

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 20th day of March 2019 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 |
| E. Joseph Wehrfritz | Asst. Chief of Police |
- ABSENT:** 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 MAJCHRZAK, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Meeting Minutes: March 6, 2019 Executive Sessions: March 6, 2019, 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 Change Order #4 with Javen Construction for Brush Mt. Comm. Ctr.

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

WHEREAS, a proposal was made in November to relocate the primary electrical service to the new C.A.C. At the time the proposal was received, an estimated cost sheet was also provided by Wendel which estimated the construction of the access road at \$22,000.00 The anticipated cost savings was proposed as a \$36,342.00 credit to the project, and

WHEREAS, the NYSEG Access road scope of work and costs have been finalized and a proposal received from Javen. Due to additional DEC regulations, the existing topography, additional tree clearing, and other site related work to be completed, the proposed cost is \$78,103.40. This additional cost results in the value engineering option taken to relocate the primary line to be an approximate \$19,761.40 addition to the project over the base bid, and

WHEREAS, if approved, this change order will increase Javen's contract to \$12,710,685.14 a 0.61% increase. There is presently funding allocated under Capital Projects ABOO4 & ABOO5 for the Community Activity Center, however, additional funding will be needed to complete the project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #4 to our contract with Javen Construction Co., Inc., 2575 Baird Road, Penfield, NY 14526 to the construction of the NYSEG access road for the Community Activity Center in the amount not to exceed \$78,103.40, as recommended by the Town Engineer.

The resolution was unanimously adopted

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

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

WHEREAS, the Engineering Department is requesting Town Board approval of a Change Order #3 to the contract with Zoladz Construction Co., Inc. for the Burmon Drive Reconstruction Project, which includes tack coating the entire length of Burmon Drive prior to placement of the top course layer asphaltic concrete (due to the time of year of the placement) and raising four (4) fire hydrants to grade, due to lowering the proposed watermain to avoid conflicts with existing home sanitary sewer laterals' elevations in the amount of \$5,826.86, and

WHEREAS, this change order would increase the Contract amount to \$3,017,449.52, representing an increase of 0.002%. There is presently \$636,340.00 allotted under the Capital Projects No. Z51 Burmon Drive Reconstruction Project.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby approve Change Order #3 to the Contract with Zoladz Construction, 13600 Railroad Street, Alden, New York 14004 to tack coat the entire length of Burmon Drive between the binder and top courses and to raise four (4) fire hydrants to grade for the Burmon Drive Reconstruction Project in the amount not to exceed \$5,826.86, as recommended by the Town Engineer.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Appointment to Erie County Environmental Management Council

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

WHEREAS, the County of Erie, New York has an Environmental Management Council, and

WHEREAS, that council has a vacancy, and

WHEREAS, Richard Schechter, Chair of the Orchard Park Conservation Board is eligible to fill that vacancy and is willing to serve on that Council.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Conservation Board Chair Richard Schechter as it's representative on the Erie County Environmental Management Council.

The resolution was unanimously adopted.

New Business #2 Agreement with Clark, Patterson, Lee Architecture Eng. for professional services

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

WHEREAS, the Town of Orchard Park is seeking to make improvements to Pawtucket Park, and

WHEREAS, these improvements will involve replacing a playground, installing a new swing set and adding an ADA-accessible path to connect the various areas, and

WHEREAS, Clark, Patterson, Lee Architecture Engineering has presented a proposal that is acceptable to the Town Board,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby authorize the Town Supervisor to sign an agreement with Clark, Patterson, Lee Architecture Engineering to complete the scope of services requested at a cost not to exceed \$7,050.00. This cost will be paid through the playground improvement capital budget of 2019, as recommended by the Director of Recreation and Youth Services.

The resolution was unanimously adopted.

New Business #3 Seek Lead Agency Status for Ellicott Development –N. Buffalo Rd. & Webster

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

WHEREAS, the Town of Orchard Park has received an application from Ellicott Development Company for site plan approval for 5 parcels of land located west of North Buffalo Road and south of Webster Road, and

WHEREAS, the request contains rezoning of the 84.3 +1- total acres, and

WHEREAS, the request was submitted with a Full Environmental Assessment Form (FEAF) and other supporting documents, and

WHEREAS, the Town Board has determined in accordance with 6NYCRR617.6 that the proposed action appears to be a Type I action under SEQR, a coordinated SEQR review shall be undertaken and the Town Board is seeking lead agency status for the purpose of that review,

NOW, THEREFORE be it

RESOLVED, that the Town Board hereby adopts the Notice of Intent to assume lead agency status and directs the applicant to circulate said Notice to all involved agencies in accordance with 6NYCRR617.6(b)(3), together with the application materials, and be it further

RESOLVED, that the Ellicott Development Company application is subject to County Planning Board review under General Municipal Law 239-m and the Chairperson of the Board and or town staff shall promptly refer such application to the Erie County Planning Department for its review and advisory report pursuant to General Municipal Law.

