

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 September 2006 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 W. Ackerman	Councilwoman
	Stanley A. Jemiolo, Jr.	Councilman
	David R. Kaczor	Councilman
	Mark C. Dietrick	Councilman
	Janis Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Samuel McCune	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 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 August 1 & August 16, 2006, and the Special Meeting/Executive Session Minutes held on July 19, 2006, 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.

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

RESOLVED, that the Special Meeting/Executive Session Minutes of the Town Board held on August 28, 2006, 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.

Councilman Jemiolo abstained from the vote this evening because he was not in attendance for the August 28, 2006 Special Meeting/Executive Session of the Orchard Park Town Board.

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Jemiolo	Abstained
Councilman Kaczor	Aye
Councilman Dietrick	Aye

The resolution was unanimously adopted.

PUBLIC HEARING

At this time, Supervisor Travers Murphy turned the Public Hearing over to Councilwoman Ackerman.

At 7:00 P.M. (local time), the advertised time, Councilwoman Ackerman called for the Public Hearing to hear all public comments on the Proposed Draft Town of Orchard Park Comprehensive Plan, in accordance with Town Law Sub-Section 272-a.

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.

Councilwoman Ackerman stated the Public Hearing this evening is the continuance from the first Public Hearing on the Proposed Draft Town of Orchard Park Comprehensive Plan that was held on August 2, 2006. At this time she reviewed for the public the activity since the first hearing. She mentioned the Chamber of Commerce Executive Director, Nancy Conley, along with interested Chamber of Commerce members met for an informational meeting with the Town Board.

Councilwoman Ackerman asked if there was anyone in the audience that would like to speak:

Charles Albrecht, 4869 Bussendorfer Road: Mr. Albrecht reviewed the history of drainage studies in the Town. He and his neighbors recommend that the Town should follow the 2000 DiDonato study; to stabilize a drainage ditch that feeds the retention pond and prevent further erosion of adjacent properties; dredging the pond to restore the water retention potential and mitigate insect and health issues. Mr. Albrecht asked if the Town plan drainage study from 2005 has been completed and ready for implementation.

Ann Bergantz, 320 Stonehenge Drive: Ms. Bergantz is a member of the Conservation Board and Chair of the Trails Task Force. She thanked the Supervisor and Town Board for their hard work on the Draft Comprehensive Plan. Ms. Bergantz stated that identifying goals and making recommendations regarding the goals is a good start, but the plan falls short when identifying the means needed to put the goals and recommendations into practice. She stated this not as a criticism, but to point out that it is still in the development stage. Ms. Bergantz suggested including one more goal in the plan which would be to add clearly defined development tools and zoning regulations. The residents as well as the developers deserve concise guidelines that reflect the community's interests and goals outlined in the plan. Ms. Bergantz stated that the Town Board should not rush to adopt the draft plan.

Carol Trala, 3658 South Benzing Road: Ms. Trala stated that the draft Comprehensive Plan has many goals, but few specifics as how to achieve these goals. So much is solved case by case or by discretion of the Town Board and she is not satisfied by these methods. Ms. Trala addressed the following issues she feels are important to the community; zoning, quality of life, balance and buffers.

Kevin Lane, 8 Briar Hill: Mr. Lane asked the Town Board to accept constructive help from willing citizens and set up a structure to implement plans under their supervision. He also asked that the comment period for the public hearing remain open.

Shana Stegner, 3128 Bieler Road: Ms. Stegner asked if the Town Board could consider traffic studies of future developments in the Comprehensive Plan draft.

James Loesch, 32 Melant Drive: Mr. Loesch is a member of the Conservation Board and past Chair. He recommended that the Town Board consider scoping sessions with all Town Boards, perhaps after all the public comments are in. Mr. Loesch was pleased that included in the draft Plan, the Town's delineation line south of Powers Road and Ellicott Road, are areas where infrastructure incursion should be avoided. He stated that the Town would benefit if the draft Plan restricted any additional sewers south of that line, but if waterlines would be required to be extended due to health concerns, that they be restricted laterally. He stated that the members of the Conservation Board are willing to assist in any way.

