

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 19th day of April 2006 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	Supervisor
	Nancy W. Ackerman	Councilwoman
	Stanley A. Jemiolo, Jr.	Councilman
	David R. Kaczor	Councilman
	Mark C. Dietrick	Councilman
	Janis Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
ABSENT:	Samuel McCune	Chief of Police

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."*

PUBLIC HEARING

At 7:00 P.M. (local time), the advertised time, the Supervisor called for the Public Hearing to hear all interested parties and/or citizens for or against the Establishment & Creation of the New Town Drainage District OPDD 3-1.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk. The affidavit is entered into and attached to these minutes.

Supervisor Travers Murphy asked if there was anyone in the audience that would like to speak.

Proponents:

Andrew Romanowski, Alliance Homes Developer & Builder of the Armor Knoll Subdivision requested the development of this Drainage District.

Opponents:

No one spoke

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

RESOLVED, that the Public Hearing in the matter of the Establishment & Creation of the New Town Drainage District OPDD 3-1, is hereby closed at 7:08 P.M. (local time).

The resolution was unanimously adopted.

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

WHEREAS, a map, plan and report relating to the establishment of a proposed Town of Orchard Park drainage district number 3-1 as prepared by Nussbauamer & Clarke, Inc. duly licensed civil engineers of the State of New York, in a manner and in such detail as has been determined by this Town Board, has been duly filed with the Town Clerk, in accordance with the requirements of Article 12 of the Town Law; and

WHEREAS, an Order was duly adopted by this Town Board on April 5, 2006, reciting the filing of said map, plan and report, the improvements proposed, the boundaries of the proposed district, the proposed method of financing, the fact that the map, plan and report describing the same are on file in the Town Clerk's Office for public inspection, and stating all other matters required by law to be stated, and specifying April 19, 2006, at 7:00 in the evening of said day as the time, at the Town of Orchard Park Town Hall, at S 4295 South Buffalo Street, Orchard Park as the place where this Town Board would meet and consider said map, plan and report, and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law; and

WHEREAS, such order was duly published and posted as required by law; and

WHEREAS, a hearing on said matter was duly held by said Town Board on April 19, 2006 at 7:00 p.m. in the afternoon of said day, in the Orchard Park Town Hall, as 4295 South Buffalo Street, Orchard Park, New York, and no person appearing in opposition to and the petitioner appearing in favor of the petition; and

WHEREAS, pursuant to said petition, it is the intention of the petitioner, as sole owner of all the taxable property in said drainage district, to construct said drainage improvements solely at its own expense, now, after due deliberation, it is

RESOLVED AND DETERMINED:

- A. That the notice of hearing was published and posted as required by law, and is otherwise sufficient;
- B. That all property and property owners in the proposed district are benefited thereby;
- C. That all property and property owners benefited are included within the limits of the proposed district;
- D. That it is in the public interest to establish said district; and be it further

RESOLVED AND DETERMINED, that the establishment of the proposed district as set forth in said map, plan and report be approved; that the improvements therein mentioned be constructed by the petitioner; and such district shall be known and designated as the "Town of Orchard Park drainage district number 3-1" and shall be bounded and described as set forth as "Exhibit A, and be it further

RESOLVED AND DETERMINED, that the improvements for such drainage district are to be constructed by ARR Holdings, LLC, the owner of the "Exhibit A" premises, solely at its own expense, and it has offered to convey the same without cost to the Town of Orchard Park, free and clear of encumbrances except the right of access to said improvements by adjoining land owners; and be it further

RESOLVED AND DETERMINED, that the Town Clerk be and hereby is authorized and directed to file a certified copy of this resolution in the office of the Clerk of the County of Erie, which is the County in which the said Town of Orchard Park is located, and the office of the State Department of Audit and control, within 10 days after the adoption of this resolution, pursuant to the provisions of Section 195 of the Town Law.

Mary Travers Murphy	Aye
Nancy Ackerman	Aye
Stanley Jemiolo, Jr.	Aye
David Kaczor	Aye
Mark Dietrick	Aye

The resolution was unanimously adopted.

