

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 3<sup>rd</sup> day of October 2007 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> Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
David Kaczor	Councilman
Deborah Yeomans	Councilwoman
Janis Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Samuel McCune	Chief of Police
Andrew Geist	Building Inspector
Frederick Piasecki, Jr.	Highway Superintendent
Wayne Bieler	Town Engineer
<b>ABSENT:</b> Mark Dietrick	Councilman

**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 COUNCILWOMAN YEOMANS, TO WIT:**

**RESOLVED**, that the minutes of the Meeting of the Town Board held on September 19, 2007 and the Special Meeting Minutes for September 12, 2007, 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**

#### **Federal Community Development Block Grant Funds for 2008-2009 for Town of Orchard Park**

At 7:00 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the 2008-2009 Community Development Block Grant Funds.

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 the Town Engineer, Wayne Bieler, to give a brief overview on the 2008-2009 Community Development Block Grant Funds.

Town Engineer Wayne Bieler stated the following: The Town of Orchard Park may be eligible to receive Community Development Block Grant (CDBG) Funds from the U.S. Department of Housing and Urban Development (HUD) for the 2008-2009 Program Year.

The purpose of a public hearing is to provide an opportunity for citizens to discuss the needs of the community. The Town is one of 34 municipalities in the Erie County CDBG Consortium. This year the Consortium will receive a grant of approximately \$3.25 million from HUD. The grant will be divided into four spending categories: 27% for Community Projects; 27% for Housing; 27% for Economic Development; and 19% for Administration and Planning.

Mr. Bieler stated, to be eligible for CDBG funding, the proposed project must satisfy one or more of the following national objectives:

**Benefit Low and Moderate Income Persons:** To benefit low and moderate income persons, it is required that at least 41.9% of the residents of the specific area targeted be at or below the criteria of the income eligibility schedule.

**Correct Slums and Blight:** A slum or blighted area must be a substantial number of deteriorated or deteriorating buildings or public improvements throughout the area. Currently there are no such areas in the Town of Orchard Park.

**Meet an Urgent Community Need:** Meeting an urgent community need, the project must alleviate existing conditions that have developed or become critical within the past 18 months and poses a serious and immediate threat to the health and welfare of the community; the grantee is unable to finance, and other resources of funds are not available.

Since its inception in 1976, the Town has received over \$2.3 million in grants and loans under this federal program. It is estimated that the 2008 allotment for the Erie County CDBG Consortium Community's projects will be \$1,000,000. Funds will be granted on a competitive basis to those municipalities whose projects best meet the HUD goals described above. There is a maximum grant of \$100,000 per project with a maximum of three projects funded per municipality. Applications for this year's Community Development Block Grant funds must be submitted by October 29, 2007.

Some suggested projects recommended for the Town of Orchard Park which may qualify for funding are:

- Oakwood Reconstruction
- Iroquois Drive Drainage
- Rural Transit Service Program w/ 12 towns, 7 villages
- Iroquois Drive Reconstruction (pending survey results)
- Brush Mountain Park / Senior Center
- Summit Avenue – Lake Avenue Drainage Project (pending survey results)
- Rural Transit Service Program provides van transportation for eligible citizens.

Supervisor Travers Murphy asked if there was anyone in the audience that would like to speak on behalf of the 2007-2008 CDBG Funds.

**William Pilger** – He would like the Town to submit the Oakwood Reconstruction as the 1<sup>st</sup> priority.

**Ron Stadelmaier** – He inquired if Sewer District #16 would be eligible for funds from this grant.

**Lisa Young** – She requested the Town submit the Oakwood Reconstruction as the 1<sup>st</sup> priority also.

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

**RESOLVED**, that the Public Hearing in the matter of the 2008-2009 Erie County Community Block Grant Funds for the Town of Orchard Park, is hereby closed at 7:17 PM.

**The resolution was unanimously adopted.**

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

**WHEREAS**, the Town of Orchard Park may be eligible to receive Community Development Block Grant (CDBG) Funds from the U.S. Department of Housing and Urban Development (HUD) for the 2008-2009 Program Year, and

**WHEREAS**, the Town of Orchard Park held a public hearing this evening to provide an opportunity for citizens to express community development and housing needs and to discuss possible projects which would benefit low and moderate income areas in the Town of Orchard Park.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize Supervisor Mary Travers Murphy to sign, submit and execute a contract with Erie County Community Development Block Grant Consortium requesting \$90,000.00 per each of the following projects: 1<sup>st</sup> Priority; Oakwood Reconstruction; 2<sup>nd</sup> Priority; Iroquois Drive Drainage, and 3<sup>rd</sup> Priority; Rural Transit Service Program.

