

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 26<sup>th</sup> day of January 2011 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

<b>PRESENT AT ROLL CALL:</b>	Janis Colarusso	Supervisor
	Nancy Ackerman	Councilmember
	David Kaczor	Councilmember
	Edward Graber	Councilmember
	Eugene Majchrzak	Councilmember
	Carol Hutton	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Joseph Buccilli	Police Lieutenant
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
<b>ABSENT:</b>	Andrew Benz	Chief of Police

**Supervisor Colarusso 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 COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER GRABER, TO WIT:

**RESOLVED**, that the Organizational Meeting and the Regular Town Board Meeting held on January 5, 2010 and the Executive/Special Session Meetings held on January 12 & 19, 2011 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.**

**New Business #1 Authorize Advertisement for Bids for New Police Patrol Vehicles**

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

**RESOLVED**, that the Town Board does hereby authorize Police Chief Benz to hold a Bid Opening for up to three (3) New 2011 Marked Police Patrol Vehicles to be held February 16, 2011 at 10:00 AM, in the Supervisor Conference Room, 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 #2 Schedule a Public Hearing for 2/23/11 for Proposed 2011 Local Law Amendments**

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

**RESOLVED**, that the Town Board does hereby authorize to set a Public Hearing for February 23, 2011 at 7:00 PM (local time) regarding a Proposed Local Law for the Year 2011 for the purpose of review and revision of the Orchard Park Town Code of Ordinances as follows:

1. Amendments to Chapter 2: Planning Board
2. Amendments to Chapter 58: Dog Impoundment
3. Amendments to Chapter 74-5B: Historic Preservation
4. Amendments to Chapter 90: Numbering of Buildings
5. Amendments to Chapter 112: Sewers
6. Amendments to Chapter 120: Streets and Sidewalks
7. Amendments to Chapter 120-5A: Snow Plow Ordinance

**Snow Plow Ordinance**

- a. No person shall plow, shovel, sweep or pile snow, ice or other such materials in or beyond the right-of-way of any street or public highway or cause such to be done so as to interfere with the safety and convenience or public travel or such as to constitute an obstruction of the sight of persons traveling by vehicle or by foot on public streets or sidewalks or on private driveways.
  - b. No person shall plow, shovel or pile snow from a private or public driveway in such manner as to deposit the same in the public roadway or on a public sidewalk.
  - c. Enforcement:
    - a. Any violation by a person, firm or corporation of any provision of this chapter shall be deemed an offense punishable by a fine not to exceed \$250 or imprisonment for a period not to exceed 15 days, or both.
    - b. Any person who takes part in or assists in any violation of this chapter shall be subject to the penalties provided herein.
    - c. This Chapter shall be enforced by the members of the Town of Orchard Park; Police Department, Highway Department and Building Inspector's Department.
8. Amendments to Chapter 121: Subdivision Regulations
  9. Amendments to Chapter 131: Vehicle and Traffic Laws
  10. Amendments to Chapter 144: Zoning Ordinance

And be it further

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

**The resolution was unanimously adopted.**

**New Business #3 Authorize Supervisor to Execute Contract with ICMA Consulting Service**

**Item was Tabled.**

**New Business #4 Authorize Supervisor to Execute Maintenance Agreement with Cummins N/East**

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

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to execute the Planned Maintenance Agreement between the Town of Orchard Park and Cummins Northeast, Inc., 700 Aero Drive, Buffalo New York, for the purpose of maintaining the emergency standby generator, at a cost not to exceed \$737.25 for the year 2011.

**The resolution was unanimously adopted.**

**New Business #5 Authorize Supervisor to Execute 2011 Service Agreement with Trane Bldg. Svces.**

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

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to execute the 2011 Service Agreement between the Town of Orchard Park and Trane Building Services, 45 Earhart Drive, Buffalo New York, for the purpose of the Trane Reciprocating Water Chillers, for a cost not to exceed \$4,750.00, effective February 1, 2011 through January 31, 2012.

