

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 1st day of October 2008 at 7:00 PM. The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL: Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
David Kaczor	Councilman
Mark Dietrick	Councilman
Edward Graber	Councilman
Janis Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Andrew Geist	Building Inspector
Andrew Benz	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 COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the minutes of the Meeting of the Town Board held on September 17, 2008, and the Special Meeting Minutes for September 10, 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.

Old Business #1 Weiss Ave. rezoning request from R-3 & B-2 to SR for Senior Housing

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

RESOLUTION THAT THE REZONING OF TWO PARCELS TO SR-SENIOR RESIDENTIAL AND DEVELOPMENT OF A SENIOR HOUSING COMPLEX WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT

WHEREAS, in March 2008, Calamar, Inc., (the "Applicant"), presented an application (the "Application") to the Town Board of the Town of Orchard Park (the "Town Board"), which Application requested that the Town Board rezone two parcels of land totaling approximately 23.32 acres located at the west end of Weiss Avenue off of Route 240 (the "Site") to SR-Senior Residential so that Calamar can construct and operate a 90 apartment two story 81,435 square foot independent living complex for seniors ("Project"); and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, et. seq., as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the Town Board must satisfy the requirements contained in SEQRA prior to approving the proposed action; and

WHEREAS, the proposed action is a Type I action, a coordinated review has been conducted and the Town Board has been established as the Lead Agency for the purpose of reviewing the Project and making the determination of whether the proposed action will have a significant adverse impact on the environment; and

WHEREAS, pursuant to SEQRA, to aid the Town Board in determining whether the proposed action may have a significant adverse impact upon the environment, the Applicant submitted to the Town Board detailed information about the Project and the potential impacts of the rezoning including but not limited to Applicant's Analysis of Environmental Impacts dated June 24, 2008, with associated appendices, including Part 1 of the Full Environmental Assessment Form ("EAF"); detailed site development plan; Phase I cultural resources report; wetland delineation report; preliminary engineering report; photometrics study; and traffic impact study with supplemental report (collectively the "Project Environmental Documents"); and

WHEREAS, pursuant to SEQRA, the Town Board now desires to determine whether the proposed action may have a significant adverse impact on the environment and whether an Environmental Impact Statement (an "EIS") must be prepared with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF ORCHARD PARK AS FOLLOWS:

Section 1. Based upon a thorough review and examination of the Project Environmental Documents and upon the Town Board's knowledge of the area surrounding the Site and such further investigation of the Project and its environmental effects as the Town Board has deemed appropriate, the Town Board, as Lead Agency, makes the following findings with respect to the proposed action:

(A) The Town Board is undertaking a coordinated environmental review of the proposed action pursuant to SEQRA;

(B) Prior to making a recommendation about the potential environmental significance of the rezoning and Project, the Town Board has consulted several information sources, and has considered the list of activities which are Type I Actions outlined in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations, and the criteria for determining significance outlined in Section 617.7 of the SEQRA regulations; and

(C) The proposed action is a Type I action pursuant to SEQRA.

Section 2. No potentially significant impacts on the environment are noted in the EAF and none are known to the Town Board.

Section 3. Based upon the foregoing investigations of the potential environmental impacts of the proposed action and considering both the magnitude and importance of each environmental impact indicated, the Town Board makes the following determinations with respect to the proposed action.