**The resolution was unanimously adopted.**

#### **Public Hearing**

At 7:18 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against a Local Law for the Year 2007; Amendments to the Conservation Management Overlay District.

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.

Supervisor Travers Murphy asked if there was anyone in the audience who would like to speak for or against Local Law of the Year 2007: **No one spoke**

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

**RESOLVED**, that the Public Hearing in the matter of a Local Law for the Year 2007; Amendments the Conservation Management Overlay District is hereby closed at 7:20 PM (local time).

**The resolution was unanimously adopted.**

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

**WHEREAS**, following due and timely notice, a Public Hearing was held by the Town Board of the Town of Orchard Park this evening to hear all interested parties for or against the Proposed Amendment to the Conservation Management Overlay (CMO) District of the Town of Orchard Park, and

**WHEREAS**, no recommendations from the Erie County Department of Planning, pursuant to §239-m of the General Municipal Law were received and filed by the Town Board. The department did state the following: *"it would like to congratulate the Town on its effort to promote open space preservation through the use of more innovative zoning techniques such as a Conservation Management Overlay District. Creation of the floating zone will allow for more appropriate siting of residence to best maximize open space and natural areas."*

**WHEREAS**, 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, and

**WHEREAS**, this Town Board makes a Negative Declaration based upon the fact that this Local Law shall have no adverse impact upon the environment.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board is hereby adopts Local Law #8 for the Year 2007; Conservation Management Overlay District, which reads as follows:

**Repeal Section 144-17.1B(4) and replace Section 144-17.1B(4) as follows:**

Minimum area. The minimum area required to qualify for the Conservation Management Overlay District shall be fifty (50) contiguous acres. Any parcel or parcels of contiguous conforming acreage donated to the town as parkland, by the applicant, may be considered as part of the overall minimum acreage required.

**Repeal Section 144-17.1C(8)c and replace Section 144-17.1C(8)c as follows:**

The standards of design and construction for interior public streets shall meet applicable town specifications for public streets. However, pavement widths may be reduced to twenty-four (24) feet. In addition to pavement widths, thirty-inch (30) concrete gutters must be installed on each side of all designated interior public streets.

**Repeal Section 144-17.1D(6) and replace Section 144-17.1D(6) as follows:**

Any applicant seeking a Conservation Management Overlay District designation will be prohibited from using section 339-Y of the Real Property Tax Law of New York State.

**The question of the adoption of the foregoing resolution was duly put to a roll call vote:**

Supervisor Mary Travers Murphy	Aye
Councilwoman Nan Ackerman	Aye
Councilman David Kaczor	Aye
Councilman Mark Dietrick	Absent
Councilman Deborah Yeomans	Aye

**The resolution was duly adopted.**

**New Business #1 Town Board to Authorize Release of Escrow for Armor Knoll Subdivision**

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

**WHEREAS**, on December 20, 2006 the Town Board accepted dedication of the Public Improvements constructed in the above referenced subdivision with the stipulation that funds paid by the developer be held in escrow until seeding and grading within the Town right-of-way was completed, and

**WHEREAS**, the developer has since completed the required seeding and grading on Aaron Trail. 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 APR Holdings, LLC., 4727 Camp Road, Hamburg NY 14075, the \$5,000 held in escrow for Seeding and Grading in the Armor Knoll Subdivision, PIP #2006-01, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #2 Appointment of Senior Engineer Assistant to the Engineering Department**

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

**WHEREAS**, on February 22, 2007, the Erie County Department of Personnel requested New York State Department of Civil Service prepare an open competitive examination and certified that the appropriate civil service title for the position of Senior Engineer Assistant for the Town of Orchard Park based on job classifications and duties, and

**WHEREAS**, since May 31, 2007, there has been a vacancy in the Engineering Department with the retirement of Larry Holtz and per the Town Board's January 31, 2007 work session and August 15, 2007, Town Board meeting, the Board approved the filling of the now vacant Senior Engineer Assistant position, and

**WHEREAS**, the work includes the following: full performance knowledge, skills, abilities and personal characteristics; good knowledge of techniques; terminology and equipment of drafting, engineering field and survey techniques, mathematics as applied to engineering; ability to perform; moderately difficult mathematical computations rapidly and accurately, complete designs utilizing a computer (AUTOCAD) and perform pre-professional engineering research, prepare reports, and understand and follow detailed oral/written instruction, and

