

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 19th day of December 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
Michael Sherry	Councilmember
John C. Bailey	Town Attorney
Eugene Majchrzak	Councilmember
Remy Orffeo	Town Clerk
Wayne Bieler	Town Engineer
Andrew Geist	Building Inspector
Frederick Piasecki, Jr.	Highway Superintendent
Mark Pacholec	Chief of Police

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 SHERRY, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Town Board Meeting Minutes held on November 7, 2018, Executive Sessions held on December 5, 2018 and Special Sessions held on December 5 & 12 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 HEARING

Dangerous and Unsafe Property located at 17 Quaker Lake Terrace

Supervisor Keem opened the Public Hearing and asked if the owners of the property were here. No one came forward to speak.

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

RESOLVED, that the Public Hearing in the matter of the Dangerous and Unsafe property was closed at 7:12pm.

The resolution was unanimously adopted.

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

WHEREAS, The Enforcement Officer of the Town of Orchard Park has filed his report in writing with the Town of Orchard Park containing his findings and recommendations regarding certain structures on the premises located at 17 Quaker Lake Terrace, SBL #162.19-2-18, in which report said Enforcement Officer states his opinion that said structures are unsafe and dangerous to the public and recommends their immediate securing or removal, and

WHEREAS, the Town of Orchard Park after reviewing said report and after hearing said Enforcement Officer in regard thereto and after having duly deliberated upon the same, having determined the said report warrants the removal of said structure.

NOW, THEREFORE, be it

RESOLVED, that: (1) notice be given to Eric J. Smith and Lynn E. Smith, (2) said notice be served personally upon Eric J. Smith and Lynn E. Smith or the County Clerk if such persons cannot reasonably be found for such personal service and by affixing a copy thereof upon said structures, (3) said notice shall order that the structures on the said premises are to be repaired to the satisfaction of the Building Inspector of the Town of Orchard Park or said structures are to be demolished and the debris from that demolition is to be removed from the premises within thirty (30) days of the service of said notice and to be completed within sixty (60) days thereafter, (4) a public hearing has been scheduled at 7:00 pm on December 19, 2018 at the Orchard Park Municipal Building, 4295 South Buffalo Street, Orchard Park, in relation to such dangerous or unsafe structures, and (5) the Town Attorney of the Town of Orchard Park be and hereby is directed to prepare said notice and arrange for the service thereof in accordance with the requirements of said Local Law and by filing in the office of the County Clerk.

PUBLIC COMMENT ON OLD BUSINESS

Bridget Pacholec, wife of Chief of Police Mark Pacholec, stated that they learned the Town Board was going to freeze his salary from a reporter while they were on vacation. This Town Board did not have the courtesy or decency to have this conversation with Mark prior to making this decision. Mark has worked every day since he was appointed, be it at the office, family events or on vacation. Prior to his appointment, they discussed what was involved with this job, the dangers and the sacrifices, and took that into consideration with the packages that were put in front of them. Tonight, this Town Board is choosing to throw away the contract that led them as a family to accept the sacrifices that Mark would have to make.

Andy Major, Vice President of Operations and Guest Experiences for the Buffalo Bills, Board Member of the Orchard Park Police Foundation and Town Resident. He is here tonight in support of Chief Pacholec. The Buffalo Bills rely on his expertise and experience. All he and the Buffalo Bills care about is the safety of the fans and the community. As a resident, and member of the Bills organization, he cannot express how much he appreciates the Orchard Park Police Department, and their presence in our community.

Patrick O'Brien also came to support Chief of Police Mark Pacholec. He wanted to know if the Town Board is also looking at other departments as well to check for "Fair Market Value".

Old Business # 1 Approve Change Order #2 to Contract with Kandey Co. Mid County Pump Station

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

WHEREAS, during the submittal phase of the Mid County Pump Station Replacement project there was a proposal submitted by the Contractor to provide an alternate hatch for the newly installed valve vault. The alternate hatch provides a larger opening with direct access to the ladder creating a safer work environment to maintenance staff. To better maintain the station and protect staff, the larger hatch has been installed for \$747.50. This change order will increase Kandey's total contract to \$344,930 representing a 0.22% increase, and

WHEREAS, with the arrival of the generator being next week, installation of the NYSEG electrical supply being delayed, and winter weather affecting the concrete and pavement work that is required to finish, it is necessary to extend the contract with both CIR and Kandey until the spring of 2019. A date of April 2, 2019 has been recommended. The Project is substantially complete and it is anticipated that the station will be up and running by the end of the year as previously expected with only restoration and final paving remaining in the spring.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 for the increased hatch sizes and no cost time extension to April 2, 2019 for Kandey Co., 19 Ransier Dr., West Seneca, NY 14224 for a cost not to exceed \$747.50, as recommended by the Town Engineer.

