

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 7th day of December 2011 at 7:00 PM, the meeting was called to order by Supervisor Colarusso and there were:

PRESENT AT ROLL CALL:	Janis Colarusso	Supervisor
	David Kaczor	Councilmember
	Eugene Majchrzak	Councilmember
	Carol Hutton	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Andrew Benz	Chief of Police
	Wayne Bieler	Town Engineer
	Frederick Piasecki, Jr.	Highway Superintendent
	Absent	Nancy Ackerman
Absent	Edward Graber	Councilmember

Supervisor Colarusso 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 November 16, 2011 and the Executive Session Meeting minutes held on November 30, 2011 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.

New Business # 1 Town Board to approve purchase of 2012 Truck

2) 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 approve the purchase of a new 2012 Ford Pickup Truck (Plow Equipped) for the Compost Facility. Cost of the pickup truck is \$26,726.14 under N.Y. State bid and the money is in the budget, as requested by Fred Piasecki, Highway Superintendent.

The resolution was unanimously adopted.

New Business #2 Approve Change Order #5 with R.B. Mac Construction

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

WHEREAS, the Engineering Department is requesting approval of a Change Order to the contract with R.B. Mac Construction Co., Inc. for the Orchard Park Municipal Center Renovations Project in the amount not to exceed \$14,948.37. If approved, this would increase the total contract amount to \$190,566.30, representing an increase of 8.92% and

WHEREAS, this Change Order is requested to perform changes in the work scope and additional work not covered under their contract as requested by the Town Board, and unforeseen conditions. The additional work now completed include repair of broken drywall corners in the basement, replacement of vinyl base in the basement meeting room, lowering of the cabinets in the Town Clerk’s Office, intermediate copper flashing at the south cupola, additional blocking at the Town Clerk’s Office, relocation of electrical and fire alarm conduit, and patching and painting of various areas of the former Tax Collector’s and Town Clerk’s Offices. The extra work also involved the removal of ceiling tile and replacement of ceiling tile and painting of the Engineering Drafting Room and Conference Room. The Design Architect for the project labeled the wrong scale on the drawing, resulting in the Contractor basing his bid on areas ½ the actual size. The completion of this work resulting in an additional Time & Material cost of \$4,500.00 and

WHEREAS, proposed work to be completed under a Time & Material basis include installation of 15 stainless steel corner guards throughout the building, not to exceed \$936.50, and the installation of fire dampers in the Police Evidence Room, not to exceed \$2,646.00.

NOW, THEREFORE, be it

RESOLVED, that the Town Board approve Change Order #5 to our contract with R.B. Mac Construction Co., Inc. for the Orchard Park Municipal Center Renovations 2010 Project in the amount of an increase not to exceed \$14,948.37, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #3 Authorize the release of Escrow Money

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

WHEREAS, on November 2, 2011, 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 escrow until the following was completed:

- Hydrant markers, saw cutting, etc. \$ 2,000
- Install trail gate on pond access road and install street barricade on Crescent Way and split rail fencing near Phase 1 recreation property corners \$ 5,000

WHEREAS, the Contractor has since completed the above referenced work. 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 Anastasi Trucking & Paving Co., 4430 Walden Avenue, Lancaster, New York 14086 the \$7,000 held in escrow for hydrant markers, saw cutting, trail gate and barricade in the Pleasant Acres West Subdivision Part 1. (PIP #2010-01), as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Approve Change Order #1 with Building Controls & Services

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

WHEREAS, the Engineering Department is requesting approval of a Change Order to the contract with Building Controls & Services, Inc. for the Municipal Center and Library Fire Alarm Improvement Project in the amount of a lump sum \$8,496.00. If approved, this would increase the total contract amount to \$97,403.00, representing a possible increase of 9.55% and

WHEREAS, the Change Order is comprised of extra work required to comply with NYS and NFPA codes. The following work items were not shown on the contract drawings;

- Item #1: Replace 3 existing attic heat detectors on the second floor. \$1102.00
- Item #2 Integrate powered roof hatch in the elevator shaft. \$1361.00
- Item #3 Replace (3) existing smoke detectors in the walk in enclosure of RTU-1 (note: one shown but three existing). \$1318.00
- Item #4 Replace (2) existing duct detectors at the courtroom. \$2192.00
- Item #5 Replace (3) existing attic heat detectors at courtroom. \$1022.00
- Item #6 Relocate (12) devices in hard (2) and (10) drop ceilings to maintain 3 ft. clearance from air diffusers not existing. \$1501.00

