

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 February 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	Councilwoman
	David Kaczor	Councilman
	Edward Graber	Councilman
	Eugene Majchrzak	Councilman
	Carol Hutton	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Andrew Benz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

**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 COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:**

**RESOLVED**, that the minutes of the Regular Meetings held on January 20, & February 3, 2010 and the Executive Session meetings held on February 3, & 10, 2010, 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 as previously received copies thereof.

**The resolution was unanimously adopted.**

**Old Business #1 Set Public Hearing for Rezoning of vacant land on Mid County Drive**

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

**RESOLVED**, that the Town Board is hereby authorized to schedule a Public Hearing for March 17, 2010 at 7:00 pm for the request of People, Inc., to rezone 5.58 +/- acres of vacant land on the west side of Mid County Drive, zoned R-4 & I-1 to R-4 with a SR designation to construct a 43 unit, Senior Housing independent living facility, 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.**

**Old Business #2 Building Permit for Simoncelli Electric, 3720 California Rd.**

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

**RESOLVED**, that the Town Board is hereby authorized to approve the request of Simoncelli Electric, 3720 California Road, Zone I-1, for a Building Permit for the construction of a 12,455 +/- sq.ft. addition to the existing building and approve the site plan received 12/17/09, as recommended by the Planning Board with the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Long EAF, Parts One and Two, and a Negative Declaration is made.
- The site lighting is limited to those fixtures and poles indicated on the approved Site Plan, light fixtures shall have flat lens.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- Town Engineering approval was granted on 2/10/10.
- In accordance with the Conservation Board minutes a three (3) year landscape completion bond in the amount of \$21,925.00 shall be provided for the landscape plan received 11/05/09 which includes 88% total green space, prior to the issuance of a Building Permit.

**The resolution was unanimously adopted.**

**Old Business #3 Building Permit for Valu Auto Center, 3705 Southwestern Blvd.**

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

**RESOLVED**, that the Town Board is hereby authorized to approve the request of David Burke/Dato Development, 3705 Southwestern Blvd, (located on the south east corner of Southwestern Blvd. and Taylor Road), Zoned I-1, for a Building Permit for the construction of a 2,805 +/- sq.ft. automotive shop and approve the site plan received 2/2/10, as recommended by the Planning Board with the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Long EAF, parts One and Two, and a Negative Declaration is made.
- The site lighting is limited to those fixtures and poles indicated on the approved Site Plan, Light fixtures shall have flat lens.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- Town Engineering Approval was granted on 2/10/10.
- In accordance with the Conservation Board minutes a three year landscape completion bond in the amount of \$18,455.00 shall be provided for the landscape plan received 1/04/10 which includes 71% total green space, prior to the issuance of a Building Permit.

**The resolution was unanimously adopted.**

**Old Business #4 Release escrow for PIP 2008-03, Amanda Dr., Sanitary Sewer Mainline relocation**

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

**WHEREAS**, on August 20, 2008, the Town Board accepted dedication of the public improvements constructed in the Target Store Addition at Quaker Crossing – Sanitary Mainline Relocation 5622 Amanda Lane, with the stipulation that funds paid by the contractor be held in escrow until the replacement of a GPS Monument with submission of associated survey data (\$3,000) and the restoration within and near the right-of-way – asphalt, curbs, turf and manhole frames (\$5,000) were completed, and

**WHEREAS**, the contractor has since completed the required installations of the replacement of a GPS Monument near the corner of Amanda Drive and North Benzing Road and the required restoration within and near the right-of-way of Amanda Drive. The work was 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 Burgio & Campofelice, Inc., 2570 Walden Avenue, Cheektowaga, New York 14225, the \$8,000 held in escrow for replacement of a GPS Monument and restoration near and along Amanda Drive for the Target Addition at Quaker Crossing - Sanitary Mainline Relocation (PIP #2008-03), as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #1 Authorize Bid for 2010 ½ Ton Pickup for Dog Control Officer**

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

**RESOLVED**, that the Town Board does hereby authorize the request of Police Chief Benz to hold a Bid Opening for One (1) New 2010 ½ Ton Pick Up Truck for the Animal Control Officers to be held March 9, 2010 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 Orchard Park Garden Club request to use Railroad Depot for Plant Sale**

**7) 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 approve the request of the Orchard Park Garden Club to hold their 2010 Plant Sale on May 21 & 22, 2010 at the Railroad Depot and erect a tent for the event, and be it further

**RESOLVED**, that the Orchard Park Garden Club will obtain a Certificate of Liability Insurance with the Town of Orchard Park being named as additional insured.

