

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 16th day of March 2016 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

PRESENT AT ROLL CALL:

Patrick J. Keem	Supervisor
Eugene Majchrzak	Councilman
Michael Sherry	Councilman
John C. Bailey	Town Attorney
Remy Orffeo	Town Clerk
Wayne Bieler	Town Engineer
Andrew Geist	Building Inspector
Frederick Piasecki, Jr.	Highway Superintendent
Mark Pacholec	Chief of Police

Supervisor Keem 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 SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on March 2, 2016, and Special Session March 9, 2016 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 Approve Non-Conforming Use for 17 Pleasant Ave.

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

WHEREAS, Mr. Gajkowski is seeking permission to re-construct/repair his house at 17 Pleasant Avenue which is Non-Conforming Use, as allowed by Section 144-61 of the Town Code, he will be the contractor and is going to reside in the home and

WHEREAS, there is no need for Town Engineering approval and Building Inspector Andrew Geist will review the project to be sure all Town of Orchard Park regulations are complied with

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the request for Non-Conforming Use at 17 Pleasant Avenue to re-construct/repair a residential home in a B-1 Zone, allowed by Section 144-61 of the Town Code based on the following conditions and stipulations as recommended by the Planning Board:

- This is a Type II SEQR Action and therefore no determination of significance is required.

The resolution was unanimously adopted.

Old Business #2 Approve Final Change Order, Release of Retention for E.J. Militello Concrete Inc.

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

WHEREAS, the Town Engineer said that construction work on the concrete gutters for the Weiss Ave. & Hillsboro Drive Gutter Replacement project has been satisfactorily completed in accordance with Town standards and specifications, and

WHEREAS, a two-year maintenance bond in the amount of \$33,280.00 has been submitted along with the Affidavit of Release of Liens, Affidavit of Payment of Debts and Claims, and necessary legal documents, and

WHEREAS, the Over/Under sheet lists the final adjustments to the quantities for each bid item and shows there was a net decrease of \$1,134.64. This represents a decrease of 3.41% from the original contract amount.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the Final Change Order & Release of Retention for the Weiss Avenue Reconstruction and Hillsboro Drive Gutter Replacement Project to E. J. Militello Concrete, Inc., P.O. Box 770 East Amherst, New York 14051 in the amount of \$809.37, and authorize the release of the cash performance security in the amount of \$4,000.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Award Contract for Sanitary Sewer Relocation Project in Yates Park

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

WHEREAS, bids were received from three bidders for the Sanitary Sewer Relocation Project in Yates Park, and

WHEREAS, the project was bid on a lump sum basis for the Green Lake Dam Sanitary Sewer Relocation work — (Formally) with Alternate #2, and also informally. The bids were as follows; Kandey Company - \$112,591, Zoladz Construction - \$35,542.27, Fairway Contracting - \$30,995 and Sergi Construction - \$23,269. The Engineering Department also bid this work informally and although the Town Board did award Green Lake Dam Rehabilitation & Dredging, Zoladz is okay with this work being separate. The Engineering Department has reviewed lump sum bids of the four contractors who submitted bids. The lowest responsible bidder was Sergi Construction, Inc., bid of \$23,269.00 which was also below the formal bid amount received from Zoladz Construction, Inc. of \$35,542.27 for the project, and

WHEREAS, the low bidder for this project was Sergi Construction, Inc. who has successfully completed similar projects for the Town of Orchard Park. Sergi Construction has the qualifications and experience to perform this work adequately. This work could be done this spring with Sergi Construction assisting with inspection man power, and

WHEREAS, there is presently a balance of \$234,651.39 plus interest allocated under Capital Project #H-19 Green Lake Dam Rehabilitation.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Green Lake Dam Rehabilitation Sanitary Sewer Relocation Project to the lowest responsible Bidder, Sergi Construction, Inc., 775 Jewett Holmwood Road, East Aurora, New York, 14052 in the amount of \$23,269.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business # 4 Amend resolution for Plaza Parking at 2220 Southwestern Blvd.

