

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 14, 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 Lauren Kaczor Rodo
Trustee Dale T. Pyne
Trustee David N. Even

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 proposed Local Law #14 of 2023.

Mayor Clinton opened the public hearing at 7:00 p.m.

Mayor Clinton asked 3 times for comments in favor of the amendments. There were none.

Mayor Clinton asked 3 times for comments opposing the amendments. There were none.

Moved by Trustee Pyne, seconded by Trustee Even to close the public hearing at 7:02 p.m.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that proposed Local Law #14 of 2023 be approved as follows:

SECTION I Adding to §225-5 Definitions:

FENCE

A tangible barrier or obstruction of any material, or a line of obstacles above the surface of the ground, interposed along a line between two portions of land with the purpose or intent or having the effect of preventing passage of view across the fence line. A fence may include hedges and walls

SECTION II Amend definition of YARD, SIDE, to read:

YARD, SIDE

A yard situated between the building and the side line of the lot and extending from the front yard to the rear yard, except that on a corner lot where the side lot line abuts a street. Any lot line not a rear line or a front line shall be deemed a side line.

A. EXTERIOR SIDE YARD

A "side yard" extending along a street line.

B. INTERIOR SIDE YARD

A "side yard" extending along a lot line of an adjoining lot.

SECTION III Amend §225-11(C)(1)(a) to read:

Wall, hedge or fence not over four feet high in any side yard. Front and exterior side yard fences shall not be allowed.

SECTION IV Amend §225-11(C)(1)(b) to read:

Wall or fence not over six feet high in any rear yard.

SECTION V Effective date:

This local law shall take effect immediately upon filing with the Secretary of State.

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

Moved by Trustee Kaczor, seconded by Trustee Hartung to accept the minutes of July 10, 2023 as presented.

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

Moved by Trustee Hartung, seconded by Trustee Kaczor Rodo that voucher number 6491 in Batch #191 in the amount of \$32.25; vouchers numbering 6492 to 6514 in Batch #192 in the amount of \$17,266.83; vouchers numbering 6515 to 6517 in Batch #193 in the amount of \$5,746.50; and vouchers numbering 6518 to 6544 in Batch #194 in the amount of \$132,309.72 of fiscal year 2023-2024 be paid as presented.

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

There were no comments from the floor of items not on the agenda.

Moved by Trustee Hartung, seconded by Trustee Kaczor Rodo that the reports of the Village Justice, Associate Village Justice, Water Department and Treasurer for the month

of July 2023 and the reports of the Associate Village Justice for May and June 2023 be received and filed.

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

- Code Enforcement Officer John Gullo had nothing to report.
- Manager of Public Works Wittmeyer had nothing to report.
- Trustee Kaczor Rodo thanked the sponsors and attendees of the Quaker Days events.
- Deputy Mayor Hartung thanked the DPW and Office Staff for their efforts during the Summer in the Park events.
- Trustee Pyne had nothing to report.
- Trustee Even had nothing to report.
- Clerk Treasurer Jensen had nothing to report.
- Attorney Marshall had nothing to report.
- Mayor Clinton reported that the Quaker Days events were great and there are more events being planned: Boutique Crawl on 8/25 and a Halloween Celebration on October 28.

The Village Board had planned to act on the Special Use application submitted by Cork and Vine, but the application was not yet signed by the property owner. This agenda item was tabled.

Moved by Trustee Hartung, seconded by Trustee Pyne that a public hearing be scheduled and advertised for September 11, 2023 at 6:00 pm for the purpose of hearing public input for the use of Community Development Block Grant funds in the Village of Orchard Park.