**WHEREAS**, the Town Engineer is pleased to announce that after interviewing several candidates responding to the August 13, 2007 advertisement and posting, he has concluded that the best-qualified individual for the position is Michael A. Billi. Mr. Billi has worked assisting in the completion of various projects for several consulting firms since 1992 and graduated from Erie Community College with an Associate in Applied Science in Civil Engineering Technology in 1992 and is a certified GIS software applications specialist, and

**WHEREAS**, Mr. Billi has completed his duties, as stated from his former employers, with enthusiasm and has performed his assignments with diligence and effectiveness receiving excellent recommendations from previous employers.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby appoint Mr. Michael A. Billi, 5492 Meadow Drive, Boston, NY 14075, to the position of Senior Engineer Assistant Assigned to the Engineering Department at Range 0009, Step D, of the Union Wage Schedule, effective October 22, 2007, with a six-month probation period and pending meeting all Civil Service rules and regulations, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #3 Supervisor to Apply for Shared Municipal Service Incentive Grant Program**

**8) 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 collaborate with the Village of Orchard Park, the Orchard Park Central School District and the Orchard Park Fire District in the submittal of an application to the New York State, Department of State, Shared Municipal Services Incentive Grant Program requesting \$800,000 for the construction of a swimming pool, at the Town owned Brush Mountain Park.

**The resolution was unanimously adopted.**

**New Business #4 Approve 2007-2008 Commercial Parking Permits**

**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 approve the following 2007-2008 Commercial Parking Permits: Victor Liberatore, 3807 Southwestern Boulevard; Dave Simoncelli, 3730 & 3740 California Road and Kevin Bieler, 3946 Southwestern Boulevard.

**The resolution was unanimously adopted.**

**New Business #5 Schedule Public Hearing – 2008 Preliminary Budget/Benefit Basis Special District**

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

**RESOLVED**, that the Town Board is hereby authorized to schedule a Public Hearing for Wednesday, November 7, 2007 at 7:00 PM, at the Orchard Park Municipal Center, for the 2008 Preliminary Budget and the Benefit Basis Special District Budget.

**The resolution was unanimously adopted.**

**New Business # 6 Authorize the Recreation Department Appointments for Fall/Winter Programs**

11) 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 Recreation Departments appointments for the Fall/Winter Programs dependent a upon the applicant providing the required certifications.

Name	Address	Position	Title	Rate
Ed Rowland	Town of Orchard Park	PT2-D	Att.	\$15.00
Allison Pawarski	Town of Orchard Park	PT2-B	Att.	\$ 9.00
Ashley Bonetto	Town of Orchard Park	PT2-D	Lg.	\$ 9.50
Samantha Dina	Town of Orchard Park	PT1-C	Lg.	\$ 8.00
Sarah Battaglia	Town of Orchard Park	PT1-C	Lg.	\$ 8.00

**The resolution was unanimously adopted.**

**New Business #7 Refer to the Planning Board and Conservation Board:**

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

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

- Bieler Janitorial Services, 3946 Southwestern Boulevard, located on the north side of Southwestern Boulevard, West of Abbott Road, Zoned B-2. Would like to convert the site of an existing single-family home destroyed by fire, for use as Bieler Janitorial Services headquarters and warehouse space by constructing a 6,080 sq. ft. building.
- Courtyard at Birdsong Subdivision - Rezoning Petition from R-1 to CMO District.
- Jim Ball, Expansion of Cadillac Building, 3433 Southwestern Boulevard, Zoned B-2.
- Quaker Crossing East, out parcel located at the northern corner of Amanda & North Benzing Roads, Zoned B-1. Applicant would like to construct an 8,000 +/- sq. ft. furniture store.

**The resolution was unanimously adopted.**

**Elected Officials & Department Heads**

13) 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 following budget transfers, as requested by the Town Clerk and Town Engineer:

<b>Town Clerk:</b>	<b>\$ 360</b>	From: A.1410.0460	Codification of Ordinance
		To: A.1410.0419	Other Expense
<b>Town Engineer:</b>	<b>\$ 4,000</b>	From: 001.8346.250	General Equipment
		To: 001.8346.475	Gasoline
	<b>\$10,500</b>	From: A.1440.000.139	P.T. Budget
		To: A.1440.000.111	Asst. Engineer & Inspector

**The resolution was unanimously adopted.**

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 to schedule a Public Hearing for Wednesday, November 7, 2007 at 7:00 PM, at the Orchard Park Municipal Center, 4295 S. Buffalo Street, Orchard Park NY 14127, in the matter of a proposal to create a moratorium on new commercial construction from the Village line up to the five corners on Orchard Park Road.