**The resolution was unanimously adopted.**

**New Business #6 Authorize ACI Certification Review Course for Craig Wilson, Engineering Dept.**

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

**WHEREAS**, in accordance with his duties as a Senior Engineering Assistant, Craig Wilson is required to oversee certain consultants/construction inspectors and perform as a Concrete Field Testing Technician. Mr. Wilson currently holds a certification from the American Concrete Institute (ACI) that expires this year, and

**WHEREAS**, ACI Certification is a valuable industry-recognized credential, which is strongly recommended to be maintained. Craig Wilson can attend a certification training and testing course to be conducted Friday, February 4 and Saturday, February 5, 2011. Mr. Wilson will be responsible for his own transportation to and from the course. The cost is \$290, which includes a review course and examination. His certification is good for 5 years.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize Craig Wilson to attend certification training and testing course to be conducted February 4<sup>th</sup> and 5<sup>th</sup>, 2011 at a cost not to exceed \$290, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #7 Authorize Michael T. Wilson to Position of Part-time Labor**

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

**WHEREAS**, Michael T. Wilson has submitted his retirement date for January 27, 2011. A civil service exam for Assistant Civil Engineer was given on December 11, 2010, to date a list is not available, and

**WHEREAS**, Michael T. Wilson has agreed to work for the Department for the next year part-time at his current rate of \$30.00 per hour. Michael has been with the Department for 36 years and is currently the Department's Assistant Civil Engineer. He has a thorough knowledge of the Town's buildings, highways, sanitary sewer, public water supply and street lighting systems as well as the Department's day to day operations. Michael has accepted the challenge and responsibilities of this position with enthusiasm and has performed his assignments with diligence and effectiveness throughout his career with the Town.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the appointment of Mr. Michael T. Wilson, 7264 Cole Road, Colden, NY 14033, to the position of Part-time Laborer (maximum 39 hours per pay period) in the Engineering Department at his current wage rate of \$30.00 per hour for one year, effective February 1, 2011, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #8 Authorize NYSEG to Connect Street Lights for Eagle Crest Sr. Village/Weiss Ave.**

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

**WHEREAS**, the Town has received a proposal from NYSEG for the connection of four (4) street light fixtures on Weiss Avenue for the Weiss Avenue Extension/Eagle Crest Senior Village, and

**WHEREAS**, the 70-watt metal halide fixtures, pole, brackets and wire which will be owned by NYSEG, will be installed under P.I.P. #2009-04. NYSEG will maintain the bulbs, pole, brackets, wire, metal halide fixture and the electric eye of the luminaires. The supply of electricity is not included in the price as the Town purchases their electricity from another supplier. The proposal is for a total of four (4) metal halide fixtures to be connected at an annual charge of \$47.76 each; totaling \$191.04 annually, one (1) 35-foot wood pole at an annual charge of \$123.12, four (4) 20-foot street light brackets at a cost of \$ 29.04 each; totaling \$116.16 annually for a total annual cost to the Town of \$430.32 and a one-time developer cost of \$728.08 for the installation of 535-feet of overhead wire.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize NYSEG to connect a total of four (4) 70-wattmetal halide light fixtures, one (1) 35-foot wood pole, and four (4) 20-foot street light brackets on Weiss Avenue Extension for the Eagle Crest Senior Village at an annual increased cost to the Town of \$430.32 under Service Class 3 to the Consolidated Light District in accordance with the attached NYSEG proposal dated January 18, 2011, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #9 Authorize Supervisor to Sign Agreement with Wendel Duchscherer/Brush Mt.**

**Item was Tabled.**

**New Business #10 Authorize Appointment of Patrick Keem to the Public Safety Committee**

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

**RESOLVED**, that the Town Board does hereby authorize the appointment of Patrick Keem, 8 Highbrook Ct., Orchard Park NY 14127 to the Public Safety Committee for a one year term ending 12/31/2011.

