Item No. 1 At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Road, in said Town on the 3rd day of July, 1989 at 7:30 o'clock P.M., Eastern Daylight Saving Time, there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz

ABSENT: Councilman Richard B. Solecki

Also present were: Richard M. Moleski, Town Clerk; Kevin Schenk, Deputy Town Attorney; Sal LaGreca, Employment and Training Director II: Chairman Planning Commission; Robert M. Lis, Chief of Police; John Egloff, Director of Administration and Finance; Christopher Kowal, Highway Superintendent; Ronald Marten, Building & Plumbing Inspector, William Pugh, Assistant Town Engineer.

I. RESOLUTIONS

Item No. 2 Motion by Councilman Johnson Seconded by Councilman Kulyk

WHEREAS, this Town Board held a public hearing on June 5, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof,

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that it is in the public interest to adopt the following amendments to Chapter 76 of the Code of the Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

A. No Parking

SOUTH ROYCROFT BOULEVARD	north and east side	from the east curbline of South Roycroft Blvd. to the north curbline of Seton Road
SOUTH ROYCROFT BOULEVARD	west side	from the south curbline of Huth Road to the north curbline of Homesgarth Road

B. No parking anytime

BABBETTE DRIVE	west side	from Airport Drive south to the Depew Village Line

Item No. 2 continued

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all of the Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES,a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE } ss.
TOWN OF CHEEKTOWAGA

.....Scott Benson....., **of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is**

.....Clerk..... **of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for** ..... **weeks:**

first publication ..... **;**

last publication ..... **;**

and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this .....

day of ....., **19**.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

Section 3. Territorial Application
These amendments shall apply to all ofthe Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

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Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
AYES: 6
NAYES: 0
ABSENT: 1

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on July 3, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 2, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 3rd day of July, 1989.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 6, 1989

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 3rd day of July, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
ABSENT: Councilman Richard B. Solecki

Motion by Councilman Johnson and Seconded by Councilman Kazukiewicz

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NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.
That this Town Board determine that is in the public interest to adopt the following amendments to Chapter 76 of the Code of The Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE X
Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

A. No parking
SOUTH ROYCROFT BOULEVARD
north and east side
from the east curbline of South Roycroft Blvd. to the north curbline of Seton Road.

SOUTH ROYCROFT BOULEVARD
west side
from the south curbline of Huth Road to the north curbline of Homesgarth Road.

B. No parking anytime
BABETTE DRIVE
west side
from Airport Drove south to the Depew Village Line.

Section 2. Time to take effect.
(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Item No. 3 Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, Valvoline Instant Oil Change, Inc. has made application and requested the Rezoning from C - Retail Business District to CM - General Commercial District and a Special Use Permit for Public Garage, (instant oil change) for property located at 5 French Road, with the permission of the owner of the property, namely Louis P. Galanes, NOW, THEREFORE, BE IT

RESOLVED that a Public Hearing be held regarding said request under the provisions of the Zoning Ordinance on July 17, 1989 at 7:00 o'clock P.M., Eastern Daylight Saving Time at the Cheektowaga Town Hall, corner of Broadway and Union Roads.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE } **ss.**
TOWN OF CHEEKTOWAGA

Scott Benson, **of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is** Clerk **of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for** 1 **weeks: first publication** ; **last publication** ; **and that no more than six days intervened between publications.**

Scott Benson

Sworn to before me this

day of , **19**

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19 9/

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Cheektowaga, Erie County, New York at the Town Hall in the said Town of Cheektowaga, corner of Broadway and Union Road on the 17th day of JULY, 1989 at 7:00 o'clock, P.M., Eastern DAYLIGHT SAVINGS Time of said day for the purpose of considering the application of DON MARROW/ VAVOLINE OIL CHANGE, INC. to Rezone from C-Retail Business District to CM-General Commerical District on property located at 5 FRENCH ROAD and amend the Zoning Map and Ordinance accordingly, pursuant to Article X and Section 82-70 of the Zoning Ordinance of the Town of Cheektowaga, New York.

All parties in interest and citizens will be given an opportunity to be heard in regard to such proposed application.

