

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 August 2009 at 7:00 PM, the meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	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.”*

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 meetings of the Town Board held on July 1, 2009 and July 15, 2009 and the Executive Session Minutes of July 29, 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.

PUBLIC HEARING

At 7:00 PM (local time) the Supervisor called for the Public Hearing to a hear all interested parties for or against the Proposed Local Law to abolish the Office of the Receiver of Taxes and Assessments in the Town of Orchard Park.

§ 1. Purpose. The purpose of this chapter is to abolish the office of the Receiver of Taxes and Assessments in the Town of Orchard Park.

§ 2. Abolition; consolidation of powers and duties. The office of receiver of Receiver of Taxes and Assessments in the Town of Orchard Park, New York, is hereby abolished, effective December 31, 2011. The powers and duties of that office shall be consolidated with the office of the Town Clerk of the Town of Orchard Park, New York.

§ 3. Mandatory Referendum. This chapter shall be subject to mandatory referendum at the general election on November 3, 2009.

§ 4. When effective. This chapter shall take effect upon the affirmative vote of a majority of the qualified electors voting therein at such general election on November 3, 2009 and the filing with the office of Secretary of State in accordance with the applicable provisions of law, on December 31, 2011.

Affidavits and Publication of the Legal Notice of the Public Hearing were presented, read aloud and filed with the Town Board by the Town Clerk.

At this time, the Supervisor asked if there was anyone in the audience who would like to speak for or against the Proposed Local Law to abolish the office of the Receiver of Taxes and Assessments in the Town of Orchard Park.

Paul Becker – He stated he would like to have the consolidation take place by no later than July 1, 2010.

Irene Seitz – She also urge the 2010 date of consolidation.

Jane Shumaker – She stated she would like to see this merger completed within a six month time frame.

Dean Kroll – He stated that 19 other communities have consolidated to save cost and improve efficiency, he believes we should be able to be accomplished this in six months.

Don Quinlan – He Supports the consolidation as soon as possible to save money for the taxpayers.

John Marlow – He urges for the consolidation to begin in 2010.

Patrick Keem – He stated that government owes it to the people to save money and run more efficiently when given the opportunity.

Hal Fabinsky – He stated that there are consequences with consolidation, such as job loss and work load. He stated there needs to be a thorough plan, which should be carefully implemented and take the time to do it right considering the responsibility of the tax office.

2) 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 Proposed Local Law for the Year 2009: To abolish the position of Receiver of Taxes and Assessments, and consolidate the duties of the Receiver of Taxes and Assessments with the Office of the Town Clerk's Office, to be effective January 1, 2012, is hereby closed at 7:23 PM (local time).

The resolution was unanimously adopted.

Supervisor Travers Murphy stated that the Town Board would not be voting on this issue this evening.

PUBLIC HEARING

At 7:24 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the petition pursuant to §191 of Town Law, for the establishment and creation of Town Drainage District OPDD 3-2. in Pleasant Acres West, LLC.

At this time, Town Clerk Colarusso stated that it was a lengthy legal and she had given copies of it with their agendas to the Town Board and suggested that Town Engineer Bieler summarized the proposal.

Town Engineer Bieler stated that this is a drainage district creation for Pleasant Acres West, LLC, which is a subdivision being proposed in the Town of Orchard Park. It deals with the Environmental Protection Agency requirements for stormwater quality and quantity control. This concerns catch basin maintenance, field inlet maintenance, lawn mowing of retention basins, pond maintenance, stormwater unit cleaning, which is treatment units that controls pollution that has been feeding into our streams and lakes. This would involve only this subdivision and the properties that are within the subdivision.

No one spoke.

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

RESOLVED, that the Public Hearing to consider the establishment and creation of Town Drainage District OPDD 3-2 is hereby closed at 7:26 PM (local time).

The resolution was unanimously adopted.

