

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 21st day of February 2024 at 7:05 PM, the meeting was called to order by Supervisor Eugene Majchrzak and there were:

PRESENT AT ROLL CALL:

Eugene Majchrzak	Supervisor
Absent Joseph Liberti	Councilmember
Julia Mombrea	Councilmember
Scott Honer	Councilmember
John Mariano	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
Absent 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: February 7, 2024 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 Rescindment of Highway Vehicle Usage Policy from the Employee Manual.

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

WHEREAS, the Orchard Park Town Board at its November 15, 2023 regularly held meeting approved a Highway Vehicle Usage Policy, and

WHEREAS, the Town Board wishes to replace the November 15, 2023 Highway Vehicle Usage Policy.

NOW, THEREFORE, be it

RESOLVED, that the Highway Vehicle Usage Policy dated November 15, 2023 is rescinded from the Town of Orchard Park Personnel Manual.

The resolution was unanimously adopted.

Old Business # 2 Approve updated Highway Vehicle Usage Policy from the Employee Manual.

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

WHEREAS, the Town Board has amended the Town Vehicle Policy, the following will be added to the employee manual:

Whereas, the Highway Superintendent and Deputy Superintendent of Highway have the authority to use Town vehicles for town business and each can take the Town vehicle home every night.

It is the policy of the Town of Orchard Park to authorize the utilization of vehicles by these two officials of the Town, to conduct their employment responsibilities, either during the work shift or twenty-four (24) hour on-call basis. Town vehicles are not personal vehicles and are not for personal use.

Town vehicles should be viewed as belonging to the citizens of the Town of Orchard Park and are assigned solely for use consistent with providing services to those citizens.

Highway Superintendent and Deputy of Highway will be responsible for the vehicle use, maintenance, including cleanliness and storage. They shall ensure that vehicles are washed, the interior cleaned, and the preventative maintenance schedule observed.

The assignment of vehicles may be rescinded with reasonable notice by the Town Board for work-related reasons.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

Russell Wierer spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121).

Dennis from Abbott Rd. spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121).

Lynnette Benzinger spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121).

Eirene Choroser spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121). She also inquired about contact information for Orchard Park sub-boards and transparency of information.

Laura Sweet spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121). She also inquired about the Town's Comprehensive plan regarding Public Water and brought in dirty water samples from the purported Newton Rd. area.

Mark Braun spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121) and he brought in a dirty water filter from a purported Newton Rd area home.

Patricia Frenzel spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121).

Amy Wierer spoke against the Town Board reapproving the presented Site Plan for 6131 Newton Rd. (SBL#184.00-4-13.121).

New Business #1 Approve a Community Easter Egg Hunt.

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

RESOLVED, that the Town Board does hereby approve the Special Event Permit request for the Community Easter Egg Hunt to be held on Saturday March 30, 2024 from 10AM – 12PM pending all fees have been paid and insurances have been provided.

The resolution was unanimously adopted.

New Business #2 Appoint a Deputy Town Supervisor

5) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, THIS MOTION WAS NOT SECONDED, TO WIT:

WHEREAS, the position of Deputy Town Supervisor is needed to facilitate the operations of town government, and

WHEREAS, Jo Ann Litwin Clinton has the experience in municipal government to be an asset to the Town of Orchard Park, and

WHEREAS, Jo Ann Litwin Clinton is willing and able to serve as the Orchard Park Deputy Town Supervisor,

NOW, THEREFORE, be it

RESOLVED, that Jo Ann Litwin Clinton is hereby appointed to the position of Deputy Town Supervisor effective February 21, 2024 at a rate of \$500.00 per month.

The resolution failed due to lack of a Second.

Additional comments after the Resolution failed due to lack of a Second:

Councilmember Honer asked if the Town Board needs to agree to create the position prior to the Supervisor appointing a person to it.

Town Attorney stated if there is a created position then the Supervisor can appoint who he chooses.

New Business #3 Appoint a Payroll Clerk

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

WHEREAS, the position of Payroll Clerk is needed to facilitate the operations of town government, and

WHEREAS, Jennifer Comisso has payroll experience and would be an asset to the Town of Orchard Park, and

WHEREAS, Jennifer Comisso is willing and able to serve as the Town of Orchard Park Payroll Clerk,

NOW, THEREFORE, be it

RESOLVED, that Jennifer Comisso is hereby appointed to the position of Payroll Clerk effective February 20, 2024 at a rate of \$25.97 per hour. This is an hourly, non-union position.

