

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 19th 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
	Ted Gura	Assistant Chief of Police
	Andrew Geist	Building Inspector
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
ABSENT:	Andrew Benz	Chief of Police

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."*

Public Hearing: Reschedule the Dangerous and/or Unsafe Building Hearing, 7089 E. Quaker Road

1) 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 reschedule the Public Hearing for the property located at 7089 East Quaker Road, declared "Dangerous or Unsafe", to determine whether this Town Board shall demolish the premises, to September 16, 2009.

The resolution was unanimously adopted.

Old Business #1 Public Referendum: "Abolish the Position of Receiver of Taxes & Assessments"

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

RESOLVED, that the Town Board does hereby authorize a Mandatory Referendum to be held at the general election on November 3, 2009, for the purpose of abolition of the Office of Receiver of Taxes and Assessments in the Town of Orchard Park effective December 31, 2011, and the powers and duties of that office shall be consolidated with the office of the Town Clerk of the Town of Orchard Park

The question of the adoption was duly put to a roll call vote which resulted as follows:

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

The resolution was duly adopted.

Supervisor Travers Murphy stated she was not voting in favor this evening because she believes the consolidation should take effect January 1, 2010. This motion tonight pushes it back to January 1, 2012.

New Business #1 Recreation Department staff title and rate change

3) 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 approve the request of the Recreation Director to move Jennifer Carter from PT3-C (att.) rate \$10.50 to PT6-D (Clerk, PT) rate \$15.00, and be it further

RESOLVED, due to her (Jennifer Carter) resignation as Recreation Commission Secretary, Jessica Carter will fulfill the role of Secretary to the Recreation Commission.

The resolution was unanimously adopted.

New Business #2 Authorize Building Permit for R.W. Construction, Inc., 65 Mid County Drive

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

RESOLVED, that the Town Board does hereby authorize a Building Permit for a two story addition totaling 4,800 ± sq.ft. to the existing building as requested by R.W. Construction, 65 Mid County Drive, located on the east side of Mid County Drive, Zone I-1, and approve the site plan received 7/29/09 based on the following conditions and stipulations, as recommended by the Planning Board 8/12/09:

- This is an Unlisted SEQR action based on the submitted Short EAF, Parts One and Two and a Negative Declaration is made.
- The site lighting shall remain as it exists today.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- Town Engineering Approval was granted on 8/12/09
- A three-year landscape completion bond in the amount of \$5,650.00 shall be provided for the landscape plan received 6/15/09 which includes 40.3% total green space, prior to the receipt of a Building Permit.
- The Zoning Board of Appeals granted a Variance for Front Yard Parking on 6/16/09

The resolution was unanimously adopted.

New Business #3 Authorize Building Permit for Carleton Technologies, 10 Cobham Drive

5) 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 a Building Permit for Carleton Technologies, 10 Cobham Drive, located on the northwest side of Cobham Drive, Zoned I-1, and approve the Site Plan received 8/3/09 for Phase 1 of a two phase project as follows: Phase 1, proposes the construction of a 10 ft X 95 ft. Covered Patio addition and a 470 sq.ft. Test Room Addition with site improvements and the following conditions and stipulations are to apply, as recommended by the Planning Board 8/12/09:

- This is an Unlisted SEQR action based on the submitted Short EAF, Parts One and Two and a Negative Declaration is made.
- The site lighting is limited to those fixtures and poles indicated on the approved site plan, pending review and approval of a designated member of the Planning Board. Light fixtures shall have flat lens.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- Town Engineering Approval was granted on 8/12/09.
- A three-year landscape completion bond in the amount \$9,970.00 shall be provided for the landscape plan received 6/15/09 which includes 59% total green space, prior to the receipt of a Building Permit.

The resolution was unanimously adopted.

