

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 7<sup>th</sup> day of January 2009 at 6:37 PM. The meeting was called to order by the Supervisor and there were:

<b>PRESENT AT ROLL CALL:</b> Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
David Kaczor	Councilman
Mark Dietrick	Councilman
Edward Graber	Councilman
Janis Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Andrew Geist	Building Inspector
Andrew Benz	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."*

1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

**RESOLVED**, that the minutes of the Meeting of the Town Board held on December 17, 2008, as presented by the Town Clerk are hereby approved, 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.**

**Old Business # 1 "E-Gov Needs Assessment Preliminary Report" for Grant through SARA**

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

**WHEREAS**, in July of 2008 the Town of Orchard Park received (through the Town Clerk's Office) an E-Government Grant from New York State Archives Records Administration (SARA), and

**WHEREAS**, the Town of Orchard Park hired Stephen Goodfellow from Access Systems, Box 402, Manlius, NY 13104, to prepare the document stated in the grant.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby accept the draft (*E-Gov Needs Assessment Preliminary Report*) for the Town of Orchard Park, and be it further

**RESOLVED**, all comments from the Town Board must be submitted by January 14<sup>th</sup> to allow Lucy Curley (Grant Writer for the Town of Orchard Park) to submit the 2009 SARA Grant Application for the second phase of the E-Gov Project, and be it further

**RESOLVED**, the grant deadline for the second phase of the project is February 1, 2009.

**The resolution was unanimously adopted.**

**New Business #1 Request from Building Inspector to attend Conference in Buffalo, New York**

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the request of Andrew Geist, the Building Inspector, to attend with his staff members, Merrill Porter and David Jensen, the Niagara Frontier Building Officials Annual Conference, to be held on January 26, 27, and 28, 2009 at the Millennium Airport Hotel, at Town expense.

**The resolution was unanimously adopted.**

**New Business #2 Authorize the Supervisor to sign an Inter-Municipal Agreement with Erie County**

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

**WHEREAS**, the Town of Orchard Park and the County of Erie operate and maintain their own sewerage infrastructure within the boundaries of the Town, and

**WHEREAS**, the County desires to eliminate the Erie County Sewer District No. #3 Greenmeadow Pump Station through the construction of approximately 3,500 lineal ft. of new 8" diameter sewer piping (referred to the Greenmeadow sub-trunk sewer), and

**WHEREAS**, the construction of the Greenmeadow sub-trunk sewer would allow for the Town to eliminate the Town's Pump Station servicing the Summit at Scherff Subdivision, Edswood Court Pump Station (with the Town extending the mainline approximately 1,300 ft. south) and would provide infrastructure to ultimately allow the Town's residents on Powers Road to receive sanitary sewer service, and

**WHEREAS**, the proposed termination of the Greenmeadow sub-trunk sewer is a Town owned sanitary sewer manhole located in Town District No. 18 at the corner of Powers Road and Rte. 277, and

**WHEREAS**, the County has requested the Town's permission to connect to said sanitary sewer manhole use approximately 3,500 lineal ft. of Town Sanitary Sewer for the mutual benefit of the County and Town.

**NOW, THEREFORE, be it**

**RESOLVED**, that Erie County, with the execution of this Inter-Municipal Agreement, will permit the Town to connect to the proposed Greenmeadow sub-trunk sewer owned by the County of which the one sanitary sewer manhole stub is located at the corner of Powers Road and Rte. 277, and another is located north of Town District No. 20 on an easement near the dead end of Greenmeadow Drive and for the benefit of Orchard Park Sanitary Sewer Districts #13, #13-3, #18 and #20, and be it further

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to execute an Inter-Municipal agreement to permit the County to connect the proposed Greenmeadow sub-trunk sewer to the Town owned sanitary sewer manhole located in Town District No. 18 at the corner of Powers Road and Rte. 277 subject to approval as to form by the Town Attorney, and be it further

**RESOLVED**, that the Town Clerk be directed to send certified copies of this resolution to Michael J. Quinn, P.E., Deputy Commissioner, Erie County Department of Environment and Planning, and the Erie County Sewer District No. 3 Board of Managers, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #3 Approve Change Order #1 to Contract with CIR Electrical Construction Corp.**

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

**WHEREAS**, the Engineering Department is requesting approval of a Change Order to the contract with CIR Electrical Construction Corp. for the 2007 Building Improvements Project in the amount of \$8,302.54. This would increase the total contract amount to \$66,802.58, representing an increase of 12.43%, and

