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 17<sup>th</sup> day of January 2007 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

#### **PRESENT AT ROLL CALL:**

Mary Travers Murphy Nancy Ackerman David Kaczor Mark Dietrick Deborah Yeomans

Janis Colarusso Leonard Berkowitz Andrew Geist Samuel McCune Frederick Piasecki, Jr. Wayne Bieler Supervisor Councilwoman Councilman Councilman Councilwoman

Town Clerk Town Attorney Building Inspector Chief of Police Highway Superintendent 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 KACZOR, TO WIT:

**RESOLVED**, that the minutes of the Meeting of the Town Board held on December 20, 2006, the Organizational Meeting for the Year 2007, the Regular Town Board Meeting for January 3, 2007, and the Executive Session Minutes for January 3, 2007 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 Provide Funding for a New Capitol Project; New Telephone System

**2)** THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, the Town Board wishes to provide for communication systems between the Town and its residents, and

WHEREAS, the Town's current telephone system is not adequate and in some circumstances overburdened, and

WHEREAS, a new telephone and voice system is important in the Town's role of providing for the health and safety of the Town resident's

NOW, THEREFORE, be it

**RESOLVED**, that the Town Board does hereby authorizes the transfer of \$80,000 from the General Capital Reserve (project H27) to the Acquisition/Installation of Telephone System" (project H79).

## The resolution was unanimously adopted.

## Old Business #2 (Tabled) McDonald USA, 3232 Orchard Park Road, Requesting a Building Permit

**3)** 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 **table** the request from McDonald USA, LLC, 3232 Orchard Park Road, based on the following requirements the Town needs to have fulfilled:

- A rendering that shows the elimination of the outside seating.
- A new landscape plan to show what will be put in place of the outside seating area.
- An updated landscape estimation in order to be able to establish the required landscape bond.
- Resolve the location, design, size and number of signs to be put in.
- Resolve the issue of the size of the storage building.

## The resolution was unanimously adopted.

## Old Business #3 Polymer Conversions, 5758 Big Tree Road, Request for a Change-in-Use

**4)** 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 approve of the request for a Change-in-Use for Polymer Conversions, 5758 Big Tree Road, Zoned I-1, to convert the existing residence to office space. The Planning Board, 1/10/07, recommends the Change-in-Use with conditions and stipulations:

- This is a Type II SEQR Action and therefore no determination of significance is required.
- The fixtures on the site will be three, 250-watt shoe box style fixtures on a 15-foot pole.

## The resolution was unanimously adopted.

## Old Business #4 Amend Town Board Minutes for an Address Correction for 5732 Big Tree Road

# **5)** 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 amend Town Board Minutes, June 21, 2006, for Polymer Conversions, 5732 Big Tree Road to reflect the correct address.

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

**RESOLVED**, that the Town Board does hereby schedule a Public Hearing for Wednesday, February 7, 2007 @ 7:00 PM, at the Orchard Park Municipal Center, for Ms. Susan J. Greenwood, 5595 Armor Duells Road, who is requesting a 75-Year Conservation Easement for nine (9) acres of land, per the Conservation Board at their January 2, 2007 Meeting, and be it further

**RESOLVED**, that the Town Clerk shall publish due notice in the official newspaper of the Town.

### The resolution was unanimously adopted.

### New Business #6 Authorize the Release of \$7,000 of Escrow under PIP 2005-01

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

WHEREAS, on December 21, 2005, the Town Board accepted dedication of Chestnut Ridge Village Subdivision Part 6 and Part 7, Phase 1, with the stipulation that funds be held in escrow until the installation of two (2) Survey Control Monuments (\$3,000), and installation of all Town Recreation Survey Property Corner Monuments (\$4,000) were completed, and

WHEREAS, the contractor has since completed the Survey Control Monuments and Property Corner monuments for PIP 2005-01. The work was reviewed and 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 to E&M Engineers and Surveyors, PC, P.O. Box 159, Springville, New York 14141-0159, the \$7,000.00 held in escrow for the installation of two (2) Survey Control Monuments and for the installation of all Town Recreation Property Corner Monuments in the Chestnut Ridge Village Subdivision Part 6 and Part 7, Phase 1, under PIP #2005-01, as recommended by the Town Engineer.