New Business #4 Approve Rezoning of 5255 Chestnut Ridge Rd., & Authorize Special Ex. Use

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

WHEREAS, following due and timely notice, a Public Hearing relating to the matter of an amendment to the Zoning Ordinance of the Town of Orchard Park was held on January 21, 2009 to consider the petition of Woodbridge Construction to rezone property at 5255 Chestnut Ridge Road from R-2 to R-3,

WHEREAS, at the January 21, 2009 Public Hearing, the Attorney for the project sponsor submitted an updated concept plan for the project to the Town Board, and

WHEREAS, the Town Board referred this petition, along with the new site plan, back to the Planning and Conservation Boards for review and

WHEREAS, no recommendation from the Erie county Department of Planning, pursuant to Section 239-m of the General Municipal Law was received and filed

NOW, THEREFORE, be it

RESOLVED, that the Zoning Ordinance and the Zoning Map of the Town of Orchard Park be and are hereby amended by rezoning from R-2 to R-3, property located at 5255 Chestnut Ridge Road as follows:

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Orchard Park, County of Erie and State of New York, being part of Lot 13, township 9, Range 7 of the Holland Land Company's Survey, and bounded and described as follows: Beginning at a point on the center line of the Chestnut Ridge Road and being measured three hundred twenty-two and ninety-five hundredths (322.95) feet north of the intersection of the center line of Chestnut Ridge Road with the southerly line of Lot number thirteen (13) and continuing northerly along said center line of said road for a distance of three hundred twenty-two and ninety-five hundredths (322.95) feet; thence running easterly a distance of sixteen hundred sixty-seven and seventy-five hundredths (1667.75) feet; thence running southerly a distance of three hundred thirty and two-tenths (330.2) feet; thence running westerly parallel with the southerly line of Lot thirteen (13) to the place of beginning, containing twelve and forty-two hundredths (12.42) acres more or less

And, be it further

RESOLVED, that the Town Board does hereby approve the applicant's request to combine 5255 Chestnut Ridge Road, Zoned R-3, with 5285 and 5287 Chestnut Ridge Road, Zoned R-3 with Special Exception Use Medical to Special Exception Use Multi-Family Dwelling Permit" as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Orchard Park, County of Erie and State of New York, being parts of Lot Nos. 12 and 13, Township 9, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of Chestnut Ridge Road, as originally laid out at its intersection with the division line between Lot No. 13 on the north and Lot No. 12 on the south; thence North 01° 11' 23" West along said center line a distance of 645.82 feet; thence North 89° 26' 46" East, a distance of 1662.41 feet to a concrete monument in the westerly line of lands deeded to Lawrence P. Bochen by deed recorded in the Erie County Clerk's Office in Liber 8159 of Deeds at page 59; thence South 00° 21' 53" East along said westerly line, a distance of 331.43 feet to the northeast corner of The Orchard Park Commons Condominium as shown on a map filed in the Erie County Clerk's Office under Cover No. 3130; thence South 89° 44' 24" West along the northerly line of The Orchard Park Commons Condominium, a distance of 1136.14 feet to the northwest corner thereof; thence South 00° 31' 43" West along the westerly line of The Orchard Commons Condominium and passing from Lot No. 13 into Lot No. 12, a distance of 430.02 feet; thence South 89° 59' 18" West and parallel with the north line of Lot No. 12 a distance of 210.00 feet to the southeast corner of lands deeded to Deborah Fullone by deed recorded in the Erie County Clerk's Office in Liber 10977 of Deeds at page 9956; thence North 00° 30' 42" West and along the easterly line of lands so deeded to Fullone a distance of 104.94 feet to the northeast corner thereof and being a point in the division line between Lot No. 12 on the south and Lot No. 13 on the north; thence South 89° 59' 18" West along said division line (being also the northerly line of lands so deeded to Fullone) a distance of 300.00 feet to the point of beginning, containing 16.82 acres of land more or less.

Excepting lands appropriated by the State of New York for highway purposes.