**WHEREAS**, this Change Order is requested to perform additional work not covered under their contract. The additional work involves the Yates Park Bath House, Highway Garage Addition, Dog Control Addition and the Milestrip Road Compost Equipment Pole Buildings, and

**WHEREAS**, at Yates Bath House, the exterior light fixture lenses have been found to be cracked on two occasions in the past two months, from apparent vandalism. Adding wire guard cages at these four exterior light locations will result in additional time and material costs in the amount of \$365.00. The Bath House plans did not call for connections to the instant hot water tank or the hand dryers on the Electrical Plan. This resulted in additional charges of \$1,147.12 and \$812.42, respectively. The Highway Superintendent also requested a lockable cover for the pop machine outlet at a cost of \$101.00, and

**WHEREAS**, at the Compost Site, it was requested by the Highway Superintendent to add a 220 electrical outlet at the 100' Pole Barn for welding purposes. This work will result in additional costs in the amount of \$481.00. Due to a design conflict, four interior lights at the Milestrip Pole Buildings, as installed, interfered with the operation of the overhead garage doors and had to be relocated. This work will result in additional costs in the amount of \$875.00, and

**WHEREAS**, the Highway Garage Addition encountered two design problems in need of correction. Two electrical heaters in the addition were shown on the Mechanical Plan, but not on the Electrical. The Electrical Contractor did not figure a cost to wire these heaters. This work will result in additional costs in the amount of \$528.00. The exhaust system in the Highway Garage bays was shown on the Mechanical Plan, but not on the Electrical. The Electrical Contractor did not figure a cost to wire these heaters. This work will result in additional costs in the amount of \$1,260.00, and

**WHEREAS**, it was requested by the Highway Superintendent to add three electrical outlets in the existing lunchroom and lockable covers on the Garage exhaust fan controls. This work will result in additional costs in the amount of \$1,866.00 and \$249.00. The Dog Control Building encountered electrical work that needed to be relocated at a cost of \$490.00, and

**WHEREAS**, the Highway Superintendent encountered problems with a circuit breaker at the Highway Garage, which he suspected to be caused by the Electrical Contractor. The Contractor was called in. When the problem was found to be unrelated, a service call charge of \$128.00 was received.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize Change Order #1 to our contract with CIR Electrical Construction Corp. for the 2007 Building Improvements Project; Highway Building Addition, Compost Equipment Pole Buildings, Yates Park Bath House and Splash Pad and Dog Control Addition in as the amount of an increase of \$8,302.54, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #4 Authorize Supervisor to sign inter-municipal agreement with Erie County**

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

**WHEREAS**, the New York State Department of State is making available grant money for the development of projects that will achieve savings and improve municipal efficiency through shared services, cooperative agreements, mergers, consolidations and dissolutions. The project objectives would be to consolidate 44 municipal illicit discharge detection and elimination programs into a single initiative, and

**WHEREAS**, the proposed project will result in development of an outfall inspection and illicit discharge track down training program that will fulfill New York State's Phase II Stormwater requirements pertaining to outfall inspections, sampling, track down and source identification. MS4's are required to inspect 20% of their outfalls on an annual basis. In the event the outfalls are flowing during the dry weather, sampling and analysis are necessary to determine whether pollutants are present and if so, to proceed with source track down and identification, and

**WHEREAS**, at present, there are  $\pm 5,200$  outfalls among the 44 MS4's of the Western New York Stormwater Coalition. Currently the Town has  $\pm 132$  outfalls, 26 out of 132 outfalls must be inspected each year and track down initiated as needed, and

**WHEREAS**, the proposed project will establish an ongoing program to utilize local undergraduate students from Buffalo State College to conduct the outfall inspections, necessary sampling and analysis and track down procedures. Erie County Department of Environment and Planning will serve as project manager and have primary responsibility for training and supervising students, and

**WHEREAS**, the Town will be required to maintain all records for the Town's outfalls. Also, the Town must provide support to Erie County and the students from Buffalo State College in the field with track down investigation and system maps, and

**WHEREAS**, Erie County Department of Environment and Planning will oversee the administration of the grant for the Western New York Coalition members that participate. A resolution has been prepared by Engineering authorizing the Erie County Department of Environment and Planning to submit an application to the to the Local Efficiency Grant Program 2008-2009

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby adopt the resolution and authorize the Town Supervisor to sign an agreement to participate in the Local Government Efficiency Grant Program for 2008-2009 with the Erie County Department of Environment and Planning and the Western New York Stormwater Coalition, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #5 Approve Change Order #1 to Contract with Javen Const. for Library Upgrade**

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

**WHEREAS**, the Engineering Department is requesting your approval of a Change Order to the contract with Javen Construction Co., Inc. for the Library Energy Upgrades Project in the amount of \$17,594.00, including the time and material portion not to exceed \$14,500.00. This would increase the total contract amount to \$319,894.00, representing an increase of 5.82%.

