

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 5th day of May at 7:00 PM, the meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	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
Absent:	Janis Colarusso	Supervisor
	Wayne Bieler	Town Engineer

Councilwoman Ackerman 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."

Councilwoman Ackerman stated that she would be substituting for Supervisor Janis Colarusso, as she is attending a conference on Town business. Town Engineer Bieler has been excused this evening.

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

RESOLVED, that the minutes of the Regular Meeting held on April 7, 2010 and the Executive Sessions/Special Meetings held on April 14, & 26, 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 has previously received copies thereof.

The resolution was unanimously adopted.

Old Business #1 Eagle Crest Sr. Apartment request for Bldg. Permits & Final Site Plan Approval

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

WHEREAS, in regard to the Eagle Crest Senior Apartment, vacant land located at the end of Weiss Avenue, Zoned SR, the Planning Board does recommend that the Town Board grant final site plan approval and authorize the Building Inspector to issue building permits as required based on the site plan received 8/10/09 containing a single building with 90 units based on the following conditions and stipulations:

- 1) This is a Type I SEQR action based on the submitted Full EAF Parts 1, 2 and 3 and a Negative declaration was made on October 1, 2008.
- 2) A Public Hearing on rezoning the property was held by the Orchard Park Town Board on September 17, 2008.

- 3) The property, by action of the Orchard Park Town Board, was rezoned SR Senior Residential on October 1, 2008.
- 4) Acreage fees, per §144 (1:4) of the Town Code have been paid.
- 5) Engineering approval was granted on 8/12/09.
- 6) Recreation land, per site plan submitted on 8/10/09, of 16.94± acres, will be donated to the Town of Orchard Park prior to the issuance of the Certificate of Occupancy.
- 7) Recreation fees per §144-70E of Town Code shall be paid prior to issuance of a Certificate of Occupancy.
- 8) All approvals are contingent upon conformity to Conservation Board recommendations as indicated in Conservation Board minutes and a three year Landscape Completion Bond of \$52,900.00 in accordance with the Conservation Board minutes shall be provided for the approved Landscape Plan received 8/15/08 which includes 34,358 sq. ft. green space.
- 9) The site lighting plan is limited to those fixtures and poles indicated on the approved site plan.
- 10) No outside storage or display is permitted.
- 11) Dumpsters shall be screened along with any additional dumpsters all of which shall be screened in accordance with §144-25 of the Town Code.
- 12) This recommendation is contingent upon the applicant completing the project as proposed on the preliminary development plans received on 8/10/09 and shall revert to its original zoning classification if the project is not completed per §144-67 of the Town Code.
- 13) The fully completed size at build-out shall be limited to the number of units specified in this motion.
- 14) No additional streets or roadways will be located on the property that are not part of the currently approved plan.
- 15) The drainage plan will provide for the petitioner to maintain all portions of the existing drainage ditch that remain on the project property and will, as described by the petitioner, also, be designed with enhanced storage reserve capacity to preemptively address potential flooding problems in hydrologically sensitive areas downstream of the project.
- 16) Additional screening shall be provided at the recommendation of the Conservation Board, Planning Board or Town Board.
- 17) The road and cul-de-sac shall be dedicated to the Town.
- 18) Public hearing fees shall be paid prior to the issuance of a Building Permit.
- 19) All agreements and understandings that are part of the written record and/or tapes are included as conditions of approval.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize Final Site Plan approval and Building Permits for the Eagle Crest Senior Apartment, vacant land located at the end of Weiss Avenue, Zoned SR, as recommended by the Planning Board.

Councilwoman Ackerman stated that this project will move ahead now that all fees have been paid and the Town is looking forward to it.

Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Graber	Abstain
Councilman Majchrzak	Aye

The resolution was duly adopted.

Old Business #2 West Herr Saturn. 3559 Southwestern Blvd., Request for Change in Use

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

WHEREAS, West Herr Saturn, 3559 Southwestern Boulevard, located in the Auto Mall area on the south east side of Southwestern Boulevard between Milestrip Road and Breem Street, Zoned B2, has requested a Change-In-Use to convert a former Saturn retail auto sales building into a NAPA franchise parts retail and wholesale center

NOW THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize a Change-in-Use to West Herr Saturn, 3559 Southwestern Boulevard, located in the Auto Mall area on the south east side of Southwestern Boulevard between Milestrip Road and Breem Street, to convert a former Saturn retail auto sales building into a NAPA franchise parts retail and wholesale center, as recommended by the Planning Board, based on the following conditions and stipulations:

- This is a Type II SEQR Action and therefore no determination of significance is required.
- Project is to be completed as per elevation presented to the Town Board, signed and dated 4/14/10 by Chairman Fabinsky and Mr. Wabick.