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

Establishment of Creation to the Town Drainage District OPDD 3-2 in Pleasant Acres West, LLC

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, 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 August 5, 2009 at 7:00 PM in the evening of said day, in the Municipal Center, S4295 South Buffalo Street, Orchard Park, New York, and no person appearing in opposition to and the petitioners appearing in favor of the petition, and

WHEREAS, pursuant to said petition, it is the intention of the petitioners, as sole owners of all the taxable property in said drainage district, to construct said drainage infrastructure solely at its own expense, 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 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, now after due deliberations, it is

RESOLVED AND DETERMINED:

- That the notice of hearing was published and posted as required by law, and the petition was signed
- That all property and property owners within the proposed district are benefited thereby
- That all property and property owners benefited are included within the limits of the proposed district
- That it is in the public interest to establish said district, and be it further

RESOLVED, that the establishment of the proposed district as set forth in said map, plan and report be approved, and that the improvements therein mentioned be constructed by the petitioner, 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 3-2, in the same manner and at the same time as other Town charges, and such district shall be known and designated as "Town of Orchard Park Drainage District No. 3-2 and shall be bounded and described as set forth:

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

RESOLVED AND DETERMINED: that the drainage infrastructure for said district is to be constructed by the owners of the premises, wholly at their own expense, and they have offered to convey the same without cost to the Town of Orchard Park free and clear of encumbrances, except right to access to said improvement by adjoining land owners, that the cost of connecting the same with the Town of Orchard Park drainage system shall be borne by the owners of properties benefited thereby, and be it further

RESOLVED AND DETERMINED: that the Town Clerk be and hereby authorized and directed to file a certificate 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 ten (10) days after the adoption of this resolution, pursuant to §195 of the Town Law.

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

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye
Councilman Graber	Aye

The resolution was unanimously adopted.

New Business #1 Authorize Advertisement of Bids for Concrete Gutters/Aprons for Short Drive

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

WHEREAS, the Orchard Park Engineering Department is in the final stages of preparing Concrete Gutter & Driveway Apron design plans and specifications for Short Drive Reconstruction Project. The new road section will have a closed drainage system and standard concrete gutters along each side of the pavement, and

WHEREAS, the Highway Department does not have the capability of installing the amount of concrete gutters required for this project in the necessary time frame and because the cost is estimated at \$38,000.00, the concrete gutter work must be completed through formal bidding process, and

WHEREAS, in order to keep the project schedule, the Advertisement for Bids should be authorized to be published on August 5, 2009. Plans will be available for purchase on August 18, 2009, and a bid opening on September 10, 2009. It is expected that the construction work will start mid-September with a completion near the end of September.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize advertisements in the Orchard Park Bee and the Buffalo News for sealed bids to be opened for Concrete Gutter & Driveway Apron for Short Drive Reconstruction Project at 11:00 AM on September 10, 2009 in the Supervisor’s Conference Room at the Orchard Park Municipal Center, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #2 Authorize the Town Attorney to proceed with Dedication PIP 2009-02

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

WHEREAS, on July 28, 2009, a final inspection was conducted of the public improvements constructed in the Walgreens – Sanitary Sewer Mainline Relocation Project, and

WHEREAS, the project included the relocation of manhole and 216 LF of sanitary mainline. The completion of this work will facilitate the construction of the Walgreens and Key Bank projects, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications. We are in receipt of easement descriptions/map, a two-year maintenance security bond in the amount of \$20,000.00 along with all other necessary documents.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public sanitary sewer improvements for the Walgreens – Sanitary Sewer Mainline Relocation Project constructed under PIP #2009-02, and be it further

RESOLVED, that the Town Clerk is hereby authorized to release the performance security in the amount of \$4,000.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #3 Authorize the Town Attorney to proceed with Dedication of PIP 2009-03

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

WHEREAS, on July 28, 2009, a final inspection was conducted of the public improvements constructed in the Melant Drive Watermain Extension Project. The project included extending the existing watermain along Melant Drive approximately 100 L.F. The completion of this work will allow a new single-family residential lot to be developed at the end of Melant Drive, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications. We are in receipt of easement description/map, a two-year maintenance security bond in the amount of \$8,250.00 along with all other necessary documents

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public watermain improvements for the Melant Drive Watermain Extension Project constructed under PIP #2009-03, and authorize the Town Clerk to release the performance cash security in the amount of \$1,650.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Authorize Permit for Public Display of Fireworks for Buffalo Bills

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

RESOLVED, that the Town Board does hereby approve the request of the Buffalo Bills Organization for a Permit for public display of fireworks to be held Saturday, August 15, 2009 approximately at 10:30 PM immediately following the game to the Young Explosives Corporation, subject to proof of insurance.

The resolution was unanimously adopted.

New Business #5 Appointment to the OP Recreation Dept. 2009 Summer "Seasonal" Staff

9) 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 2009 Summer "Seasonal" Staff Title or Rate Changes retroactive to June 22, 2009 for the Town of Orchard Park as per directions from the Payroll Department, as recommended by the Recreation Director.

