and the front line of the principal building projecting to the side line of the lot. The depth of the "Front Yard" shall be measured between the front line of the building and the street line. Covered Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into the required side yard. Corner lots are considered to have two front yards and the depth of the second Front Yard shall be determined as per the Town of Orchard Park Schedule of Height, lot, and Yard and Bulk regulations.

144-22 Yard Regulations

A. Residential districts. A fence or wall may be erected in any residentially zoned district (R-1, R-2, R-3 & R-4), after securing a permit.

(1) In any rear yard or interior side yard, provided that the fence, wall or hedge does not exceed six feet in height.

(2) In any front yard, as follows:

(a) A fence or wall intended for decorative purposes may be erected as part of a landscape plan in a front yard, along, next to or in connection with an entrance to a residence or along or next to a driveway or corner of a front yard or at the juncture of a driveway and a public sidewalk.

(b)Such fence or wall shall be erected wholly within the lot line of the property and at least three feet inside of the interior edge of the public sidewalk.

(c)Such fence or wall or hedge shall in no event enclose a front yard; nor shall it exceed four feet in height. A fence shall be of open, decorative design and permit clear visibility through at least 80% of its vertical area.

(d)On any lot fronting two or more public streets, each and every yard fronting such street shall be considered a front yard for the purposes of this section.

(3) Enclosing a tennis court, provided that the fence does not exceed 12 feet in height.

(4) Enclosing a swimming pool, subject to the requirements of the New York State Uniform Code.

- (5) A hedge planted in a district zoned residential shall, if planted in an interior side yard or rear yard, an exterior side yard or any front yard, be subject to the same limitations and restrictions, including height, as a fence or wall if the hedge is planted at or near the property line and is designed to serve the function of a fence or wall but shall not require a permit.
- (6) For a lot whose rear lot line abuts the New York State Thruway, fences and walls in a rear yard shall be permitted to be erected to a height of 8 feet.

B. Nonresidential districts.

- (1) No fence, wall or hedge shall be erected on any premises zoned other than residential until a permit has been issued by the Code Enforcement Officer after approval by the Planning Board. The Planning Board shall grant approval only after a determination that the proposed fence, wall or hedge will afford adjoining premises an environment reasonably free of offensive noise, smell, dust and debris and will be of quality design and construction.
- (2) No permit shall be issued for the erection of a fence, wall or hedge on premises abutting a residentially zoned property where the proposed fence, wall or hedge exceeds eight feet in height.

C. Visibility at intersections. Nothing herein shall be construed to limit or modify in any way the existing sections Town of Orchard Park Code relating to visibility at intersections.

D. Prohibited fences, walls and hedges. The following types of fences, walls and hedges are specifically prohibited anywhere in the Town of Orchard Park:

- (1) Barbed wire.
- (2) Short, pointed fences.
- (3) Electrically charged fences or walls. (except for agricultural Use)
- (4) Chain link fences in a front yard.
- (5) Canvas or cloth fences.
- (6) Cinderblock walls.
- (7) A fence, wall or hedge constructed within the right-of-way of any public street.

E. Miscellaneous provisions.

- (1) A fence, whether of wood, chain link, stockade or any other type, shall be erected so that the smooth or finished side shall face to the outside of premises. All fence posts shall be placed on the inside of the fence.
- (2) Painted fences and walls shall be of one color only.
- (3) No fence or wall shall be erected in such manner as to inhibit or divert the natural drainage flow or to cause the blockage or damming of surface water, creating ponding.

