

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 16<sup>th</sup> day of February 2022 at 7:00 PM, the meeting was called to order by Supervisor Eugene Majchrzak and there were:

**PRESENT AT ROLL CALL:**

|                      |                                    |
|----------------------|------------------------------------|
| Eugene Majchrzak     | Supervisor                         |
| Conor Flynn          | Councilmember                      |
| Scott Honer          | Councilmember                      |
| Joseph Liberti       | Councilmember                      |
| Julia Mombrea        | Councilmember                      |
|                      |                                    |
| Jennifer Brady       | Deputy Town Clerk                  |
| Timothy D. Gallagher | Town Attorney                      |
| Steve Bremer         | Building Inspector                 |
| Patrick Fitzgerald   | Chief of Police                    |
| Andrew Slotman       | Highway Superintendent             |
| Ed Leak              | Director of Rec., Parks & Forestry |
| Wayne Bieler         | Town Engineer                      |

**Supervisor Majchrzak 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 MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER FLYNN, TO WIT:

**RESOLVED**, that the Town Board does hereby approve the Regular Meeting Minutes: February 2, 2022 and Executive Session: February 2 & 9, 2022 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  
Proposed Local Law #2022-01 Snow and Ice Removal**

At 7:03PM (local time) Supervisor Majchrzak called for the Public Hearing to hear all interested parties regarding the proposed Local Law amending §120-5.1 Snow & Ice Removal

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

Supervisor Majchrzak asked if anyone is interested in speaking or making a comment.

No one came forward.

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

**RESOLVED**, that the Town Board does hereby close the Public Hearing for proposed Local Law 2022-01 Snow and Ice Removal. at 7:05PM.

**The resolution was unanimously adopted.**

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

**WHEREAS**, following due and timely notice, a public hearing relating to the matter of Proposed Local Law 2022-01 was conducted on February 16, 2022 at which time all interested parties were given an opportunity to speak.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board is hereby authorized to adopt Local Law 2022-01 which provides as follows:

**§ 120-5.1 – Snow & Ice Removal.**

**Snow & Ice Removal**

**A. Accumulation of Snow and Ice on Sidewalks.** It shall be unlawful for any owner of property adjoining a sidewalk in the Town to permit three (3") inches of snow or ice to remain upon such sidewalk. Snow or ice must be removed from the entire width of the sidewalk to accommodate pedestrians, wheelchairs and strollers.

**B. Accumulation of Snow or Ice on Buildings adjacent to Sidewalks or Streets.** It shall be unlawful for any owner of a building adjacent to a sidewalk or street, to permit snow or ice, to accumulate upon any building where it may pose a safety hazard to persons on any sidewalk, street or public space in the Town, and it shall also be unlawful for any person to permit snow, ice or water to fall from such building upon any street or sidewalk creating a hazardous condition.

**C. Depositing Snow & Ice on Streets or Sidewalks.** It shall be unlawful for any employee, contractor or owner of property adjoining a sidewalk, street or public space in the Town, to deposit snow or ice from private property onto public property, including sidewalks streets or other public space in the Town.

**D. Performance of work by the Town; assessment of costs.** Upon due notice, should the owner of any building fail to remove any hazardous snow or ice from the sidewalk or from the building within 24 hours of the end of a snow event, the Town may remedy the abatement of such condition, and the total cost thereof shall be assessed upon the real property on which the hazardous condition is found. Such cost shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the manner provided by law for the collection of delinquent taxes.

**E. Imminent hazards to life and safety.** Hazardous snow or ice conditions which pose an imminent threat to life or safety may be removed immediately, and the cost thereof shall be assessed and collected as provided in § 71-5.

**F. Penalties for offenses.** Any person who violates any provision of this section shall, upon conviction thereof, be subject to a fine not to exceed \$250 per day of violation, or to imprisonment for a term not to exceed 15 days, or both. The imposition of a penalty for a violation of this section shall not excuse the violation or permit it to continue, and the remedies herein provided for penalties and civil action to enjoin or abate a violation shall be cumulative.

This local law shall take effect immediately upon filing with the New York State Secretary of State. By filing the amended Local Law 1 of 2022 §120-5.1 Snow & Ice Removal, § 120-11 Duties of Owners will be repealed.

