

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 17th day of October 2007 at 7:00 P.M., (local time). The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL: Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
David Kaczor	Councilman
Mark Dietrick	Councilman
Deborah Yeomans	Councilwoman
Janis Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Samuel McCune	Chief of Police
Andrew Geist	Building Inspector
Frederick Piasecki, Jr.	Highway Superintendent
Wayne Bieler	Town Engineer

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 COUNCILWOMAN YEOMANS, TO WIT:

RESOLVED, that the minutes of the Meeting of the Town Board held on October 3, 2007, 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.

Public Hearing

At 7:00 PM (local time) the Supervisor called for the Public Hearing to hear all interested parties for or against the rezoning of property from R-2 to R-3 for property located on Murphy Road, in the Town of Orchard Park, known as the "Pines of Murphy Road", for the purpose of converting a religious sanctuary into a Senior Housing Facility and add two new living structures.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, read aloud, and filed with the Town Board by the Town Clerk.

At this time the Supervisor asked if there was anyone in the audience that would like to speak for or against the rezoning on Murphy Road.

Comments from the floor:

Lou Boehm – Mr. Boehm said he feels there is too much construction taking place in the Town. Mr. Boehm was unclear about the term sanctuary. It was explained that the sanctuary was formally a convent for the Mercy nuns that is being converted to Senior Housing.

Old Business #2 – 3030 Orchard Park Road, Former Schuele Paint & ABC Tool Rental Site

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

RESOLVED, that the Town Board does hereby amend their motion on 8/15/07 and approve the request to increase the square footage from a 2,520 sq. ft. addition to a 3,844 sq. ft. addition, which is an increase of 1,324 sq. ft., for 3030 Orchard Park Road, (Former Schuele Paint & ABC Tool Rental) located on the west side of Orchard Park Road, Zoned B-2 as recommended by the Planning Board.

The resolution was unanimously adopted.

Old Business #3 Award Contract for the OP Library & Highway Roof Renovation Project

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

WHEREAS, bids were opened for the Orchard Park Library and Highway Department Roof Renovations Project on Monday, October 15, 2007 at 3:00 PM in the Supervisor's conference room, and

WHEREAS, the Engineering Department has reviewed the prices of the three (3) contractors who submitted bids, and the lowest bid of \$233,550.00 was below the engineer's estimate of \$243,000.00 for the project, and

WHEREAS, the lowest bidder for this project was Progressive Roofing, Inc. and this Company has been found to have the qualifications and experience to perform this work adequately, and

WHEREAS, there is presently \$100,000 and \$416,932 plus interest allocated under Capital Projects H-81 "Library Renovations" and H-05 "Highway Bldg. Repair/Expansion" respectfully for this project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the Contract for the Orchard Park Library and Highway Department Roof Renovations Project to the lowest responsible bidder, Progressive Roofing, Inc., 331 Grote Street, Buffalo, New York 14207 in the amount of \$233,550.00.

The resolution was unanimously adopted.

Old Business #4 Reed Jewelers, Milestrip & Abbott Rd., Request to Modify the Site Plan

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

WHEREAS, the Planning Board initially agreed to a Milestrip Road access for Reed Jewelers, which was a right turn in and right turn out with a median to enforce this design, which the NYSDOT did not feel was appropriate, and

WHEREAS, upon review by the NYSDOT, they have changed their minds on the Milestrip Road access for Reed Jewelers

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the modification of the approved site plan for Reed Jewelers to have driveway access on Milestrip Road, with a right turn in, right turn out and a "Y" island to enforce this configuration.

The resolution was unanimously adopted.

New Business # 1 Authorize the Recreation Department 2007 Winter Appointment

8) 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 authorize the Recreation Departments appointments for the Fall/Winter Programs dependent upon the applicant providing the required certifications.

Name	Address	Position	Title	Rate
Kaeli Abdo	150 E. Avenue	PT2-D	Lg.	\$9.50

The resolution was unanimously adopted.