#### The resolution was unanimously adopted.

## New Business #2 Schedule a Public Hearing for OP Drainage District #5-1/Pine View Gorge Sub.

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

WHEREAS, the Town Board of the Town of Orchard Park (herein called "Town Board" and "Town" respectively), in the County of Erie, New York, has received a petition pursuant to Section 191 of Town Law, for the establishment and creation of <u>Town Drainage District OPDD 5-1</u>, which petition was signed by the sole owners of taxable real property situate on the proposed new water district owning all of the taxable real property of the proposed new drainage district, as shown upon the latest completed assessment roll of said Town and was accompanied by a map plan and report prepared by Greenman-Pedersen, Inc., competent engineers duly licensed by the State of New York, and was the drainage district to be constructed and paid for by or on behalf of petitioners, to provide stormwater drainage to

prospective new homeowners within the proposed district consisting of the construction and installation of drainage facilities in accordance with the specifications of the New York State Department of Environmental Conservation and the Town of Orchard Park Engineering Department all in the proposed new <u>Town Drainage District OPDD 5-1</u>, which map and plan have been duly filed in the Office of the Town Clerk of the Town for public inspection; and

**WHEREAS**, said petition described the boundaries of the proposed new <u>Town Drainage District OPDD</u> <u>5-1</u> in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioners and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, the proposed new <u>Town Drainage District OPDD 5-1</u> is bounded and described in the map, plan and report attached hereto and made a part hereof; and

**WHEREAS**, the Town Board has given due consideration to the impact that the establishment of the new <u>Town Drainage District OPDD 5-1</u> may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such new <u>Town Drainage District OPDD 5-1</u> and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, a duly executed Short Environmental Assessment Form has been filed in the office of the Town Clerk; and

**WHEREAS**, the Town Board has determined to proceed with the establishment of the proposed new Town Drainage District OPDD 5-1; and

WHEREAS, said new <u>Town Drainage District OPDD 5-1</u> hereinabove described is to be constructed and paid for by or on behalf of the petitioners, Pine View Gorge, Inc. and the expense of the establishment and maintenance of the Drainage District shall be paid by the assessment, levy and collection of property taxes upon the several lots and parcels of land within the proposed <u>Town Drainage District OPDD 5-1</u> in the same manner and at the same time as other Town charges;

**NOW, THEREFORE**, be it **ORDERED**, that meeting of the Town Board of the Town be held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 7<sup>th</sup> day of February, 2007 at 8:00 p.m. (prevailing time); to consider the establishment and creation of the new <u>Town</u> <u>Drainage OPDD 5-1</u>; as herein referred to, and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and be it

**FURTHER ORDERED**, that the Town Clerk publish as least once in the South Towns Citizen, a newspaper published in the Town of Orchard Park, New York, which newspaper is hereby designated as the official newspaper of the Town for this publication, and post on the sign board of the Town maintained pursuant to Subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by the Town Clerk, the first publication and said posting to be not less than ten (10) nor more than twenty (20) days before the day designated herein for said public hearing as aforesaid.

## New Business #3 Appointment for a "Land Surveyor" for the Engineering Department

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

WHEREAS, on December 5, 2006, the Erie County Department of Personnel certified the appropriate civil service title for the position of "Land Surveyor" for the Town of Orchard Park based on job classifications and duties, and

WHEREAS, since March 31, 2006, there has been a vacancy in the Engineering Department with the retirement of Greg Graham, LS. and the Engineering Department has proposed creating a Land Surveyor position with budget submittals. The Land Surveyor would assist with the increased technical workload associated with maintaining the Town's increasing infrastructure, and

WHEREAS, On January 17, 2007, the Town Board created the Land Surveyor position for the Town of Orchard Park with the salary range of \$49,900 to \$59,000, and

WHEREAS, minimum qualifications include a license to practice land surveying in New York State, four years of experience working as a licensed Land Surveyor. The work involves organizing, directing, supervising and performing surveying activities and related right-of-way work. This is a professional Land Surveyor position responsible for directing and coordinating survey work and for providing technical assistance on pertinent matters. Work is performed under the direct supervision of higher level professional and administrative staff with leeway for the exercise of independent judgment in land surveying matters. Supervision is exercised over lower level technical and paraprofessional employees, and

WHEREAS, the Town Engineer is pleased to inform the Town Board that after interviewing several candidates he has concluded that the best qualified individual for the position is Kenneth W. Partridge, PLS. Mr. Partridge has worked assisting in the completion of various projects for several consulting firms since 1980 and became a Professional Land Surveyor in 1995. Mr. Partridge graduated from Alfred State College with an Associate in Applied Science degree in Survey Technology and an Associate in Applied Science Degree in Civil Technology. Mr. Partridge has completed his duties from his former employee with enthusiasm and has performed assignments with diligence and effectiveness receiving excellent recommendations from previous employers.

#### NOW, THEREFORE, be it

**RESOLVED**, that the Town Board does hereby appoint Mr. Kenneth W. Partridge PLS, 7611 North State Road, Eden New York 14057, to the position of Land Surveyor assigned to the Engineering Department at the Range 0014, Step C of the Union Wage Schedule, effective January 29, 2007, with a six-month probation period and pending meeting all Civil Service rules and regulations, as recommended by the Town Engineer.

