

Minutes  
Village of Orchard Park  
Board of Trustees

The regular meeting of the Board of Trustees of the Village of Orchard Park was held on Monday, August 9, 2021 in the Municipal Center, 4295 South Buffalo Street, Orchard Park, New York. Mayor Clinton called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Members present:

Mayor Jo Ann Litwin Clinton  
Deputy Mayor Matthew J. Hartung  
Trustee Francis T. Hogenkamp  
Trustee James C. Cosgrove  
Trustee Lauren A. Kaczor

Others present:

Clerk-Treasurer Mary Beth Jensen  
Manager of Public Works Wittmeyer  
Attorney Philip M. Marshall  
Code Enforcement Officer John Gullo

Mayor Clinton made the following announcement:

“Fire exits are located at the rear in the Board Room and at the doorway to the lobby. In the event of a fire, you will be notified by announcement on the public address system. If notified, please move in a calm and orderly fashion to the nearest exit.”

A public hearing was scheduled and advertised for this time to allow public comment on a local law opting out of licensing and establishing retail cannabis dispensaries and/or on-site cannabis consumption establishments within the Village of Orchard Park.

Mayor Clinton opened the hearing at 7:01 p.m.

Attorney Marshall gave an overview of the subject:

- Amendment to NYS Penal Law
  - Law allows anyone over 21 to ingest/smoke, possess, give it to someone without charging them for it, and even grow marijuana
- NYS Marijuana Regulations and Taxation Act
  - NYS created 2 new agencies: Control Board and Office of Cannabis Management to control sale and use of Cannabis.
- Municipalities have an option until the end of 2021 to opt out of the Cannabis Shops within their borders.
  - If the municipality passes a local law to opt out, the public can demand a permissive referendum by filing a petition and demand a vote.
  - If the municipality does allow Cannabis Dispensaries, they must be 500’ from any school and 200’ from houses of worship.
- Local share of tax revenue is 4%, of which 1% goes to the County, 1-1/2% goes to the Town and 1-1/2% to the Village.

Questions:

- Definition of Place of Worship?
  - NYS will need to define
- Are daycare facilities considered school grounds?
  - NYS will need to define
- How much marijuana is one person allowed to have?
  - Currently the law allows a person to possess
    - 3 ounces of marijuana
    - 24 grams of concentrated marijuana

Mayor Clinton asked three times for supporting comments on Cannabis sales. There were none.

Mayor Clinton asked three times for opposing comments of Cannabis sales.

Comments were heard from:

- Al Pustulka (6033-1 Quaker Hollow Ln, OP)
- Paul Chernogorec (6194 Boston Ridge Rd, OP)
- Myrna Woodard (6627 E Quaker St, OP)

Among the comments were:

- Opening a can of worms for Police Officers
- Concern that older kids will buy for younger kids
- Increase in crime
- Bad effects of smoking marijuana
- As a citizen doesn't want to see it or smell it
- Confusing message – have been telling kids that drugs are bad
- Will change the character of the Village

Moved by Trustee Kaczor, seconded by Trustee Hogenkamp that the following local law be adopted pursuant to Cannabis Law § 131, opting out of licensing and establishing retail cannabis dispensaries and/or on-site cannabis consumption establishments within the Village of Orchard Park.

### **Section 1. Legislative Intent**

It is the intent of this local law to opt the Village of Orchard Park out of hosting retail cannabis dispensaries and/or on-site cannabis consumption establishments within its boundaries.

### **Section 2. Authority**

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments to locate and operate within their boundaries.

### **Section 3. Local Cannabis Retail Dispensary and/or On-Site Consumption Opt-Out**

The Board of Trustees of the Village of Orchard Park, County of Erie, hereby opts-out of licensing and establishing cannabis retail dispensaries and/or cannabis on-site consumption establishments within its boundaries.

### **Section 4. Severability**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

### **Section 5. Effective date**

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum

and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Hogenkamp to accept the minutes of July 12, 2021 as presented.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Hartung that the vouchers numbering 4137 to 4180 in Batches #112-117 of fiscal year 2021-2022 in the amount of \$115,209.80 be paid as presented.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Comments from the floor of items not on the agenda.

· Paul Chernogorec (6194 Boston Ridge Rd, OP) commented that South Buffalo St is in horrible condition, can it be fixed?

Mayor Clinton and Trustee Hartung responded that they have been in communication with State Officials and are hoping that it will be redone in the next 2 years.