**The resolution was unanimously adopted.**

**PUBLIC COMMENT ON OLD BUSINESS**

No one came forward

**Old Business #1 Proceed with the Final Dedication of Pleasant Acres West Subdivision Part 3 Phase 2 to include work for Part 4 Phases 1 through 4; PIP #2020-04.**

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

**WHEREAS**, on October 21, 2021, a final inspection was conducted of the public improvements constructed in the Pleasant Acres West Subdivision Part 3 Phase 2 including work for Part 4 Phases 1 through 4. The project included four-sublots along New Taylor Road with far-side sanitary sewer laterals installed, and the completion of Wentworth Drive, which consists of the installation of 900 L.F. of new roadway and public utilities including 780 L.F. of sanitary mainline and 900 L.F. of watermain with two hydrants to serve 21 residential sublots; and

**WHEREAS**, all work has been satisfactorily completed in accordance with the Town. A two-year maintenance bond in the amount of \$325,500.00 has been submitted along with all other necessary documents; and

**WHEREAS**, the following is required by NYSDOT and will allow these new roadways to be included into the Local Highway Inventory (LHI) program, which is used to calculate Chips funding. The Town Board does hereby adopt the following resolution:

**WHEREAS**, Wentworth Drive completion was constructed as a Town street in accordance with plans and specifications prepared by GPI, Inc.; and

**WHEREAS**, the Wentworth Drive completion is 0.1705-miles in length consisted of a new drainage system, waterline, gutters, asphalt pavement, and street signage; and

**WHEREAS**, construction of the Wentworth Drive completion has been completed in accordance with as-built drawings and has been accepted for maintenance by the Town and is currently open to vehicular traffic for the public.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Wentworth Drive completion shall be included in the 2022 Town Local Highway Mileage Inventory of Town Streets; and, be it further

**RESOLVED**, that New York State Department of Transportation is requested to include the Wentworth Drive completion in the Town of Orchard Park's 2022 Inventory of Streets; and, be it further

**RESOLVED**, that the Town Board does hereby authorize the Town Attorney to proceed with the dedication of the public improvements in the Pleasant Acres West Subdivision Part 3 Phase 2 including work for Part 4 Phases 1 through 4 constructed under PIP #2020-04, and be it further

**RESOLVED**, that the Town Board hereby authorizes the Town Clerk to release the \$65,000 performance bond as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business # 2 Authorize NYSEG to connect 4 LED Decorative Street Lights in Pleasant Acres West Subdivision Part 3 Phase 2 & Part 4, PIP #2020-04.**

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

**WHEREAS**, per the tariff agreement between NYSEG and the Town, NYSEG has requested the Town submit a resolution reflecting the connection of four (4) decorative street light fixtures on Wentworth Drive in the Pleasant Acres West Subdivision — Phase 3. At present, there are seventeen (17) single-family homes currently planned to be constructed in this Phase of the Subdivision; and

**WHEREAS**, the LED luminaires, which are owned by the Town, have been installed under PIP # 2020-04. The Town will maintain the poles, bulbs, and the electric eye of the luminaires and NYSEG is providing energy only per the SC4 classification. The Town purchases the electricity from the supplier, which is *estimated* to be \$42.03/ea. for an annual estimated cost of \$168.12 for these seven decorative light poles. The application will add the new LED lights to our existing SC4 (service classification) account. Charges for energy to the lights may vary due to the electricity pricing trends from summer and winter month rate fluctuation.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby authorize NYSEG to connect four (4) L.E.D. decorative light fixtures in the Pleasant Acres West Subdivision — Phase 3, PIP #2020-04 at an estimated annual increased energy cost of \$168.12 to the Consolidated Light District in accordance with the NYSEG proposal as recommended by the Town Engineer.

**The resolution was unanimously adopted.**

**Old Business #3 Authorize NYSEG to connect 8 LED Decorative Street Lights in the Smokes Creek Subdivision PIP #2021-01.**

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

**WHEREAS**, per the tariff agreement between. NYSEG and the Town, NYSEG has requested the Town submit a resolution reflecting the connection of eight (8) decorative street light fixtures on Edgewood Farm Lane in the Smokes Creek Subdivision. At present, there are nineteen (19) single-family homes currently planned to be constructed in the Subdivision; and

**WHEREAS**, the LED luminaires, which are owned by the Town, have been installed under PIP # 2021-01. The Town will maintain the poles, bulbs, and the electric eye of the luminaires and NYSEG is providing energy only per the SC4 classification. The Town purchases the electricity from the supplier, which is *estimated* to be \$42.03/ea. for an annual estimated cost of \$294.21 for these eight decorative light poles. The application will add the new LED lights to our existing SC4 (service classification) account. Charges for energy to the lights may vary due to the electricity pricing trends from summer and winter month rate fluctuation.