The resolution was unanimously adopted.

New Business #1 Authorize 2010 Stable Permits

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

RESOLVED, that the Town Board does hereby authorize the following 2010 Public Stable Permits:

- Sandybrook Farm and Stable, owned by Sandra Nunn, 6265 Powers Road,
- Schott Stables, owner Kevin and Elizabeth Schott, 6305 S. Abbott Road, and
- Hammersmith Farms, owned by Beverly Hammersmith, 6243 Benning Road, as recommended by Building Inspector Geist.

The resolution was unanimously adopted.

New Business #2 Authorize Recreation Department Summer 2010 "Seasonal" Staff Appointments

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

RESOLVED, that the Town Board does hereby authorize the following Summer 2010 "Seasonal" Staff appointments, as requested by the Recreation Director. These appointments are dependent upon the applicants providing the required certifications.

Name	Rate	Position
Andrea Bautista	\$9.50	PT2-D (Att.)
Emily Colarusso	\$8.50	PT1-E (Lg.)
Philip Colarusso	\$8.50	PT1-E (Lg.)

Sarah Mann
Alex Shafer

\$8.50
\$9.00

PT1-E (Att.)
PT2-B (Att.)

The resolution was unanimously adopted.

New Business #3 Authorize Highway Department 2010 "Seasonal" Appointment

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

RESOLVED, that the Town Board does hereby authorize the appointment of Richard Bodhorn, 4493 California Road, Orchard Park 14127 to work as a "Seasonal" employee at the Orchard Park Highway Department, at a rate of \$8.50 per hour (PT1), retroactive to April 26, 2010, as requested by Highway Superintendent Piasecki.

The resolution was unanimously adopted.

New Business #4 Authorize the Annual "Ride for Missing Children, Buffalo"

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

RESOLVED, that the Town Board does hereby authorize the 4th Annual "Ride for Missing Children, Buffalo" sponsored by National Center for Missing and Exploited Children to use the Town of Orchard Park roads for their 100 mile 2x2 paced and police escorted bike ride throughout Erie County, beginning and ending at Erie Community College North Campus.

The resolution was unanimously adopted.

New Business #5 Authorize the Orchard Park Little League Parade and Opening Day Ceremonies

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

RESOLVED, that the Town Board does hereby authorize the start of the 52nd season for the Orchard Park Little League on Saturday, May 8, 2010 with the parade to begin at the Orchard Park Middle School side parking lot and proceed to South Lincoln Avenue onto Thorn Avenue, ending at the baseball fields. Lineup will begin at 9:30 AM and the parade will begin at 10:30 AM. The formal ceremonies will take place at the ball diamonds immediately following the parade. The Police Department and the Fire Department will be participants for the event.

Councilman Majchrzak stated that the phone number to call in case of rain is 667-3715.

The resolution was unanimously adopted.

New Business #6 Authorize 5th Annual "Art Rocks the Park" sponsored by the Recreation Dept.

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

RESOLVED, that the Town Board does hereby authorize the 5th Annual ***“Art Rocks the Park”*** at Yates Park/Green Lake on May 15, 2010 from 12:30 PM to 3:00 PM. Included in this event will be the ***Guitar Design Contest*** at 2:00 PM.

Councilman Kaczor stated that there is a different theme every year with a contest for the participants. He invited everyone to attend and enjoy the many events.

The resolution was unanimously adopted.

New Business #7 Senior Director to Attend the “Aging Concerns Unite Us Conference” in Albany

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

RESOLVED, that the Town Board does hereby approve the request of Anna Willems, Senior Director of the Orchard Park Senior Center to attend the “Aging Concerns Unite Us Conference”, June 8-9, 2010, at the Desmond Hotel, Albany NY, with over 400 professionals from all regions of New York State attending. The seminar will provide quality educational programs to anyone in the field of aging and serving people with differing abilities. The cost is not to exceed \$473.00.