BY ORDER OF THE TOWN BOARD

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

RICHARD M. MOLESKI
Town Clerk

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 114, Township 10, Range 7 of the Buffalo Creek Reservation and more particularly bounded and described as follows:

Beginning at the intersection of the easterly right of way line of Union Road, Route N.Y. 277, also known as state highway No. 1733 as presently laid out and the southeast right of way line of French Road as presently laid out and monumented with a 5/8" rebar; thence northeasterly at an interior angle of 126 degrees 01 minutes 56 seconds, a distance of 283.00 feet to a 5/8" rebar; thence southwesterly at an interior angle of 49 degrees 27 minutes 45 seconds, a distance of 248.30 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 134 degrees 03 minutes 35 seconds, a distance of 226.00 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 151 degrees 45 minutes 30 seconds, a distance of 35.80 feet to a 5/8" diameter rebar; thence northeasterly at an interior angle of 78 degrees 41 minutes 14 seconds, a distance of 232.00 feet to a 5/8" diameter rebar, also being the point of beginning.

PUBLISH: July 6, 1989

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks:

first publication ;

last publication ;

and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Cheektowaga, Erie County, New York at the Town Hall in the said Town of Cheektowaga, corner of Broadway and Union Road on the 17th day of JULY, 1989 at 7:00 o'clock, P.M., Eastern DAYLIGHT SAVINGS Time of said day for the purpose of considering the application of DON MARROW/ VAVOLINE OIL CHANGE, INC. for a Special Permit to operate a public garage & instant oil change on property located at 5 FRENCH ROAD pursuant to Article VI and Section 82-33 of the Zoning Ordinance of the Town of Cheektowaga, New York.

All parties in interest and citizens will be given an opportunity to be heard in regard to such proposed application.

BY ORDER OF THE TOWN BOARD

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 6, 1989

Item No. 4a Motion by Councilman Johnson Seconded by Councilman Gabryszak

WHEREAS, a Notice to Bidders was duly published for the receipt of bids for the furnishing of manhole frames with self-sealing covers and manhole frames with vented covers, which bids were duly received and opened at the June 19, 1989 public bid opening, AND

WHEREAS, said bids were referred to the Town Engineer for analysis, tabulation and report, AND

WHEREAS, bids were reviewed and it is recommended that the award be made to the lowest responsible bidder meeting the requirements of the specifications, AND

WHEREAS, funds are available in the Sewer Repair Account #25-8125-0004-4438, NOW, THEREFORE, BE IT

RESOLVED that the contract for the furnishing of manhole frames and covers be and hereby is awarded to

Syracuse Castings Sales Corporation
P. O. Box 190
South Bay Road
Cicero, New York 13039
(315) 699-2601

ITEM	QUANTITY	UNIT BID PRICE*
Frame with 24" diameter vented cover (set)	25 50	$121.00 each $119.00 each
Frame with 24" diameter self-sealing cover (set)	25 50	$127.00 each $125.00 each

*Delivered Price

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 4b Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening on June 30th, 1989, for Four (4) New and Unused, 1989-90 Model, Trailer Mounted, Vacuum Leaf Loaders to be purchased by the Town Highway Department as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, NOW, THEREFORE, BE IT

RESOLVED that the bid be awarded to Snowfighting Equipment & Consultants of Buffalo, Inc., Buffalo, NY 14220-0126 for Four (4) American Roads Model 1500-III Leaf Loaders at a purchase price of $41,376.00 for 4 units ($10,344.00 each) being the lowest responsible bidder meeting specifications, and be it further

RESOLVED that $40,000.00 be charged to line item #05513089031205 and $1,376.00 be charged to line item #03513000022407.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 4c Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening on June 30th, 1989 for One (1) New and Unused 1990 Model Trailer Mounted Self-Contained Brush Chipper to be purchased by the Town Highway Department as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, NOW, THEREFORE, BE IT

RESOLVED that the bid be awarded to Vermeer Sales and Service, Inc., 3784 Dodgeson Road, Alexander, NY 14005 for a Vermeer disc brush Chipper, Model 1250 gas, at a purchase price of $13,921.40, after trade-in, being the lowest responsible bidder meeting specifications, and BE IT FURTHER

