

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 21<sup>st</sup> day of September 2005 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

<b>PRESENT AT ROLL CALL:</b>	Toni M. Cudney	Supervisor
	Nancy W. Ackerman	Councilwoman
	Stanley A. Jemiolo, Jr.	Councilman
	David R. Kaczor	Councilman
	John J. Mills	Councilman
	Kathleen A. Swarbrick	Deputy Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Michael Sherry	Asst. Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
<b>ABSENT:</b>	Janis A. Colarusso	Town Clerk
	Samuel McCune	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

At 7:00 PM, the advertised time, Supervisor Cudney called for the Public Hearing to hear all interested persons for or against the Proposal to Accept a Perpetual Conservation Easement for 8 ± acres of land, 6031 Bunting Road, in the Town of Orchard Park, as petitioned by Paul & Maureen Montgomery, and to authorize the Town Assessor to determine the valuation of the property, taking into account the limitation on the future use of the land that has been imposed by such Conservation Easement.

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 Supervisor Cudney opened the Public Hearing to hear all interested persons for or against the Proposed Perpetual Conservation Easement: **No one spoke.**

**1) 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 Proposal to Accept the Perpetual Conservation Easement for 8 ± acres of land located at 6031 Bunting Road, in the Town of Orchard Park, as petitioned by Paul & Maureen Montgomery, is now hereby closed at 7:07 P.M.

**The following resolution was unanimously adopted.**

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

**RESOLVED**, that the Town Board does hereby accept the following Perpetual Conservation Easement for Paul & Maureen Montgomery, 6031 Bunting Road, for 8± acres of land, as recommended by the Conservation Board, and be it further

**RESOLVED**, that the Town Board does hereby authorize the Town Assessor to determine the valuation of the property, taking into account the limitation on the future use of the land, imposed by such Conservation Easement.

**The following resolution was unanimously adopted.**

**Old Business #1 Proposed Local Law Regarding Dogs in the Town Parks**

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

**WHEREAS**, following due and timely notice a Public Hearing relating to the matter of a Proposed Local Law for 2005, "Dogs to be Leashed", was conducted by the Town Board at the Orchard Park Municipal Center on September 7, 2005, at which time all interested parties were given an opportunity to be heard.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board is hereby authorized to Adopt Local Law #3 for the Year 2005, which Local Law is provided as follows:

Section 97-10: Entitled "Dogs To Be Leashed" is hereby repealed. The following section is hereby substituted for the repealed Section 97-10:

**Section 97-10 Dogs:**

- a) No person shall bring any dog into any Town Park, playground or recreational area unless the same is on a leash of not over 6' in length and kept on a leash while in said park, playground or recreation area.
- b) Dogs shall be prohibited in all areas so designated by Resolution of the Orchard Park Town Board.
- c) The individual who brings any dog into a Town Park shall be responsible to remove waste created by that dog.

Councilman Kaczor stated he looks forward to making this change in the Town Parks so that all of the Town's little four footed friends can take advantage of the parks with their owners. Supervisor Cudney repeated portions of the law, and asked residents to be responsible for the waste their dogs leave.

**The question of the adoption of the proposed Local Law was put to a roll call vote:**

Supervisor Cudney	Aye
Councilwoman Ackerman	Aye
Councilman Jemiolo	Aye
Councilman Kaczor	Aye
Councilman Mills	Aye

**The resolution was unanimously adopted.**

**Old Business #2** Ryan Homes is requesting a temporary sign, to be used on Town property (which meets all town code requirements) at the entrance of the Hill Towne Park Community. The sign would be used for informational purposes and would be professionally landscaped & maintained. All appropriate sign permits have been submitted to the town: At this time Councilman Jemiolo stated this item is to be tabled.

**Old Business #3 4095 North Buffalo Street, Request for a Change in Use from Retail to Art Studio**

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

**RESOLVED**, that the Town Board does hereby approve the Change-In-Use request of Anne Marie Romannello, 4095 North Buffalo Road, Zoned B-3, from retail use to a potter/art studio for amateur painters. The Planning Board, 9/14/05, recommended approval of this request and the site plan with the following stipulation: This is a Type II SEQR Action and therefore no determination of significance is required.