William Harrington, 2 Lockwood Lane: Mr. Harrington is Chair of the Farmland Preservation and Open Space Task Force. He feels that the Comprehensive Plan is not complete without including zoning. Mr. Harrington also suggested that the Town hire some professionals to assist and include those citizens who offered their help. He agreed with Mr. Loesch that it would be beneficial to include other Town Boards in scoping sessions.

Kathy Orie, 31 Symphony Circle: Ms. Orie stated that the draft Plan is not specific enough when it comes to planning and zoning. Specific guidelines could be periodically reassessed with the changing times. Ms. Orie spoke about natural resources, traffic concerns, residential and commercial building. She recommended that the draft Plan only be finalized after Urban Planning experts are brought in to improve the plan and create a plan that truly serves the residents of Orchard Park.

Ron Stadelmaier, 73 Eaglebrook Drive: Mr. Stadelmaier spoke at the last public hearing and submitted written comments and suggestions. Part of his written comment offered a specific new goal and recommendations for the draft Plan on the subject of the Smokes Creek watershed. He reported on the water level of Smokes Creek adjacent to his backyard, which was due to the Tropical Storm Ernesto. He stated the reason that the Smokes Creek watershed can barely handle even a moderate rain event, is due to commercial and residential overdevelopment. Current and future development decisions must include consideration and proactive protection of the viability of the Smokes Creek watershed.

Anthony Lorenzetti, 24 Boldt Court: Mr. Lorenzetti suggested that it might be helpful for the Town Board to look at other Towns' Comprehensive Plans. He felt the draft Comprehensive Plan should be more specific to avoid future mistakes.

Richard Leonard, 33 Burbank Drive: Mr. Leonard stated he would like to see the Comprehensive Plan put into action as soon as possible, and to revisit it as necessary.

Tim Batt, 3122 Bieler Road: Mr. Batt spoke about traffic, drainage issues and lighting of businesses around Bieler Road. He asked that these problems be considered and addressed in the draft Plan.

Ed Martindale, 190 Lawrence Place: Mr. Martindale stated he has served on many Town Boards in the past and suggested two items which should be avoided are the overlay zone and the floating zone. He felt that these should be included in a more permanent zoning addition and not allowed to be flexible. Mr. Martindale also thought that the recommendations should be prioritized.

Anne Marie McManus, 4 Hearthstone Terrace: Ms. McManus stated that she is very impressed by the residents who have spoken and represented their neighborhoods at the Public Hearing for the Comprehensive Plan as well as the countless others who have participated in the process and share the same view of Orchard Park. She stated that she is the President of Orchard Park Residents for Smart Growth and is familiar with the processes of the Town of Orchard Park. Ms. McManus stated that the development projects in Orchard Park have been specifically mapped out for the next 20 years. She commented on her frustration in obtaining information from the various Town Boards. She stated that the residents want to take back their right to be involved in processes that affect them.

Ms. McManus stated that she would only hope that the residents have the opportunity to provide focus and direction for the Comprehensive Plan in terms of how development will be guided in the future. Ms. McManus also asked that the public hearing be left open.

Councilman Kaczor stated that the Town has been working for the last several years to develop the Town Website to post information for the public and recently the Town Code Ordinances have been added.

James Craw, 2 Creekside Drive: Mr. Craw would like to have the “case by case basis” language removed from the recommendation section of the draft Plan. He is concerned with Smokes Creek and more development in the northern area of the Town. Mr. Craw stated he would like to have a moratorium on building for any new development until traffic studies are conducted. Councilman Kaczor and the Town Engineer explained that a traffic study is part of the Environmental Impact Statement which is required with any new proposed project.

Sherri Downing, 34 Symphony Circle: Ms Downing thanked the Town Board for all their work on the draft Plan and asked for the public hearing period to remain open.

Mark Romanowski, 6650 Gartman Road: (Emailed comments to Town Board)

Jim Suplicki, 5560 Big Tree Road: Mr. Suplicki commented on traffic & zoning issues on Big Tree Rd.

Nick Taneff, 279 Summit Avenue: Mr. Taneff commented on the code enforcement portion of the draft Plan and had examples of neglected properties.

Ernest Kupinski, 6740 Milestrip Road: Mr. Kupinski thought perhaps looking towards the future, alternative heating and utility options could be considered for the draft Plan. He spoke of some problems that future growth might cause.

Phillip Toohey, 1 Smokes Creek Road: Mr. Toohey reviewed and compared our draft Plan to those of other Towns and found it to be well written and it outlines the keys issues that confront this community. Mr. Toohey stated that he felt it fell short, lacking the specifics that are necessary to guide the future Town Boards, Planning Boards, Zoning Boards and managing the growth of Orchard Park. It doesn't contain measurable goals and objectives which are required for a Comprehensive Master Plan. He asked the Town Board to continue the open comment period and to utilize, as was suggested tonight, scoping sessions with the various Town Boards and input from interested groups, such as the Supervisor's Advisory Group.

Councilwoman Ackerman asked everyone to keep an open mind to what has been said this evening. She stated that there are many different ideas this evening on exactly what a Comprehensive Plan really is. She stated comprehensive in the dictionary includes everything, and nobody can include everything.

Councilwoman Ackerman read the following from the addition of Summer 2006 Planning News:

**What the Comprehensive Plan is and isn't....
By: Joel S. Russell, Esq.:**

A comprehensive plan is a statement of community's goals and a conceptual road map for how to achieve these goals. Its purpose is to present, in an easily accessible and readable format, a guide to decision making on important land use issues.

The main principles guiding the plan should be that it clearly articulates the community's goals and strategies for achieving them; that the goals and strategies reflect common agreement among the local population; and those clear and concise recommendations for implementation show how to fulfill the plan's goals and assign responsibility for their fulfillment.

A comprehensive plan is not a detailed instruction manual that tells exactly what to do or what will happen. It does not predict the future, though it does look ahead and express the community's goals. It does not prescribe exact courses of action, because these must be developed with care in response to a wide variety of situations that may arise. It would be short-sighted to mandate only one way to accomplish a community's goals in its comprehensive plan, when creativity and responsiveness to public input and evolving community needs may result in better solutions.

A comprehensive plan is not the law. It is an understandable and common mistake for citizens to confuse a plan with the zoning code that implements it, but these are two different things. The comprehensive plan sets the directions and goals for a community and recommends in a general way how these can be accomplished. In contrast, the zoning code is a detailed document that translates the goals into law. All too often, communities think they have gained control over their future by adopting a comprehensive plan; although they have taken a major step in the right direction, the adoption of a plan doesn't change anything.

Putting the plan into action

To have effect, the recommendations of a comprehensive plan must be translated into zoning laws, budget allocations, public investments and other actions, that have force of law. This is why it is so important that a plan accurately reflect community consensus – without strong local support a municipal board will be reluctant to pass implementing legislation.

While changes to the law must be consistent with the guidance provided by the plan, ***the plan is not, by itself, a legally enforceable document.*** Citizens and public officials also need to be aware that whatever they adopt in their implementing laws must not only be consistent with the comprehensive plan, but also with the requirements of state and federal law.

The "implementation" section of a comprehensive plan is different from the actual implementation documents and process that make things happen. ***The plan provides guideposts to observe as the community conducts the complex process of implementation process.*** The plan is similar to a sketch of what a house will look like when built, not the house itself or the blueprints that tell the builder what to build. ***The zoning code is the document that actually says what is and is not allowed*** – it is the day-to-day decisions of local boards, officials and citizens that determine what is actually built and what land is preserved. Zoning should reflect the guidance in the plan but should not be confused with the plan itself.

A comprehensive plan must leave flexibility for those who will be doing the implementation, rather than locking them into only one way of accomplishing the plan's goals. If a plan recommends certain types of zoning changes, then the details of those changes must be worked out in the process of writing and reviewing the zoning amendments. Such amendments require significant give-and-take among various stakeholders, as well as public input and public hearings at several stages throughout the process.

A comprehensive plan is "comprehensive" in its scope, not its detail. It is intended to integrate many related issues so that their connections are clear and understandable. The community should have realistic expectations of what a plan can and cannot accomplish. It can guide the future but cannot determine it. It can recommend actions but cannot ensure that they will occur. The success of any comprehensive plan depends on the citizens of a municipality to work together and see that it happens.

(The above article was adapted from the introduction to the Town of Philipstown Comprehensive Plan written by Mr. Russell. The author is a land use attorney and planner with a national practice specializing in New Urbanism, traditional neighborhood design and the protection of open space and community character.)

Councilwoman Ackerman stated a scoping session would be the next step in developing the Comprehensive Plan. She also stated the Town Board will keep the public hearing open to take written and continued input into the development of the Plan.

Councilman Jemiolo stated we should keep the dialog open for another four (4) weeks. At that time the Town Board will review the progress of the Comprehensive Plan.

Supervisor Travers Murphy stated she would like to have the Town hold another Public Hearing. She feels with school opening and residents coming back from vacations, another Public Hearing would be appropriate.

Councilman Kaczor stated this process is ongoing and is in favor of the continuation of the open comment period of the Public Hearing.

Councilman Dietrick stated he agreed with accepting new information for the Comprehensive Plan.

Councilwoman Ackerman stated many of the individuals that have spoken at both Public Hearings and members of this Town Board have been on committees throughout the years that have given them the tools in developing a Comprehensive Plan. She stated this is the beginning of the establishment of whatever is finally adopted. She thanked everyone for attending.

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

RESOLVED, that the Public Hearing in the matter of the Proposed Draft Town of Orchard Park Comprehensive Plan will be continued for open dialog to receive written input/comments.

The resolution was unanimously adopted.

New Business #1 Re-appointment of James Rykowski to the Board of Assessment Review Board

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

RESOLVED, that the Town Board does hereby approve the re-appointment of James Rykowski to the Board of Assessment Review Board, for a five (5) year term ending September 30, 2011.

The resolution was unanimously adopted.

New Business #2 Authorize Supervisor to Sign Agreement – Milestrip Road Concession Stand

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the agreement between the Town of Orchard Park and the Orchard Park Youth Soccer Association to manage the Milestrip Sports Complex Concession Stand through to December 31, 2006.

The resolution was unanimously adopted.

New Business #3 Authorize Supervisor to Sign Agreement – Brush Mountain Concession Stand

6) 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 Supervisor to sign the Agreement between the Town of Orchard Park and the Orchard Park Little Loop Football, Inc., PO Box 348, Orchard Park New York, to manage the Brush Mountain Park Concession Stand through to December 31, 2006.

The resolution was unanimously adopted.

New Business #4 Building Inspector Requesting to Hire Lawn Service for Neglected Property

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

RESOLVED, that the Town Board does hereby authorize the Building Inspector to hire a Lawn Care Service for properties that have been neglected at 145 South Lane, 3285 Abbott Road and the front of a vacant parcel on Summit Avenue across from #199-SBL#151.16-5-33, and be it further

RESOLVED, that the cost of the lawn care services will be applied to each of the tax rolls for the individual properties.

The resolution was unanimously adopted.

New Business #5, 6 & 7 Refer to the Planning Board and/or Conservation Board

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

RESOLVED, that the Town Board does hereby refer the following items listed on the agenda to the Planning Board and/or Conservation Board:

- Kettle's, 3719 Abbott Road, Zoned B-2. Requesting an application for a residential addition.
- The Original Pancake House, 3019 Union Road, Zoned B-2. Requesting renovations to the West (front) façade of the existing restaurant. (*Referred to the Planning Board August 16, 2006.*)
- Panera Bread, 3995 North Buffalo Road, Zoned B-2. Requesting eleven exterior dining tables with a seating capacity for thirty patrons.