WHEREAS, there was \$24,307.50, \$125,343 allocated under Capital Projects H-88.1620.0445 Municipal Bldgs. Renovation Projects, and H-85 Fire Alarm System respectfully for this project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 to our contract with Building Controls & Services, Inc. for the Municipal Center and Library Fire Alarm Improvements Project in an amount of an increase of \$8,496.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Refer to Planning Board and Conservation Board

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

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

1. Corto's, 4063 North Buffalo Road, located on the east side of North Buffalo Road, Zoned B3, and is seeking a Building Permit to construct a 2-story, 3,690 sq.ft. addition, to the existing building. (SBL# 162.13-2-1)
2. Colton RV, located on 3443 Southwestern Blvd. is seeking to put a 3,700 sq.ft. addition off the rear of the building.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Dave Schuster read the negative incidents that happened over “Black Friday” at various WalMarts. He believes that WalMart will not give tax benefits to the Town.

Joe Ippolito stated that his tenant received a notice for a fire inspection. He objected to the forty dollar charge for the inspection and that the letter wasn’t sent to him as owner of the building.

ELECTED OFFICIALS & DEPARTMENT HEADS

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

RESOLVED, that the Town Board does hereby approve the following budget transfers within the 2011 Conservation Board and Town Justice.

Conservation Board

\$278.78 From: A.8730.0139
 To: A.8730.0100

Town Justice Court

\$1,284.00 From: A.1110.0139 – Town Justice – P/T Clerical
 To: A.1110.0200 – Town Justice – Office Equipment

\$3,880.00 From: A. 1110.0139 – Town Justice – P/T Clerical
 To: A. 1110.0200 – Town Justice – Office Equipment

Reason: Construction for the Court Room bench for Desktop computer and the installation for the Court Room audio System (Digital Recording)

The resolution was unanimously adopted.

Councilmember Kaczor congratulated Rob Goller, Editor for the Orchard Park Press, in recognition for his nomination and the honor for consideration of the **Business First** “Forty Under Forty”, who impact and promote the community. He stated that **Breakfast with Santa** will be held at the Middle School Cafeteria on December 10th from 9:00 am until noon. Councilmember Kaczor wanted to recognize Bonnie Foit-Albert, who served on the Historic Preservation Board and continues to advise them. Ms. Foit-Albert has received the Robert Louis Bethune award through the American Institute of Architects, the highest award that is given to an architect. He stated that **Santaland** will be held at Chestnut Ridge Park on Saturday, December 10th and Sunday, December 11th from 10:00 am to 4:00 pm in the Park Casino. Councilmember Kaczor stated that he hoped that Stan Jemiolo, who was a former Town Councilman and is currently doing a wonderful job as the Erie County Deputy Director of Parks and Recreation, can continue in this position with the change in the County leadership.

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

RESOLVED, that the Town Board does hereby authorize to schedule a Public Hearing for Wednesday, January 4, 2012 at 7:00 pm for the Proposed Local Law 2012-1: Alarm Ordinance which reads as follows:

ALARM SYSTEM CODE

§65-6. Avoidable alarms.

A. General provisions.

(1) The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system, or of his employees, requiring an emergency response when, in fact, an emergency does not exist constitutes an avoidable alarm. An avoidable alarm also includes intentional activation of an alarm system when the activator knows an emergency situation does not exist.

(2) An avoidable alarm does not include alarms activated by violent conditions of nature or similar cases beyond the control of the user, owner or operator of the alarm system. The activation of an alarm system under any circumstances in which the activator reasonably believes that an emergency situation exists shall not be deemed to be an avoidable alarm.

B. Charges. An owner or lessee of real property to which an emergency agency responds as a result of an avoidable alarm shall pay a fee for each such response in each calendar year as follows:

(1) Police Department response:

- (a) First through third avoidable alarm responses: no charge
- (b) Fourth and fifth avoidable alarm responses: \$50 for each
- (c) Sixth and over avoidable alarm responses: \$100 for each

(2) Fire District response:

- (a) First avoidable alarm response: no charge
- (b) Second through fourth avoidable alarm responses: \$50 for each
- (c) Sixth and over avoidable alarm responses: \$100 for each

C. Notice of excessive use. The owner or lessee of real property which received an emergency response by reason of an avoidable alarm shall be notified, in writing, by means of first class mail, of all avoidable alarms, up to three police alarms and/or one fire alarm in a calendar year. The letter shall inform the owner or lessee of the times and types of emergency responses provided to the address location and shall contain a copy of this Alarm Code.

