

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, October 28, 2024 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:

Deputy Clerk-Treasurer Heather Tucciarone-Richeal
Manager of Public Works Emery Wittmeyer
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 a Special Use Application received by 4950 Chestnut Ridge LLC to erect a convenience store with gasoline sales at 4950 Chestnut Ridge Road. Before opening the hearing, Mayor Clinton clarified that this property was recently annexed into the Village from the Town and is not the property in litigation with the Town regarding a drive-thru.

Mayor Clinton opens the hearing at 7:04 p.m and asks for a representative of the petitioner to give an explanation of the request.

- John Capriotto (owner), explained that he’s requesting to build approximately a 4,000 square foot store with a beer cave, 4 gas pumps and potential rental space for a tenant. He stated that there is a 40 foot setback from the road and does not have any drive-thru service.

Mayor Clinton asks if any member of the Village Board has any questions.

- Deputy Mayor Hartung stated that his only question was regarding a drive-thru and Mr. Capriotto answered that already.

Mayor Clinton asks 3 times for comments in favor of the Special Use request. There were none.

Mayor Clinton asks 3 times for comments opposing the Special Use request:

- John Bihl (6435 Armor Duells Rd)
 - Spoke on his concern that he feels this will create a safety hazard because of the traffic.
 - Stated that a previous traffic study approximately 25 years ago found it would

be unsafe.

- He feels this is a safety issue for the citizens of Orchard Park.

- Kenneth Holmes (6447 Armor Duells Rd)

- Explained that he's been a resident for over 40 years and doesn't understand why the Village would want a store, Tim Horton's and gas station.
- He also referenced the previous traffic study many years ago and stated that there are a number of stores and gas stations available within a short drive from this location.
- Has a personal interest as well because his property is adjacent to the project site and has concerns with the additional traffic, fumes, noise and lights.

Mayor Clinton reiterated again that this is not the Tim Horton's project that has been rejected by the Town. She acknowledged that there is no gas outlet currently at the south end of the Village and feels this will help to alleviate traffic congestion entering the Village from that direction.

Moved by Trustee Kaczor Rodo, seconded by Trustee Even to close the hearing at 7:09 p.m.

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

Moved by Trustee Hartung, seconded by Trustee Pyne to approve the Special Use request by 4950 Chestnut Ridge LLC to build a convenience store with gasoline sales at 4950 Chestnut Ridge Road with the stipulation that it is granted to 4950 Chestnut Ridge LLC only and is not transferable.

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

A public hearing was scheduled and advertised for this time to hear public comment on a proposed Local Law amending Chapter 225 of the Municipal Code of the Village of Orchard Park.

Mayor Clinton opens the hearing at 7:13 p.m. explaining that the purpose of this hearing is to update the Village zoning code to include 44 Carrow St. The parcel is being zoned R2.

Mayor Clinton asks 3 times for comments in support of Local Law #18 of 2024. There were none.

Mayor Clinton asks 3 times for comments opposing Local Law #18 of 2024. There were none.

Moved by Trustee Pyne, seconded by Trustee Hartung to close the hearing at 7:14 p.m.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that proposed Local Law No. 18 of 2024 be approved to amend the Village of Orchard Park Municipal Code Chapter 225 "Zoning", Article II "Establishment of a District", as follows:

SECTION 1: AMENDING Section 225-7 "Zoning Map" to ratify the annexation approvals of Board of Trustees of the Village of Orchard Park and the Town Board of Orchard Park at a joint hearing held thereof on January 22, 2024 for certain real property identified with the S.B.L. 172.08-4-25, Orchard Park, New York and/or filed with their respective clerks and further to include said property within the boundaries of the Village of Orchard Park as a part of the R2 Zone of the Village of Orchard Park.

SECTION 2: Descriptions and map of said property are attached hereto and made a part hereof as "Schedule A" and "Schedule B".

SECTION 3: EFFECTIVE DATE: This local law shall take effect upon filing in the Office of the Secretary of State or from the date of its service as against a person served personally with a copy thereof.

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Pyne to accept the minutes of September 23, 2024 as presented.

