

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 4th day of November 2009 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 (arrived at 7:10)
	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."

Supervisor Travers Murphy stated that the Town has a Special Proclamation for the American Legion tonight. The Orchard Park American Legion Commander Tim Winterhalter was introduced by Legion member David Rebmann.

Mr. Winterhalter stated that the American Legion, nationally and locally, is built on service. One area of concern is the mentoring and the safety of our children and the family that surrounds them. The traditional American family is under increasing pressure by societal demands that threaten the sacred integrity of the family. The American Legion is supporting programs that promote family strength and integrity.

Mr. Winterhalter then introduced the other Legion members here in support of the following proclamation: Erie County American Legion Commander Pauline Fletcher; Erie County Vice Commanders Ray Caso and Peter Hurd; Erie County 2nd Vice Commander Dennis Carr; Erie County 3rd Vice Commander Frank Ballesteros; Orchard Park Legion Sergeant at Arms Richard Poisson and Orchard Park Legion Finance Officer Joe Cash.

Special Resolution #1 Proclamation Declaring November 22-28, Family Week

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

WHEREAS, in conjunction with the American Legion Post #567 and the National American Legion National Family Week we celebrate the family, and

WHEREAS, the family is the foundation upon which our society is structured, and the family is one of our society's most important units, and

WHEREAS, life in our communities begins within our families' home, and

WHEREAS, families are constantly searching for more effective ways to combat the elements which seek to change the family unit, and

WHEREAS, within the family unit, each individual's character, happiness, and future success are largely determined by the environment within the home, and

WHEREAS, since family is the strength of our society and Thanksgiving week is a time when families gather together to share their love and abundance, it is fitting that we recognize families at this time.

NOW, THEREFORE, be it

RESOLVED, that the Orchard Park Town Board does hereby proclaim November 22-28, 2009, as "Family Week" in the Town of Orchard Park, and this Town Board and the American Legion Post #567 urge all citizens to join us in this special observance, for family is the foundation upon which our society is structured.

The resolution was unanimously adopted.

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

RESOLVED, that the minutes of the Town Board held on October 7 & 21, 2009 and the Town Board Special Meeting/Executive Session Minutes on October 14 & 21, 2009, 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 as previously received copies thereof.

The resolution was unanimously adopted.

Public Hearing

Proposed 2010 Preliminary Ad Valorem Budget & Benefit Basis Special District Budget

At 7:10 PM, the Supervisor called for the Public Hearing to hear all interested parties regarding the proposed "2010 Ad Valorem and the Benefit Basis Special Districts Preliminary Budget" of the Town of Orchard Park for the Year beginning January 1, 2010.

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 Murphy introduced Mr. Wayne Drescher of Drescher & Malecki, (the accounting firm for Town of Orchard Park) who assisted in the preparations of the budget. Mr. Drescher outlined the budget and stated that Benefit Basis Budget is based on the Towns special districts (water, sewer, garbage, lighting) and the services provided in those districts. The Ad Valorem Budget (General Fund) which provides various services (from the different Town Departments and Police Services) to the residents. Mr. Drescher stated that this budget has not been adopted yet and the purpose of tonight's meeting is to offer the chance for residents to be heard and to state what they would like considered in the budget.

The Supervisor asked if there was anyone that would like to address the proposed budget for the Year 2010.

Ron Stadlemaier in a written statement read by Kathy Gorkiewicz states “No Tax Increase” as the economic environment and reduced revenues does not warrant any increases. Hold the line on expenses.

Kathy Gorkiewicz – Ms. Gorkiewicz stated that she appreciates the cuts that have already been made in the budget, but she feels that there are still items in the budget that are nice, but not necessary, and more cuts need to be made. She asked that the Town Board to review the need of each budget line.

David Schuster – Mr. Schuster stated that everyone screams for cuts until it affects them. Everyone wants greater services, but do not want to pay for them. He feels that people should decide what they want to keep and what they want cut, but they have to deal with the consequences – reduced services or reduced taxes.

Jack Bertch – Mr. Bertch feels that Town spending for our youth should be maintained, or increased, as the youth today need more options as to where they can spend their time. It should be looked at as an investment not as a cost.

Sal Cerrone – Mr. Cerrone asked for clarification regarding the pension costs. He suggested that the Town Council members take a cut in pay, give up the stipend for not taking the health care coverage and make sure that Town part time employees, elected or otherwise, should not receive health care coverage.

Tom Roward – Mr. Roward stated that our youth today do not have the same opportunities we had to pursue unsupervised recreational opportunities like we did growing up. We owe it to our youth to give them the best we can give them.

