

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 20th day of December 2006 at 7:00 PM, (local time). The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL:	Mary Travers Murphy	Supervisor
	Nancy W. Ackerman	Councilwoman
	Stanley A. Jemiolo, Jr.	Councilman
	David R. Kaczor	Councilman
	Mark C. Dietrick	Councilman
	Janis Colarusso	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Andrew Benz	Asst. Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent
	Wayne Bieler	Town Engineer
ABSENT:	Samuel McCune	Chief of Police

The Supervisor read into the record the following: *"If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics."*

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

RESOLVED, that the minutes of the Meeting of the Town Board held on December 6, 2006 and the Special Meeting/Executive Session Minutes held on December 13, 2006, 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, and be it further

RESOLVED, that the November 15th minutes are tabled for further review.

The resolution was unanimously adopted.

(Not on the Agenda) Sachel Dev., South East Corner-Milestrip & Abbott Rd/Amend Reso

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

WHEREAS, at the July 5, 2006 Town Board meeting a building permit was approved for Sachel Development, on the southeast corner of Milestrip Road and Abbott Road, and

WHEREAS, there were eight stipulations from the Planning Board, of which only seven were stated at the Town Board Meeting,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby amend the July 5, 2006 minutes to include in the approval of a Building Permit to Sachel Development, South East corner of Milestrip Road & Abbott Road, to construct a 10,275 ± sq. ft. building and to approve the site plan received 6/23/06 and to add the following stipulations: The Board is approving the revised site plan dated 6/23/06 that has no curb cut onto Milestrip Road and has no driveway, as recommended by the Planning Board.

The resolution was unanimously adopted.

Old Business #1 Award the Bid for Police Vehicles for the Orchard Park Police Department

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

WHEREAS, sealed bids for “two (2) New 2007 marked Police Patrol Cars and one (1) New 2007 4x4 Utility Police Vehicle” were opened on December 19, 2006 at 11:00 AM in the Supervisor’s conference room, in the Orchard Park Municipal Center.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the bid for two (2) New 2007 marked Police Patrol Cars and one (1) New 2007 4x4 Utility Police Vehicle to Towne Ford, 3535 Southwestern Boulevard, Orchard Park NY, in the amount not to exceed \$47,931.14, as recommended by the Chief of Police and the Town Attorney.

The resolution was unanimously adopted.

New Business #1 Authorize Dedication of PIP 2006-01 Armor Knoll Subdivision

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

WHEREAS, on December 7, 2006 a final inspection was conducted of the public improvement constructed in the Armor Knoll Subdivision. This project included the construction of Aaron Trail. The completion of this subdivision will allow 12 new single family residential lots to be developed and provide a neighborhood Town Park, and

WHEREAS, all work has been satisfactorily completed in accordance with Town specifications with the exception of installation of frame and grate for the Outfall Storm Chamber; final grading & seeding in all areas of disturbance, and pavement & gutters repairs, and

WHEREAS, a two-year maintenance bond in the amount of \$260,000 has been submitted along with all other necessary documents, and

WHEREAS, the Town Attorney, with the Developer’s Attorney, has arranged the filing of Town Parkland with the Erie County Clerk, but to date this has not taken place and, per the Town Attorney, a stipulation that no building permits be issued until the recreation property is transferred to the Town, is recommended.

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 Armor Knoll Subdivision constructed under PIP #2006-01, and be it further

RESOLVED, that the Town Clerk is hereby authorized to release the performance security in the amount of \$52,000.00, as recommended by the Town Engineer, and be it further

RESOLVED, that no building permits be issued until the recreation property is transferred to the Town, as recommended by the Town Attorney.

The resolution was unanimously adopted.

New Business #2 Authorize the Posting of Stop Signs on Aaron Trail

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

WHEREAS, upon recommendation of the Public Safety committee and pursuant to the authority granted by Section 1660 of the Vehicle and Traffic Law of the State of New York

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to adopt an order to erect a "Stop Sign" on Aaron Trails at the intersection of Armor Duells Corner Road, and be it further

RESOLVED, that the Superintendent of Highways is hereby directed to erect the proper "*Stop Sign*" following receipt of this order.

The resolution was unanimously adopted.

New Business #3 Approve Final Change Order Release of Retention for Milestrip Rd. Pavilion

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

WHEREAS, the construction work on the Milestrip Road Sports Complex New Pavilion Plumbing has been completed and a final inspection was conducted for the entire project and all of the work has since been satisfactorily completed in accordance with the contract documents and specifications, and

WHEREAS, a two-year maintenance bond in the amount of \$33,300 has been submitted along with the Affidavit of Release of Liens, Affidavit of Subcontractor Payment, warranties, equipment manuals, and necessary legal documents.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize final payment and release of retention to LC Mechanical, Inc., 319 Vulcan Street, Buffalo NY 14207, for the Milestrip Road Sports Complex New Pavilion Plumbing Contract in the amount of \$2,615.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Recreation Department 2006-07 Staff Appointments

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

RESOLVED, that the Town Board does hereby authorize the following 2006-2007 Staff Appointments to the Town of Orchard Park Recreation Department, dependent upon the applicant providing the required certifications, as recommended by the Recreation Director:

<u>Name</u>	<u>Address</u>	<u>Position</u>	<u>Rate</u>
Michele Zurbrick	31 South Meadow Lane	Aid	PT2-A
Grace Collins	90 Potter Avenue	Aid	PT2-A

The resolution was unanimously adopted.