The resolution was unanimously adopted.

New Business #8 Authorize Town Engineer to hold Public Auction for Miscellaneous Items

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

RESOLVED, that the Town Board does hereby authorize Town Engineer Bieler to hold a Public Auction for all miscellaneous items in the basement of the Orchard Park Municipal Building. Notice will be on the Town of Orchard Park website at orchardparkny.org, effective May 17, 2010 and to authorize the Town Clerk to publish due notice in the Orchard Park Press.

The resolution was unanimously adopted.

New Business #9 Authorize Police Chief to attend NYS Association of Chiefs of Police Conference

12) 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 Andrew Benz, to attend the New York Association of Chiefs of Police Annual Training Conference in Fairport, New York on July 18-22, 2010 with the cost not to exceed \$1,000.

The resolution was unanimously adopted.

New Business #10 Accept Resignation from Orchard Park Insurance Committee

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

RESOLVED, that the Town Board does hereby accept with regret the resignation of George Chernowski from the Orchard Park Insurance Committee.

The resolution was unanimously adopted.

New Business #11 Authorize Animal Control Officer to attend Seminar in Webster, NY

14) 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 the request from Police Chief Benz to have Wendy Mulawka, Animal Control Officer, attend a Seminar on May 17-18, 2010 in Webster, New York, with the cost not to exceed \$150.00.

The resolution was unanimously adopted.

New Business #12 Authorize Supervisor to sign SPDES Permit & Schedule Informational Mtg.

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

WHEREAS, per the Federal EPA Environmental Conservation Law, Clean Water Act and Stormwater Phase II regulations, the Town must submit to the New York State Department of Environmental Conservation, a Stormwater Management Program annual report outlining the Town's progress in meeting the Notice of Intent (NOI) goals, and

WHEREAS, the 2009-2010 copy of the draft annual report will be placed in the Town Clerk's Office for public review and comments. A draft copy will also be forwarded to the Town Board, Building Inspector, Highway Superintendent and Town Attorney for review and comments. The Annual Report must be submitted to the NYSDEC each year by June 1st. Included with the report is the Municipal Compliance Certification Form that must be signed by the Supervisor.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign SPDES General Permit for Stormwater Discharges MS4's Annual Report Compliance Certification, and be it further

RESOLVED, that the Town Board does hereby schedule a public informational meeting for Wednesday, May 19, 2010 at 7:00 PM to receive public comment on the draft Stormwater Phase II annual report and direct the Town Clerk to publish due notice in the Orchard Park Press.

The resolution was unanimously adopted.

New Business #13 Authorize Supervisor to sign an Agreement with Aqua Tech Environmental, Inc.

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

WHEREAS, similar to previous years, to complete the algae/plant treatments for Green Lake and Birdsong Subdivision Retention Lake, it is necessary to hire an environmental consulting firm that is New York Certified in Aquatic Vegetation and Algae Control, and

WHEREAS, the Town Engineer has again solicited services and received a proposal from a local environmental consultant firm AquaTech Environmental, Inc., which is qualified and capable to complete lake management work for Green Lake, Birdsong Subdivision Retention Lake and also the stocking of various Town owned lakes/ponds in the necessary time frame, and

WHEREAS, the entire project cost for the Town Lake and Pond maintenance, treatment and stocking for calendar year 2010, is not to exceed \$8,750.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the application for NYSDEC permits to use a pesticide for the control of aquatic pests for Birdsong Subdivision Retention Lake and Green Lake Aquatic Vegetation and Algae Control projects, and be it further

RESOLVED, that the Town Board authorize the Supervisor to sign an agreement with AquaTech Environmental, Inc., 45 Kent Avenue, Blasdell, NY 14219 to provide the following, as recommended by Town Engineer Bieler:

- Annual environmental services for Green Lake Maintenance in an amount of \$4,659.00 annually for Algae and Weed Treatments.
- Environmental services for Birdsong Nature Park/Subdivision Retention Lake Maintenance for Algae and Weed Treatments.
- Stock fish to specified Town-Owned ponds as per 3.0 and 3.1 Fishery Management Agreement.

The resolution was unanimously adopted.