On the question:

Councilmember Mariano questioned the protocol of HR. He brought a person who was previously interviewed for the position to the attention of the Board. This person was told they were over qualified. The Board was never made aware of this applicant until it was brought to the Board’s attention. The Board also delayed a presentation by “Paychex Payroll Service” until the end of the month. It was Councilmember Mariano’s understanding that the Board was going to wait until that presentation to make a decision of who to hire.

Supervisor Majchrzak stated HR doesn’t bring every applicant before the Board that doesn’t make it to the second interview, you would be inundated with dozens and dozens of applicants.

Councilmember Honer questioned the rushed hiring, lack of discussion regarding the new hire and the potential use of “Paychex Payroll Service”. He prefers to delay the decision of who to hire until the Board has an opportunity to hear from “Paychex Payroll Services”.

Supervisor Majchrzak stated the present payroll clerk’s last day is the end of March. He feels the hiring timeframe is urgent. He also stated he doesn’t feel “Paychex Payroll Service” will fill all our needs.

Town Clerk Remy Orffeo called for a roll call vote:

Supervisor Majchrzak	Aye
Councilmember Mariano	Nay
Councilmember Mombrea	Aye
Councilmember Honer	Nay

The resolution failed.

New Business #4 Appoint a part-time Recreation Attendant to the Senior Center.

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

WHEREAS, there is a vacancy in the Senior Center for the position of a part-time Recreation Attendant; and

WHEREAS, Gina Gartly has the ability and availability to perform the duties of a part-time Recreation Attendant for the Senior Center; and

WHEREAS, the rate of pay for this non-union hourly position is \$16.25 per hour with a planned increase to \$16.75 after a successful 3 month probation review.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Gina Gartly effective March 4, 2024 at a rate of \$16.25 per hour with an increase to \$16.75 after a successful 3 month probation review to the position of non-union part-time Recreation Attendant at the Orchard Park Senior Center upon the recommendation of the Senior Center Director.

The resolution was unanimously adopted.

New Business #5 Approve the extension of appointment for the temporary part-time Records Clerk in the Police Department.

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

WHEREAS, the Orchard Park Police Department was the recipient of a NYS Local Government Records Management Improvement Fund (LGRMIF) Grant; and

WHEREAS, the Town Board did approve the appointment of Jennifer Liber Raines to the position of temporary part time Records Clerk in the Orchard Park Police Department; and

WHEREAS, the funding is available in the 2024 Police Department budget.

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Chief of Police, the Town Board does hereby continue the appointment of Jennifer Liber Raines in the position of temporary part time Records Clerk in the Orchard Park Police Department, at her current pay rate of \$25.00 per hour.

The resolution was unanimously adopted.

New Business #6 Approve the presented Site Plan and authorize a Building Permit for 3636 South Benzing Road.

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

RESOLVED, that the Town Board; with regard to SBL# 161.06-1-8, Joseph Deck, 3636 South Benzing Road, located on the west side of South Benzing, north of an existing Commercial Plaza, Zoned I-1, that the Town Board approves the presented Site Plan and authorizes a Building Permit, to construct a 1,600 sq.ft. Warehouse/Shop Building and Contractors' staging area (Phase 1), per the plan received on 12/02/23 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 5/11/2023 and a Negative Declaration is made.
3. The site lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. Any Outside Storage is to be approved by the Planning Board.
5. The Landscape Plan, received 10/10/2023, meets all Green Space regulations of 20%. In accordance with Section 144-44(c)(1)(a)(2) a Certified Check amounting to 50% of the \$52,345 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$26,172.50) Conservation Board approval was granted on 10/07/2023.
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. Town Engineering approval was granted on 2/08/2024.
9. The Applicant must return to the Planning Board for further Phase Development Approvals.

The resolution was unanimously adopted.

New Business #7 Approve and authorize a Building Permit for 5455 Webster Road.