The proposed action will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. On June 23, 2008, the Applicant submitted revised site plans for a greatly downsized Project, submitted in response to neighborhood concerns about environmental impacts from the Project. The new site plans significantly decrease the Project's development footprint, from the construction of a 140-unit complex to a 90-unit complex under the revised plans, a much greater portion of the Site will remain undeveloped, preserving a significant area of woodland wetland and floodplain.
2. The Project conforms with the proposed rezoning to SR – Senior Residential which is consistent with the Town's planning and development objectives. The Project is also consistent with other land uses in the vicinity of the Site because the Site is surrounded by residential communities and commercial establishments. Thus, the Project will not have a significant impact on land use and zoning.
3. The Project is designed to avoid disturbance of the existing Federal jurisdictional wetlands located on the Site, thus permits from the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation are not required. Also, the Project is limited to an area of the Site which is above the 100-year floodplain of Smokes Creek. Thus, the Project will not have a significant impact on water bodies in the area.
4. A concern expressed by neighbors familiar with drainage patterns at the Site is that the Project will be inundated by flood and storm water backup and will increase the storm water runoff discharging to Smokes Creek. The Project has been designed to accommodate not only runoff from the Project but off-Site drainage as well. The Project will include a large storm water detention basin that is oversized to handle greater than a 100-year storm event, as well as the 10-year existing storm and 25-year storm events, which is in excess of regulatory requirements. Also, a Storm Water Pollution Prevention Plan will be developed to manage storm water runoff during construction. With this drainage system, including piping for a controlled discharge to Smokes Creek and catch basins, storm water handling in the area of the Site will be improved. In fact, the Project's drainage system will reduce storm water discharge to Smokes Creek by 50% from present conditions. Thus, the Project will not have a significant impact on water quality.
5. The Project will not generate significant air emissions, thus the Project will not result in adverse impacts to air quality.
6. The Project will have a development footprint of only 1.15 acres on two parcels totaling approximately 24 acres which are primarily forested, and most of the forested areas will remain. Additionally, the Project will be situated so that the floodplain and wetland areas will not be disturbed. The Wetland Delineation Report concluded that the wetland areas are of relatively low quality based on the lack of species diversity, wildlife habitat, and associated adjacent disturbed areas. Also, with the existing residential and commercial development surrounding the Site, it is highly unlikely that threatened or endangered species are located on the Site, or that the Site is utilized as valuable habitat. Thus, the Project will not have a significant impact on plants and animals.
7. There are no agricultural resources in the area of the Site, thus the Project will not have any impact on agricultural resources.

8. A concern has been expressed amongst the community regarding the potential visual impact of the Project and the screening provided to surrounding residences and commercial establishments. The height and size of the Project will allow for significant screening to be provided by the approximately 19 acres that will remain forested woodlands and wetlands, and the height of the complex will be consistent with that of existing infrastructure. The Project will be surrounded by existing woodlands on the northern, western, and southern sides, with significant distance between the Project and adjoining residential communities. On the east side of the Project, the views from the commercial establishments will be screened by landscaping. Indeed, the protection of the Site from future development will be ensured by a combination of deed restrictions and donation of unused portions of the Site to the Town. Also, photometric studies indicate that the visibility of the Project's lighting from off-Site will be extremely limited. Thus, the Project will not have any significant impacts to aesthetic resources.
9. The Project will not impact any cultural resources, as an historical and archival review found that no structures previously existed on the Site, and a field investigation found no cultural materials. Therefore, the Project will not significantly impact any cultural or archeological resources.
10. There are no public open spaces, recreation or critical environmental areas on or immediately contiguous to the portion of the Site to be developed; thus the Project will not have any adverse impact upon open space, recreation and/or critical environmental areas. If anything, the Project will increase public recreation space with a donation of some of the undeveloped portion of the Site to the Town.
11. The Traffic Impact Study evaluated the Project's potential impacts on the existing public roadway system. Using the worst-case scenario, the analysis concluded that the Project will generate low levels of traffic and will not result in adverse impacts to the local roads and highways, as there is enough capacity to handle the minimal increase in traffic.
12. The Project will not significantly impact energy resources, as the Project will be accommodated by existing utility infrastructure and no new off-Site infrastructure will need to be constructed.
13. The Project will not significantly impact noise or odor levels as the Project will not generate significant noise nor odors.
14. The Project will not significantly impact public health. The Applicant has demonstrated that the Project will not unduly burden local emergency response services.
15. The Project will provide an important, and needed, service to the community by providing housing for senior citizens that will be consistent with the community's present function of locating residences close to the community services on Weiss Avenue. Thus, the Project will not significantly impact community character.

Section 4. The Supervisor of the Town Board is hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 5. This Resolution shall serve as a negative declaration for the proposed action and shall take effect immediately.

AND, BE IT FURTHER, that the Town Board will hire a *"third party contractor"* (that the Petitioner shall pay for) to conduct a peer review of materials submitted by the petitioner for completeness and compliance with Town Code.

The prefiled resolution to the Town Board was duly put to a roll call vote which resulted as follows:

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

The resolution was duly adopted.