Old Business: #1 Town Board to Accept the Proposed Negative Declaration drafted by Petitioner

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

WHEREAS, the Orchard Park Town Board is the only involved agency in connection with the proposed rezoning from R-3 to B-2 for approximately 4.0 acres adjacent to Weiss Road for the use of a volley ball center, and

WHEREAS, the Negative Declaration has been prepared and is in the rezoning file.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby adopt the Negative Declaration, which is in the rezoning file, based upon the fact that this proposed rezoning will not have a significant adverse impact on the environment.

The members of the Town Board stated that there is no more that could be done by extending the SEQR process at this point, and by making a Negative Declaration the issue of the rezoning may be addressed.

The resolution was unanimously adopted.

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

WHEREAS, the Orchard Park Town Board has studied the rezoning application to rezone approximately 4.0 acres of land on Weiss Road for the purpose of constructing a volley ball center; and

WHEREAS, the Town has reviewed the environmental assessment form, submitted by the applicant under provisions of the State Environmental Quality Review Act (SEQRA), in support of the Application, and has made a determination pursuant to that Environmental Assessment form; and

WHEREAS, a referral of the proposed action was made to the County of Erie Division of Planning in conjunction with the SEQRA Review, wherein no recommendation was made; and

WHEREAS, a referral was made to the Orchard Park Planning Board which, after a thorough review, voted to recommend that the Town Board approve the rezoning application;

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the rezoning from R-3 to B-2 the premises specifically described by the Metes & Bounds as set forth:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Orchard Park, County of Erie and State of New York, being part of Lot No. 457, Township 10, Range 7 of the Holland Land Co. Survey bounded and described as follows:

COMMENCING at a point at the Southwestern corner of lands conveyed to the Town of Orchard Park, Liber 2844, Page 306 and the Northeast corner of the Ten Acre Exception and Reservation Liber 1112, page 129, Thence along the South line of lot 456 a bearing of N 89°-45'-23"W a distance of 385.00' to the intersection of the Southerly line of Lot 456 with the West line of Michael G. Connelly, Liber 9285 page 504, Thence along the said West line of Connelly a bearing of S 00°-14'-37"W a distance of 187.65' to the Point and Place of Beginning, Thence continuing along the said West line of Connelly a bearing of S 00°-14'-37"W a distance of 52.35' to a point, Thence a bearing of S 89°-45'-23"E a distance of 37.36' to a point, Thence a bearing of S 35°-16'-23"E a distance of 251.45' to a point, Thence a bearing of N 89°-40'-23"W a distance of 554.08' to a point, Thence a bearing of N 00°-19'-37"E a distance of 444.40' to a point, thence a bearing of S 89°-40'-23"E a distance of 235.93' to a point, Thence a bearing of S 35° 16'-23" E a distance of 230.79' to a point and place of beginning containing 4.0 acres +/-.

And, be it further

RESOLVED, that this rezoning is conditioned upon that certain property described above be placed in a perpetual negative easement and/or be deeded to the Town, and be it further

RESOLVED, that the Town Clerk is directed to publish this resolution in the next edition of the Town newspaper.

Councilman Dietrick stated that he feels this is a good project and will not cause any greater impact that a B-3 project, which is allowed at this time. He said that he feels the drainage issues would be addressed. Also, the fact that Mr. Downing offered 15 acres of land to the Town, adjacent to a Town Park, contributed to his approval of this rezoning.

Councilman Jemiolo said that this is a worthy project, but this is possibly the wrong place for it. He has listened to the neighbors, and will honor their wishes by not voting for the rezoning.

Councilwoman Ackerman stated that she is in sympathy with the neighbors and the developer. She stated that the only way to keep the area green, is to accept the conservation easement, and the only way they can accept the conservation easement is to approve the project. She feels that this area is underserved in the area of recreation and greenspace, and that the project will help to alleviate some of the flooding problems in the area, therefore she is in favor of the rezoning.

Supervisor Travers Murphy stated that she feels Orchard Park needs a volley ball court like the one that is proposed, but she feels that there are many other commercial areas available where it could be developed. She feels that there will be drainage issues with this project and she has also listened to the neighbors in this area who do not want this kind of development and is not going to vote for the rezoning.

Councilman Kaczor stated he also feels this is a good project, and the addition of the green space is a great addition to this project. But, he feels that this area wasn't developed as well as it could have been, as a result the neighbors have not had a very esthetically pleasing site in their area. To add anything of the size of the volley ball court would not be fair to them, therefore, he will support the wishes of the neighbors and vote against the rezoning.