The resolution was unanimously adopted.

New Business #4 Set Public Hearing for Conservation Easements

This Item was tabled.

New Business #5 Refer to Planning, Zoning and Conservations Board

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 refer the following to the Planning Board, Zoning Board of Appeals and the Conservation Board:

- 140 Mid County Drive, Buffalo Harley-Davison, Inc., requests a Building Permit to construct a 10,000-SF garage in the south west corner of the property to store trailers and delivery trucks indoors, Zoned I-1. (SBL#161.07-5-1.1)

The resolution was unanimously adopted.

Not on the Agenda #6 Chief of Police Retirement

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

WHEREAS, Chief Mark Pacholec is on administrative leave, and

WHEREAS, Chief Mark Pacholec has announced his retirement, and

WHEREAS, Section 27-4 of the Orchard Park Town Code authorizes the Town Board to designate an acting Chief of Police in the absence of the Chief of Police.

NOW, THEREFORE, be it

RESOLVED, that Assistant Chief Eugene Wehrfritz is hereby designated Acting Chief of Police until further notice by the Town Board of Orchard Park.

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Don Lorentz – Executive Director of the Orchard Park Chamber of Commerce. Mr. Lorentz stated that Mark Pacholec, as Chief of Police, has done a superb job for the Chamber. Mr. Lorentz said that over the thirty years of public events he has worked on, Mark was the most hands on person he dealt with, he attended all the meetings, coordinated all the events with them, and offered all sorts of suggestions. Mr. Lorentz would like to maintain this same type of relationship with whomever takes his place. He also commended Mark for all the outstanding things he has done for our community.

Lisa Mancuso – Ms. Mancuso lives in Eagle Heights and asked the Town Board to help resolve the problem of power outages. They happen too frequently and last for days sometimes. This poses safety issues for the residents. She has tried to contact NYSEG for answers and has gotten the runaround. Ms. Mancuso also contacted the Governor, the County Executive, Town Supervisor and the New York State Public Service Commission, and has not received any help.

Dean Pomeroy – Mr. Pomeroy is opposed to the Rails to Trails.

Mitchell Stenger – Mr. Stenger lives in Eagle Heights and would like the Town Board to put pressure on NYSEG to fix, not patch, the power outage issues there. Just this year there have been 3 or 4 outages, and in previous years some of the outages have lasted for days. This is a public safety issue, and NYSEG is not forthcoming with any information. Councilmember Sherry said they could contact NYSEG to get a record of the outages, and pursue a way to correct the problem.

Carolyn Coppola – Ms. Coppola is opposed to the Rails to Trails

Sherry Pomeroy – Ms. Pomeroy stated that she will miss Chief Pacholec. In her dealings with Mark, he was honest, data driven, compassionate, engaged and followed through on what he promised. Ms. Pomeroy also asked the Town Board to address the power outages in Eagle Heights as they do pose a health hazard. She is also opposed to the Rails to Trails.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Supervisor Keem said that he too experienced the power outage, and did place a call to NYSEG and was told that when NYSEG goes to trim the trees, that 60% of the residents do not want them touched. He was also told that part of the problem is the Aurora Substation, and they are working to reinforce the lines there. NYSEG told him that they were going to go back to the easement on Pine Valley and trim those trees there. Supervisor Keem said that he called Legislator Mills, and he said to call the Public Service Commission. The Town has been attempting to get this situation resolved. Supervisor Keem said he was going to walk some trails in Amherst with someone familiar with them, and see how it is where homes are close to the trail.

Councilman Sherry said NYSEG should be able to pinpoint the problem each time there is an outage.

Town Clerk Orffeo said that under communications, New York & Buffalo Adult and Teen Challenge presented a plaque to the Town in appreciation of our continued support.

Highway Superintendent Piasecki said that Highway is out picking up leaves and brush, when they are not plowing.

9) 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 #6 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$48,358.06
Public Safety Fund	\$17,996.12
Part Town Fund	\$871.68
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$67,127.70
Special Districts	\$3,712.88
Trust & Agency	\$2,407,545.60
Capital Fund	\$84,226.25

The resolution was unanimously adopted.

COMMUNICATIONS

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 receive and file the following communication:

- New York & Buffalo Adult and Teen Challenge Walk-a-Thon to canvass Orchard Park and they presented a plaque to the Town in appreciation of their support.

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Keem, seconded by Councilmember Majchrzak, the meeting adjourned at 7:36pm (local time).

Respectfully Submitted,

**Remy C. Orffeo
Town Clerk**