Nancy Herdick – Representative of the Boys & Girls Club of Orchard Park. Ms. Herdick is worried about the cuts to the Boys & Girls Club, through the Recreation Dept., which will directly affect the asset development program that is offered to the youth of Orchard Park.

Dave McGill – Mr. McGill is a Town employee and a Blue Collar Union Stewart. He feels that before any benefits are taken away from the Town employees that all the take-home vehicles for Department Heads should be eliminated.

Anthony Delmonte - Blue Collar Union President & David Holland – White Collar Union President
Mr. Delmonte stated that in the past 35 years the Town has increased by over 1/3, but the number of people employed by the Town has changed very little. The Town employees have stepped up and met the challenges of increased workloads, with the resources they had. With contract negotiations coming up, Mr. Delmonte & Mr. Holland expressed the earnest desire to negotiate, in good faith, a fair contract appropriate for this current economic climate, and hopes the two sides will work together well and come to an agreement beneficial to both parties.

Wayne Drescher reviewed the budget process: the Department Heads have to submit an outline of what they will need in the next year to operate their department; the form is then submitted to the Supervisor; the Supervisor & Town Accountant review it with the Department Head. The budget is compiled and then filed; the Town Board then reviews the budget and gives input; then a Public Hearing for the residents input; further revisions would be put into the budget and then it is adopted.

Councilman Kaczor said in the past 15 years or so, with the increase in medical care coverage and pension cost, other Towns have had large tax increases, while the Town of Orchard Park has not. This is due to the stable management of dollars, and continual review of the budget lines.

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

RESOLVED, that the Public Hearing in the matter of the “2010 Ad Valorem and the Benefit Basis Special Districts Preliminary Budget” of the Town of Orchard Park for the Year beginning January 1, 2010, is hereby closed at 7:45 PM (local time).

The resolution was unanimously adopted.

New Business #1 Appointment to the Staff of the Orchard Park Senior Center

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

WHEREAS, Rosalind Healy, the part-time assistant to the Senior Center Director has taken another position, leaving a vacancy at the Senior Center, and

WHEREAS, Charlotte Galas has been volunteering her time at the Senior Center and has been proven to be dependable, efficient, and relates well to the Seniors

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Charlotte Galas to the part-time assistant position (PT-3) at the Orchard Park Senior Center beginning 11/2/09, her hours would not exceed 20 hours a week, as recommended by Senior Center Director Anna Willems.

The resolution was unanimously adopted.

New Business #2 Town Board Declares 21 Dorchester Road as “Dangerous & Unsafe”

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

WHEREAS, the Town Supervising Building Inspector went to the residence at 21 Dorchester Road following a complaint that the house is in deplorable condition.

WHEREAS, the house is a 1 ½ story cape with no basement which has badly deteriorated exterior walls that are sagging or bowed, the roof shingles are in poor shape and the roof sags, and there are leaks in every room. The ceilings are falling down, the vents for the furnace and hot water tank are not code compliant and dangerous, the utility/bathroom has a tub that cannot be used and the toilet appears ready to fall through the floor, and

WHEREAS, the Building Inspector took pictures, and stated that he never has seen an occupied house in such poor condition, and does feel the building would collapse under the weight of snow,

NOW, THEREFORE, be it

RESOLVED, that Pursuant to Chapter 47 of the Town Code of the Town of Orchard Park, this Town Board is declaring the residence at 21 Dorchester Road as dangerous and unsafe, and is scheduling a “Public Informational Meeting” for Wednesday, December 16, 2009, at 7:00 PM.

The resolution was unanimously adopted.

New Business #3 NYSEG to Connect Light Fixtures in Chestnut Ridge Village Subdivision

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

WHEREAS, the Town Engineering Department has received a proposal from NYSEG for the connection of five (10) decorative street light fixtures on Arrowood Lane and Basswood Lane in the Chestnut Ridge Village Subdivision. At present, there are three (3) single family homes occupied in this subdivision with another two (2) currently under construction of the 36 subplot subdivision, and

WHEREAS, the 70-watt H.P.S. luminaries, which are owned by the Town, were installed with the installation of decorative street lights poles under PIP # 2008-02. NYSEG will maintain the bulbs, and the electric eye of the luminaries. The supply of electricity is not included in the price as the Town purchases their electricity from another supplier. The proposal is for a total of ten (10) luminaries to be connected at an annual charge of \$24.32 each; totaling annually \$243.20.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize NYSEG to connect a total of ten (10) 70-watt high-pressure sodium decorative light fixtures on Arrowood Lane and Basswood Lane in the Chestnut Ridge Village Subdivision, (PIP #2008-02.) Part 7 Phase 2 & Part 8, at an annual increased cost of \$243.20 to the Consolidated Light District in accordance with the attached NYSEG proposal dated June 2, 2008, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 NYSEG to Connect Light Fixtures in Eagle Heights Subdivision

