

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 15th day of August 2007 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

| | | |
|------------------------------|-------------------------|------------------------|
| PRESENT AT ROLL CALL: | Mary Travers Murphy | Supervisor |
| | Nancy Ackerman | Councilwoman |
| | Mark Dietrick | Councilman |
| | Deborah Yeomans | Councilwoman |
| | Janis Colarusso | Town Clerk |
| | Leonard Berkowitz | Town Attorney |
| | Samuel McCune | Chief of Police |
| | Andrew Geist | Building Inspector |
| | Frederick Piasecki, Jr. | Highway Superintendent |
| | Wayne Bieler | Town Engineer |
| ABSENT: | David Kaczor | Councilman |

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 DIETRICK, TO WIT:

RESOLVED, that the minutes of the Meeting of the Town Board held on August 1, 2007, 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 Agreement for Funding Orchard Park Library Board 2007 Grant Application

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

WHEREAS, the Orchard Park Public Library is applying to the New York State Education Department, New York State Library, Division of Library Development, "\$14 Million Public Library Construction" grant program for funds to support the flat roof system replacement in the Orchard Park Public Library, a building owned and maintained by the Town of Orchard Park and located within the jurisdiction of this Orchard Park Town Board, and

WHEREAS, as a requirement of these programs, said public libraries must obtain "Certification of Project Approval from the local municipality".

NOW, THEREFORE, be it

RESOLVED, that the Orchard Park Town Board does hereby approve and endorse the request for \$100,000 submitted by the Orchard Park Public Library to the New York State Education Department, New York State Library, Division of Library Development, "\$14 Million Public Library Construction" grant program, and be it further

RESOLVED, that the Town Board of the Town of Orchard Park will contribute \$100,000 in cash and in-kind goods and services as matching funds, or 50% of the total project cost, not to exceed \$200,000, and be it further

RESOLVED, that the Town Board does hereby approve and endorse the request of the Orchard Park Library for Roof Replacement and State Public Library Grant Application.

The resolution was unanimously adopted.

Old Business #2 Application for Excavation Permit 2007-03/Hilltowne Phase 2 Subdivision

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

WHEREAS, the Town Engineering Department has received from Mr. Bryan Young, 2240 Southwestern Boulevard, West Seneca, New York 14224, an application for an Excavation Permit to stockpile 8,000 cubic yards for use during the construction of the Hilltowne Phase 2 Subdivision. The fill will be generated from home constructions in the Hilltowne Phase 1 Subdivision, which is presently under construction, and

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

RESOLVED, that the Town Board does hereby approve the application for an Excavation Permit #2007-03 to stockpile 8,000 cubic yards of fill within the proposed limits of the Hilltowne Phase 2 Subdivision for Brian Young, 2240 Southwestern Boulevard, West Seneca, NY 14224.

The resolution was unanimously adopted.

Old Business #3 Pleasant Acres II Sub/Map Cover Revision/PIP #2007-01

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

WHEREAS, the Town Engineer has received from Elliot Lasky, 4430 Walden Avenue, Lancaster, New York, 14086 representing Pleasant Acres West LLC., an application for a Public Improvement Permit to construct Amended Lots 12, 13, 14, and 15 of the Pleasant Acres II Subdivision Map Cover Revision, and

WHEREAS, Pleasant Acres II Amended Lots 12, 13, 14, and 15 will include 400 L.F. of new roadway and public utilities to serve four residential sublots as shown on the attached location map, and

WHEREAS, the Town Engineer has reviewed the plans and specifications for the proposed project and have found them to be in compliance with current Town Specifications and Standards, and is in receipt of all necessary fees, bonds, and insurances.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve of Public Improvement Permit #2007-01 for the Pleasant Acres II Subdivision Amended Sublots 12, 13, 14, and 15.

The resolution was unanimously adopted.

Old Business #4 Release of Escrow for Eagle Heights Subdivision Part 8, Phase 1, PIP #2004-01

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

WHEREAS, on February 15, 2005, the Town Board accepted dedication of the public improvements constructed in the above referenced subdivision with the stipulation that funds paid by the contractor be held in escrow for erosion control, barricade, and for concrete gutters' repairs, and

WHEREAS, the contractor has since completed repairs to the barricade, concrete gutters, and finalized erosion control work. 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 the \$2,000 held in escrow under PIP #2004-01 for erosion control, barricade repairs and concrete gutters' repairs in the Eagle Heights Subdivision, Part 8, Phase 1 to Cimato Bros. Construction, Inc., 9220 Transit Road, East Amherst, NY 14051.

The resolution was unanimously adopted.

