

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 6th day of August 2008 at 7:00 PM. The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL: Mary Travers Murphy	Supervisor
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
ABSENT: Nancy Ackerman	Councilwoman

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 SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the minutes of the Meeting of the Town Board held on July 2 & 16, 2008, and the Special Meeting Minutes of the Town Board held on June 11, 18 & 25 and July 23, 2008, 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.

PUBLIC HEARING

At 7:00 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the relocation of Sampla Belting North America LLC, located at 40 Centre Drive in the Town of Orchard Park into the City of Lackawanna Empire Zone, Pursuant to the General Municipal Law Article 18-B, §959 (a)(iii).

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

Supervisor Travers Murphy asked if there was anyone in the audience from Sampla Belting North America, a Stephen Beecher, Sales Manager, stood up and acknowledged himself.

Supervisor Travers Murphy also asked if there was anyone in the audience who would like to speak for or against the relocation of Sampla Belting North America, LLC in the Town of Orchard Park into the City of Lackawanna.

No one spoke.

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

RESOLVED, that the Public Hearing in the matter of the relocation of Sampla Belting North America LLC, located at 40 Centre Drive in the Town of Orchard Park into the City of Lackawanna Empire Zone, is hereby closed at 7:04 PM (local time).

The resolution was unanimously adopted.

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

WHEREAS, Sampla Belting North America, LLC, Inc. has operated a based business at 40 Centre Drive in the Town of Orchard Park, New York, and

WHEREAS, Sampla Belting North America, LLC, employed seventeen (17) persons at this location in the Town of Orchard Park in 2007, and

WHEREAS, the facility is leasing and the company must vacate said premise, and

WHEREAS, Sampla Belting North America, LLC, considered potential sites within the Town of Orchard Park, but could not find suitable space, and

WHEREAS, the Town Board of the Town of Orchard Park has heard public comment that extraordinary circumstances exist to warrant the relocation of Sampla Belting North America, LLC, into the City of Lackawanna.

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park does hereby consent to the "shift of operations" of Sampla Belting North America, LLC, from the Town of Orchard Park to the City of Lackawanna Empire Economic Development Zone.

Councilman Dietrick stated that he feels very strongly that Orchard Park is a great place for businesses and would like to have the Town afforded the same allowances and money given to the Empire Zones by New York State. He believes that New York State needs to examine this program for even distribution of development money across the State.

Councilman Kaczor stated he would not vote in favor of the request from Sampla Belting America to shift to an Empire Zone. He was disappointed that there wasn't a representative from the Lackawanna Economic Development Zone, since he would have liked to have asked some questions about the benefits afforded. This is the third project in less than two years that has addressed the Town Board on moving to an Empire Zone. He doesn't fault the businesses, but rather New York State for putting the Town in a position that is unfavorable economically, due to tax incentives to relocate to an Empire Zone. Councilman Kaczor stated that our Town is put at a disadvantage and it is a flawed program that hurts small communities. Orchard Park does not have its own Industrial Development Agency and is part of the Erie County Industrial Development Agency and the Town is being penalized and there should be some restitution to the local governments. Taxpayers' dollars are being given to these businesses. This program is not an adequately functional program and legislation needs to be revised.

Councilman Graber agreed with Councilman Kaczor that it is a flawed program, but he feels sending a message to New York State by punishing a company that is going to stay in Western New York, is not the answer. He stated that our local government is trying to do something to help Orchard Park and Western New York and the State doesn't hesitate to pass mandates down, but when it comes to a program that is actually hurting the State and Western York, particularly Orchard Park, we hearing nothing.

Supervisor Travers Murphy stated that this business move had to do with the needed additional size of the building for their business. She stated that she was sorry to see them go, but understood the draw to Lackawanna and she would vote in favor.

Supervisor Mary Travers Murphy	Aye
Councilwoman Nan Ackerman	Absent
Councilman David Kaczor	Nay
Councilman Mark Dietrick	Aye
Councilman Ed Graber	Aye

The resolution was duly adopted.

New Business #1 Adopt-2007 Town of Orchard Park Financial Statements/Drescher-Malecki, LLC

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

WHEREAS, the Town's audited financial statements, specifically the Comprehensive Annual financial Report and the Statement of Changes in Cash Balances and Statements of Cash Receipts and Disbursements of the Town Clerk, Town Justices and Tax Receiver for the year ended December 31, 2007 and Independent Auditors' Report were presented at the April 9th, 2008 work session.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approves those reports presented by the Town's independent auditor, Wayne Drescher, Partner at Drescher & Malecki, LLP.

