

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 18<sup>th</sup> day of July 2018 at 7:00 PM, the meeting was called to order by Supervisor Keem and there were:

**PRESENT AT ROLL CALL:**

Patrick J. Keem	Supervisor
Eugene Majchrzak	Councilmember
Michael Sherry	Councilmember
John C. Bailey	Town Attorney
Remy Orffeo	Town Clerk
Wayne Bieler	Town Engineer
Andrew Geist	Building Inspector
Frederick Piasecki, Jr.	Highway Superintendent

**ABSENT:**

Mark Pacholec	Chief of Police
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**Supervisor Keem 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 SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:**

**RESOLVED**, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on June 27, Executive Sessions: June 13, 27 and July 11, 2018, 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.**

**PUBLIC COMMENT ON OLD BUSINESS**

No one spoke.

**Old Business # 1 Release security escrow of PIP 2017-01 for seeding**

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

**WHEREAS**, on November 1, 2017, 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 to seed all disturbed areas outside of the ROW's and other lands (sublots and rear yard swale areas) and establish grass over approximately 5-acres within Knoche Farms Estates Subdivision, Phase 2, and

**WHEREAS**, the developer has since had the above referenced work completed. 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 the \$10,000 held in escrow under PIP #2017-01 for seeding all disturbed areas outside of the ROW's and other lands and establish grass in the Knoche Farms Estates Subdivision, Phase 2 to Tom Greenauer Development Inc., PO Box 250, Springbrook, New York 14140-0250, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON NEW BUSINESS**

No one spoke.

**3) New Business #1 Approve PSD Courtney Honer to move from Part-time status to Seasonal – 90 days**

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

**RESOLVED**, that the Town Board does hereby move PSD Courtney Honer from Part-time status to Seasonal for ninety, (90) days beginning July 21, 2018.

**The resolution was unanimously adopted.**

**New Business #2 Approve NYS Companion Animal Grant to update Animal Control Building.**

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

**WHEREAS**, the Town desires to update the Animal Control Building, and the cost is estimated to be \$134,100.00, and

**WHEREAS**, grant funds are available from the New York State Companion Animal Capital Fund to support 75 percent of the cost of the project in the amount of \$100,575.00, and

**WHEREAS**, the grant requires the Town to contribute 25 percent of the cost of the project in the amount of \$33,525.00, and

**WHEREAS**, \$33,525.00 is available within General Fund unassigned fund balance,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the use of General Fund balance in the amount of \$33,525.00 to support the local share of the project identified above.

**The resolution was unanimously adopted.**

**New Business #3 Approve Block Party Permits**

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

**RESOLVED**, that the Town Board does hereby approve the following Block Party Permits:

- Tyrone Palaganas, on 9/2/18, for Knob Hill, Pine Terrace & Greenwood Drive.
- Ellen Cannon for 8/11/18 for Regalwood & Rolling Hills Dr.

**The resolution was unanimously adopted.**

**New Business #4 Approve Pawtucket Food Truck Block Party Permits**

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

**RESOLVED**, that the Town Board does hereby approve the Green Acres Ice Cream Truck to be at the Pawtucket Food Truck Block Party on 7/25/18 & 8/22/18, the Certificate of Liability has been submitted and the fees have been paid.

**The resolution was unanimously adopted.**

**New Business #5 Approve Emergency Manager to attend Work Shop**

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

**RESOLVED**, that the Town Board does hereby approve the request of Richard Mrugalski, Emergency Manager, to attend a full day Continuity of Operations Power Grid Failure Workshop to be held on July 26, 2018 at New York Power Authority Power Vista, in Lewiston.

**The resolution was unanimously adopted.**

**New Business #6 Approve Budget Amendment for 2018-19 Records Management Grant.**

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

**WHEREAS**, the Town has received final approval from New York State for Local Government Records Management Grant project number 0580-19-7536 in the amount of \$73,711 for the period July 1, 2018 through June 30, 2019, and

**WHEREAS**, the Town's adopted budget for 2018 does not include revenues or appropriations for the above mentioned grant,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the following amendment of the Town's 2018 budget to account for the Local Government Records Management Grant.