The resolution was unanimously adopted.

ELECTED OFFICIALS AND DEPARTMENT HEADS

Councilwoman Ackerman stated the Orchard Park Library will be holding their Annual Books & Barbeque this coming Sunday, September 10, 2006, between 11:00 AM and 3:00 PM. All money raised will go to the Library for needed projects.

Councilman Jemiolo stated monies have been received from the State of New York through Senator Volker's office for the Village of Orchard Park for \$75,000 for a drainage study. The Orchard Park Historic Railroad received \$50,000 for the railroad depot roof repairs and the Orchard Park Boys & Girls Club received \$15,000 for their general operating budget. He stated that unfortunately, the Shared Services Grant for \$300,000 between the Town of Orchard Park, the Village of Orchard Park and the Orchard Park School District was unsuccessful.

Councilman Kaczor stated the Fall/Winter Town of Orchard Park Recreation brochure will be available this coming Friday and is also listed on the Town website. Councilman Kaczor reported on the unsuccessful grant the Historic Preservation League applied for, to conduct a survey of homes in Orchard Park that are of historic value. He stated the Historic Preservation League is already working on the next grant.

Councilman Dietrick recognized Lt. Joe Buccelli, who was honored as one of eleven recipients in the country who received *The Theodore Roosevelt Historical Sites Associations Law Enforcement Award*, for overcoming challenges in his personal life, while excelling in his professional life as a law enforcement officer.

Town Clerk Janis Colarusso stated that the Code of the Town of Orchard Park, as E-Code, is now available on the Town's website. She stated that the voting process, which has always been coordinated by the Town Clerk's Office and the Highway Department, is now being handled by the Erie County Board of Elections by order of the Federal Government under the *Help America Vote Act* Law. The BOE has asked if the Town could offer them any assistance and Ms. Colarusso stated that she, along with Highway Superintendent Piasecki, have helped with every request. She commended the Highway Superintendent for all his help with the voting machines and their transport.

9) 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 the Agreement between the Board of Elections and the Town of Orchard Park for expenses incurred for \$4,388.00 for the Primary Election to be held on September 12, 2006 and \$4,388.00 for the General Election on November 7, 2006, which includes the use of the Town owned properties, the George Heintz at Yates Park and the Orchard Park Municipal Center.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the Police Chief to advertise for bids for "Police Uniform Replacement Parts" for 2006-2007. Bids are to be opened on September 18, 2006 at 10:00 AM in the Supervisor's Conference Room.

The resolution was unanimously adopted.

11) 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 the Police Chief McCune and Lt. McMaster to attend the presentation on September 13, 2006 in Albany, New York honoring the Orchard Park Police Department for receiving for the third time, a five year New York State Accreditation from the New York State Accreditation Council of the Department of Criminal Justice Services.

The resolution was unanimously adopted.

Highway Superintendent Fred Piasecki reported on the completion of the paving of Nieman Drive and North Lane Capital project and work on the Library parking lot.

12) 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 #17 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$252,367.42
Part Town Fund	\$5,711.23
Risk Retention	0
Cemetery Fund	0
Highway Fund	\$209,931.00
Special Districts	\$22,138.68
Trust & Agency	\$9,761.68
Capital Fund	\$61,392.44

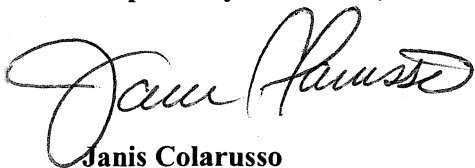
The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Nicholas Taneff, 279 Summit Avenue: Mr. Taneff thanked the Building Inspector and the Town Board for their efforts in the clean up of neglected properties.

There being no further business from the floor, on motion by Supervisor Travers Murphy, and seconded by Councilman Kaczor, to wit; the meeting was adjourned at 9:10 PM (local time).

Respectfully Submitted,



Janis Colarusso
Town Clerk