**The resolution was unanimously adopted.**

**New Business #3 Town to adopt 100% Tobacco free policy for all parks, beaches & recreation space**

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

**WHEREAS**, smoking is responsible for premature deaths of over 430,000 Americans each year from lung cancer, heart disease, respiratory illness and other disease, and

**WHEREAS**, secondhand smoke is responsible for over 50,000 deaths among nonsmokers each year, and

**WHEREAS**, tobacco kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, accidents, fires and AIDS combined, and

**WHEREAS**, 80% of smokers started smoking before the age of 18, and the average initiation age is 12 years old, and

**WHEREAS**, everyday an estimated 3,900 young people under the age of 18 try their first cigarette and one-third of these children will die prematurely from tobacco-related illness, and

**WHEREAS**, to help role model non-smoking behavior to children and youth; to provide children, youth, and their families with a safe, tobacco-free environment,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town of Orchard Park, State of New York, is committed to providing a high quality of living to all residents, and be it further

**RESOLVED**, that the Town of Orchard Park believes:

- There is no safe level of exposure to secondhand smoke. It can cause asthma, respiratory infections, cancer, and cardiovascular disease. Children should be able to play and exercise in the Town of Orchard Park's parks with out being exposed to harmful effects of secondhand smoke.
- Tobacco product use in the proximity of children, youth, and adults engaging in or watching recreational activities is unhealthy and detrimental to the health of both the participants and observers.
- Tobacco products, once consumed in public spaces, are often discarded on he ground, thus posing a risk of ingestion to children and causing a litter problem, and be if further

**RESOLVED**, that all of the Town of Orchard Park's parks, beaches, and recreation areas will adopt a 100% tobacco free policy, and be it further

**RESOLVED**, the enforcement of this policy is through voluntary compliance. Appropriate Town of Orchard Park park land, park facilities, and open space will be signed indicating that the designated areas are tobacco free.

**The resolution was unanimously adopted.**

**New Business #4 Rose Seivert to attend Planning Board & Zoning Board mandatory training**

**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 authorize Rose Seivert, Planning Department secretary, to attend the same mandatory training as the Planning Board and Zoning Board members, which will enable her to better perform her job. The money is not to exceed \$400.00, will be paid when the course is completed, and is in the budget.

**The resolution was unanimously adopted.**

**New Business #5 Lt. Patrick McMaster to attend MAGLOCLLEN meeting**

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

**RESOLVED**, that the Town Board does hereby authorize Lt. Patrick McMaster to attend the MAGLOCLLEN annual meeting and conference in Columbus, Ohio, March 29 to April 2, 2010, the cost is not to exceed \$200.00 ( lodging & travel paid for by MAGLOCLLEN), as recommended by the Chief of Police.

**The resolution was unanimously adopted.**

**New Business #6 Request to send R. Paul Warriner to attend IT Directors Conference**

Tabled for next meeting

**New Business #7 Proclamation for World Kidney Day**

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

**WHEREAS**, healthy kidneys are essential to regulate the body by water and other chemicals in your blood, remove fluids, waste, toxins and drugs introduced to the body, release hormones that regulate blood pressure, make red blood cells and promote strong bones; and

**WHEREAS**, more than 26 million Americans, about one in nine adults, suffer from chronic kidney disease; and,

**WHEREAS**, of the 31,000 New Yorkers afflicted with end-stage renal disease, approximately 40 percent are African American and 16 percent are Hispanic; and