**WHEREAS**, the first component of this Change Order is requested to upgrade the proposed carpet tiles in the Library to a higher grade of carpet. The better grade carpet will wear more evenly and show less dirt than the type originally specified for this project, which was specific due to cost concerns during the designs phase. The carpet portion of the project is being paid for by the Orchard Park Library Board and will not affect the Town's financial commitment for this project. The Orchard Park Library has approved and forwarded payment for this additional work. (\$2588.00)

**WHEREAS**, the second component of this Change Order is requested to upgrade the existing aluminum trim panels below the windows and around the metal doors to the Azek Trim product. The Azek product will match what is going to be installed around the windows with the same material properties. The steel doors will also be trimmed with Azek to match the rest of the building. This is a durable, maintenance free product that has a more appealing appearance then the existing damaged aluminum. (\$14,500±)

**WHEREAS**, the third component of this Change Order is the change from Fypon to Azek window trim for Alternate #A3 exterior finish carpentry window trim. This is an equal swap between the two products: no additional charges will be incurred.

**WHEREAS**, the fourth component of this Change Order is the plaster repair and preparation for painting. The window asbestos abatement areas had plastic installed to contain the asbestos. This barrier was left in place until the windows were installed to help control the building from heat loss. The duration of the time that the tape stayed on the wall caused adhesive residue to stick and plaster to be removed during plastic removal. These two items have to be corrected before painting can take place and were not in the original scope of work. (\$506.00)

**RESOLVED**, that the Town Board does hereby authorize Change Order #1 to the contract with Javen Construction Co., Inc. for the Library Energy Upgrades Project in the increased amount of not to exceed \$17,594.00, as recommended by the Town Engineer. (The additional Azek trim work on the panels below the windows will be completed on a time and paid for by the Orchard Park Library).

**The resolution was unanimously adopted.**

**New Business #6 Approve PIP #2009-01 for Sterling Park Hydrant Installation for WNY Urology**

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

**WHEREAS**, the Town has received from Lamparelli Construction Co., 590 Kennedy Road, Cheektowaga New York, 14227, an application for a Public Improvement Permit to install a hydrant to provide adequate fire service for the Western New York Urology addition at 500 Sterling Drive, and

**WHEREAS**, the Town Engineer has reviewed the plans and specifications for the proposed project and have found them to be in compliance with the current Town specifications and we are in receipt of all the necessary paperwork, and

**WHEREAS**, this hydrant installation was completed by the building site contractor without inspection of the Orchard Park Engineering Department or Erie County Water Authority. The installation is located on a public main therefore, the hydrant installation will be dug up and the tap and assembly will be inspected by ECWA and OP inspectors. The hydrant is currently turned off and bagged by ECWA and the Building Department is aware of the implications with the certificate of occupancy for the building addition.

**NOW THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Public Improvement Permit #2009-01 for the Sterling Park Hydrant installation for Western New York Urology at 500 Sterling Drive, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Refer to the Public Safety Committee**

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

**RESOLVED**, that the Town Board does hereby refer to the Public Safety Committee the request of residents on Bieler Road to review parked vehicles that pose a danger and risk to those vehicles trying to get around them on their road.

**The resolution was unanimously adopted.**

**Business from the Floor**

**Valerie Will** – Ms. Will asked the Town Board to join other towns across the county in using non-lethal flow devices in regard to beaver population control. (statement submitted)

**Elected Officials & Department Heads**

10) 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 the following Budget Transfer(s) for the *Highway Department*:

**\$10,062.95**

From: DA.5112.0200

Permanent Improvements

To: DA.5130.0149

Machinery-Other Exp

\$10,155.10	<u>Amendment</u>	From: DA.0000.0001	Services for other Government.-Paving
		To: DA.5112.0200	Permanent Improvements
\$ 300.00		From: DA.5140.0402	Brush Supplies
		To: DA.5140.0420	Animal Remains