New Business #5 Resolution to Support Smoke-Free Movies

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

WHEREAS, tobacco use is the number one preventable cause of death and disability, and

WHEREAS, youth ages 12-20 are one-sixth of the population but buy more than a quarter of all movie tickets, and

WHEREAS, half the tobacco shots in the ten top-grossing movies released from May 2002 to May 2003 were in youth accessible and youth-marketed G, PG and PG 13 films, and

WHEREAS, 80 percent of the ten highest grossing PG-13 movies and videos release in 1996-1997 and 1999-2000 featured smoking, and 85 percent of the twenty five top grossing Hollywood films from 1988-1997 dramatized the use of tobacco, and

WHEREAS, exposure to smoking in movies recruits more than half (52%) of new adolescent smokers, and

WHEREAS, every day 1,070 teens light up their first cigarettes because of smoking in the movies-and 340 them will die prematurely as a result, and

WHEREAS, the tobacco industry has long, documented history of encouraging smoking in movies and lying about it, and

WHEREAS, The 1999 Federal Trade Commission report documented that cigar industry spending on "celebrity endorsement, and appearances, and payment for produce placement in movies and television more than doubled between 1996 and 1997, and

WHEREAS, smoking in television ads for movies, significantly greater in ads for movies that show a particular tobacco brand, reach the vast majority of children and adolescents, and

WHEREAS, the World Health organization, American medical Association, American Academy of Pediatrics, American Legacy Foundation, American Academy of Allergy, Asthma, and Immunology, Society for Adolescent medicine and others - including the Los Angeles Department of Healthy Services, us Public Interest Research Group and Interfaith Center for Corporate Responsibility – have endorsed the smoke-free movies solution, and

WHEREAS, twenty-seven state Attorneys General have written the Motion Picture Association of America urging Hollywood to play an active role in reducing the number of children who smoke because of smoking in the movies, and

WHEREAS, the University of California San Francisco has been running an educational and advocacy campaign, Smoke Free Movies, designed to reduce the value of American movies as promotional devices for the tobacco industry through four simple, voluntary actions by the motion industry which are as follow:

RATE NEW SMOKING MOVIES AS “R”: Any film that shows or implies tobacco should be rated “R”. The only exception should be when the presentation of tobacco clearly and unambiguously reflects the dangers and consequences of tobacco use or is necessary to represent smoking of a real historical figure.

CERTIFY NO PAY-OFFS: The producers should post a certificate in the credits a the end of the movie declaring that nobody on the production received anything of value (cash money, free cigarettes or other gifts, free publicity, interest-free loans or anything else) from anyone in exchange for using or displaying tobacco.

REQUIRE STRONG ANTI-SMOKING ADS: Studios and theaters should require a genuinely strong anti-smoking ad (not one produced by a tobacco company) to run before any film with any tobacco presence, regardless of its MPAA rating.

STOP IDENTIFYING TOBACCO BRANDS: There should be no tobacco brand identification, nor the presence of tobacco brand imagery (such as billboards) in the background of any movie scene.

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park does hereby endorse the four objectives of the Smoke Free Movies Campaign.

The resolution was unanimously adopted.

New Business #6 Accept the Resignation of Tori Felser as Youth Representative

9) 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 accept, with regret, the resignation of Tori Felser as the Youth Representative on the Orchard Park Recreation Commission.

The resolution was unanimously adopted.

ELECTED OFFICIALS & DEPARTMENT HEADS

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

RESOLVED, that the Town Board does hereby approve the following 2006 Budget Transfers:

Animal Control Officer:	\$ 300.00	From: A.3510.0420 Nuisance animal
		To: A.3510.0477 Gasoline
	\$ 200.00	From: A.3510.0446 Animal Hospital Care
		To: A. 3510.0445 Maintenance of Vehicle
Police:	\$ 1,500.00	From: A.3120.451 Insurance
		To: A.3120.475 Gasoline

The resolution was unanimously adopted.

11) 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 approve the request of the Town Justices request to hire Ian Zielinski as temporary help for the Justice Court for the period of December 27, 2006 to January 12, 2007.

The resolution was unanimously adopted.

