

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, May 23, 2022 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 Lauren A. Kaczor
Trustee Dale T. Pyne

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 hear public comment on the MS4 Annual Report. It was available for review in the Village Office for prior review. Mayor Clinton opened the Public Hearing at 7:02 p.m.

Mayor Clinton asked three times for favorable comments. There were none.
Mayor Clinton asked three times for comments in opposition. There were none.

Moved by Trustee Hartung seconded by Trustee Hogenkamp that the Public Hearing be closed at 7:03 p.m.

On the question:	4 voting “Aye”	0 voting “Nay”	Carried
	Trustee Hogenkamp		
	Trustee Hartung		
	Trustee Kaczor		
	Trustee Pyne		

Moved by Trustee Hogenkamp, seconded by Trustee Pyne that the MS4 Annual Report be filed as presented.

On the question:	4 voting “Aye”	0 voting “Nay”	Carried
	Trustee Hogenkamp		
	Trustee Hartung		
	Trustee Kaczor		
	Trustee Pyne		

A public hearing was scheduled and advertised for this time to hear public comment on a proposed Local Law adding Chapter 97 of the Municipal Code of the Village of Orchard Park, entitled “Point-of-Sale – Vacant and Abandoned residential Real Property”.

Mayor Clinton opened the Public Hearing at 7:03 p.m., explaining that this will allow the Village more latitude in inspecting vacant and abandoned properties. A copy was available on the railing.

Mayor Clinton asked three times for favorable comments. There were none.
Mayor Clinton asked three times for comments in opposition. There were none.

Moved by Trustee Pyne seconded by Trustee Kaczor that the Public Hearing be closed at 7:04 p.m.

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

Moved by Trustee Kaczor, seconded by Trustee Hartung that the following Local Law of 2022 be adopted, adding Chapter 97 to the Village of Orchard Park Code entitled "Point-of-Sale Inspections - Vacant and Abandoned Residential Real Property" as follows:

§97-1 Purpose.

The Village of Orchard Park has determined that it is in the interest of protecting the public health, safety and welfare to maintain, preserve and improve residential housing by requiring point of sale inspection of all vacant and abandoned residential property as a condition of the sale of housing.

§97-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MORTGAGEE

Mortgagee means the holder of a mortgage and/or note secured by residential real property, including, as applicable, the original lender under a mortgage, its successors and assigns, and the holders of credit instruments issued under a trust indenture, mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

RESIDENTIAL REAL PROPERTY

Residential real property shall mean real property located within the Village of Orchard Park improved by any building or structure that is or may be used, in whole or in part, as the home or residence of one or more persons, and shall include any building or structure used for both residential and commercial purposes.

VACANT AND ABANDONED RESIDENTIAL REAL PROPERTY

Vacant and abandoned residential real property shall be defined pursuant to section thirteen hundred nine of New York Real Property Actions and Proceedings Law or if such property was listed on the statewide vacant and abandoned property electronic registry pursuant to thirteen hundred ten of the New York Real Property Actions and Proceedings Law one (1) year prior to sale or transfer.

§97-3 Inspection officials.

The Village Code Enforcement Officials are hereby designated as officials to inspect any property subject to this chapter.

§97-4 Duty of owner or mortgagee or purchaser or transferee.

- A. No owner or agent or mortgagee of any vacant and abandoned residential real property shall sell, transfer or otherwise convey an interest or enter into an agreement to sell, transfer or otherwise convey an interest in such property, including by land installment contract or a transfer from a mortgagor to a mortgagee in lieu of foreclosure, or similar transaction, without first presenting the prospective purchaser or grantee with a copy of a point of sale inspection certificate issued by the Village of Orchard Park inspection officials.
- B. The owner, agent, or mortgagee shall arrange to have all properties subject to the requirements of this chapter inspected by Village of Orchard Park inspection officials within ten (10) business days of publication of the notice of judicial sale. For all other transfers, the owner, agent, or mortgagee shall arrange to have the property inspected by Village of Orchard Park inspection officials not more than thirty (30) days prior to transfer.
- C. In the event that the vacant and abandoned residential real property is sold or transferred or conveyed and no point of sale inspection certificate has been issued within thirty (30) days prior to such sale, the purchaser or transferee shall have the duty to apply in writing to the Village of Orchard Park Building Inspector/Code Enforcement Department within thirty (30) days of the date of sale or transfer for an inspection of the property and shall otherwise comply with the requirements of this Chapter.
- D. Where the purchaser or transferee has the duty to obtain the Point-of-Sale Inspection because the owner or agent or mortgagee failed to do so, any such building code or other violations subsequently found shall be the joint and several liability of the owner or agent or mortgagee or purchaser or transferee.
- E. If the owner or agent or mortgagee or purchaser or transferee fails to arrange for an inspection, the property shall be inspected by the inspection officials pursuant to Chapter 96 of the Village of Orchard Park Code.