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

Moved by Trustee Pyne, seconded by Trustee Even that a public hearing be scheduled and advertised for September 11, 2023 at 6:00 pm for the purpose of hearing public comment on a proposed local law amending the Village Code regarding public consumption of alcohol.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that a public hearing be scheduled and advertised for September 11, 2023 at 6:00 pm for the purpose of

hearing public comment on a proposed local law amending the Village Code section entitled, Cannabis.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that

WHEREAS, the New York State Climate Smart Communities (CSC) Program was created to provide local governments with guidance on how to improve environmental stewardship, save taxpayer dollars and advance community goals for long term community health, safety, economic vitality, resiliency and quality of life; and

WHEREAS, the State makes available grant funding for projects to increase natural resiliency to future risks like floods, improve emergency preparedness and response systems, and increase the resiliency of critical infrastructure through the Climate Smart Communities Grant Program; and

WHEREAS, climate Smart Communities receive an advantage over non-participating communities during the Climate Smart Grant scoring process; and

WHEREAS, CSC certification requires adopting a non-binding resolution which includes the specific ten-point pledge developed by the State, and appointment of a Climate Smart Coordinator; and

WHEREAS, the Board of Trustees of the Village of Orchard Park believes it in the best interests of the Village to become a Certified Climate Smart Community and to adopt the CSC pledge; and

WHEREAS, adopting the CSC pledge does not obligate or bind the Village to take any specific action and participation in the CSC Program is voluntary and without cost to the Village;

NOW, THEREFORE, BE IT RESOLVED, that the Village of Orchard Park adopts the NYS Climate Smart Communities Pledge, which comprises the following ten elements:

1. Build a Climate-Smart Community.
2. Inventory emissions, set goals, and plan for climate action.
3. Decrease energy use.
4. Shift to clean, renewable energy.
5. Use climate-smart materials management.
6. Implement climate-smart land use.
7. Enhance community resilience to climate change.
8. Support a green innovation economy.
9. Inform and inspire the public.
10. Engage in an evolving process of climate action.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that

WHEREAS, buildings are the single largest user of energy in the State of New York. The poorest performing buildings typically use several times the energy of the highest performing buildings—for the exact same building use; and

WHEREAS, collecting, reporting, and sharing building energy data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide, and equipped with this information the Village of Orchard Park is able to make smarter, more cost-effective operational and capital investment decisions, reward efficiency, and drive widespread, continuous improvement; and

WHEREAS, the Orchard Park Village Board of Trustees desires to use Building Energy Benchmarking - a process of measuring a building's energy use, tracking that use over time, and comparing performance to similar buildings - to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the Village; and

WHEREAS, the Orchard Park Village Board of Trustees desires to establish a procedure or guideline for Village staff to conduct such Building Energy Benchmarking; and

NOW THEREFORE, IT IS HEREBY RESOLVED AND DETERMINED, that the following specific policies and procedures are hereby adopted;

BUILDING ENERGY BENCHMARKING POLICY/PROCEDURES

§1. DEFINITIONS

- (A) "Benchmarking Information" shall mean information generated by Portfolio Manager, as herein defined including descriptive information about the physical building and its operational characteristics.
- (B) "Building Energy Benchmarking" shall mean the process of measuring a building's Energy use, tracking that use over time, and comparing performance to similar buildings.
- (C) "Commissioner" shall mean the head of the Department.
- (D) "Covered Municipal Building" shall mean a building or facility that is owned or occupied by the Village of Orchard Park that is 1,000 square feet or larger in size.
- (E) "Department" shall mean the Office of the Village Clerk.
- (F) "Energy" shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in Utility bills or other documentation of actual Energy use.
- (G) "Energy Performance Score" shall mean the numeric rating generated by Portfolio Manager that compares the Energy usage of the building to that of similar buildings.

(H) “Energy Use Intensity (EUI)” shall mean the kBtUs (1,000 British Thermal Units) used per square foot of gross floor area.

(I) “Gross Floor Area” shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

(J) “Portfolio Manager” shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or successor.

(K) “Utility” shall mean an entity that distributes and sells Energy to Covered Municipal Buildings.

(L) “Weather Normalized Site EUI” shall mean the amount of Energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

§2. APPLICABILITY

(A) This policy is applicable to all Covered Municipal Buildings as defined in Section 2 of this policy.

(B) The Commissioner may exempt a particular Covered Municipal Building from the benchmarking requirement if the Commissioner determines that it has characteristics that make benchmarking impractical.