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

RESOLVED, that the Town Board; with regard to SBL #161.09-5-3.21, Simoncelli, 5455 Webster Road, located on the south side of Webster Road, west of California Road, Zoned B-2, that the Town Board approves the presented Site Plan and authorizes a Building Permit, to construct a 50'-0" X 42'-0" sq.ft. Building addition, per the plans received on 1/23/2024, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted Action, based on the Short EAF submitted on 12/23/2023 and a Negative Declaration is made.
3. The site lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. No outside storage or display is permitted.
5. The Site does meet all Green Space regulations with 64.65% total Greenspace.
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. Town Engineering approval was granted on 2/02/2024.

The resolution was unanimously adopted.

New Business #8 Reapprove the presented Site Plan for 6131 Newton Road

11) THE FOLLOWING RESOLUTION WAS OFFERED TO BE TABLED BY COUNCILMEMBER HONER, SECONDED BY COUNCILMEMBER MARIANO, TO WIT:

RESOLVED, that the Town Board; with regard to SBL# 184.00-4-13.121, Holy Face Ministry, 6131 Newton Road, located on the south side of Newton Road, Zoned A-1, that the Town Board approves the Site Plan for a 2,300 sq. ft. addition to the existing chapel building located on the property at 6131 Newton Road ("Project Site") along with all related improvements depicted on the engineered plans prepared by Nussbaumer & Clarke, Inc. based on the following findings and conditions:

1. All public notices have been filed.
2. The project was referred to the Erie County Department of Environment and Planning ("ECDEP") on December 15, 2021 pursuant to NYS General Municipal Law Section 239-M since Newton Road is an Erie County Highway.
3. On February 6, 2024, the ECDEP issued a reply stating as follows: "No Recommendation; proposed action has been reviewed and determined to be of local concern."
4. Upon review of the Site Plan and associated documents, including the Short Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQR"), the Planning Board recommends that the Town Board classify the project ("action") as a Type 2 Action pursuant 6 NYCRR

617.5(c)(9) of the SEQR Regulations stating that “construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a Use Variance and consistent with Local Land Use Controls, but not Radio Communication or Microwave Transmission Facilities” is a Type 2 Action.

- 5. On November 8, 2021, the Erie County Department of Health issued a letter approving the on-site Septic System for the project.
- 6. A letter with attachment prepared by Robert Pidanick of Nussbaumer & Clarke, Inc. dated January 8, 2024 provides detailed information supporting the professional opinion of the project engineering firm in support of its opinion that the installation of the on-site Stormwater Management System complying with the applicable Stormwater Standards as described in detail in the letter ensures the project will not result in any potentially significant adverse drainage impacts.
- 7. On March 1, 2022, the Erie County Department of Public Works issued a letter stating as follows: “This Department has received plans and drainage calculations for site modifications at Holy Face Chapel Church located at 6131 Newton Road (CR-110) in the Town of Orchard Park, and find them to be acceptable.”
- 8. The Site Lighting is limited to those fixtures and poles indicated on the Approved Engineered Plans. Light fixtures shall have flat lenses, and all lighting is to be directed downward and toward the site.
- 9. Specific findings relating to Section 144-44 of the Orchard Park Zoning Code:
 - 1. All buildings are an integral part of the development and have convenient access to and from adjacent uses and roadways.
 - 2. Individual buildings are related to each other in design, mass, materials, placement, and connections providing a visually and physically integrated development.
 - 3. All buildings are arranged to avoid undue exposure to concentrated loading or parking facilities.
 - 4. All buildings are arranged to be accessible to emergency vehicles.
- 10. No outside storage or display is permitted.
- 11. An updated/redated Landscape Plan including demonstrated compliance with all Green Space regulations was submitted and Conservation Board approval was granted on February 6, 2024.
- 12. To the extent that relief may be necessary from set-back or required yard pursuant to the Town of Orchard Park Zoning Code and its Area and Bulk Regulations by virtue of the project approved by this Motion, the Planning Board recommends, pursuant to Section 144-61 of the Zoning Code, that the Town Board approve this project, and specifically the construction of the addition to the existing structure so long as the said addition is otherwise in conformance with the provisions of the Town Code set forth above.
- 13. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
- 14. Town Engineering Department Approval was granted on January 11, 2024.