<u>Name</u>	<u>Old Title</u>	<u>New Title</u>	<u>Old Rate</u>	<u>New Rate</u>
Nicole Augustine	PT2-D Att.	PT2-D Lg.	\$9.50	\$9.50
David Goltz	PT1-E Att.	PT2-B Lg.	\$8.50	\$9.00
Colin McArdle	PT1-C Att.	PT2-B Lg.	\$8.00	\$9.00
Benjamin Morton	PT1-E Att.	PT1-E Lg.	\$8.50	\$8.50
Chelsea LaCongo	PT1-C Att.	PT2-B Att.	\$8.00	\$9.00
Salvatore LaDuca	PT2-D Att.	PT3-C Att.	\$9.50	\$10.50
Claire Lewandowski	PT1-C Att.	PT2-D Att.	\$8.00	\$9.50
Megan Robertson	PT1-E Att.	PT2-B Att.	\$8.50	\$9.00
Jon Zelasko	PT1-E Att.	PT2-D Att.	\$8.50	\$9.50

Councilman Kaczor stated that this resolution is to correct titles and salaries of individuals who have added certifications since last year, which puts them at a higher grade level.

The resolution was unanimously adopted.

New Business #6 Authorize Town Assessor to attend "The Cusack Training Center"

10) 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 request from the Town Assessor, Milton Bradshaw, to attend "The Cusack Training Center" on Tuesday, August 18, 2009 for continuing education in the Town of Cheektowaga. The class is National Uniform Standards of Professional Appraisal Practice (NUSPAP). The cost is \$145.00 for 7 credit hours and the funds are budgeted. Reimbursement from New York State is usually 50% to 75%.

The resolution was unanimously adopted.

New Business #7 Appointment of Police Officer to the Orchard Park Police Department

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

WHEREAS, the Orchard Park Police Department staffing is down to two positions due to the retirement of Officer Jeffrey Heeb and the resignation of Rhonda Di Pronio, and

WHEREAS, Chief of Police, Andy Benz, received an application for a lateral transfer from a Deputy from the Cattaraugus County Sheriff's Office with over 10 years of experience as a Police Officer/Deputy Sheriff. She also has an Associates Degree in Criminal Justice from Genesee Community College. She is very interested in working as a Police Officer for the Orchard Park Police Department.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the appointment of Wendy K. Lazarz, 8143 Route 219, Ellicottville, NY 14731 to the permanent position of Police Officer in the Orchard Park Police Department, as recommended by Chief of Police Benz, and be it further

RESOLVED, approval has been received for the transfer from the Erie County Commissioner of Personnel. Wendy would start at Step One of the salary schedule contained in the Collective Bargaining Agreement between the Town of Orchard Park and the Orchard Park Benevolent Association.

The resolution was unanimously adopted.

Police Chief Benz introduced Wendy, her parents, Kathleen and Pat, her stepparents, Nadine and Tom, and her sister Kristin, who were in the audience. He stated that Wendy grew up in Orchard Park/Blasdell area. She has an Associates Degree from Genesee Community College in Criminal Justice and has worked the last nine years with the Cattaraugus County Sheriffs Department. Wendy will bring experience to the Orchard Park Police Department and is a certified as a radar and breath test operator. plus field training officer. Police Chief Benz stated that he is looking forward to Wendy joining the Police Department and is sure she will be an asset to the Town.

The Town Board congratulated Wendy and her family on her appointment.

New Business #8 Schedule a Public Hearing for "Dangerous or Unsafe" Structure

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

WHEREAS, in a report dated July 22, 2009 the Building Inspector has advised this Town Board that the premises at 7089 E. Quaker Road is dangerous or unsafe to the public, and

WHEREAS, pursuant to §47-3, this Town Board does hereby give notice to the owner of such dangerous or unsafe building or to the owners, executors, legal representatives, agents, lessees, or any other person having a vested or contingent interest in the premises, either personally or by registered mail, addressed to the last known address or the owner or someone of the owners executors, legal representatives, agents, lessees, or any other person having a vested or contingent interest in the premises, as shown on the records of the Receiver of Taxes or in the office of the County Clerk, and

WHEREAS, pursuant to §47-3 of the Orchard Park Town Code, a copy of this Notice shall also be posted on the premises, and