**RESOLVED**, that the Town Board does hereby authorize the following Budget Transfer(s) for the *Town Clerk*:

\$ 673.04		From: A.1410.0450	Publishing
\$ 3.82		To: A.1410.0462	SARA Records
\$ 669.22		To: A.1410.0460	Codification of Ordinances
\$ 250.00		From: A.1410.0200	Office Equipment
		To: A.1410.0413	Travel & Conference
\$26,642.50	<u>Amendment</u>	From: A.0000.0599	Appropriate Reserves- Records Mgmt.
		To: A.1410.0462	Town Clerk-Records Mgmt.
\$ 3,106.00	<u>Amendment</u>	From: A.0000.3060	State Aid-Records Management
		To: A.1410.0462	Town Clerk-Records Management

**RESOLVED**, that the Town Board does hereby authorize the following Budget Transfer(s) for the *Recreation*:

\$ 810.00		From: A.7020.0450	Publishing
		To: A.7020.0433	Special Events
\$ 3,626.00		From: A.7020.0450	Publishing
		To: A.7020.0480	Supplies

**The resolution was unanimously adopted.**

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

**WHEREAS**, a public hearing was held on Wednesday, December 17, 2008, to hear all interested parties for the Proposed Local Law: "*North Buffalo Street Architectural Overlay District*"

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby adopt Local Law #1 for the year 2009 for the "*North Buffalo Street Architectural Overlay District*" which reads as follows:

**North Buffalo Road Architectural Overlay District**

**Purpose and Goal:** To maintain and enhance the unique character of North Buffalo Road from Southwestern Boulevard to the north Village line in keeping with its small-town character. The character of Orchard Park is, in part, dependent upon its physical attributes, the architecture of its buildings, how well those buildings are located and oriented on their sites, how they relate to one another and the

surrounding elements. A building's size, shape, height, mass, color, materials, texture, roofline, roof treatment, and window and entry placement combine to give the users and passersby a specific image and identification for the area in particular and the community as a whole. The following guidelines are intended to require excellence in the design of buildings proposed for the North Buffalo Road Architectural Overlay District and to foster development that is consistent with the small town character and the ambiance of suburban and yesteryear Orchard Park. These guidelines will address required approaches to the design of structures, focusing on building scale, shapes, massing, heights, colors, materials, roof treatments, facades, and building site orientation to achieve diversity and design excellence in residential and non-residential development in the North Buffalo Road Architectural Overlay District. Further, the streetscape and landscaping features of the area should enhance and compliment the District to create the most attractive and compatible northern entryway possible into the historic community center, the Village of Orchard Park.

1. Definition: North Buffalo Road Architectural Overlay District - All premises which have frontage on North Buffalo Road between the center line of Southwestern Boulevard and the Orchard Park Village line, extending 350 feet on the east and west sides of the street.
2. Architecture: The construction of new buildings, additions, alterations or renovations within the North Buffalo Road Architectural Overlay District should add life and vibrancy to the existing neighborhood. New design must be carried out in such a way that it compliments rather than detracts from the streetscape.
3. Location: New construction, additions, alterations or renovations should be oriented in conformity with the other buildings on North Buffalo Road. The prevailing setback of the street should be maintained by any new construction.
4. Scale: New construction, additions, alterations or renovations should be compatible in scale with the other buildings in the area. New construction, additions, alterations and renovations of a massive scale shall not occur within the North Buffalo Road Architectural Overlay District, nor shall very small, out-of-proportion main buildings on a property be added to the stock of the road. Buildings should not be branded using an architectural style of a company. Franchise architecture (building design that is trademarked or identified with a particular chain or corporation and is generic in nature) is not allowed.
5. Rhythm: New construction, additions, alterations or renovations should mirror the window and door rhythm and the height of various elements (windows, rooflines, etc..) of the adjacent and other buildings on the street.
6. Massing: New buildings should incorporate the same general patterns of massing, including window and door forms, roof profiles, and building shapes as are evident in the existing architecture of the district.
7. Materials: New buildings should incorporate the same exterior materials as exist on current buildings within the District. Large expanses of glass and synthetic materials should be avoided. The use of wood, composite wood, or cementitious is recommended.
8. Roof Architecture and Treatments: The use of architectural features, such as three dimensional cornice treatments, enclosed parapet wall forms and details, overhanging eaves, etc., are encouraged to enhance the architectural character of the roof. Roof-top plumbing, vents, ducts, and air conditioning and heating equipment, communication antennae, and other mechanical or



electric equipment must be located away from public view and screened in such a manner so as not to be visible from any angle or any height outside of the building.