RESOLVED that monies to be charged to line item #05513089041202.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 5a Motion by Councilman Johnson Seconded by Councilman Jaworowicz

WHEREAS, this Town Board authorized the preparation of plans and specifications for Phase II of the Mafalda/Nina/Fontaine Storm Sewer Project, AND

WHEREAS, the Town Engineer has notified this Town Board that plans and specifications have been completed and the project is ready for bidding, NOW, THEREFORE, BE IT

RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the Mafalda/Nina/Fontaine Phase II Storm Sewer Project, said notice to be published in the CHEEKTOWAGA TIMES and THE BUFFALO NEWS, AND BE IT FURTHER

RESOLVED that sealed bids will be received on the 21st day of July, 1989 at 11:00 A.M., Local Time, at a public bid opening to be held in the Council Chambers at the Cheektowaga Town Hall.

* *

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that sealed proposals will be received and considered by the Town Board of the Town of Cheektowaga, County of Erie, State of New York on the 21st day of July, 1989, at 11:00 A.M. local time in the Town Hall, Town of Cheektowaga, New York, for furnishing all labor, tools, equipment, materials and incidentals required for the construction of Mafalda Drive, Nina Place and Fontaine Drive Storm Sewer Extensions and related work, complete in place, tested and ready for use in accordance with the Contract Documents therefore, including Plans, Specifications, Instructions to Bidders, etc., prepared by Nussbaumer & Clarke, Inc., Consulting Engineers for said project.

Plans are on file in the office of the Town Engineer of Cheektowaga, Town Hall, Broadway and Union Road, Cheektowaga, New York 14227.

Copies of the proposed Contract Documents, Plans, Specifications and Instructions to Bidders may be examined at the above office and at the office of the Engineers at 310 Delaware Avenue, Buffalo, New York 14202, from which latter office copies may be secured upon payment of $50.00 per set of documents. Deposits should be in the form of two (2) $25.00 checks made payable to the Town of Cheektowaga.

Item No. 5a continued

The envelope containing the bids must be sealed, addressed to the Town of Cheektowaga, Erie County, New York, and must be designated as "Bid for Construction of the Mafalda Drive, Nina Place and Fontaine Drive Storm Sewer Extension, Phase II".

Any bids not delivered in person shall be mailed to the office of the Town Clerk, Town of Cheektowaga, Town Hall, Broadway and Union Road, Cheektowaga, New York 14227. Bid so delivered must be received by the Town Clerk prior to the scheduled date and time of the bid opening.

Any bidder returning such plans and specifications in good condition within 30 days following the award of the contract or the rejection of the bids, will be refunded the full amount of the deposit. Similarly, non-bidders will be refunded one-half of the deposit. Material suppliers and anyone returning the bid documents before the bid opening will also be classed as non-bidders. Any bidders requesting more than one (1) set of plans and specifications may purchase the excess, but it is understood that they are not returnable.

The right to reject any or all bids, to waive any informalities in, or to make an award to other than the low bidder, should it be deemed to be in the best interest of the Town of Cheektowaga, and in accordance with law, are herewith reserved.

Each proposal must be accompanied by a certified check for a sum equal to five percent (5%) of the amount of the bid, payable to the Town of Cheektowaga, New York, or bid bond with sufficient sureties to be approved by the Attorney for the Town of Cheektowaga, New York, in a sum equal to five percent (5%) of the amount of the bid, conditioned that, if his proposal is accepted, he will enter into a contract for the same, and that he will execute such further security as may be required for the faithful performance of the contract.

No bidder may withdraw his bid within forty-five (45) days after the date set for the opening thereof, but may withdraw same any time prior to the scheduled date for the opening of bids.

The successful bidder will be required to furnish a performance bond acceptable to the Owner, in an amount equal to the contract award.

Attention of the bidders is further called to Section 2604 of the Public Authorities Law which requires a bidder's Certificate on Non-Collusion. Such certificate is part of the bid or proposal form and, unless complied with, such bid will not be accepted.