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

**DESIGNATE CERTAIN PROPERTY ON WEISS AVENUE FOR
DEVELOPMENT BY CALAMAR, INC., AS SR – SENIOR RESIDENTIAL**

WHEREAS, in March 2008, Calamar, Inc., (the "Applicant"), presented an application (the "Application") to the Town Board of the Town of Orchard Park (the "Town Board"), which Application requested that the Town Board rezone two parcels of land totaling approximately 23.32 acres located at the west end of Weiss Avenue off of Route 240 (the "Site") to SR-Senior Residential so that Calamar may construct and operate a 90 apartment two story 81,435 square foot independent living complex for seniors ("Project"); and

WHEREAS, the majority of the Site is currently zoned Residential with a small portion in the southeast corner zoned B2-Commercial and the Project is intended to serve as an independent living complex exclusively for senior citizens and couples over the age of 60; and

WHEREAS, the Town of Orchard Park zoning code ("Code") specifically recognizes the need for residential housing within the Town dedicated exclusively to seniors and owners of property in the Town zoned R-3, R-4 or B (if a B District is adjacent to an R-3 or R-4) may petition the Town Board to have their property designated SR (Senior Residential District); and

WHEREAS, the Code specifies standards and regulations for senior housing in the SR District that encourage elderly residential development, while protecting the health, safety and general welfare of the entire community; and

WHEREAS, the Applicant submitted extensive materials and information to aid the Town Board in its consideration of Applicant's request to designate the Site as SR-Senior Residential including but not limited to Applicants' updated Application for Rezoning to SR and Site Plan Approval, with associated exhibits, dated June 23, 2008; Applicant's Analysis of Environmental Impacts, with associated appendices, including Part 1 of the Full Environmental Assessment Form ("EAF"), dated June 24, 2008 (copies of which were presented to and reviewed by the Town Clerk and which are on file at the office of the Town Board for review) (collectively the "Project Documents"); and

WHEREAS, the Project is consistent with the objectives of the Comprehensive Plan of the Town of Orchard Park in regards to encouraging affordable housing opportunities for seniors, because the Applicant has demonstrated a need for such housing, due to inadequate capacity at existing facilities; and

WHEREAS, after thorough consideration, the Planning Board of the Town of Orchard Park has recommended rezoning the Site to SR; and

WHEREAS, the Applicant has demonstrated that the Project meets the standards and regulations for development in the SR District for providing affordable, quality elderly housing, and that the Project is protective of community character and the environment; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF ORCHARD PARK AS FOLLOWS:

Section 1. Rezoning the Site to SR-Senior Residential is consistent with the objectives of the Comprehensive Plan of the Town of Orchard Park in regards to encouraging housing opportunities for seniors.

Section 2. The Site shall be designated as SR – Senior Residential for the development of a senior housing complex and the Zoning Map of the Town of Orchard Park (“Zoning Map”) shall be amended to reflect such designation.

Section 3. Such amendment to the Zoning Map shall be duly certified by the Town Clerk.

Section 4. The Supervisor of the Town Board is hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 5. This Resolution shall take effect immediately.

The prefiled resolution to the Town Board was duly put to a roll call vote which resulted as follows:

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

The resolution was duly adopted.

Old Business #2 Proceed with Dedication of PIP 2008-02 Chestnut Ridge Village Pt. 7, Ph.2 & Pt 8

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

WHEREAS, on September 12, 2008 a final inspection was conducted of the public improvements installed in the Chestnut Ridge Village, Part 7, Phase 2 and Part 8 Subdivision, and

WHEREAS, the project included the installation and completion of Arrowood Drive and Basswood Lane. The completion of this Subdivision will allow 36 new single family residential lots to be developed, and

WHEREAS, all of the work has been satisfactorily completed in accordance with Town specifications with the exception of the removal of the construction entrance off of Armor Duells Road. The Town is in receipt of the \$2,000 cash security for the completion of the item noted above which will be held in escrow until that work has been satisfactorily completed, and

WHEREAS, a two-year maintenance bond in the amount of \$425,000.00 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 infrastructure constructed in Chestnut Ridge Village Subdivision, Part 7, Phase 2 & Part 8, PIP #2008-02, and to authorize the Town Clerk to release the performance security's letter of credit in the amount of \$85,000.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Supervisor to sign agreement with Buffalo & Erie Co. Library for Energy Project (Tabled): Authorize the Supervisor to sign an agreement with Erie County Buffalo Public Library for the Orchard Park Library Energy Upgrades Project reimbursement from savings.

Old Business #4 Award bids for Library Energy Upgrade Project (Tabled): Award the General Contractor, HVAC & Electrical Contracts for the Orchard Park Library Energy Upgrade Project, as recommended by the Town Engineer.

New Business #1 Resolution in opposition to consolidation of Vital Statistics to Erie County (Tabled): Town Board to oppose New York State's suggestion to consolidation the function of the Local Registrars of Vital Statistics to the County of Erie, as requested by the Town Clerk.