**The resolution was unanimously adopted.**

**Old Business #4 3525 Southwestern Blvd. Towne Automotive Group – Site Plan Approval**

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

**WHEREAS**, in 1998, the Town Board approved a site plan for an inventory parking lot for Towne Automotive Group, 3525 Southwestern Boulevard, Zoned B-2, and

**WHEREAS**, the site plan presented has been modified slightly in order to meet the current drainage and landscaping requirements.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize a Building Permit for Towne Auto Group, 3525 Southwestern Boulevard, 6 +/- acres of vacant land, a previously approved inventory parking lot behind Towne Auto Choice, Zoned B-2, south of Towne Auto Choice. The Planning Board, 9/14/05, recommends approval of this request and of the site plan with the following stipulations:

- This is an unlisted SEQR action based on the submitted Short EAF and a Negative Declaration is declared.
- The site lighting is limited to 24-400 watt flat lens fixtures.
- No outside storage or display is permitted, other than the inventory of cars.
- Town Engineering Approval has been granted on 9/14/2005.

**The resolution was unanimously adopted.**

**Old Business #5 Schedule Public Hearing to Rezone Vacant Land, N. Buffalo Road, Benderson Dev.**

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

**RESOLVED**, that the Town Board is hereby authorized to schedule a Public Hearing for Wednesday, October 19, 2005 at 7:00 PM (local time), for Benderson Development, to rezone vacant land, east side of North Buffalo Road (across the street from OPCS Federal Credit Union) from B-3 to B-2, in order to construct two multi-tenant buildings, and be it further

**RESOLVED**, that the Town Board does hereby direct the Town Clerk to publish due notice in the official newspaper of the Town.

Councilman Jemiolo stated that the original request was to rezone the property from B-3 and R-2, this request is only from B-3 to B-2 and there is no request to rezone any of the R-2 property.

**The resolution was unanimously adopted.**

**Old Business #6 Request for Building Permit at 3165 Southwestern Blvd by Benderson Develop.**

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

**RESOLVED**, that the Town Board does hereby authorize a Building Permit to the Benderson Development, Co., 3165 Southwestern Boulevard, Zoned B-2, to construct a 7,560 square foot restaurant/retail building. The Planning Board, 9/14/05, recommends approval of this request and of the site plan with the following stipulations:

- This is an Unlisted SEQR Action based on the submitted Long EAF and a Negative Declaration is declared.
- 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 Section 144-25 of the Town Code.
- A landscape completion bond of \$17,685.00 or certified check in the amount of \$ 8,842.50 shall be provided for the approved landscape plan prior to the receipt of a Building Permit.
- Town Engineering Approval was granted on 5/18/2005.
- Scenario "A" was described to the Board as having a rear door to the "yellow" tenant space and a rear door to the "red" tenant space.
- Scenario "B" was described to the Board as having a rear door to the "yellow" tenant space and a rear door to the "green" tenant space.
- Scenario "C" was described to the Board as having a rear door to the "yellow" tenant space and a rear door to the "blue" tenant space.
- Scenario "D" was described to the Board as having a rear door to the "yellow", "red" & "green" tenant space.
- The south & west sidewalk areas should be identified as no standing/delivery areas and the east side of the building the area will be clearly identified.
- There is to be only one restaurant with a drive-thru window.

Supervisor Cudney stated she thought the Planning Board was requiring a fence to prevent the debris from flying down to the neighbors. Mr. Reoon, from Benderson Development Inc., stated that the fence is included in the site plan and will be a part of the project.