12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED UNANIMOUSLY BY THE TOWN BOARD, TO WIT:

WHEREAS, Stanley A. Jemiolo Jr. has been a member of the Orchard Park community for 30 years, and

WHEREAS, Stanley A. Jemiolo Jr. has served the community as Councilman for the Orchard Park Town Board since 2001, and

WHEREAS, Stanley A. Jemiolo Jr. was a member of the Orchard Park Planning Board from 1990 to 1996, and

WHEREAS, Stanley A. Jemiolo Jr. is a Past President of the Orchard Park Rotary Club, President of the Orchard Park Rotary Foundation, past member of the Board of Managers WMCA, Vice-President of the Innkeepers Association, member of the Orchard Park Business Association, and

WHEREAS, Stanley A. Jemiolo Jr. is the recipient of the William E. Miller Award for Outstanding WNY Elected Official for the Promotion of Parks & Recreation, and

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Orchard Park, in the County of Erie, State of New York hereby recognizes Stanley A. Jemiolo Jr. for his lifetime commitment to the Town of Orchard Park, and wishes him the best of luck in any and all his future endeavors.

Councilwoman Ackerman talked about the first time she was introduced to Councilman Jemiolo when they both served together on the Orchard Park Planning Board. She stated he was always prepared and worked very hard on behalf of the entire community. Councilwoman Ackerman mentioned that Stan also worked on three different Zoning Commissions, making tremendous contributions to the Legislation that was adopted through those Commissions, and now through the Town Board. She also noted how Stan was unusual in the sense that he has always been able to understand differences of opinion, and respected other people's opinions, even if they did not coincide with his. He never let the differences get in the way of friendships and that he has always looked out for the best of the community. He will be greatly missed.

At this time all the Town Board Members wished Councilman Jemiolo the very best and thanked him for his dedication to the Town of Orchard Park.

The resolution was unanimously adopted.

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

WHEREAS, the Town Board held a Public Hearing on October 18, 2006 in the matter of a Local Law called "Conservation Management Overlay (CMO) District", which is a change to the Zoning Ordinance Code, and

WHEREAS, the Town Board has been waiting for an authorization for this proposed Zoning Change from Erie County, which came in this afternoon

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to make a Negative Declaration based on the Short SEQF Form for the Proposed Local Law entitled " Conservation Management Overlay District" prepared by the Planning Coordinator.

The resolution was unanimously adopted.

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

WHEREAS, following due and timely notice a public hearing relating to the matter of a Local Law entitled "Conservation Management Overlay (CMO) District", was conducted on October 18, 2006 at which time all interested parties were given an opportunity to speak, and

WHEREAS, the Town Board has been waiting for an authorization for this proposed Zoning Change from Erie County, which came in this afternoon

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorized to adopt Local Law # 3 for 2006 which provides as follows:

CONSERVATION MANAGEMENT OVERLAY DISTRICT

1.0 Intent

To create a floating zone to provide areas within the town's R-1 Residential Districts for single family detached residential development in groups on lots which vary in size but where the maximum gross density within the overall development does not exceed the density limits for R-1 Districts in order to preserve the natural and scenic qualities of open land. The maximum gross density is determined by submission of an overall plan in accordance with the R-1 supplemental height, lot, yard and bulk regulations. This overlay district is intended to permit single family detached housing to be sited in closer proximity to each other, with privately contracted maintenance provided by formation of a homeowner's association approved by the New York State Department of Law (Attorney General's Office) and to further provide greater flexibility and creativity in the location of structures on the land and to utilize topography and site features to best advantage.

2.0 Permitted Structures and Uses

- 2.1 Any structures or use permitted in the R-1 Districts.
- 2.2 Open space. (Common Area)

3.0 Standards and General Requirements

3.1 Minimum Area.

The minimum area required to qualify for the Conservation Management Overlay District shall be fifty (50) contiguous acres or fifty (50) acres contiguous to parkland.

3.2 Permitted District.

The Conservation Management Overlay District shall only be permitted within the R-1 Residential District.

3.3 Maximum Density.

The maximum gross density for the entire subdivision shall not be more than the maximum density permitted in the R-1 Residential District. The maximum gross density is determined by submission of an overall plan in accordance with the R-1 supplemental height, lot, yard, and bulk regulations. In calculating the maximum gross density, land, which may not be developed, shall be excluded. That is, land such as wetlands, steep slopes, stream corridors, and other undevelopable land shall be excluded.

3.4 Buffer Strips.

A buffer strip consisting of a minimum of forty (40) feet shall be provided between the subject property and adjacent properties or roads. These buffer strips shall be part of the common area owned and maintained by the homeowner's association. No buildings shall be less than sixty (60) feet from any exterior lot line. A buffer strip may be crossed to access an exterior public street from an interior public street. Such road shall comply with the minimum requirement of roads in the Town of Orchard Park.

3.5 Open Space Regulation.

Overall, the minimum amount of open space preservation shall be no less than twenty-five percent (25%) of the gross acreage of the parcel or parcels to be developed. Designated open space shall not include setbacks and lawns, existing rights-of-way and utility easements. At least seventy-five percent (75%) of designated open space shall be contiguous. At least fifty percent (50%) of designated open space shall be designated as "green space" and shall be maintained in a natural, undisturbed condition. Limited access to green space may be allowed in the form of a walking or biking path. All paths are subject to approval by the Planning Board.