BIDDERS ON THIS WORK WILL BE REQUIRED TO COMPLY WITH THE PRESIDENT'S EXECUTIVE ORDER NO. 11246. THE REQUIREMENTS FOR BIDDERS AND CONTRACTORS UNDER THIS ORDER WHICH CONCERN NON-DISCRIMINATION IN EMPLOYMENT ARE EXPLAINED IN THE SPECIFICATIONS.

The Town of Cheektowaga is an exempt organization under the Tax Law and is exempt from payment of sales and compensating use taxes in the State of New York and cities and counties of the State on all materials which are to be incorporated into the project, pursuant to all provisions of the contract. <u>These taxes are not to be included in the bid</u>.

The work shall be completed within 120 consecutive calendar days, to begin five (5) days after the "Order of Commence Work" has been issued.

BY ORDER OF: THE TOWN OF CHEEKTOWAGA

Richard M. Moleski, Town Clerk

DATED: JULY 3, 1989

* *

Item No. 5a continued

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES:	0
ABSENT:	Councilman Solecki

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks;

first publication .....;

last publication .....;

and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this .....

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

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NOTICE IS HEREBY GIVEN that sealed proposals will be received and considered by the Town Board of the Town of Cheektowaga, County of Erie, State of New York on the 21st day of July, 1989 at 11:00 a.m. local time, in the Town Hall, Town of Cheektowaga, New York, for furnishing all labor, tools, equipment, materials and incidentals required for the construction of Mafalda Drive, Nina Place and Fontaine Drive Storm Sewer Extensions and related work, complete in place, tested and ready for use in accordance with the Contract Documents therefor, including Plans, Specifications, Instructions to Bidders, etc., prepared by Nussbaumer & Clarke, Inc., Consulting Engineers for said project.

Plans are on file in the office of the Town Engineer of Cheektowaga Town Hall, Broadway and Union Road, Cheektowaga, New York 14227.

Copies of the proposed Contract Documents, Plans Specifications and Instructions to Bidders may be examined at the above office and at the office of the Engineers at 310 Delaware Avenue, Buffalo, New York 14202, from which latter office copies may be secured upon payment of $50.00 per set of documents. Deposits should be in the form of two (2) $25.00 checks made payable to the Town of Cheektowaga.

The envelope containing the bids must be sealed, addressed to the Town of Cheektowaga, Erie County, New York, and must be designated as "Bid for Construction of the Mafalda Drive, Nina Place and Fontaine Drive Storm Sewer Extension, Phase II"

Any bids not delivered in person shall be mailed to the office of the Town Clerk, Town of Cheektowaga, Town Hall, Broadway and Union Road, Cheektowaga, New York 14227. Bid so delivered must be received by the Town Clerk prior to the scheduled date and time of the bid opening.

Any bidder returning such plans and specifications in good condition within 30 days following the award of the contract or the rejection of the bids, will be refunded the full amount of the deposit. Similarly, non-bidders will be refunded one-half of the deposit. Material suppliers and anyone returning the bid documents before the bid opening will also be classed as non-bidders. Any bidders requesting more than one (1) set of plans and specifications may purchase the excess, but it is understood that they are not returnable.

The right to reject any or all bids, to waive any informalities in, or to make an award to other than the low bidder, should it be deemed to be in the best interest of the Town of Cheektowaga, and in accordance with law, are herewith reserved.

Each proposal must be accompanied by a certified check for a sum equal to five percent (5%) of the amount fo the bid, payable to the Town of Cheektowaga, New York, or bid bond with sufficient sureties to be approved by the Attorney for the Town of Cheektowaga, New York, in a sum equal to five percent (5%) of the amount of the bid, conditioned that, if his proposal is accepted, he will enter into a contract for the same, and that he will execute such further security as may be required for the faithful performance fo the contract.

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The Town of Cheektowaga is an exempt organization under the Tax Law and is exempt from payment of sales and compensating use taxes in the State of New York and cities and counties of the State on all materials which are to be incorporated into project, pursuant to the provision of the contract. These taxes are not to be included in the bid.