- (4) No fence or wall shall be erected which may create a fire hazard or other dangerous condition or which may result in obstruction to the effective combat of fire.
 - (5) All existing fences, walls, hedges and other barriers which do not conform to the provisions of this chapter may be continued as they presently exist, as long as the same not altered or modified.
- F. Lot frontage on street. No dwelling shall be erected on any lot which does not have immediate exclusive access measuring a minimum of 30 feet along and contiguous with a dedicated street or highway length; and provided further that said access shall be in accordance with § 280-a of the Town Law. For purposes of this subsection, the stub end of the street shall not be considered a portion of the street or highway length. Two lots with minimum street access shall not be contiguous. **[Amended 10-7-1992 by L.L. No. 4-1992;¹ 8-6-1997]**
- G. Front yard and yard abutting on a street. Where a widening or extension of an existing street or highway right-of-way or the establishment of a new street or highway is indicated on the Zoning Map or on an official map adopted by the Town Board, any front yard or building setback required by this chapter shall be measured from such widened, extended or new right-of-way. Unless otherwise indicated on the map, any widened right-of-way shall be assumed to be centered on the former street or highway center line.
- H. Side yard of corner lot. The side yard of any corner lot of record at the time of adoption of this chapter shall have a width equal to the required minimum front yard setback of any adjoining lot fronting on the side street; provided, however, that the side yard of any corner lot in a B-1 or B-2 Commercial District shall have a minimum width of 10 feet where the front of the building on said lot is set back at least 300 feet from the intersecting or intercepting streets. **[Amended 10-1-1986]**
- I. Transition yard requirements. **[Amended 8-16-2017 by L.L. No. 7-2017]**
- (1) Where a residence district abuts a non-residence district on a street line, there shall be provided in the non-residence district for a distance of 50 feet from the district boundary line a landscaped front yard at least equal in depth to that required in the residence district.
 - (2) Where the side or rear yard in a residence district abuts a side or rear yard in a nonresidential district, there shall be provided along such abutting line or lines a side or rear landscaped yard at least equal in depth to that required in the residence district. In no case, however, shall the abutting side yard be less than 20 feet nor the abutting rear yard be less than 20 feet.
- J. Rear yard depth variation. In any R District where the lot is wider than the stipulated minimum width, the depth of the rear yard (measured from the main building) may be reduced by 1 1/2 times the excess of the actual width over the minimum width. In no case, however, may the rear yard be less than 30 feet in depth. The stipulated minimum distance from any accessory building to the rear lot line must be maintained in every case.
- 1. Editor's Note: This local law also provided as follows: "To the extent that this local law conflicts with § 280-a of the Town law. § 280-a is specifically superseded.**
- K. A driveway to any structure or any hard surface other than natural vegetation shall be located no closer than five feet to the lot line. This section shall apply to all lots in the business zones and the industrial zones. This section shall apply to any subdivision lot which has not received concept approval

on or before January 1, 1990, and to any newly created lot which is filed in the Erie County Clerk's office subsequent to January 1, 1990. [Added 12-6-1989; amended 5-2-1990]

- L. The height, yard, lot and bulk regulations applicable to front yards shall apply to the front yard and rear yard of any through lot. [Added 4-17-1991]

The resolution was unanimously adopted.

PUBLIC HEARING

Establishment and Creation of OPDD 5-2 for the Orchard Meadows Subdivision Part 8

At 7:04PM (local time) Supervisor Majchrzak called for the Public Hearing to hear all interested parties regarding the proposed Establishment and Creation of OPDD 5-2 for the Orchard Meadows Subdivision Part 8.

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.

Supervisor Majchrzak asked if anyone is interested in speaking or making a comment.

No one came forward.

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

RESOLVED, that the Town Board does hereby close the Public Hearing for the proposed Establishment and Creation of OPDD 5-2 for the Orchard Meadows Subdivision Part 8 at 7:07PM (local time).

The resolution was unanimously adopted.

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

WHEREAS, a map, plan and report relating to the establishment of a proposed Town of Orchard Park drainage district number 5-2 as prepared by Carmina Wood Morris, D.P.C., duly licensed civil engineers of the State of New York, in a manner and in such detail as has been determined by this Town Board, has been duly filed with the Town Clerk, in accordance with the requirements of Article 12 of the Town Law; and

WHEREAS, an Order was duly adopted by this Town Board on October 5, 2022 reciting the filing of said map, plan and report, the improvements proposed, the boundaries of the proposed district, the proposed method of financing, the fact that the map, plan and report describing the same are on file in the Town Clerk's Office for public inspection, and stating all other matters required by law to be stated, and specifying October 5, 2022 at 7:00 in the afternoon of said day as the time, at the Town of Orchard Park Town Hall, as S 4295 South Buffalo Street, Orchard Park as the place where this Town Board would meet and consider said map, plan and report, and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law; and