AND BE IT FURTHER RESOLVED, that the Town Board does hereby authorize the following conditions and stipulations as recommended by the Planning Board, 8/12/09:

- This is an Unlisted SEQR action based on the submitted Long EAF, Parts One and Two, and a Negative Declaration is proclaimed.
- Fees shall be paid in accordance with Section 144-70C of the Town Code prior to publication of the Public Hearing Notice.
- This recommendation is contingent upon the applicant completing the project as proposed on the preliminary development plans received on 8/5/09 and shall revert to its original zoning classification if the project is not completed per Section 144-67 of the Town Code
- The proposed project does comply with the requirements of Section 144-43 (C) Special Exception Use:
 - a) The proposed project is in compliance with the Town's long range Comprehensive Plan
 - b) The applicant has demonstrated a need for the project
 - c) The project is compatible with adjoining land uses and proposed developments, and will not have a negative impact on the adjacent land value or public safety
 - d) The applicant has demonstrated an orderly flow of traffic ingress and egress
 - e) The applicant has provide suitable parking facilities
 - f) Landscaping as indicated on the proposed plan will provide adequate screening.
 - g) Free area for recreation, is no required at this time.
 - h) The nearness and impact on schools and utilities is not an issue
 - i) The health and safety of adjacent properties is not affected.

Councilwoman Ackerman stated that there have been drainage issues raised by the neighbors and the School Superintendent. She has reassured the School Superintendent the petition will not have site plan approval until all the issues, not just drainage issues, have been found to be acceptable.

The resolution was unanimously adopted.

New Business #5&6 Authorize Supervisor to submit an application for Library Construction Grant

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

WHEREAS, the Town's grant writer informed the Town that there is an opportunity to obtain aid to make improvements to the Orchard Park Library. It is the same grant program that was used to complete the energy improvements and flat roof projects which is open for applications once again, and

WHEREAS, the proposed improvements per the 6/12/09-8/7/09 memos and Town Board work session will include the following:

- Replace ventilating units and air conditioning units, which are outdated and beginning to fail.
- The concrete sidewalk and asphalt parking lot well also be removed and replaced to improve pedestrian safety, lot drainage and failing asphalt.
- The building fire alarm system is outdated and can no longer be repaired to full working potential, so it is targeted to be replaced.
- The general security system is working but the operational keypad control is starting to fail, and needs to be replaced to keep the system working.
- The heat loss issue is improved, but a few spots have been identified during the energy improvements project that need to be addressed. R-30 insulation is proposed on top of the new drop ceiling and spray foam on the underside of the concrete roof deck and it greatly improved the icing issue in those areas
- A new Radio Frequency Identification System (RFID) to protect the library's collection of circulation and reference material –this will be funded from the Library budget, and

WHEREAS, the preliminary project is estimated to cost \$503,708 ±. The Town's portion is \$429,028 and the library's portion is \$74,680. The 50% match will require the Town to commit \$214,514.00 in-cash and the library to commit \$37,340 in-cash. In support of the grant application, it will be necessary to pass a resolution authorizing application and committing funds totaling the required 50% of the proposed preliminary project cost of \$251,854.00 (\$214,514 Towns share)

NOW, THEREFORE, be it

RESOLVED that the Supervisor is hereby authorized to sign an application to the NYS Education Department, Library Services, Division of Library Development, requesting \$251,854.00 for HVAC replacement, removal/replacement of sidewalk and parking lot blacktop, replacement of a security pad, installation of fire alarm system, installation of roof deck substrate installation, installation of fiberglass insulation on top of the new drop ceiling and installation of a Radio Frequency Identification System (FRID) at the library, and be it further

RESOLVED, that grant funds will be matched by the Orchard Park Library, with \$37,340 in cash, and by the Town of Orchard Park, with \$214,514 in cash and in-kind services, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Award Contract for Light Pole Replacement on Milestrip Road

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

WHEREAS, On Wednesday July 15, 2009 at approximately 4:00 am, the existing wood light pole that was located in the grass median at the intersection of Milestrip Road and Amelia Drive was struck by a vehicle, and was sheared off, and

WHEREAS, after receiving three proposals, Spring Creek Construction Corporation submitted the lowest price. The cost to supply and install one (1) new forty-foot wood light pole is \$980.00. The costs incurred by the Town shall be recovered by submitting an invoice to either the vehicle owner or his/her insurance company. NYSEG owns the light, which is mounted on the pole, and NYSEG will install the light on the new light pole at no additional cost.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the contract for the Light Pole Replacement on Milestrip Road and Amelia Drive to the lowest responsible bidder, Spring Creek Construction Corporation, 1327 County Line Road, Darien Center, New York 14040 in the amount of \$980.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business # 8- Tabled: Approve Final Change Order Release of Retention to the Contract with Javen Construction Inc., for the Orchard Park Library Project – General Contractor.