The work shall be completed within 120 consecutive calendar days, to begin five (5) days after the "Order of Commence Work" has been issued.

BY ORDER OF THE TOWN
OF CHEEKTOWAGA
Richard M. Moleski
Town Clerk
PUBLISH: July 6, 1989

NOTICE TO BIDDERS

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Any bids not delivered in person shall be mailed to the office of the Town Clerk, Town of Cheektowaga, Town Hall, Broadway and Union Road, Cheektowaga, New York 14227. Bid so delivered must be received by the Town Clerk prior to the scheduled date and time of the bid opening.

Any bidder returning such plans and specifications in good condition within 30 days following the award of the contract or the rejection of the bids, will be refunded the full amount of the deposit. Similarly, non-bidders will be refunded one-half of the deposit. Material suppliers and anyone returning the bid documents before the bid opening will also be classed as non-bidders. Any bidders requesting more than one (1) set of plans and specifications may purchase the excess, but it is understood that they are not returnable.

The right to reject any or all bids, to waive any informalities in, or to make an award to other than the low bidders, should it be deemed to be in the best interest of the Town of Cheektowaga, and in accordance with law, are hereby reserved.

Each proposal must be accompanied by a certified check for a sum equal to five percent (5%) of the amount of the bid, payable to the Town of Cheektowaga, New York, or bid bond with sufficient sureties to be approved by the Attorney for the Town of Cheektowaga, New York, in a sum equal to five percent (5%) of the amount of the bid, conditioned that, if his proposal is accepted, he will enter into a contract for the same, and that he will execute such further security as may be required for the faithful performance of the contract.

No bidder may withdraw his bid within forty-five (45) days after the date set for the opening thereof, but may withdraw same any time prior to the scheduled date for the opening of bids.

The successful bidder will be required to furnish a performance bond acceptable to the Owner, in an amount equal to the contract award.

Attention of the bidders is further called to Section 2604 of the Public Authorities Law which requires a bidder's Certificate of Non-Collusion. Such certificate is part of the bid or proposal form and, unless complied with, such bid will not be accepted.

BIDDERS ON THIS WORK WILL BE REQUIRED TO COMPLY WITH THE PRESIDENT'S EXECUTIVE ORDER NO. 11246. THE REQUIREMENTS FOR BIDDERS AND CONTRACTORS UNDER THIS ORDER WHICH CONCERN NON-DISCRIMINATION IN EMPLOYMENT ARE EXPLAINED IN THE SPECIFICATIONS.

The Town of Cheektowaga is an exempt organization under the Tax Law and is exempt from payment of sales and compensating use taxes in the State of New York and cities and counties of the State on all materials which are to be incorporated into the project, pursuant to the provisions of the contract. THESE TAXES ARE NOT TO BE INCLUDED IN THE BID.

The work shall be completed within 120 consecutive calendar days to begin five (5) days after the "Order of Commence Work" has been issued.

BY ORDER OF:
THE TOWN OF
CHEEKTOWAGA
RICHARD M. MOLESKI
Town Clerk

D. Eileen Perry

---

of the City of Buffalo, New York, being duly sworn, deposes and says that she/he is Principal Clerk of BUFFALO EVENING NEWS, INC., Publisher of THE BUFFALO NEWS, a newspaper published in said city, that the notice of which the annexed printed slip taken from said newspaper is a copy, was inserted and published therein 1 time, the insertion being on the 6 th day of July 1989

D. Eileen Perry

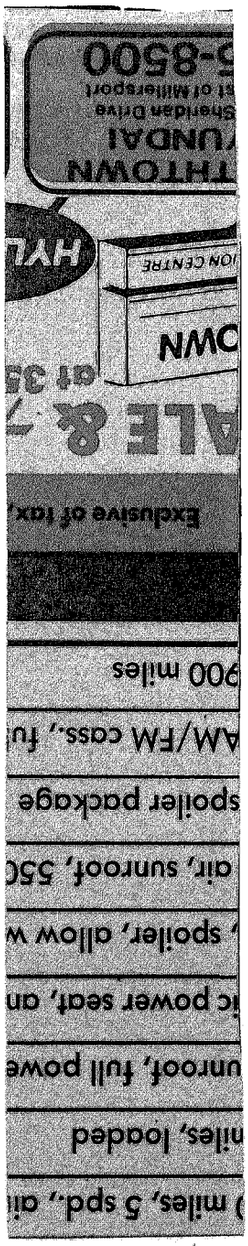
me this 10th day

19 89

Paul E. Bielman

Notary Public, Erie County, N.Y.