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that the reports of the Village Justice, Water Department and Treasurer for the month of July be received and filed.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

- Code Enforcement Officer John Gullo had nothing to report.
- Manager of Public Works Wittmeyer had nothing to report.
- Trustee Kaczor thanked everyone who came to Quaker Days.
- Deputy Mayor Hartung thanked the Village Office staff, DPW and Village Board members for their efforts in making Quaker Days a great week.
- Trustee Hogenkamp reported that the Train Depot renovations are almost completed. He also reported on the Interfaith Service that kicked off Quaker Days. The 5 local clergy who participated would like to make it an annual event.

- Trustee Cosgrove echoed the previous comments on the efforts of the Village departments during Summer in the Park events.
- Attorney Marshall had nothing to report.
- Clerk Treasurer Jensen had nothing to report.
- Mayor Clinton had nothing to report.

Moved by Trustee Cosgrove, seconded by Trustee Kaczor that

WHEREAS, pursuant to General Municipal Law Article 17, petitions were presented to the Village Board of the Village of Orchard Park, New York on May 17, 2021, for the annexation of certain territories in the Town to the Village of Orchard Park, New York. Said territories being described in said petitions as Exhibit "A" for parcels:

- 173.13-1-9
- 173.13-1-4
- 173.13-1-14
- 173.13-1-15.22 (formerly referred to as 173.13-1-15.2)
- 173.13-1-13
- 173.13-1-5
- 173.13-1-6
- 173.13-1-7
- 172.20-1-20
- 172.20-1-21
- 172.20-1-23
- 173.13-1-1.1, and

WHEREAS, a joint hearing of the Village Board of the Village and the Town Board of the Town of Orchard Park, was duly held on said petitions for annexation, according to the law in such cases made and provided, at the Municipal Building on July 12, 2021 at which time all parties interested in the matter were heard and all objections presented, and

WHEREAS, the Village Board of the Village has duly considered said petitions and the evidence presented at said hearing,

NOW THEREFORE, BE IT RESOLVED that the Village Board of the Village finds as follows:

1. That the aforesaid petitions for annexation substantially comply in form and content with General Municipal Law Article 17.
2. That the proposed annexation of certain territories in the Town to the Village as described in the aforesaid petitions is in the overall public interest.

NOW, THEREFORE, IT IS ORDERED that the consent and approval of the Village Board is hereby given to the annexation of the territories referenced above and described in aforesaid petitions, now situated in the Town to the Village.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
                          Trustee Hogenkamp  
                          Trustee Hartung  
                          Trustee Cosgrove  
                          Trustee Kaczor

Moved by Trustee Hogenkamp, seconded by Trustee Cosgrove that a public hearing be scheduled and advertised for September 13, 2021 for the purpose of hearing public input for the use of the 2022 Community Development Block Grant funds in the Village of Orchard Park.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that Manager of Public Works Wittmeyer be authorized to purchase a 2022 Kenworth T370 cab and chassis from Kenworth Northeast Group for \$87,325 and a 10' dump from Valley Fab & Equipment for \$24,350, piggybacking off of a bid from Onondaga. The amount will to be expended from the Reserve for Equipment, not to exceed \$112,000, is subject to permissive referendum.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Kaczor, seconded by Trustee Hartung that Manager of Public Works Wittmeyer be authorized to purchase a 2022 Chevrolet Silverado 2500HD 4WD Regular Cab 142" Work Truck from Cappellino Chevrolet, with a base price of \$38,100; total price of \$40,887.50 including add-ons and discounts; priced through the NYS OGS Bid Contract. The amount to be expended from the Reserve for Equipment, not to exceed \$41,000, is subject to permissive referendum.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Cosgrove, seconded by Trustee Kaczor authorizing Mayor Clinton to sign a Special Events Contract with Emily Metzger for a private wedding celebration at the Train Depot.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hogenkamp, seconded by Trustee Cosgrove that Clerk Treasurer Jensen be authorized to pay all vouchers submitted prior to month end, after review by Deputy Mayor Hartung or Mayor Clinton.

On the question: voting "Aye"                      voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Kaczor that the West Highland Pole Barn Project be awarded to DL Construction Supply LLC with a base bid of \$169,453.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried  
Trustee Hogenkamp

Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

The next regular meeting is scheduled for September 13, 2021.

Moved by Trustee Hartung, seconded by Trustee Hogenkamp to adjourn at 7:30 p.m.

On the question: 4 voting "Aye"                      0 voting "Nay"                      Carried

Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Respectfully submitted,  
Mary Beth Jensen, Village Clerk-Treasurer