The remaining designated open space may be designated as "common area" and may be used for passive or active recreation. If used for active recreation, impervious surface shall not exceed 5% of this area.

3.6 Open Space Management.

Open space or "common area" in the Conservation Management Overlay District, is a parcel or parcels of land, together with improvements thereon, for the use and enjoyment of which are shared by the owner-occupants of the individual building sites. Where such property exists, the landowner shall provide for and establish a homeowner's association, approved by the New York State Department of Law (Attorney General's Office), for the ownership and maintenance of any common property. Each lot owner shall be required to be a member of a homeowner's association, which shall be formed prior to conveyance of the first lot. Such homeowner's association shall not be dissolved, nor shall it dispose of any common property by sale or otherwise. Development in designated open spaces is prohibited.

3.7 Landscape Design Standards.

- 3.7.1 Landscape treatment for roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire site.
- 3.7.2 Primary landscape treatment shall consist of shrubs, ground cover and street trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to local growing conditions and include irrigation and drainage report when deemed appropriate.
- 3.7.3 To the maximum extent practical, existing trees shall be conserved and integrated into the landscape design plan.
- 3.7.4 Landscape plans shall be signed and stamped by a registered landscape architect and submitted to the Conservation Board for recommendation to the Planning Board.
- 3.7.5 Whenever appropriate, identify the existing trees which shall be conserved and integrated into the plan; Individual specimens shall be identified by their size and variety. Woodlands should be identified by types.

4.0 Design Regulations – Principal Structure and Uses

4.1 Minimum Lot Area.

Having achieved all goals of the Conservation Management Overlay District, the minimum lot size may be reduced to no less than six thousand five-hundred square feet (6,500 sq. ft.), provided that any and all such area that is not designated to serve as residential areas, roads, or other public purposes, be set aside and restricted on the subdivision plat for use by inhabitants as common open space, parkland, or recreational purposes of an active or passive nature.

4.2 Minimum Lot Width.

The required minimum lot width shall be no less than sixty (60) feet.

4.3 Minimum Front Setback.

4.3.1 Interior Public Streets. Minimum front setback measured from the right-of-way is ten (10) feet.

4.3.2 Exterior Public Streets. Minimum setback measured from the right-of-way is sixty (60) feet and shall meet Town of Orchard Park design standards.

4.4 Minimum Side Setback.

The side setback may vary depending on the design and arrangement of the building, drives and common open space. However, there shall be a minimum setback distance of five (5) feet from any property line. Additionally, the minimum distance between adjacent dwellings shall not be less than twenty (20) feet.

4.5 Minimum Rear Setback.

No principal building shall extend closer than twenty (20) feet to the rear lot line. The minimum distance between dwellings backing up to each other shall not be less than forty (40) feet.

4.6 Maximum Structure Height.

The maximum structure height shall not exceed two (2) stories or thirty-five (35) feet and shall be in accordance with R-1 Residential Districts, Town of Orchard Park.

4.7 Minimum habitable floor area, for dwellings only, shall be in accordance with R-1 Districts, Town of Orchard Park minimum.**4.8 Arrangement, Access and other Requirements.**

4.8.1 Dwelling units may only be arranged on interior public streets.

4.8.2 Each dwelling unit must be accessible by means of a public street to service vehicles and emergency vehicles.

4.8.3 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 wide and two (2.5) foot gutter curbs on each side.

4.8.4 Within the CMO District, the centerline radius of curves can be reduced to a minimum of one-hundred (100) feet.

- 4.8.5 The location, design, and construction of all public facilities shall meet all applicable specifications and must be adequate to serve the needs of the development.
- 4.8.6 The procedures for the preservation and maintenance of all pedestrian ways and common open space shall be the responsibility of the homeowner's association identified in Section 3.6.
- 4.8.7 Side walks shall be provided on both sides of all interior streets. The standards of design, placement and construction for sidewalks shall meet all applicable town specifications. All sidewalks shall be maintained by the homeowners association.

5.0 Site Plan Review

- 5.1 A Petitioner seeking to create a Conservation Management Overlay District shall make application in compliance with Article 10 of the Zoning Ordinance: Amendments. Creation of a Conservation Management Overlay District shall be considered an Amendment to the Zoning Ordinance.
- 5.2 The Planning Board shall review the proposed development in accordance with the subdivision review process, landscape and screening regulations in section §144-46 C (5): Proper Landscaping.
- 5.3 Subdivision lots shall be created to allow owners flexibility in the private use of their lot. The homeowner's association shall regulate and control any changes to private lots that are requested by the owner of the lot. The minimum lot size for each dwelling unit is in accordance with supplemental height, lot, yard and bulk regulations as listed in Section 4.0.
- 5.4 All other lands are to be common (area) property which is a parcel or parcels of land, together with improvements therein, the use and enjoyment of which are shared by the owner/occupants of the single family detached housing and are members of the homeowner's Association approved by the New York State Department of Law (Attorney General's Office).
- 5.5 The architectural style of all new structures must be reviewed and approved by the Planning Board. The applicant shall provide the Planning Board with building elevations, plans, and renderings. A list of proposed building design materials should also be provided.
- 5.6 Any applicant seeking a Conservation Management Overlay District designation will be prohibited from using section 339-y of the Real Property Law of New York State.