**The following resolution was unanimously adopted.**

**Old Business # 7 Vacant Land, North Side of Webster Road, Request for Rezoning, Steve Hollins**

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

**WHEREAS**, a request was made by Steven Hollins to rezone vacant land, North side of Webster Road, West of Deacon Road, from R-2 to R-3, in order to construct a Town House Project, and

**WHEREAS**, the Planning Board recommended approval of this project on May 11, 2005, and

**WHEREAS**, the Town Board held a Public Hearing on Wednesday, May 18, 2005, and

**WHEREAS**, the Town Board has held many discussions regarding this project, and has heard from many of the residents in that area.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby deny the request to rezone vacant land North side of Webster Road, west of Deacon Road, from R-2 to R-3, as petitioned by Steven Hollins.

**The resolution was unanimously adopted.**

**New Business #1 Schedule Public Hearing for 2006 Preliminary Budget & Benefit Basis Budget**

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 schedule a Public Hearing for Wednesday, November 2, 2005 at 7:00 PM (local time), for the 2006 Preliminary Budget & the Benefit Basis Special District Budget, and be it further

**RESOLVED**, that the Town Board does hereby direct the Town Clerk to publish due notice in the official newspaper of the Town.

**The resolution was unanimously adopted.**

**New Business #2 Big Tree/Kings Court Sanitary Sewer Extension, PIP #2005-05**

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN MILLS, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR CUDNEY, TO WIT:

**WHEREAS**, the Town Engineer has received from James A. Grandoni, 870 Orchard Park Road, in the Town of West Seneca, representing DPS Southwestern Corp., an application for a Public Improvement Permit to construct a Sanitary Sewer Extension along Big Tree Road from Kings Court, and

**WHEREAS**, this Sanitary Sewer Extension will include 25 L.F. of roadway repair and 160 L.F. of public sanitary sewers to serve one residential subplot, and

**WHEREAS**, the Town Engineer has reviewed the plans for the project and have found them to be in compliance with current Town specifications. The Engineer Department has all necessary fees, bonds and insurances. All necessary adjacent property easements have been received and forwarded to the Town Attorney.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve PIP #2005-05 for the Big Tree/King Court Sanitary Sewer Extension.

**The resolution was unanimously adopted.**

**New Business #3 Consultant Inspection Services for PIP #2005-05, Big Tree/Kings Court**

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

**WHEREAS**, with the retirement of Mr. John Wilson on July 26, 2005, and the Engineering Department presently not having staff available to provide construction inspection for PIP #2005-05, assistance of consultant engineering firm will be required for that purpose, and

**WHEREAS**, the Engineering Department is in receipt of a proposal from Wm. Schutt & Associates to provide the services of Mr. Elmer Thoman for onsite inspection when required at billing rate of \$47.00 per hour which includes expenses, overhead and profit. This proposal was forward to the Town Attorney for review. Mr. Thoman has inspected construction work for the Town in the past and has proven to be very competent, and

**WHEREAS**, the Town has received \$1,090.00 in PIP Inspections Fees from the developer, which due to the small nature of project, will not totally cover the cost but will provide some funding with the remaining balance coming from the PIP Fund.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign the Agreement with Wm. Schutt & Associates, P.C., 37 Central Avenue, Lancaster NY, 14086, to provide inspection services on PIP #2005-05, for construction of the Big Tree/Kings Court Sanitary Sewer Extension.

**The resolution was unanimously adopted.**

**New Business #4 Appointment to the Board of Assessment Review Board**

**12) 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 re-appoint Linda Daniels, 65 Independence Drive, in the Town of Orchard Park, to the Board of Assessment Review for an additional five (5) year term, ending September 30, 2010.

**The resolution was unanimously adopted.**

**New Business #5 Final Payment for the Town of Orchard Park Meter Change – Out Project**

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

**WHEREAS**, the Town Engineer is pleased to announce the Orchard Park Meter Change-Out Project has been satisfactorily completed in accordance with the contract documents and specifications, and

**WHEREAS**, a two-year maintenance bond in the amount of \$184,400.00 and all other necessary legal documents have been received by the Town from the Contractor, and

**WHEREAS**, the over/under sheet lists the final adjustments to the quantities for each bid item and shows that there will be a net decrease of \$25,806.00, this will bring the total Contract amount to \$158,594.00 which represents a decrease of 13.99% from the original amount bid.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the final payment and release of retention to D.V. Brown and Associates, Inc., 567 Vickers Street, Tonawanda NY 14150, for the Town of Orchard Park Meter Change-Out Project in the amount of \$7,929.70.

