

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 16<sup>th</sup> day of August 2023 at 7:28 PM, 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                      |
| Absent | Joseph Liberti       | Councilmember                      |
|        | Julia Mombrea        | Councilmember                      |
|        | Remy Orffeo          | Town Clerk                         |
|        | Timothy D. Gallagher | Town Attorney                      |
|        | Tom Minor            | 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: August 2, 2023 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 Release escrow for Birdsong Part 3B Subdivision Phase 1 & 2A, PIP #2021-02**

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

**WHEREAS**, on November 16, 2022, the Town Board accepted dedication of the public improvements constructed in the Birdsong Part 3B Subdivision Phase 1 & Phase 2A; PIP #2021-02 with the stipulation that funds paid by the developer be held in escrow until fine grading of topsoil, seeding and mulching along all new ROW's and in all areas of disturbance within the Town right-of-way was completed; and

**WHEREAS**, the developer has since installed the required landscaping along all Right-Of-Ways. The work was inspected by the Engineering Department 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 the \$10,000 held in escrow under PIP #2021-02 Birdsong Part 3B Subdivision Phase 1 & Phase 2A for fine grading of topsoil, seeding and mulching along all new ROW's and in all areas of disturbance to Forbes Homes, Inc., 470 Cayuga Road, Cheektowaga, New York, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business # 2 Authorize NYSEG to connect LED decorative Street Lights for Birdsong Part 3B Subdivision Phase 1 & 2A.**

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

**WHEREAS**, per the tariff agreement between NYSEG and the Town, NYSEG has requested the Town submit a resolution reflecting the connection of fourteen (14) decorative street light fixtures in the new Part 3B of the Birdsong Subdivision. At present, there are twenty eight (28) single-family homes currently planned to be constructed in this Subdivision; and

**WHEREAS**, the LED luminaires, which are owned by the Town, have been installed under PIP # 2021-02. The Town will maintain the poles, bulbs, and the electric eye of the luminaires and NYSEG will provide the 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 \$588.42 for these fourteen decorative light poles. 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 fourteen (14) LED decorative light fixtures in the Birdsong Subdivision Part 3B Part 1& 2A under PIP #2021-02 at an estimated annual increased energy cost of \$588.42 to the Consolidated Light District in accordance with the attached NYSEG proposal as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON NEW BUSINESS**

No one came forward

**New Business #1 Approve a Block Party permit**

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

**RESOLVED**, that the Town Board does hereby approve a resident's request to blockade a portion of Pine Terrace, Knob Hill Road and Greenwood Drive for a block party on September 9, 2023.

**The resolution was unanimously adopted.**

**New Business #2 Authorize the closure of capital projects and transfer of capital projects funding**

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

**WHEREAS**, certain capital projects are complete and can be closed; and

**WHEREAS**, certain projects are in need of funding that is available in other projects; and

**WHEREAS**, the Town has reviewed the source of funds within each project and determined that the funds can be transferred projects as described.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby authorize the closure of the following capital projects and transfers of funding as of August 1, 2023:

*Close AB013 HW, SWL, Parks Generator Install with balance of \$7,887.61 and AB007 OP municipal buildings with a negative balance of \$5,792.38 by transferring \$5,792.38 from AB013 to AB007 and remaining \$2,095.23 to ABOO1 unallocated general buildings projects.*

*Close G0004 Hazel Court \$1,277.63 to G0001 Unallocated Sanitary Sewer Projects*

*Close AP012 Drainage District Consolidation \$75,062.47 to AP011 Playgrounds to cover deficit of (\$9,929.38) and remaining \$65,133.09 to AP001 Unallocated parks projects*

**The resolution was unanimously adopted.**

**New Business # 3 Approve a Special Event permit for the Red Shirt 5K Run/Walk to be held on September 22, 2023.**

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

**RESOLVED**, that the Town Board does hereby approve the Special Event Permit request for the Red Shirt 5K Run/Walk to be held on Friday September 22, 2023 from 6:00PM-10:00PM pending approval from the Chief of Police, receipt of fees and Insurance.