Mary Travers Murphy	Nay
Nancy Ackerman	Aye
Stanley Jemiolo, Jr.	Nay
David Kaczor	Nay
Mark Dietrick	Aye

The resolution failed and was not adopted.

Old Business #2 Fox Run, California Road @ Big Tree Road, Requesting Approval of the Site Plan

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

RESOLVED, that the Town Board does hereby approve the revised Site Plan received, 3/1/06 for Fox Run, California Road @ Big Tree Road, a 173,656 square feet "Life Care Community" as recommended by the Planning Board, 4/12/06, with the following stipulations:

- A negative SEQR declaration was issued by the Town Board for the original site plan on 3/20/02.
- A landscape completion bond for \$432,850.00, or a certified check for \$216,420.00, is to be presented to the Town Clerk prior to receipt of a building permit, in accordance with the Conservation Board minutes for the approved landscape plan which includes 56% green space.
- Town Engineering approval has been granted on 3/7/06.
- The dumpster currently on the site shall be properly screened with gates. Any other dumpsters on the site shall be screened in accordance with Section 144-25 of the Town Code.
- No outside storage or display is permitted.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.

The resolution was unanimously adopted.

Old Business #3 Town Lincoln Mercury, 3050 Orchard Park Road, Requesting "Change in Use"

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

RESOLVED, that the Town Board does hereby approve the requested for a Change in Use for Town Lincoln Mercury, 3050 Orchard Park Road, from an automotive dealership and service facility to a medical office, and be it further

RESOLVED, that the Town Board does hereby a Building Permit shall be issued for a 3,139 square feet addition to an existing building, and 2,000 square foot a new structure, as recommended by the Planning Board 4/12/06, with the following stipulations:

- This is an Unlisted Negative SEQR Action and therefore no determination of significance is required.
- A landscape completion bond in the amount of \$12,970.00 or a certified check for \$6,485.00 shall be presented to the Town Clerk prior to receipt of a building permit in accordance with the Conservation Board minutes for the approved landscape plan, which includes 13% green space.
- Town Engineering Approval has been granted on 4/11/06.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens. Fixtures shall be full cut-off wall packs.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- No outside storage or display is permitted.

The resolution was unanimously adopted.

Old Business #4 Benderson Dev., Vacant Land on N. Buffalo Road, Requesting a Building Permit

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

RESOLVED, that the Town Board does hereby authorize a Building Permit for Benderson Development, vacant land on N. Buffalo Road, for commercial development with two (2) multi-tenant buildings, a combined square footage of 35,185, and restaurant space limited to 6,450 square foot, and be it further

RESOLVED, that the Town Board does hereby approve the Site Plan received on April 5, 2006, as recommended by the Planning Board, 4/12/06, 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 was made 8/18/04.
- The site lighting is limited to those fixtures and poles indicated on the approved light site plan. Light fixtures shall have flat lens. Light fixtures labeled on plan as b, c & d, shall be turned off before midnight.
- No outsider storage or display is permitted.
- Dumpsters as show shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- Town Engineering approval was granted on 4/7/06.
- The Zoning Board of Appeals granted two area variances on 3/21/06, one was to allow the height of a building to be 38.25 feet; the other was to allow an 8 foot high fence along the north property line.
- A landscape completion bond in the amount of \$19,000.00, or a certified check in the amount of \$9,500.00, is to be presented to the Town Clerk prior to receipt of a building permit, in accordance with the Conservation Board minutes for the approved landscape plan, which includes 15% green space.

The resolution was unanimously adopted.

New Business #1 Supervisor to Sign Joint Agreement with the Village of Orchard Park

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Joint Use and Occupancy Agreement between the Town of Orchard Park and the Village of Orchard Park, as recommended by the Town Attorney.

Councilman Kaczor stated this is a ten year agreement, with an option to extend it another three years. The previous agreement was based on bartering goods and services. The Village did not pay any rent to have their office in the Municipal Building, in exchange for supplying water to the Town, snowplowing and minor driveway repair to the Town buildings (Yates Park, Senior Center). The current agreement is more updated and based on actual costs.