**The resolution was unanimously adopted.**

**New Business # 6 Fall/Winter/Spring Fee Schedule for the Recreation Department**

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

**RESOLVED**, that the Town Board does hereby approve the Fall, Winter & Spring Fee Schedule for the Orchard Park Recreation Department, as pre-filed in the Town Clerk's Office, as recommended by the Recreation Director.

Councilman Kaczor stated Mr. Leak once again has put together a very nice program this year, with thirty-four 34 programs being offered. Councilman Kaczor also stated out of the 34 programs, only 9 saw an increase of fees. He thanked Mr. Leak for doing a great job. Councilwoman Ackerman mentioned that the Recreation Departments offers a 20% senior discount.

**The resolution was unanimously adopted.**

**New Business # 7 Fall/Winter/Spring 2006 Staff Appointments for the Recreation Department**

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

**RESOLVED**, that the Town Board does hereby approve the following 2006 Fall/Winter/Spring/Summer Staff Appointments for the Orchard Park Recreation Department, dependent upon the applicant(s) providing the required certifications, as recommended by the Recreation Director:

<b>Name</b>	<b>Address</b>	<b>Position</b>
Stephanie Battaglia	112 Burbank Drive	Guard
Liane Bernard	5033 Ellicott Road	Aide
Andrew Burnside	4586 W. Lake Road, Dunkirk NY	Aide
Jonathan Ceccarelli	55 Norfred Drive, Lackawanna NY	Guard
Chris Fitzgerald	6231 Bunting Road	Aide
Marilyn Found	7546 Chestnut Ridge Road	Guard
Angela Grenzy	360 Bernhardt Drive	Guard
Matthew Horn	4825 California Road	Aide
Joe Huber	6680 Gartman Road	Aide
Patrick Hurley	59 S. Lincoln Avenue	Aide
Flo Kirkner	16 Bender Drive	Aide

Jacqueline Lex	151 Idlewood Drive	Aide
Lindsey Martz	32 Cherry Tree Lane	Aide
Laura Palmo	5 Lakewood Drive	Aide
Jason Petrie	7216 Milestrip Road	Guard
Andrew Ramage	15 Daisy Lane	Aide
Ray Rayeski	8112 Cole Road, Colden NY	Aide
Leah Sauer	34 Graystone Lane	Aide
Mike Schamann	6174 Armor Road	Aide
Timothy Swyers	90-8 Carriage Drive	Guard
Tori Sypniewski	6047 Cole Road	Guard
Eva Szinger	30 Carey Drive	Aide
Sue Wiencek	6344 Milestrip Road	Guard
Sarah Yates	240 Independence Drive	Aide
Darcy Zappia	32 Quaker Lake Terrace	Aide

**The resolution was unanimously adopted.**

### **ELECTED OFFICIALS & DEPARTMENT HEADS**

#### **Sunset Terrace Betterment**

**16) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:**

**WHEREAS**, the purpose of the Sunset Terrace Betterment (Project H17) and 240/277 Waterline Betterment (Project H18) capital projects have been completed, and

**WHEREAS**, each of these projects have funds remaining after completion of such project, and

**WHEREAS**, these remaining funds must be used in compliance with funding

**NOW, THEREFORE, be**

**RESOLVED**, that the Town Board does hereby authorize the closing of such projects and the transfer of the remaining balances as follows: The remaining balance in the Sunset Terrace Betterment Project of \$4,503.34 will be transferred to the Road Reconstruction Project (Project H58). The remaining balance in the 240/277 Waterline Betterment Project of \$131,413.37 will be transferred to the Debt Service Fund and used for the future payment of debt on such project borrowing.