PAUL E. BIELMAN
Public, State of New York
Qualified in Erie County
Expires November 30, 19 89



D. Eileen Perry

---

of the City of Buffalo, New York,
being duly sworn, deposes and says
that she/~~he~~ is Principal Clerk of
BUFFALO EVENING NEWS, INC.,
Publisher of THE BUFFALO NEWS, a
newspaper published in said city,
that the notice of which the annexed
printed slip taken from said newspaper
is a copy, was inserted and published
therein 1 time, the insertion
being on the 6 th day of July 1989

D. Eileen Perry

worn to before me this 10th day

f July 19 89

Paul E. Bielman

Notary Public, Erie County, N.Y.

PAUL E. BIELMAN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires November 30, 19 89

Item No.5b Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

BE IT RESOLVED, that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of One (1) New and Unused 1989-90 Model Hydraulic Excavator Machine Mounted on Tracks for use by the Cheektowaga Highway Department.

Information to bidders and specifications may be obtained from the Office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York 14227, between the hours of 8:00 A.M. and 3:30 P.M., Monday thru Friday and BE IT FURTHER,

RESOLVED that the Town Clerk is hereby designated as the officer to open bids on the aforesaid item at 11:00 A.M. on July 14th, 1989 in the Council Chambers of the Town of Cheektowaga.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

Notice is hereby given, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) New and Unused 1989-90 Model, Hydraulic Excavator Machine Mounted on Tracks for use by the Cheektowaga Highway Department, at a public bid opening July 14th, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, N.Y. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL HYDRAULIC EXCAVATOR MACHINE MOUNTED ON TRACKS".

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI, TOWN CLERK

DATED: July 3, 1989

PUBLISHED: July 6, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks:

first publication ;

last publication ;

and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19 91

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, HYDRAULIC EXCAVATOR MACHINE MOUNTED ON TRACKS for use by the Cheektowaga Highway Department, at a public bid opening July 14th, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, NY. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL HYDRAULIC EXCAVATOR MACHINE MOUNTED ON TRACKS."

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 6, 1989

Item No. 5c Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

BE IT RESOLVED, that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of One (1) Used 1989 Model Crawler Tractor equipped with a Dozer Blade for use by the Cheektowaga Highway Department.

Information to bidders and specifications may be obtained from the Office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York 14227 between the hours of 8:00 A.M. and 3:30 P.M. Monday thru Friday, and BE IT FURTHER

RESOLVED that the Town Clerk is hereby designated as the officer to open bids on the aforesaid item at 11:00 A.M. on July 14th, 1989 in the Council Chambers of the Town of Cheektowaga.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

Notice is hereby given, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) Used 1989 Model Crawler Tractor Equipped with a Dozer Blade for use by the Cheektowaga Highway Department, at a public bid opening July 14th, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, N.Y. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE USED 1989 MODEL CRAWLER TRACTOR EQUIPPED WITH A DOZER BLADE".

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI, TOWN CLERK

DATED: July 3, 1989

PUBLISHED: July 6, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication ; last publication ; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) USED 1989 MODEL CRAWLER TRACTOR EQUIPPED WITH A DOZER BLADE for use by the Cheektowaga Highway Department, at a public bid opening July 14th, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga NY. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE USED 1989 MODEL CRAWLER TRACTOR EQUIPPED WITH A DOZER BLADE."

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 6, 1989

Item No. 5d Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

BE IT RESOLVED, that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of quantities of Motor Oils, lubricants, anti-freeze, unleaded gasoline and diesel fuel, etc. for use by the Cheektowaga Highway Department.