**NOW, THEREFORE be it,**

**RESOLVED**, that the Town Board does hereby authorize NYSEG to connect eight (8) L.E.D. decorative light fixtures in the Smokes Creek Subdivision PIP #2021-01 at an estimated annual

increased energy cost of \$294.21 to the Consolidated Light District in accordance with the NYSEG proposal 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 Recreation Department employees**

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

**RESOLVED**, the Town Board does hereby appoint the following part-time 2022 Recreation Department staff to the Town of Orchard Park Recreation Department effective 2/17/22 provided the applicants have all required certifications.

|                    |         |
|--------------------|---------|
| Grace Hinterberger | \$15.00 |
| Ella Merritt       | \$15.00 |

**The resolution was unanimously adopted.**

**New Business #2 Appoint Senior Engineer Assistant**

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

**WHEREAS**, in 2021 the Engineering Department lost two employees to other companies and in an attempt to fill the vacancies, various civil service list were called for and titles researched. A lot of time has been spent by the Orchard Park Human Resources and the Town Engineer on this quest and their perseverance has paid off. This appointment fills one of the vacancies, the Senior Engineer Assistant title, which there was a Civil Service list which was exhausted and results is the Town having to call for a new civil service exam for that title; and

**WHEREAS**, Erie County Department of Personnel will request New York State Department of Civil Service to prepare a promotional and open competitive examination. This position was certified to be the appropriate civil service title of Senior Engineer Assistant for the Town of Orchard Park based on job classifications and duties is correct; and

**WHEREAS**, the Senior Engineer Assistant assists in the preparation of engineering estimates; participates in surveys of physical features and stakeouts by assembling and operating equipment, taking measurements, placing stakes, holding level rod, taking sightings, and making and checking computations; conducts final survey parties or other field surveys; plots survey results manually or through the use of a computer; prepares tracings and drawings, utilizing a computer or conventional drafting techniques; operates a laboratory to test materials and gathers field samples; files drawings, engineering records and specifications; contacts vendors on engineering data and specifications; inspection of construction projects, takes measurements, calculates and records quantities; enters, checks and/or maintains data for monthly estimate payments; records other pertinent field data such as means, equipment, materials and weather, etc.; may be required to perform routine computer operation and programming; collects and organizes data related to sewer permits, house connections and related data; performs other engineering tasks consistent with design and construction projects; and

**WHEREAS**, after reviewing several applications, and interviewing ten candidates, various titles responding to the advertisements, postings, it has been concluded that the best-qualified individual for the position is Kaleb Fisher. Mr. Fisher has a Bachelor of Science in Civil Engineering from the Rochester Institute of Technology and has worked assisting NYSDOT in two internships and has worked for Kaufman Lynn Construction. Kaleb Fisher has accepted the position and is aware it's pending meeting civil service rules and regulations. Funding for the Senior Engineering Assistant position is included in the Engineering Department budget. Per the white collar union contract, Kaleb Fisher, Senior Engineer Assistant level 009 Range 1st yr. step wage of \$24.47/hr. is per the white collar union contract.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby appoint Mr. Kaleb Fisher to the provisional position of Senior Engineer Assistant in the Orchard Park Engineering Department at Level 0009, Range 1st yr. of the white collar union wage rate schedule, effective retroactive to February 7, 2022 pending meeting Civil Service rules and regulations.

**The resolution was unanimously adopted.**

**New Business #3 Appoint Senior Center Director**

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

**RESOLVED**, that the Town Board does hereby promote Maria Galley to the position of Senior Center Director, this is an exempt position with an hourly pay rate of \$23.56, effective January 17, 2022; and be it further

**RESOLVED**, that she is eligible for a \$5,000 increase six months from appointment, based on performance, and be it further

**RESOLVED**, that she is eligible for an additional \$5,000 increase upon the completion of one year from appointment, based on performance.

**The resolution was unanimously adopted.**

**New Business #4 Appoint Blue Collar Laborer to the Highway Department.**

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

**RESOLVED**, that the Town Board does hereby appoint Ryan M. McCarthy to the Highway Department, as a Blue Collar Laborer, Step 1 of the Blue Collar Contract. It is an hourly position with a pay rate of \$22.00 per hour, effective February 28, 2022.

**The resolution was unanimously adopted.**

**New Business #5 Accept letter of resignation from Thomas Roward.**

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

**RESOLVED**, that the Town Board does hereby regretfully accept Thomas Roward's letter of resignation from the Orchard Park Recreation Commission effective immediately.