§97-5 Fees.

- A. The fee charged for the Point-of-Sale Inspection Certificate shall be as set forth in Chapter A232, Fees.

§97-6 Point of Sale Inspection Certificates.

- A. Upon successful inspection, the Village of Orchard Park Inspection Officials will issue of Point-of-Sale Inspection Certificate indicating compliance with Building, Fire and Safety Codes. Such certificate will expire after a period of thirty (30) days.
- B. If, as a result of the inspection, the Inspection Officials determine that health code violations, housing code violations, hazards, or structural defects exist on the property, the Inspection Officials shall provide written notice either personally or by registered mail addressed to the address listed in the

application for the inspection, of the owner or agent or mortgagee or the purchaser or transferee, informing the parties of the following:

- (1) The need to repair and correct the violations, hazards, or structural defects prior to sale or transfer;
- (2) If the property is not brought into compliance within ninety (90) calendar days of the issuance of the notice of violation, the Village of Orchard Park may correct or repair some or all of the violations;
- (3) If the Village of Orchard Park corrects or repairs some or all of the violations, either with Village employees or outside contractors, the cost and expenses shall be assessed against the land on which the building or structure is located.
- (4) In addition to the cost or expense of such work ordered by the Inspection Officials, there shall be a fee of \$200 for administrative costs for each occurrence.

C. Waiver of Point-of-Sale Inspection. The Village of Orchard Park's Code Enforcement Official may temporarily waive the requirement of Point-of-Sale Inspection Certificate as a prerequisite to transfer of title, provided that, no later than ten (10) business days prior to the expected closing for such transfer or judicial sale:

- (1) The owner or agent or mortgagee makes a written request to the Village's Code Enforcement Officer and such request includes a written, itemized quote by a licensed contractor approved by the Village of Orchard Park, which provides for correction of all violations listed;
- (2) The purchaser or transferee file with the Village's Code Enforcement Officer a written guaranty to correct all violations within ninety (90) days after the closing or a period of time specified by the Village's Code Enforcement Officer;
- (3) The owner or agent or mortgagee or purchaser or transferee provides a sum equal to one hundred fifty percent (150%) of the estimated costs contained in the itemized quote above. Such sum shall be payable by certified check or bank draft to the Village of Orchard Park at closing and held in escrow by the Village of Orchard Park; such sum will be returned to the purchaser or transferee if the corrections are completed within the time specified in the guaranty, but which sum will be forfeited to the Village of Orchard Park if needed corrections are not completed within the time frame specified in the written guaranty.

D. Violations. The following types of violations are of particular concern to the Village of Orchard Park's vital interest in maintaining property values include, but are not limited to:

- (1) Exterior
 - a. Roof – chimney
 - b. Paint – all related carpentry repairs (house and/or garage)
 - c. Porch and step repair
 - d. Downspouts to storm sewers
 - e. Replacement of deteriorated windows and/or doors
 - f. Concrete replacement or major repair
 - g. Garage replacement or major repair

- h. Dead tree removal
- i. Fences

(2) Interior

- a. Major electrical repair
- b. Major plumbing repair
- c. HVAC
- d. Foundation – support post, block wall bowed or collapsed
- e. Major breach of ceilings, walls or floor
- f. Mold remediation

E. An owner or agent or mortgagee or purchaser or transferee aggrieved by a notice of violation may appeal from the action to the Village Board, which shall make a ruling on the appeal.

On the question: 4 voting “Aye” 0 voting “Nay” Carried
Trustee Hogenkamp
Trustee Hartung
Trustee Kaczor
Trustee Pyne

Moved by Trustee Kaczor, seconded by Trustee Hartung to accept the minutes of May 9, 2022 as presented.