New Business #14 Summer Staff Appointments to Sewer, Water & Lighting Department

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

WHEREAS, funds have been allocated in the 2010 budget for two seasonal employees in the Sewer, Lighting and Water Department, and

WHEREAS, Paul Steinmetz will be attending SUNY Fredonia College this fall. Paul worked for the Sewer, Lighting and Water Department in 2008 and 2009 and proved to be a hard worker, and

WHEREAS, Justin D. Maderer has applied for the summer position in the Sewer, Lighting and Water Department this year. Justin is currently attending Canisius College and plans on returning in the fall as a senior.

NOW, THEREFORE, be it

RESOLVED, that Paul Steinmetz, 6733 Scherff Road, Orchard Park NY 14127, be appointed for approximately a fourteen week period beginning June 1, 2010 at a wage rate of \$9.25/hour, and Justin D. Maderer be appointed for approximately a fourteen week period beginning May 17, 2010 at a wage rate of \$8.00/hour to seasonal positions in the Sewer, Lighting and Water Department, as recommended by Town Engineer Bieler.

The resolution was unanimously adopted.

New Business #15 Authorize to Schedule a Public Hearing for OPDD #1-3 for Lyrica Park Subd.

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

WHEREAS, the Town Board of the Town of Orchard Park (herein called "Town Board" and "Town" respectively), in the County of Erie, New York, has received a petition pursuant to Section 191 of Town Law, for the establishment and creation of Town Drainage District OPDD 1-3, which petition was signed by the sole owners of taxable real property situate on the proposed new water district owning all of the taxable real property of the proposed new drainage district, as shown upon the latest completed assessment roll of said Town and was accompanied by a map plan and report prepared by Greenman-Pedersen, Inc., competent engineers duly licensed by the State of New York, and was the drainage district to be constructed and paid for by or on behalf of petitioners, to provide stormwater drainage to prospective new homeowners within the proposed district consisting of the construction and installation of drainage facilities in accordance with the specifications of the New York State Department of Environmental Conservation and the Town of Orchard Park Engineering Department all in the proposed new Town Drainage District OPDD 1-3, which map and plan have been duly filed in the Office of the Town Clerk of the Town for public inspection; and

WHEREAS, said petition described the boundaries of the proposed new Town Drainage District OPDD 1-3 in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioners and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, the proposed new Town Drainage District OPDD 1-3 is bounded and described (Exhibit A at end of resolution) in the map, plan and report attached hereto and made a part hereof ; and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the new Town Drainage District OPDD 1-3 may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such new Town Drainage District OPDD 1-3 and

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

WHEREAS, the Town Board has determined to proceed with the establishment of the proposed new Town Drainage District OPDD 1-3; and

WHEREAS, said new Town Drainage District OPDD 1-3 hereinabove described is to be constructed and paid for by or on behalf of the petitioners, D.J.C. Land, Inc. and the expense of the establishment and maintenance of the Drainage District shall be paid by the assessment, levy and collection of property taxes upon the several lots and parcels of land within the proposed Town Drainage District OPDD 1-3 in the same manner and at the same time as other Town charges;

NOW, THEREFORE, be it **ORDERED**, that a meeting of the Town Board of the Town be held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 2nd day of June, 2010 at 7:00 p.m. (prevailing time); to consider the establishment and creation of the new Town Drainage OPDD 1-3; as herein referred to, and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and be it

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

Exhibit A -Legal Description of Orchard Park Drainage District OPDD 1-3 Lyrica Park

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Orchard Park, County of Erie and State of New York, part of Lot No. 4, Township 10 and Range 7 of the Buffalo Creek Reservation bounded and described as follows:

BEGINNING at the point of intersection of the southerly boundary line of Milestrip Road with the easterly line of lands conveyed to Joseph Ippolito by deed recorded in the Erie County Clerk's Office in Liber 8746 of Deeds at page 241;

THENCE: S-00°-00'-02"-E, along said easterly line of Ippolito Lands, a distance of 2,741.76 feet to the southeasterly corner thereof, being on the southerly line Lot 4, Township 10, Range 7;

