

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 1<sup>st</sup> day of July 2009 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

<b>PRESENT AT ROLL CALL:</b>	Mary Travers Murphy	Supervisor
	Nancy Ackerman	Councilwoman
	David Kaczor	Councilman
	Mark Dietrick	Councilman
	Edward Graber	Councilman
	Janis Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Andrew Benz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer

**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."*

Supervisor Travers Murphy introduced Louis Vaccaro and Jake McGuire from Boy Scout Troop #256 who was attending the Town Board meeting in order to earn their Merit Badge in Communications.

Councilwoman Ackerman introduced Will Aubrecht and his mother, Karen Aubrecht. Will is a member of the group of volunteers that are working on *"Our Town"* which is filming a documentary produced by WNED. During the course of the Town Board meeting this evening, Will is going to take pictures demonstrating the governmental process of the Town Board meeting for the production. She stated this film will be shown in September.

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

**RESOLVED**, that the minutes of the meeting of the Town Board held on June 3, 2009 and Executive Session meeting minutes held on May 27, 2009 and June 17, 2009 as presented by the Town Clerk are hereby approved, and be it further

**RESOLVED**, that the reading of these minutes be dispensed with as each member of the Town Board as previously received copies thereof.

**The resolution was unanimously adopted.**

**Old Business #1 – Authorize Supervisor to sign Purchase Agreement for Copier Equipment**

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

**WHEREAS**, the Town Supervisor authorized the Network Coordinator to research the replacement and purchase of copier equipment for various departments, and

**WHEREAS**, the Network Coordinator upon examination of the existing copier equipment and departmental needs has determined that Xerox products meet the existing and future needs, and

**WHEREAS**, the Town has solicited bids pursuant to the New York State Contract Award #01649-EPC59472 for digital duplicators, and

**WHEREAS**, upon review of all bids meeting the requirements of the aforementioned award, ComDoc Inc. (Xerox owned distributor) has offered the lowest price for equipment and maintenance and is the best solution to assist the Town in achieving its future goal of electronic document management, and

**WHEREAS**, the total cost of the copiers (including maintenance, toner and other supplies) over a 48 month period is \$68,770.28 as detailed and funding for the current year's portion of such cost is included in the 2009 adopted budget within budget codes A.1355446 (Assessor), A.1670.439 (Central Services) and B.3620.444 (Safety Inspection),

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve the contract with ComDoc Inc., and does hereby authorize the Supervisor to sign the Purchase Agreement, as recommended by the Town Network Coordinator.

**The resolution was unanimously adopted.**

**New Business # 1 Authorize Town Assessor to attend NYSAA Fall Conference 9/27-30, 2009**

3) 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 request of the Town Assessor, Milton Bradshaw, to attend the New York State Assessors Association in Saratoga Springs, from September 27-30, 2009. The estimated cost is \$1,136 and reimbursement is available from the state anywhere from 50% to 95%.

**The resolution was unanimously adopted.**

**New Business # 2 Appointments to the Recreation Department 2009 Summer "Seasonal" Staff**

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

**RESOLVED**, that the Town Board does hereby authorize the following 2009 Summer "Seasonal" Staff Appointments to the Orchard Park Recreation Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director:

<u>Name</u>	<u>Address</u>	<u>Rate</u>	<u>Position</u>
Jarryd Austin	Buffalo	\$8.50	PT1-E Lg.
Julie Burakowski	Orchard Park	\$9.50	PT2-D Lg.
Bethany Deyell	Orchard Park	\$8.00	PT1-C Lg.
Zacharia Hall	West Falls	\$8.00	PT1-C Lg.
Katie Schiffler	Orchard Park	\$9.50	PT2-D Lg.
Matthew Simpson	Orchard Park	\$8.00	PT1-C Lg.
Cara Snajczuk	Orchard Park	\$8.00	PT1-C Att.
Tim Swyers	Amherst	\$9.50	PT2-D Lg.