WHEREAS, such order was duly published and posted as required by law; and

WHEREAS, a hearing on said matter was duly held by said Town Board on October 5, 2022 at 7:00 p.m. in the afternoon of said day, in the Orchard Park Town Hall, as 4295 South Buffalo Street, Orchard Park, New York, and no person appearing in opposition to and the petitioner appearing in favor of the petition; and

WHEREAS, pursuant to said petition, it is the intention of the petitioner, as sole owner of all the taxable property in said drainage district, to construct said drainage improvements solely at its own expense, now, after due deliberation, it is

RESOLVED AND DETERMINED:

- A. That the notice of hearing was published and posted as required by law, and is otherwise sufficient;
- B. That all property and property owners in the proposed district are benefitted thereby;
- C. That all property and property owners benefitted are included within the limits of the proposed district;
- D. That it is in public interest to establish said district; and be it further

RESOLVED AND DETERMINED:

That the establishment of the proposed district as set forth in said map, plan and report be approved; that the improvements therein mentioned be constructed by the petitioner; and such district shall be known and designated as the "Town of Orchard Park drainage district number 5-2 and shall be bounded and described as set forth as "Exhibit A" attached hereto and made a part hereof; and be it further

RESOLVED AND DETERMINED:

That the improvements for such drainage district are to be constructed by, Nick Costa, the owner of the "Exhibit A" premises, solely at its own expense, and it has offered to convey the same without cost to the Town of Orchard Park, free and clear of encumbrances except the right of access to said improvements by adjoining land owners; that the costs of maintaining said drainage district shall be born by the owners of properties benefitted thereby; and be it further

RESOLVED AND DETERMINED:

That the Town Clerk be and hereby is authorized and directed to file a certified copy of this resolution in the office of the Clerk of the County of Erie, which is the County in which the said Town of Orchard Park is located, and the office of the State Department of Audit and control, within 10 days after the adoption of this resolution, pursuant to the provisions of Section 195 of the Town Law Legal Description for OPDD #5-2 — Exhibit A

Legal Description of Orchard Park Drainage District OPDD 5-2

ORCHARD MEADOW SUBDIVISION PART 8

OLD SALEM COURT (14.6± ACRES)

TOWN OF ORCHARD PARK

All that tract or parcel of land situate in the Town of Orchard Park, County of Erie, State of New York, Being part of Lot No. 36, Township 9 Range 7 of the Holland Land Company's Survey, more particularly described as follows;

Beginning at the southeast corner of Sublot No. 16 as shown on the Plat of Redivision of Orchard Meadows Part 8 and filed under Map Cover 2450 in the Office of the County Clerk, Erie County, New York;

Thence north 29 degrees 25 minutes 33 seconds east along the easterly line of said subplot 16, a distance of 151.21 feet to the southeast corner of subplot 17, cover 2450;

Thence north 61 degrees 21 minutes 43 seconds east along the easterly line of subplot 17, a distance of 70.97 feet;

Thence continuing along said subplot 17, north 49 degrees 19 minutes 35 seconds east, a distance of 76.03 feet to the southeast corner of subplot 18, cover 2450;

Thence north 33 degrees 16 minutes 32 seconds east along the easterly line of subplot 18, a distance of 100.00 feet to the southeast corner of subplot 19, cover 2450;

Thence north 33 degrees 16 minutes 32 seconds east along the easterly line of subplot 19, a distance of 159.48 feet to the southeast corner of subplot 20, cover 2450;

Thence north 27 degrees 52 minutes 24 seconds east along the easterly line of sublots 20 and 21, cover 2450, a distance of 90.00 feet to the southwest corner of subplot 4, cover 2450;

Thence south 88 degrees 20 minutes 26 seconds east along the south line of sublots 4 & 5, cover 2450, a distance of 240.35 feet to the southwest corner of subplot 1, as shown on the Plat of Orchard Meadows Part 8 and filed under Map Cover 2409 in the Office of the County Clerk, Erie County, New York;

Thence south 69 degrees 49 minutes 36 seconds east along the south line of subplot 1, a distance of 150.77 feet to the westerly line of Orchard Meadows Part 6 and filed under Map Cover 2370 in the Office of the County Clerk, Erie County, New York;