THENCE: S-89°-43'-03"-W, along the southerly line of said Joseph Ippolito Lands and along the southerly line of lands conveyed to Joseph Ippolito by deed recorded in Liber 11119 of Deeds at page 3962, Parcel B and along the southerly line of lands conveyed to Margaret McCooey by deed recorded in Liber 10963 of Deeds at page 6280, being the southerly line of Lot 4, a distance of 879.43 feet to a point;

THENCE: N-00°-00'-22"-W, through said McCooey Lands, a distance 1,004.00 feet to a point;

THENCE: N-89°-59'-38"-E, through said McCooey Lands, a distance of 38.50 feet to a point on the westerly line of lands conveyed to Joseph Ippolito by deed recorded in Liber 11119 of Deeds at page 3962, Parcel B;

THENCE: N-00°-00'-22"-W, along the westerly line of last said Ippolito Lands, a distance of 1,516.01 feet to the southerly line of lands conveyed to Jerry N. and Pamela D. Ovitt by deed recorded in Liber 9800 of Deeds at page 343;

THENCE: N-89°-12'-39"-E, along the southerly line of said Ovitt Lands and along the southerly line of lands conveyed to David J. Buchheit by deed recorded in Liber 10970 of Deeds at page 1608 and along a southerly line of lands conveyed to Richard J. and Susan M. Herr by deed recorded in Liber 9179 of Deeds at page 226, a distance of 316.00 feet to a westerly line of said Herr Lands;

THENCE: S-00°-00'-22"-E, along said westerly line of Herr Lands, a distance of 148.50 feet to the southerly line thereof;

THENCE: N-89°-12'-39"-E, along the southerly line of said Herr Lands, a distance of 110.00 feet to the southeasterly corner thereof;

THENCE: N-00°-00'-22"-W, along the easterly line of said Herr Lands, a distance of 44.00 feet to the southerly line of lands conveyed to Norman and Cecilia Wishart by deed recorded in Liber 9090 of Deeds at page 260;

THENCE: N-89°-12'-39"-E, along the southerly line of said Wishart Lands, a distance of 156.65 feet to a point;

THENCE: N-29°-28'-11"-E, through said Wishart Lands, a distance of 24.46 feet to a point;

THENCE: N008°-04'-17"-E, through said Wishart Lands, a distance of 44.92 feet to a point on the easterly line thereof;

THENCE: N-00°-00'-22"-W, along the easterly line of said Wishart Lands, a distance of 253.49 feet to the southerly boundary line of Milestrip Road;

THENCE: N-89°-12'-39"-E, along the southerly boundary line of Milestrip Road, a distance of 240.00 feet to the POINT OR PLACE OF BEGINNING, containing 50 acres be the same more or less.

The resolution was unanimously adopted.

New Business #16 Authorize to Schedule a Public Hearing for OPDD #3-4 for Hilltowne Park Subd.

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

WHEREAS, the Town Board of the Town of Orchard Park (herein called "Town Board" and "Town" respectively), in the County of Erie, New York has received a petition pursuant to Section 191 of Town Law, for the establishment and creation of Town Drainage District OPDD 3-4, which petition was signed by the sole owners of taxable real property situate on the proposed new water district owning all of the taxable real property of the proposed new drainage district, as shown upon the latest completed assessment roll of said Town and was accompanied by a map plan and report prepared by FRA Engineering and Architecture, P.C., competent engineers duly licensed by the State of New York, and was the drainage district to be constructed and paid for by or on behalf of petitioners, to provide stormwater drainage to prospective new homeowners within the proposed district consisting of the construction and installation of drainage facilities in accordance with the specifications of the New York State Department of Environmental Conservation and the Town of Orchard Park Engineering Department all in the proposed new Town Drainage District OPDD 3-4, which map and plan have been duly filed in the Office of the Town Clerk of the Town for public inspection; and

WHEREAS, said petition described the boundaries of the proposed new Town Drainage District OPDD 3-4 in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioners and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, the proposed new Town Drainage District OPDD 3-4 is bounded and described in the map, plan and report attached hereto and made a part hereof (Exhibit A at end of resolution); and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the new Town Drainage District OPDD 3-4 may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such new Town Drainage District OPDD 3-4; and

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

WHEREAS, the Town Board has determined to proceed with the establishment of the proposed new Town Drainage District OPDD 3-4; and