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

Moved by Trustee Hartung, seconded by Trustee Kaczor Rodo that voucher number 7221 in Batch # 236 of fiscal year 2024-2025 in the amount of \$794.00, vouchers numbering 7222 to 7262 in Batch # 237 of fiscal year 2024-2025 in the amount of \$114,964.53, vouchers numbering 7263 to 7265 in Batch # 238 of fiscal year 2024-2025 in the amount of \$1,000.00, and vouchers numbering 7266 to 7300 in Batch # 239 of fiscal year 2024-2025 in the amount of \$76,818.72 be paid as presented.

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

Comments from the floor of items not on the agenda. There were none.

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

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

- Code Enforcement Officer John Gullo asked residents to remove the political signs after the election next Tuesday to eliminate clutter in the Village. He also wanted to wish everyone a safe and Happy Halloween.
- Public Works Manager Wittmeyer reminded residents that the DPW is picking up leaves and brush and asked to please keep the piles separate.
- Trustee Hartung wanted to remind everyone that the overnight parking ban goes into effect from November 1 through April 1 between midnight and 7 a.m. He also asked to make sure leaf piles are not in the street for everyone's safety, especially with kids on Halloween.
- Trustee Kaczor Rodo asked everyone to be safe and watch for kids trick or treating.
- Trustee Pyne wanted to say "Great Job" to everyone who helped with this year's Halloween in the Park event.
- Trustee Even had nothing to report.
- Deputy Clerk-Treasurer Richeal had nothing to report.
- Mayor Clinton congratulated Code Enforcement Officer Gullo on his induction onto the Wall of Honor by the Department of Homeland Security Emergency Services Center last week and noted what an honor of distinction he received. She also announced that Halloween trick or treating will take place on October 31st from 6-8 p.m. in the Village.

Moved by Trustee Hartung, seconded by Trustee Even that the following resolution be adopted:

WHEREAS, Mary Beth Jensen, Village Clerk-Treasurer of the Village of Orchard Park, Inc. has delivered to the Board of Trustees an account of the 2024 Village taxes remaining unpaid and said account shows the description of each parcel of real property upon which taxes remain unpaid, person or persons in whose name property is assessed and the amount of unpaid tax, and

WHEREAS, said Village Clerk-Treasurer having made an oath before the officer authorized to administer oaths, and the taxes mentioned in such account therein remain unpaid and that after diligent efforts she has been unable to collect the same,

NOW, THEREFORE BE IT RESOLVED, that pursuant to Section 1436 of the Real Property Tax Law, said Mary Beth Jensen, as Village Clerk-Treasurer of the Village of Orchard Park, Inc. be credited with the amount of \$ 7,681.92, the amount of the unpaid 2024 Village taxes.

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Pyne that the following resolution be adopted:

WHEREAS, there remains unpaid Village taxes on certain Village properties, and

WHEREAS, these unpaid taxes have been compared to the original tax roll, and are correct, and

WHEREAS, the Board of Trustees of the Village of Orchard Park, Inc. has entered into an agreement with the County of Erie to collect the unpaid Village taxes,

NOW, THEREFORE BE IT RESOLVED, that the Village Clerk-Treasurer, Mary Beth Jensen, be instructed to turn over the unpaid 2024 Village taxes in the amount of \$7,681.92 to the County of Erie for collection.

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

Moved by Trustee Pyne, seconded by Trustee Even that the General Village Election be scheduled for Tuesday, March 18, 2025 to elect one (1) Village Mayor for a four-year term, and two (2) Village Trustees, each for a four-year term. The election will take place at the Orchard Park Municipal Building at 4295 South Buffalo Street from the hours of 12:00 noon to 9:00 p.m.

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

Trustee Even

Moved by Trustee Hartung, seconded by Trustee Pyne, that the Village Board meeting scheduled for November 11, 2024 be cancelled in observance of the Veterans Day Holiday.

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

Moved by Trustee Pyne, seconded by Trustee Even that because the next scheduled Village Board meeting is November 25th, Clerk Treasurer Jensen be authorized to pay all vouchers submitted by November 11, 2024, after review by Mayor Clinton or Deputy Mayor Hartung.

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

Moved by Trustee Kaczor Rodo, seconded by Trustee Hartung that a public hearing be scheduled and advertised for November 25, 2024 at 7:00 pm to hear public comment on a Special Use application by Bonnie and Dean Morris, requesting to establish a short-term rental establishment at 4455 South Buffalo Street.