Before the Supervisor made the next motion, she read the following resignation letter into the record:

Ladies & Gentlemen:

I regret to inform you that I hereby resign as a member of the Ethics Board, effective immediately. Please know that the duties and powers of the Ethics Board have been diminished and any recommendations evolving from the Ethics Board seems to be unsupported and/or unrecognized by the Town Board. One hope of this writing is that the purpose for the existence of an Ethics Board is re-examined carefully. In doing so, the following is suggested:

- *Conduct interviews of individuals before Ethics Board appointments are made;*
- *Appoint members who will consistently maintain objective, unbiased and ethical integrity;*
- *Eliminate any political or financial influence associated with any appointments;*
- *Require that members have knowledge of and a basic legal understanding of the Town Code to properly promulgate laws to Town employees and officers, as well as investigate public complaints that come before the Ethics Board, and*
- *Require that members have basic knowledge of New York State laws associated with the Town's ethics laws.*

The above is only a summary of concerns with an emphasis for change.

Very truly yours, Anne Marie Kuwik

New Business #2 Accept the Resignation of Anne Marie Kuwik from the Ethics Board

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

RESOLVED, that the Town Board does hereby accept, with regret, the resignation of Anne Marie Kuwik from the Ethics Board, effectively immediately.

Supervisor Travers Murphy stated her disappointment with Ms. Kuwik's resignation. She "thanked" her for her service and hard work. Ms. Murphy stated she will continue to fight for ethics reform here in Orchard Park.

Councilman Dietrick stated he does takes exception to Ms. Kuwik stating the following: *the duties and powers of the Ethics Board have been diminished*. He believes it's Ms. Kuwik's expectations and reality of the Ethics Board that have been diminished. He also believes the people can judge for themselves who will be benefiting from this and who will not.

Councilwoman Yeomans expressed her disappointment also. She stated she had spoken with Ms. Kuwik earlier today to find that there is a financial arrangement between one of the Ethic Board Member and a Town Board Member. She believes this is a breech of confidentiality between these two parties, so she is forwarding Ms. Kuwik's letter to the Attorney Generals office.

Councilman Kaczor believes the appropriate way Ms. Kuwik should have handled this matter was by coming before the Town Board and discussing these issues. He also stated issues relating to Ethic Reforms have not been brought up at a work session or a Town Board meeting by Councilwoman Yeomans for several months.

Councilwoman Yeomans disagreed.

The resolution was unanimously adopted.

New Business #3 Schedule Public Hearing for a Local Law - Moratorium on North Buffalo Street

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

WHEREAS, this Town Board is considering adoption of a zoning ordinance to control construction on North Buffalo Street between the Orchard Park Village line and Southwestern Boulevard, and

WHEREAS, a committee will be appointed to consider legislation controlling construction of structures on North Buffalo Street between the Orchard Park Village line and Southwestern Boulevard for the purpose of developing an Architectural Overlay District to protect the character of one of the major entrances into Orchard Park , and

WHEREAS, such legislation should be developed by the above referenced committee within a six (6) month period.

NOW, THEREFORE, be it

RESOLVED, that a Public Hearing will be held by the Town Board of Orchard Park, Erie County, New York at the Municipal Building, 4295 South Buffalo Street Orchard Park, New York, 14127, on the 7th day of November, 2007 at 7:00 PM (local time) in the matter of the adoption of a Local Law of the Town of Orchard Park, which provides as follows:

"A moratorium is hereby imposed on any construction on premises which have frontage on North Buffalo Street between Southwestern Boulevard and the Orchard Park Village Line. No building permits may be issued during the moratorium for construction of any structures which have frontage on North Buffalo Street between Southwestern Boulevard and the Orchard Park Village line. This moratorium shall continue for one hundred eighty (180) days commencing on the date this Local Law is adopted. Once this law has been adopted, a copy of this law will be submitted, pursuant to General Municipal Law §239m, to the Erie County Planning Board. "

Councilwoman Yeomans stated that she asked the Town Board to include the Milestrip Road corridor in the Moratorium as there is considerable development taking place in that area, but they did not.

Councilman Kaczor stated that setting an Architectural Overlay District for North Buffalo Road has been in the works for awhile. Now there is an urgency as several properties on North Buffalo Road have been purchased by developers and the Town Board wants to make sure that anything that is built along this corridor is appropriate to the area.

Councilwoman Ackerman stated that the Architectural Overlay District will consist of streetscaping, landscaping and architectural features, which will be specific to the North Buffalo Road corridor.