Refer to Planning Board and/or the Conservation Board

9) 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 following to the Planning Board and Conservation Board:

- Amigone Funeral Home, 6190 West Quaker Street, located on the north side of West Quaker (Route 20A) Zoned B-2. Amigone Funeral Home is requesting a Building Permit and Site Plan approval to construct a 3,300 sq. ft. addition to the existing building and provide approximately 13-additional parking spaces with site improvements.
- David M. Burke for Dato Development, 3705 & 3707 Southwestern Blvd., located on the Southeast corner of Southwestern Blvd., and Taylor Road, Zoned I-1. (Existing structures were demolished former site of "End Zone".) Proposal for two-(2) new projects; (1) Construction of a 2,809 sq. ft. auto Service Building (2) Construction of a 3,600 sq. ft. Office Building.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Barbara Little: Ms. Little voiced her concerns about the traffic concerns at North Buffalo Road & Milestrip Road, and the bus traffic coming out of Eggert Road at North Buffalo Road.

Henry Heppner: Mr. Heppner is opposed to outside sources coming in to have local government downsized. He feels downsizing will be detrimental and cost the Town more money in the long run.

ELECTED OFFICIALS & DEPARTMENT HEADS

10) 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 purchase of a Brass Plaque from Calgary Cemetery for \$475.00 for the Orchard Park Library. This plaque will be placed above the drop box next to the door of the Library.

Councilwoman Ackerman stated that the sign will indicate that the structure is the Orchard Park Library, built in 1970 with the Town logo, and indicate that the Library is owned by the Town of Orchard Park and operated by the Buffalo and Erie County Library.

The resolution was unanimously adopted.

Councilman Dietrick stated that the money Mr. Gaughan quoted that the Town would save with downsizing is grossly incorrect. He also discussed the timing of abolishing the Tax Receivers office, as he feels to abolish the office at the same time you have someone running for the position is confusing. Mr. Dietrick feels due process needs to take place in government, so that the highest level of service can be maintained.

Councilman Kaczor stated that the Fall recreation schedule is being mailed out this weekend, and he wished to congratulate the summer recreation staff for their hard work this year.

Town Clerk, Janis Colarusso, stated that absentee ballots for the special election are not ready yet, but the Board of Elections stated they should be available soon. September 11, 2009 will be a special registration day for anyone that is not currently registered to vote. Ms. Colarusso then outlined her reasons against downsizing the Town Board.

Highway Superintendent Fred Piasecki stated that the Short Drive reconstruction has started. The Towns CHIPS project of resurfacing of Ward Road, between Chestnut Ridge Road, and Scherff Road has begun.

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

General Fund	\$51,317.72
Part Town Fund	\$854.18
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$22,417.05
Special Districts	\$113,607.31
Trust & Agency	\$4,332.38
Capital Fund	\$10,175.00

The resolution was unanimously adopted.

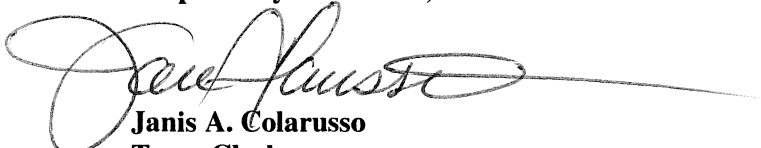
12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED, that the Town Board does hereby authorize to receive and file the following Communication listed on the agenda: A special local registration day is going to be held, on September 11, 2009 for all residents who are not registered to vote, and wish to vote in the Special Election on downsizing the Town Board on September 23, 2009. The local registration will take place in the lobby of the Town Hall, S4295 South Buffalo St., between the hours of 12:00 pm and 4:00 pm.

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 7:39 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk