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 17th day of September 2008 at 7:00 PM. The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL: Mary Travers Murphy Nancy Ackerman

David Kaczor Mark Dietrick Edward Graber

Janis Colarusso Leonard Berkowitz Andrew Geist Andrew Benz Frederick Piasecki, Jr. Wayne Bieler Supervisor Councilwoman Councilman Councilman Councilman

Town Clerk Town Attorney Building Inspector Chief of Police Highway Superintendent Town Engineer

The Supervisor read into the record the following: "If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics.

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

RESOLVED, that the minutes of the Meeting of the Town Board held on September 3, 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 Proposed Amendment to the Town Code of Ordinance, which amendment provides as follows:

To rezone vacant property (23.32 acres) located at the west end of Weiss Avenue, off Rt. 240, from R-3 and B-2 to SR (Senior Residential), for the construction of a senior housing complex. The Complex will consist of a two story (81,435 sq. ft.) structure which will consist of a total of ninety-(90) apartments.

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.

At this time the Supervisor asked if there was anyone in the audience for or against the proposal.

Opponents

Anne & Frank Coccionetti – They live on Lake Avenue near the bridge and fear flooding of Smokes Creek and ice formation in the winter. This project will also impact an existing bad traffic problem and the wildlife in the area.

Old Business #5 Public Safety Committee Requests the Town Board Send a Letter to NYSDOT

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 Supervisor to send a letter to the New York State Department of Transportation and the Erie County Department of Transportation to review alternatives for the 240/277 Armor Duells Road and Jewett Holmwood Road recommended by the Public Safety Committee which follow:

- Add a left turn arrow for 24O/277 southbound traffic at Jewett Holmwood Road.
- Strip the right lane of 240/277 southbound for a right turn to Armor Duells Road.
- Add a right turn green arrow to operate in conjunction with the Armor Duells Road to 240/277 left arrow.

The resolution was unanimously adopted.

Old Business #6 Public Safety Comm. Requests the Town Board Send a Letter to Village of OP

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

WHEREAS, the Public Safety Committee has reviewed the request for a Traffic Signal at Taylor Road and North Buffalo Road, and

WHEREAS, it was the subject of a study conducted by the NYS Dept. of Transportation about a decade ago, and again last year, but not approved due to the close proximity of the traffic signal at Princeton Place and North Buffalo Road, and there is an ever increasing volume of traffic in this area

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to send a letter to the Village of Orchard Park requesting they send a letter to New York State Department of Transportation to reconsider installing a traffic signal at the intersection of Taylor Road and North Buffalo Road, and to remove the traffic signal from Princeton Place and North Buffalo Road, and be it further

RESOLVED, that the Town Board does hereby authorize this resolution to be forwarded to New York State Senator Dale Volker.

The resolution was unanimously adopted.

New Business #1 Highway Superintendent Request to Purchase 2-New Hybrid Dump Trucks

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 authorize the Highway Superintendent to purchase two-(2) New 2008 International Hybrid Dump Trucks (4300 Hybrid 4x2 cab and chassis) in accordance with the truck replacement program under state contract for a cost not to exceed \$233,580.28.

The resolution was unanimously adopted.

New Business #2 Supervisor to Sign the STOP DWI Contract w/Erie County Stop DWI Program

10) 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 Supervisor to sign the Stop DWI Contract between the Town of Orchard Park and Erie County Stop DWI Program for a term of January 1, 2008 through December 31, 2010.

The resolution was unanimously adopted.

New Business #3 Approve Final Change Order Release of Retention w/Metro Development, LLC

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

WHEREAS, the General Construction Work on the Orchard Park Police Department – Interior Renovations Project has been completed, and on February 29, 2008 a final inspection was conducted for the entire project and all of the work has since been satisfactorily completed in accordance with the contract documents and specifications, and

WHEREAS, the final total contract was \$74,873.00 and a two year Maintenance Bond, Affidavit of Release of Liens, Affidavit of Subcontractor Payment, warranties, equipment manuals, and necessary legal documents have been submitted (Equipment manuals forwarded to Maintenance Dept.)

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize final payment and the release of retention to Metro Development, 54 Bank St., Orchard Park, NY 14127 for the Orchard Park Police Department Interior Renovations Project–General Construction Contract in the amount of \$5,117.52, and be it further

RESOLVED, and to authorize the Town Clerk to release the performance security, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Town Attorney to Proceed w/Dedication for Eagle Heights Sub, PIP #2008-01

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

WHEREAS, on September 11, 2008 a final inspection was conducted of the public improvements installed in the Eagle Heights Subdivision Part 8, Phase 2 of which this project included the construction of the completion of Redbrick Road, and a portion of Hearthstone Terrace and this subdivision will allow 24 new single family residential lots to be developed, and

WHEREAS, all of the work has been satisfactorily completed in accordance with Town specification with the exception of the following which will be completed after the private utilities and when the weather permits:

- Complete topsoiling, York racking, seed and mulching all distributed areas as well as grading along the east side of the access road, and fill the excavated area at the existing path towards the railroad, see and mulch accordingly; \$24.000
- Complete the installation of all light poles, fixtures, conduits and wiring; \$28,000
- Complete the installation of GPS monument and submit appropriate survey data for approval, and submit as built survey record plans for approval; \$5,000

WHEREAS, the Town is in receipt of the cash securities for the completion of the items noted above which will be held in escrow until that work has been satisfactorily completed, and a two year maintenance bond in the amount of \$475,000.00 has been submitted along with all other necessary documents,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Eagle Heights Subdivision, Part 8, Phase 2 constructed under PIP #2008-01, and be it further

RESOLVED, and to authorize the Town Clerk to release the performance security's letter of credit in the amount of \$95,000.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Supervisor to Sign Agreement w/Solar Liberty Energy Systems for OP Library

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

WHEREAS, in 2007 new flat roofs were placed on the Highway Garage and the Library building for possible solar panel system installations and

WHEREAS, the Highway Garage solar panel system was completed earlier this year, bur Solar Liberty was unable to complete the Library due to lack of materials, and

WHEREAS, proposals have been received for the Orchard Park Library Photovoltaic Generating System from Solar Liberty which contains new highly efficient panels, which are 2.6 time more efficient, but this has up front costs which are:

3.00
50.00)
5.00
5.01)
3

WHEREAS, to move forward with this project, the timetable will be as follows: Submit a completed application to NSERDA now, funding is scheduled to allocated in October for these new applications, our project application will be reviewed and hopefully awarded in October/November 2008, and construction would then begin in the spring of 2009 with a tentative completion date shortly thereafter, and

WHEREAS, the Town of Orchard Park has a opportunity to receive an environmentally friendly, alternative energy source with no direct costs, and Erie County Library has tentatively agreed to include the repayment of the out of pocket expenses under the current draft agreement for energy related projects,

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement, along with the Orchard Park Library, with Solar Liberty, 6225 Sheridan Drive, Ste 2, Williamsville NY 14221, for the installation of solar panels on the Town of Orchard Park Library, and be it further

RESOLVED, that the Town Board authorizes the Supervisor to sign an agreement with the Erie County Library Board to front the out of pocket expenses, \$23,136.99 with Erie County Library agreeing to repay the Town with the energy savings, and be it further

RESOLVED, that the Town Board authorizes the Supervisor to sign an agreement to modify the New York State Library Construction Grant to apply the \$14,506.00 from the 2007 roof grant scope to the Photovoltaic Generating System Construction installation project at the Orchard Park Library, and be it further

RESOLVED, that the Town Board authorizes the transfer of \$23,140 from the General fund to the Capital Project H-81 "Library Renovations", as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Schedule a Public Hearing for the 2009-2010 Community Block Grant Funds

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

WHEREAS, in order for the Town of Orchard Park to be eligible to continue and receive Community Block Grant Funds through the Erie County CDBG Consortium, the Town of Orchard Park is required to conduct a public hearing to provide citizens an opportunity for input into the project selection process, and the project applications are due on October 27, 2008, and

WHEREAS, prior to the hearing, Engineer Department will prepare an information packet which will describe the CDBG Program, a list of previous HUD funded projects in our Town, and a list of potential projects to be considered for next year's funding applications.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, October 15, 2008 at 7:00 PM, at the Orchard Park Municipal Center, regarding the possible use of the 2009-20010 Federal Community Development Block Grant Funds for the Town of Orchard Park, 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 Appointments to the 2008 Fall/Winter Seasonal Staff for the Recreation Dept.

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

RESOLVED, that the Town Board does hereby authorize the following appointments to the Fall/Winter Staff at the Orchard Park Recreations Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director.

Name	Address	Position	Rate
Jessica Emerling	Town of Hamburg	PT2-B	\$9.00
Samantha Garnet	Town of Monroe	PT2-B	\$9.00
Hugo Pineda	City of Buffalo	PT1-C	\$8.00
Corey Stephens	Town of Carthage	PT2-B	\$9.00
Tom Welch	Town of Cheektowaga	PT2-B	\$9.00

The resolution was unanimously adopted.

New Business #8 Supervisor to Execute a Contract w/Erie Comm. Development for Rural Transit

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Contract with Erie County Community Development Block Grant Consortium for the Rural Transit Service.

The resolution was unanimously adopted.

New Business #9 Supervisor to Sign Documents w/NYS Office of Parks, Recreation & Historic Pres

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

WHEREAS, the Town of Orchard Park has received a special grant in the 2008-09 New York State Budget, and

WHEREAS, there are specific requirements and regulations governing the expenditure of these funds

NOW, THEREFORE be it

RESOLVED, that the administration of all funds under this grant will be in accordance with all terms and conditions contained in "GUIDELINES to prepare Grant Agreements for non-construction projects \$50,000 and under-Fiscal Year 2008-2009" provided by the New York State Office of Parks, Recreation & Historic Preservation , and

The resolution was unanimously adopted.

New Business #10 Supervisor to Submit Forms to NYS for \$10,000 from Senator Dale Volker

18) 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 submit the necessary forms to the New York State Office of Parks, Recreation and Historic Preservation for \$10,000, in Member Item Funding, awarded to the Town of Orchard Park by NYS Senator Dale Volker. Member Item Funds will be used to support, in part, a "Cultural Resources Survey" of up to 250 properties in the Town, and be it further

RESOLVED, that the Town will be matching the funds with \$12.000 in cash

The resolution was unanimously adopted.

New Business #11, 12 & 13 Refer to the Planning Board and/or Conservation Board:

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

RESOLVED, that the Town Board does hereby refer the following requests listed on the agenda:

- Western New York Pediatric Associates, LLP, 5800 Big Tree Road, Zoned I-1, requesting to construct an 8,000 sq. ft. parking lot expansion as an addition to the existing 17,000 sq. ft. parking area. This will provide 27 additional spaces at the site.
- Timothy Roberts, 6350 Cole Road, Zoned A-1 requesting a Perpetual Conservation Easement for 8.7 acres of land.
- Quaker Crossing East Out-parcel, located off Milestrip Road and near the entranceway along Amelia Drive, Zoned B-1. Applicant is proposing to build a 6,100–6,500 square foot restaurant and requesting a Special Exception Use.

The resolution was unanimously adopted.

Business from the Floor

David Manko – Owner of company seeking to build Creekview Senior Housing project on Milestrip Road. He was upset that so much time and money was spent this past year on this project and it was not until at the last Planning Board meeting that he found out they were not going to approve it.

Scott McFarland – Mr. McFarland stated that his father wanted the land he donated to the Town, across from the Library, kept as "green space" where people could just sit and relax without a statue and lighting.

Doug McFarland – Mr. McFarland asked the Town Board to reconsider their decision to place a statue in McFarland green. It is not what his father wanted and if this goes in, what else could be placed in this site.

Brendan Cunningham – Mr. Cunningham is infuriated with the Town for passing the "Sidewalk Ordinance" as it misplaces the responsibility & liability for property owned by the Town & State on individuals.

Jane Shumaker – Ms. Shumaker wanted the Town Board to address Mr. Buchheit's decision regarding the pedestrian & bus issue at Quaker Crossing, as it is arrogant & unrealistic.

Howie Holmes – Mr. Holmes wanted to remind everyone about the Political Sign Agreement for Orchard Park. He stated that he is in agreement with the McFarland family that McFarland Park should remain passive and the Quaker statue should be placed elsewhere. Mr. Holmes announced that the Friends of Birdsong are putting together the first annual Dog Fest – *Bark in the Park* – on the 4th of October at 1:00 PM, and it will focus on dog nutrition and fitness as presented by local veterinarians.

Eric Matwijow – Mr. Matwijow stated he and his parents are extremely upset with the Town Board for passing the "Sidewalk Ordinance", as it is unfair.

Bill McNamara - Mr. McNamara is on the Planning Board and stated the reason Mr. Manko's Creekside Senior Housing was not approved had to do with it being a sprawling 300 plus unit project.

Pat Sullivan – Mr. Sullivan feels that the Town Board really let down the residents with the "Sidewalk Ordinance", as there is no way that a resident can handle the snow removal coming off a four lane state road.

Scott Smith – Mr. Smith is opposed to the "Sidewalk Ordinance", as it is not possible for a resident to handle the snow removal and repairs on a sidewalk along a four lane highway.

Elected Officials & Department Heads

Councilwoman Ackerman stated she was pleased with the new improvements and upgrades that are going to take place at the Library which includes new lighting, windows, carpet and energy saving solar panels. Regarding Quaker Crossing, buses and pedestrians, she does not want to weigh in on that tonight as she has not spoken to Mr. Buchheit. In the matter of political signs, there is an effort to bring together the four political party leaders to draft a joint letter which will be sent to the Campaign Chairs of every person running for office in Orchard Park. Councilwoman Ackerman stated that she would be happy to sit down with the McFarland family, go over the issues surrounding McFarland Green and to resolve misunderstandings.

Councilman Kaczor stated that Quaker Crossing was designed as a strip mall, which is not designed for pedestrians to walk from store to store. The Town Board will have to work with the developer to see if there is anyway they can find a way to make pedestrians safe. As to the busses in Quaker Crossing, the Town Board is working with other owners to see what they can do.

Councilman Dietrick stated that he was opposed to the Sidewalk Ordinance, and feels that it is an unfair, but this is an unfunded mandate from the State. His reason for changing his mind is that with more sidewalks being put in against the Town's will, the sidewalks will be a "budget buster" for the Town down the road.

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

WHEREAS, members of the Conservation Board, Zoning Board and Planning Board, should, in order to carry out their duties properly, visit the parcel which is the subject of the proceeding before the Planning Board, Zoning Board, or Conservation Board,

NOW, THEREFORE, be it

RESOLVED, that all members of the Planning Board, Conservation Board and Zoning Board shall be obligated to visit the property which is the subject of a proceeding before the Planning Board, Conservation Board or Zoning Board, and be it further

RESOLVED, that the Chairman shall poll each board member to determine if that board member has visited the property which is the subject of proceedings before the Planning Board, Zoning Board or Conservation Board, as recommended by the Town Attorney.

The resolution was unanimously adopted.

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

WHEREAS, the Orchard Park Prosecutor, Nancy Hart, has a conflict with regard to the prosecution of Joseph and Diane DeMarco for violations of the zoning ordinance,

NOW, THEREFORE, be it

RESOLVED, that John Bailey, Prosecutor for the Village of Orchard Park, is hereby retained as special prosecutor for the Town of Orchard Park to prosecute Joseph and Diane DeMarco for various violations of the Orchard Park Zoning Ordinance, and be it further

RESOLVED, that John Bailey be paid at the rate of \$150.00 per hour.

The resolution was unanimously adopted.

Councilwoman Ackerman stated that the Planning Board and Zoning Board, in order to move business along, have alternate members who can vote in the event a quorum is needed, and a regular Board member is absent. The Conservation Board does not have this option, and would like it. Town Attorney Berkowitz stated he will put a Local Law ordinance together and a Public Hearing will be set.

22 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 authorize the Police Chief to send four officers on the Emergency Relief team to a training camp at Fort Drum from 9/30/08 - 10/3/08 at a cost not to exceed \$900.00, as recommended by the Chief of Police

The resolution was unanimously adopted.

Highway Superintendent Fred Piasecki stated that he has received letters from the Selective Insurance Company, and the VFW Post complimenting the Parks and Grounds Department on their fine work.

Supervisor Travers Murphy stated that she had met with NYSEG and the Niagara Frontier Transit Authority this week to try to figure out a spot to put a cement pad for a bus stop. Currently the passengers are being dropped off by Orvilles, which is in the NYSEG right of way and they do not want it there. The next step is to talk to the Plaza owner to see what can be done.

23) 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 #18 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$196,001.41
Part Town Fund	\$296.03
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$22,050.50
Special Districts	\$111,361.47
Trust & Agency	\$212,992.68
Capital Fund	\$32,262.81

The resolution was unanimously adopted.

Receive & File Reports

24) 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 receive and file the following reports listed on the agenda:

- Building Inspectors Monthly Report & Building Permits for August 2008.
- The Town of Orchard Park 2009 Tentative Benefit Basis Budget has been filed in the Town Clerk's office. Special Districts of the Town: Consolidated Water and Sewer Operations; Sanitary Sewer Districts; Water Districts; General Lighting District and Consolidated Garbage District.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Kaczor, to wit, the meeting was adjourned at 9:18 PM (local time).

Respectfully Submitted,

Janis A. Colarusso Town Clerk