## New Business #4 Supervisor to Sign the 2007 Senior Services Van Contract with Erie County

**10)** THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the one (1) year contract between the Town of Orchard Park and Erie County Department of Senior Services for the 2007 Van Contract.

### The resolution was unanimously adopted.

## New Business #5 Sign "Broker of Record" for the Excess Workers Compensation Policy

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

WHEREAS, Brown & Stomecki Agency Inc., has taken over the servicing of the "Excess Workers Compensation Policy" mid term, and has received approval from the underwriter at Russell & Bond Company Inc.

## NOW, THEREFORE, be it

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the "Broker of Record" between the Town of Orchard Park and Brown & Stromecki Agency, Inc., 4313 S. Buffalo Street, Orchard Park NY 14127, for the Excess Workers Compensation Policy mid term.

## The resolution was unanimously adopted.

### New Business #6 Appointment to the Orchard Park Police Department for a Part-time Position

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

**RESOLVED**, that the Town Board does hereby appoint Raven Freeman, 7189 Reserve Road, Orchard Park NY 14127, to a part-time position to (temporarily) fill the vacancy of Police Clerk, with a start date of January 22, 2007, salary step PT4, step C, as recommended by the Chief of Police.

Councilwoman Ackerman stated that the Town Board would like to thank Melody Wicher for her services. She was an asset to the Police Department.

#### The resolution was unanimously adopted.

## New Business #7 Adopt the Updated Policy for Reimbursement of Meals, Snacks & Food Purchases

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

WHEREAS, the "Reimbursement for Meals, Snacks and Food Purchases Policy" is meant to provide guidance to employees on when meals, snacks and other food purchases may be reimbursed by the Town, and

WHEREAS, the Town does wish to provide for the cost of meals when necessary in the performance of official Town duties. These circumstances would generally include traveling out-of-town ("out-of-town" as generally defined as being out of Western New York) in the performance of duties or at approved training, and

**WHEREAS**, the amount of authorized reimbursement is defined by the Town travel policies. All reimbursement requests will include receipts and a description of the travel or training attended.

#### **Examples of when reimbursement may be claimed:**

- Traveling out-of-town on official town business.
- Traveling out-of-town for an approved course of training.
- Local training courses where meals are served as part of such training course (this does not include local association lunches for discussions among colleagues nor does it include holiday celebration meetings unless official business is conducted.) Submitted vouchers must include a meeting announcement, or the official agenda, or minutes of the meeting.

#### Examples of when reimbursement may not be claimed:

- Meals between Town employees (even if business or job performance is discussed).
- Meals between colleagues from other Towns or vendors (even if Town business is discussed).
- Snacks or other food served at meetings.
- Food provided at Town or departmental celebrations (including holiday parties, birthdays, retirement or going away events).

#### NOW, THEREFORE, be it

**RESOLVED**, that the Town Board does hereby adopt the updated Policy for the Town of Orchard Park for the reimbursement for meals, snacks and food purchases.

#### The resolution was unanimously adopted.

#### New Business #8 Appointment to the Town Assessor's Office for a Part-time Position

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

**RESOLVED**, that the Town Board does hereby appoint Judith Kozoduj, 20 West Royal Hill Drive, Orchard Park NY, to a part-time clerk position in the Town Assessor's office, at the pay rate of PT3-A, \$10.00 per hour, effective January 16, 2007.

#### The resolution was unanimously adopted.

#### New Business #9 Appointment to the Town Assessor's Office for a Part-time Position

# **15)** THE FOLLOWING RESOLUTION WAS OFFERED BY COUNICLWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

**RESOLVED**, that the Town Board does hereby appoint Joy Tripp, 23 Melberry Trail, Orchard Park NY, to a part-time clerk at \$18.00 per hour, for 16 hours per week, in the Town Assessor's office, effective January 16, 2007 through to May 31, 2007.