D. Administrative review. The Chief of Police shall establish a policy and procedure whereby an owner of real property or lessee thereof on which an alarm system has been installed and who has been notified of an avoidable alarm may present evidence as to why such alarm should not be classified as an avoidable alarm. The Chief of Police shall designate the members of the Police Department, not to exceed five (5) in total, to receive such evidence and make recommendations and findings of fact concerning such classification. The Chief of Police shall make the final determination concerning a classification, which determination shall be reviewed only pursuant to procedures under Article 78 of the Civil Practice Law

and Rules. To challenge the classification of an alarm as an avoidable alarm, the real property owner or lessee thereof shall, in writing, notify the Chief of Police within 20 days after the receipt of notice of the avoidable alarm. The failure to give timely notice shall be deemed a waiver of the right to review the determination.

E. Payment of charges. Avoidable alarm charges shall be paid to the Town Clerk of the Town of Orchard Park at S 4295 South Buffalo Street, Orchard Park, NY 14127.

F. Failure to remit fee. A real property owner or lessee of property on which an alarm system is installed who fails to pay the avoidable alarm charge within 30 days from notice of the amount due shall be deemed in violation of this code; and such real property owner or lessee shall be served with a summons.

§66-7. Enforcement.

The Chief of Police shall enforce this chapter for alarm systems which detect medical emergencies and entry or exit from a building, structure or facility; and for alarm systems which detect smoke, fire or abnormal rise in temperature.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize to schedule the Organizational Meeting for Wednesday, January 4, 2012 at 6:00 pm with the Regular Town Board Meeting to immediately follow.

The resolution was unanimously adopted.

Chief of Police Andy Benz requested that people do not shovel, snowblow or plow snow into the streets. He stated that the Public Safety Committee has cancelled the December meeting.

Highway Superintendant Fred Piasecki stated the Highway Department is still collecting leaves with a record amount for the Compost Site.

10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #23 which were reviewed and approved.

General Fund	\$1,046,608.84
Part Town Fund	\$49,390.49
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$249,306.08
Special Districts	\$180,265.50
Trust & Agency	\$ 9,934.67
Capital Fund	\$133,671.84

The resolution was unanimously adopted.

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

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

- Orchard Park Depot Site Restoration Project Public Hearing which is required by the UDC Act will be held by the Corporation to consider the General Project Plan as follows: Thursday, December 8, 2011, 3:00 p.m. – 4:00 p.m., Small Basement Meeting Room, 4295 S. Buffalo Road, Orchard Park
- HEAP Outreach Dates:
 - December 12, 2011 – Monday
Concord Town Hall, 86 Franklin Street, Springville, NY 14141
8:00 am – 5:00 pm
 - February 6, 2012 – Monday
Orchard Park Municipal Bldg., 4295 S. Buffalo Street, Orchard Park, NY 14127
8:00 am – 5:00 pm
- NYS Rechargeable Battery Recycling Act prohibiting disposal of most rechargeable batteries as a solid waste in the state started December 5, 2011. Many rechargeable batteries contain toxic metals that can be release into the environment when managed improperly. The laws already require battery manufacturers to provide for collection & recycling of rechargeable batteries in a statewide program at no cost to consumers.
- American Veterans Traveling Vietnam Wall is coming to Eden & will be on display from noon Thursday July 19th 24-hours a day through 3 pm, July 22, 2012. Donations can be sent to Newell Faulkner Post 880 American Legion, 2912 Legion Drive, Eden, NY 14057. For information please call Chairman Paul Lawton at 716-863-4819.

The resolution was unanimously adopted.

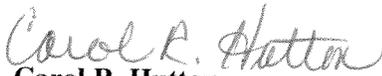
12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

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

- Chief of Police's Monthly Report for the month of October, 2011
- Building Inspector's Monthly Report for the month of November, 2011

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Kaczor, the meeting was adjourned at 7:27 PM (local time).

Respectfully Submitted,


Carol R. Hutton
Town Clerk