

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 17th day of October, 2012 at 7:00 PM, the meeting was called to order by Councilmember Kaczor and there were:

PRESENT AT ROLL CALL:	David Kaczor	Councilmember
	Eugene Majchrzak	Councilmember
	Carol Hutton	Town Clerk
	John C. Bailey	Town Attorney
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
	Andrew Geist	Building Inspector
	Andrew Benz	Chief of Police
ABSENT:	Janis Colarusso	Supervisor

Councilmember Kaczor 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 COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Regular Town Board Meeting minutes held on October 3, 2012, & the Executive/Special Session Meeting Minutes of September 26, & October 3, 2012 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 Town Board to Schedule a Public Hearing

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

RESOLVED, that the Town Board does hereby schedule a Public Hearing for Wednesday, November 7, 2012 at 7:00 PM in regards to Ernie Dobies, of Savilles Outdoor Power Equipment, Inc., request for a Special Exception Use Permit for property located at 3900 Taylor Road, Zoned I-1 to relocate his business to that address.

The resolution was unanimously adopted.

Old Business #2 Final Dedication of Infrastructure for Hilltowne Park PIP 2012-02

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

WHEREAS, on September 13, 2012, a final inspection was conducted of the public improvement constructed in the Hilltowne Park Subdivision Part II. The project included the remaining portion of Hilltowne Drive which consists of the installation of 1,035 L.F. of new roadways and public utilities including 1,028 L.F. of sanitary mainline and 800 L.F. of watermain with two hydrants to serve 11 residential sublots as shown on the attached location map and:

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of the following, which will be completed when materials are delivered and/or weather permits:

- Install five light poles and fixtures and one light base, and UL Inspection Certification \$8,000.00
- Address differential settlement of the pond access road and check for stones in detention area in the spring of 2013. \$2,000.00
- Complete final landscape around trail bridge, install cross bracing in the trail bridge, and place boulder at the trail bridge. \$1,000.00

WHEREAS, we are in receipt of the cash securities for the items noted above. A two-year maintenance bond in the amount of \$257,500 has been submitted along with all other necessary documents.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Hilltowne Park Subdivision Part II under PIP #2012-02, and authorize the Town Clerk to release the performance bond in the amount of \$51,500, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Town Board to Grant a One-Year Extension for Harvest Hill Golf Course

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

RESOLVED, that the Town Board does hereby grant a one-year extension for the parking lot, landscaping and site improvements previously approved for Harvest Hill Golf Course, located at 3052 Old Transit Road, Zoned R-2. Their permit expired on July 27, 2012.

The resolution was unanimously adopted.

New Business #1 Supervisor to sign the Joint Use & Occupancy Agreement for Village

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

WHEREAS, an Agreement was made on the 22nd day of September between the TOWN OF ORCHARD PARK, hereinafter the "TOWN" a municipal corporation having its principal place of business at S-4295 South Buffalo Street, Orchard Park, New York and THE VILLAGE OF ORCHARD PARK, hereinafter the "VILLAGE", a municipal corporation having its principal place of business at S-4295 South Buffalo Street, Orchard Park, New York, and

WHEREAS, under Section 64 under the Town Law, to finalize this matter on the Town's side the following "Lease" must be approved subject to Permissive Referendum – the "Joint Use and Occupancy Agreement" reads as follows:

WHEREAS, the parties hereto acknowledge that the VILLAGE and TOWN residents can best be served through the continued co-location of VILLAGE and TOWN government in the Orchard Park Municipal Center located at S-4295 South Buffalo Street, Orchard Park, New York, 14127, hereinafter the "BUILDING," and

WHEREAS, the VILLAGE desires to occupy and use a portion of the BUILDING and the TOWN is willing to accommodate that occupation and use, and

WHEREAS, the VILLAGE acknowledges a responsibility to pay part of the maintenance/overhead of the BUILDING as it relates to its occupation and use of the BUILDING as the seat of VILLAGE government,

NOW, THEREFORE, it is mutually agreed that:

(1) PREMISES

The TOWN and the VILLAGE hereby mutually agree that the VILLAGE shall have the sole use and occupancy of the 1,350 feet of space at the Orchard Park Municipal Center located at S4295 South Buffalo Street, Orchard Park, New York. Such space is located in the southwest corner of the first floor of the northerly BUILDING (the "old municipal BUILDING") of the Municipal Center and represents the VILLAGE occupies at the time of the making hereof and has occupied since the completion of the Municipal Center Renovation of 1991.

(2) COMMON AREAS

Additionally; the VILLAGE shall have the right to use in common with others the lobby, public entrances, public stairways, public elevators, and other public portions of the BUILDING, including the public meeting room and Courtroom as scheduled and free access to appurtenant parking lots.

(3) COMMENCEMENT DATE

The date on which this Agreement shall take effect and the term hereof for which maintenance/overhead payments shall begin is September 1, 2012.

(4) TERM

The term of this Agreement shall begin on September 1, 2012 and end August 31, 2017.

(5) MAINTENANCE/OVERHEAD

The VILLAGE'S share of the BUILDING'S maintenance/overhead shall be computed at the annual rate of \$10.00 per square foot and shall be paid in twelve equal monthly installments on the first day of each month, or the next business day following the first day of each month if that day should fall on a weekend or a holiday.

(6) USE

The TOWN hereby guarantees that the VILLAGE shall have quiet use and enjoyment of the premises described in Paragraph (1) in addition to the VILLAGE'S document storage space in the basement. The TOWN will work diligently and reasonably with the VILLAGE to insure that the VILLAGE continues to have quiet use and enjoyment of meeting rooms, Courtrooms, and any and all other space for purposes reasonably related to the general conduct of the VILLAGE'S affairs.

(7) DAMAGE

If the subject premises shall be partially or totally damaged by fire or other cause without the fault or neglect of the VILLAGE, the VILLAGES'S servants, employees, agents, visitors, or lessees, the damage shall be repaired by and at the expense of the TOWN. The VILLAGE shall, at its own expense, obtain insurance covering the contents of the subject premises and the TOWN, in no way, shall be liable for any loss related to said contents.

(8) SERVICES PROVIDED BY THE TOWN

The TOWN, at its own cost and expense, shall provide to the VILLAGE, the following: (A) Elevator service in accordance with the BUILDING Plans at the subject premises; (B) Heat, air conditioning, and ventilation at the subject premises; (C) Cleaning services in the public portions of the BUILDING; (D) Hot and cold water for lavatory and drinking and office cleaning purposes at the subject premises; (E) Electric energy that the VILLAGE shall require in the subject premises; (F) Maintenance of the subject premises.

(9) SERVICES PROVIDED BY THE VILLAGE

The VILLAGE, at its own cost and expense, shall clean the office space occupied by them in the Municipal Center with the exception of the "common areas" referenced in Paragraph 2 hereof which the Town shall clean at its own expense.

IN WITNESS HEREOF, the TOWN and VILLAGE have respectively signed and sealed this Agreement as of the day and year first above written.

The resolution was unanimously adopted.

New Business #2 Authorize the Release of Escrow for Holly Ridge Estates Subd. PIP #2012-01

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

WHEREAS, on September 19, 2012, 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 (\$5,500) until the following landscaping plantings in Cul-de-sacs (18 trees) was completed and,

WHEREAS, the Contractor has since completed the required planting on the cul-de-sacs (18 trees) on Evergreen 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 recommend that you authorize the Town Clerk to release to DJC Land, Inc., 2635 Millersport Highway, Getzville, New York 14068 the \$5,500 held in escrow for landscape planting 18 trees in cul-de-sacs for the Holly Ridge Estates Subdivision (PIP #2012-01), as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #3 Appoint Clerk to Temporary Position

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

RESOLVED, that the Town Board does hereby appoint Courtney Martin, 110 Shadow Lane, Orchard Park, to the position of Clerk, Temporary in the Supervisor's Office, retroactive to May 14, 2012, with a wage rate of \$10.00/hr. (PT3A). Courtney's help is needed in the Supervisor's Office during the implementation of the new Kronos time keeping and scheduling system.

The resolution was unanimously adopted.

Refer to the Planning & Conservation Boards

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize to refer to the Planning Board and Conservation Board the following items:

1. Roy Emerling is requesting a "Special Exception Use" Permit to allow the construction of a Multi-Family housing project upon 12.5-acres Vacant Land, located at the corner of Reserve Road and Westgate Boulevard, south side of Reserve Road, west of the St. John Vianney's Church complex, Zoned R-3. (SBL#153.06-1-1)
2. Ross Cellino, of Harvest Hill Golf Course, located at 3052 Old Transit Road, Zoned R-2 is requesting a recommendation on the construction of a Pavilion, Club House and Accessory Buildings from the Planning and Conservation Boards. (SBL #154.09-1-3)
3. CARQUEST Auto Parts is requesting a Building Permit and Site Plan approval to construct an approximately 6,312-sq.ft. building at 3329 Southwestern Blvd., located on the South side of Southwestern Blvd., west of Orchard Park Rd., Zoned B-2 & R-2. (SBL #152.16-6-2)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Kathy Gorkiewicz – She had a question as to the reason behind the retroactive appointment going back to May 2012.

ELECTED OFFICIALS & DEPARTMENT HEADS

Councilmember Kaczor – He responded to Ms. Gorkiewicz's question regarding the retroactive appointed position and explained that Ms. Martin has been working in the Supervisor's office and should have been appointed before when she took on more responsibility. He suggested contacting the Supervisor's office if there was more need for clarification.

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

WHEREAS, the Chief of Police, Andrew Benz, has requested permission from the Town Board to schedule request for bids for uniform parts for the Orchard Park Police Department,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize to schedule a bid opening on the 30th of October, 2012 at 10:00 a.m. in the Supervisor's Conference Room for Police uniform parts. The bid prices would remain in effect until October 1, 2013.

The resolution was unanimously adopted.

Police Chief Andrew Benz – He reminded the residents that beginning November 1, 2012 the overnight snowplowing ordinance will go into effect limiting street parking between certain hours.

Highway Superintendent Fred Piasecki – He stated that New York State has a check to the Town for \$121,968.19 for the Consolidated Highway Improvements Program (C.H.I.P.S) for the completion of Benning Road. Iroquois Drive reconstruction is close to completion. The Friends of the Library Organization is funding the new landscaping and the Highway Department is helping the effort.

Town Engineer Wayne Bieler – He and Jason Doktor from the Engineering Department, attended the New York State Association Floodplain Management Course and they are now Certified Floodplain Managers that will help the rating for the residents with floodplain insurance.

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

RESOLVED that the Town Board does hereby authorize the approval of all entries on Warrant #20 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$36,951.25
Public Safety Fund	\$5,707.19
Part Town Fund	\$1,153.07
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$14,798.02
Special Districts	\$30,197.41
Trust & Agency	\$4,683.34
Capital Fund	\$128,450.24

The resolution was unanimously adopted.

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the following Communications:

- Governor Andrew Cuomo, the New York State Department of Financial Services and Assembly Member Michael P. Kearns are offering “HELP to those homeowners facing foreclosure”. To be held Thursday, October 18, 2012 from 10 am to 4 pm, at the Cazenovia Resource Center, 155 Cazenovia Street, Buffalo, NY 14210. (Between Abbott & Seneca Street).
- Orchard Park Fire District 2013 Budget Summary.

The resolution was unanimously adopted.

There being no further business, on motion by Councilmember Kaczor, seconded by Councilmember Majchszak, the meeting was adjourned at 7:15 PM (local time).

Respectfully Submitted,



Carol R. Hutton
Town Clerk