**The resolution was unanimously adopted.**

**New Business #3 Approve Final Change Order Release of Retention for OP Library**

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

**WHEREAS**, the Electrical Contract work for the Library Energy Updates Project has been completed and on April 27, 2009 and a final inspection was conducted and all of the work has been satisfactorily completed in accordance with the contract documents and specifications, and

**WHEREAS**, the two-year maintenance bond in the amount of \$109,380.61 has been submitted along with all the other warranties, equipment manuals and necessary legal documents (Affidavit of Release of Liens, Affidavit of Subcontractor Payment).

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize final payment and release of retention to O'Connell Electric Company, Inc., 929B Ransom Road, Lancaster, New York 14086 for the Library Energy Updates Project in the amount of \$8,464.96, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #4 Approve Excavation, Removal & Storage of Materials Permit for Jeff Drilling**

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

**WHEREAS**, the Town has received from Mr. Jeff Drilling, 2361 Wehrle Drive, Suite 8, Williamsville, New York 14221, an application for an Excavation/Fill Permit to fill an existing temporary basin and excavate a new basin and associated swales on vacant parcel at the end of Highcroft Lane with approximately 4,000 cubic yards to be trucked into the site, and

**WHEREAS**, Mr. Drilling purchased the vacant land at the end of Highcroft Lane; this land may be another phase to Barrington Heights. Mr. Drilling plans to fill an existing temporary basin and excavate a new basin and associated swales, which will facilitate Mr. Drilling's future home construction plans and benefit nearby residents with relocating the basin further away from existing residences. This work would also work with the proposed future subdivision site, if proposed, and

**WHEREAS**, the Engineering Department has reviewed the plan and have found it acceptable per Town code. All necessary fees and bonds have been received.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the application for an Excavation Permit #2009-01 to place approximately 4,000 cubic yards of fill at the vacant parcel at the end of Highcroft Lane presently owned by Mr. Jeff Drilling, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business # 5 Village request for Banner at Municipal Building for "Summer in the Park"**

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 approve the request from the Village of Orchard Park, to place a banner on the front lawn of the Municipal building for the annual "*Summer in the Park*" Ice Cream Social on Friday, July 24, 2009 and Street Dance on Saturday, July 25, 2009.

**The resolution was unanimously adopted.**

**NEW BUSINESS #6 Refer to the Planning Board and/or Conservation Board (Tabled):** Mark Drost, 4075-4077 North Buffalo Road, Town of Orchard Park, requesting a Change-in-Use. Requesting to teach Yoga in multiple formats for all ages and backgrounds.

**BUSINESS FROM THE FLOOR**

At this time the Supervisor asked if there was anyone in the audience who would like to speak before the Town Board. **No one spoke.**

**ELECTED OFFICIALS & DEPARTMENT HEADS**

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

**WHEREAS**, the Town has received a records management grant to assist in appropriate recordkeeping and archiving for funding dates of 7/01/2008-6/30/2009, and

**WHEREAS**, the Town's 2009 adopted budget does not contain appropriations relating to such grant, and

**WHEREAS**, the funding for these adjusted appropriations will be supported by state aid from such approved grant (a portion of such funding was received in 2008 and placed in a reserve for records management)

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the amendment of the Town's 2009 Budget to increase estimated revenues and authorize additional appropriations & transfers as follows:

<b>\$16,920.00</b>	Increase Appropriations: (A.0000.0960)
	A.1410.0462 – Town Clerk – Records Management
<b>\$ 1,695.00</b>	Increase Estimated Revenues (A.0000.0510)
	A.0000.3060 – State Aid – Records Management
<b>\$15,225.00</b>	Increase Appropriated Reserves (A.0000.0599)
	A.0599.0000 – Appropriate Reserve for Records Management

**And a Budget Transfer for the Town Clerk's Office:**

<b>\$ 166.00</b>	From: A.1670.0400	Central Supplies
	To: A.1410.0462	Records Management

**The resolution was unanimously adopted.**

Councilwoman Ackerman stated that the new “*Art Splash*” display was installed and she thanked the Engineering Department for their assistance. There is colorful sign on an easel made by the Art Club to celebrate the twentieth anniversary of this event. Councilwoman Ackerman thanked the students for their creativity, their parents for their support and the art staff and personnel.

