

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 4<sup>th</sup> day of January 2006 immediately following the Organizational Meeting. The meeting was called to order by the Supervisor and there were:

**PRESENT AT ROLL CALL:**

Mary Travers Murphy	Supervisor
Nancy W. Ackerman	Councilwoman
Stanley A. Jemiolo, Jr.	Councilman
David R. Kaczor	Councilman
Mark C. Dietrick	Councilman
Janis Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Andrew Geist	Building Inspector
Samuel McCune	Chief of Police
Frederick Piasecki, Jr.	Highway Superintendent
Wayne Bieler	Town Engineer

The Supervisor 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."*

**Old Business #1 Avis Rent A Car, Change in Use from Retail to Car Rental Business**

1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the request of Avis Rent A Car, 6494 Lake Avenue, Zoned B-2 for a Change in Use from retail use to a car rental business with the required bond of \$1,530.00 or a \$765.00 in cash, as recommended by the Planning Board on 12/14/2005.

**The resolution was unanimously adopted.**

**Old Business #2 Authorize Supervisor to sign Memorandum creating WNY Stormwater Coalition**

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the Memorandum of Agreement creating the Western New York Stormwater Coalition.

**The resolution was unanimously adopted.**

**Old Business #3 Award bid for "One (1) New 2006 Dodge Sprinter Vehicle"**

3) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize to award the bid, which was held on December 19, 2005 for "One (1) New 2006 Dodge Sprinter Vehicle to Doan Commercial Truck Division, 4477 West Ridge Road, Rochester, NY 14626, for \$33,988.00, as recommended by the Chief of Police.

**The resolution was unanimously adopted.**

**New Business #1 Authorize Town Attorney to Proceed with Dedication for Sewer Ext PIP #2005-05**

**4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:**

**WHEREAS**, on December 20, 2005, a final inspection was conducted of the public improvement installed for the Big Tree/Kings Court Sanitary Sewer Extension. The project included the sanitary sewer from Kings Court west along Big Tree Road. The completion of this sanitary sewer extension will allow one new single family residential lot to be developed, and

**WHEREAS**, all work has been satisfactorily completed in accordance with Town specifications with the exception of the final grading, topsoil and seeding, which will be completed when the weather permits. The Town is in receipt of the cash escrow of \$1,500.00 as security, and a two year maintenance bond in the amount of \$13,500.00 has been submitted along with all other necessary documents.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvement for the Big Tree/Kings Court Sanitary Sewer Extension installed under PIP #2005-05, and be it further

**RESOLVED**, that the Town Board does hereby authorize the Town Clerk to release the performance security in the amount of \$13,500.00.

**The resolution was unanimously adopted.**

**New Business #2 Recreation Department Appointments to the 2005-2006 Winter/Spring Staff**

**5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:**

**RESOLVED**, that the Town Board does hereby authorize the following appointments, dependent upon the applicant providing the required certifications, to the staff of the Town of Orchard Park Recreation Department, as recommended by the Recreation Director:

NAME	ADDRESS	POSITION
Bradley Deck	4 Lancaster Lane	Lifeguard, PT
Toby Burns	4128 N. Freeman Road	Rec. Attendant, PT
Ronald Schenk	60 N. Lake Drive	Rec. Attendant, PT

**The resolution was unanimously adopted.**

**ELECTED OFFICIALS AND DEPARTMENT HEADS**

Councilwoman Ackerman stated that it is important to start 2006 in the spirit of cooperation. She stated that with compilation, communication, consideration and consensus she pledged this resolution to the public and Town Board.

Councilman Jemiolo agreed with Councilwoman Ackerman's statements.

Councilman Kaczor thanked all of the Departments Heads for their hard work in obtaining grants for the Town of Orchard Park. Councilwoman Ackerman added that the time allotted to complete the work for grant deadlines is usually quite short and the departments still manage to accomplish writing the grants under great pressure.

Councilman Dietrick echoed Councilwoman Ackerman's comments on cooperation in the community.

Town Clerk Colarusso stated that all the Department Heads will work with the Town Board and thanked all of them for their efforts.

Town Engineer Bieler stated that the Town received an extension on the grant for the Birdsong Nature Trails. The project is about 80% completed and will be finished in the spring.