Information to bidders and specifications may be obtained from the Office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York 14227, between the hours of 8:00 A.M. and 3:30 P.M., Monday thru Friday and BE IT FURTHER,

RESOLVED that the Town Clerk is hereby designated as the officer to open bids on the aforesaid item at 11:00 A.M. on July 14th, 1989 at the Cheektowaga Town Hall Council Chambers.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

Notice is hereby given, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of Motor Oils, Lubricants, Anti-freeze, unleaded gasoline and diesel fuel, etc. for use by the Cheektowaga Highway Department, at a public bid opening July 14th, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, N.Y. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR PURCHASE OF MOTOR OILS, LUBRICANTS, ANTI-FREEZE, UNLEADED GASOLINE AND DIESEL FUEL, ETC.".

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI, TOWN CLERK

DATED: July 3, 1989

PUBLISHED: July 6, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson
....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for .....1..... weeks: first publication.....; last publication.....; and that no more than six days intervened between publications.

.....Scott Benson.....

Sworn to before me this .....

day of ....., 19.....

.....Eve J. Allis.....

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1941

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of Motor Oils, Lubricants, Anti-freeze, unleaded gasoline and diesel fuel, etc., for use by the Cheektowaga Highway Department, at a public bid opening July 14th, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, NY. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR THE PURCHASE OF MOTOR OILS, LUBRICANTS, ANTI-FREEZE, UNLEADED GASOLINE AND DIESEL FUEL, ETC."

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 6, 1989

Item No. 6 Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

WHEREAS, the Town Board awarded contracts for the purchase of five (5) dump trucks to Buffalo Truck Sales on June 19th, 1989, and

WHEREAS, the accounts numbers reflected on these resolutions were erroneously stated as 05862251320315 and 05513089031203, NOW BE IT

RESOLVED that the account number for these resolutions be hereby amended to 05513089031202.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 7 Motion by Unanimous Seconded by Unanimous

WHEREAS, the American Flag is the symbol of our country, of the ideals embodied in our constitution, and is the emblem of freedom in its truest and best sense, and

WHEREAS, because of the flag's significance as a symbol of our country, it should be afforded special reverence and unique protection, and

WHEREAS, on June 21, 1989, the United States Supreme Court held that the burning of the American Flag is a form of political protest protected by the Constitution's free-speech guarantee, and

WHEREAS, this decision has the effect of voiding the laws of New York State and other states which prohibit desecration of the American Flag, and

WHEREAS, by allowing the desecration of the American Flag, this board feels that its value will be tarnished for those who cherish the ideals for which it waves, and

WHEREAS, it appears that the only way to reverse the effect of the Supreme Court's decision is to enact an amendment to the United States Constitution to prohibit desecration of the American Flag, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby goes on record in favor of an amendment to the United States Constitution to prohibit the desecration of the American Flag, and BE IT FURTHER

RESOLVED that this Town Board hereby memorializes the U.S. Congress and the President to enact an amendment to the United States Constitution to prohibit desecration of the American Flag, and BE IT FURTHER

RESOLVED that this Town Board hereby memorializes the New York State Legislature and Governor Cuomo to press for a constitutional convention to approve such an amendment to the United States Constitution and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to forward certified copies of this resolution to President George Bush, Congressman Henry Nowak, Senator Daniel P. Moynihan, Senator Alfonse M. D'Amato, Governor Mario Cuomo, Senator Dale Volker and Assemblyman Paul Tokasz.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 8 Motion by Councilman Johnson Seconded by Councilman Kulyk

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on vacant property 84' X 203' located west of 1 Floral Place, Cheektowaga, New York and according to the Assessors' Office is owned by Ralph K. Wissing, Cheektowaga, New York 14225, AND

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 9 Motion by Councilman Johnson Seconded by Councilman Kulyk

WHEREAS, by resolution dated February 3, 1986, property located at 100 Moorman Drive was rezoned from R-Residential District to RS-Senior Citizen Housing District, and

WHEREAS, pursuant to Section 82-71 of the Town Zoning Ordinance, such a development must strictly comply with the plot plan submitted, and