On the question: 4 voting “Aye” 0 voting “Nay” Carried
Trustee Hogenkamp
Trustee Hartung
Trustee Kaczor
Trustee Pyne

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that the vouchers numbering 4646 to 4669 in Batches #148-149 of fiscal year 2021-2022 in the amount of \$58,929.13 be paid as presented.

On the question: 4 voting “Aye” 0 voting “Nay” Carried
Trustee Hogenkamp
Trustee Hartung
Trustee Kaczor
Trustee Pyne

Comments from the floor of items not on the agenda.

- Josh Repp (112 Thorn Ave) thanked the Village Board for hearing residents’ concerns regarding the School District’s Capital Project plans. He inquired if there was any new Engineering information.
 - Mayor Clinton responded that as the budget and project plans just passed a vote, there is no more information yet.

Reports:

- Code Enforcement Officer John Gullo thanked all who serve(d) the country.
- Manager of Public Works Wittmeyer reported that road projects will begin in June. Southshore and Hillside are scheduled to be ground June 6-7.
- Trustee Kaczor also thanked our Veterans and wished everyone a safe holiday.

- Deputy Mayor Hartung had nothing to report.
- Trustee Hogenkamp wished everyone a happy, healthy and safe Memorial Day.
- Trustee Pyne had nothing to report.
- Clerk Treasurer Jensen had nothing to report.
- Attorney Marshall had nothing to report.
- Mayor Clinton had nothing to report.

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that the following amendments be made to the Fee Schedule §A232-1:

Adding:

Chapter 97 – Point-of-Sale Inspections

Single-family dwelling	\$200.00
Two-family dwelling	\$300.00
Multi-family dwelling	
First dwelling unit	\$200.00
Additional unit (each)	\$ 50.00 each
Re-inspection	\$ 25.00 each

On the question: 4 voting “Aye” 0 voting “Nay” Carried
Trustee Hogenkamp
Trustee Hartung
Trustee Kaczor
Trustee Pyne

Moved by Trustee Hogenkamp, seconded by Trustee Pyne that the following budget adjustments be authorized for the fiscal year 2021-2022:

Increase budget for:

General Bank Fees expense by	\$ 50.00
General Street Maintenance gas and oil expense by	\$ 50.00
General Hospitalization expense by	\$ 1,100.00
General Clerk Fees revenue by	\$ 1,200.00
Water Fund Hospitalization expense by	\$ 360.00
Water Source of Supply expense by	\$10,010.00
Water Transmission Electric expense by	\$ 30.00
Metered Water Service Charge revenues by	\$ 1,700.00
Other Unclassified Water revenues by	\$ 5,300.00

Decrease budget for:

Water Contingency by	\$ 3,400.00
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On the question: 4 voting “Aye” 0 voting “Nay” Carried
Trustee Hogenkamp
Trustee Hartung
Trustee Kaczor
Trustee Pyne

Moved by Trustee Pyne, seconded by Trustee Kaczor that Mayor Clinton be authorized to sign special events contracts with

- The Orchard Park VFW and American Legion to organize a parade on Village streets May 30, 2022 beginning at 9:00 am.
- The Orchard Park Lions Club to organize a Car Show on July 30, 2022, parading from the Orchard Park High School parking lot at 11:00 am and setting up on N. Buffalo Street until 5:00 pm.

- Nativity of Our Lord to organize a Chase the Sun 5k Run on Village Streets on June 17, 2022 beginning at 5:30 pm.

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

Mayor Clinton made the following appointment:

• Scott Shular as an alternate member of the ZBA - a 1 year appointment
Moved by Trustee Kaczor, seconded by Trustee Hogenkamp that the Mayor's appointment be approved.

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

Moved by Trustee Hogenkamp, seconded by Trustee Pyne that a public hearing be scheduled and advertised for June 13, 2022 at 7:00 pm to hear public comment on a proposed Local Law amending the Village of Orchard Park Municipal Code Chapter 187 entitled, "Streets and Sidewalks", Article 1, "Excavations".

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

The next regular meeting is scheduled for June 13, 2022.

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

Respectfully submitted,
Mary Beth Jensen, Village Clerk-Treasurer