The resolution was unanimously adopted.

New Business #2 – Item Tabled: The Town Board this evening requested not to Award the Contract for Milestrip Road Sports Complex Pavilion, and it is to be tabled at this time as there are still issues to be resolved with this bid. The Town Board is going to hold a special meeting on Tuesday, April 24th to award the bid.

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

RESOLVED, that the Town Board does hereby schedule a Special Meeting for April 24, 2006 at 6:00 P.M. (local time) in the Supervisor's Conference Room.

The resolution was unanimously adopted.

Councilwoman Ackerman stated that she wanted to digress a little and take this moment to thank everyone involved with the project on Weiss Avenue. It was a very difficult time for everyone. She stated that she voted the way she did tonight because she felt the drainage problems in that area would be alleviated by this project; and the green space that would have been added would be beneficial which would have insured a more reduced density than what the neighborhood is going to have, but if the neighborhood wants the density, then she is happy the neighborhood got what they wanted. Councilwoman Ackerman stated that she feels everyone one on the Board did a thorough job with this issue in making their decisions.

New Business #3 Authorize Advertisement for Summer Help for the Sewer & Water Department

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

RESOLVED, that the Town Board does hereby approve the advertisement in the Southtowns Citizen for two (2) summer help positions in the Engineering Department, at an hourly rate of \$7.50 an hour, as recommended by the Town Engineer.

Supervisor Travers Murphy stated she will abstain from this vote, as the advertisement is being placed in the Southtowns Citizen, the Town newspaper which is owned by her cousin.

Mary Travers Murphy	Abstained
Nancy Ackerman	Aye
Stanley Jemiolo, Jr.	Aye
David Kaczor	Aye
Mark Dietrick	Aye

The resolution was duly adopted.

New Business #4 Authorize the Highway Superintendent to Purchase a 2006 International Truck

11) 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 approve the request of the Highway Superintendent to purchase a New 2006 International Truck, 7600 SBA 6x4 Cab & Chassis in the amount of \$ 84,079.35 from the New York State bid contract, and the money is in the budget.

The resolution was unanimously adopted.

New Business #5 Approve the Following 2006 Stable Permits

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

RESOLVED, that the Town Board does hereby approve 2006 Stable Permits for: Ridgewood Farm, 7613 Behm Road; Willow Glenn Stables, 7895 East Quaker Street; and Hammersmith Farms, 6243 Benning Road, as recommended by the Building Inspector.

The resolution was unanimously adopted.

New Business #6 Authorize the New Street Name Misty Ridge for the Town of Orchard Park

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

WHEREAS, the Coughlin Family and the McShane Family live on a private stone road off of Pine Terrace in Eagle Heights, the eastern most portion of Orchard Park, and

WHEREAS, presently this street does not have a name, and

WHEREAS, the Coughlins and the McShanes have experienced problems with receiving their mail and have requested to name their private road, and

WHEREAS, the requested name was reviewed and approved by all appropriate Departments involved with street naming.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve the request of the Coughlins & the McShanes to name their private stone road, off of Pine Terrace, as "**Misty Ridge**".

The resolution was unanimously adopted.

New Business #7 Authorize the Supervisor to Sign Grant Application for NYS Preservation League

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

WHEREAS, the Historical Preservation Committee wishes to conduct a historic resources survey to identify, photograph and catalog all the significant historical properties in Orchard Park, and

WHEREAS, the estimated total project costs of this project is \$18,000.00

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Grant application for the Town's New York State Preservation League Grant, with the total project cost to be \$18,000.00, and be it further

RESOLVED, the Town will have an in-kind contribution of \$4,000.00 and a cash contribution of \$4,000.00.

The resolution was unanimously adopted.

New Business #8 Authorize the Supervisor to Sign Grant Application for NYSDEC

15) 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 authorize the Supervisor to sign the Grant Application for the Town's New York State Department of Conservation Urban and Community Forestry Grant.

The resolution was unanimously adopted.

New Business #9 Authorize the Appointment of Kirsten DiCarlo for the Recreation Commission

16) 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 Kirsten DiCarlo, 17 South Lane, to fill a vacancy on the Recreation Commission, term to expire on 12/31/2006, as recommended by Recreation Commission.