WHEREAS, said new Town Drainage District OPDD 3-4 hereinabove described is to be constructed and paid for by or on behalf of the petitioners, 5425 Murphy Road, LLC., and the expense of the establishment and maintenance of the Drainage District shall be paid by the assessment, levy and collection of property taxes upon the several lots and parcels of land within the proposed Town Drainage District OPDD 3-4 in the same manner and at the same time as other Town charges;

NOW, THEREFORE, be it **ORDERED**, that meeting of the Town Board of the Town be held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 2nd day of June 2010 at 7:00 pm (prevailing time); to consider the establishment and creation of the new Town Drainage OPDD 3-4; as herein referred to, and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and be it

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

Exhibit A. Legal Description for Orchard Park Drainage District OPDD 3-4 Hilltowne Park Part II

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. 21, Township 9, Range 7 of the Holland Land Company's Survey, more particularly bounded and described as follows:

COMMENCING at a point in the west line of Lot No. 21 (being also the center line of Murphy Road) distant 2215.33 feet northerly from the southwest corner of said lot, said point being the northwest corner of lands deeded to Sisters of Mercy of the Buffalo Diocese by deed recorded in the Erie County Clerk's Office in Liber 6861 of Deeds at page 555; thence South 89° 44' 01" East along the northerly line of lands so deeded to Sisters of Mercy of the Buffalo Diocese 456.94 feet to the POINT OF BEGINNING; thence South 89° 44' 01" East and continuing along said northerly line and in part along the southerly line of Hilltowne Park Phase I as shown on a map filed in the Erie County Clerk's Office under Cover No. 2940 a distance of 1130.04 feet to the northwest corner of lands appropriated by the People of the State of New York by deed recorded in the Erie County Clerk's Office in Liber 10961 of Deeds at page 1901; thence South 33° 36' 37" East along the southwesterly line of lands so deeded to the People of the State of New York a measured distance of 288.67 feet (293± by record) to the westerly line of the Southern Expressway as appropriated by the People of the State of New York by deed recorded in the Erie County Clerk's Office in Liber 7800 of Deeds at page 414; thence southerly along said westerly line and along a curve to the right having a radius of 7419.437 feet an arc distance of 505.63 feet; thence South 89° 30' 59" West a distance of 529.98 feet; thence North 42° 11' 01" West a distance of 1011.00 feet to the point of beginning, containing 15.350 acres of land more or less.

Excepting from the above the following described parcel of land:

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. 21, Township 9, Range 7 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at the southeast corner of Subdivision Lot No. 17 as shown on a map filed in the Erie County Clerk's Office under Cover No. 2940; thence westerly along the southerly line of Subdivision Lot Nos. 17, 18 and 23 a distance of 351.84 feet; thence southeasterly at an interior angle of 47° 33' 00" a distance of 358 feet to a point; thence northeasterly at an interior angle of 65° 05' 45" a distance of 286.22 feet to the point or place of beginning, containing 1.067 acres of land more or less.

The resolution was unanimously adopted.

New Business #17 Authorize Summer Staff Appointment to Engineering Department

Motion was tabled.

New Business #18 Public Safety Comm. Recommendation to Town Board to send letter to NSDOT

20) 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 Supervisor to send a letter to the New York State Department of Transportation along with the written request from Laura and Edward Jablonski, 3631 Southwestern Boulevard, to review their concerns regarding the redesign of Southwestern Boulevard and Webster Road, as recommended by the Public Safety Committee.

The resolution was unanimously adopted.

Refer to the Conservation Board and/or Planning Board

21) 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 refer to the Public Conservation Board and/or Planning Board the following items:

- Catholic Health's Mercy Hospital (Mercy Ambulatory Care Center "MACC"), 3669 Southwestern Boulevard, located on the south side of Southwestern Boulevard, east of Taylor Road, Zoned I-1. Applicant is requesting to construct an area totaling approximately 625 sq. ft. to contain bulk tanks and equipment enclosed with a chain link fence/gate and steel bollards. The tanks and equipment will provide bulk oxygen to the Mercy Ambulatory Care Center.
- Dr. Joseph DeVincentis, 3836 North Buffalo Road, located on the west side of North Buffalo Road, south of Webster Road, Zoned B3. Applicant is requesting a Change-in-Use from a Single-Family home to a medical professional referral business.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

David Schuster – Mr. Schuster commented on the lawsuit filed against WalMart by the employees. He asked about the practices of the "Free Mulch Day" at the Compost Site.