Councilman Dietrick stated that this resolution approves the financial statement as it is, not the budget.

The resolution was unanimously adopted.

New Business #2 Town Board to Accept the Resignation of Timothy Gardner/Historic Pres. Board

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

RESOLVED, that the Town Board, with regret, accepts the resignation of Timothy Gardner from the Historic Preservation Board, effectively immediately.

The resolution was unanimously adopted.

New Business #3 Town Clerk to Release Escrow – PIP #2007-05 – Sanitary Sewer Extension

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

WHEREAS, on April 2, 2008 the Town Board accepted dedication of the Public Improvements constructed in the above referenced project with the stipulation that funds paid by the contractor be held in escrow until final seeding and grading within and adjacent to the State right-of-way was completed, and

WHEREAS, the contractor has since completed the required final seeding and grading along East Quaker Road, where the installation of 129 L.F. of sanitary sewer and one (1) manhole was completed to serve 7594 East Quaker Road. The work was inspected by the Engineering Department and found to be in compliance with Town specifications.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release to John M. Fitzgerald, 30 Beverly Street, Rochester New York 14610 the \$2,500 held in escrow for the final seeding and grading for the East Quaker Road Sanitary Sewer Extension, 7594 East Quaker Road constructed under PIP #2007-05, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 (Tabled) Approve Change Order #1 to the Contract with CIR Electrical Construction Corporation, Electrical Contractor for the 2007 Building Improvements Project including Highway Building Addition, Compost Equipment Pole Buildings, Yates Bath House & Splash Pad and Dog Pound Addition.

New Business #5 Approve Change Order #3 for the 2007 Building Improvements Projects

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

WHEREAS, the Engineering Department is requesting approval of a Change Order to the contract with New Cal Construction, Inc. for the 2007 Building Improvements Project in the amount of \$6,800.48. This would increase the total contract amount to \$546,460.02, representing an increase of 1.24%, and

WHEREAS, the Change Order is requested to perform additional work not covered under their contract and the additional work involves the Dog Control Addition and the Compost Pole Building, and

WHEREAS, a number of unforeseen problems were found at the Dog Control Building during construction. The existing roof had two layers of roofing which need to be removed before installation of the new rubber roof. The top layer was removed easily; however the bottom layer was bonded to the roof deck, requiring much chipping of the shingles, causing damage to the roof deck itself. Since the manufacturer required a fiberboard underpayment for the rubber roof which was not called for on the plans, it was decided to cover the entire roof with the fiberboard to provide the new warranty to the entire building, and

WHEREAS, it was also discovered during shingle stripping that the roof deck was rotted at the incinerator chimney area and in need of replacement. The collar ring around the incinerator standpipe had also broken loose and was in need of a welding repair, and

WHEREAS, at the new 60' Compost Equipment Pole Building, in order to prevent condensation, it was decided to install ½" Thermamax insulation board under the roof, as per the existing Compost Pole Building. Since this is an enclosed building, condensation on the underside of the metal roof could cause constant dripping on the materials or equipment inside

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize Change Order #3 to the contract with NewCal Construction, Inc., General Contractor for the 2007 Building Improvements Project including Highway Building Addition, Compost Equipment Pole Buildings, Yates Park Bath House & Splash Pad and Dog Pound Additions.

The resolution was unanimously adopted.

New Business #6 Schedule a Public Hearing for a Local Law for 2008/Chapter 144, §44 & §46

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

WHEREAS, per discussion by the Town Board and the Town Engineer at a work-session, the following recommended revisions to the Town Code of the Town of Orchard Park for the construction of private roadways is as follows (~~strikethrough means delete and bold means add~~);

- Amend Chapter 144; Section 46–Multiple Dwellings and Townhouses, Paragraph C (2) to read as follows: “Circulation system. The interior circulation system shall be adequate. Roads ~~deeded to the Town and private roads must~~ **shall** meet Town Specifications and Standards. Private roads ~~must shall be at least 20-feet~~ **have a minimum asphaltic paved width of 21-feet wide** plus the thirty-inch **Town Standard** concrete gutters on each side.”
- Amend Chapter 144, Section 44– Applications for Building Permits and Certificates of Occupancy in B, I-1 or D-R Zones, Paragraph F (4) to read as follows: “Roads, **(public or private)**, pedestrian walks and open space shall be designed as an integral part of the overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped. **Such roads, public or private, shall meet Town Specifications and Standards except, private roads shall have a minimum asphaltic paved width of 21-feet plus thirty-inch wide Town Standard concrete gutters on each side.**”