**The resolution was unanimously adopted.**

**New Business #11 Authorize Appointment of Patrick Andrews to the Library Board**

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

**RESOLVED**, that the Town Board does hereby authorize the appointment of Patrick Andrews, 139 Ashwood Lane, Orchard Park NY 14127 to the Library Board for a five year term beginning 1/11/11 and ending 12/31/15.

**The resolution was unanimously adopted.**

**New Business #12 Authorize Appointments to Youth Board**

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the appointments of Lisa Henrich, 9 Ventura Drive, Orchard Park, Nancy Herdic 5769 Herman Hill Road, Boston, NY and David Lilleck, 6 Edward Drive, Orchard Park, to the Youth Board for a one year term ending 12/31/2011.

**The resolution was unanimously adopted.**

**Refer to Conservation Board and/or Planning Board**

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

**RESOLVED**, that the Town Board does hereby refer to the Conservation Board and/or Planning Board the following request:

- McGard, 3875 California Road, located on the east side, south of Southwestern Blvd., Zoned I-1, for a Building Permit and Site Plan approval to construct an approximately 24,500 sq. ft. addition to the existing building and implement site improvements. (SBL #'s 161.00-5-27.112 & 161.00-5-55).

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Louis Boehm – Mr. Boehm stated that his comments can be critical, but they are not personally directed at the Town Board members. Mr. Boehm voiced the reasons that he felt building the proposed WalMart would negatively impact the Town. (Written submission)

Kathryn Gorkiewicz – Ms. Gorkiewicz stated that one scheduled Town Board meeting per month is not reasonable and gave six examples to support her view. (Written submission)

David Schuster – Mr. Schuster would like to have the meetings with the representatives from WalMart open to the public for discussion.

Sal Cerrone – Mr. Cerrone stated emotions run high regarding the proposed WalMart. He stated that he would like open public discussions with WalMart representatives.

Ed Flynn – Mr. Flynn appreciated Supervisor Colarusso's apology concerning the last meeting. He questioned the decision to have one Town Board meeting a month. (Written submission)

Jane Shumaker – Ms. Shumaker suggested that the Town Board might market the Town as a destination and attract better projects, such as *The Meadows* Shopping and Restaurant Plaza on North Buffalo Road.

Ron Stadelmaier – Mr. Stadelmaier stated that he sent an e-mail to the Supervisor and Town Board and requested it be listed on the Town Board agenda under "Communications". He asked the Town Board to reconsider, rescind and reverse the 1/5/11 resolution to reduce the number of scheduled month Town Board meetings. (Written submission)

**ELECTED OFFICIALS & DEPARTMENT HEADS****Budget Transfers**

13) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER ACKERMAN, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the following Budget Transfers:

**Conservation Board**

\$464.69	From: A.8730.0139
	To: A.8730.0100
\$494.32	From: A.8730.0413
	To: A.8730.0100

**Planning Board**

\$ 73.50	From: B.8020.0200
	To: B.8020.0100
\$260.10	From: B.8020.0200
	To: B.8020.0110

**Zoning Board**

\$ 52.48	From: B.8010.0400
	To: B.8010.0100

\$110.51 From: B.8010.0400  
To: B.8010.0101

**Compost**

\$2686.00 From: 800.8161.0401 Supplies  
To: 800.8161.0416 Fuel  
\$ 600.00 From: 800.8161.0401 Supplies  
To: 800.8161.0419 PT – Personnel  
\$ 700.00 From: 800.8161.0411 Postage  
To: 800.8161.0419 PT – Personnel  
\$ 900.00 From: 800.8161.0413 Travel  
To: 800.8161.0419 PT – Personnel  
\$1500.00 From: 800.8161.0440 Equipment Rental  
To: 800.8161.0419 PT – Personnel  
\$1300.00 From: 800.8161.0441 Computer Software  
To: 800.8161.0419 PT - Personnel

**The resolution was unanimously adopted.**

Supervisor Colarusso said goodbye to Chris Gordon as the editor of the *Orchard Park Bee* and good luck to him in his new position at the *Hamburg Sun*. Naomi Spencer was introduced and she will be the new editor at the *Orchard Park Bee*.