**The resolution was unanimously adopted.**

#### **Bussendorfer-Willowbrook-Forsythia Drainage Project**

**17) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:**

**WHEREAS**, the Town Board wishes to provide additional funding to the Bussendorfer-Willowbrook-Forsythia Drainage Project (project H06), and

**WHEREAS**, this additional funding may allow the Town to consider proceeding with appropriate planning and engineering specifications and



**WHEREAS**, the addition funding for this capital need is available in the Big Tree Drainage Project (which project is to be scheduled at a later date),

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the transfer of \$200.00 from the Big Tree Drainage Project (project H32) to the Bussendorfer-Willowbrook-Forsythia Drainage Project (project H06).

**The resolution was unanimously adopted.**

#### **Computer Assets Capital Project**

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

**WHEREAS**, the Town Board wishes to proceed with certain technology needs, and

**WHEREAS**, additional funding is expected to be needed to provide for computer hardware and software needs throughout the Town, and

**WHEREAS**, the additional funding for these capital needs is available in the Town's General Fund account,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes additional funding for the Computer Assets capital project (project H67) in the amount of \$25,000, with such funding to be transferred from the General Fund.

**FURTHER BE IT RESOLVED**, that the Town Board authorizes the amending of the General Fund to increase appropriated fund balance and increase appropriations as follows:

**Increase appropriations:**

A.9950.900	Transfer to Capital Projects	\$25,000
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**Increase appropriated fund balance:**

A.0599.000	Appropriated Fund Balance (unrestricted)	\$25,000
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**The resolution was unanimously adopted.**

#### **Short Drive and Drainage Reconstruction**

**19) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:**

**WHEREAS**, the Town Board wishes to reconstruct Short Drive and to provide for improved drainage, and

**WHEREAS**, the Town wishes to consolidate these actions into one project and provide for the funding required for such project, and

**WHEREAS**, the additional funding for this capital need is available in the Town's Capital Road Reconstruction Reserve account (project H58).

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the consolidation of capital projects H72 and H73 into one capital project entitled "Short Drive Road and Drainage Reconstruction" (project H72), and be it further,

**RESOLVED** the Town Board does hereby authorize a transfer of \$65,000 from the Capital Road Reconstruction (project H58) account to the Short Drive Road and Drainage Reconstruction (project H72) account.

**The resolution was unanimously adopted.**

**Establishments of Additional Capital Projects**

20) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MILLS, TO WIT:

**WHEREAS**, the Town Board has reviewed and assessed the Town's current and long-term capital needs, and

**WHEREAS**, the Town has established a capital plan, which has been reviewed and updated, and

**WHEREAS**, the Town wishes to proceed with appropriate planning, design and construction of certain improvements, and

**WHEREAS**, funding for these capital needs are available in the available Town accounts as designated below,

**NOW THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the establishment of additional capital projects as follows:

<b>NEW PROJECT NAME</b>	<b>Project Number</b>	<b>Amount</b>	<b>Funding Source</b>
Benning Road Drainage	H76	\$85,000	General Fund Transfer
Ellis Road Drainage	H77	\$75,000	General Fund Transfer

**FURTHER BE IT RESOLVED**, that the Town Board authorizes the amending of the General Fund to increase appropriated fund balance and increase appropriations as follows:

**Increase appropriations:**

A. 9950.900      Transfer to Capital Projects      \$160,000

**Increase appropriated fund balance:**

A.0599.000      Appropriated Fund Balance (unrestricted)      \$160,000

**The resolution was unanimously adopted.**

**Town Clerk Records Management**

21) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

**WHEREAS**, the Town has received additional funds for a records management grant to assist in appropriate record keeping and archiving, and

**WHEREAS**, the Town's 2005 adopted budget does not contain appropriations relating to such grant, and

**WHEREAS**, the funding for these adjusted appropriations will be supported by state aid from such approved grant, of which the remainder is being received in 2005

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the amending of the Town's 2005 budget to increase estimated revenues and authorize additional appropriations as follows:

**Increase appropriation account:**

A.1410.0462 – Town Clerk – Records Management                      \$1,937.00

**Increase estimated revenues:**

A. 0000.3060 – State Aid – Record Management                      \$1,937.00

**The resolution was unanimously adopted.**

**Zoning Board of Appeals Publishing**

22) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN JEMIOLO, TO WIT:

**RESOLVED**, that the Town Board does hereby make the following budget transfer for the Zoning Board of Appeals to offset the publishing account.