Supervisor Mary Travers Murphy	Aye
Councilwoman Nan Ackerman	Aye
Councilman David Kaczor	Aye
Councilman Mark Dietrick	Aye
Councilwoman Deborah Yeomans	Nay

The resolution was duly adopted.

New Business #4 Adopt Procedures for Appointments to the Town's Boards and Committees

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN YEOMANS, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR TRAVERS MURPHY, TO WIT:

RESOLVED, that the Town Board does hereby adopt the following procedure for appointments to the Town Boards and Committees:

"Procedure for Appointments to the Town's Boards and Committees"

Each Chairman of all the Town Boards and Committees will prepare recommendations regarding skills, requirements, life experience, qualifications relative to that Board or Committee.

These recommendations will be kept on file in the Supervisor's office. This will include any specific requirements for the make-up of the Board or Committee. The respective Department will review all resumes. Their recommendations will be forwarded to the Town Board prior to the date of the Town Board review of all the resumes.

Procedure for appointments to the Planning Board, Library Board, Board of Assessment Review, Economic Development Board, Insurance Board, Recreation Commission, Zoning Board of Appeals, Conservation Board and Ethics Board.

1. Scope

This procedure shall be followed by the Town Board (the "Town Council") in order to effectively solicit interest from and affect the timely review and consideration of all interested Village and Town citizens for appointment to serve on all the Boards

2. Board & Committee Vacancy Notification

- A. Notification of Expiring Terms. During the first week of October of each calendar year, the appointee and the respective Chairperson of each Board will be notified of terms expiring. If the current Board member whose term is expiring wishes to be considered for another term on that Board, written notification shall be given to the Supervisor and Town Board. If that member's resume already exists on file, they will be given the opportunity to update it and it will be reviewed along with the other candidates' resumes. If a resume is not on file, one must be submitted.
- B. Notification of Mid-Term Vacancies. Each respective Chairperson of the Boards shall, upon his or her understanding that a vacancy exists or will exist due to a Board member resignation or for other reasons that a current Board member can or will no longer be able to perform his/her duties, promptly notify the Supervisor and the town Board in writing that a vacancy exists or will exist on the respective Board, and the effective date of the vacancy.
- C. Distribution of Board Vacancy Notices. Written notifications of Board Vacancies received by the Supervisor shall be immediately forwarded to the Town Council members, the Town Clerk and filed.

3. Public Notice of Board Vacancies

- A. Upon receipt of a written notification of expiring, or mid-term, Board vacancies, the Town Clerk shall promptly arrange for public notification to Town and Village residents that Board vacancies exist in order to solicit public interest in filling the Board vacancies. The Town Clerk shall quarterly advertise the vacancies in the official Town newspaper, arrange for posting of the same advertisement in electronic form on the Town web site, and promptly post the same notice on the Town Clerk's official bulletin board and the entrance to Town Board room.
- B. Content of Public Notice. The public notice shall describe each Board vacancy and include a brief synopsis of the responsibilities, duties, length of the term, and the effective date each vacancy is expected to be filled. The notice shall request a letter of interest (either written or electronic) to include brief resume, from interested Town or Village residents. The public notice shall allow residents a period of 30 calendar days from the date of the public notice to respond an express their interest.
- C. Received Letters of Interest. The Supervisor's secretary shall ensure that letters of interest received are promptly recorded, filed and copies distributed to the Supervisor and to the other Town Council members.

5. Board Appointment Decisions

- A. Expiring Term Appointments. An interview by the Town Council for Board member positions involving an expiring term vacancy shall be made 30 days prior to the last day of the current member's expiring term.
- B. Mid-term Appointments. Appointment decisions by the Town Council for Board member position involving a mid-term vacancy shall be made no later than 45 calendar days from the date of the notification of vacancy.

6. Announcement of Board Appointment Decisions

All appointments shall be done by resolution at a public Town Board meeting.

Councilman Kaczor stated that Councilwoman Yeomans is working on an application that will be posted online to make it easier for people to apply and submit to the Town.

The resolution was unanimously adopted.