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

WHEREAS, on October 16, 2013 the Town Board authorized a building permit to Bryan Young for a 15,750 sf plaza at 2220 Southwestern Blvd. which included a Tim Horton's restaurant; and

WHEREAS, stipulation #11 in the authorization referenced a lease agreement that there be only one restaurant in the plaza; and

WHEREAS, the plaza was subsequently sold to the owner of Tim Horton's, and

WHEREAS, the owner of Tim Horton's claims he never signed an agreement with Mr. Young and the only agreement he was aware of is the typical Tim Horton's agreement that a plaza will only have one coffee and doughnut type restaurant; and

WHEREAS, the Building Inspector and Planning Coordinator agree that the only reason the Town may wish to limit the type of business at this plaza is for parking counts; and

WHEREAS, the Planning Board can be charged with reviewing the required number of parking spots prior to full build out of the plaza.

NOW, THEREFORE, be it

RESOLVED, that stipulation #11 of the authorization granted on October 16, 2013 is hereby rescinded and replaced with a new stipulation #11 requiring future tenants at the plaza located at 2220 Southwestern Blvd. to appear before the Planning Board for approval to build in this plaza until it is fully built out, because of parking spots, as recommended by the Town Attorney.

The resolution was unanimously adopted.

New Business #1 Resolution to Governor requesting Improvements to NYS Property Tax

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

**Association of Erie County Governments
Resolution Requesting Improvements to the NYS Tax Cap**

WHEREAS, the Association of Towns of the State of New York has made Property Tax Cap Reform a legislative priority for 2016; and

WHEREAS, the New York Conference of Mayors has recommended that the New York State Cap Tax be improved in 2016; and

WHEREAS, the property tax cap was extended until June 15, 2020 with modification to the manner in which PILOT properties are treated when determining a local government's tax cap formula; and

WHEREAS, Erie County towns and villages responsibly manage their finances, with the majority of Erie County towns and villages levying at or below the allowable limit, despite limited revenue sources, stagnant state/federal aid and increasing expenses; and

WHEREAS, New York State governs the manner in which Erie County towns and villages raise revenue; and

WHEREAS, New York State has primarily provided real property tax relief through ad hoc property tax exemptions over comprehensive property tax reform, resulting in a tax shift rather than a tax reduction, as well as additional administrative and litigation costs; and

WHEREAS, the tax cap has slowed the growth in Erie County property tax levies, but encouraged budget-balancing maneuvers, reduced fiscally prudent fund balances, cut municipal workforce with accompanying service, maximized restructuring and shared services agreements, and postponed key public infrastructure investment; and

WHEREAS, the quality of life in Erie County towns and villages is threatened by the lack of investment to improve and mitigate problems in roads, bridges, water, and sewer systems;

NOW THEREFORE Be It

RESOLVED, that the tax cap should not be one tied to inflation, but one with a 1.5% floor; or that New York State should implement a Tax Cap Equalization Aid program that would provide aid in the amount equal to the difference between what the municipality property tax levy would be under a 2% cap and what it actually is under the tax cap CPI calculation; and be it further

RESOLVED, that Exemptions to the Tax Cap should include capital projects and infrastructure improvements in utilities, transportation and communications, costs associated with compliance orders, and structured costs such as pension contributions, and emergency services.

The resolution was unanimously adopted.

New Business #2 Supervisor to sign 2016 NYSDOT Shared Servicer Agreement

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

WHEREAS, the Engineering Department has received a proposed Shared Service Agreement from the New York State Department of Transportation (NYSDOT) which the Town Attorney has reviewed and modified the indemnification, and

WHEREAS, the Shared Service Agreement includes the exchange or lending of materials, or equipment which will promote and assist the maintenance of State and Municipal roads and highways and provide a cost savings by maximizing the effective utilization of both parties' resources. Shared services shall mean

any service provided by one party (Provider) to another party (Recipient). The agreement is for one year and either party can revoke this agreement by providing 60 days written notice of such revocation, and

WHEREAS, Schedule A details of services should be reviewed by the Highway Superintendent, Special Districts Crew Chief, Disaster Coordinator, Town Attorney and the Town Engineer before signing. The Town Engineer recommend being all inclusive with available equipment and/or materials.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Supervisor to sign the New York State Department of Transportation Shared Service Agreement after being finalized by the Town Attorney, Disaster Coordinator, Special Districts Crew Chief, Highway Superintendent and Town Engineer.

The resolution was unanimously adopted.