**WHEREAS**, the two main causes of chronic kidney disease are diabetes and high blood pressure, which are responsible for up to two-thirds of the cases; and

**WHEREAS**, the National Kidney Foundation of WNY has a health screening program to identify people in the early stages of kidney disease; and

**WHEREAS**, the mission of the National Kidney Foundation of WNY is to prevent kidney and urinary tract diseases, improve the health and well-being of individuals and families affected by these diseases, and increase the availability of all organs for transplantation; and

**WHEREAS**, early detection including regular reporting of the GFR calculation, currently the best indication of kidney disease staging can help prevent the progression of kidney disease to kidney failure, which requires continual dialysis or kidney transplant to maintain life; and,

**WHEREAS**, the cost of treatment for kidney disease patients is disproportionately higher than any other chronic disease; and,

**WHEREAS**, most patients who have end-stage renal disease rely primarily on Medicare and Medicaid to cover the costs of their life-sustaining care, which includes dialysis treatment, medications, laboratory testing, and as necessary, transportation services to the dialysis facility, and as a consequence, any changes in Medicare and Medicaid eligibility, significantly puts them at risk;

**NOW THEREFORE, be it**

**RESOLVED**, that March 11, 2010 is recognized as "World Kidney Day" in New York State and Orchard Park in the hope that all possible support will continue to extend to Chronic Kidney Disease patients in New York, throughout the country and the world.

**The resolution was unanimously adopted.**

**New Business #8 Contact for Federal Aid Project Agreement for Forest Ave. Bridge replacement**

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

**WHEREAS**, the State of New York Department of Transportation has officially approved the Town's Project Application for the Forest Drive Bridge Replacement Project for preliminary design, and

**WHEREAS**, the Forest Drive Bridge Replacement Project is estimated at \$880,000. The Federal share will equal \$704,000 (80%) and the Non-Federal share is \$176,000 (20%). The Grant requires the Town to commit to administer and pay 100% of the costs for preliminary engineering and right-of-way incidentals equaling \$100,000, by means of resolution, and

**WHEREAS**, a Project, for the Replacement of the Forest Drive Bridge over Smokes Creek, BIN 2213410, in the Town of Orchard Park, Erie County, PIN 5758137, (the Project) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds, and

**WHEREAS**, the Town of Orchard Park desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-IV) and Right-of-Way Incidentals phases of the project PIN 5758.37

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board of the Town of Orchard Park hereby approves the above subject project, and be it further

**RESOLVED**, that the Town Board of the Town of Orchard Park does hereby authorize the Town of Orchard Park to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering (Design I-IV) and Right-of-Way Incidentals phases of the Project or portions thereof, and be it further

**RESOLVED**, that the sum of \$100,000 is hereby appropriated from H-68 and made available to cover the cost of participation in the above phases of the Project, and be it further

**RESOLVED**, that in the event the amount required to pay 100% of the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Design I-IV) and Right-of-Way Incidentals phases exceeds \$100,000, the Town of Orchard Park shall convene its Board as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

**RESOLVED**, that the Town Board of the Town of Orchard Park does hereby authorize the Supervisor to execute all necessary Agreements, certifications or reimbursement request for Federal Aid on behalf of the Town of Orchard Park with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of project costs and permanent funding of the local share of Federal Aid Eligible Project costs and all Projects costs within appropriations therefore that are not so eligible, and, be it further

**RESOLVED**, that a certified copy of this resolution be filled with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and be it further

**RESOLVED**, this Resolution shall take effect immediately.

**The resolution was unanimously adopted.**

**New Business #9 Agreement – Brown Company Roofing & Waterproofing Consultants, Inc.**

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

**WHEREAS**, the Town of Orchard Park has received a grant from the New York State Community Capital Assistance Program (CCAP) in the amount of \$125,000.00 for renovations to the Orchard Park Municipal Center, and

**WHEREAS**, a major component of the Municipal Center Capital Improvements Project is the roof replacement, which is a specialty contractor item and must be completed before the remaining work can be properly completed. The Municipal Center Capital Improvements Project will therefore be divided into two projects; the Roof Replacement Project and the Municipal Center Renovations Project, and