9. Other Exposed Mechanicals: Exposed mechanical equipment, such as through-wall and window air conditioners, vent pipes, electrical conduit and boxes, and is not permitted on the street face or on any side elevation that is visible from the street.
10. Additions: Additions to existing buildings should generally be made on the side or rear elevation with minimal impact on existing features, and should be made in such a manner that, if removed in the future, existing material would not be irreparably damaged. Additions should use materials compatible with the existing building and should incorporate massing, scale, window and door proportions, etc.
11. General Guidelines for New Construction in the North Buffalo Road Architectural Overlay District:
  - A. New additions to existing properties shall include new construction physically attached to an existing structure, such as an appendage to a building, or separate new pieces of construction having nearby existing counterparts, such as a new building adjacent to a similar resource.
  - B. Any new addition should be located in a manner that allows existing features to remain the primary visual and physical components of the existing property. Considerations include characteristics such as density, orientation, scale, and form of features both within the existing property and its setting.
  - C. Attached additions, such as a building appendage, should be somewhat smaller in scale, although similar in overall form to the existing feature. Separate new construction, such as a new building along this overlay street, should be of the same general scale and size as the adjacent existing counterparts. Considerations include overall dimensions, as well as size of significant features, such as roof slopes and overall height, and general alignment. A general rule of thumb is that the new construction falls within 10% of the scale of existing equivalents.
  - D. Additions to existing properties should reflect the shape or form of similar adjacent existing counterparts. When shape is determined by strict geometric arrangements, for example, the combination of rectilinear components to form buildings, these same forms should be reflected in proposed addition. If existing forms are more organic or free flowing, as might be the case in the arrangement of structures in the overall layout on a property, such forms should guide the design of the new construction.
  - E. New construction should be comprised of individual features comparable, but not identical to those of similar existing properties. In those areas of the North Buffalo Road Architectural Overlay District which are characterized by dwellings having front porches, paired windows and dormers, etc., new buildings should include these same features.
  - F. Materials used in new construction should be comparable with those of corresponding existing properties and their features. Additions having existing counterparts should reflect the overall pattern, texture, and color of materials found at the existing property: for example, a new outbuilding should complement the existing main building in application of roof, building massing, and foundation materials. New additions, such as retaining walls or walkways, should use materials that complement those of the existing property.

- G. A property's color palate should be not more than three colors: one base color, one trim color, and one accent color. Encourage trim and accent colors that contrast with the base color. Trim and accent colors should be either lighter or darker than base color.
- H. Articulation: If buildings are longer than thirty feet, they should include modulation and/or articulation features at a maximum of thirty (30) feet to reinforce the small pattern of earlier times. At least two of the following methods must be employed at intervals of no greater than thirty (30) feet:
  - i. The use of windows and/or entries
  - ii. The use of awnings
  - iii. The use of change of roofline
  - iv. The use of change in building materials or siding
  - v. The use of other methods that meet the intent of the guidelines to retain the small town feel of the structure

Vertical Articulation should be used to moderate buildings extending to the full thirty-five (35) feet of vertical development permitted by local ordinance, such as cornice treatments, differing levels of fenestration, material changes, pedestrian scale building details, and weather protection elements, such as awnings and door over hangings.

## 12. Signs:

A. Signs should be architecturally compatible with the style, compositions, material, color, and detail of the building and other signs on nearby buildings. They should also provide adequate identification of the business. All signs need to comply with the Town of Orchard Park Zoning Code/General Sign Requirements.

B. Signs constructed of materials such as wood or metal are preferred. Permanently painted window or awning signs are encouraged if compatible with the architectural style of the building. Painted window signs shall not consume more than one-third (1/3) of the glazed area of the window.

C. Neon signs are not permitted on the exterior of the building. They may be used in the interior of a display window. However, they may not cover more than one-third (1/3) of the window surface.

D. Projecting signs cannot block or obliterate intricate facade detailing, windows or cornices of the building upon which they are attached. Franchise signage will be moderated to comply with the design intents of this District.

## 13. Exterior Lighting:

A. Lighting along the North Buffalo Road Architectural Overlay District shall serve to illuminate facades, signage, and landscaping. Illumination shall provide an adequate level of personal safety, while enhancing the aesthetic appeal of building and grounds.

B. The use of shaded gooseneck style, lantern, and other style lighting fixtures relative to the particular architectural character of the building are recommended.

C. The back lighting of semi-transparent awnings, colored lighting, and neon lighting are not permitted.

D. Catalogue cuts or photographs of all proposed lighting fixtures shall be submitted to the Architectural Review Committee for review and acceptance.