The resolution was unanimously adopted.

New Business #10 Town Board to Declare May as "Motorcycle Safety and Awareness Month"

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

WHEREAS, the Buffalo/Erie County Chapter of "American Bikers Aimed Toward Education", (ABATE) will celebrate Motorcycle Safety locally on May 6th at the Woodlawn State Park, Route 5, Woodlawn, and

WHEREAS, they have extended an invitation to all elected officials in Erie County and respective State Officials to attend and express their opinions on the subject of highway safety, as it relates to motorcycles, and

WHEREAS, the American Bikers invites all municipalities to proclaim May as Motorcycle & Awareness Month

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby declare the Month of May as "Motorcycle Safety and Awareness Month"

The resolution was unanimously adopted.

New Business #11 Town Board to Declare the Month of April as "Kite Month"

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

RESOLVED, that the Town Board does hereby declare April to be "*Kite Month*", and encourages everyone to participate in the joy and excitement of kite flying and urges all citizens to "Go Fly a Kite".

The resolution was unanimously adopted.

New Business #12 Proclamation in support of removing the toll barriers on I-190 Niagara Thruway

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

WHEREAS, the Town Board of the Town of Orchard Park has by Town Board resolution of April 19, 2006, memorialized State, County and Federal Legislators of the Town of Orchard Park's opposition to the retention of toll barriers at the Williamsville, Depew, Lackawanna, Blasdell, Hamburg, Ogden Street/Buffalo City Line, Black Rock and both the North and South Grand Island Bridges and has determined that it is in the public interest to reaffirm that resolution in light of the fact that U.S. Congressman Brian Higgins has advanced an effort to remove several of the before mentioned toll barriers by publicly calling on Governor George Patacki to undertake action to cause the new York State Thruway Authority to remove toll barriers in the Buffalo area and therefore the resolution is affirmed as follows, and

WHEREAS, the New York State Thruway Authority (NYSTA) is a public benefit corporation organized under the laws of the State of New York, whose three commissioners are appointed by the Governor, and

WHEREAS, in the immediate Buffalo area the NYSTA maintains toll barriers at the Williamsville, Depew, Lackawanna, Blasdell, Hamburg, Ogden Street/Buffalo City Line, Black Rock and both the North and South Grand Island Bridges, and

WHEREAS, these before mentioned toll barriers act as a commuter tax on persons residing in the Buffalo area and are an added tax on commerce in the Buffalo metropolitan area which has not only immediate monetary ramifications for intrastate and interstate travel into and out of the various areas of

Western New York but also cause undue delay to commercial traffic which has an adverse impact upon operational and financial aspects of commerce, and

WHEREAS, if the NYSTA and the Governor are not inclined to eliminate these toll barriers because of some misguided idea that commuters in the Buffalo area should have to pay for these highways then they should at least recognize the detrimental impact these toll barriers pose to interstate and interstate commerce which by slowing down commercial traffic causes undue delay in the shipment of goods, increases the amount of fuel consumed, adversely affects air quality in the Buffalo area, and, is viewed as one more "hidden tax" which can negatively impact the way the Buffalo area and the State of New York are viewed by out of area businesses which might otherwise choose to locate here, and

WHEREAS, the Western New York area shares an extremely busy front point with commerce moving to and from the Province of Ontario, Canada and it being critical to assist in the movement of commerce between our two nations and for the State of New York to fulfill its role in improving the flow of commerce which can have a defined positive impact on the economy of the Niagara Frontier, and

WHEREAS, the Town Board of the Town of Orchard Park desires to make public its opposition to the continuation of tolls at the Williamsville, Depew, Lackawanna, Blasdell, Hamburg, Ogden Street/Buffalo City Line, Black Rock and both the North and South Grand Island Bridges

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park hereby memorializes the Governor and the Commissioners of the New York State Thruway Authority to remove the toll barriers at Williamsville, Depew, Lackawanna, Blasdell, Hamburg, Ogden/Buffalo City Line, Black Rock and both the North and South Grand Island Bridges which removal will afford the easier passage of commerce and commuters through the Western New York area which in turn will be beneficial to the economy of Western New York State as a whole, and