WHEREAS, the premises are described as 7089 E. Quaker Road, S.B.L.116.18-3-4, and please take

FURTHER NOTICE, that this building is unsafe or dangerous as set forth in the report of the Building Inspector dated July 22, 2009, and take

FURTHER NOTICE, that the parties served with this notice shall commence the securing or removal of the building or structure within 10 days of the date of this notice, and take

FURTHER NOTICE, that a hearing before this Town Board shall take place on the 16th day of September 2009 to determine whether this Town Board shall demolish the premises, and please take

FURTHER NOTICE, that the hearing shall take place at S4295 South Buffalo Street, Orchard Park NY 14127, at the Orchard Park Municipal Building at 7:00 PM, and please take

FURTHER NOTICE, that this Town Board shall remove the building on the premises in the event that the owner fails or refuses to repair or remove the structure within the time period provided above, and please take

FURTHER NOTICE, that the Town Board is hereby authorized to assess all costs and expenses incurred by the Town in connection with the proceedings to remove or secure the structure, including the costs of removing said building or structure, and the costs of bringing this proceeding, and that such costs shall be assessed against the land on which the building or structure is located, as recommended by the Building Inspector.

Town Attorney Berkowitz stated that this notice states that the securing of the building must commence in ten days, as stated in the second paragraph above.

The resolution was unanimously adopted.

New Business #9 Schedule Special Election for Proposed Reduction of Town Board Members

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

WHEREAS, a petition for the submission of a proposition, hereinafter described, was filed with the Town Clerk of the Town of Orchard Park on the 16th day of July 2009, subscribed and authenticated in accordance with law by electors of said Town qualified to vote upon said proposition, said electors equaling in number, at least five per centum of the total votes cast for Governor in said Town at the last general election held for election of State officers, and

WHEREAS, the aforesaid petition called for the submission to the voters of the Town of Orchard Park of a proposition on whether to decrease representation on the Town Board from four (4) Council Members to two (2) Council Members in the Town of Orchard Park, New York, such that the Orchard Park Town Board shall be compromised of the Supervisor and two (2) Council Members beginning January 1, 2012.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That a special election of the residents and taxpayers of the Town of Orchard Park is hereby authorized and directed to be held on the 23rd day of September 2009, between the hours of 11:00 AM and 9:00 PM for the purpose of voting by ballot on such proposition.
2. The polling places at each election are hereby designated and districts shall be consolidated so as to allow the use of one (1) voting machine at any polling place so established for more than one district, as set forth in Schedule A attached hereto and made a part hereof at the Orchard Park Municipal Building, S4295 South Buffalo Street, Orchard Park NY 14127, in the basement conference room, from 11:00 AM and 9:00 PM..
3. The Town Clerk is hereby ordered and directed to give notice of such election by publication thereof in the Orchard Park Bee, such publication to be a least ten (10) days prior to the date of such special election, and by posting on the sign board of the Town, a copy of such notice at least ten (10) days prior to the date of such special election.

4. The notice of such special election shall be in substantially the form set forth in Exhibit 1, attached hereto and made a part hereof.
5. Local personal registration for the purpose of voting by ballot on such proposition is hereby set for the 11th day of September 2009, between the hours of 12:00 PM and 4:00 PM such registration to be held at the Orchard Park Municipal Building, S4295 South Buffalo Street, in the Town of Orchard Park, New York, and the Town Clerk is hereby ordered and directed to give notice of such personal registration by publication thereof and posting there of, as required by law. Those so registering shall be added to the roll of those personally registered as the same is maintained by the Erie County Board of Elections so as to qualify as an elector for the purpose of this special election.
6. The Town Clerk is hereby ordered and directed to contact and make necessary arrangements with the Erie County Board of Elections for the purpose of bi-partisan selection designation of qualified election inspectors and ballot clerks and for the aforesaid local personal registration and for the purpose of provision of voting machines and/or ballots in sufficient quality for use at such special election and to prepare for the use of the election officers the necessary oaths and certificates of election and to procure and deliver to such election officers any and all necessary paraphernalia for the proper conduct of such election.
7. This resolution shall take effect immediately.

The Town Attorney and the Supervisor discussed the logistics and specifics of the upcoming vote.

The resolution was unanimously adopted.