Thence south 21 degrees 50 minutes 25 seconds west along the westerly line of cover 2370, a distance of 228.22 feet to the southwest corner of subplot 31, cover 2370;

Thence south 58 degrees 38 minutes 31 seconds east along the south line of cover 2370, a distance of 190.00 feet; Thence continuing along the south line of cover 2370, south 88 degrees 38 minutes 32 seconds east, a distance of 338.73 feet to the east line of Lot 36, Township 9 range 7;

Thence south 00 degrees 40 minutes 00 seconds west along the east line of Lot 36, a distance of 400.62 feet to the south line of Orchard Meadows Part 8 and filed under Map Cover 2409 in the Office of the County Clerk, Erie County, New York;

Thence north 88 degrees 33 minutes 41 seconds west along the south line of cover 2409, a distance of 1,256.79 feet to the southeast corner of subplot 24, cover 2409;

Thence north 21 degrees 01 minutes 30 seconds east along the east line of subplot 24, a distance of 189.62 feet to the south right of way of Old Salem Court as shown on cover 2409;

Thence 15 degrees 58 minutes 08 seconds east, a distance of 60.30 feet to the southeast corner of Sublot No. 16 as shown on the Plat of Redivision of Orchard Meadows Part 8 and filed under Map Cover 2450 in the Office of the County Clerk, Erie County, New York;

Said point being the place or point of beginning, having an area of 634,244.42 square feet, 14.560 acres.

The resolution was unanimously adopted.

PUBLIC COMMENT ON OLD BUSINESS

No one came forward

Old Business #1 Authorize the release of Performance Bonds to Millhurst Construction for the Terminated Bussendorfer Milling and Paving Project

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

WHEREAS, you are aware, Millherst Construction, Inc.'s Insurance Company has requested they be released of the performance bond for the terminated 2021 Bussendorfer Road Milling and Paving Project Contract.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release Millherst Construction, Inc.'s (10025 County Road, PO Box 430, Clarence Center, New York 14032) performance security in the amount of \$84,750.00 for the 2021 Bussendorfer as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #2 Authorize the Town Clerk to release \$10,000 held in escrow under PIP 2021-01 for Type E and Type C monuments placements in the Smokes Creek Farms 22-Sublot Subdivision PIP #2021-01

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

WHEREAS, on December 15, 2021, the Town Board accepted dedication of the public improvements constructed in the Smokes Creek Farms 22-Sublot Subdivision with the stipulation that funds paid by the developer be held in escrow until the confirmatory survey data for Type E and Type C monument placements was completed; and

WHEREAS, the contractor has since installed the required poles and fixtures on Edgewood Court; and

WHEREAS, the work was inspected by the Engineering Departments 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 to Thomas Johnson, Thomas Johnson Land Development, LLC, 6435 West Quaker Street, Orchard Park, New York 14127, the \$10,000 held in escrow for the confirmatory survey data for Type E and Type C monument placements in the Smokes Creek Farm 22-Sublot Subdivision, PIP #2021-01, upon recommendation of the Town Engineer.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Authorize the Supervisor, Town Attorney and Town Engineer to execute (all necessary) contract items for the Bridge NY Culvert Local Project Agreement – Dennis Road over East Tributary to South Branch of Smokes Creek.

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

WHEREAS, the State of New York Department of Transportation has officially approved the Town's Project Application for the Bridge NY Culvert Replacement Project — Dennis Road over East Tributary to South Branch of Smokes Creek; and

WHEREAS, the Dennis Road Culvert Project is estimated at \$1,000,000. The Grant Program requires the Town to upfront the money for the project and submit for periodic reimbursement payments. The Town is also responsible for any overages; and

WHEREAS, the resolution requires the Town to approve the signatory, upfront the cost of the project, approve the general project, allocate the money and source, accept any overages if needed, commence construction no later than 24 months after contract execution and complete the project within 30 months of starting the work and the Town will maintain the finished project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor, Town Attorney and Town Engineer to execute (all necessary) contract items for the Bridge NY Culvert Local Project Agreement — Dennis Road over East Tributary to South Branch of Smokes Creek.