Councilman Graber thanked everyone involved with the success of the 2<sup>nd</sup> Annual Orchard Park Triathlon on Sunday, June 28, 2009.

10) 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 appoint Thomas Jaeger, 10 Chase Road, Orchard Park, to the fill the vacant position on the Historic Preservation Board.

**The resolution was unanimously adopted.**

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

**RESOLVED**, that the Town Board does hereby appoint Thomas Jaeger, 10 Chase Road, Orchard Park, to the Architectural Overlay District Review Committee for North Buffalo Road.

Councilman Kaczor stated that Mr. Jaeger is an Architect, which is necessary for these two committees. Mr. Jaeger is very active in Orchard Park and is committed to the community and its historic preservation and serves on the Conservation Board and was instrumental in drafting the North Buffalo Overlay District for North Buffalo Road Local Law.

**The resolution was unanimously adopted.**

Superintendent of Highways, Fred Piasecki reported on the paving on Edward Drive, Old Orchard Lane, Henning Drive and Armor Duells Road beginning on July 6, 2009.

12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, 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 (Exhibit A) pursuant to Section 191 of Town Law, for the establishment and creation of Town Drainage District OPDD 3-2, 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 3-2, 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 3-2 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, the metes and bounds read as follows:

**ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Orchard Park and being part of Lot Nos. 23 and 24, Township 9, Range 7 of the Holland Land Survey, so-called, bounded and described as follows:

**BEGINNING** at a point in the northerly boundary of New Taylor Road (66.0 feet wide) at its intersection with the easterly line of the lands conveyed to John Ebert recorded in Liber 9294 of deeds at page 366;

**THENCE:** N-35°-36'-30"-W, along the easterly line of the said Ebert and the easterly line of the lands conveyed to Paul & Sharon Bodden recorded in Liber 8820 of deeds at page 448 and said line extended a distance of 906.44 feet;

**THENCE:** N-16°-38'-45"-W parallel with and 410.0 feet distant easterly, measured at right angles from easterly line of the lands acquired by the People of the State of New York by Notice of Appropriation filed in Liber 7420 of deeds at page 456 and identified as Parcel No. 53 on Map No. 27, a distance of 355.94 feet;

**THENCE:** N-73°-21'-15"-E through the lands conveyed to Samuel R. Miserendino, John A. Krull and Paul A. Foley recorded in Liber 8255 of deeds at page 325, a distance of 300.00 feet;

**THENCE:** N-89°-51'-07"-E through the lands of the said Miserendino et.al., a distance of 1,925.63 feet;

**THENCE:** N-00°-08'-53"-W a distance of 525.00 feet to a point in the northerly line of the said Miserendino;

**THENCE:** N-89°-51'-07"-E parallel with the northerly line of Lot No. 24, and along the northerly line of the said Miserendino et.al. a distance of 925.00 feet to a pointing the easterly line of Lot No. 24;

**THENCE:** S-00°-08'-25"-E along the easterly line of Lot No. 24 a distance of 1,521.32 feet to the northeasterly corner of the lands conveyed to Western New York Developers, Inc., recorded in Liber 9020 of deeds at page 693;

**THENCE:** S-89°-30'-00"-W along the northerly line of Western New York Developers, Inc., a distance of 100.0 feet to the northwesterly corner thereof;

**THENCE:** S-00°-08'-25"-E along the westerly line of Western New York Developers, Inc., a distance of 150.0 feet to the southwesterly corner thereof;

**THENCE:** S-89°-30'-00"-W along the northerly boundary of New Taylor Road, a distance of 450.0 feet to the southeasterly corner of the lands conveyed to Renato and Carol Leo recorded in Liber 9752 of deeds at page 152;

**THENCE:** N-00°-08'-25"-W along the easterly line of the said Leo, a distance of 150.0 feet to the northeasterly corner thereof;

**THENCE:** S-89°-30'-00"-W along the northerly line of the said Leo, a distance of 110.0 feet to the northwesterly corner thereof.