**The resolution was unanimously adopted.**

**New Business #4 Appoint part time staff to the Orchard Park Recreation Department.**

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

**RESOLVED**, that the Town Board is hereby authorized to approve the following residents appointments to the 2023 part-time staff for the Town of Orchard Park Recreation and Parks Department effective 8/19/23 as recommended by the Recreation Director:

|                     |                                     |
|---------------------|-------------------------------------|
| Jessica Arnold      | \$20.00 Special Programs Supervisor |
| Dillen Blidy        | \$16.00 Program Coordinator 1       |
| Jacob Domzalski     | \$16.00 Program Coordinator 1       |
| Michael Girolamo    | \$16.00 Program Coordinator 1       |
| Delaney Francavilla | \$16.00 Program Coordinator 1       |
| Kamryn Foley        | \$16.00 Program Coordinator 1       |
| Megan Gralke        | \$16.00 Program Coordinator 1       |
| Julia Tills         | \$16.00 Program Coordinator 1       |
| Mi'Liyah Wideman    | \$16.00 Program Coordinator 1       |

**The resolution was unanimously adopted.**

**New Business #5 Award contract for the Chestnut Ridge Waterline Replacement Project.**

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

**WHEREAS**, bids were opened for the Chestnut Ridge Waterline replacement on August 11, 2023 as requested by ECWA. The project consists of total replacement of existing waterline, restoration of pavement for approximately 1700 LF and restoration of adjacent disturbed lawn areas; and

**WHEREAS**, the project was bid on a unit price basis for the associated waterline and road restoration work items. The Engineering Department has reviewed those itemized prices of the three contractors who submitted bids. The Project also included four Alternates for supply/type of pipe options. This department performed a review of the three bids submitted, and compared them against the Engineer's estimate of \$798,403.20. The lowest responsible bid submitted for the base bid is \$797,600.00; and

**WHEREAS**, the Engineering Department has on file an extended tabulation of bid results showing the itemized bid amounts from each bidder. Contractor submissions were checked for math errors. Several errors were found on DJM Contracting, Inc. DJM Contracting, Inc. had math errors for one bid item costs, as well as, leaving multiple bid items blank on their bid form including a required \$75,000.00 contingency. Per the Town Attorney, the errors make their bid incomplete and not eligible for the award. The lowest responsible bidder was 716 Site Contracting, Inc. for \$797,600.00 with no math errors in their bid; and

**WHEREAS**, there is presently approximately \$878,632 plus interest allocated under Capital Projects, FX002 Chestnut Ridge Waterline for this project; and

**WHEREAS**, 716 Site Contracting, Inc. has successfully completed various sewer, water, and road reconstruction projects in the past. The contractor provided three letters of, recommendation on waterline experience and all included very positive comments. 716 Site Contracting, Inc. also submitted a list of references which all gave positive recommendations.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby award the contract for the Chestnut Ridge Waterline Replacement Project to the lowest responsible bidder, 716 Site Contracting, Inc., PO Box 120, North Boston, NY 14110 in the amount not to exceed \$797,600.00 (Base Bid only) as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #6 Approve Site plan and Building Permit for “275 Thorn Ave. LLC”**

9) 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 grant Site Plan approval for the Site Plan presented on May 26, 2023 and issue a Building Permit to construct a 10,000-square foot new Building with regard to “275 Thorn Avenue LLC”, located at 275 Thorn Avenue, south side of Thorn Avenue, east of Duerr Road, Zoned B-2, based on the Planning Board’s recommendations with the following conditions and stipulations:

1. All public notices have been filed.
2. This is a Type 1 SEQR Action, based on the Short EAF and a Negative Declaration was made on 8/10/2023.

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. A Landscape Plan, received, 11/01/2022 meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$15,255.00 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$7,627.50) Conservation Board approval was granted on 11/1/2022.
6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. The Applicant is to provide the Town of Orchard Park Assessor with an “independent” appraisal for the completed project by a Certified Commercial Appraiser.
8. As a condition of approval, the Applicant is required to provide proof that a fuel tank is not present on the site, or if there was, or is a fuel tank on the site, the site has been remediated to NYS DEC standards. (Submission of a Phase 1 NYS Feasibility Study)
9. Engineering Approval was granted on 8/2/2023.