The resolution was unanimously adopted.

New Business #2 Authorize the Town of Orchard Park to pay for the upfront costs of the Bridge NY Culvert Local Project Agreement.

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

WHEREAS, the State of New York Department of Transportation has officially approved the Town's Project Application for the Bridge NY Culvert Replacement Project — Dennis Road over East Tributary to South Branch of Smokes Creek; and

WHEREAS, the Dennis Road Culvert Project is estimated at \$1,000,000. The Grant Program requires the Town to upfront the money for the project and submit for periodic reimbursement payments. The Town is also responsible for any overages; and

WHEREAS, the resolution requires the Town to approve the signatory, upfront the cost of the project, approve the general project, allocate the money and source, accept any overages if needed, commence

construction no later than 24 months after contract execution and complete the project within 30 months of starting the work and the Town will maintain the finished project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town of Orchard Park to pay for the upfront costs of the project. Also, if any overages occur, the Town will convene its Board to appropriate the excess amount immediately upon notification by the NYSDOT.

The resolution was unanimously adopted.

New Business #3 Complete the resolution with all required information for approval by the NYS Office of the State Comptroller for the Bridge NY Culvert Local Project Agreement

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

WHEREAS, a project for the Dennis Road over East Trib. To South Branch of Smokes Creek – Culvert Replacement, P.I.N. 5763.89 (the “Project”) is eligible for reimbursement of qualified costs from Bridge NY funding that calls for the post-reimbursement apportionment of the qualified costs to be borne at the ration of 100% Bridge NY funds and 0% non-Bridge NY funds; and

WHEREAS, the Town of Orchard Park will design, let, and administer all phases of the Project.

WHEREAS, the Town of Orchard Park desires to advance the Project by making a commitment of 100% of the costs of all work for the Project or portions thereof.

NOW, THEREFORE, the Town Board, duly convened does hereby

RESOLVE, that the Town Board hereby approves the Project; and it is hereby further

RESOLVED, that the Town Board hereby authorizes the Town of Orchard Park to pay 100% of the cost of all work for the Project or portions thereof, with the understanding that qualified costs will be reimbursed from Bridge NY funding; and it is further

RESOLVED, that the sum of \$1,000,000.00 is hereby appropriated from #DB015 Dennis Road Culvert Replacement Project [or, appropriated pursuant to n/a] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that the Town BOARD hereby agrees that the Town of Orchard Park shall be responsible for all costs of the Project, including costs which exceed the amount of reimbursement available from the NY Bridge Funding awarded to the Town of Orchard Park; and it is further

RESOLVED, that in the event the costs of the Project exceed the amount appropriated above, the Town of Orchard Park shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the NYSDOT thereof, and it is further

RESOLVED, that the Town BOARD hereby agrees that Town of Orchard Park hereby commits that construction of the Project shall begin no later than twenty-four (24) months after award and the construction phase of the Project shall be completed within thirty (30) months; and it is further

RESOLVED, that the Eugene L. Majchrzak of the Board of the Town of Orchard Park be and is hereby authorized to execute all necessary agreements, certifications or reimbursement requests with NYSDOT for State Aid and/or Bridge NY funding on behalf of the Town of Orchard Park in connection with the

advancement or approval of the Project and providing for the administration of the Project and the municipality's funding of the Project costs, and it is further

RESOLVED, that the Town of Orchard Park will be responsible for all maintenance of the Project; and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

The resolution was unanimously adopted.

New Business #4 Authorize purchase of Diamond maps software for the Orchard Park Highway, Engineering, Building Departments and Special Districts

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

WHEREAS, the Orchard Park Highway and Engineering Departments are seeking the utilization of a better asset management software to manage Municipal Operations, infrastructure and municipal records; and

WHEREAS, the Engineering Department currently uses Trinity Unity to map sanitary sewer laterals and issuing work orders for the Special District Department. The Town has two licenses for this software with a common login that Engineering Department personnel share. This Department has found a more versatile program that will allow sharing of information between all departments. This software will give Town of Orchard Park employees, elected officials and advisory board members access to data and allow each department to develop commonly used data layers to share. Our plan is to create a GIS data base with information such as waterlines, sanitary sewer, storm sewer, lighting, highway, subdivision construction record drawings, survey mapping, zoning, and complaint logging; and