§3. BENCHMARKING REQUIRED FOR COVERED MUNICIPAL BUILDINGS

(A) No later than September 1, 2023, and no later than September 1 every year thereafter, the Commissioner or his or her designee from the Department shall enter into Portfolio Manager the total Energy consumed by each Covered Municipal Building, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

(B) For new Covered Municipal Buildings that have not accumulated 12 months of Energy use data by the first applicable date following occupancy for inputting Energy use into Portfolio Manager, the Commissioner or his or her designee from the Department shall begin inputting data in the following year.

§4. DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION

(A) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(a) no later than October 1, 2023 and by October 1 of each year thereafter for Covered Municipal Buildings; and

(B) The Department shall make available to the public on the internet and update at least annually, the following Benchmarking Information:

(a) Summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information; and

(b) For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Policy; and

(ii) The building address, primary use type, and gross floor area; and

- (iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and
- (iv) A comparison of the annual summary statistics (as required by Section 4(B)(b)(iii) of this Policy) across calendar years for all years since annual reporting under this Policy has been required for said building.

§5. MAINTENANCE OF RECORDS

The Department shall maintain records as necessary for carrying out the purposes of this Policy, including but not limited to Energy bills and other documents received from tenants and/or Utilities. Such records shall be preserved by the Department for a period of three (3) years.

§6. ENFORCEMENT AND ADMINISTRATION

(A) The Commissioner or his or her designee from the Department shall be the Chief Enforcement Officer of this Policy.

(B) The Chief Enforcement Officer of this Policy may promulgate regulations necessary for the administration of the requirements of this Policy.

(C) Within thirty days after each anniversary date of the effective date of this Policy, the Chief Enforcement Officer shall submit a report to the Orchard Park Village Board of Trustees including but not limited to summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information, a list of all Covered Municipal Buildings identifying each Covered Municipal Building that the Commissioner determined to be exempt from the benchmarking requirement and the reason for the exemption, and the status of compliance with the requirements of this Policy.

§7. EFFECTIVE DATE

This policy shall be effective immediately upon passage.

§8. SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that the following be declared surplus and Manager of Public Works Wittmeyer be authorized to use his discretion to dispose of in a manner most beneficial to the Village:

- 2012 International Multibody Dump Truck and the 2009 International Dump Truck
- Z Corr Flow Metrix device

• Lenovo Think Pad

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

Moved by Trustee Hartung, seconded by Trustee Pyne that the following budget adjustments be authorized for fiscal year 2023-2024:

Increase budget for 2022 Storm Remediation by	\$5,000
Decrease budget for Natural Disasters by	\$5,000
Increase budget for Clothing Allowance by	\$ 184
Increase budget for General Interest Revenues by	\$ 184
Increase budget for Transfer from General to Water Reserve by	\$20,000

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Hartung that the joint meeting scheduled for August 16, 2023 be cancelled.

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

Moved by Trustee Hartung, seconded by Trustee Pyne that 2 (two) Department of Public Works employees be authorized to transport Village lamppost heads to MagniFlood, 7200 New Horizons Blvd., Amityville, NY for training and repairs to the lamppost heads. All expenses incidental to the training to be paid by the Village.

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

Moved by Trustee Pyne, seconded by Trustee Even 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: 4 voting "Aye" 0 voting "Nay" Carried
Trustee Hartung
Trustee Kaczor Rodo
Trustee Pyne
Trustee Even

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that Mayor Clinton be authorized to sign contracts for the following Special Events with:

- The Boutique Crawl, dba Indie Twenty to organized a Boutique Crawl on August 25, 2023 from 12:00 noon to 8:00 pm. Permission is contingent upon proper insurance submittals.
- St John’s Lutheran Church to organize a Back to School Bash on August 27, 2023 at 12:00 noon.
- Orchard Park High School Pep Club to organize a Homecoming Parade on September 30, 2023 beginning at 10:00 am.

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Even that J Brand Water Solutions be awarded the contract for the Westview Waterline Replacement Project with a bid of \$176,950.05. All necessary documents were submitted with their bid.

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

The next regular meeting is scheduled for September 11, 2023 at 6:00 p.m. All are encouraged to wear Buffalo Bills apparel.

Moved by Trustee Hartung, seconded by Trustee Kaczor Rodo to adjourn.

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

Respectfully submitted,
 Mary Beth Jensen, Village Clerk-Treasurer