BE IT FURTHER

RESOLVED, that certified copies of this resolution be transmitted to Governor George Pataki, Attorney General Eliot Spitzer, Senator Charles Schumer, Senator Hillary Rodman Clinton, Honorable Thomas Reynolds, Honorable Jack Quinn, Honorable William Stachowski, Honorable Dale Volker, Honorable Mary Lou Rath, Honorable Robin Schimminger, Honorable Crystal Peoples, Honorable Paul Tokasz, Honorable Sam Hoyt, Honorable Brian Higgins, Honorable James Hayes, County Executive Joel Giambra, Mayor Byron W. Brown, County Clerk David Swarts, Erie County Legislator Kathy Konst, New York State Thruway Authority Executive Director Michael Fleisher, Chairman of the NYSTA John Buono and Executive Director of the Greater Buffalo Niagara Regional Transportation Hal Morse.

Councilman Kaczor urged everyone to contact their representative regarding this issue.

The question of the adoption of the foregoing resolution was duly put to a roll call vote:

Supervisor Mary Travers Murphy	Aye
Councilwoman Nancy W. Ackerman	Aye
Councilman David R. Kaczor	Aye
Councilman Stanley A. Jemiolo Jr.	Aye
Councilman Mark C. Dietrick	Aye

The resolution was unanimously adopted.

New Business #13 Refer to the Planning Board and/or Conservation Board

20) 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 refer the following request to the Planning Board and/or Conservation Board:

- Quaker Crossing, LLC, Southwest Corner of Quaker Crossing Retail Center. Requesting a site plan review for a new "Borders Bookstore".
- Quaker Crossing, LLC, South side of Milestrip Road across from Quaker Crossing Retail Center. Requesting a site plan approval and special use review for a new "Sam's Club", gas station and car wash.
- Azerty, 13 Centre Drive (a division of United Stationary). Requesting to expand their parking lot an additional 19 spaces. The expansion would take place in the Southwest corner.
- Proposed CVS Pharmacy, 3900 Union Road and 6531, 6539, 6545 Michael Road: Requesting to develop a single site story CVS Pharmacy. A portion of the project consists of the vacant Burger King at the intersection of Union Road & Michael Road.
- Tom Kam & David Young, 3675 Abbott Road, Zoned B-2. Requesting Site Plan Approval for a "Change in Use" to convert an existing residence to a Beauty Salon. The site will also have 21 parking spaces for customer and employees.
- Krog Corporation, 23 Cobham Drive at Rt. 20A. Requesting to construct a new two-story office building on the Northeast corner of Cobham Drive for Value Centric and David Jenka who is the owner.
- McDonald USA, LLC, 3232 Orchard Park Road, NYS Routes 240 & 277, 1.625 acres. Requesting to completely redevelop entire site with a new building, pavement, utilities, lighting and landscaping. The layout of proposed site will be very similar to the existing layout with the changes consisting of a larger building, the addition of a double drive-thru, a concrete patio area and the relocation of the trash enclosures.
- Creekside Development, LLC, 37 +/- acres of vacant land on South Abbott Road, Zoned A-1. Requesting to rezone property to construct a proposed forty-one (41) residential lot subdivision.

And be it further

RESOLVED, that the Town Board does hereby direct the Planning Coordinator to start the Lead Agency process for the following requests, and send out the appropriate documents:

- Quaker Crossing, LLC, Southwest Corner of Quaker Crossing Retail Center. Requesting a site plan review for a new "Borders Bookstore".
- Quaker Crossing, LLC, South side of Milestrip Road across from Quaker Crossing Retail Center. Requesting a site plan approval and special use review for a new "Sam's Club", gas station and car wash.
- Azerty, 13 Centre Drive (a division of United Stationary). Requesting to expand their parking lot an additional 19 spaces. The expansion would take place in the Southwest corner.
- Proposed CVS Pharmacy, 3900 Union Road and 6531, 6539, 6545 Michael Road: Requesting to develop a single site story CVS Pharmacy. A portion of the project consists of the vacant Burger King at the intersection of Union Road & Michael Road.
- Krog Corporation, 23 Cobham Drive at Rt. 20A. Requesting to construct a new two-story office building on the Northeast corner of Cobham Drive for Value Centric and David Jenka who is the owner

- McDonald USA, LLC, 3232 Orchard Park Road, NYS Routes 240 & 277, 1.625 acres. Requesting to completely redevelop entire site with a new building, pavement, utilities, lighting and landscaping. The layout of proposed site will be very similar to the existing layout with the changes consisting of a larger building, the addition of a double drive-thru, a concrete patio area and the relocation of the trash enclosures.