New Business #3 Sign Agreement with Troy Banks Utility & Tele. For audit of utilities

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

WHEREAS, the Town of Orchard Park has been approached by Ronald Marconi of RTM Enterprises of New York. He presented a program that reviews utility invoices for municipalities, schools, businesses, etc. to find charges or costs in excess of those permitted, allowed or from overcharges or billing errors. The audit work is completed through Troy & Banks, Incorporated, which is a utility and telecommunication consultant. The firm stated that they are capable and willing to complete an audit on all of Town owned utility service accounts. The key points of this program/agreement are below:

- The Client (Town of Orchard Park) engages Troy & Banks to conduct an audit or survey of Client's gas, electric, telecommunications and water/sewer utility service accounts for the purpose of securing refunds, credits and cost reductions resulting from discovery of charges or costs in excess of those permitted or allowed by applicable contracts, tariffs, statutes, rules and regulations and/or from overcharges or billing errors. Troy & Banks agrees to conduct such audit.
- Overcharges — For any refunds, credits or rebates obtained by Troy & Banks for prior overcharges, billing errors or costs in excess of those permitted by applicable contracts, tariffs, statutes, rules or regulations, Troy & Banks shall be paid 33% of all monies refunded or credited to the Client.
- Future Cost Reductions — For any reductions in future costs for electric, gas, telecommunication and water/utility services' accounts resulting from Troy & Banks analysis, the fee is 33% of the amount saved each month for 18 months. Troy & Banks will document actual monthly savings obtained by analysis of tariff cost applications.
- Troy & Banks has made no guarantee or assurance of any credit or refund amount or cost saving results.
- If the Client (Town of Orchard Park) does not receive refunds, credits, or reductions in future billings, there will be no fee for the Troy & Bank services.

WHEREAS, the energy committee had reviewed this program in 2012 and felt it would be beneficial to Orchard Park, and started with the Municipal Center, since this was a fairly new practice for Orchard Park. After talking with other consultants in NYC Association of Towns Conference, the Supervisor followed through in reducing the fee from 50% to 33%.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with Troy & Banks, Inc., 2216 Kensington Ave., Buffalo, New York 14226, to perform an audit/survey of the Towns utility service accounts with the cost of such audit or survey being paid from 33% of monies refunded or credited plus 33% of future savings for the next 18 months, as recommend by the Town Attorney.

The resolution was unanimously adopted.

New Business #4 Declare Maintenance Department Vehicle as Surplus

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

WHEREAS, the Maintenance Department has a vehicle that is no longer in use due to the fact that it will not pass NYS Inspection and would require thousands of dollars in repairs, and

WHEREAS, the vehicle is a 2001 Ford Ranger Pickup. The truck is fifteen years old and corrosion from the road salt has severely deteriorated the frame and body. It is not cost effective for the Town to repair and continue to run this vehicle, and

WHEREAS, the Town Engineer does not believe the Town will recover much money for the vehicle through a sale due to the current age and condition of the truck. The truck does run and is drivable so sending it to public auction would most likely be in the Town's best interest.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby declare the 2001 Ford Ranger Pickup (VIN# 1FTYR14V31TA96940) as a surplus vehicle, and authorize the public auction of this vehicle, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Purchase 2017 Freightliner for Highway Department under NYS Bid Contract

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR KEEM, TO WIT:

WHEREAS, in accordance with the Highway Department truck replacement program, they are looking to purchase one (1) new 2017 Freightliner truck 108 SD 4x2 Cab and Chassis, and

WHEREAS, the cost of this new truck, cab and chassis is \$180,116.49 under New York State Bid Contract.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the purchase a 2017 Freightliner 108 SD 4x2 Cab and Chassis off the New York State Bid Contract as recommended by the Highway Superintendent. Monies are in place in the budget for this purchase.

The resolution was unanimously adopted.

New Business #6 Compost Pricing for 2016

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

RESOLVED, that the Town Board does hereby set the 2016 pricing for the compost and mulch at the Town Compost site at \$15.00 a cubic yard for resident of Orchard Park, and \$23.00 a cubic yard for non-residents.

The resolution was unanimously adopted.

New Business #7 Approve Stable Permit

12) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby approve the application for a 2016 Stable Permit for Hammersmith Farms, 6423 Benning Road, as recommended by the Building Inspector's office.

The resolution was unanimously adopted.