Definitions:

- Buffer Strip:** The area between the subject property and the adjacent property or road, consisting of various forms of vegetation in order to provide visual screening. The buffer strip can consist of landscaping, natural vegetation, or a combination of the two. The area is mainly used for aesthetic mitigation for existing or future-adjoining land uses.
- Common Area:** Property that is owned by the homeowner's association, together with improvements therein, that is for the shared use and enjoyment by the owner/occupants of the single family detached housing.
- Contiguous Parcels:** Two or more parcels that are located directly adjacent to each other.

Exterior Public Street:	Those public streets which were in existence prior to the creation of the Conservation Management Overlay District and the construction of the interior public streets in the Conservation Management Overlay District. Exterior public streets provide access to the interior public streets from highways, which existed prior to the creation and construction of the Conservation Management Overlay District.
Floating Zone:	A floating zone defines a use that the community wants to encourage. The floating zone may be affixed to a qualifying parcel of land, after application by the parcel's owner, with the approval of the Town Board. Upon approval, the parcel is rezoned to reflect the new use and becomes a small zoning district; the use and provisions of the floating zone ordinance govern its development.
Green Space:	Open space maintained in a natural, undisturbed or revegetated condition.
Homeowner's Association:	An association created for the ownership and maintenance of any common property, including but not limited to common space, private roads, and pedestrian paths, located within a development. The association must be approved by the New York State Department of Law (Attorney General's Office). Each lot owner in the development shall be required to be a member of a homeowner's association, which shall be formed prior to conveyance of the first lot. Such homeowner's association shall not be dissolved, nor shall it dispose of any common property by sale or otherwise.
Interior Public Streets:	Those streets which are built by the developer and which did not exist prior to the development of the Conservation Management Overlay District.
Maximum Gross Density:	The total number of dwelling units per acre that can be built upon developable land for an entire subdivision in accordance with R-1 supplemental height, lot, yard, and bulk regulations.
Non-Contiguous Parcels:	Two or more parcels that are not located adjacent to one another.
Open Space:	A portion of a development site that is permanently set aside for public or private use and will not be developed. Open space may be used as community open space, or preserved as green space.
Parcel:	Any subdivision of land within the Town of Orchard Park.

Supervisor Travers Murphy stated that she likes this idea as it is a creative way to maximize green space and preserve the more scenic and appealing aspects of the Town. However, she is hesitant to approve this code at this time, as she would prefer to wait until a Townwide Drainage Plan is in place. There have been many residents who have expressed concern about the cumulative effects of development on the drainage problems that the Town experiences. Supervisor Travers Murphy stated that she aware that the different development can be engineered in regards to the drainage, but it is the cumulative impact that she is concerned about. So she is going to vote in the negative until the Town can better manage the drainage issues.

Councilman Jemiolo stated the CMO District has been two years in planning, and the specific site that is being referred to (corner of Jewett Holmwood & Transit) for this kind of development already has a pre-approved subdivision in place, where a standard subdivision could be put in tomorrow with twice as much infrastructure. One of the things the Conservation Management Overlay tries to achieve is a reduction in the infrastructure, which will have less of an impact on drainage. The goal is to preserve green space, and to reduce the impact on drainage and the environment.

Councilman Kaczor stated that in the two years of putting the CMO together, it was with input from the Planning Committee, Town Engineers, and Conservation Committee. This CMO district is not going to be automatically available to a developer; they must qualify and get approval from the Town Board before they would be able to proceed with this type of development.

The question of the adoption was duly put to a roll call vote, which resulted as follows:

Supervisor Travers Murphy	Nay
Councilwoman Ackerman	Aye
Councilman Jemiolo	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye

The resolution was duly adopted.

Councilman Jemiolo stated that it has been a real honor and privilege to serve as a Councilman for the past six years, and enjoy the experience tremendously. He is richer for the experience and thankful for the opportunity.

Councilman Kaczor wished to thank Councilman Jemiolo, as he has learned so much from him, and enjoyed working with him on many different projects to benefit this community. He said that Councilman Jemiolo will be greatly missed.

Councilman Dietrick stated that Councilman Jemiolo, his friend, stands for honesty, ethics and commitment to open government and will be greatly missed.

Supervisor Travers Murphy wished Councilman Jemiolo well and much happiness.

All the Department Heads thanked Councilman Jemiolo his time and effort for the Town, for always being there for them, and wished him the best in his new endeavors.