**DEPARTMENT HEADS FROM THE FLOOR**

**No comment.**

**6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN JEMIOLO, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, TO WIT:**

**RESOLVED** that the Town Board does hereby authorize the approval of all entries on Warrant #1 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$141,960.28
Part Town Fund	8,380.06
Risk Retention	1,123.46
Cemetery Fund	0.00
Highway Fund	96,237.00
Special Districts	8,244.42
Trust & Agency	11,364.08
Capital Fund	19,586.00

**The resolution was unanimously adopted.**

**Receive & File Reports**

**7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:**

**RESOLVED**, that the Town Board does hereby receive and file the following Reports: Chief of Police Monthly Report for December 2005.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

**Krista Matteson, 3 Montclair Lane:** She stated that in May 2005, she was informed that her new house which was built by Ryan Homes in the Barrington Heights subdivision, was built on a dump site. The Matteson's started litigation against Ryan Homes in August 2005. They have had environment testing done, which indicated the waste on her property is over eight (8) feet deep. Ms. Matteson stated that she feels she has had very little response from the Town, whom she claims is responsible for her problem. In 1994, a wetlands study was conducted, which showed that there was an extensive dump on her lot, and despite that finding, in 2001 the Planning Board approved the Barrington Subdivision with no further investigation of the dump site. Ms. Matteson further stated that now, her family and the Honer family have spent tens of thousands of dollars fighting Ryan Homes to get out of their homes and fight for a proper clean up, not only for her family, but for the entire neighborhood. She asked the Town for help to get her family out of this unhealthy environment. Ms. Matteson asked that the Town deny any building permits to Ryan Homes until this is resolved. Ms. Matteson also stated that there should be full disclosure available to every neighbor and potential buyer in her neighborhood.

**Cindy Honer, 64 Graystone Lane:** She stated the same sentiments as Ms. Matteson. She stated how horrible this situation has been and implored the Town Board for support so her family and the Matteson family would be strong enough to force Ryan Homes to a buy back settlement. Ms. Honer stated this would only be fair since the Town is also responsible due to negligence in following through on soil studies. Town Attorney Berkowitz stated that the Town has cooperated with her attorney and discussed the options. The Town cannot withhold building permits if the other lots are not contaminated. He further explained that the Town has required that the other lots be tested and show no contamination in order to obtain a building permit. Councilman Jemiolo stated that he had been out to her neighborhood and that Building Inspector Geist sent a letter to Ryan Homes immediately after informing them that there would be no more building permits issued. Building Inspector Geist explained that no permits have been issued and new construction would be only on the lots with previously issued building permits. He stated there has not been any report of problems besides these two cases. Town Attorney Berkowitz addressed the residents stating that the Town is doing what can be done now and is working with their lawyer. Supervisor Travers Murphy proposed scheduling a meeting with Ms. Honer, their Attorney, Krista Gottlieb, Town Attorney Berkowitz, Ms. Matteson and anyone else who would like to attend to discuss the problem. Councilman Jemiolo asked about the response from the Department of Environmental Conservation. Town Attorney Berkowitz stated that they do not have sufficient funds to conduct an investigation.

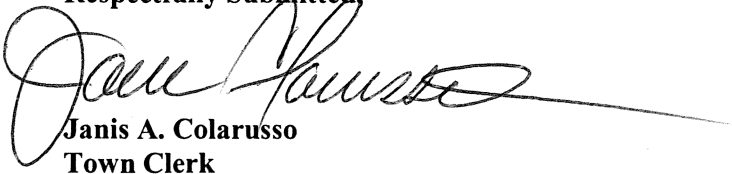
**Donna Mann, 64 Graystone Lane:** She asked about whom was responsible for soil testing.

**Sue Cushman, 27 Hathorne Drive:** She congratulated the newly elected Supervisor Mary Travers Murphy and new members of the Town Board. She was pleased to hear the comments regarding the spirit of cooperation in the Town from Councilwoman Ackerman. Ms. Cushman asked how the residents could find out about vacancies on the boards.

**Toni M. Cudney, 5991 Scherff Road:** She congratulated all the elected new officials. She asked the new Town Board to be an open government. Ms. Cudney thanked the Town Board for appointing her Marriage Officer for the Town. She also wanted to recognize Sarah desJardins, the former Planning Board Coordinator, who worked diligently for the Town for the last twelve years.

There being no further business from the floor, on motion by Councilman Jemiolo, seconded by Councilwoman Ackerman, to wit: the meeting was adjourned at 7:56 PM (local time).

Respectfully Submitted,



Janis A. Colarusso  
Town Clerk