

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, January 9, 2023 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 Kaczor Rodo
Trustee Dale T. Pyne

Others present:

Clerk-Treasurer Mary Beth Jensen
Manager of Public Works Wittmeyer

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 a special use application by Frank Muggia to establish a short-term rental establishment at 27 Clark Street.

Mayor Clinton opened the hearing at 7:00 and asked for a representative of the petitioner to give an explanation of the request.

- Mr. Muggia explained that
 - he and his wife purchased the property at 27 Clark Street with the intention of it being a future home for one of their children or themselves.
 - they have made improvements to the property, both inside and outside.
 - would like the option of short term rental on occasion when a family member or long term renter is not there.
 - they have studied short term rentals and established fundamental rules.
 - they currently live in the area and frequently stop by to check up on the property.
 - they feel there is a need for such rental properties in Orchard Park.

As there were no questions from the Village Board, Mayor Clinton asked three times for comments in support of the petition:

- Laura Lisitsky (23 Clark St) spoke neutrally. She is concerned with the Special Use as there was an incident, but she feels more comfortable now that she can contact the Muggias.
- Mayor Clinton asked that letters of support be added to the record from:
 - Joe and Debbi Filipski (169 Fox Meadow Lane) and
 - Gerard Cappelli (Cappelli’s Pizzeria / 3643 N Buffalo St)
 - Scott and Suzanne Farrell (109 Forest Dr)

- Steve and Deb Snyder (93 Potter Ave)

Mayor Clinton asks 3 times for comments in opposition of the Special Use request:

- Scott and Melissa Rybarczyk (31 Clark St)
 - passed out a copy (attached) of their response to the Village Board
 - including a petition signed by neighbors asking that the Special Use approval be denied as the signers feel the use is not compatible with the neighborhood.
 - They spoke on their concerns which included the short-term renters on October 29-30, 2022, does the Special Use stay with the property when it changes ownership, and the impact on the value of neighborhood properties.
- Nora Saintz (47 Clark St)

Moved by Trustee Kaczor Rodo, seconded by Trustee Hartung to close the hearing at 7: p.m.

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

Mayor Clinton acknowledged the resident concerns regarding the previous tenants and stated that future concerns should be addressed immediately with the proper authority, whether it be the Village Building Inspector or the Orchard Park Police.

Moved by Trustee Hartung, seconded by Trustee Hogenkamp to approve the Special Use request by Frank Muggia to establish a short-term rental at 27 Clark Street for 12 months, at which time the request will need to be re-evaluated by the Village Board to determine if there are any concerns.

A public hearing was scheduled and advertised for this time to hear public comment on amending the Village of Orchard Park Municipal Code, Chapter 225, "Zoning".

Mayor Clinton opened the public hearing and briefly explained that the amendment is to zone parcels recently annexed into the Village; 2 parking lots on Jewett Holmwood Rd.

Mayor Clinton asked three times for comments of support on the Code amendment.

Mayor Clinton asked three times for comments in opposition of the Code amendment.

Moved by Trustee Hogenkamp, seconded by Trustee Pyne to close the hearing at 7: p.m.

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

Trustee Hartung
Trustee Kaczor Rodo
Trustee Pyne

Moved by Trustee Pyne, seconded by Trustee Kaczor Rodo to adopt the following Local Law Amending Chapter 225 of the Code of the Village of Orchard Park:

Whereas, Local Law #7 of the year 2022 annexed certain territories from the Town of Orchard Park to the Village of Orchard Park, and

Whereas, the Zoning Map of the Village of Orchard Park Municipal Code Chapter 225-7 does not encompass the annexed territories referenced in Local Law 7 of the year 2022;

Now therefore, be it resolved that the Zoning Map of the Village of Orchard Park is hereby amended to encompass the territories referenced in Local Law #7 of the year 2022 and that said territories shall be zoned B-2.

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

Moved by Trustee _____, seconded by Trustee _____ to accept the minutes of December 12, 2022 as presented.

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

Moved by Trustee Hartung, seconded by Trustee _____ that the vouchers numbering 6129 to 6167 in Batch #172 and 173 of fiscal year 2022-2023 in the amount of \$307,119.00 be paid as presented.