WHEREAS, the recommended action of increasing the minimum standard width of private roadways from 20-feet to 21-feet is for better constructability and usability or negotiability by large vehicles, such as but not limited to emergency vehicles, and

WHEREAS, the other recommended revisions are warranted due to the increase of recent commercial site plan noting private roadways with pavement cross sections far less than the Town Standards, which the Planning Board and Engineering Department has required constructed per Town Specifications and Standards, in the past. The road surface will be an issue in the near future when the longevity of these private roads starts to degrade far before that of a typical normal road section resulting in concerns about maintenance procedures and emergency vehicles access.

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park does hereby schedule a Public Hearing for Wednesday, September 3, 2008 at 7:00 P.M. to receive public comment on a Local Law for Year 2008 to the Town Code of the Town of Orchard Park, and be it further

RESOLVED, this Local Law provides for the proposed amendments to Chapter 144, Section 46; Multiple Dwellings and Townhouses, Paragraph C(2) and Section 44; Application for Building Permits and Certificates of Occupancy in B, I-1 or D-R Zones, Paragraph F(4), and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #7 Police Chief Requesting Asst. Dog Control Officer Attend Seminar in Tonawanda

9) 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 from the Police Chief to send the Assistant Dog Control Officer, Wende Mulawka, to the one (1) day seminar on August 15, 2008, at the SPCA in Tonawanda, New York, at a cost not to exceed \$20 plus mileage.

The resolution was unanimously adopted.

New Business #8 Town Assessor Requesting to Attend Seminar, September 21-24, 2008

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

RESOLVED, that the Town Board does hereby authorize the request from the Town Assessor, Milt Bradshaw, to attend the New York State Assessors' Association Fall Conference, September 21 – 24, 2008, Hudson Valley Resort. The estimated cost is \$1,235.00 (\$175 for classes, \$660 room and meals, mileage and tolls \$400). Reimbursement is available from the State anywhere from 50% to 95%.

The resolution was unanimously adopted.

New Business #9 Refer to Planning Board and or/Conservation Board

11) 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 refer the following item listed on the agenda to the Planning Board and/or Conservation Board: 1) Accent Stripe, Inc., 3275 North Benzing Road, Zoned I-1. Requesting a Building Permit and Site Plan approval to construct a 2,731 +/- sq. ft., 2-story addition to the existing building with improvements to be made to the site that includes parking and landscaping.

The resolution was unanimously adopted.

New Business #'s 10, 11 & 12 Refer to the Public Safety Committee

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

RESOLVED, that the Town Board does hereby authorize refer the following requests listed on the agenda to the Public Safety Committee:

- Russ Klass requesting left-turn signal at the corners of Rte. 240/277 at Jewett Holmwood Road and Armor Duells. Town Board to refer this request.
- Richard Leonard requesting traffic signal at the corners of North Buffalo Street and New Taylor Road. Town Board to refer this request.
- Ken Certo requesting a stop-sign at the corner of Lynchburg Court & Winterhall Road in both directions. Town Board to refer this request.

The resolution was unanimously adopted.

Business from the Floor

Lou Boehm – He stated that he was happy that Orchard Park has a new local paper. Mr. Boehm spoke about former Eugene Woodard and how he listened to his constituents and civility was not an issue that had to be addressed.

Henry Hepner – He thanked the Town Board for effectively setting Town Budgets. He asked the Town Board to continue what is right for the community and not just for the few vocal minorities.

Sal Ceronne – He stated that he is against Wal-Mart and asked the Town Board's assistance to keep them out legally, for he believes there will be terrible traffic problems at Sterling Drive and Milestrip Road intersection if this project goes any further.

Elected Officials & Department Heads

13) 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 following budget transfers within the Highway Department:

\$15,000	From: A.7110.0449	Lake Maintenance and Channel Cleaning Yates Park
	To: A.7110.0149	Parks-Part Time Laborers

RESOLVED, that the Town Board does hereby authorize the following budget transfers within the Maintenance Department:

\$850.00	From: A.1620.0419	Other Expenses
	To: A.1620.0412	Mileage Reimbursement

RESOLVED, that the Town Board does hereby authorize the following budget transfers within the Recreation Department:

\$5,000	From: A.7020.0201	Playground Equipment
	To: A.7020.0433	Special Events

RESOLVED, that the Town Board does hereby authorize the following budget amendment of the Town's 2008 budget in the Highway fund to provide for the increase costs of oil based products:

Increase estimated revenues:

DA1120.000 Sales Tax \$80,000

Increase appropriation account:

DA5110.472 Highway – Stone, Gravel & Road Oil \$80,000

The resolution was unanimously adopted.