New Business #8 Tree Dedication in Steinwach's Grove for late Mayor John B. Wilson

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

WHEREAS, John B. Wilson passed away in November of 2014 while Mayor of the Village of Orchard Park, and

WHEREAS, Mayor Wilson was a lifelong resident of the Village of Orchard Park, a longtime employee of the Town of Orchard Park, and member of the fabulous class of 1968 from Orchard Park High School, and

WHEREAS, Mayor Wilson was active in the Orchard Park Fire Department, the Orchard Park Presbyterian Church, and numerous other civic organizations, and

WHEREAS, Mayor Wilson was a tireless champion of the Orchard Park Community,

NOW, THEREFORE, be it

RESOLVED, that the Board of the Town of Orchard Park pause in its deliberations to remember this outstanding citizen and dedicate the planting of a tree in Steinwach's Grove to our great friend and late Mayor, John B. Wilson.

The resolution was unanimously adopted.

New Business # 9 Supervisor to Sign the Ratified White Collar Tentative labor Agreement

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the ratified Tentative Agreement by and between the Town of Orchard Park and the Civil Service Employees Association, Inc., AFSCNME, Local 1000, AFL-CIO/Town of Orchard Park White Collar Unit, covering the years from January 1, 2014 to December 31, 2019 and be it further

RESOLVED, that this is subject to clarification of language in the contract.

Supervisor Keem stated that some of the stipulations in this agreement go into effect on April 1, 2016 and the next Town Board meeting is not until April 6, 2016, so this gives the Supervisor the permission to sign the agreement until the specific language is worked out.

The resolution was unanimously adopted.

Not on the Agenda

15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

WHEREAS, the Town of Orchard Park (Town) and The Orchard Park Command Officers Association Inc. Civil Service Employee Association Local (COA), hereby agree as follows;

The Town will appoint an additional Patrol Lieutenant making a total of five (5) Patrol Lieutenants. With the addition of this Patrol Lieutenant both the Town and COA agree to the creation of a new shift, referred to as the "Flex Shift". The purpose of the "Flex Shift" is to cover vacancies of the Patrol Lieutenants, more specifically scheduled vacations and personal leave days.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the "Memorandum of Agreement" between the Town and the COA for the fifth patrol lieutenant which was previously authorized by this Town Board.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem said the White Collar Agreement is a six year contract which will be released after it is signed. He also stated that today was Career Shadow Day for Orchard Park High School and he hosted two students. They had a two hour discussion and the students had a lot of good questions. Then they had a lunch with all the other businesses in Orchard Park that hosted students. Supervisor Keem said it is great that the High School does this for the students and that the Town Government works so closely with the school.

Councilman Sherry said that on April 13, 2016 at 6:00pm there is going to be a presentation by Wendel Architects on the Community Activities Center. This is a long time in the works, and very comprehensive, and is going to be built out in phases. The Supervisor chaired the Community Center Task Force which involved a lot of people, and a lot of work to arrive at this point. They encourage residents to attend this presentation as this is a major project that could impact our community as a whole.

Town Clerk Remy Orffeo asked if the Town Board would like the Tax Cap Resolution sent out to the County and State Representatives.

Police Chief Mark Pacholec stated that there is going to be a movie crew in Town tomorrow scouting out locations for an upcoming movie event.

Highway Superintendent Fred Piasecki stated that they are working on drainage, picking up brush and they have the chipper trucks out. He said that Philson Drive will be their reconstruction project this year and hope to get started on that by the end of the month. Highway Superintendent Piasecki said that the Tree Planting Ceremony for former Mayor John Wilson will coincide with Arbor Day and take place on April 29th at 4:30pm next to the Library and in front of the Train Depot. He said that George Schichtel is again donating this tree for the memorial.

Town Engineer Wayne Bieler stated that they are wrapping up the Philson Drive waterline project and should be done by the end of next week.

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

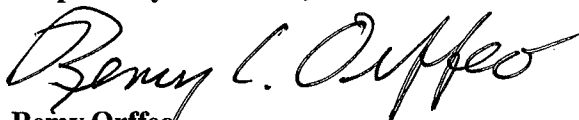
RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #6 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$146,343.43
Public Safety Fund	\$31028.19
Part Town Fund	\$791.61
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$107,365.32
Special Districts	\$404,645.52
Trust & Agency	\$1,850,748.58
Capital Fund	\$37,955.22

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:28 pm (local time).

Respectfully Submitted,


Remy Orffeo
Town Clerk