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

Comments from the floor of items not on the agenda.

Moved by Trustee _____, seconded by Trustee _____ that the reports of the Village Justice, Associate Village Justice, Water Department and Treasurer for the month of December and the reports of the Associate Village Justice for October and November be received and filed.

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

Trustee Hartung
Trustee Kaczor Rodo
Trustee Pyne

- Manager of Public Works Wittmeyer
- Trustee Kaczor Rodo
- Deputy Mayor Hartung
- Trustee Hogenkamp
- Trustee Pyne
- Clerk Treasurer Jensen
- Mayor Clinton

Moved by Trustee Kaczor Rodo, seconded by Trustee Hartung that

WHEREAS, the New York State Department of Transportation under the project identified as PMI NY ROUTE 240/277 (S.H.1665, S.H. 272, S.H. 66, S.H. 67, S.H.9215); US ROUTE 20A (S.H.1586, S.H. 1066); BIN 1016060, 1016070; TOWN/VILLAGE OF ORCHARD PARK, ERIE COUNTY; PIN 5814.39, D264946; which is a project to include new pavement surface on NY 240/277 and US 20A (also known as Quaker improvements, curb ramp upgrades, left and right turn lane additions, cleaning existing drainage systems, traffic signal and sign upgrades, and bridge improvements in the Town and Village of Orchard Park;

WHEREAS, the Orchard Park Village Board of Trustees has concurred with the design of replacement of water valves at requested locations and the plans and specifications have been prepared and hereby referred to as municipal work;

WHEREAS, the Orchard Park Village Board of Trustees approves the plans of this municipal work and desires to have this work included with the State project; and

WHEREAS, the State of New York has estimated the cost of the municipal work and has agreed to include this municipal work with the State project identified above and described in Schedule A, provided the Village of Orchard Park Board of Trustees agrees to pay the cost of such Betterments;

NOW, THEREFORE the Orchard Park Village Board of Trustees duly convened and does hereby:

- 1) RESOLVE that the Orchard Park Village Board of Trustees does approve the cost estimate of its project to be performed by the State; and it is hereby
- 2) RESOLVED that the Orchard Park Village Board of Trustees shall maintain or cause to be maintained such highway betterments; and it is hereby further
- 3) RESOLVED that the Orchard Park Village Board of Trustees will deposit with the State Comptroller in a project escrow account the full amount of the estimate for the cost of the Betterment as described in Schedule A of the Agreement for payments by the State Comptroller for the Municipal work prior to contract letting. The Municipality will also deposit with the State Comptroller in a project escrow account the full

amount of the contract bid price for the cost of the Betterment (less any amounts already deposited for purposes thereof) for payments by the Comptroller on account of Project costs within 10 days after the lowest-bidder or best-value proposer eligible for award has been identified; and it is

- 4) RESOLVED that in the event the cost exceeds the amount of the deposit the Orchard Park Village Board of Trustees shall within 90 days of the receipt of notice from the Commissioner pay the amount of such deficiency to the State Comptroller; and any excess of the deposit shall be paid to the Municipality on the warrant of the State Comptroller on vouchers approved by the Commissioner after project close out; and
- 5) RESOLVE that the Orchard Park Village Board of Trustees hereby authorizes Mayor Jo Ann Litwin Clinton to enter into an agreement with the State of New York and through the Commissioner of Transportation to commit the Orchard Park Village Board of Trustees to maintain at its own expense the Betterments on the above-identified project; and that such agreement provides that maintenance shall include the repair and replacement of equipments and the operation of such Betterments; and
- 6) BE IT FURTHER RESOLVED; that Mayor Jo Ann Litwin Clinton has the authority to sign, with the concurrence of the Orchard Park Village Board of Trustees, any and all documentation that may become necessary as a result of this project as it relates to the Village of Orchard Park, and
- 7) BE IT FURTHER RESOLVED that the Clerk of the Village of Orchard Park is hereby directed to transmit four (4) certified copies of the foregoing resolution to the State Department of Transportation addressed through:

Ronald Rolling, P.E.
Regional Utility Engineer
New York State Department of Transportation
100 Seneca Street
Buffalo, New York 14203

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

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that

WHEREAS, the New York State Department of Transportation proposes the construction, reconstruction, or improvement of NY 240/277 and US 20A in the Village of Orchard Park located in the County of Erie, Pin #5814.39, D264946, and

WHEREAS, the State will include as part of the construction, reconstruction, or improvement of the above-mentioned project the adjustment of valve box elevations pursuant to Section 10, Subdivision 24 of the State Highway law, as shown on the contract plans relating to the project and meeting requirements of the owner, and

WHEREAS, the service life of the relocated and or replaced utilities has not been extended, and

WHEREAS, the State will provide for the reconstruction of the above-mentioned work, as shown on the contract plans relating to the above-mentioned project.

NOW, THEREFORE, BE IT RESOLVED: That the Village of Orchard Park approves of the adjustment of valve box elevations and the above-mentioned work performed on the project and shown on the contract plans relating to the project and that the Village of Orchard Park will maintain or cause to be maintained the adjusted facilities performed as above stated and as shown on the contract plans.

BE IT FURTHER RESOLVED; that Mayor Jo Ann Litwin Clinton has the authority to sign, with the concurrence of the Orchard Park Village Board of Trustees, any and all documentation that may become necessary as a result of this project as it relates to the Village of Orchard Park, and

BE IT FURTHER RESOLVED: That the Clerk of the Village of Orchard Park is hereby directed to transmit four (4) copies of the foregoing resolution to the New York State Department of Transportation.

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

Moved by Trustee Hogenkamp, seconded by Trustee Pyne that a Capital Project be established for Valve Replacements as part of the NYSDOT 20A and 240/277 Road Project; and that a project budget be established for 231,000, funded by \$31,000 from the Water Fund and \$200,000 from the Water Reserve.

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

Moved by Trustee Pyne, seconded by Trustee Kaczor Rodo that a public hearing be scheduled and advertised for January 23, 2023 at 7:00 p.m. to hear public comment on a Special Use Application by Cambria Property Group LLC to establish a short-term rental at 6332 West Quaker Street (SBL 161.20-2-27.1).

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Hartung that a public hearing be scheduled and advertised for February 13, 2023 at 7:00 p.m. to hear public comment on amending the Orchard Park Village code to enact a Property Tax Exemption for Volunteer Firefighters and Ambulance Workers.

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

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that Mayor Litwin Clinton be authorized on behalf of the Village of Orchard Park to enter into the Settlement Agreement attached hereto in the Matter of Gorman et al vs Orchard Park School District, the Orchard Park Board of Education and the Village of Orchard Park

[Index808354/2022], and that the Village Attorney be authorized to enter into a Stipulation of Discontinuance of the above referenced action.

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

Moved by Trustee Hogenkamp, seconded by Trustee Pyne that the Village Election is scheduled for Tuesday, March 21 to elect two Village Trustees and one Village Justice each for a four (4) year term; and one Village Trustee for a two (2) year term. The election will take place at the Orchard Park Municipal Building, 4295 South Buffalo Street, from the hours of 12:00 noon to 9:00 p.m.

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

Moved by Trustee Pyne, seconded by Trustee Kaczor Rodo to authorize Mayor Litwin Clinton and Clerk Jensen to attend 2 NYCOM Workshops on January 26 and 27, 2023 in Olean, NY. All expenses incidental to the workshops to be paid by the Village.

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Hartung that Mayor Clinton be authorized to sign an Special Events Contract with St John's Lutheran Church to organize a Frozen Chosen 5k on Village streets February 11, 2023.

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

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that 4 inactive water accounts comprising a net total of -\$6.81 be adjusted and closed on the Village books.

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

The next regular meeting is scheduled for January 23, 2023.

Moved by Trustee , seconded by Trustee to adjourn.
On the question: voting "Aye" voting "Nay" Carried
Trustee Hogenkamp

Trustee Hartung
Trustee Kaczor Rodo
Trustee Pyne

Respectfully submitted,
Mary Beth Jensen, Village Clerk-Treasurer