**\$300.00**              From: B.8020.450  
                             To:    B.8010.450

**The resolution was unanimously adopted.**

23) 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 Taffy's Charcoal Broiled Red Hots, corner of Southwestern Boulevard and Orchard Park Road, to put up a 20' by 20' tent for their Annual Feast/Celebration for the whole month of October. They will be serving \$.99 specials on Hot Dogs in appreciation for their customers.

**The resolution was unanimously adopted.**

Supervisor Cudney stated the NYSDOT will be holding a Public Hearing, Tuesday, September 27, 2005, at 6:00 PM at the Fair Grounds, in the Town of Hamburg, regarding the Southwestern Boulevard Reconstruction Project, from Rt. 240/277 to Rt. 62. The Supervisor stated that she has concerns about the current plans for the reconstruction such as: speed limits, the closing off of Big Tree at McKinley, which may have a negative impact on traffic coming into the Village to shop and use the Business District. She encouraged anyone interested to attend. She also stated Erie County will be holding Public Hearings for the 2005-2006 Community Block Grant Funds, Monday, September 26, 2005, in Lackawanna and Tuesday, September 27, 2005 in Depew. The County is encouraging residents to come to give their comments.

Councilwoman Ackerman stated October 15, 2005, at Erie Community South Campus, there will be an electronic/computer recycling day, old clothing and textile may also be dropped off.

**24) 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 schedule a Public Hearing for Wednesday, October 19, 2005, at 7:00 PM (local time) to rezone  $\pm$  19.2 acres of vacant land, for Quaker Crossing South from I-1 to B-1 Commercial to construct a  $\pm$  147,000 sq. ft. retail plaza located on the south side of Milestrip Road, across the street from the existing Quaker Crossing.

**The resolution was unanimously adopted.**

Councilman Jemiolo stated since the last meeting of the Town Board (when the residents of Baker Road came to the meeting to express their feeling with the inconvenience they are having with the reconstruction project) he and the members of the Town Board have been to the Baker Road Reconstruction Project everyday to make sure the project is moving along smoothly. He also stated the reconstruction project should be completed by the end of the first week in October.

Councilman Jemiolo also stated the bids that were submitted to the Town Board for the Jolls Exterior Reconstruction Project and the Milestrip Road Reconstruction Project have been rejected as the cost figures that were submitted did not come close to what the Town had budgeted for the projects. He stated the committees need to go back and take another look at these projects and try to re-bid them so that the cost figures are acceptable to the Town and Tax Payers. Supervisor Cudney stated that the cost figures that have been submitted have a lot to do with Katrina, and the timing on the bidding.

Councilman Jemiolo also talked about the heavy rain storm the Town experienced last week and the issues caused by storm water runoff and flooding. The Town has been proactive and has contracted a study that is in process and being reviewed by the Engineering Department. He stated the Town Board does know that there is a big problem out there and if it takes buying property, building retention ponds, cleaning out creeks, etc., the Town is committed to fixing the problem.

Councilman Kaczor stated that the 3<sup>rd</sup> Annual Fall Festival is being held on October 1, 2005, 12:00 PM to 3:00 PM, at Yates Park. He also announced that the 2005 Fall Recreation Schedule is now out, and it is a very extensive program. Councilman Kaczor attended the Economic Development Committee last night and there was discussion with the Benderson representatives regarding issues on North Buffalo Street and the impacts, now and in the future, that they will have on our local business district. He outlined the following: The old Super Duper building is being totally renovated and Benderson is actively looking for tenants; a new super market chain has been obtained for the old Jubilee building, and they are going to renovate the façade of that building; the building next to M & T Bank is now leased; there is a Public Hearing for the proposed plaza across from the Orchard Park Credit Union (they have three tenants for that plaza already); the Milestrip Road property at the corner of North Buffalo Road, which is the Eckerts project, has been put on the back burner, because there are so many other Benderson projects going on right now. This Town Board is committed to supporting the business community, but also will be very selective in how they move forward. Councilman Jemiolo stated that Benderson group has agreed to put up a fence behind the old Jubilee Plaza to help diminish the noise from the Plaza for the people on Ventura Drive.