New Business #5, 6 & 7 Refer to the Planning Board and Conservation Board:

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

RESOLVED, that the Town Board does hereby refer the following items listed on the agenda to the Planning Board and Conservation Board: Quaker Crossing, Southwest corner 3464, 3474 & 3470 Amelia Drive, Zoned B-1, request for the modification of the approved site plan with regards to installing a dumpster enclosure, and Jack Bertsch, 3907 N. Buffalo Road, Zoned B-3. Requesting a Change-In-Use for this property from a business use to a retail use.

The resolution was unanimously adopted.

Elected Officials & Department Heads

Councilwoman Ackerman stated that she is in receipt of a \$130,000.00 check from Fox Run for payment in lieu of putting in a walking trail. This money will be deposited and it will be decided later how these funds are going to be used.

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

WHEREAS, in 1977, the County of Erie entered into an agreement with the cities of Buffalo, Lackawanna and Tonawanda to share the county's portion of sales tax revenue, and

WHEREAS, the agreement gives 10.008% of the county's share of sales tax revenue to the three cities and divides 25.6858% of the county's share of sales tax revenue between the towns and cities in Erie County, including, in 1977, the County of Erie entered into an agreement with the cities of Buffalo, Lackawanna and Tonawanda, on a per capita basis, and

WHEREAS, the population of the three cities has decreased approximately 39% since 1970, based on decennial census figures and 2006 population estimates, and

WHEREAS, the population of the Town of Orchard Park has increased approximately 41% since 1970, based on decennial census figures and 2006 population estimates, and

WHEREAS, growing populations tend to require more services and shrinking populations tend to require fewer services, and

WHEREAS, as a result of the agreement not taking into account population shifts, in 2005, cities received approximately \$215 on a per capita basis and towns received approximately \$80 on a per capita basis, and

WHEREAS, three county legislators have submitted a resolution to renegotiate the sales tax agreement to make it more fair and equitable for all residents of Erie County, and

WHEREAS, the resolution remains in the Finance and Management committee, preventing it from coming to a vote of the entire Erie County Legislature

NOW, THEREFORE, be it

RESOLVED, that the Town of Orchard Park states it's support of the resolution insofar that it calls for a renegotiation of the 1977 sales tax agreement to make it more fair and equitable to all municipalities in Erie County and urges its consideration by the entire Erie County Legislature and subsequent passage, and be if further

RESOLVED, that certified copies of this resolution be distributed to the Chairwoman of the Erie County Legislature and the County Executive and all Town Governments in Erie County.

The resolution was unanimously adopted.

Councilwoman Yeomans stated that there are currently vacancies on the Town's Boards & Committees and invited the public to submit their resumes' or letters of interest.

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

RESOLVED, that the Town Board does hereby accept, with regret, the resignation of Philip Shaw from the Historic Preservation Board, effectively immediately.

The Town Board thanked Mr. Shaw for his service to the Town.

The resolution was unanimously adopted.

Police Chief Sam McCune stated that the Halloween celebration in Orchard Park will be held on Wednesday, October 31st from 6:00pm to 9:00pm. He also stated that the Town wide all night parking ban will be in effect from November 1st 2007 to March 31st 2008. The ban takes place from 1:00 AM to 7:00 AM in the Town, and from 12:00 midnight to 7:00 AM in the Village.

Highway Superintendent Fred Piasecki said the leaf pickup in the Town has been started.

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

WHEREAS, during the course of the engineering and design of the Orchard Park Library and Highway Department Roof Renovations Project by Wendel Duchscherer, Watts Architecture & Engineering was hired to perform asbestos testing on both buildings, and

WHEREAS, asbestos was found in roofing materials at the Highway Department that is planned to be removed during the upcoming project. Project monitoring services will be required during the removal of the asbestos. No asbestos containing materials were found at the Library, and

WHEREAS, the Town Engineer has received a proposal from Watts Architecture and Engineering to perform monitoring services by a New York State Department of Labor Certified Project Monitor in an amount not to exceed \$1,050.00, and

WHEREAS, the Town has appropriated funding for the Orchard Park Library Renovation work under Capital Project H-81, which should be adequate to cover the costs of the consultant.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the proposal with Watts Architecture and Engineering, P.C., 3826 Main Street, Buffalo, New York 14226 in the amount not to exceed \$1,050.00, as recommended by the Town Engineer.