Roll call vote in favor of tabling the resolution:

Supervisor Majchrzak	Nay
Councilmember Mariano	Aye
Councilmember Mombrea	Aye
Councilmember Honer	Aye

The resolution was tabled.

New Business #9 Approve the presented Site Plan and authorize a Building Permit for 3678 Southwestern Blvd.

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

RESOLVED, that the Town Board; with regard to SBL# 161.06-2-15, Octavus Storage, 3678 Southwestern Boulevard, located on the north side of Southwestern Boulevard, west of US Route 219, across from the “MAC Center”, Zoned I-1, that the Town Board approves the presented Site Plan and authorizes a Building Permit to construct approximately 600-Self Storage Units in 13-Buildings, and a 1,250-sq.ft. New Office Building with Site Improvements, per the plans received on 1/30/2024, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR Action, based on the submitted Short EAF, and a Negative Declaration is made.
3. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. No outside storage or display is permitted.
5. The Landscape Plan, received 6/22/22, meets all Green Space regulations with 39.8% total Greenspace. In accordance with Section 144-44(c)(1)(a)(2) a Certified Check amounting to 50% of the \$28,925 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$14,462.50) Conservation Board approval was granted on 7/05/2022.
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. Town Engineering approval was granted on 2/08/2024.

The resolution was unanimously adopted.

New Business #10 Approve the presented Site Plan and authorize a Building Permit for 4365 South Taylor Road.

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

RESOLVED, that the Town Board with regard to SBL# 172.08-4-37.11, 84 Lumber, 4365 South Taylor Road, located at the northeast corner of South Taylor and Big Tree Road, Zoned I-1, that the Town Board approves the presented Site Plan and authorizes a Building Permit, to construct a Pavement Extension, per the plans received on 12/01/2023, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR Action, and no declaration is required.
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. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
6. The Applicant is to provide the Town of Orchard Park Assessor with an “independent” appraisal for the completed project by a Certified Commercial Appraiser.
7. Add Greenspace at front to soften and offset the site using islands at the front of their parking lot.

The resolution was unanimously adopted.

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

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

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

- 1. 10 Cobham Drive located in Quaker Business Park, off of Route 20A, east of California Road, Zoned I-1.** Eaton Mission Systems Orchard Park, Inc., is requesting to construct a 49,500-sq.ft addition to the existing building with a multiphase project. (SBL#'s 161.18-2-5.2; 161.18-2-2; 161.18-2-1)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Patricia Gill inquired about the status of the intersection of Duerr Rd. and Murphy Rd. What traffic signal will be there, a circle or traffic light?

Laura Sweet inquired about asphalt leaching into water supplies, Town Board meeting protocols and questions about peaceful protests.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Supervisor Eugene Majchrzak stated he was disappointed in the Town Board's decision regarding a few topics on tonight's agenda.

Councilmember Julia Mombrea stated she felt Ms. Litwin is an asset to the Village and Town. She would like to clarify information regarding the Deputy Supervisor position. Town Law section 42 states “The Town Board may at anytime establish the office of Deputy Supervisor” The order of procedures in regards to New Business item #2 are out of order.

Councilmember John Mariano informed the residents that the road signs on Abbott Rd. have been moved onto the shoulder of the road and will hopefully rectify future accidents from occurring. He also informed the Town that the zombie house located at 130 Fox Meadow has been sold at bank auction, hopefully the new owner will fix it up.

Town Clerk Remy Orfeo reminded the Town Board to consider, upon the recommendation of the Conservation Board and the Tree Conservancy Committee, appointing a Town wide Arborist.

Highway Superintendent Andrew Slotman informed the residents that Brush Collection information is available on the Town’s website. He also addressed questions about Lakeview Drive.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #4 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$64,324.73
Public Safety Fund	\$20,686.81
Part Town Fund	\$2,798.62
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$58,798.25
Special Districts	\$220,834.25
Trust & Agency	\$3,240.25
Capital Fund	\$7,541.21

The resolution was unanimously adopted.

REPORTS

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

RESOLVED, that the Town Board does hereby receive and file the January 2024 Building Inspector’s Monthly Report.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Majchrzak, seconded by Councilmember Mariano, the meeting adjourned at 8:03 pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**