14. Awnings:

A. The use of awnings is encouraged within the North Buffalo Road Architectural Overlay District to enhance the traditional and historic character of the community. Awnings are to provide sun protection for display windows and/or residential windows, shelter for pedestrians, and a sign panel for businesses.

B. Retractable or operable awnings are recommended. Large expanses of awnings should be broken into segments that reflect individual store fronts. Awnings are not permitted to extend across multiple store fronts and/or multiple buildings. Awnings must be constructed of durable, protective, and water repellant material and project a maximum of thirty-six (36) inches from a building facade. Plastic or fiberglass awnings are not permitted. The back lighting of permitted awnings is not acceptable.

15. Streetscaping: Landscaping treatments should be used to enhance the pedestrian and vehicular experience, compliment architectural features, and/or screen utility areas.

A. A Streetscape Master Plan shall be prepared by a registered landscape architect, which will encompass a selection of trees, shrubs, ground covers, perennials, location of annuals, as well as hardscapes. Hardscapes will include paving materials, benches, landscape aggregates, and lighting. This Master Plan will be reviewed by the Conservation Board and the Planning Board, with final approval granted by the Town Board.

B. Any new construction shall conform to the Streetscape Master Plan. The Conservation Board shall be familiar with all details of the Plan as well as all landscape architects doing work in the Architectural Overlay District.

C. Some plantings should be located on private property, with the permission of the owners, to give continuity to the whole streetscape.

D. Funding of the streetscape shall be derived from recreation land fees, as well as forfeited landscape fees from other projects.

**Section 1. Architectural Review Board.**

- (a) There is hereby created a board to be known as the Architectural Review Board. The board shall consist of five (5) members to be appointed, to the extent available in the community, by the Town Board as follows:

- (i) At least two shall be architects.
  - (ii) At least one shall be a civil engineer.
  - (iii) At least one shall be a builder (residential or commercial).
  - (iv) At least one shall be a landscape architect.
- (b) One (1) member of the board shall be appointed for the term of one (1) year, one (1) member of the board shall be appointed for the term of two (2) years, one member of the board shall be appointed for the term of three (3) years, one member of the board shall be appointed for the term of four (4) years, and one member of the board shall be appointed for the term of five (5) years. All subsequent appointments shall be for a full five (5) year term.
- (c) Vacancies shall be filled for the unexpired terms only and members may be removed for cause by the Town Board upon written charges and after a public hearing.
- (d) There shall be a chairman and vice chairman of the board who will be elected by and from the members of the board.
- (e) The powers of the board shall include:
  - (i) Utilization of staff and professional consultants as necessary to carry out the duties of the board at the cost of the petitioner.
  - (ii) Promulgation of rules and regulations as necessary for the conduct of its business.
  - (iii) Approval or disapproval of applications for certificates of appropriateness pursuant to this ordinance.
- (f) The board shall meet at least monthly, but meetings may be held at any time on the written request of any two (2) board members or on the call of the chairman or the Town Board and the building inspector's office.
- (g) A quorum for the transaction of business shall consist of three (3) of the board's members, but not fewer than a majority of the full authorized membership may grant or deny a certificate of appropriateness.

## **Section 2. Certificate of Appropriateness.**

- (a) Generally. No person or representative of any petitioner shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a structure within an architectural district, nor shall any person or representative of any petitioner make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, stops, paving, or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the architectural district, without first obtaining a certificate of appropriateness from the architectural review board.
- (b) Criteria for approval. The architectural review board shall apply the criteria set forth in this ordinance in approving a certificate of appropriateness for any structure in the architectural district.
- (c) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the architectural review board. The application shall contain:

- (i) Name, address, and telephone number of applicant.
  - (ii) Location and photographs of property.
  - (iii) Elevation drawings, including relationship to adjacent properties, if available.
  - (iv) Perspective drawings, including relationship to adjacent properties, if available.
  - (v) Samples of color or materials to be used.
  - (vi) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property.
  - (vii) Any other information which the board may deem necessary in order to visualize the proposed work.
- (d) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the architectural review board. Nor shall a certificate of occupancy be issued until a certificate of appropriateness has been issued. The certificate of appropriateness required by this ordinance shall be in addition to and not in lieu of any building permit that may be required by any other ordinance.
- (e) The board shall approve, deny, or approve the permit with modifications within forty-five (45) days from receipt of the completed application. The board may hold a public hearing on the application at which any opportunity will be provided for proponents and opponents of the application to present their views.
- (f) All decisions of the board shall be in writing. A copy shall be sent to the applicant by registered mail, a copy to the building inspector, and a copy filed with the town clerk's office for public inspection. The board's decision shall state the reasons for denying or modifying the application.