**NOW, THEREFORE, be it**

**RESOLVED** that, amounts unspent by December 31, 2018 will be carried forward to the 2019 fiscal year to be used before June 30, 2019.

**General Fund:**

Increase estimate revenues:

A.0000.3060 Records Management Grant \$73,711.00

Increase appropriation account:  
A.1410.141 Records Management \$73,711.00

**The resolution was unanimously adopted.**

**New Business #7 Approve Budget Amendment for 2018 Records Management Grant.**

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

**WHEREAS**, the Town received final approval from New York State for Local Government Records Management Grant project number 0580-18-7033 in the amount of \$61,240 for the period July 1, 2017 through June 30, 2018, and

**WHEREAS**, the Town's adopted budget for 2018 does not include revenues or appropriations for the above mentioned grant, and

**WHEREAS**, as of December 31, 2017 the amount spent for payroll and related benefits was \$27,535.22, and

**WHEREAS**, the remaining \$33,704.78 available for the period January 1, 2018 through June 30, 2018 is not reflected in the 2018 budget,

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board hereby authorizes the following amendment of the Town's 2018 budget to account for the Local Government Records Management Grant:

**General Fund:**

Increase estimated revenues: \$33,704.78  
A.0000.3060 Records Management Grant

Increase appropriation account: \$33,704.78  
A.1410.141 Records Management Clerk

**The resolution was unanimously adopted.**

**New Business #8 Approve Summer Seasonal Part-time Recreation Staff Appointments**

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

**RESOLVED**, that the Town Board does hereby approve the following 2018 Summer Seasonal part time Staff Appointments retroactive To July 2nd, 2018, the appointments are dependent upon the applicant providing the required certifications.

<u>Name</u>	<u>Rate</u>	<u>Position (Title*)</u>
Michelle Vasiloff	\$12.50	PT4-D (LG)
Eve McMullen	\$11.00	PT3-E (Att)
Maxwell Gotthelf	\$11.00	PT3-D (Att)

**The resolution was unanimously adopted.**

**New Business #9 Authorize Supervisor to sign Agreement with NYSEG**

**11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER SHERRY, TO WIT:**

**WHEREAS**, the Plans and Specifications for the Community Activity Center (C.A.C.) are currently out for bid. As a direct result, the Highway Department has agreed to lower the high area of the necessary construction entrance into the site. This will require removing +/-4 feet of fill between the existing brush piles and widening the existing road to accommodate two-way traffic, and

**WHEREAS**, to facilitate the widening of a new access road and future removal of the brush pile, a NYSEG power pole must be relocated approximately 70 feet to the east. The cost to relocate the pole is \$2,390.00, and

**WHEREAS**, the electric service for the existing football field must be disconnected prior to the pole being relocated. At this time, we are not proposing to remove the electrical service for the fields, simply disconnect it, and then complete the removal once the C.A.C. project has been awarded, and

**WHEREAS**, currently the Town has allocated funds for this project under Capital Account H-89 “Brush Mountain Community Activity Center”.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign an agreement with NYSEG and issue payment to NYSEG, 5655 South Park Ave., Hamburg, NY 14075, to relocate the pole necessary for the improvements of the construction access road in the amount not to exceed \$2,390.00, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #10 Authorize Supervisor to sign a License Agreement with Niagara Mohawk Power**

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

**WHEREAS**, to complete the connectivity of Shadow Lane as part of the Shadow Lane Extension – Orchard Grove Apartments project, the Planning Board needs an agreement required between the Town and the Niagara Mohawk Power Corporation for permission to construct the Shadow Lane extension from California Road to the current existing terminus point of Shadow Lane. The connection requires crossing Niagara Mohawks’ property (50-foot wide) with a proposed public roadway and utilities. The license agreement requires the signature of the Town Supervisor and a representative of the Niagara Mohawk Power Corporation.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize the Supervisor to sign a License Agreement with Niagara Mohawk Power Corporation to complete connectivity of Shadow Lane for Orchard Grove Apartments, as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**New Business #11 Not on Agenda**