The resolution was unanimously adopted

Old Business # 2 Approve Change Order #2 to Contract with CIR Electrical Mid County Pump Stat.

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

WHEREAS, with the arrival of the generator for the Mid County Pump Station being next week, installation of the NYSEG electrical supply being delayed, and winter weather affecting the concrete and pavement work that is required to finish, it is necessary to extend the contract with both CIR and Kandey until the spring of 2019. A date of April 2, 2019 has been recommended. The Project is substantially complete and it is anticipated that the station will be up and running by the end of the year as previously expected with only restoration and final paving remaining in the spring.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #1 for the no cost time extension for CIR Electrical, 400 Ingham, Lackawanna, NY 14228 be amended to April 2, 2019 for the Mid County Pump Station Replacement Project, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Approve Change Order #2 to Contract with Zoladz for Burmon Drive Project

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

RESOLVED, that the Engineering Department is requesting your approval of a Change Order #2 to the contract with Zoladz Construction Co., Inc. for the Burmon Drive Reconstruction Project, which covers the completion of the remaining driveways and aprons on the north side of Burmon with 2-inches of temporary Type 3 Binder due to the weather this fall which impacted placement of concrete for driveways, driveway aprons and sidewalks. This would provide better residents access, and snow-blow-able and plow-able driveways at a cost not to exceed \$29,982. The contractor would then remove this temporary binder material and complete the driveways and aprons work in the spring, when weather permits, and

WHEREAS, this change order would increase the Contract amount of \$2,981,640.66 to \$3,011,622.66, representing an increase of 0.10%. There is presently \$847,537.00 allotted under the Capital Projects No. Z51 Burmon Drive Reconstruction Project, and

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #2 to the Contract with Zoladz Construction, 13600 Railroad Street, Alden, New York 14004 for the Burmon Drive Reconstruction Project, to complete the (53) driveways and aprons on the north side of Burmon with 2-inches of temporary Type 3 Binder and to remove this temporary binder material and complete the concrete work in the spring, when weather permits in the amount not to exceed \$29,982, as recommended by the Town Engineer.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Appoint part-time Electrical Inspector

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

WHEREAS, an electrical inspector is needed in the Building and Code Enforcement Department, and

WHEREAS, the joint service agreement between Orchard Park and West Seneca will end on December 31, 2018 and will not be renewed, and

WHEREAS, Rayne J. Degre is available and willing to serve as an electrical inspector in the Building and Code Enforcement Department,

NOW THEREFORE, BE IT

RESOLVED, that Rayne J. Degre be hired as a part-time electrical inspector for the Town of Orchard Park at a rate of \$35.00 per hour starting January 1, 2019 not to exceed 19.5 hours per week.

The resolution was unanimously adopted.

New Business #2 Appoint two New Orchard Park Police Officers

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

RESOLVED, hat the Town Board does hereby approve the appointment of Darryl A. Purucker and Jeremy P. Majewicz to the position of Police Officer in the Orchard Park Police Department, Step A, effective December 15, 2018 and December 16, 2018 respectively, at the salary of \$69,706.00.

The resolution was unanimously adopted.

New Business #3 Appoint Part-Time Court Clerk

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

WHEREAS, it has come to the attention of the Town Board that the Orchard Park Town Court is in need of a part-time court clerk, in order to better facilitate the administration of justice, and

WHEREAS, having a part-time court clerk would help alleviate the need for the full time court clerks to utilize and accrue extensive comp time, and

WHEREAS, having a part-time court clerk would allow the full time court clerks to utilize their vacation time and personal time and not lose the time because it cannot be utilized, and

WHEREAS, Sonja Lee Upchurch as a resident of the Town of Orchard Park has completed her college criminal justice internship with the Town Court over the past 8 weeks and has shown proficiency, competency, knowledge, good ethics and dedication providing much help to the court clerks during her internship and is willing to work part-time up to 19 1/2 hours per week at the New York State minimum wage rate, and

WHEREAS, Sonja Lee Upchurch has been interviewed by Town Justices, Edward Pace and Jorge deRosas and has provided their recommendation to the Town Board for the appointment of Sonja Lee Upchurch as a part-time court clerk,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby appoint Sonja Lee Upchurch, as a part-time Town court clerk at the New York State minimum wage rate, effective December 19, 2018.

The resolution was unanimously adopted.

New Business #4 Set Public Hearing for a proposed Local Law for 2019

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

RESOLVED, that the Town Board is hereby authorized to schedule a Public Hearing on January 2, 2019 at the First Regular Meeting which will follow the Organizational Meeting in the matter of the adoption of a Local Law for 2019 regarding Chapter 58 §58-4 C(2) & §58-4 C(3) Dangerous Dogs, and be it further

RESOLVED, that the Town Clerk is hereby directed to publish due notice thereof.

The resolution was unanimously adopted.

New Business #5 Set Date for 2019 Organizational Meeting

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

RESOVLED that the Town Board is hereby authorized to set the date for the 2019 Organizational Meeting and 1st Regular Meeting of 2019 for Wednesday, January 2, 2019 at 7:00PM, the work session will begin at 6:00PM, and be it further

RESOLVED, that the Town Clerk is hereby directed to publish due notice thereof.

The resolution was unanimously adopted.

New Business #6 Appoint Seasonal Position to the Engineering Department

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

WHEREAS, Funds have been allocated in the 2018 budget for two seasonal employees in the Engineering Department, and

WHEREAS, Matthew Ostrander, who worked for the Sewer Water & Lighting Department as a seasonal employee in 2015 and 2018, is willing to assist the Engineering Department Surveying and miscellaneous work. Matthew graduated from Orchard Park High School and does have his CDL Permit with air break. Matt Ostrander would begin October 29, 2018 and end before December 3, 2018.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby appoint Matthew Ostrander, 16 Hazel Court, Orchard Park, New York 14224, to a seasonal position in the Engineering Department approximately a nine-week period beginning October 29, 2018 at a wage rate of \$11.00/hour, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #7 Authorize Bid for Highway and Sewer, Water & Lighting, Building Remodeling

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

WHEREAS, the Engineering Department is in the final stages of updating design plans, specifications and bid documents for the Orchard Park Highway and Sewer, Water, & Lighting Building's Remodeling Project, and

WHEREAS, the project includes the remodeling of the Highway lunch room, hallway, generator upgrades, air-conditioning, as well as painting of lockers. In the Sewer, Water and Lighting building, work involves the bathroom, air-conditioning and the installation of a generator, and

WHEREAS, there is presently \$85,000 and \$45,000 allocated under Capital Projects #Z5 for the Highway Building and Sewer, Water & Lighting/Parks and Grounds Building per capital project meeting.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize advertisement in the Orchard Park Bee for bids to be opened for the Orchard Park Highway and Sewer, Water & Lighting 2019 Remolding Project at 2:00 P.M. on February 4, 2019 in the Supervisor's Conference Room, as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #8 "In Common Service of Public Good & Well Being"

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

WHEREAS, it belongs to the Mission of the Town Board of Orchard Park to "demonstrate and provide the kind of leadership that promotes the responsive, effective and efficient delivery of outstanding services, programs, infrastructure and support to our citizens and community" (*Value-driven Government: A Strategic Plan for the Orchard Park Town Council 2017-2019, 2*), and

WHEREAS, it is a Core Value of the Town Board of Orchard Park to "foster a climate of respect, trust and appreciation for those members of our community who most directly serve the needs, interests and desires of our residents — our employees" (3) and

WHEREAS, the Town Board of Orchard Park sincerely appreciates and seeks to promote employee desires and efforts to support public good and well-being, so long as such efforts to support the public good do not interfere with the efficient delivery of outstanding services, programs, infrastructure and support to our citizens and community ("Town Services");

NOW, THEREFORE, be it

RESOLVED, that, said employees are herein strongly encouraged to collectively support public good and well-being so long as such support does not interfere with the course of their duties and/or the delivery of outstanding Town Services, and

BE IT FURTHER RESOLVED, that management is likewise strongly encouraged to promote employee desires and efforts to collectively support public good and well-being in the course of their duties in ways that do not interfere with employee job duties; provided, however, that said support is judicious and will not demonstratively compromise the mission of the Town or interfere with the effective and efficient delivery of outstanding Town Services, and

BE IT FURTHER RESOLVED, that any Town-related rule, order, regulation, or standard operating procedure that may be construed to prohibit employee support of public good and well-being shall hereby be deemed suspended for the duration of such support; provided, once again, that said support is judicious and will not demonstratively compromise the mission of the Town or interfere with the effective and efficient delivery of outstanding Town Services.

The resolution was unanimously adopted.

New Business #9 Agreement with Police Department regarding Non-manpower Flexing

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

RESOLVED, (19.2) As mutually agreed upon by police administration and a unit member, any member assigned to a non-manpower position will be allowed to flex his/her schedule providing doing so will not knowingly generate overtime cost to the town. *Non-manpower flexing cannot be denied by police administration in the absence of articulated just cause.*

The resolution was unanimously adopted.

New Business #10 Approve Budget Amendment

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

WHEREAS, the Town has incurred additional costs for damages that were reimbursed by insurance proceeds, and

WHEREAS, the Town has received the proceeds that were not included in the 2018 budget.

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorize the amending of the 2018 adopted budget to authorize additional appropriations and estimated revenues in the amount of \$14,771.51:

Increase Appropriations:

DB5110 50472	Stone, Gravel & Road Oil	\$8,944.92
DB5110 50105	Highway Salaries CSEA Blue	\$698.97
DB5130.50419	Machinery Other Contractual Exp	\$320.00
DB5110 50105	Highway Salaries CSEA Blue	\$130.62
DB5130.50419	Machinery Other Contractual Exp	\$75.00
A03310 50211	Traffic Signs	\$252.00
A07110 50400	Parks Supplies	\$4,350.00

Increase Estimated Revenues:

DB0000 42680	Highway — Insurance Recoveries	\$8,944.92
DB0000 42680	Highway — Insurance Recoveries	\$1,018.97
DB0000 42680	Highway — Insurance Recoveries	\$205.62
A00000 42680	General — Insurance Recoveries	\$252.00
A00000 42680	General — Insurance Recoveries	\$4,350.00

The resolution was unanimously adopted.

New Business #11 Chief of Police & Asst. Chief of Police Wage Package

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

RESOLVED, that the Town Board does hereby table this item.

Councilman Sherry stated that the issue of “Fair Market Value” is something we have done with all our employees and is a standard practice. The last two positions to be evaluated are the Chief of Police, and the Assistant Chief of Police. There is not a determination by the Town Board to downscale the salary, but what they are looking to do is an assessment of the salary. The accountants did a comparison with other Towns, as far as salary, and that was distributed last week. Councilman Sherry said that with Chief Pacholec not being present last week, he should have waited to pass out the salary comparison from the accountant.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

David Schuster questioned the many issues and construction problems associated with the Community Activity Center and wanted to know who the General Contractor was and why there wasn't more oversight on the project. He also discussed the football field that was torn up at the Community Center and how the replacement plan has been a fiasco. Were there any design meetings or discussions before the money was borrowed to finance the Community Activity Center? Mr. Schuster then urged the Town to pass a resolution against the Erie Catt Rails to Trails as it will end up costing the Town more money. He also stated the Town should be giving the Highway Department more manpower as they are unable to keep up with what they already have to do.

Gabe Kuglis, a government student at the meeting, thanked the Police Department for all its service.

Dan Hay would like the Town to send out a newsletter to all the residents keeping them informed of the information pertinent to the residents. He would like to see the Town to use the “Next Door” app to keep citizens informed. He also would like to see private money taken out of political campaigns, so more people could run for office. Mr. Hay said he would like to combine the Town and Village, and bring back a five man Board.

Howey HoLmes gave 151 letters to the Town Clerk that were sent to the Town Board supporting the Erie Catt Rail Trail project. He is in support of the Erie Catt Rail Trail Project.

Mary Brummer and her family are avid cyclists and have traveled all over to use different trails. She is excited that the Erie Catt Rail Trail may become a reality. She said the Erie Catt Rail Trail members have visited with residents along the proposed trail and have discussed the ways that they will be protected. In any of the towns that have trails there is no outcry regarding the trails.

ELECTED OFFICIALS & DEPARTMENT HEADS

Supervisor Keem wished everyone a Merry Christmas and a peaceful Happy New Year.

Councilmember Majchrzak wished everyone a Merry Christmas and a better New Year.

Councilmember Sherry stated that the assessment of the Highway Department is next after the Police Department and they are going to address some of the issues that Mr. Schuster brought up. Regarding the plan to review the salaries of the Chief and Assistant Chief of Police, this is not about them as officers, as they and the Police Department are outstanding. This process is happening across all departments, and they have followed the same process throughout. Councilmember Sherry apologized to Mrs. Pacholec and her family as he did not know they were on vacation when this was proposed. He also wished everyone a Merry Christmas and Happy New Year.

Building Inspector Geist thanked the Town Board for authorizing the demolition of the property on Quaker Lake Terrace and noted that the cost will be added to the tax base for that property.

Chief Pacholec said that he does not recommend the “Next Door” app as there is a criminal back door to it.

18) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR KEEM, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER SHERRY, 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	\$40,668.13
Public Safety Fund	\$5,990.72
Part Town Fund	740.06
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$79,926.11
Special Districts	\$5,128.35
Trust & Agency	\$28,697.22
Capital Fund	\$668,555.82

The resolution was unanimously adopted.

19) 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 Communication – Notice of Public Hearing by Erie County Board of Health – Erie Co. Sanitary Code Article IX Housing hygiene and Property Maintenance.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Sherry, the meeting adjourned at 8:05 pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**