New Business #2 Highway Superintendent to Advertise for Bids/Four Wheel Drive Loader

5) 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 Highway Superintendent to received sealed bids for one "*Four (4) Wheel Drive Loader*" for the Compost Site, Tuesday, October 14, 2008 at 10:00 AM, at the Municipal Center, and to authorize the Town Clerk to put due notice in the official paper of the Town.

The resolution was unanimously adopted.

New Business #3 Highway Superintendent to Advertise for Bids/Multi Purpose Excavator

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

RESOLVED, that the Town Board does hereby authorize the Highway Superintendent to received sealed bids for one "*Multi Purpose Excavator*" for the Highway Department, Tuesday, October 14, 2008 at 10:30 AM, at the Municipal Center, and to authorize the Town Clerk to put due notice in the official paper of the Town.

The resolution was unanimously adopted.

New Business #4 Traffic Order for "Stop" sign on Redbrick Road

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

RESOLVED, that the Town Board does hereby authorize a Traffic Order for the posting of a "Stop" sign on Redbrick Road at the intersection near the cul-de-sac, and authorize the posting of a "Stop" sign on Hearthstone Terrace at the intersection of Redbrick Road, and be it further authorize the Highway Department to post due signs, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Award Contract for Lowering Water Main on Cole Rd.

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

WHEREAS, informal bids were opened for the Cole Road Waterline Lowering at 6485 Cole Road on September 12, 2008, and

WHEREAS, the project was bid on a lump sum basis for the associated waterline and the Engineering Department has reviewed the lump sum bids of the two contractors who submitted bids. The lowest bid of \$16,496.21 was over the engineer's estimate of \$16,000.00 for the project, and

WHEREAS, the low bidder for this project was Kandey Company, Inc. This Company has been found to have the qualifications and experience to perform this work adequately

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the Contract for the Cole Road Waterline Lowering at 6485 Cole Road to the lowest responsible bidder: Kandey Company, Inc., 19 Ransier Drive, West Seneca, New York 14224 in the amount of \$16,496.21, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #6 Authorize release of Escrow for Final Grading & Seeding – PIP 2006-03

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

WHEREAS, on June 20, 2007 the Town Board accepted dedication of the public improvements constructed in the above referenced subdivision with the stipulation that funds paid by the contractor be held in escrows until grading and seeding within the Town right-of-way, landscaping and fencing at the 3145 Baker property were completed, and

WHEREAS, the contractor has since completed the required grading and seeding of all disturbed areas, landscaping and fencing at the 3145 Baker Road property. The work was inspected by the Engineering Department and found to be in compliance with Town specifications

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Clerk to release to Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224, the \$5,000 held in escrow under for grading and seeding and the \$5,000 held in escrow for the landscaping and fencing at the 3145 Baker Road property in the Baker Heights Subdivision PIP #2006-03, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Approve 2008 Stable Permits

10) 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 approve the 2008 Stable Permit Applications for: *Skibbereen Farm*, 5560 Armor Road and *Quaker Field Stables*, 4760 Freeman Road, as recommended by the Building Inspector.

The resolution was unanimously adopted.

New Business #8 Approve Commercial Parking Permits

11) 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 approve the 2008 Commercial Parking Permit for: Thomas & Paul Kam, 3775 Southwestern Boulevard, and "On-the-Go", 3975 Southwestern Boulevard for a 2008 Commercial Parking Permit, as recommended by the Building Inspector and Police Chief.

The resolution was unanimously adopted.

New Business #9 Request for Out of District Water Customer

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 refer the petition of Forbes Capretto Homes, 7055 Ward Road, to be an Out-of-Water Customer, to the Engineering Department for its evaluation.

The resolution was unanimously adopted.

Business from the Floor

Robert James – He is in favor of installing the sculpture "*Breaking Ground*" at McFarland Park.

Kathryn Gorkiewicz – She stated she researched the web to find the proposed Wal-Mart in Orchard Park is similar to the one in Hamburg being built and believes the Town Board should take this into consideration when they make their final decision on the Wal-Mart project.