**13) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:**

**WHEREAS**, the Town of Orchard Park by resolution on December 20, 2017 applied for a LGRMIF grant through the New York State Archives, and

**WHEREAS**, the Town of Orchard Park was awarded a LGRMIF records management grant by the New York State Archives, and

**WHEREAS**, the grant is in the amount of \$73,711.00 and for the period of July 1, 2018 to June 30, 2019, and

**WHEREAS**, Amy Glende has worked as the full time records clerk for the 2017-2018 LGRMIF grant,

**NOW, THEREFORE, be it**

**RESOLVED**, that Amy Glende be appointed full time Records Clerk under the provision of New York State Archives Grant #0580-19-7536 at the rate of \$22.00 per hour for the period July 1, 2018 through June 30, 2019.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Lucinda Teagarden has been before the Town Board before regarding dogs on her road chasing and harming herself and her dogs. She met with an officer and he basically said it had to happen again before they can do anything. Ms. Teagarden said she is going to hold the Town responsible if that situation happens again. She should not have to get hurt for a law to be enforced.

Tom Pieczynski stated that he lives by Pawtucket Park and this park was made for children, not dining with food trucks. The people park right in front of his house and cause damage to his yard. The noise is excessive and there has already been vandalism in the park.

Chris Weyer said that there is still an issue with the Town's contractor for Brush Pickup. They are incompetent.

Deirdre Kelley lives next to the land the Town is developing to put in a Football Complex. She received a letter from the Town after the construction had already begun stating there were going to be four football fields, with lights and parking for 120 cars. This area is in a neighborhood and was green space where children could play. The construction is raising so much dust and this is affecting her asthmatic children. She asked the Town Board to tweak the plans for Brush Mountain and put the football fields there.

Dave Schuster said the Town Board charged the Planning Board to research front mounted solar panels and gave them sixty days to do this. But, the Planning Board cancelled its July meeting, so with the meeting being cancelled, will this be handled behind closed doors? He would like to know why the Planning Board recommended the solar panel amendment. Regarding the Community Center, he said the Town has to reorient the building, relocate the playing field, reposition the parking lot, jack up the building 18 inches to allow for an undetected flood plain, lop off 5000 sq.ft. from the building to not waste space. This should have been addressed up front. The public is again complaining about the lack of involvement in the planning process. The Community Center should be put on hold, and possibly let the citizens vote on this again with the ability to pick something a little cheaper, or none at all. He also wondered about a 3 ½ miles Rails to Trails that would cost a million dollars, and the cost to relocate the football fields to a residential area.

David Heer is here about the proposed football fields. He thanked the Supervisor & Town Engineer for stopping over to meet with the residents. They have appreciated the green space that they have had and asked that as the Town moves forward with their plans, to keep that in mind. He requested that they make it as least obtrusive as possible, or look at moving it elsewhere. He handed in a signed petition with over seventy signatures.

Joe Jaraz outlined his concerns regarding the proposed football fields. It is a residential neighborhood, and there should be codes on the books that protect these neighborhoods, you should not be able to put a football field in someone's backyard. Drainage – there is a lot more runoff from fields and playing fields; Lights- the lights are 30-35 ft. high and will shine into our homes; Noise – there will be announcements and music coming over the loudspeakers and from people attending the games; Visual – the fields will be visible to the residents; Dust & debris from people attending the games; Property value – will be affected; Neighborhood – this is a peaceful neighborhood where residents enjoy their property. The Town should consolidate all the fields at Brush Mountain.

Rhonda Jaraz went to Brush Mountain and saw the football field there and said there was open land as far as the eye could see. So she is a little confused as to why the project cannot go there. The lights at Brush Mountain were hideous and to bring them to a residential area is wrong. There is nothing you can do to stop that light from coming into neighbors' homes. She stated that from the Soccer Field runoff, they have lost some of their land by the creek. Our homes are where we go for peace and quiet, would you like this in your backyard? She asked the Town Board to please consider putting the football fields somewhere else.

Kurt Ulrich lives down the road from this project and across from the High School Athletic Field, and he can attest to the noise and traffic that occurs during sporting events. He is not happy about the proposed project and the lack of communication surrounding it. When do the residents get a say in what is happening. Does the Town get to do whatever it wants, and the residents have to live with it.

Sean Kelley stated that football is loud, there are large crowds and bright lights. When he gets home from work, he just wants to relax. A large buffer is not going to take care of lights and noise produced from this project, they can already hear the noise from the OP Athletic Field. He asked the Town Board to consider putting the football fields somewhere else and maybe make the land a park where people could enjoy themselves. It is a residential area. He is also concerned with drainage, traffic, the effect on the neighborhood and its families.

Marianne Heinen knows the Town owns this land, and can do what it wants, but the taxpayers, we are the Town. So we would like some input on how the privacy and peacefulness of our neighborhood would change. We would ask, at the very least, that our Town representatives would thoroughly look at all of the problems, and consider what might occur if this was taking place in your backyard, and look at it that way. She would also ask the Town to do due diligence to see if this is the most efficient use of tax dollars, or is there any alternate locations where it would make more sense. She echoes all her neighbors concerns as well. Again, keeping the communications open is important. They did not know what was happening until after the trucks started working in that area. After talking to people in the Town, she was not sure how thorough the Plans for Community Center were made as moving the football field was an afterthought.

Terrance Grandy said he was notified about the Town putting in a football field three days after construction started. It would have been more appropriate to have some kind of meeting, other than being told that the Town is putting a football field, with a concession stand and lights in your back yard. The quality of life is out the window once the whistle starts. There has to be a better place, like Brush Mountain, where it is not as residential. If the Town puts this in, we the residents and taxpayers have to deal with it. The Town does own the land, but they do not have to disturb the quality of life for the residents who live near it. He respectfully asks the Town Board to reconsider this project.

Julie Ann Fanutti is a member of the Orchard Park Little League Football and Baseball Boards, and she said that in the original plans moving the football fields was not planned. But, as the Community Center plans changed, the football field has been asked to move, as well as the baseball fields. Brush Mountain complex is a 75+ acre park for more than football, it is for baseball, soft ball, rugby and lacrosse. We have substantial land in Orchard Park but not the facilities. This is the time for all to work together to find a right place, not to just put the sports fields here or there, but going back to having one or two identified sports complexes for the Town.

Frank Albert stated that the notification that went out to the residents after the construction had started is not good government. He lives near the High School sports field, and they have put up with construction, dust throughout their house, noise 24/7 from the 35 foot scoreboard, and have to continually clean up debris in their yard. A sport like football since 2012 has had a 12% decline followed by a 15% decline in participation nationwide. He recognizes that change

and good projects need to take place, but these projects are ones that need a wide discussion in our community. They have an effect on our property and residential experience.

### **ELECTED OFFICIALS & DEPARTMENT HEADS**

Supervisor Keem said, regarding the placement of football fields on the Webster Road property, that the Town has not had a chance to listen to residents because there isn't a project with a site plan yet. There is a process that the Town goes through, and this is so early in the process that the Town has not had any public meetings. This is a good start, he said he took notes on what everyone said, and it will be considered. The Town purchased the property on Webster Road for recreational use about five years ago. Regarding the recreation center, the Town always envisioned putting it in the back corner of the property, but the engineers, the State, the NYSDEC and Army Corp of Engineers changed a lot of things with the wetlands. There have been so many meetings because of all the issues surrounding this kind of project, and the reworking of the plans. Supervisor Keem outlined many of the issues and changes that have happened. One of the changes was the Building was to be moved where the football field is currently, and the way the new plans are, they cannot put the football field anywhere else because of the wetlands there. So they started looking at the Webster Road property.

Supervisor Keem said the Town is also involved with another project, which is the Bussendorfer Drainage Project where the Town is putting in two large drainage ponds at the back of Brush Mountain Park. With that, the Town has fill that has to be moved, some will be used at the Brush Mountain site, and some is being moved to the Webster Road site. The Highway Department is doing its milling at this time as well, and that is being used to make an entrance way to the Webster Road site. At this time the Town does not have any plans in place for the football fields. He said that tonight there were many good points made, and they will consider them all.

Councilman Sherry stated there is great appreciation and empathy for the issues raised tonight, and we are all home owners and can appreciate all the concerns. The Town Board did implement a practice to notify residents when a large project is going to take place, so notification should have been done sooner. He said there is a need for the football fields, but there are no plans in place right now. According to all the engineers, they cannot go into Brush Mountain. Wherever the fields do go, there will be plans, studies and discussions. He also wanted to make a point regarding the statements indicating the Town Board will do what they want because the Town owns the land. "That is not what we are here for, we are here to do the will of the community." This Town Board takes everything to the community, so all stake holders, including the residents, will be engaged in moving forward. They will work hard to do all that is reasonable and necessary to mitigate any adverse consequences for any stake holders.

Town Clerk Orffeo thanked the Town Board for accepting the \$73,000 plus grant from the State Archives. This is the second one the Town has received, and he estimates that the project is a five year undertaking. He is very proud of the staff and the work they have done to this point.

Highway Superintendent Piasecki said the milling of the eight roads has been completed. Now they are checking the roads for any work that the drainage receivers may need. The paving is scheduled for August 6<sup>th</sup>, and it will take about 5 to 6 days to complete. By the beginning of next week, the site work at the Community Activity Center will begin.

Town Engineer Bieler said he was going to attempt to address some of the issues raised, and will stay after the meeting to answer questions. Regarding Brush Mountain, early on they did a wetland delineation. In that area there is DEC wetlands, what may not look like wetlands to us, they may categorize it as such. With that, DEC wetlands take into account, not just soils and water, but also plant life, and you have to follow their regulations. In addition to that, there is a 100 ft. buffer requirement around the wetlands. DEC wetlands have



to be 12 acres or more, that is how much wetlands there are in area. The property across the street is a private townhouse development.

The Brush Mountain site was originally designed with the football field staying there, but as they got into the design and had to deal with the soils and wetlands and the impact of that, they had to tweak the buildings and then it became too tight to leave those fields in that area. This was extensively looked at with multiple plans, but with the wetlands delineation, too much land was lost. Typically on a project, they conduct public informational meetings once they get into a designing mode. Mr. Bieler outlined how they looked at the site on Webster Road as a possible site for the community center, and then how they came up with ideas on how to place the fields there. He also stated that there are a lot of wetlands on the east end of the Webster Road site. When there is a project, the Town has to deal with all the drainage issues, abide by Phase 2 regulations (EPA federal regulations mandated by the NYS DEC) and drainage is always better. When they do the designs for projects, they do take into consideration the impact it will have on the neighbors.

**14) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, 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 # 14 following auditing by members of the Town Board and in the funds indicated:

<b>General Fund</b>	\$103,375.15
<b>Public Safety Fund</b>	\$56,320.39
<b>Part Town Fund</b>	\$977.47
<b>Risk Retention</b>	-0-
<b>Cemetery Fund</b>	-0-
<b>Highway Fund</b>	\$66,646.90
<b>Special Districts</b>	\$36,795.31
<b>Trust &amp; Agency</b>	\$41,507.58
<b>Capital Fund</b>	\$278,786.91

**The resolution was unanimously adopted.**

**15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:**

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

- Household Hazardous Waste Collection Day – Saturday, August 11, 2018 at ECC North Campus in Amherst. This is for all non-electronic waste.

**The resolution was unanimously adopted.**

**16) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER SHERRY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:**

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

- The Building Inspector's report for the month of June 2018.

**The resolution was unanimously adopted**

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 8:22 pm (local time).

**Respectfully Submitted,**

A handwritten signature in black ink, appearing to read "Remy C. Orffeo". The signature is fluid and cursive, with the first name "Remy" being more prominent.

**Remy C. Orffeo  
Town Clerk**