The resolution was unanimously adopted.

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

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #20 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$99,330.03
Part Town Fund	\$473.08
Risk Retention	\$1,285.40
Cemetery Fund	0
Highway Fund	\$20,417.22
Special Districts	\$130,838.78
Trust & Agency	\$7,087.67
Capital Fund	\$14,933.33

The resolution was unanimously adopted.

Communications

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

RESOLVED, that the Town Board does hereby authorize to receive and file the following Communications listed on the agenda: **The New York State Commission on Local Government Efficiency and Competitiveness:** Will hold a Public Hearing at the Albright Knox Art Gallery in Buffalo, Wednesday, October 24, 2007 from 9:00 AM to 4:00 PM, to solicit input on ways to improve the effectiveness of local governments, including cities, towns, villages, school districts, fire districts, other special-purpose districts and local public authorities. The hearing is open to the public and will accept public comment either in person or in writing. For further information you can go to regional-institute@buffalo.edu and, **United States Department of State:** Sent a notice encouraging everyone to apply for a Passport. Fall is traditionally the "low season" making it the best time to apply. They also state to check their web site at <http://TRAVEL.STATE.GOV> for the most up-to-date and accurate information on how to apply for a passport, how long it takes to process an application, current passport requirements for travel to Canada, Mexico or the Caribbean, as well as other important tips on safe travel.

The resolution was unanimously adopted.

Reports

18) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN YEOMANS, TO WIT:

RESOLVED, that the Town Board does hereby authorize to receive and file the following reports listed on the agenda: Chief of Police's Monthly Report for September 2007, and the Orchard Park Fire District Annual Financial Statement for 2006.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Tom Casey – Mr. Casey said he is still waiting for decisions from the Ethics Board on four issues he requested for review this past spring. Mr. Casey would like to see new ethics laws put into place as he feels the current system is too politicized.

Bill Westphall – Mr. Westphall stated that he started work sanding the tables in Veteran's Park as they should be in good shape for the Veteran's Day ceremonies. He wants the Town to complete the project. Mr. Westphall said the Town needs a new Flag in Veteran's Park and it should be illuminated if it is flying at night.

Janet Harding Buffum – Chairwoman of the Orchard Park Independent Party stated that on Primary Day she received complaints regarding the irregularities and poor performance of some of the Election Inspectors. She would like to see them better trained and is going to lodge a complaint with the Erie County Board of Election.

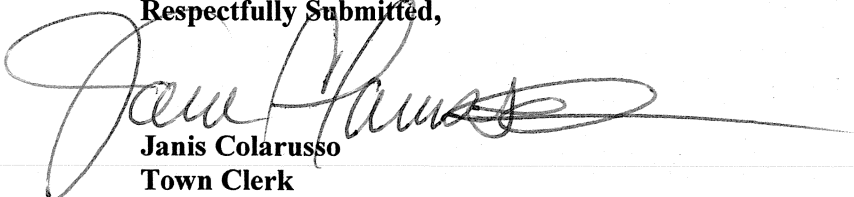
Lou Boehm – Mr. Boehm discussed his thoughts regarding elected officials who are in office a long time.

John Sawicz – Mr. Sawicz wanted to know if there is an ordinance that regulates trees and brush on private property and clean up of these items. He stated that there are two properties that are in main entrances into the Town, that the trees were clear cut on the property and the debris still remains. Mr. Sawicz would like an ordinance put in place stating that there would be no clear cutting on commercial properties and one that would enforce cleanup as well.

Ron Stadelmaier – Mr. Stadelmaier wanted to know how the budget process works and if the budget will be put up on web site. It was explained that the budget will be discussed at the next work session and a Public Hearing has been set for November 7, 2007. Mr. Stadelmaier wanted to know if the Town was able to tax the stadium or the Buffalo Bills. Town Attorney Berkowitz said that the Town tried that years ago, but were unsuccessful as it is used for public events.

There being no further business from the floor, on motion by Councilman Dietrick, seconded by Councilwoman Yeomans, to wit: the meeting was adjourned at 8:11 PM (local time).

Respectfully Submitted,



Janis Colarusso
Town Clerk