Councilwoman Ackerman thanked Ms. Gorkiewicz for doing the research and stated that she would contact Bergman Associates, who represent Wal-Mart in the northeastern section of the country and ask them their reasons against the Hamburg site and for the Orchard Park location. (Statement submitted)

Louis Boehm – He stated he was concerned that there was no where to walk for the residents for the Weiss Road Senior Housing Project. He also believes with the current problems with the economy there is more reason to protect Orchard Park property owners from further loss from declining property values due to overdevelopment in residential areas such as the proposed Wal-Mart. (Statement submitted)

David Schuster – He stated that he and several others set up a table during the Quaker Arts Festival to educate the public about Wal-Mart and got 125 signatures against it. These were people from other towns as well as Orchard Park residents. (Statement submitted)

Elected Officials & Department Heads

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

WHEREAS, the Town owns the Library building and is responsible for capital improvements to such facility, they believe the Orchard Park Library to be a valuable community resource and wishes to provide additional funding for improvements to the Library building, and

WHEREAS, the funding for such improvements is available in the General Fund in an amount that had been previously designated

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby amends the 2008 adopted budget as follows:

Increase appropriations:

A9950.900	Transfers Out – Capital	\$380,000.00
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Increase use of fund balance:

A599	Appropriated Fund Balance	\$380,000.00
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BE IT FURTHER RESOLVED, that the Town Board authorizes additional capital project appropriations in “Library Renovations” (project H81) of \$380,000, and be it further

RESOLVED, that the Town Board does hereby authorize the following budget transfer for the Recreation Department:

\$4,000.00	From: A7020.480 Supplies
	To: A7020.478 Building Rental

The resolution was unanimously adopted.

Not on Agenda

14) 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 building permit for Mills Distributing, 3360 Benzing Road, located on the West side of Benzing Road, Zoned I-1, to construct a 7,000 sq. ft. addition to the existing building. The Planning Board does recommend approval of a Building Permit and Site Plan received 9/22/08, based on the following conditions and stipulations:

- This is an Unlisted SEQR action based on the submitted Short EAF, parts one and two and 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 §144-25 of the Town Code.
- Town Engineering approval was granted on 9/30/08.
- A landscape completion bond in the amount of \$5,520.00 shall be provided for the landscape plan received 9/09/08 which includes 338 sq. ft. total interior green space, prior to the receipt of a Building Permit.
- All agreements and understandings that are part of the written record and/or tapes are included as a condition of approval.

The resolution was unanimously adopted.

Councilman Graber stated that the Orchard Park Schools were ranked highly in the Business First magazine. He pointed out that in reference to growth in Orchard Park, the school ranking draws more people to live here.

Councilman Kaczor thanked Mr. Boehm for his comments, but wanted to clarify that the Calamar project is not an assisted living or a comprehensive care facility. It is housing meant for middle income and independent life styles.

15) 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 compile a list with estimated related costs as requested by the Association of Towns in identifying specific mandates and mandate relief proposals with regard to the 2009/2010 State Budget.

Supervisor Travers Murphy stated that the Department Heads are already working on the request.

The resolution was unanimously adopted.

County & State Representatives

Erie County Legislator John Mills – Mr. Mills thanked the Town Board for approving his request for a building permit for the addition to his company's building and furthering employment. He updated the audience on the ongoing repair on roads, bridges and drainage. Mr. Mills stated that the 2009 Erie County Budget will be a difficult budget and he would not vote for any tax increases. He reviewed the control board and bonding issue, which was secured by the Comptroller. The County will aggressively move ahead to secure bonding for capital projects. The New York State Department of Health is proposing to take over the Vital Statistics from the Towns and Villages and consolidate with the County. Mr. Mills put forth a resolution for the Erie County Legislative Meeting, to oppose this action, as it would negatively impact the residents. The citizens should be able to conduct business in their own town and not have to travel to the city of Buffalo. New York State is also proposing to triple the charge for a document.

Councilman Graber – Mr. Graber asked about the timeline of the South Freeman Road Bridge. Legislator Mills stated it was on schedule and should be completed by the end of December.

Councilman Dietrick – Mr. Dietrick thanked Mr. Mills for investing in Orchard Park.

Town Clerk Colarusso – Ms. Colarusso asked Legislator Mills if County Executive Collins was in favor of the consolidation of Vital Statistics. Mr. Mills stated that he, the County Executive and he believed that the Legislature is against it. This action would not save money for the taxpayers and increases the burden on them.

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

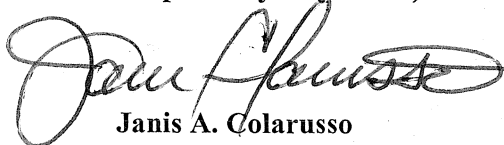
RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #19 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$175,093.94
Part Town Fund	\$7,303.32
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$95,582.52
Special Districts	\$131,414.31
Trust & Agency	\$6,587.13
Capital Fund	\$315,298.78

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 7:38 PM (local time).

Respectfully Submitted,



Janis A. Colarusso
Town Clerk