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

Moved by Trustee Even, seconded by Trustee Kaczor Rodo that expenditure from Capital Expense Clean Energy Upgrades be authorized for an amount not to exceed \$15,000.00 to purchase new garage doors for the Department of Public Works garage from All-Star Affordable Overhead Door Co. Although not the lowest bidder, previous experience with All-Star Affordable Overhead Door Co. had exemplary customer service, consistent pricing, offers an additional year full warranty and 24-hour emergency service

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

6740 Jewett Holmwood	173.00-1-43	AA	BB
Woodlane Dr	173.05-6-1	CC	DD
Woodlane Dr	173.05-6-2	EE	FF
Woodlane Dr	173.05-6-3	GG	HH
Woodlane Dr	173.05-6-4	II	JJ
Woodlane Dr	173.05-6-5	KK	LL
Woodlane Dr	173.05-6-6	MM	NN
Woodlane Dr	173.05-6-7	OO	PP
Armor Duells Rd (6207)	172.04-2-11	QQ	RR
Armor Duells Rd (6251)	172.20-1-1	SS	TT
Armor Duells Rd (6277)	172.20-1-3	UU	VV
4109 N Buffalo Rd	162.13-2-14	WW	XX
4125 N Buffalo Rd	162.13-2-15.1	YY	ZZ

4141 N Buffalo Rd	162.13-2-17	AAA	BBB
Carrow St (66)	172.08-4-24	CCC	DDD
N Davis St	161.20-7-8.1	EEE	FFF
4956 Ellicott Rd	173.13-1-8	GGG	HHH
4957 Ellicott Rd	173.13-1-10	III	JJJ
4949 Ellicott Rd	173.13-1-11	KKK	LLL
4939 Ellicott Rd	173.13-1-12.1	MMM	NNN
4933 Ellicott Rd	173.13-1-12.2	OOO	PPP
0 Ellicott Rd	173.17-2-1	QQQ	RRR
0 Ellicott Rd	173.17-2-2	SSS	TTT
Freeman Rd (4233)	162.18-3-27.11	UUU	VVV
Freeman Rd (4255)	162.18-3-28.1	WWW	XXX
Freeman Rd (4269)	162.18-3-29.1	YYY	ZZZ
Stonehenge (262)	173.07-1-18	AAAA	BBBB
4095 N Buffalo Rd	162.13-2-2	CCCC	DDDD
4065 N Buffalo Rd	162.13-2-1	EEEE	FFFF

Descriptions and maps of said properties are attached hereto and made a part hereof as Exhibits specified accordingly.

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 Pyne that the Village’s 2013 International 7400 and Dump Body (1HTWCAAR3DH169475), and plow wing and plow frame from 2014 Ford F550 be declared surplus and Manager of Public Works Wittmeyer be authorized to sell it at auction or trade it in.

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 Pyne that a public hearing be scheduled and advertised for November 25, 2024 at 7:00 pm to hear public comment on a Local Law amending the Code of the Village of Orchard Park, Chapter 200, “Vehicles and Traffic”.

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 the Mayor be authorized to sign a Special Event Contract with Orchard Park EMS for a Halloween Spook-Tacular and with 716 Event Group for a Turkey Baster 5K pending submission of appropriate insurance, and the Orchard Park Lions Club, Car, Truck and Motorcycle Show on July 26, 2025.

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 authorizing the Mayor to enter into an Intermunicipal Agreement with Erie County to accept funding awarded to the Village of Orchard Park in the amount of \$40,000 from the 2024 Erie County Municipal Planning Grant for preparation of the Village’s Comprehensive Plan.

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 DPW Manager Wittmeyer be authorized to purchase a 2024 Valley Fab Dump Body and salter from Kenworth Northeast Group Inc. for \$79,555.00. The expenditure from Reserve for Equipment, not to exceed \$79,600.00, is subject to Permissive Referendum.

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

The next regular meeting is scheduled for November 25, 2024.

Moved by Trustee Hartung, seconded by Trustee Pyne to adjourn at 7:27 p.m.

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

Respectfully submitted,
Heather Tucciarone-Richeal, Deputy Clerk-Treasurer