Old Business #5 Senior Engineering Assistant Position for the OP Engineering Department

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

WHEREAS, with the recent retirements of Gregory Graham, John Wilson and Larry Holtz, the Engineering Department presently has no one in the position of Senior Engineer Assistant. The need for additional employees is urgent, and

WHEREAS, the Town Engineer proposes to hire one (1) new employee and promote two (2) to fill two (2) of the vacant Senior Engineer Assistant positions, which will bring the Department staff back to previous staff level, and

WHEREAS, the duties of the proposed positions would include, under general supervision, CAD drafting, construction inspection, field surveying, estimates, calculations, and maintenance of sewer records.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the approval for the filling of two (2) vacant Senior Engineer Assistants through a promotional exam and another through an open exam, to be added to the Union Wage Scale Range \$38,500 – \$42,700, in the Orchard Park Engineering Department, and be it further

RESOLVED, that the Town Board does hereby authorize the Town Clerk to advertisement the Senior Engineer Assistant Position for the Engineering Department in the official newspaper of the Town.

The resolution was unanimously adopted.

Old Business #6 (Tabled) Fox Run of Orchard Park, corner of Big Tree Road (Rt. 20A) and California Road, in lieu of Trail Loop Development in the New York State Wetlands. The Planning Board, 7/11/07, recommends the Town Board accept the revised Site Plan (tabled July 18, and August 1, 2007).

Old Business #7 Benderson Development, 3195-3207 Southwestern Blvd, "Crossroads Plaza"

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

RESOLVED, that the Town Board does hereby grant relief to the Benderson Development, 3195-3207 Southwestern Boulevard, "Crossroads Plaza" out parcel, adjacent to Lowe's, Zoned B-2, for the parking requirements per §144-29A(2), as recommended by the Planning Board (8/8/07) with the following conditions and stipulations:

- This is an unlisted action and no further determination is required; the SEQR has been previously filed.
- The original agreement with Benderson Development required 152 parking spaces.
- The Building Inspector has determined that the maximum parking spaces required for the 7,560 sq.ft. building is 84 spaces.
- The Conservation Board has recommended that 68 parking spaces located at the rear of the parcel (as shown on the August 3, 2007 site plan) be kept green.
- Benderson Development agrees that the 68 parking spaces shall be "banked" for parking if deemed by the Planning Board in the future to be needed for either this site or the "Tops Plaza" as originally developed by Benderson Development. The Plan shall note the requirements of the banking for the overall site, via a full site plan.
- A landscape completion bond in accordance with the Conservation Board minutes (\$19,610.00) shall be provided for the approved landscape plan received, 8/03/07, which includes 10% interior green space, prior to the receipt of a Building Permit.

The resolution was unanimously adopted.

Old Business #8 Parker Price, 3815 California Road, Located on the East Side, Zoned I-1

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

RESOLVED, that the Town Board does hereby authorize a building permit to Parker Price, 3815 California Road, located on the east side, Zoned I-1. The Planning Board (8/8/07) recommends permit for an 8,993 sq. ft. addition to an existing office building and to approve the site plan received on 8/1/07, based on the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Short EAF, Parts One and Two and a Negative Declaration is recommended.
- 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.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- Town Engineering Approval was granted on 8/2/07.

- A landscape completion bond in accordance with the Conservation Board minutes (\$13,748.00) shall be provided for the approved landscape plan received on 7/06/07 which includes 10.1% interior green space, prior to the receipt of a Building Permit.

The resolution was unanimously adopted.

Old Business # 9 – 3026 & 3030 Orchard Park Road, West Side of Orchard Park Road, Zoned B

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

RESOLVED, that the Town Board does hereby approve the building permit for 3026 & 3030 Orchard Park Road, located on the west side of Orchard Park Road, Zoned B-2 (Site of Schuele Paint & ABC Tool Rental: The Planning Board (8/8/07) recommends the Town Board authorize a Building Permit for a 2,520 sq. ft. addition that will join two (2) buildings that currently exist on a combined parcel (Formerly known as 3026 and 3030 Orchard Park Road, now know as 3030 Orchard Park Road.) to operate a day-spa and create new medical offices and approve the site plan received 7/30/07, based on the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Long EAF, Parts One & Two and a Negative Declaration is recommended.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lens; house shields will be used on the light fixtures along Eaglebrook Drive.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with §144-25 of the Town Code.
- Town Engineering Approval was granted on 8/2/07.
- A landscape completion bond in accordance with the Conservation Board minutes (\$16,668.00) shall be provided for the approved landscape plan received 7/17/07 which includes 10.1% interior green space, prior to the receipt of a Building Permit.
- The applicants shall, at the time they appear before the Orchard Park Town Board, present colored elevations depicting the combined architecture of both properties (proposed connecting building and the existing buildings, located at 3026 and 3030 Orchard Park Road) for the Board's review of the aesthetic look.