Christine Weyer – Ms. Weyer stated that she had collected data for the third time regarding the amount of Police calls to the Quaker Crossing and Milestrip Road area. She stated the information shows an increase in accidents and asked the Town Board to address traffic and impact on Town services before moving forward with the WalMart project.

Henry Heppner – Mr. Heppner thanked the Town Board for their continued support of "Art Rocks the Park" program. He stated that his family has attended the event every year and thoroughly enjoy it.

ELECTED OFFICIALS & DEPARTMENT HEADS

Councilwoman Ackerman announced the Orchard Park Central School Annual “*Art Splash*” program will be on display at HSBC Bank opening on Friday, May 14, 2010 at 7:00 PM with refreshments. A Committee will choose from the display, those art works which will decorate the halls in the Municipal Center.

Councilman Kaczor stated that on Thursday, May 20, 2010 at 7:00 PM in the Municipal Center basement meeting room, there will be a display of the Town Historic Preservation Survey, which was completed by Foit-Albert Associates. The Survey was funded by Senator Dale Volker’s Office and the New York State Office of Parks, Recreation and Historic Preservation and contributions from local citizens. It catalogs the history and different styles of homes in the Town. Julian Adams, from the New York State Office of Parks, Recreation and Historic Preservation, will be the guest speaker. Councilman Kaczor invited the public to attend.

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

RESOLVED, that the Town Board does hereby authorize National Grid to work on Sunday, May 9, 2010 from 7:00 AM to 5:00 PM to facilitate necessary work on outage constraints on the lines and environmental concerns, as recommended by Town Attorney Berkowitz.

The resolution was unanimously adopted.

21) 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 schedule a bid opening for June 10, 2010 at 11:00 AM in the Supervisor’s Conference Room at the Orchard Park Municipal Center for “Contract Documents for Collection, Hauling and Disposal of Mixed Municipal Solid Wastes, Bulky Wastes, and White Goods, and Collection, Hauling and Processing of Recycling Garbage Collection” beginning January 2011, as recommended by Town Attorney Berkowitz, and be it further

RESOLVED, that the Town Clerk is to publish due notice in the Orchard Park Press.

The resolution was unanimously adopted.

22) 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 the request of Police Chief Benz to attend the National Football League Annual Security Directors Meeting from June 9-11, 2010 in Chicago at the expense of the NFL.

The resolution was unanimously adopted.

Highway Superintendent Piasecki stated that the Town received the final check from Erie County in the amount for \$45,080.47 for snowplowing services. The Highway Department has been at Green Lake/Yates Park adding parking improvement and handicapped installations. The Compost Site had the “Free Mulch” day on Saturday, May 1st, 2010 and he thanked the staff for a successful and enjoyable day. Highway Superintendent Piasecki explained that the dump trucks were accounted for and were used for Orchard Park residents.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #9 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$73,299.92
Part Town Fund	\$514.22
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$6,954.39
Special Districts	\$7,202.12
Trust & Agency	\$997.22
Capital Fund	\$1,749.02

The resolution was unanimously adopted.

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

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

- Erie County Legislator, John J. Mills, announcement of a Rabies Clinic, Wednesday, May 19, 2010 from 5:00 PM to 7:00 PM at the New Colden Fire Company, 8448 Gutekunst Road, Colden NY 14033.
- Citizen's Campaign for the Environment (CCE) will be canvassing and disseminating literature, conduct a membership drive and generate public comment to key elected officials within New York State. They anticipate working in the area, April 10, 2010 through May 10, 2010.
- The West Seneca Central School District Budget Proposal for 2010-2011, 1397 Orchard Park Road, West Seneca, New York, per New York State Law, has submitted their copy for the public to review in the Orchard Park Town Clerk's Office.

The resolution was unanimously adopted.

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

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

- Building Inspector's Monthly Report and Building Permits for March and April 2010.
- Chief of Police's Month Report for March 2010.

There being no further business, on motion by Councilwoman Ackerman, seconded by Councilman Majchrzak, the meeting was adjourned at 7:45 PM (local time).

Respectfully Submitted,



Carol R. Hutton
Town Clerk