Councilmember Ackerman reported that she, Town Engineer Bieler, Building Inspector Geist and Town Attorney Berkowitz will be meeting with WalMart representatives on February 2, 2011 from 9:00 – 11:00 AM in the Engineers Conference Room. Anyone who would like to attend is welcome, but there will not be an opportunity for the public to speak.

Councilmember Kaczor stated, in reference to Ms. Shumaker's comments, that the Scenic Byways, Historic Preservation, Chestnut Ridge Conservancy and the Economic Committee are all ways of making the Town a favorable destination. Councilmember Kaczor proposed to amend the agenda to include Ron Stadelmaier's communication. He stated that any communication that is requested to be put on the agenda for public record electronically or written, should be listed under "Communications" section. Supervisor Colarusso and Councilmember Ackerman clarified that these requests be submitted in the form of opinions only and not questions. Councilman Kaczor stated that the contracts for the Blue Collar and Police are in negotiations. He also wished Chris Gordon good luck in his new position.

Councilmember Graber stated that the Orchard Park Village Elections will be held on March 15, 2011 and urged the residents to vote.

Councilmember Majchrzak reported that four schools had their D.A.R.E. graduations. He praised the Orchard Park Police Department on the wonderful direction they provide our children.

Town Attorney Berkowitz stated that a joint Public Hearing has been scheduled by the Village of Orchard Park Board of Trustees and the Town of Orchard Park Board Members for Monday, March 2, 2011 at 6:00 PM at the Orchard Park Municipal Center in the Village Clerk's Office. The purpose of the hearing is to review the annexation petition of Bergner Realty, LLC for properties located at 4135 North Buffalo Road, Orchard Park, NY 14127. This petition requests the annexation of these Town properties into the Village. The Town Board work session will immediately follow.

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR COLARUSSO, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the Stormwater Control Facility Maintenance Agreement with Point Five Development Orchard Park LLC, 7085 Manilius Center Road, East Syracuse, NY 13057 for the long term maintenance and continuation of stormwater control measures for Walgreens at Union Road and Michael Road, Orchard Park, NY 14127.

**The resolution was unanimously adopted.**

Lieutenant Buccilli was representing Police Chief Benz, who was absent. Lieutenant Buccilli stated that Police D.A.R.E. Officers Fitzgerald and Govenettio deserved the praise given by Councilmember Majchrzak. He also explained the speed limit School Zone signs by the schools and how they apply only when school is in session.

**The resolution was unanimously adopted.**

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

**RESOLVED**, that the Town Board does hereby authorize the approval of all entries on Warrant #2 which were reviewed and approved at the Special Meeting on January 19, 2011 as indicated:

<b>General Fund</b>	\$71,216.25
<b>Part Town Fund</b>	\$1,140.40
<b>Risk Retention</b>	\$0.00
<b>Cemetery Fund</b>	\$0.00
<b>Highway Fund</b>	\$45,803.71
<b>Special Districts</b>	\$64,203.23
<b>Trust &amp; Agency</b>	\$1,066.74
<b>Capital Fund</b>	\$1,243.75

**The resolution was unanimously adopted.**

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

**RESOLVED**, that the Town Board does hereby receive and file the following Communication:

- Ron Stadelmaier, 73 Eaglebrook Drive, West Seneca, NY 14224 – e-mail to Supervisor Colarusso and Town Board Members to reconsider, rescind and reverse 1/5/11 resolution to reduce the number of scheduled monthly Town Board meetings.

17) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**RESOLVED**, that the Town Board does hereby receive and file the following reports:

- Building Inspector's Monthly Report for the month of December 2010.
- Building Inspector's Annual Building Inspector's Report for 2010.
- Building Inspector's New Construction Report 2001 to 2010.

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Majchrzak, the meeting was adjourned at 7:53 PM (local time).

**Respectfully Submitted,**

*Carol R. Hutton*

**Carol R. Hutton  
Town Clerk**