The resolution was unanimously adopted.

Old Business #10 (Tabled) Reed's Jewelry Store, Corner of Milestrip Road & Abbott Road: Reed's Jewelry Store, located at the corner of Milestrip and Abbott Road, south side of Milestrip Road, Zoned B-2. The Planning Board (8/8/07) recommends that Town Board deny the use of a curb cut located on Milestrip Road.

New Business #1 Brush Mountain Park/TB to Complete a Coordinated Review w/Full EAF

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

WHEREAS, the Planning Board has completed the Short EAF for the Brush Mountain Project and the project exceeds the ten (10) acre threshold. The Planning Board recommends the Town Board complete a Coordinated Review with a Full EAF, as this is a Type I Action

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby seek Lead Agency Status and initiate a Coordinated SEQR Review for Brush Mountain Park, West Side of California Road.

The resolution was unanimously adopted.

New Business #2 McDonalds Restaurant, 3232 Orchard Park Road, Zoned B-2

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

WHEREAS, on May 16, 2007 the Town Board approved a building permit for McDonald's at 3232 Orchard Park Road, with the stipulations regarding the outdoor seating, playground equipment, and the final architectural details to be approved by the Town Board after they were updated

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve of the renovations at the McDonalds Restaurant, 3232 Orchard Park Road, Zoned B-2, with the following conditions and stipulations:

- The Planning Board stipulation for deletion of outside seating and playground equipment has been met.
- The tan top cap and chimney be changed to aluminum; the main body brick is to be Quik Brick Richfield blend; the accent brick is to be Quik Brick Wilksbore blend; the stone arcades are to be Corning #CSV-2045 chardonnay Limestone; the awnings and architectural features are to be yellow stripped; and the window trim to be anodized aluminum.
- The Town Board representative will review and approve the shape and color of the EFIS crown prior to purchase and installation.
- The signage package has been approved by the Zoning Board of Appeals on 5/15/07.

The resolution was unanimously adopted.

New Business #3 Town Board to Release Bond for UAW, Local 22, 3651 California Road

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

WHEREAS, a site inspection of the UAW Local 22 was conducted by the Planning Board Coordinator and Lynn Reynolds, the Town Arborist, regarding the validity of three (3) trees was conducted and

WHEREAS, and the landscaping was found to be in compliance with landscape plan

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize to release the Bond for Landscaping Security Deposit of \$4,062.50, for UAW Local 22, 3651 California Road, Suite #2, as recommended by the Planning Board.

The resolution was unanimously adopted.

New Business #4 Accept the Resignation of Angela Tuchols from the Recreation Department

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

RESOLVED, that the Town Board does hereby accept with regret the resignation of Angela Tuchols, Full-time Aquatic Director for the Recreation Department, effective August 24, 2007.

The resolution was unanimously adopted.

New Business #5 Authorize the Appointment of Amanda Janosky for the Recreation Department

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

RESOLVED, that the Town Board does hereby authorize the appointment of Amanda Janosky, 833 Sturgeon Point Road, Derby NY 14047, as Full-time Aquatic Director for the Recreation Department. The appointment is provisional subject to Erie County Civil Service qualifications and final approval and would be effective August 24, 2007 at the White Collar Pay Scale, Range 4, Step E, as recommended by the Recreation Director.

The resolution was unanimously adopted.

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

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

RESOLVED, that the Town Board does hereby refer the following item(s) listed on the agenda to the Planning Board and/or Conservation Board: Family Video Movie Club, 3009 Union Road, at the Southeast corner of Michael Road intersection, Zoned B-2 (the old Burger King site). Requesting a site plan approval, the property has been historically used as a Burger King restaurant. The proposal is to demolish the existing building and remove the existing parking lot to allow for a 7,200 square foot single-story brick building and a 48 space parking lot. The building will contain a Family Video Movie Club for video game rental and sales.

The resolution was unanimously adopted.

Elected Officials & Department Heads**Budget Transfers**

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

RESOLVED, that the Town Board does hereby authorize the following budget transfers for the Town Assessor and Recreation Director:

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|-------|--|
| From: | \$ 7,875.00 – A.1355.0111 – Assessor-Real Property Appraiser |
| To: | \$ 7,875.00 – A.1355.0403 – Assessor-Contract Consultant |
| To: | \$ 600.00 – A.7020.200 – Recreation-Equipment |
| From: | \$ 600.00 – A.7020.459 – Recreation-Training |

The resolution was unanimously adopted.