WHEREAS, this software has an annual subscription fee of \$3,840.00 for **unlimited** users & cloud storage for all data. Currently, we have an annual subscription for *two* seats using Trimble Unity @ \$2400.00. Albeit there is an increase in subscription, but the versatility and unlimited user licenses is a clear benefit. There is an additional one time cost of \$1,400 for lifetime support and includes importing 10 shapefile layers to start our database setup; and

WHEREAS, the funds are available in the budget for this year; #SL 5182 50203 Street Lighting electrical tracing Equipment \$2,620.00 and #WS8346 50593 Water District Repairs \$2,620.00 = \$5,240.00.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the purchase of Diamond Maps software in the amount of \$5,240.00 for the Orchard Park Highway, Building, Engineering Department and Special Districts as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Authorize the Supervisor to sign agreement with Troy & Banks Utility and Telecommunications to conduct and audit or survey of the Towns gas, electric, telecommunications and water/sewer utility service accounts

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

WHEREAS, the Town of Orchard Park has been approached by Ronald Marconi of RTM Enterprises of New York. He presented the program that reviews utility invoices for municipalities, schools, businesses, etc. to find charges or costs in excess of those permitted, allowed or from overcharges or billing errors. The audit work is completed through Troy & Banks Incorporated, which is a utility and telecommunication consultant and completed a similar audit in 2016 for the Town of Orchard Park. The firm stated that they are capable and willing to complete an audit on all Town owned utility service accounts. The key points of this program/agreement are below:

- The Client (Town of Orchard Park) engages Troy & Banks to conduct an audit or survey of Client's gas, electric, telecommunications and water/sewer utility service accounts for the purpose of securing refunds, credits and cost reductions resulting from discovery of charges or costs in excess of those permitted or allowed by applicable contracts, tariffs, statutes, rules and regulations and/or from overcharges or billing errors. Troy & Banks agrees to conduct such audit.
- Overcharges — For any refunds, credits or rebates obtained by Troy & Banks for prior overcharges, billing errors or costs in excess of those permitted by applicable contracts, tariffs, statutes, rules or regulations, Troy & Banks shall be paid 33% of all monies refunded or credited to the Client (O.P.).
- Future Cost Reductions — for any reductions in future costs for electric, gas, telecommunication and water/utility services' accounts resulting from Troy & Banks analysis, the fee is 33% of the amount saved each month for 18 months. Troy & Banks will document actual monthly savings obtained by analysis of tariff cost applications.
- Troy & Banks has made no guarantee or assurance of any credit or refund amount or cost saving results.
- If the Client (Town of Orchard Park) does not receive refunds, credits, or reductions in future billings, there will be no fee for the Troy & Bank services; and

WHEREAS, the energy committee had reviewed this program in 2012 and felt it would be beneficial to Orchard Park in 2016, and started with the Municipal Center, since this was a fairly new practice for Orchard Park. After talking with other consultants in NYC Association of Towns Conference, a reduction of the fee from 50% to 33% was agreed upon again.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with Troy & Banks, Inc., 2216 Kensington Ave., Buffalo, New York 14226, to perform an audit/survey of the Towns utility service accounts with the cost of such audit or survey being paid from 33% of monies refunded or credited plus 33% of future savings for the next 18 months as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Approve the appointment of a Police Officer to the Orchard Park Police Department

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

RESOLVED, that the Town Board does hereby approve the appointment of Thomas E. Fowler III to the position of Police Officer in the Orchard Park Police Department, Step A effective October 22, 2022.

The resolution was unanimously adopted.

New Business #7 Approve the appointment of part-time 2022 Fall Staff to the Recreation Department

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER HONER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER LIBERTI, TO WIT:

RESOLVED, that the Town Board is hereby authorized to approve the following residents appointments to the 2022 part-time staff for the Orchard Park Recreation and Parks Department retroactive to September 6, 2022 as recommended by the Recreation Director:

- Juliana Bossi \$16.00 Leader 1
- Zachary Lippitt \$16.00 Leader 1
- Gabriella Rydzewski \$16.00 Lifeguard 1

The resolution was unanimously adopted.