**THENCE:** S-00°-08'-25"-E along the westerly line of the said Leo, a distance of 150.0 feet to the southwesterly corner thereof;

**THENCE:** S-89°-30'-00"-W along the northerly boundary of New Taylor Road, a distance of 220.0 feet to the southeasterly corner of the lands conveyed to John C. Tomani recorded in Liber 9721 of deeds at page 399;

**THENCE:** N-00°-08'-25"-W along the easterly line of the said Tomani, a distance of 150.0 feet to the northeasterly corner thereof;

**THENCE:** S-89°-30'-00"-W along the northerly boundary of the said Tomani, a distance of 110.0 feet to the northwesterly corner thereof;

**THENCE:** S-00°-08'-25"-E along the westerly line of the said Tomani, a distance of 150.0 feet to the southwesterly corner thereof;

**THENCE:** S-89°-30'-00"-W along the northerly boundary of New Taylor Road, a distance of 110.0 feet to the southeasterly corner of the lands conveyed to Mark and Janet Bolt recorded in Liber 10068 of deeds at page 206;

**THENCE:** N-03°-38'-23"-E along the easterly line of the said Bolt, a distance of 151.68 feet to the northeasterly corner thereof;

**THENCE:** N-68°-27'-47"-W along the northerly line of the said Bolt, a distance of 109.99 feet to the northwesterly corner thereof;

**THENCE:** Southerly on a curve to the left having a radius of 260.0 feet an arc distance of 100.0 feet to a point of tangency;

**THENCE:** S-00°-30'-00"-E along the westerly line of the said Bolt, a distance of 95.0 feet to the southwesterly corner thereof;

**THENCE:** S-89°-30'-00"-W along the northerly boundary of New Taylor Road, a distance of 1,296.87 feet to the Point or Place of Beginning. Containing 85.98 acres be the same more or less

**WHEREAS,** the proposed new Town Drainage District OPDD 3-2 is bounded and described in the map, plan and report, and

**WHEREAS,** the Town Board has given due consideration to the impact that the establishment of the new Town Drainage District OPDD 3-2 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 3-2 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 3-2; and

**WHEREAS**, said new Town Drainage District OPDD 3-2 hereinabove described is to be constructed and paid for by or on behalf of the petitioners, Pleasant Acres West, 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 3-2 in the same manner and at the same time as other Town charges;

**NOW, THEREFORE, BE IT ORDERED**, that a Public Hearing of the Town Board of the Town of Orchard Park be held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 5<sup>th</sup> day of August 2009 at 7:00 p.m. (prevailing time); to consider the Establishment & Creation of the new Town Drainage OPDD 3-2; 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 South Towns Citizen, 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.

**The resolution was unanimously adopted.**

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

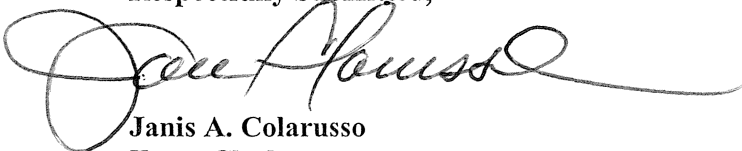
**RESOLVED**, that the Town Board does hereby authorize the approval of all entries on Warrant #13 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$128,583.09
<b>Part Town Fund</b>	\$24.73
<b>Risk Retention</b>	\$0.00
<b>Cemetery Fund</b>	\$0.00
<b>Highway Fund</b>	\$28,236.39
<b>Special Districts</b>	\$14,806.97
<b>Trust &amp; Agency</b>	\$2,816.90
<b>Capital Fund</b>	\$15,444.02

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Graber, the meeting was adjourned at 7:20 PM (local time).

Respectfully Submitted,



Janis A. Colarusso  
Town Clerk