At this time, Councilwoman Ackerman stated that due to the relevancy of the previous resolution, the Town Board wanted to provide an opportunity for as many people as can be accommodated to hear an airing of the issues. The Town Board has invited a representative from the Association of Towns, with expertise in this area, to give an informational commentary for the public.

Town Attorney Berkowitz has contacted Joan Thomas, the Superintendent of the Orchard Park School District, and the Middle School Auditorium has been reserved for September 2, 2009 for the public informational forum which will be held at the beginning of the regularly scheduled Town Board meeting. The format will remain the same, with the Business from the Floor public comment held after the meeting agenda conclusion.

Not on Agenda – 9/2/09 Town Board Meeting to be held at OP Middle School Auditorium

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

WHEREAS, the Town Board has made arrangements to hold the September 2, 2009 at the Orchard Park Middle School Auditorium to commenced at 7:00 PM, and

WHEREAS, the Town Board will try to limit other Town business in order to address the issue of the proposed Referendum to reduce the members of the Town Board, and

WHEREAS, the Town Board does hereby authorize the Town Clerk to pay for and publish three times in the Orchard Park Bee to insure that as many people as possible are notified of the agenda and change of venue.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the change of the regularly scheduled Town Board meeting of September 2, 2009 at 7:00 PM (local time) to the Orchard Park Middle School to allow for informational and public discourse, as recommended by the Town Attorney.

The resolution was unanimously adopted.

New Business #10 Authorize Supervisor to Sign Contract with Foit-Albert Associates

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 contract between the Town of Orchard Park and Foit-Albert Associates to conduct the Historic Preservation Cultural Survey for the Town of Orchard Park, as recommended by the Historic Preservation Board in an amount not to exceed \$22,500.00.

Councilman Kaczor stated that \$10,000 was received from Senator Dale Volker's office, \$10,000 was from New York State Grant from the Division of Parks, Recreation and Historic Preservation and \$2,500 was the result of the members of the Historic Preservation Board raising funds to complete the survey.

The resolution was unanimously adopted.

Refer to the Planning Board and/or Conservation Board:

16) 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 the request of Corsi Development for a Building Permit and Site Plan approval to construct a food/ice cream/refreshment parlor, Orchard Park Grill and Chill, at 4297 Abbott Road, located on the southeast corner of Abbott Road, to the Planning Board and Conservation Board.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Jane Shumaker – Ms. Shumaker stated she was appalled by the Town's plans for one of the most important votes the Town has ever had concerning the upcoming election for the Referendum to reduce the members of the Town Board. She asked the Town Board to make sure it is the right facility and appropriate voting machines are available.

Phyllis Banas – Ms. Banas felt that this vote should be held at the General Election. (*The Town Attorney Berkowitz stated that it constrained by New York State law. The petition was filed on July 16, 2009 by Mr. Gaughan and the election must be held between 60 and 75 days as directed by State law.*) Ms. Banas had many questions and concerns regarding Council members.

Dave Schuster – Mr. Schuster spoke about an article from the Buffalo News which pertained to the frustrations of citizens who enter politics intent on bringing change and leave disillusioned. In regard to the Referendum to downsize the Town Board, Mr. Shuster stated that the Town Board's past actions and behavior may come back to haunt them when it is put to a vote.

Lou Boehm – Mr. Boehm agreed with downsizing of the Town Board and term limits to allow for fresh ideas and universal representation. He stated that he hoped this would be the last time he witnessed an elected Town Supervisor being trumped before they even have chance to start.

Irene Seitz – Ms. Seitz felt that the focus should be on what can be done, rather what cannot. She stated that the larger picture is to merge the Village and the Town.

ELECTED OFFICIALS & DEPARTMENT HEADS

17) 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 reappointment of Toni Cudney to the Erie County Environmental Management Council.

Councilwoman Ackerman stated that Toni has done a fabulous job and it would be beneficial for her to retain the position. Councilman Dietrick stated that it was supported unanimously by the Town Board.

The resolution was unanimously adopted.

Councilwoman Ackerman answered some of the questions asked by Ms. Banas in reference to the downsizing of the Town Board. She stated that the Council members have not had a raise in salaries in three years at their request, which is \$18,256.00. She explained at the Organizational Meeting every year, it is determined what duties each Council member is responsible for regarding the Town Boards and Committees, mandates and responding to phone calls and e-mails from the residents and petitioners. Retirement, health care and benefits are not taken by any Council members. Councilwoman Ackerman stated that all dialog is open to the public, other than Executive Sessions, concerning contractual matters or personnel issues, which are restrictive. It is an opportunity to share research and obtain as many ideas, thoughts and aspects of an issue so a rational decision can be made. Moving to two Council members would restrict the amount of time and work and cause a tremendous strain and probably necessitate the hiring of a manager, due to the amount of mandates. Councilwoman Ackerman stated that all municipalities are different as well as the Council members compensation, which will be further discussed at the open meeting.