New Business #8 Approve the appointment of a part-time employee to the Maintenance Department

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

WHEREAS, the Orchard Park Maintenance Department has an opening for the position of Part-Time Caretaker, and

WHEREAS, Robert M. Benning meets the qualifications of a Part-Time Caretaker and is able and ready to accept this position, and

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Robert M. Benning to the position of Caretaker Part Time, at a rate of \$14.60 an hour upon recommendation of Head of Maintenance Robert Benning, effective October 11, 2022.

The resolution failed.

New Business #9 Approve the appointment of a part-time employee to the Assessor’s Office

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

WHEREAS, the Orchard Park Assessor's Office has an opening for the position of Part-Time Office Clerk, and

WHEREAS, Rita Iannarelli meets the qualifications of a Part-Time Office Clerk and is able and ready to accept this position, and

WHEREAS, upon the recommendation of Town Assessor Dan Stanford

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Rita Iannarelli to the position of Part Time Office Clerk (non-union), at a rate of \$16.00 an hour effective October 24, 2022 upon

recommendation of Town Assessor Dan Stanford. This position is budgeted for 19.5 hours per week but the appointee will be able to work additional hours as necessary during department vacations.

The resolution was unanimously adopted.

New Business #10 Approve the appointment of a full-time employee to the Highway Department

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

WHEREAS, the Orchard Park Highway Department has openings for the position of Blue Collar Laborer; and

WHEREAS, Aaron Keyser meets the qualifications of a Blue Collar Laborer and is able and ready to accept this position.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Aaron Keyser to the position of Blue Collar Laborer, Pay grade Step #1, \$22.00 upon the recommendation of Highway Superintendent Andrew Slotman, effective October 17, 2022.

The resolution was unanimously adopted.

New Business #11 Approve Special Event Permit for Dick's Sporting Goods

18) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER LIBERTI, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

RESOLVED, that the Town Board does hereby approve the Special Event Permit request for Dick's Sporting Goods to be held on Saturday October 8, 2022 from 11:00AM-4:00PM at 3434 Amelia Drive.

The resolution was unanimously adopted.

New Business #12 Approve the application for funding from the Justice Court Assistance Program

19) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MOMBREA, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER LIBERTI, TO WIT:

WHEREAS, the Orchard Park Town Court is in need of new chairs and handheld metal detectors.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the Orchard Park Town Court to apply for the Justice Court Assistance Program grant in the 2022-2023 grant cycle up to \$30,000.00.

The resolution was unanimously adopted.

New Business #13 Refer to the Planning and Conservation Boards

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

RESOLVED, that the Town Board does hereby refer the following to the Planning and Conservation Boards for review and recommendation:

1. V/L Windward Road, located at the northwest corner of Windward Road in the Sterling Business Park. Applicant is requesting to construct a 32,000 gross square foot, two story, New York State Beer Project. This project obtained a Special Use Exemption Permit in 2020. (SBL# 152.14-5-1.2)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

No one came forward

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Supervisor Eugene Majchrzak welcomed all newly hired employees to Orchard Park.

Councilmember Joseph Liberti congratulated Police Officer Fowler and welcomed all newly hired employees to Orchard Park.

Town Clerk Remy Orffeo reminded residents that School taxes are due October 17, 2022. Any tax payments submitted after October 17th will incur a penalty.

Highway Superintendent Andrew Slotman reminded residents to separate leaf from brush piles and to keep leaf piles off the street and away from drains.

Police Chief Patrick Fitzgerald congratulated Police Officer Fowler and looks forward to working with him.

21) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR 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 #19 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$85,630.71
Public Safety Fund	\$24,884.73
Part Town Fund	\$1,003.82
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$32,649.30
Special Districts	\$16,097.46
Trust & Agency	\$2,136.00
Capital Fund	\$0

The resolution was unanimously adopted.

REPORTS

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

RESOLVED, that the Town Board does hereby received and file the August 2022 Building Inspector's Monthly Report.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Majchrzak, seconded by Councilmember Flynn, the meeting adjourned at 7:08PM (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**