

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 21st 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
	Nancy Ackerman	Councilmember
	David Kaczor	Councilmember
	Edward Graber	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

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 ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

RESOLVED, that the Regular Town Board Meeting minutes held on December 7, 2011 and the Executive Session Meeting minutes held on December 7, 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.

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

RESOLVED, that the Town Board is hereby authorized to change the order of the agenda for this evening by placing the Elected Officials & Department Heads comments before Business From the Floor.

Supervisor Colarusso	Yea
Councilmember Ackerman	Nay
Councilmember Kaczor	Yea
Councilmember Graber	Yea
Councilmember Majchrzak	Yea

Councilmember Ackerman stated that she feels the order does not need to be changed.

The resolution was unanimously adopted.

New Business # 1 Supervisor to sign Stop DWI Contract

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

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Stop DWI Contract between the Town of Orchard Park and Erie County Stop DWI Program for a term of January 1, 2012 through December 31, 2013.

The resolution was unanimously adopted.

New Business #2 Approve Seasonal Appointments to Recreation Department

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

RESOLVED, that the Town Board does hereby approve the following for appointments to the staff of the Town of Orchard Park Recreation Department, which are dependent upon the applicant providing the required certification.

Name	Address	Rate	Position (Title)
Kyle Kazinski	8 Sandpiper Ct	\$8.50	PT2-B (Att.)
Emily Xiaohong Sheng	4 Edgewater Dr	\$15.00	PT6-D (Att.)
Julia Fan Zhang	2 Lennys Lane	\$15.00	PT6-D (Att.)
Julianne Heinen	55 Ferndale Drive	\$10.50	PT3-E (Att.)

Note: The above appointments are dependent upon the applicant providing the required certifications.

The resolution was unanimously adopted.

New Business #3 Approve Final Change Order Release

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

WHEREAS, the construction work on the Jewett Holmwood Road Watermain Replacement Installations has been completed, and on October 27, 2011, a final inspection was conducted and all of the work has since been satisfactorily completed in accordance with the contract documents and specifications with the exception of some settlement areas that will require additional topsoil & seeding. Due to the weather, these service connection areas remain in need of additional topsoil, grading & seeding work that will be completed in the Spring and

WHEREAS, three thousand (\$3,000) of the retention is being withheld as escrow for the contractor to restore these areas in the Spring of 2012, and a two-year maintenance bond in the amount of \$413,313.45 has been submitted along with the Affidavit of Release of Liens, Affidavit of Subcontractor Payment, and necessary legal documents and

WHEREAS, the Over/Under sheet lists the final adjustments to the quantities for each bid item and shows there will be a net decrease of \$130,501.55.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize release of partial retention and release of the performance security to Sergi Construction, Inc., 775 Jewett Holmwood Road, East Aurora, New York 14052 in the amount of \$17,665.67, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #4 Approve Final Plan & Financial Commitment

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

WHEREAS, a plan has been submitted for improvements at McFarland Green, and

WHEREAS, this Town Board has reviewed the plan

NOW, THEREFORE, be it

RESOLVED, the Plan submitted herewith is hereby approved, and be it further

RESOLVED, that a sum not to exceed \$11, 000.00 is allocated to complete the improvements described on the plan submitted herewith.

Councilmember Ackerman stated the McFarland Green Plan, which was presented by George Schichtel at a work session, includes lighting and a seating area towards the back, which accommodates the gradual incline of the terrain. She also stated that of the \$11,000.00 allocated for this project, over \$7,200.00 was donated.

The resolution was unanimously adopted.

ELECTED OFFICIALS & DEPARTMENT HEADS

Councilmember Kaczor asked Councilmember Ackerman to come forward to honor her for her many years of service to the Town of Orchard Park. He stated that Nan's work with the Town goes back over 25 years when she started on the Conservation Board, then she served on the Planning Board and then was elected Councilmember. There are so many accomplishments and so many organizations that she has that she has touched, (Recycling program, Boy Scouts, Youth Court, the Library and the Compost site to name a few) and all to the betterment of Orchard Park. Councilman Kaczor stated on behalf of the Town, all the residents and the Town Board, they wanted to present flowers and a token which says "to Councilwoman Ackerman in grateful appreciation of over twenty-five years of outstanding service and dedication" December 2011.

Erie County Legislator John Mills stated that he has been in government for close to 34 years and has worked with Nan for 30 of those years. She is a hard working and dedicated individual who has worked countless hours for the Town of Orchard Park. Legislator Mills read a Proclamation from the Erie County Legislator which outlined her many accomplishments and thanked her for her all that she has done for the community.