Councilman Graber thanked the Village and the Town for the enjoyable and successful Ice Cream Social and the Street Dance.

Councilman Kaczor also commented on the Quaker Days Events and thanked everyone for their assistance.

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

RESOLVED, that the Town Board does hereby accept the resignation of Scott Kroll from the Recreation Commission due to family commitments which make it impossible to dedicate the time necessary to adequately perform the duties of a Recreation Commission Member.

The resolution was unanimously adopted.

Councilman Kaczor announced on Friday, August 8th and August 15th, 2008, the Recreation Department is sponsoring Family Outdoor Movie Nights at the Middle School Pavilion.

15) 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 a Building Permit to WNY Urology Associates, LLC, 500 Sterling Park, Zoned I-1, located on the West side of Sterling Park. The Planning Board, 8/6/08, recommends that the Town Board authorize the permit and approve the Site Plan received 7/16/08 for two (2) building additions totaling to 3,487 +/- sq. ft. to the existing building based on the following conditions and stipulations:

- This is a Type II SEQR Action and therefore no determination of significance is required.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens.
- No outside storage or display is permitted.
- Town Engineering Approval was granted on 8/6/08.
- Installation of the required fire hydrant shall be handled under a Public Improvement Permit (PIP) and shall be completed and dedicated prior to the Building Inspector issuing a Certificate of Occupancy for Building Additions.
- A landscape completion bond in the amount of \$15,000.00 in accordance with the Conservation Board minutes shall be provided for the approved landscape plan, which includes 14% interior green space, prior to the receipt of a Building Permit.

- All agreements and understandings that are part of the written record and/or tapes are included as a condition of approval

The resolution was unanimously adopted.

Councilman Dietrick stated at the 4th of July Parade there were oversized floats and he was concerned with the safety of children. He asked Police Chief Benz to address the Chamber of Commerce or the Public Safety Committee for appropriate size of the floats for safety reasons.

Refer to the Planning Board and/or Conservation Board:

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

RESOLVED, that the Town Board does hereby refer the following item to the Planning Board and/or Conservation Board: Dawn Bohn, Dinner Dilemma, 3021 Southwestern Boulevard. Requesting a Change-in-Use from a mercantile establishment to assembly for full service restaurant. The restaurant will be a joint venture between Ms. Bohn and Mr. Steve Krastev, as requested by the Building Inspector.

The resolution was unanimously adopted.

Police Chief Benz commented on the successful Police Open House on Tuesday, August 5th, 2008. At this annual event, children and parents are given a tour of the Police station, prints identification for the children and serves hot dogs. He thanked the contributors who made this possible: Target, J. Mills Distributing and Arthur's, with a special thank you to Joe Wales who helped him cook the hot dogs.

Highway Superintendent Piasecki reported on the highway projects at Oakwood Avenue and Angle Road and thanked the residents for their cooperation.

Highway Engineer Bieler related that there has been graffiti which has to be touched up and this delays the time schedule. He asked if anyone sees anything suspicious, to call the authorities.

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

General Fund	\$193,400.74
Part Town Fund	\$18,218.71
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$426,210.25
Special Districts	\$33,744.29
Trust & Agency	\$28,594.31
Capital Fund	\$223,510.28

The resolution was unanimously adopted.

Communications & Reports

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

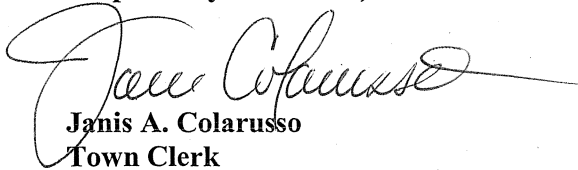
RESOLVED, that the Town Board does hereby receive and file the following Communications & Reports listed on the agenda:

- Niagara Region Planning Service Department: At the regular meeting of this board, July 3, 2008, Regional Council endorsed the report, DPD 34-2008, "Nomination of the International Joint Commission for a Stockholm Water Prize". The Stockholm Water Prize is the most prestigious prize for outstanding achievement in water-related activities in the world. The purpose of the letter is to request the Town of Orchard Parks support with emphasis on the importance of the nomination.
- Building Inspector's Monthly Report & Building Permits for July 2008.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Dietrick, to wit, the meeting was adjourned at 7:35 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk