

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 July 2021 at 7:00 PM, the meeting was called to order by Deputy Supervisor Joseph Liberti and there were:

PRESENT AT ROLL CALL:

Joseph Liberti	Supervisor
Eugene Majchrzak	Deputy Supervisor
Conor Flynn	Councilmember
	Councilmember
Remy Orffeo	Town Clerk
Timothy D. Gallagher	Town Attorney
Steve Bremer	Building Inspector
E. Joseph Wehrfritz	Chief of Police
Ernest Matthews	Deputy Highway Superintendent
Wayne Bieler	Town Engineer
Ed Leak	Director of Rec., Parks & Forestry
Absent	
Frederick Piasecki, Jr.	Highway Superintendent

Deputy Supervisor Liberti 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 MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER FLYNN, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Meeting Minutes: July 7, 2021 and Executive Session: July 7 & 14, 2021 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 came forward

Old Business #1 Approve Site Plan and authorize a building permit for “Speedway”.

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

RESOLVED, that the Town Board does hereby approve the presented Site Plan and authorize a Building Permit, to construct a 4,600+/-sq. ft. Convenience Store and a 5,400+/-sq. ft. Fuel Canopy over (8) double sided dispensers, based on the following conditions and stipulations regarding “Speedway”, Vacant Land,

Corner of Southwestern Boulevard and Angle Rd. as recommended by the Planning Board at their July 8, 2021 meeting:

1. All public notices have been filed.
2. The Planning Board declared itself Lead Agent on 12/10/20, with no objections made by involved agencies.
3. This is a Type 1 SEQR Action, based on the Long EAF submitted on 8/19/2020, and a Negative Declaration is made.
4. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
5. No outside storage or display is permitted.
6. An updated Landscape Plan, received 6/7/21, meets all Green Space regulations with 20% Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$45,442 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$22,721) Conservation Board approval was granted on 2/2/21.
7. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
8. Town Engineering Approval was granted on 7/08/21.
9. The Town of West Seneca granted an out of district sewer connection on 6/3/21.
10. No fuel deliveries will be made during the evening hours.

The resolution was unanimously adopted.

Old Business # 2 Approve a site plan and authorize a building permit for 5732 Big Tree Rd.

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

RESOLVED, that the Town Board does hereby approve the presented Site Plan and authorize a Building Permit for **Polymer Conversions**, 5732 Big Tree Road, located on the north side of Big Tree Road (20A) west of 219 Expressway to construct Phase 1, at consisting of a Building expansion, and 37-additional parking spaces, per the plans received on 3/12/21, based on the following conditions and stipulations as recommended by the Planning Board:

1. This is an Unlisted SEQR Action, based on the Short EAF Parts 1 and 2, and a Negative Declaration is made.
2. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
3. No outside storage or display is permitted.
4. A Landscape Plan, received 3/12/21, meets all Green Space regulations with 20% Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$11,500 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$5,750) Conservation Board approval was granted on 4/6/21.
5. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
6. Town Engineering Approval was granted on 7/08/21.
7. All public notices have been filed.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Approve a Block Party Permit.

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

RESOLVED, that the Town Board does hereby approve the request of Krista Lehde to hold a Block Party at 29-48 Regalwood Drive on August 21, 2021.

The resolution was unanimously adopted.

New Business #2 Set a Public Hearing for Local Law to Over-Ride Tax Levy Limit.

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

RESOLVED, that the Town Board does hereby schedule a Public Hearing in the matter of a proposed Local Law to override tax levy limit established in General Municipal Law Section 3-c for August 4, 2021 at 7:00 pm; and be it further

RESOLVED, that the Town Clerk shall publish due notice thereof.

The resolution was unanimously adopted.

New Business #3 Appoint Planning Clerk

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

WHEREAS, the Planning Department is in need of part-time clerical help; and

WHEREAS, the Planning Department budget for 2021 has funds to hire part-time clerical staff;

NOW, THEREFORE be it

RESOLVED, that Anna Worang-Zizzi be appointed to the position of Planning Clerk (part-time) at a rate of \$15.00 per hour effective July 26, 2021.

The resolution was unanimously adopted.

New Business #4 Approve procedures for the Board of Assessment Review.

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

WHEREAS, New York State (NYS) Real Property Tax Law — RPTL-524 & 525 — grants the Board of Assessment Review (BAR) the authority to establish its own procedures, and

WHEREAS, the BAR wishes to adopt the following procedures for administration of its duties:

- (1) No complaint forms or documentation shall be accepted by electronic means. This also applies to all additional documentation that the BAR may request.
- (2) Copies of the RP-524 Complaint form and supporting documentation must be provided for each of the five (5) BAR members by the complainant.
- (3) The BAR will grant specific time sensitive appointments to those whom have provided copies and supporting documentation, as established above, to the BAR at least four days prior to its meeting. Those complaints that have not provided the copies and supporting documentation as required by the BAR, or submitted the forms within three (3) days or less of the scheduled BAR meeting, will be heard on a first come first serve basis.
- (4) Where a complaint is filed within (3) three business days preceding such a hearing, the BAR, if requested, shall grant an assessor's request for an adjournment to permit the assessor to prepare a response to the complaint.

NOW, THEREFORE be it

RESOLVED, that the Orchard Park Town Board does hereby approve the above procedures for the Board of Assessment Review as recommended by the Town Assessor.

The resolution was unanimously adopted.

New Business #5 Authorize the Deputy Supervisor to sign a contract with J. O'Connell & Associates

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

RESOLVED, that the Town Board does hereby authorize the Deputy Supervisor to sign a one year agreement with J. O'Connell & Associates, Inc. Grant Consultants, for professional services for a sum of \$3,600 per month, and be it further

RESOLVED, a copy of this agreement is on file with the Town of Orchard Park Town Clerk and is available for public view.

The resolution was unanimously adopted.

New Business #6 Set a Public Hearing for proposed Local Law 2021-02 "Automotive facilities; parking"

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

RESOLVED, the Town Board does hereby set a Public Hearing for a proposed Local Law for 2021 regarding 144-29(A) (4) and 144-29 (A) (5) "Automotive facilities; parking" on August 4, 2021 at 7:00PM at the Orchard Park Municipal Center.

The resolution was unanimously adopted.

New Business #7 Authorize the Deputy Supervisor to sign the consult agreement with C&S Companies.

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

WHEREAS, engineering services will be needed by the Town of Orchard Park for the Poplar Heights Subdivision Culvert analysis, study and report. The current CFA application could fund some or all of this engineering work if the Town is awarded the grant. Please be aware that when pursuing grant funding, work on this project cannot proceed until the grant is/if awarded and a contract is fully executed with the State; and

WHEREAS, with C&S Companies currently preforming professional/engineering services on the Bridge/Culvert N.Y. applications with the grant consultant, J. O'Connell, it was an ideal opportunity to expand the working relationship and name C&S as the selected consultant for the CFA grant program; and

WHEREAS, C&S Companies has proposed a scope to review the current drainage conditions, perform an in-depth inspection of the drainage system, and prepare a feasibility report of findings and potential alternatives for remedying the issues identified; and

WHEREAS, there is \$500,000 in the 2021 bond package for this project. There is presently \$379,980 plus interest allocated under Capital Project DB005 "Miscellaneous Culverts" for temporary funding as well.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the Deputy Supervisor to sign the revised/updated agreement with C&S Companies, 141 Elm Street, Suite 100, Buffalo, New York, 14203, to provide professional services for the Poplar Heights Subdivision Culvert —Analysis, Study & Report in reference to the CFA program in an amount not to exceed \$30,000.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #8 Approve PIP 2021-02 Birdsong Subdivision Phase#1

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

WHEREAS, the Town of Orchard Park has received, from Vincent P. Celestino, DJC Land Inc., 470 Cayuga Road, Cheektowaga, New York 14225, an application for a Public Improvement Permit to construct the Birdsong Part 3B Subdivision Phase 1; and

WHEREAS, the project consists of the installation of 4,235 L.F. of new roadway and public utilities to serve 28 residential sublots as shown on the attached location map. A regional retention basin system will be installed during Birdsong Part 3B Subdivision Phase 1 for the remainder of the eastern portion of the Birdsong Subdivision near Old Transit Road; and

WHEREAS, the Engineering Department has reviewed the plans and specifications for the proposed project and have found them to be in compliance with current Town Specifications and Standards; and

WHEREAS, the Planning Board does not have a problem with dividing Phase 2 into 2A & 2B and adding phase 2A construction to Phase 1 construction work. All wetland permit work must be completed before the permit expires this fall as well. We are in receipt of all necessary fees, bond, and insurances.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby approve the amended Public Improvement Permit #2021-02 for the Birdsong Part 3B Subdivision Phase 1 to also include Phase 2A, contingent upon approval by Planning Board of phase change of Phase 2 into Phase 2A & 2B as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #9 Authorize the Deputy Supervisor to sign the 2021 Erie County STOP-DWI contract.

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

RESOLVED, that the Town Board does hereby authorize the Deputy Supervisor to sign the 2021 Erie STOP-DWI contract between the Town of Orchard Park and the Erie County STOP-DWI for the term of January 1, 2021 and December 31, 2021.

The resolution was unanimously adopted.

New Business #10 Approve Stadium Parking Permits

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

RESOLVED, that the Town Board does hereby approve the following 2021 Commercial Parking Permits, as approved by the Chief of Police and Building Inspector:

Augustine, Diane, 3968 Southwestern Blvd.
Danny's South, 4300 Abbott Rd.
Corigliano, James, 3707 Southwestern Blvd.

Dunn, Joseph, 3718 Southwestern Blvd.
Stephen, Paul, 4171 Abbott Rd.

The resolution was unanimously adopted.

New Business #11 Refer to the Planning and Conservation Boards.

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

- 3742 Southwestern Boulevard, V/L (site of former demolished brass shop), located on the North side of Southwestern Boulevard, east of California Road, Zoned B-2. Request to construct a Micro-Brewery with a Tasting room.
- 5455 Webster Road, located on the north side of Webster Road, Zoned I-1. Simoncelli is requesting to construct a 5,800+/- sq. ft. metal building addition to their existing building with associated site improvements. (SBL#161.09-5-3.21)

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Tom Pieczynski spoke against Marijuana dispensaries in Orchard Park, inquired about a generator at the CAC and commended Maria and Deb's work at the Community Activity Center.

Dave Deeds spoke on the Marijuana debate in Orchard Park and recommended a book for reference.

Dan Teplesky spoke of the Rails to Trails and the Orchard Park Village Mayor's position on the Rails to Trails. He also inquired about campaign donations.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Deputy Supervisor Liberti inquired about the paving in Eagle Heights.

Councilmember Majchrzak addressed issues regarding the ECRT and campaign donations.

Councilmember Flynn thanked residents for sending him their views regarding marijuana in NYS and stated his vote will still remain to not opt out of dispensaries and on site consumption licenses in Orchard Park.

Town Clerk Remy Orffeo informed the public about the Tree Conservancy Grant. The Town was awarded \$33,038.00. He thanked the Board for donating an additional \$3,000.00 which allows the Town to complete the Tree survey in the Right of Way and on Town property. Once this is completed the Town will be prepared to apply for and be reimbursed for any storm damage through FEMA.

Deputy Highway Superintendent Ernest Matthews stated the Highway department will be paving Kent Dr., Fawn Terrace, Swallow Lane, Sleepy Hollow Lane, Saybrook Drive and Eggert Road on August 2, 2021.

Police Chief Wehrfritz stated there will be fireworks at the Country Club on July 23, 2021 and an open house at the Police Station on 7/27/2021 from 10:00 – 2:00.

15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER FLYNN, 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:

General Fund	\$51,833.73
Public Safety Fund	\$4,850.76
Part Town Fund	\$1,479.33
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$16,455.88
Special Districts	\$10,854.93
Trust & Agency	\$400.00
Capital Fund	\$2,290.00

The resolution was unanimously adopted.

REPORTS

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

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

- June 2021 Building Inspector's Monthly Report.
- The Comprehensive Annual Financial Report for 2020.

The resolution was unanimously adopted.

There being no further business, on a motion by Councilmember Majchrzak, seconded by Councilmember Flynn, the meeting adjourned at 7:34 pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**