Supervisor Colarusso congratulated Nan and thanked her for all her help and stated that she would be really missed.

Councilmember Majchrzak said that it may not be politically correct, but when the downsizing vote happened, the voters made a big mistake in eliminating the two positions and losing Councilmember Ackerman. He has been a Town Board member for only two years and he did not realize how much Nan did on a daily basis. He certainly learned and he wanted to thank her for all that she has done.

Councilman Graber is also amazed at the volume of work she does and her ability to stay focused on the issues that are at hand.

Councilmember Kaczor stated that Councilmember Graber is also going to be missed. He was the Town's advocate for the Village and a fiscal watch dog. The Town Board presented a token of appreciation for the four years served on the Town Board.

Legislator Mills read a proclamation from the Erie County Legislature outlining Councilmember Graber's contributions to the Town of Orchard Park and thanked him for his service.

Supervisor Colarusso said she will miss Councilmember Graber's sense of humor at the meetings.

Councilmember Majchrzak thanked Councilmember Graber for his service to the Town & Village of Orchard Park.

Councilmember Ackerman stated it was wonderful campaigning with Councilmember Graber and working with him. She thanked him for the opportunity to serve with him.

Councilmember Graber thanked the residents for giving him the opportunity to serve and it was a good learning experience. He was proud to have served on the Town Board in which Legislator Mills and Councilmember Ackerman were largely responsible as the ones who ran a tight ship in Orchard Park and implemented numerous programs. He stated that it is going to be a challenge over the next four years with the three person board and he wished them good luck.

8) 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 approve the following budget transfers within the 2011 Sewer, Water & Lighting Department, Compost and Supervisor's Office

Sewer, Water & Lighting Department

\$3,000.00 From: 001.8346.550 (Contingent)
To: 001.8346.475 (Gasoline)

Compost

\$1,724.14 From: 800.8161.0401 Composting Facility Supplies
To: 800.8161.0250 Compost Equipment
\$ 64.40 From: 800.8161.0499 Composting Misc
To: 800.8161.0408 Compost First Aid Expenses
\$ 175.00 From: 800.8161.0421 Composting Electric
To: 800.8161.0423 Compost Water

Supervisor's Office

\$2,000.00 From: A.1670.0139 Central Clerical Pool
To: A.1220.0137 Supervisor – Clerical Salary

Reason: Due to Non Union Personnel Policy Manual Update and change in Budget Code Structure for 2012, overtime is necessary in the Supervisor's Office.

The resolution was unanimously adopted.

Councilmember Ackerman stated that *"this leaving is a difficult experience for me"*. Nan and her husband Phil, moved to Orchard Park over 40 years ago. She had been involved with the Town, first as a volunteer for twenty years, second as a Town Board member for twenty years and through these experiences, she has met so many special people who have enriched her life.

Councilmember Ackerman stated that she feels *"the purist form of Democracy is at the local level of government as is the place where the elected officials come closest to the people they serve. I believe that it is the elected officials' sworn duty to listen to the people, consider their points of view, and then based on careful review of the facts, make decisions that represent the greatest good for the greatest number of people"*. Some people do not like the decisions that are made, but she has always voted in ways that she thought would insure the greatest good for the greatest number. Democracy is the art of compromise.

She stated that successful Democracy requires participation, in dialogue between residents & elected officials and in the voting booth. Democracy is not a spectator sport and cannot succeed without all of us doing our part. She also stated government cannot succeed without effective and stimulating dialogue and the three member board the Town is about to experience virtually precludes that, because of the majority rule and the open meeting law. Moving forward, there will be a far greater cost than dollars by what was decided by only 9.4% of our eligible voters. *"When the opportunity presents itself in two years, seriously consider restoring a five member board."*

Councilmember Ackerman said to list all the people she wanted to thank would be too lengthy. *"So there is only one thank you in the end and that is, from the bottom of my heart, thank you to the people of Orchard Park who have entrusted me to be their faithful servant over the years."* She wished the very best of luck to the remaining Board in their future endeavors. She looks forward to seeing them on the other side of the microphone.

Councilmember Kaczor – Happy Holidays and drive safely.

Councilmember Graber – Extended Holiday Greetings and stated that it has been a good experience as a Town Board member and working with the other members of the Board. He noted that it is easy to be cynical when looking at Town Government, but he wanted to hand accolades to the Department Heads, as they have always stepped up when asked to at budget time. It may not look like it to the residents, but these people are working hard and recognize that there are certain budget limits and run their departments accordingly. Councilmember Graber stated that he knows running the Town is going to be going to be a challenge for the remaining three Council members and he wishes them the best of luck.

Councilmember Majchrzak stated that he wanted to thank the Town Board, because there are many times in the work sessions, or executive sessions where they get into some pretty good arguments, but when they are done, they are pulling together as a team. One of the things Nan had mentioned was the raising of difference of opinions in some of the decisions she has made. Councilmember Majchrzak stated that he learned a long time ago, if you are going be all things for all people, you are probably not doing anything. Nan has done a tremendous amount for the Town of Orchard Park.

Town Clerk Carol Hutton wished Nan and Ed the best of luck in their future endeavors and thanked them for all the help and support they have given her. Happy Holidays to everyone.

Town Attorney Len Berkowitz thanked Councilmember Graber for his support over the past four years and stated he would be greatly missed. Ed was a source of moderation on the Town Board and it was greatly appreciated. To Councilmember Nan Ackerman he said words failed him at this moment, as they have been working together for forty years. One thing that is apparent is that the appearance of the Town, to a large extent, can be attributed to Nan's accomplishments. She worked hard on Zoning issues and on coordinating the final design of new structures. He stated that Councilmember Ackerman would be missed.

Building Inspector Andy Geist offered his best wishes to Councilmembers Ackerman and Graber and said that he feels we will still see them around the Town Hall.

Chief of Police Andy Benz offered his best wishes to Councilmembers Ackerman and Graber and thanked them for their service. He asked the residents, during the holiday season, to please remember to be responsible and arrive at your destinations safely. Happy Holidays.

Highway Superintendent Fred Piasecki announced that the CHIPS Funding Check from the State has come in for \$121,896. The County has sent the first installment for plowing in the amount of \$49,401. He thanked Councilmember Graber and it was a pleasure to work with him. To Councilmember Ackerman, he said "Nan a trillion times thank you".

Town Engineer Wayne Bieler offered Council members Ackerman and Graber good luck in their future endeavors. He specifically thanked Nan for her architectural assistance throughout the Town. Town Engineer Bieler thanked Ed for bringing his banking experience to the Town.

Hal Fabinsky and Nicholas Taneff also wished Councilmembers Ackerman and Graber the best of luck.

BUSINESS FROM THE FLOOR

Beverly Rick – Ms. Rick attended a meeting a year ago regarding hunting in the Birdsong & Fox Chapel area. She wants hunting restricted in this area. Chief Benz stated that if a hunter is on your personal property the police should be contacted. If they are granted permission by an owner, there is nothing that the police can do. Ms. Rick stated that she wants the law changed. The Supervisor stated that the NYS DEC controls where hunting is allowed.

Doug McFarland – Mr. McFarland stated that McFarland Green was meant to be forever green, with no fan fair, statues, lighting, and no dressing up.

Howie Holmes – Mr. Holmes lives across from Birdsong Park and thought that Ms. Rick may have mistaken the Town signs restricting hunting in the Park for restricting it all around that area. Mr. Holmes thanked Ed and Nan for their service to the Town. Mr. Holmes is also opposed to the lights in McFarland Park. He believes it should be left green and nothing else should be added. As far as the Town Board downsizing, he said to stop talking about it and just do it.

Sal Cerrone – Mr. Cerrone thanked Ed and Nan for their service to the Town, and said that he knows that the Councilmembers are there because they care about the community. He has done countless hours volunteering for different organizations and there will always be differences of opinions and you can't make it personal. Mr. Cerrone stated that any time he has had interaction with any of the department heads, they have been professional and did a good job. His suggestion to the Town Board in regard to the downsizing was to lean on these professionals and we have good town employees, so don't take them for granted. Mr. Cerrone also touched on partisan politics in the Town.

Nick Taneff – Mr. Taneff thanked Legislator Mills for all his service to the community. He has concerns about the corner lot at Lake Avenue and Abbott Road, as the property is not being maintained.

9) 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 #24 which were reviewed and approved.

General Fund	\$42,075.86
Part Town Fund	\$4621.04
Risk Retention	\$0.00
Cemetery Fund	\$0.00
Highway Fund	\$21,165.13
Special Districts	\$8,480.32
Trust & Agency	\$ 2,452.69
Capital Fund	\$138,258.94

The resolution was unanimously adopted.

10) 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 November, 2011

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Kaczor, the meeting was adjourned at 8:04 PM (local time).

Respectfully Submitted,

Carol R. Hutton
Town Clerk