(Not on Agenda) Town of Orchard Park Justice Court Grant

17) 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 Supervisor Mary Travers Murphy to submit an application to the New York State Unified Court System, 2007 Justice Court Assistance Program for the purchase of audio/visual technology, a surveillance system, clerical supplies and other equipment for the Town Court. The total amount requested for the proposed project will not exceed \$30,000 and the Town will contribute \$23,900 in in-kind goods and services or 51% of the total project cost of \$47,082.

The resolution was unanimously adopted.

Councilwoman Ackerman announced the 3rd Annual Books & BBQ fundraiser to benefit the Orchard Park Library on Sunday September 9, 2007 from 11:00 AM to 3:00 PM.

Councilman Dietrick stated he had concerns regarding some goals in regard to the Comprehensive Plan for Orchard Park and a resume for consideration to one of the Town boards.

Highway Superintendent Piasecki reported on the Town roadwork progress and thanked the residence for their cooperation.

(Not on Agenda) Highway / Animal Control Additions & Yates Park Bathroom Bldg. Project

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

WHEREAS, to complete the building design work (Highway / Animal Control Additions & Yates Park Bathroom Bldg. Project Yates) the existing soil conditions in the vicinity of the buildings and pump station need to be known. With the preliminary building and survey work underway, test bore locations have been marked in the field as determined by the Town's consultant, C&S Engineers Inc., and

WHEREAS, the Town of Orchard Park will directly contract the soil test boring services for these various building projects and add the findings to the Town's soil boring records book. In order to keep the project on schedule; test-boring work must be completed early in the design stage, and

WHEREAS, the Town Engineer has solicited services from a local consultant Empire GEO Services Inc., which is qualified and capable to complete this work in the necessary time frame. The test boring work will include two soil boring locations at each building and one at the Pump station for a total of five borings. Empire GEO Services Inc. estimated cost to complete the above mentioned work is \$3,500.00. The estimated time necessary to complete the boring work is two days.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with Empire GEO Services, Inc., 5167 South Park Avenue, Hamburg, New York 14075, to provide soil test borings and geotechnical report services for the Highway / Animal Control Additions & Yates Park Bathroom Bldg. Project in an amount not to exceed \$3,500.00.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #16 following auditing by members of the Town Board and in the funds indicated:

| | |
|---------------------------|--------------|
| General Fund | \$97,686.83 |
| Part Town Fund | \$494.77 |
| Risk Retention | \$330.00 |
| Cemetery Fund | 0 |
| Highway Fund | \$10,289.54 |
| Special Districts | \$149,734.84 |
| Trust & Agency | \$1,059.17 |
| Capital Fund | \$66,303.80 |

The resolution was unanimously adopted.

Receive & File Communications & Reports

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

RESOLVED, that the Town Board does hereby receive and file the following Communications: The Orchard Park Library; will be holding their Annual Drive-Thru-BW's BBQ, Sunday, September 9, 2007, from 11-3 PM. Chicken Dinner is \$8.00, and Rib Dinner is \$10.00. All proceeds support the library needs, and be it further

RESOLVED, that the Town Board does hereby receive and file the following Reports: Chief of Police's Monthly Report for July 2007, and the Building Inspector's Monthly Report & Building Permits for July 2007.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Louis Boehm – He stated that he is exercising free speech at the Town Board meeting as he was informed he can no longer contact the Southtowns Citizen newspaper according to the owner.

Jim Suplicki – He had questions on the legal steps regarding the proposed Wal-Mart site.

John D'Amico – He opposed the appointment of Mr. Taneff to the Planning Board and submitted a signed petition.

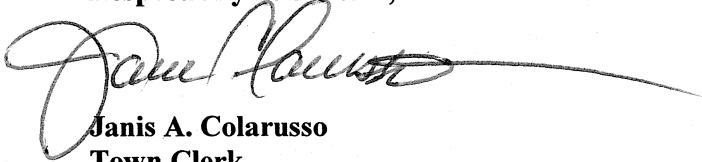
Bob Weakland – He also opposed the appointment of Mr. Taneff to the Planning Board and asked about the interview process.

Nick Taneff – He reviewed the past experiences with Diversified Controls, Inc. and his long history in legislating for buffering between residential and industrial and residential and commercial zones. He stated that properties need to be maintained and the Town needs a committee to review the Town's code enforcement laws.

John Marlow – He asked if there was a copy and map of the Comprehensive Plan for review. He had questions concerning the Brush Mountain project.

There being no further business from the floor, on motion by Councilman Dietrick, seconded by Councilman Ackerman, to wit: the meeting was adjourned at 7:55 PM (local time).

Respectfully Submitted,

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

Janis A. Colarusso
Town Clerk