The resolution was unanimously adopted.

ELECTED OFFICIALS AND DEPARTMENT HEADS

21) 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 authorizes the necessary paperwork to be submitted to the New York State & Local Police Retirement System offering the Non-contributory Section 384-e Plan as previously agreed to in the Collective Bargaining Agreement, and be it further

RESOLVED, that said Non-contributory Section 384-e Plan is for an Unlimited Open Period effective on the 6th day of April, 2006 as stipulated by the Comptroller for "file" date being the postmark date.

Councilman Jemiolo stated that the 384-e is a retirement fund that was negotiated some years back, the added retirement costs are going to be \$20,000.00

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby approve Excavation Permit 2006-01 for Ryan Homes to clean up the properties in Barrington Heights that were involved with the solid waste contamination.

Town Engineer, Wayne Bieler, stated the plans for this excavation were delivered to his office today, and were reviewed.

Supervisor Travers Murphy stated that the two residents, who came to the town for support regarding the contaminated soil, have come to an agreement with Ryan Homes, and have moved out of Barrington Heights. Ryan Homes, with the approved excavation permit, will now commence the clean up of the site.

Councilman Dietrich inquired as to the status of the soil that may have been transported from Barrington Heights to another subdivision (Pleasant Acres). The Town Engineer stated that the transported soil has been removed from Pleasant Acres at the request of the Planning Board and samples of that soil have been tested. The Planning Board Chairman stated the developer of Pleasant Acres has voluntarily had the soil tested by an independent lab, and the Town had an independent analysis of that testing done to make sure that there was no question about the quality of the soil. At this time the Planning Board is waiting for the results of the independent analysis to come back.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby approve the request of the Town Clerk to attend the New York State Town Clerk's Conference in Saratoga Springs from April 23 to April 26, at Town expense.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby approve the request of the Dog Control Officer, Dennis Buczkowski, to attend the Erie County Health Department-Vector Control Program's Recertification Course May 3, 2006 and for Robert Praczkajlo, Part-time Dog Control Officer, to attend May 4, 2006, at Town expense.

The resolution was unanimously adopted.

Councilman Jemiolo stated that he did not think it is necessary for Supervisor Travers Murphy to abstain from authorizing advertising in the Southtowns Citizen after this Town Board has approved the paper as its official newspaper. He said that she might want to check with the Ethics Board regarding this.

Councilman Jemiolo stated that he wanted to address the issue of the Insurance Brokers Committee. A lot of publicity has been put forth in the public about how the Town of Orchard Park acquires its liability insurance. As this Board has repeatedly stated, all they are interested in is getting quality insurance at the best possible price. "I believe that the long standing IBC has provided that service. Well, we also said that we will discharge our responsibilities to operate this Town in a legal and ethical manor, and if the NYS Attorney General, or Association of Towns, felt this was not an arrangement that adhered to all legal and ethical codes, we would seek other ways to place our insurance".

Town Attorney Berkowitz has not received a written opinion from the Attorney General, but he has received an opinion from the Association of Towns. It is their opinion that the Town Board can appoint representatives as insurance agents, as opposed to naming agents as a committee. This is considered by them to be a professional service.

Councilman Jemiolo stated that he was going to offer a resolution that will disband the Insurance Brokers Committee and also in that resolution to appoint some of its members as agents of the Town of Orchard Park for the purposes of placing the Town's insurance program for the year 2006-2007.