Councilman Kaczor stated that our Town Board is heavily involved with the human resource functions. Many communities have their own resource director and secretary. Our Town Board deals with issues related to contracts and hires disciplinary action. In addition, the Town Board does not have a budget director and is analyzed by the Town Board along with the Town Accountant. The Supervisor is given a \$2,000 stipend as budget director. Other towns have additional staff for their finance, planning and supervisory departments. The Town of Orchard Park has been conservative in respect to growth of government and has held the line in hiring of personnel. Councilman Kaczor stated that this is not a matter of the Town Board vs. the community, because the Council members are also taxpayers and want to see the most efficient government. Councilman Kaczor stated that his concern is, if with loosing two Council members and due to the added work load an outside person had to be hired, then where would be the savings to the Town. He stated that he is also concerned that the Town Board would become strictly a policy making Town Board and not an active community Town Board. Councilman Kaczor hopes that the community scrutinizes and educates themselves so they can make an informed decision as to where the benefit is.

Councilman Dietrick stated that more and more is asked of town governments with increasing unfunded mandates from the Federal and State government and with this is additional work. He reviewed the items on the agenda reflecting these mandatory actions. He stated that he is a proponent of less government, but at the County and State level. He stated that the Town Board and Supervisor put in countless hours and the residents are the beneficiaries. Councilman Dietrick stated that the cost savings would be minimal and there would be a loss of democracy with three people managing the Town. He asked that the residents not mistake Orchard Park for Buffalo and Albany.

Town Clerk Colarusso reiterated the sentiments of the previous Council members and feels that it would be beneficial to remain a four Council member Board. Town Clerk Colarusso stated that the merger of the Tax Receiver and the Town Clerk' Office may be able to be consolidated sooner than the projected two years, but that was time frame given to insure a smooth transition for the residents. She stated that the employees in the Town are here for the residents.

Highway Superintendent Piasecki reviewed the second round of paving and the follow up of driveways on Wallace, Lawrence, Bender, Burbank and Middlesex Roads. The C.H.I.P.S. project will start next week with Ward Road to Scherff Road. The Short Drive reconstruction project will begin August 10, 2009 and take two to three months to complete.

Supervisor Travers Murphy stated that she has spent countless hours speaking to people about the downsizing of the Council members on the Town Board. She stated that she welcomes the debate and feels the Town could manage with a three member board. She would prefer a Town Hall meeting to engage in a dialog with the community. Supervisor Travers Murphy stated that public involvement has increased and it could possibly work in favor for the Town.

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 authorize the approval of all entries on Warrant #15 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$67,986.88
Part Town Fund	\$650.52
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$138,762.41
Special Districts	\$35,134.83
Trust & Agency	\$2,074.10
Capital Fund	\$3,206.00

The resolution was unanimously adopted.

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

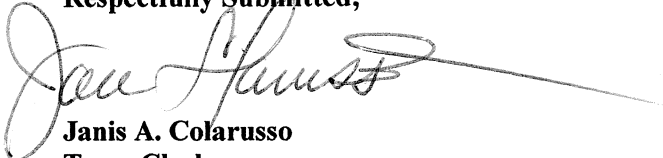
RESOLVED, that the Town Board does hereby authorize to receive and file the following Communications listed on the agenda: Assemblyman Mark Schroeder: sent a letter stating the bill sponsored by he and Senator Volker to create a tax exemption replacing the former Conservation Easement Program has now passed unanimously in both the Assembly and the Senate, and Kathryn Gorkiewicz: sent a letter giving her comments on "Rails to Trails", and be it further

RESOLVED, that the Town Board does hereby authorize to receive and file the following Reports listed on the agenda: Building Inspector's Monthly Report & Building Permits for July 2009.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilwoman Ackerman, the meeting was adjourned at 8:21 PM (local time).

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Janis A. Colarusso", with a long horizontal flourish extending to the right.

**Janis A. Colarusso
Town Clerk**