**The resolution was unanimously adopted.**

#### **New Business #7 Schedule a Public Hearing**

**10) 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 schedule a Public Hearing to be held by the Town Board of the Town of Orchard Park, Erie County, New York, at the Municipal Building, S4295 South Buffalo Street Orchard Park, New York 14127, on September 6, 2023 at 7:00 PM (local time), to rezone, 3.69 acres of land at 2881 Southwestern Boulevard, Zoned R-3 and B-2, SBL# 153.06-2-3. Requesting to rezone from R-3 and B-2 to B-2 to erect a cold storage barn, as requested by Timothy Wood; and be it further

**RESOLVED**, that a complete metes and bounds description of this property, together with a surveyor’s map, is on file in the Town Clerk’s Office, as well as the list of conditions and stipulations if approved. At such time all interested persons will be given an opportunity to be heard.

**The resolution was unanimously adopted.**

#### **New Business #8 Approve Site Plan and Building Permit for “Royal Car Wash”**

**11) 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 grant Site Plan approval for the Site Plan presented on May 24, 2023 and issue a Building Permit to construct a 4,096-Sq. Ft Car Wash Facility with regards to “Royal Car Wash”, V/L located at northeast corner of Milestrip & Abbott Roads, Zoned B-2, based on the Planning Board’s recommendation with the following conditions and stipulations:

1. All public notices have been filed.
2. The Town Board granted a “Special Exception Use” permit for this project on 7/19/2023.
3. This is a Type 1 SEQR Action, based on the Short EAF and a Negative Declaration was made on 8/10/2023.
4. 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.

5. No outside storage or display is permitted.
6. An updated Landscape Plan, received, 1/19/2023 meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$27,775 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$13,887.50) Conservation Board approval was granted on 2/7/2023 with the following stipulations:
  - Approval is conditioned upon;
    - modifying the plan with the required Green Space calculations on it,
    - adding pine trees to create additional buffering for the adjacent resident on the north side,
    - and, resubmitting the updated Landscape Plan and Landscaping Estimation Form to the Planning Department by September 5, 2023.
7. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
8. The Applicant is to provide the Town of Orchard Park Assessor with an “independent” appraisal for the completed project by a Certified Commercial Appraiser.
9. Engineering Approval was granted on 8/10/2023.

**The resolution was unanimously adopted.**

**New Business #9 Refer to the Planning and Conservation Boards.**

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

1. One Fox Run Lane, Orchard Park CCRC, Inc d/b/a Fox Run at Orchard Park is proposing an expansion of their existing campus.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Paul Zak thanked the Town Board for the traffic study done on Bieler Rd. and spoke of the study he did himself.

Mary Chase thanked the Town Board for the traffic study done on Bieler Rd. but still feels her side street is more like a highway.

**ELECTED OFFICIALS & DEPARTMENT MANAGERS**

Supervisor Eugene Majchrzak addressed Bieler Road traffic concerns.

Councilmember Conor Flynn addressed Bieler Road traffic concerns.

Councilmember Scott Honer addressed Bieler Road traffic concerns.

Councilmember Julia Mombrea addressed Bieler Road traffic concerns.

Town Clerk Remy Orffeo notified residents of a Village Boutique event.

Highway Superintendent Andrew Slotman spoke of leaf collection and paving patchwork.

Police Chief Patrick Fitzgerald spoke of traffic and speed study done on Bieler Road.

13) 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 authorize the approval of all entries on Warrant #16 following auditing by members of the Town Board and in the funds indicated:

|                           |              |
|---------------------------|--------------|
| <b>General Fund</b>       | \$38,440.11  |
| <b>Public Safety Fund</b> | \$700.47     |
| <b>Part Town Fund</b>     | \$38.28      |
| <b>Risk Retention</b>     | -0-          |
| <b>Cemetery Fund</b>      | -0-          |
| <b>Highway Fund</b>       | \$196,773.27 |
| <b>Special Districts</b>  | \$67,664.46  |
| <b>Trust &amp; Agency</b> | \$5,442.50   |
| <b>Capital Fund</b>       | \$16,658.81  |

**The resolution was unanimously adopted.**

There being no further business, on a motion by Supervisor Majchrzak, seconded by Councilmember Mombrea, the meeting adjourned at 7:57 pm (local time).

**Respectfully Submitted,**

**Remy C. Orffeo  
Town Clerk**