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

RESOLVED, that the Town Board is hereby authorized to direct the Supervisor to sign an agreement with the New York State Office of Parks, Recreation and Historic Preservation-Western Division, Niagara Frontier Region, for the \$100,000 Grant relating to the purchase of the Stanley Property on Bussendorfer Road, as recommended by the Town Attorney.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board is hereby authorized to direct the Supervisor to sign an agreement with National Fuel Gas to allow National Fuel Gas to install a gas line on Milestrip Road to service the Milestrip Road Recreation Center, as recommended by the Town Engineer.

The resolution was unanimously adopted.

BONDING RESOLUTION

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

WHEREAS, the Town of Orchard Park, New York (the "Town") has heretofore duly issued \$7,791,600 Various Purpose Serial Bonds - 2002, such bonds being dated January 15, 2002 and maturing in annual installments in each of the years 2003 to 2022, both inclusive (the "Refunded Bonds") as more fully described therein; and

WHEREAS, the Refunded Bonds were authorized pursuant to bond resolutions dated May 16, 2001, July 18, 2001 and November 7, 2001 to pay the cost of: (A) the joint increase and improvement of facilities of Water Districts Nos. 1-4, 6-15 and 17-21 and all extensions thereto, consisting of the replacement of 4-inch, 6-inch and 8-inch waterlines with 12-inch waterlines and replacement of portions of other connecting waterlines that connect to the North Buffalo Road waterline; (B) the improvement of facilities of the Refuse and Garbage District consisting of construction of a yard waste management facility, detention pond, asphalt pad, buildings, and original furnishings, equipment, machinery and apparatus appropriated therefore; and (C) improvement of facilities of Water Districts Nos. 1-4, 6-15 and 17-21 and all extensions thereto, consisting of the installation of waterlines, the purchase of land, original valves, piping, grading and metering where necessary and all ancillary work required in connection therewith.

WHEREAS, it would be in the public interest to refund the outstanding principal balance of the Refunded Bonds, by the issuance of refunding bonds pursuant to the Local Finance Law; and

WHEREAS, such refunding will result in present value savings in debt service as required by Section 90.10 of the Local Finance Law; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

Section 1. The Town is hereby authorized to refund all or a portion of the outstanding principal balance of the Refunded Bonds.

Section 2. Attached hereto as Appendix "A" and incorporated herein by reference is the estimated financial plan for the refunding of the Refunded Bonds (the "Refunding Financial Plan") showing the sources and amounts of all funds required to accomplish the Refunding Financial Plan. The Town Supervisor is hereby authorized and directed to determine which of the Refunded Bonds will be refunded and the timing thereof.

Section 3. Subject only to the issuance of the Refunding Bonds as herein authorized, the Town hereby elects to redeem all of the Refunded Bonds maturing on or after the date of issuance of the Refunding Bonds that are callable at a present value savings. Upon the issuance of the Refunding Bonds, the election to redeem such callable Refunded Bonds shall become irrevocable. The Town Supervisor is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the time provided in the Refunded Bonds and in Section 53 of the Local Finance Law. Upon the issuance of the Refunded Bonds, the election to call in and redeem the callable Refunded Bonds and the direction to the Town Supervisor to cause notice thereof to be given as provided in this Section 3 shall become irrevocable, provided that this Section may be amended from time to time as may be necessary in order to comply with the publication requirements of paragraph a of Section 53.00 of the Local Finance Law, or any successor law thereto.

Section 4. The Town is hereby authorized to issue its serial general obligation refunding bonds (the "Refunding Bonds") in the aggregate principal amount of not to exceed \$5,500,000, in order to refund all or a portion of the Refunded Bonds. The Refunding Bonds shall each be designated substantially "TOWN REFUNDING SERIAL BONDS" together with such series designation and year as is appropriate on the date of sale thereof, shall be of the denomination of \$5,000 or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity, shall be dated on such dates, and shall mature on such dates in such years, bearing interest on such dates, at the rate or rates of interest per annum, as may be necessary to sell the same, all as shall be determined by the Town Supervisor pursuant to Sections 5 and 10 hereof. It is hereby further determined that such Refunding Bonds may be issued to refund all or a portion of the Refunded Bonds, subject to the limitation hereinafter described in Section 13 hereof relating to approval by the State Comptroller.

Section 5. The Town Supervisor is hereby authorized and directed to determine the amount of the Refunding Bonds to be issued, the maturities and terms thereof, the provisions relating to the redemption of Refunding Bonds prior to maturity, if any, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, whether the Refunding Bonds shall be sold at a discount in the manner authorized by paragraph c of Section 57.00 of the Local Finance Law, and the rate or rates of interest to be borne thereby, whether the Refunding Bonds shall be issued having substantially level or declining annual debt service and all matters related thereto, and to prepare, or cause to be provided, a final Refunding Financial Plan and, in accordance herewith, all powers in connection therewith are hereby delegated to the Supervisor, provided that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the Local Finance Law.

The Refunding Bonds may be subject to redemption prior to maturity upon such terms as the Town Supervisor shall prescribe which terms shall be in compliance with the requirements of Section 53.00 (b) of the Local Finance Law. If less than all of the Refunding Bonds of any maturity are to be redeemed, the particular Refunding Bonds of such maturity to be redeemed shall be selected by the Town by lot in any customary manner of selection as determined by the Town Supervisor. Notice of such call for redemption shall be given by mailing such notice to the registered owners not less than thirty (30) days prior to such date and as otherwise provided in Securities and Exchange Commission Release No. 34-23856, as the same may be amended from time to time. Notice of redemption having been given as aforesaid, the bonds so called for redemption shall, on the date for redemption set forth in such call for redemption, become due and payable, together with interest to such redemption date, and interest shall cease to be paid thereon after such redemption date.

The Refunding Bonds shall be issued in registered form and shall not be registrable to bearer or convertible into bearer coupon form. In the event said Refunding Bonds are issued in non-certificated form, such bonds, when issued, shall be issued initially in registered form in denominations such that one bond shall be issued for each maturity of bonds and shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the bonds in accordance with the book-entry-only system of DTC. In the event that either DTC shall discontinue the book-entry-only system, or the Town shall terminate its participation in such book-entry-only system, such bonds shall thereafter be issued in certificated form of the denomination of \$5,000 each or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity. In the case of non-certificated Refunding Bonds, principal of and interest on the bonds shall be payable by check or draft mailed by the Fiscal Agent (as defined herein) to DTC, or to its nominee, Cede & Co., while the bonds are registered in the name of Cede & Co. in accordance with such book-entry-only system. Principal shall be payable only upon surrender of the bonds at the principal corporate trust office of such Fiscal Agent (or at the office of the Town Clerk as Fiscal Agent as hereinafter provided).

In the event said Refunding Bonds are issued in certificated form, principal of and interest on the Refunding Bonds shall be payable by check or draft mailed by the Fiscal Agent to the registered owners of the Refunding Bonds as shown on the registration books of the Town maintained by the Fiscal Agent, as of the close of business on the fifteenth day of the calendar month or last business day of the calendar month preceding each interest payment date as appropriate and as provided in a certificate of the Town Supervisor providing for the details of the Refunding Bonds. Principal shall be payable only upon surrender of bonds at the principal corporate trust office of a bank or trust company or banks or trust companies located or authorized to do business in the State of New York, as shall hereafter be designated by the Town Supervisor as fiscal agent of the Town for the Refunding Bonds (collectively, the "Fiscal Agent"). Refunding Bonds in certificated form may be transferred or exchanged at any time prior to maturity at the principal corporate trust office of the Fiscal Agent for bonds of the same maturity of any authorized denomination or denominations in the same aggregate principal amount. Principal and interest on the Refunding Bonds shall be payable in lawful money of the United States of America.

The Town Supervisor, as chief fiscal officer of the Town, is hereby authorized and directed to enter into an agreement or agreements containing such terms and conditions as he shall deem proper with the Fiscal Agent, for the purpose of having such bank or trust company or banks or trust companies act in connection with the Refunding Bonds as the Fiscal Agent for said Town, to perform the services described in Section 70.00 of the Local Finance Law, and to execute such agreement or agreements on behalf of the Town, regardless of whether the Refunding Bonds are initially issued in certificated or non-certificated form; provided, however, that the Town Supervisor is hereby authorized to name the Town Clerk as the Fiscal Agent in connection with the Refunding Bonds if said Refunding Bonds are issued in non-certificated form.

The Supervisor is hereby further delegated all powers of this Town board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for said Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

Section 6. The maximum amount of Refunding Bonds authorized to be issued does not exceed the amount sufficient to pay the sum of (a) the principal amount of the Refunded Bonds, which will be outstanding as of the date of issue of the Refunding Bonds, (b) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date set for such redemption of the Refunded Bonds in accordance with the Refunding Financial Plan, (c) redemption premiums, if any, payable on the

Refunded Bonds as of such redemption dates and (d) costs and expenses incident to the issuance of the Refunding Bonds, including the development of the Refunding Financial Plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the Escrow Holder.

Section 7. The maximum period of probable usefulness permitted by law at the time of issuance of the Refunded Bonds for the object or purpose or objects or purposes for which the Refunded Bonds were issued is contained in Appendix "B" attached hereto and incorporated herein by reference.

Section 8. The Supervisor is hereby authorized and directed to contract on behalf of the Town with a bank or trust company located and authorized to do business in the State of New York for the purpose of having such bank or trust company act as the escrow holder (the "Escrow Holder") of the proceeds, inclusive of any premium, from the sale of the Refunding Bonds, together with all income derived from the investment of such proceeds, and any other moneys provided by the Town to accomplish the Refunding Financial Plan. The contract with the Escrow Holder shall comply in all respects with Section 90.10 of the Local Finance Law.

Section 9. That portion of the proceeds of the sale of the Refunding Bonds, together with interest earned thereon, which shall be required for the payment of the principal of and interest on, the Refunded Bonds to be refunded, including any redemption premiums, in accordance with the Refunding Financial Plan, shall be irrevocably committed and pledged to such purpose and the holders of the Refunded Bonds to be refunded shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. All interest earned from the investment of the proceeds of the sale of the Refunding Bonds not required for such payments on the Refunded Bonds to be refunded, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunding Bonds and the holders of the Refunding Bonds shall have a lien upon such moneys held by the Escrow Holder. The pledges and liens provided for in this Section shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act.

Section 10. Subject to the provisions of the Local Finance Law and this Resolution, the power to determine the final Refunding Financial Plan, to prescribe the terms, form and contents of the Refunding Bonds and to sell (including the power to sell the Refunding Bonds at a discount and pursuant to a private, negotiated or competitive sale), issue and deliver the Refunding Bonds is hereby delegated to the Supervisor, the chief fiscal officer of the Town. The Refunding Bonds shall be sold at private sale to the underwriter selected by the Supervisor (the "Underwriter") for purchase prices to be determined by the Supervisor, plus accrued interest from the date or dates of the Refunding Bonds to the date or dates of delivery of payment for the Refunding Bonds. Subject to the approval of the terms and conditions of such private sale by the State Comptroller as required by subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, the Supervisor is hereby authorized to execute and deliver a purchase contract for the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the Supervisor to the Underwriter in accordance with said purchase contract upon the receipt by the Town of said purchase price, including accrued interest. The Town hereby authorizes the preparation of and distribution of an Official Statement and further authorizes the distribution of a Preliminary Official Statement before the Official Statement is executed and available for distribution.

Section 11. The Supervisor is hereby authorized to execute and the Clerk is hereby authorized to attest any Refunding Bonds issued pursuant to this Resolution, and the Clerk is hereby authorized to affix to such Refunding Bonds the corporate seal of the Town. The Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this Resolution or any document or agreement approved hereby.

Section 12. The faith and credit of the Town of Orchard Park, New York are hereby irrevocably pledged for the payment of the principal of and interest on such Refunding Bonds as the same become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on the Refunding Bonds becoming due and payable in such year. There shall be levied annually on all taxable real property of the Town, a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same becomes due and payable.

Section 13. Notwithstanding anything to the contrary contained herein, the Town shall not issue the Refunding Bonds until it shall have obtained the approval of the Office of the State Comptroller in accordance with the provisions of Section 90.10 of the Local Finance Law.

Section 14. This Resolution shall be published in summary form by the Town Clerk together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, and such publication shall be in each of the official newspapers of the Town. The validity of the Refunding Bonds may be contested only if such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or the provisions of law which should be complied with at the date of publication of the summary of this Resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or if said obligations are authorized in violation of the provisions of the Constitution.

Section 15. This Resolution shall take effect immediately upon its adoption.

The question of the adoption was duly put to a roll call vote, which resulted as follows:

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Jemiolo	Abstain
Councilman Kaczor	Aye
Councilman Dietrick	Aye

The resolution was duly adopted.

Highway Superintendent, Fred Piasecki, stated that the Town has received the CHIPS monies, and with the mild weather, the Highway Department has been able to be out collecting the leaves.

COUNTY AND STATE OFFICIALS

County Legislator, John Mills, wanted to thank Stan Jemiolo for his many years of service to the Town of Orchard Park. His dedication has helped to make Orchard Park a better place. He also wanted to thank Stan's family, as public servants have to spend a lot of time away from their family.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #24 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$191,191.11
Part Town Fund	\$623.89
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$23,705.68
Special Districts	\$133,697.40
Trust & Agency	\$62,959.17
Capital Fund	\$8,638.00

The resolution was unanimously adopted.

Receive & File Reports

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

RESOLVED, that the Town Board does hereby receive and file the following Reports: Building Inspector's Monthly Report & Building Permits for November 2006.

The resolution was unanimously adopted.

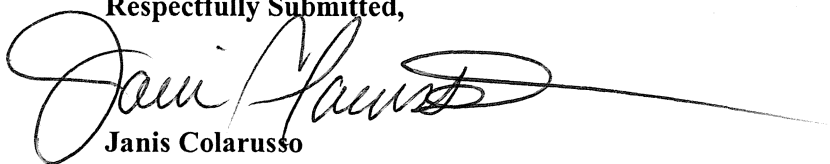
BUSINESS FROM THE FLOOR

Nick Taneff, 279 Summit Avenue: Mr. Taneff thanked Councilman Jemiolo for his many years of service to the Town of Orchard Park.

John Marlow, 27 Brookins Green: Mr. Marlow wanted to know how these homes are going to be taxed. Councilman Jemiolo said that these residents will be taxed as regular homes, not as condominiums, and this is stated in the ordinance.

There being no further business from the floor, on motion by Councilman Kaczor, seconded by Councilman Dietrick, to wit; the meeting was adjourned at 7:40 PM (local time).

Respectfully Submitted,



Janis Colarusso
Town Clerk