# ELECTED OFFICIALS AND DEPARTMENT HEADS

## **Budget Transfers**

# **16)** 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 approve the following **<u>2006 Budget Transfers</u>**:

Senior Center	\$ 300.00	From: To:	A.7610.419 A.7610.445	Other Expenses Maintenance
<b>Building Inspector</b>	\$ 350.00	From: To:	B.3620.0419 B.3620.0475	Training Gasoline
	\$ 245.00	From: To:	B.3620.0200 B.3620.0444	Computer Hardware Computer Lease
Maintenance Dept.	\$ 3,540.00	From: To:	A.1620.0445 A.1620.0446	Remodeling & Renovations Contracted Repair & Maintenance
Town Justice	\$ 2,663.90	From: To:	A.1110.0137 A.1110.0139	Clerical Personnel P/T Clerical
Recreation Dept.	\$ 361.75	From: To:	A.7020.449 A.7020.137	Arts & Culture P/T Clerical
	\$ 4,400.00 \$ 327.80	From: From: To:	A.7020.478 A.7020.488 A.7020.149	Building Rentals Youth Service Organizations Rec. Pers.
	\$ 499.42	From: To:	A.7020.422 A.7020.421	Gas Electric
	\$ 1,244.56	From: To:	A.7020.449 A.7020.480	Arts & Culture Supplies

## And be it further

**RESOLVED,** that the Town Board does hereby authorize the following transfer of appropriations within the Town's **2007 Budget** to cover the following costs:

Increase appropriations account:	
A.2989.419 Dare Expenses \$ 2,000.00	)
Decrease appropriation account:	
A.599 Appropriate Reserves –D.A.R.E. Reserve \$2,000.00	)
Police Department	
Increase appropriations account:	
A.3120.401 Police Supplies \$ 5,500.00	)
Decrease appropriation account:	
A.1670.400 Central Services – Office Supplies \$ 5,500.00	)

\$ 19,318.00
\$ 1,000.00
\$ 19,318.00
\$ 1,000.00

#### The resolution was unanimously adopted.

Councilwoman Ackerman stated that New York State passed a law that requires Conservation Easements to be registered with the New York State Department of Conservation, and a DEC registration number will be issued to each parcel. When the Conservation Easement is registered, the owner of the property will be entitled to an annual rebate of up to 25% of the Town, County and School taxes on the land. The Planning Coordinator, Town Attorney and Councilwoman Ackerman, are going to start the paper work that is necessary to register the approximately 68 Conservation Easements currently established in the Town of Orchard Park. Councilwoman Ackerman said that she and Town Clerk, Janis Colarusso, are revamping the Solid Waste Haulers License to obtain information required by the DEC regarding activity in the Town of Orchard Park. She also stated she is working with the Supervisor's Office and NEI to improve the garbage and recycling pickup in the Town.

Councilman Kaczor stated that calls have been coming in regarding the availability of Cable TV through Verizon's FIOS, as they have seen it advertised on TV. He stated he talked to Verizon about this option and it is not available here and will not be until the spring of 2008, if not longer.

Supervisor Travers Murphy stated after receiving many complaints about Time-Warner Cable, she spoke to one of the representative in New York City, and in order for Verizon to extend the TV part of the package, they need to be sure enough people in this area would pick it up first. She suggested that anyone that is interested getting their cable through Verizon should send a letter to Verizon.

**17)** 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 #2 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$245,645.13
Part Town Fund	\$2,505.82
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$20,486.78
Special Districts	\$137,362.78
Trust & Agency	\$7,145.99
Capital Fund	\$39,236.11

#### **Receive & File Reports**

# **18)** 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 listed on the agenda; Police Chief's Monthly Report for December 2006, the Police Chief's Annual Report for the Year 2006, the Dog Control Officer's Annual Report for the Year 2006, the Building Inspector's (Amended) Monthly Report for December 2006 and the Building Inspector's Annual Report for the Year 2006.

### The resolution was unanimously adopted.

## **BUSINESS FROM THE FLOOR**

**Frank Newton, 6463 Bunting Road:** Mr. Newton said that he thought the new law regarding Conservation Easements, and getting tax breaks, only applied to the ones that are permanent. Councilwoman Ackerman stated that she saw that too, but she and Town Attorney Berkowitz are going to send all the easements in to the DEC and see what happens.

**Ron Stadelmaier, 73 Eaglebrook Drive:** Mr. Stadelmaier asked Councilwoman Ackerman if she had a date for the revised Comprehensive Plan. Councilwoman Ackerman stated she is working on it and hopes to have it ready for the Town Board by the end of March. Mr. Stadelmaier stated that his sanitary sewer line ties into West Seneca and he has to pay assessments on it to West Seneca. He asked when his lines can be tied into Orchard Park. Town Engineer Bieler said the Town has been looking into it, but there are other issues involved, but he thought it was feasible. Mr. Stadelmaier stated that he would like to have signage on Eaglebrook Drive stating "Children At Play". Chief McCune told him he should send a letter to the Public Safety Committee with his request.

There being no further business from the floor, on motion by Councilman Dietrick, seconded by Councilman Kaczor, to wit: the meeting was adjourned at 7:32 PM (local time).

**Respectfully Submitted,** 

auna Janis A. Colarusso

**Town Clerk**