### **Section 3. Administration and Enforcement.**

- (a) Enforcement. All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the building code enforcement officer to inspect periodically any such work to assure compliance. In the event work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the architectural review board, the building code enforcement officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on a project as long as a stop work order is in effect.
- (b) Maintenance and repair requested.
- (i) No owner or person within an architectural district shall permit the property to fall into a serious state of disrepair so as to result in deterioration of any exterior architectural feature which would, in the judgment of the architectural review board, produce a detrimental effect upon the character of the architectural district as a whole or the life and character of the property itself.
  - (ii) Examples of deterioration include:
    - (a) Deterioration of exterior walls or other vertical supports.
    - (b) Deterioration of roofs or other horizontal members.

- (c) Deterioration of exterior chimneys.
- (d) Deterioration or crumbling of exterior stucco or mortar.
- (e) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(c) Violations.

(i) Failure to comply with any of the provisions of this ordinance shall be deemed a violation. The violator shall be liable to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation and for each day the violation continues.

**Section 1. Architectural Review Board.**

- (a) There is hereby created a board to be known as the Architectural Review Board. The board shall consist of five (5) members to be appointed, to the extent available in the community, by the Town Board as follows:
  - (i) At least two shall be architects.
  - (ii) At least one shall be a civil engineer.
  - (iii) At least one shall be a builder (residential or commercial).
  - (iv) At least one shall be a landscape architect.
- (b) One (1) member of the board shall be appointed for the term of one (1) year, one (1) member of the board shall be appointed for the term of two (2) years, one member of the board shall be appointed for the term of three (3) years, one member of the board shall be appointed for the term of four (4) years, and one member of the board shall be appointed for the term of five (5) years. All subsequent appointments shall be for a full five (5) year term.
- (c) Vacancies shall be filled for the unexpired terms only and members may be removed for cause by the Town Board upon written charges and after a public hearing.
- (d) There shall be a chairman and vice chairman of the board who will be elected by and from the members of the board.
- (e) The powers of the board shall include:
  - (i) Utilization of staff and professional consultants as necessary to carry out the duties of the board at the cost of the petitioner.
  - (ii) Promulgation of rules and regulations as necessary for the conduct of its business.
  - (iii) Approval or disapproval of applications for certificates of appropriateness pursuant to this ordinance.
- (f) The board shall meet at least monthly, but meetings may be held at any time on the written request of any two (2) board members or on the call of the chairman or the Town Board and the building inspector's office.

- (g) A quorum for the transaction of business shall consist of three (3) of the board's members, but not fewer than a majority of the full authorized membership may grant or deny a certificate of appropriateness.

**Section 2. Certificate of Appropriateness.**

- (a) Generally. No person or representative of any petitioner shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a structure within an architectural district, nor shall any person or representative of any petitioner make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, stops, paving, or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the architectural district, without first obtaining a certificate of appropriateness from the architectural review board.
- (b) Criteria for approval. The architectural review board shall apply the criteria set forth in this ordinance in approving a certificate of appropriateness for any structure in the architectural district.
- (c) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the architectural review board. The application shall contain:
  - (i) Name, address, and telephone number of applicant.
  - (ii) Location and photographs of property.
  - (iii) Elevation drawings, including relationship to adjacent properties, if available.
  - (iv) Perspective drawings, including relationship to adjacent properties, if available.
  - (v) Samples of color or materials to be used.
  - (vi) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property.
  - (vii) Any other information which the board may deem necessary in order to visualize the proposed work.
- (d) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the architectural review board. Nor shall a certificate of occupancy be issued until a certificate of appropriateness has been issued. The certificate of appropriateness required by this ordinance shall be in addition to and not in lieu of any building permit that may be required by any other ordinance.
- (e) The board shall approve, deny, or approve the permit with modifications within forty-five (45) days from receipt of the completed application. The board may hold a public hearing on the application at which any opportunity will be provided for proponents and opponents of the application to present their views.

- (f) All decisions of the board shall be in writing. A copy shall be sent to the applicant by registered mail, a copy to the building inspector, and a copy filed with the town clerk's office for public inspection. The board's decision shall state the reasons for denying or modifying the application.