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

WHEREAS, this Town Board created an Insurance Brokers Committee at its organizational meeting on January 4, 2006, and

WHEREAS, the New York State Association of Towns has determined that there is a conflict of interest due to the fact that one of the members of the insurance committee also procures insurance coverage for the Town of Orchard Park, and

WHEREAS, insurance coverage will terminate on May 1, 2006 and it is necessary that the Town of Orchard Park secure appropriate insurance coverage as of May 1, 2006, and

WHEREAS, it has been determined that the Town may name agents to procure insurance for the Town of Orchard Park, but that such agents may not be a member of a committee named by the Town

NOW, THEREFORE, be it

RESOLVED, that the Insurance Brokers Committee for the Town of Orchard Park is hereby dissolved, and be it further

RESOLVED, that Richard Gernold and Raymond Stromecki are hereby retained as insurance agents for the Town of Orchard Park, and be it further

RESOLVED, that Richard Gernold and Raymond Stromecki cooperate with the former members of the Orchard Park Insurance Brokers Committee and any other insurance agents to secure the best coverage at the lowest price for the Town of Orchard Park, by securing proposals from all insurance companies which provide coverage for municipalities such as the Town of Orchard Park.

The members of the Town Board each gave their comments regarding the disbanding of the Insurance Board Committee.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize four (4) members of the Town of Orchard Park Historic Preservation Commission, and Councilman David Kaczor, to attend a seminar to be held by the Landmark Society in Rochester for members of the Historic Preservation Board, at Town expense.

The resolution was unanimously adopted.

Councilman Dietrick reported that he attended the recent Youth Court session and was impressed with the serious and thorough nature that the volunteer's youth court members conduct the proceedings. He feels this is a great service to the Town of Orchard Park

Councilman Dietrick stated that he received a letter regarding the power outage that happened recently. He has asked the Supervisor to review what happens when there is a power outage, what is the chain of command, and if there is a system of notification when it is known ahead of time. He is also going to refer the letter to the Public Safety Committee.

Supervisor Travers Murphy stated that she talked to Chief McCune about this, and there is currently no protocol in place. She also talked to the Chief about a new system that is like a reverse 911, where people who need to be notified in emergency situations will be contacted. Chief McCune contacted Central Police Services, and they stated that it can be done in Orchard Park, and because Central Services has some of their equipment in our basement, the Town can get this service for free.

Councilman Dietrick stated that 30% of the budgeted income of the Town comes from sales tax revenue. Towards the end of last year, he and Mary sat in with the Supervisor during the budget sessions, and the sales tax variable caused problems. He would like the Supervisor to monitor the sales tax on a monthly basis so that does not happen again.

Highway Superintendent, Fred Piasecki, reported the following: they have received the second check from Erie County for plowing; he and two other people from the Highway attended the Storm Water Pollution seminar with the Engineering Department.

Town Engineer Bieler stated that the Storm Water Coalition is presenting different training seminars throughout Erie County. The last seminar, which was also attended by some of the engineering department and the sewer and water department, was for housekeeping operations. It was geared for highway departments, inspectors and the sewer and water departments. There is another training seminar coming up that is geared towards Supervisors, Councilmembers and Town Administrators.

27) 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 #8 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$151,083.48
Part Town Fund	\$1,055.38
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$33,430.75
Special Districts	\$125,715.54
Trust & Agency	\$8,674.74
Capital Fund	\$109,247.81

The resolution was unanimously adopted.

Receive & File Communications

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

RESOLVED, that the Town Board does hereby receive and file the following Communication: The Citizens Campaign for the Environment, a non-profit organization by private citizens concerned with the protection of the regions land and water resources, will be canvassing the Town of Orchard Park, between 4 PM to dusk, Monday through Friday. Each of the canvassers will be carrying photo ID cards.

The resolution was unanimously adopted.

Receive & File Reports

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

RESOLVED, that the Town Board does hereby receive and file the following Reports: 1) Chief of Police's Monthly Report for March 2006, and 2) Building Inspector's Monthly Report & Building Permits for March 2006.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Anthony Lorenzetti – 24 Boldt Court: Mr. Lorenzetti thanked the Town Board for their decision to turn down the rezoning of Weiss Ave. for a volley ball court. He stated this was not an issue of whether the volley ball court was a good idea, or about the people who wished to build this project. It was about a sports complex that was inordinate in size, in an inappropriate site with the potential for more buildings. The residents were only trying to protect their quality of life and their homes. Mr. Lorenzetti stated that he felt a certain attitude towards the residents of this area from the Town Board and wished that there was a will to be more helpful to them.

There being no further business from the floor, on motion by Councilman Jemiolo, seconded by Councilman Dietrick, to wit: the meeting was adjourned at 8:54 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk