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

WHEREAS, the Town Engineers have received a proposal from NYSEG for the connection of eight (8) decorative street light fixtures on Redbrick Road and Hearthstone Terrace in the Eagle Heights Subdivision, Part 8 – Phase 2 as submitted. At present, there are three (3) single family homes occupied in this subdivision with another four (4) currently under construction of the 22 subplot subdivision, and

WHEREAS, the 70-watt H.P.S. luminaires, which are owned by the Town, were installed with the installation of decorative street lights poles under PIP # 2008-01. NYSEG will maintain the bulbs, and the electric eye of the luminaires. The supply of electricity is not included in the price as the Town purchases their electricity from another supplier. The proposal is for a total of eight (8) luminaries to be connected at an annual charge of \$24.32 each; totaling annually \$194.56.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize NYSEG to connect a total of eight (8) 70-watt high-pressure sodium decorative light fixtures on Redbrick Road and Hearthstone Terrace in the Eagle Heights Subdivision, Part 8 – Phase 2, at an annual increased cost of \$194.56 to the Consolidated Light District in accordance with the submitted NYSEG proposal received July 14, 2008, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Community Development Block Grant - Designate Funding / Budget Line

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

WHEREAS, Erie County has requested a letter from the Supervisor designating funding sources or budget lines for CDBG project grant applications for the Iroquois Drive Reconstruction Project and the Iroquois Drive Drainage Project by November 6, 2009, and

WHEREAS, the Iroquois Drive Drainage Project has \$100,000.00 appropriated to it under Budget line # H-82 and is fully funded, and

WHEREAS, the Iroquois Drive Reconstruction Project must have designated funding in the amount of \$733,000.00 in cash and in-kind goods and services. Although much of the costs will be in-kind services with the OP Engineering Department and Highway Department doing a large portion of the work, the project has to be fully funded at this point, and

WHEREAS, Wayne Drescher of Drescher & Malecki, LLP has recommended temporary borrowing from two Capital accounts H-48 District Water Improvements balance \$718,262 and H-42 Compost Site Acquisition & Development balance \$308,172. Bond anticipation notes process could then be completed with final funding and bonding accomplished with the various other bond projects the Town would like to pursue. If the Town is looking to lock into 2010 bond rates, the various projects proposed for bond should be funded for design at this time.

NOW, THEREFORE, be it

RESOLVED, that the Iroquois Drive Drainage project has \$100,000 appropriated to it under Budget line H-82 and is fully funded, and be it further

RESOLVED, that the Iroquois Drive Reconstruction Project will have \$733,000 appropriated to it under transfers from a pair of Capital accounts: H-48 and H-42, and be it further

RESOLVED, that upon completion of the Town's Bond Anticipation Note process, final funding will be completed through bonding with various other projects, as recommended by the Town Accountant.

The resolution was unanimously adopted.

New Business #6 Accept resignation of Darryl Colosi from Board of Assessment Review

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

RESOLVED, that the Town Board does hereby accept with regret, the resignation of Darryl Colosi from the Town of Orchard Park Board of Assessment Review.

The resolution was unanimously adopted.

New Business #7, 8 & 9 Refer to the Planning Board and/or Conservation Board:

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

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

Center Place-C3OP, LLC, 310 Sterling Drive, located on the west side of Sterling Drive, north of Milestrip Road, Zoned I-1. Applicant is requesting a Building Permit and Site Plan approval to construct 13-additional parking spaces, and

Krog Corp, Quaker 20A LLC, Vacant Land (adjacent to the First Baptist Church) located on the south side of Big Tree Road, east of Route 219 Zoned B-2, R-3 & D-R. Applicant is requesting Mixed Use Site Development (Concept) for this approximately 32-acre-site,

Bryant & Stratton, vacant land on Redtail Drive, Zoned I-1. Applicant is seeking a Building Permit and Site Plan approval to construct a 30,000 +/- sq.ft. two story office building with 108 parking spaces.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Jack Bertsch – Mr. Bertsch wanted to give some perspective on the economic conditions. His family owns a manufacturing company and in the last year and a half has lost 20% of their business to China, and another 10% to customers going under. He and his wife have not taken a salary in over a year, 5 directors have taken a 10% hit, and the employees have taken a 5% reduction in salary plus other cuts in benefits. We are in tough economic times and everyone has to “take a hit for the team”.

David Schuster – Mr. Schuster commented on the Buffalo News article regarding Orchard Park’s snobbish attitude, particularly as it pertains to the Planning Department’s handling of People Inc. request to rezone property for Senior Housing. He asked why they rezoned Industrial Land for WalMart and not for senior housing.

Howie Holmes – Mr. Holmes walked his dog at the new Chestnut Ridge Village Trails and said they were wonderful and commended the Town and the Engineering Department. He stated that during the last election, the candidates stuck to the no sign agreement and Orchard Park looked so much better than the other towns.

Sal Cerrone – Mr. Cerrone commented on the request of People Inc. to rezone property for senior housing and wondered why it was done for Sam’s Club/WalMart and not for seniors. Regarding the services that seniors would need and the cost, what would the cost be for the police and emergency services needed at WalMart, because as it was stated “those people” will be coming to WalMart.

ELECTED OFFICIALS & DEPARTMENT HEADS

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

RESOLVED, that the Town Board does hereby authorize the following Budget Transfers:

\$ 145.00	From: A.7020.0200 Recreation Office Equipment
	To: A.7020.0201 Recreation Playground Equipment
\$200.00	From: B.3620.0200 – Safety Inspection Computer Hardware
	To: B.3620.0401 – Safety Inspection GIS

\$550.00

From: A.3310.0443 – Traffic Control Repairs
To: A.3310.0215 - Traffic Control Signs.

The resolution was unanimously adopted.

Councilman Dietrick stated that the Town tries to give the highest level of service for the most effective cost and the challenge is to balance the needs. Everyone wants the services and the hard working Town employees do their best to deliver them, but you have to pay for them. This year he feels that since the costs are going up, they should tap into the fund balance, even though he has been reluctant to do that in the past.

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

WHEREAS, a matter has come before the Orchard Park Town Court in which the prosecutor, Nancy Hart, has a conflict, and

WHEREAS, such conflicts may occur in the future

NOW, THEREFORE, be it

RESOLVED, that John Bailey, prosecutor for the Village of Orchard Park is hereby retained, at the hourly rate of \$150.00 per hour to prosecute the violations in the Orchard Park Town Court when Nancy Hart has a conflict, as recommended by the Town Attorney.

The resolution was unanimously adopted.

Chief of Police, Andrew Benz, wanted to thank the local business that substantially help the D.A.R.E. program: Orchard Park Family Practice, Polymer Conversions, John Mouw State Farm, Cappelli's, The Orthodontic Associates, Azerty, Louie's, Hart Hotels, California Details, Runners Roost and Hillcrest Fire Company.

Highway Superintendent, Fred Piasecki, said that this year the leaves have dropped quite late and the Highway Dept. has been working extra hours all week to pick them up and will work all weekend as well.

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

WHEREAS, the Town has received from Pleasant Acres West, LLC., 4430 Walden Avenue, Lancaster, New York 14086 an application for an Excavation / Fill Permit to haul and stockpile approximately 9,800 cubic yards of excavate fill onto the existing onsite stockpile (presently approximately 7,500 cubic yards in size) previously established under Excavation / Fill Permit #2002-01. Excavation Permit #2002-01 was approved for approximately 29,000 cubic yards of material, but only 9,800 cubic yards was stockpiled. The fill being generated is from the excavation of the new retention basin for the proposed future Pleasant Acres West Subdivision site off of Taylor Road, and

WHEREAS, Pleasant Acres West, LLC. is excavating a retention basin under Excavation / Fill Permit #2009-02, which will facilitate Pleasant Acres West, LLC. plans to generate fill for placement in proposed building lots in the future Pleasant Acres West Phase construction 1 Subdivision site. This work would also facilitate the proposed future subdivision site retention requirements, if approved, and

WHEREAS, the Town Engineer has reviewed the plan and found it acceptable per Town Code and all necessary fees and bonds were received on November 9, 2009.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby adopt the resolutions to approve the application for an Excavation Permit #2009-05 to haul and stockpile approximately 9,800 cubic yards of fill from the excavation of a proposed retention pond onto an existing onsite stockpile off of Taylor Road for the proposed future Pleasant Acres West Subdivision site, presently owned by Pleasant Acres West, LLC contingent upon receiving all necessary fees and bonds, as recommended by the Town Engineer.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #21 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$72,976.66
Part Town Fund	\$464.03
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$81,665.61
Special Districts	\$38,751.84
Trust & Agency	\$4,114.91
Capital Fund	\$76,187.25

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby receive and file the following *Communication*: **Erie County Board of Elections**: Received the final results for the Special Election held on September 23, 2009 for the downsizing of the Town Board Members, and be it further

RESOLVED, that the Town Board does hereby receive and file the Building Inspector's Monthly Report and Building Permits for October 2009.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Graber, the meeting was adjourned at 8:01 PM (local time).

Respectfully Submitted,


Kathleen A. Swarbrick
Deputy Town Clerk