Councilwoman Ackerman gave the background concerning a committee involved with the Overlay District, whose purpose was to preserve the Orchard Park Road corridor with the residential look and character of the Town. It was decided to wait until the Comprehensive Plan was adopted before continuing with the Overlay District plan. She stated that now that the Comprehensive Plan has been passed, it is time to enforce the ideas of the committee for the Overlay District with a Local Law which would require streetscape, landscape and architecture.

Councilwoman Yeomans stated she would not be voting in favor of moratorium tonight as the proposal was first presented at the Town Board Work Session this evening. Also, Town Attorney Berkowitz said waiting two weeks would not impact the effectiveness of the moratorium. Councilwoman Yeomans stated she would like to postpone the scheduling of the public hearing so she can review this information. Supervisor Travers Murphy concurred with Councilwoman Yeomans, and would like to set the public hearing at the next Town Board meeting. Councilman Kaczor stated he and Councilwoman Ackerman are very passionate about this topic. Work has been ongoing with the Overlay District ideas for a number of years, which is evident by the structure that once was the Super Duper Grocery Store on North Buffalo Road. The Town Board negotiated to have the developer totally remodel the structure to keep in character with what the Town required. The Town has already worked with residents in this area to protect their neighborhood, so the moratorium needs to be acted upon promptly. Councilwoman Ackerman stated that the purpose of this moratorium is to establish criteria that make whatever is developed along this road, compatible with what structures are already there.

Supervisor Mary Travers Murphy	Nay
Councilwoman Nan Ackerman	Aye
Councilman David Kaczor	Aye
Councilman Mark Dietrick	Absent
Councilwoman Deborah Yeomans	Nay

**Due to a tie, the motion was tabled.**

Councilman Kaczor stated that Verizon broadband cable television would be tentatively available next fall in Orchard Park.

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

**RESOLVED**, that the Town Board does hereby waive the thirty (30) day "Notice of Renewal" for S&P Associates, DBA: Kettles Corner, 3719 Abbott Road, Town of Orchard Park, NY 14127, Serial #3004520, as recommended by the Town Attorney.

**The resolution was unanimously adopted.**



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

**WHEREAS**, sealed bids for the "Police Uniform Replacement Parts" were open on September 21, 2007 at 10:00 AM, in the Town Clerk's Office, at the Municipal Center, 4295 South Buffalo Street, Orchard Park NY 14127, and

**WHEREAS**, the proposals received are as follows in the order they were opened:

<b><i>Sewing Tech. Uniform Co. Inc.</i></b>	<b>\$589.50</b>
691 Seneca St.	
Buffalo, New York 14210	

<b><i>United Uniform Company, Inc.</i></b>	<b>\$608.30</b>
495 N. French Road	
Buffalo, New York 14228	

<b><i>North Eastern Uniforms &amp; Equipment</i></b>	<b>\$563.00</b>
88 Benbro Drive	
Cheektowaga, New York 14225	

**WHEREAS**, the Chief of Police would like the Town Board to take into consideration the possibility of an overrule on the lowest bidder, North Eastern Uniform & Equipment, and award the bid to the next in line, Sewing Technology Uniform Company, and

**WHEREAS**, North Eastern Uniform has been incompetent and totally unsatisfactory in the past year. It clearly states in the bid "SAMPLES OF EACH OF THE SPECIFIED ITEMS SHALL ACCOMPANY THE BID". When the three bids were opened, North Eastern Uniform did not supply samples, and

**WHEREAS**, North Eastern Uniform was awarded the bid in September 2006 (and has been for the past five years). The uniform order was sent to them on October 11, 2006. Uniform parts have been dribbling in since that time. There were many returns, many more than once. Reasons for returns consisted of wrong sizes, specs, color, name tags and completely wrong items. We finally received the last of the order on August 3, 2007. In the past year persons in charge (Managers?) have changed at least four times. To date there is no manager, and

**WHEREAS**, the following the Chief of Police states in a letter to the Town Board dated 9/28/07:

- All Lieutenant shirts had to be returned, wrong name tags on all, some wrong sizes.
- One Lt. shirt was returned with the incorrect name, and had to be returned because the name was correct but the color was changed.
- Mock turtlenecks ordered, turtlenecks received.
- Dispatch turtlenecks received w/gold lettering instead of white (exact instructions are listed on the order form).
- Two white shirts (Lt. Pacholec) were finally received on 5/23/2007.
- But wrong specs (different brand and materials) returned 5/24/2007.
- We finally received the correct shirts on 8/30/07 (Lt. Pacholec purchased white shirts from another source out of pocket to have a white shirt to wear while waiting).
- All ties ordered came in wrong specs and color.
- All winter hats returned, all wrong size, wrong specs, wrong color.
- One officer was sized three times, and received wrong size trousers.
- Invoicing was never correct to bid when it came to jackets, raincoats, and sweaters. Notice the fluctuation on other pricing.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby overrule the lowest bidder for the "Police Uniform Replacement Parts" and award the bid to Sewing Tech. Uniform Company, Inc., 691 Seneca Street, Buffalo, New York 14210, as recommended by the Chief of Police.

**The resolution was unanimously adopted.**

Highway Superintendent Piasecki reported on work at Old Orchard Lane and Old Post Circle. He also announced that the Solar Panels are going to be funded by NYSERTA and soon will be installed in the Highway Garage.

Town Engineer Bieler reported that Aqua Tech has stocked Birdsong Pond and Acorn Circle Pond to help with plant growth. He introduced Michael Billi, the new appointed Senior Engineer Assistant, to the audience.

**17) 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:

<b>General Fund</b>	\$99,472.30
<b>Part Town Fund</b>	\$685.56
<b>Risk Retention</b>	0
<b>Cemetery Fund</b>	0
<b>Highway Fund</b>	\$21,190.75
<b>Special Districts</b>	\$32,212.94
<b>Trust &amp; Agency</b>	\$25,033.49
<b>Capital Fund</b>	\$45,756.24

**The resolution was unanimously adopted.**

#### **Communications**

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

**RESOLVED**, that the Town Board does hereby authorize to receive and file the following communications 1) Town of Holland: Town Board passed a resolution opposed to any inclusion of sitting windmills in Article X of the Public Service Law. 2) Town of Orchard Park: 2008 Tentative Special District Budget for the Town of Orchard Park filed in the Town Clerk's Office. 3) Erie County Water Authority: On 9/18/07 the Water Authority was notified of a leaky hydrant at 4740 Duerr Road. The hydrant could not be repaired so it was replaced.

**The resolution was unanimously adopted.**

**Reports**

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

**RESOLVED**, that the Town Board does hereby authorize to receive and file the following reports: Building Inspector's Monthly Report and Building Permits for September 2007.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

**Howie Holmes** – Mr. Holmes stated that a "Friends of Birdsong" group has been formed and the organizational meeting is scheduled for Thursday, October 11<sup>th</sup>, 2007 at 7:30 PM in the basement conference room in the Municipal Center. Anyone is welcomed to attend.

**Jane Shoemaker** – Her position is against Wal-Mart and she researched the rezoning and traffic studies reporting 10,000 trips per day to a Wal-Mart store. She asked the Town Board to advocate the position of denying a Wal-Mart on Milestrip Road.

**Dave Schuster** – Mr. Schuster read excerpts from Business Week & the Wall Street Journal that support the declining of Wal-Mart Stores.

**Carol Castonguay** – Ms. Castonguay was present this evening on behalf of the residents of Bussendorfer Road Proposed Subdivision. She spoke about work being done by a developer without any permits issued. The developer had a letter not a permit from the DEC to mitigate the wetlands. They also had a notice of intent. The developer found a loophole in the Town Code stating if there was no development on that land, they were within their rights to perform the work they had started. Ms. Castonguay asked the Town Board, Engineer, Building and Planning Departments to find out from Patrick Development if they have any plans for a subdivision. She wanted to know why Patrick Development was clearing land, moving dirt and if they plan to install culverts and swales which back up to existing properties with children. She stated they have pulled the application for the subdivision, but stated their NOI is based on their own site plan for the proposed subdivision. She claimed the permit (letter) from the DEC is based on specific guidelines.

Councilman Kaczor stated this information she has presented this evening from Ms. Castonguay is new to the Town Board Members. He asked the Town Attorney where this issue stands today. The Town Attorney stated that the permit was issued by the Army Corps of Engineers for the wetlands. Mr. Berkowitz also stated once the subdivision comes before the Planning Board all the drainage issues will be dealt with. The Town Attorney also stated the Town Board can not challenge the permit as they do not have the authority.

Councilwoman Ackerman asked the Town Attorney for a "Stop Work Order".

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

**RESOLVED**, that the Town Board does hereby authorize a "Stop Work Order" for Patrick Development, Inc. for work on Bussendorfer Road, and be it further

**RESOLVED**, that the Town Board authorizes the Building Inspector to issue the order.

Councilman Kaczor asked the Police Chief to have his Patrol Officer's to patrol the property to make sure the "Stop Work Order" was in effect.

**The resolution was unanimously adopted.**

**James Bourne** – Mr. Bourne asked for an update about paving would be done on Willowbrook Road. Highway Superintendent Piasecki and Town Engineer Bieler stated that the project is under design and Willowbrook Road would be paved when the drainage problem has been rectified. Councilman Kaczor stated that the Town has purchased two properties with the aide of grant money and installed retention ponds in the Bussendorfer neighborhood to mitigate some of the drainage problems. Councilwoman Ackerman stated that the Quaker Settlement property, to which Councilman Kaczor referred, is in negotiations with Senator Volker's office and the NYS Parks and Recreation Department to determine as to when the Town would receive the grant of \$250,000 towards the purchase of this property to close the deal with Cimato Brothers. Access through this property, along with the Stanley property on Bussendorfer Road, would help with efforts towards a drainage solution for these residents. Town Engineer Bieler added that there have been three other contracts that the Town Board awarded to deal with the drainage issues.

**Mark Gasick** – Mr. Gasick stated that he is a concerned taxpayer and is a Lamar employee. He read excerpts from a letter he submitted to various media outlets concerning the litigation concerning billboards with the Town and Lamar over the last six years. He questioned why the Town won't compromise and save taxpayers money over an endless legal battle. Mr. Gasick stated that the amount of \$421,866.00 spent on the lawsuit could be used for more important public needs, including lowering taxes and other community improvement programs. He submitted a list of questions to the Town Board.

**Ron Stadelmaier** – Mr. Stadelmaier reported on the ABC Rental Company departure from the Eaglebrook Drive neighborhood. This company held an auction on September 29, 2007. He thanked the Town officials and Police and Highway Departments for their prompt response and enforcement for parking and safety. His observation was that the Town could have been more proactive rather than reactive. He felt that ABC Rental should not have been allowed to hold an auction without authorization from the Town and suggested that in the future this should be a requirement.

**Tammy Blady** – Ms. Blady thanked her neighbor, Carol Castonguay, for her research and the Town Board for the "Stop Work Order". She stated her frustration over the last three years concerning the actions of Bussendorfer LLC. She said that anything the Town Board can do to help protect the residents and advise them of anything they could do to address the situation, would be appreciated.

**Sidney Wallach** – Mr. Wallach stated that he is very cynical about what the Town Board reports on the Bussendorfer Road drainage, due to past promises.

**Tom Casey** – Mr. Casey stated that he is concerned that the Town Ethics Board may be acting politically in the negative sense. He hoped that they would make a decision at their next meeting concerning four items he has submitted, that show his concerns are unfounded and not being delayed until after the election.

**Cindy Reitebach** – Ms. Reitebach has spent a lot of money on drain tile and pipes to secure her property from water damage. She fears more problems with water if there is another subdivision built.

**Bob Fesler** – Mr. Fesler asked about what might be planned for the Big Tree Road area in regard to the Comprehensive Plan. He feels that he is being pushed out of his neighborhood.

**Kathryn Gorkiewicz** – Ms. Gorkiewicz stated that Wal-Mart is 100 parking spaces short and that should be enforced according to Town code and it should not be built on Milestrip Road.

**John Sawicz** – Mr. Sawicz stated that the Town should be proactive, not reactive in cases such as Bussendorfer LLC., ABC Rental and the vacant property next to ECC South Campus.

**Howie Holmes** – Mr. Holmes stated that he against Lamar and the billboards and would certainly add to problems on Big Tree Road. He asked the Town to remain firm with the lawsuit.

Town Engineer Bieler addressed the history of the Bussendorfer Road drainage for the residents in the audience and the ways that would ultimately resolve these problems. The Town Wide Study would be worthwhile reading for those interested when it is completed.

There being no further business from the floor, on motion by Councilman Kaczor, seconded by Councilwoman Ackerman, to wit: the meeting was adjourned at 8:48 PM (local time).

**Respectfully Submitted,**

**Janis Colarusso**  
**Town Clerk**