### **Section 3. Administration and Enforcement.**

- (a) Enforcement. All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the building code enforcement officer to inspect periodically any such work to assure compliance. In the event work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the architectural review board, the building code enforcement officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on a project as long as a stop work order is in effect.
- (b) Maintenance and repair requested.
  - (i) No owner or person within an architectural district shall permit the property to fall into a serious state of disrepair so as to result in deterioration of any exterior architectural feature which would, in the judgment of the architectural review board, produce a detrimental effect upon the character of the architectural district as a whole or the life and character of the property itself.
  - (ii) Examples of deterioration include:
    - (a) Deterioration of exterior walls or other vertical supports.
    - (b) Deterioration of roofs or other horizontal members.
    - (c) Deterioration of exterior chimneys.
    - (d) Deterioration or crumbling of exterior stucco or mortar.
    - (e) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
    - (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.
- (c) Violations.
  - (i) Failure to comply with any of the provisions of this ordinance shall be deemed a violation. The violator shall be liable to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation and for each day the violation continues.

**The resolution was unanimously adopted.**

Councilwoman Ackerman stated that there was a public hearing and there have been two (2) six month moratoriums and a time for public comment. Councilwoman Ackerman worked with Building Inspector Geist to make some changes for clarification. This Local Law does include the appointment of an Architectural Review Board. Councilman Dietrick stated that the Village should be contacted for possible input concerning the newly formed Board.

Councilman Graber thanked all the citizens that volunteer their time for the various boards in the Town.



Councilman Kaczor announced that the Town has been awarded a grant from the NYS Department Recreation and Historic Preservation for \$9,500.00 for the completion of a survey identifying the historic homes and businesses in Orchard Park. This along with the \$10,000.00 from Senator Dale Volker and \$2,500.00 raised by the Historic Preservation Board, will enable the Town to obtain a company to conduct the survey.

**12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:**

**WHEREAS**, the Town Board approved at a Special Meeting on July 30, 2008, the appointment of Daniel Lagoda and Rhonda DiPronio as Police Officers with the Orchard Park Police Department with a probationary period of one year, and

**WHEREAS**, in 2008 the Civil Service law changed to extend the probationary time for newly appointed Police Officers from one year to eighteen months,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize to rescind resolution #2 from the July 30, 2008 Special Meeting Minutes, as requested by the Chief of Police, and be it further

**RESOLVED**, that the Town Board does hereby appoint Daniel Lagoda and Rhonda DiPronio as Police Officers with the Orchard Park Police Department with the effective date of August 4, 2008, at a salary stipulated in the Collective Bargaining Agreement, with an eighteen month probationary period to begin on August 4, 2008.

**The resolution was unanimously adopted.**

Highway Superintendent Fred Piasecki reported that on December 31, 2008, the Town received the first of two payments from Erie County of \$42,933.73 for snow plowing of county roads by Highway Department in Orchard Park.. The Highway Department is picking up Christmas trees that will be recycled at the Compost Site.

**13) 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 the approval of all entries on Warrant #1 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$170,890.87
<b>Part Town Fund</b>	\$2,660.40
<b>Risk Retention</b>	\$6,646.63
<b>Cemetery Fund</b>	\$0.00
<b>Highway Fund</b>	\$92,785.17
<b>Special Districts</b>	\$71,546.11
<b>Trust &amp; Agency</b>	\$6,632.00
<b>Capital Fund</b>	\$202,331.97

**The resolution was unanimously adopted.**

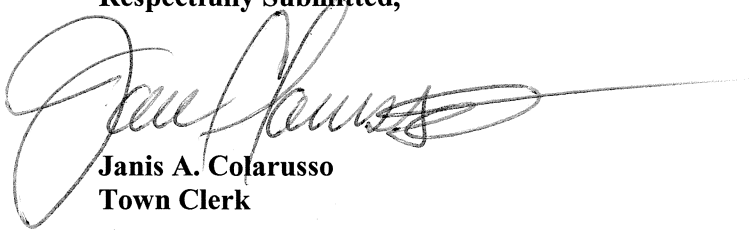
14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

**RESOLVED**, that the Town Board does hereby receive and file the following Reports: Building Inspectors Monthly Report & Building Permits for the month of December, 2008.

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Dietrick, to wit, the meeting was adjourned at 6:55 PM (local time).

**Respectfully Submitted,**

A handwritten signature in dark ink, appearing to read "Janis A. Colarusso", with a long horizontal flourish extending to the right.

**Janis A. Colarusso**  
**Town Clerk**