**WHEREAS**, as an initial step in the Roof Replacement Project, the Town has solicited services from a local consultant, The Browne Company, Roofing and Waterproofing Consultants, Inc. who would assist in performing investigations of existing conditions, prepare technical specifications and details for the proposed repairs, and attend necessary meetings, for an amount not to exceed \$2,100.00. In addition, they would provide construction supervision and monitoring services for the new roof installation for \$250.00 per week for the projected four week duration of the project.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the proposal with The Browne Company, Roofing and Waterproofing Consultants, Inc., 5457 South Freeman Rd., Orchard Park, New York 14127 in the amount not to exceed \$3,100.00.

**The resolution was unanimously adopted.**

### BUSINESS FROM THE FLOOR

Louis Boehm – Mr. Boehm stated the abandoned Wal-Mart building on Big Tree Rd. has enough land to handle the proposed Super Wal-Mart on Milestrip Road, and would eliminate it as an eyesore.

Michelle Reed – Ms. Reed likes to walk along N. Buffalo Street, but is unable to because the sidewalks are not cleared of snow. She found out that the land owners adjacent to the sidewalks are responsible for them, and wants to know how the ordinance can be enforced, or if the Town would assume the responsibility.

Town Attorney Berkowitz stated that the best way to have the sidewalks clean is to have the Town be responsible, but the cost is prohibitive (it would be approximately a 4% increase in taxes). Enforcement of the Sidewalk Law is difficult, as the Town does not have the personnel to adequately enforce the law.

Building Inspector Geist will be sending out notices to the residents who are affected by the Sidewalk Ordinance. There will also be a member of his staff going to each of the houses involved, to notify them of their responsibility. He stated that this is only the second winter the ordinance is in effect and the residents may not be aware of it, so the notification should help, but it is a very difficult ordinance to enforce.

### ELECTED OFFICIALS & DEPARTMENT HEADS

Councilwoman Ackerman has a request for the Town Board to send a letter to Ralph Wilson, requesting that there be no “lock out” for the Buffalo Bills in 2011. She asked the Town Board to review the information she had and to consider sending a letter.

Councilwoman Ackerman said there are many Western New York Olympic connections, and a fellow member of the Womens Symphony Committee, Jean DePeters, has a grandson, Matt DePeters, competing in the men’s aerials. Councilman Kaczor stated that his secretary’s niece, Molly Schaus, is the second tier goalie for the woman’s hockey team. Councilman Graber said that his neighbor, Hans Gardner is an alternative for the mens aerial team.

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

**WHEREAS**, this Town Board has required members of the Insurance Advisory Board to supply insurance broker licenses to qualify as members of the Insurance Advisory Board,

**WHEREAS**, individuals, including retired insurance brokers, without current insurance brokers’ licenses, are valuable members of the board

**NOW, THEREFORE, be it**

**RESOLVED**, that members of the Insurance Advisory Board shall not be required to provide insurance broker licenses to qualify as members of the Board, and be if further

**RESOLVED**, that Peter Swartwout is hereby appointed to the Insurance Advisory Board.

Councilwoman Ackerman stated that Peter Swartwout is a retired Insurance Broker and well qualified.

**The resolution was unanimously adopted.**



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

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

General Fund	\$64,256.97
Part Town Fund	\$829.27
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$73,253.66
Special Districts	\$114,714.56
Trust & Agency	\$2,295.68
Capital Fund	\$1,462.50

**The resolution was unanimously adopted.**

16) 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 communications:

- Resolution from the Village Officials Association of Erie County requesting the New York State Legislature create a committee to assess the dangers of man-made & solar EMP threats, develop and recommend a plan to prepare for, protect from respond to and recover after an Electromagnetic Pulse even.
- Orchard Park Police Department Annual Report for 2009.

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Colarusso, seconded by Councilwoman Ackerman, the meeting was adjourned at 7:46 PM (local time).

**Respectfully Submitted,**



**Carol R. Hutton**  
**Town Clerk**