Councilman Mills stated that he wanted to thank Town Clerk Janis Colarusso and her staff for the excellent job they did running the Primary Election and preparing the Election Inspectors for the use of paper ballots. Councilman Mills stated that the Town Comprehensive Plan is a document that is evaluated every couple of years. He spoke about the Ad Hoc Zoning Committee(s), which are committees composed of residents of the Town, to evaluate the planning and zoning ordinances of the Town. Councilman Mills stated that last Thursday, the storm that went through Western New York was one of the worst storms he had ever seen. He stated he lives on Highland Avenue, and he witnessed first hand the devastation caused in the Woodland Road area by the creek where the water was overflowing into the properties in that area and onto the roadway. As liaison to the Village, he is going to meet with the Village Mayor next week to see what needs to be done to control the flooding in this area.

Supervisor Cudney stated the Village Mayor and she are sponsoring a breakfast this coming Friday, September 23, 2005, at the American Legion Post #567, to benefit the Boy Scouts in Orchard Park and to honor William Thornton who has been a leader and resident of the Town. She also stated Councilwoman Ackerman will be in attendance to give a report on the Boy Scout Council. Tickets are \$25.00 per person.

Building Inspector Andrew Geist stated that the following resolutions need to be done in order for the Fox Run Senior Housing Project to move forward.

**25) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:**

**WHEREAS**, in June of 2004, the Town Board authorized a Building Permit for Fox Run Development, corner of Big Tree Road (Rt. 20A) & California Road, and

**WHEREAS**, according to the Town of Orchard Park Town Code, if the project does not begin within one year, the authorization expires.

**NOW, THEREFORE be it**

**RESOLVED**, that the Town Board does hereby authorize a one year extension of the Building Permit for Fox Run Development, as recommended by the Building Inspector.

**The resolution was unanimously adopted.**

**26) 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 request from Fox Run, Inc. for a temporary sign, to be attached to the already existing sign, on the southeast corner of Rt. 20A, and California Road announcing their ground breaking, to be removed by October 10, 2005.

**The resolution was unanimously adopted.**

Highway Superintendent, Fred Piasecki, gave an overview of the South Lane Project.

Town Engineer, Wayne Bieler, discussed the storm that came through Western New York last week. In the Town of Orchard Park there were 3 to 4 inches of rainfall in a very short period of time. The number of inches of rain is one aspect of a storm; the other aspect is the duration that it falls in. If you get three inches of rain in a very short duration, it could be a hundred year flood. In Boston and West Falls, they received a number of inches in a very short time frame, constituting a hundred year flood. Town Engineer Bieler stated that the Engineering Department and the Building Department met with FEMA this spring, as FEMA is looking at restudying some of our stream corridors and the Town has requested FEMA to examine some of the streams in greater depth.

**DEPARTMENT HEADS FROM THE FLOOR**

No one gave a report this evening.

27) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #18 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$333,696.24
Part Town Fund	\$6,676.99
Risk Retention	0.00
Cemetery Fund	0.00
Highway Fund	\$45,402.42
Special Districts	\$224,575.30
Trust & Agency	\$13,618.97
Capital Fund	\$434,654.35

The resolution was unanimously adopted.

28) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR CUDNEY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the following reports as listed on the agenda: Building Inspector's Monthly Report & Building Permits for August 2005, and the Chief of Police's Monthly Report for August 2005.

The resolution was unanimously adopted.

**BUSINESS FROM THE FLOOR**

**Raymond Waite, 48 Auckland Avenue:** Mr. Waite handed in a letter to the Town Board which was made part of this record. He outlined the residents concerns regarding the new Jim Ball Dealership at Southwestern & Mid County Drive.