**The resolution was unanimously adopted.**

**New Business #9 Refer to the Planning Board for review.**

15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MOMBREA, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER LIBERTI, TO WIT:

- 260 Redtail Road, Located on the west side of Redtail Road, south of Windward Road, Zoned I-1. The applicant is proposing an addition and parking lot expansion to Excelsior Orthopedics. (SBL# 152.18-2-4)

**The resolution was unanimously adopted.**

**New Business #7 Schedule a Public Hearing for V/L located between 6007 and 5971 Lake Ave.**

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

**RESOLVED**, that the Town Board does hereby schedule a Public Hearing on March 16, 2022 at 7:00PM regarding the rezoning of V/L, Lake Ave., located between 6007 and 5971 Lake Avenue (SBL# 152.15-1-16) from I-1 to R-3, for the purpose of creating a usable parcel; and be it further

**RESOLVED**, that a copy of the metes, bounds and surveyor’s map for this property is on file in the Town Clerk’s office, and be it further

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

**The resolution was unanimously adopted.**

**New Business #8 Approve a Site Plan & Building Permit for 6131 Newton Road**

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

**RESOLVED**, that the Town Board is hereby authorized to approve the request with regard to 6131 Newton Road, located on the north side of Newton Road, near Burton Road, Zoned A-1. (SBL#184.00-4-13.121) “Holy Face Chapel”, the Town Board approves the presented Site Plan and authorizes a Building Permit, to construct a 2,300 sq. ft. Retreat Center, per the plan received on 2/10/22, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR Action, based on the Short EAF submitted on 11/12/21, and a Negative Declaration is made.
3. 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.
4. No outside storage or display is permitted.
5. An updated Landscape Plan, received 1/12/22, meets all Green Space regulations with 300 Sq. Ft.-Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$2,650 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$1,325) Conservation Board approval was granted on 10/05/2021.
6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. Town Engineering approval was granted on 2/10/22.

**The resolution was unanimously adopted.**

**New Business #9 Approve a “Change in Use” for 6145 West Quaker Street**

15) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER HONER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER LIBERTI, TO WIT:

**RESOLVED**, that the Town Board is hereby authorized to approve the request regarding 6145 West Quaker Street, located on the south side of West Quaker Street, East of Thorn Avenue, Zoned B-2, for a “Change in Use” from Garage repair shop to Kitchen Showroom and Sales floor as recommended by the Planning Board with the following stipulation: this is a Type II SEQR Action and therefore no determination of significance is required.

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

Barb Ruestow spoke of her displeasure regarding having to deposit her Town/County Tax payment in a night deposit box instead of paying a person. She also stated she is against the sale and consumption of marijuana in Orchard Park.

**ELECTED OFFICIALS & DEPARTMENT MANAGERS**

Supervisor Majchrzak addressed the issue of the Town Clerk’s office doors being closed during the collection of Town/County taxes.

Councilmember Flynn informed the public of an opportunity to meet with him and Councilmember Mombrea on March 26, 2022 at 9AM at Spot Coffee. The discussion will cover working families. He also spoke of grants that Orchard Park was awarded.

Councilmember Honer addressed the issue of the Town Clerk’s office doors being closed during tax collection.

Councilmember Mombrea stated she and Councilmember Flynn will be at Spot Coffee for a meeting with the Town’s residents regarding working families. This will take place on March 26, 2022 at 9:00AM.

Chief of Police Fitzgerald congratulated Officer Wheeler, Officer Kowalski and Officer Star on their accomplishments.

Deputy Town Clerk Jennifer Brady thanked the Chief of Police for stationing Officer Lazarz in the Town Clerk’s Office for the last day of Tax collection. Her presence made the day go smoothly.

Highway Superintendent Andrew Slotman advised residents of a new website “youdig.ny” to contact before digging in your yard. They will help identify buried utility lines.

10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR 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 # 4 following auditing by members of the Town Board and in the funds indicated:



|                           |              |
|---------------------------|--------------|
| <b>General Fund</b>       | \$108,832.31 |
| <b>Public Safety Fund</b> | \$12,747.85  |
| <b>Part Town Fund</b>     | \$173.16     |
| <b>Risk Retention</b>     | -0-          |
| <b>Cemetery Fund</b>      | -0-          |
| <b>Highway Fund</b>       | \$56,961.50  |
| <b>Special Districts</b>  | \$66,623.02  |
| <b>Trust &amp; Agency</b> | \$256.15     |
| <b>Capital Fund</b>       | \$92,231.60  |

**The resolution was unanimously adopted.**

**COMMUNICATIONS**

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

**RESOLVED**, that the Town Board does hereby received and file: The 2022 Conservation Tree & Shrub Seedling Program information.

**The resolution was unanimously adopted.**

**REPORTS**

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

**RESOLVED**, that the Town Board does hereby received and file the January 2022 Building Inspector's Monthly Report.

**The resolution was unanimously adopted.**

There being no further business, on a motion by Supervisor Majchrzak, seconded by Councilmember Flynn, the meeting adjourned at 7:30pm (local time).

**Respectfully Submitted,**

**Jennifer Brady  
Deputy Town Clerk**