1. Pre-rezoning proposed building & parking set-backs from residential property are not being provided on the current plans.
2. During the Conservation Board meetings the petitioner attempted to alter the landscape plans and stated that he had conferred with the residents when he had not done so.
3. The Conservation Board recommended that the petitioner seek a variance to put an 8 ft. fence in. Petitioner stated he would not, and additional planting that were discussed are no longer part of the plan.
4. The Conservation Easement has already been violated, as there were trees cut for trucks to enter the area.
5. Private property has been landlocked by this project.
6. There should be designated "unloading zone" away from the residents' homes.

**Linda Flowers, 66 Woodview Court:** Ms. Flowers stated that the flood last Friday was the third one this year. In talking to people, she has found that there are three major components to the flooding that take place in this area; 1) the swale (retention pond) in The Meadows of Highland, 2) the Creek and 3) Freeman's Pond. She also talked to the people on Freeman's Pond and they stated that due to the County's financial problems, the major overhaul of the drainage that was to take place in 2006 has been pushed back to 2007. The neighbors on Woodview have taken measures to secure their homes as much as possible from this flooding, but there is nothing else they can do personally. It is now time for the Town and Village to step in and help. She also wanted to thank all the people from the Town & Village who showed up to help.

**Marion Snyderman, 38 Woodview Court:** Ms. Snyderman has lived on Woodview Court for over 20 years and loves her house and the neighborhood, but the flooding of the past few years has started to take its toll on her. She has put in 3 new furnaces and hot water tanks and has started to think about moving as the flooding has made living there intolerable. Ms. Snyderman said she also worries about the new families that have moved in with small children who have to deal with this. One of these families was gone for the weekend and came home to a cellar full of sewage. She stated that she is appreciative of the people from the Town and Village who try to help, but something has to be done.

**Ruth Kabel, 3913 Baker Road:** Mrs. Kabel stated that when the construction company was laying the concrete gutters on Baker Road they requested her, and two other disabled women to park at their neighbors house, or at the church, while the gutters were being put in. Mrs. Kabel stated that there was no way she or the other two women could do that as they cannot walk very far. When Mrs. Kabel talked to the people on the construction company, she does not feel that they took into consideration the hardship that the construction puts on older, handicapped residents. Mrs. Kabel said that when she talked to the Engineering Department, they were always helpful, and she thanked Councilman Jemiolo for stopping down to see her. Supervisor Cudney said that if Mrs. Kabel ever needed anything, to call her office, as maybe there has been some communication problems and her office can help.

**John Marlow, 47 Brooklins Green:** Mr. Marlow asked if anyone has looked at the cumulative effect of all the development in the past 10 to 15 years in the Town and Village, along with the new development that is taking place, and its contribution to the flooding and drainage problems that we have. Has this development produced a lack of land for the water to be absorbed? He feels the Town should be more proactive and maybe we need to look at the Comprehensive Plan, or perhaps a new code. Mr. Marlow asked about bonding monies to purchase Chestnut Ridge Park for Green Space if the County could no longer maintain the Park. He also asked for clarification regarding the tax method being used for Fox Run. (PILOT – Payment in lieu of taxes)

**Gordon Farquhar, 6100 Newton Road:** Mr. Farquhar stated that he went to use the parkland area behind Eagle Heights and it was not marked or identified in anyway. The Recreation Director stated they were working to identify the area with signs. Mr. Farquhar then wanted to know how the Town was handling accusations by the former Assessor, Linda Yancey. Supervisor Cudney stated base on information available to the Town, she was unaware of anything that was criminal. Mr. Farquhar also wanted to know about the Town dumping materials at a private residence. It was explained sometimes the Town, the County & the State do look for different sites to dump the various materials from jobsites. The Town was aware of this resident receiving the material from the South Lane Project, and it was above board.

There being no more business from the floor, on motion by Councilman Jemiolo, seconded by Councilman Kaczor to wit; the meeting was adjourned at 9:17 PM (local time).

Respectfully Submitted,



Janis A. Colarusso  
Town Clerk