WHEREAS, the owner of such property submitted a development site plan dated 4-29-89, as prepared by Purdy Associates to construct an additional 104 units of senior housing, and

WHEREAS, the Planning Board has reviewed the development plan and has recommended that same be approved subject to a special endorsement that would include the development plan, exterior open space, interior community space (i.e., mail and card rooms, craft rooms, auditorium, laundry rooms, game rooms, wood craft room and secured storage space for residents' possession), as per memo dated 6/13/89 from Maryvale East Associates; and further state that the proposal is limited to a total of 185 units on the site, and

WHEREAS, the Town Environmental Review Advisory Committee also reviewed the revised development plan and has rendered a determination that such revised development plan will not have a significant effect on the environment, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby agrees with the determination made by the Environmental Review Advisory Committee, and BE IT FURTHER

RESOLVED that this Town Board hereby approves the revised development plan for 100 Moorman Drive pursuant to Section 82-71 of the Zoning Ordinance subject to the following conditions:

1. Compliance with the aforementioned recommendations made by the Planning Board.
2. Sanitary sewer connection be made to the Northeast Interceptor, or as otherwise directed by the Town Engineering Department.
3. Review of interior road plan and traffic data by Cheektowaga Traffic Safety Commission.
4. Any change in the development plan be resubmitted to this Town Board for approval.

Item No. 9 continued

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 10 Motion by Councilman Johnson Seconded by Councilman Kazukiewicz

BE IT RESOLVED that Niagara Mohawk Power Corporation be and hereby is authorized to remove sixty-four (64) 175 watt Mercury Vapor street lights on Pine Ridge Road and replace said Mercury Vapor lights with sixty-four (64) 100 watt High Pressure Sodium street lights, at an annual decrease in the Town's General Lighting District of $428.80, in accordance with the attached proposal submitted by Niagara Mohawk.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

* SEE NEXT PAGE

TOWN OF CHEEKTOWAGA
PINE RIDGE ROAD
STREET LIGHT PROPOSAL

LOCATION: Pine Ridge Road from Walden Ave. to Maryvale Road

GENERAL DESCRIPTION: Remove existing 175 watt Mercury Vapor units and replace with 100 watt High Pressure Sodium units. The installation of new sodium units will provide better lighting at a lower cost to the Town.

DETAILS:

1. Remove sixty-four 175 watt Mercury Vapor street lights (pole Nos.: 105, 107, 117, 129, 133, 143, 15, 155, 168, 173, 183, 245, 25, 251, 259, 265, 3, 317, 323, 331, 337, 345, 351, 355, 359, 365, 369, 37, 373, 375, 379, 385, 302, 405, 409, 413, 417, 421, 430, 45, 452, 478, 504, 528, 548, 572, 600, 628, 63, 652, 676, 69, 700, 724, 750, 762, 774, 788, 79, 814, 838, 852, 878 and 89).

2. Install sixty-four 100 watt High Pressure Sodium street lights (pole Nos. - same as above).

LUMEN OUTPUT: Old units = 550,400 Lumens
New units = 608,000 Lumens

COST: Annual decrease in Town billing of $428.80.

Note: A letter of authorization will be required for installation of new units.

Item No. 11a Motion by Councilman Johnson Seconded by Councilman Kulyk

WHEREAS, a vehicular traffic safety problem has been identified through citizen complaints and accident history at the intersection of Castlewood Drive and Barbados Drive, AND

WHEREAS, there is a need for conducting an engineering analysis to document the problem, as well as other concerns of traffic safety, movement, volume, egress and ingress, in the area, and to recommend necessary highway geometric and traffic control improvements to mitigate the problems identified, AND

WHEREAS, said improvements may be essential to minimize Town maintenance effort, maximize vehicular and pedestrian capacity and safety and reduct Town liability related to substandard and hazardous features, NOW, THEREFORE, BE IT

RESOLVED that the proposal of EMS Consulting, as submitted to the Highway Superintendent, dated June 19, 1989, be and hereby is accepted and approved, AND, BE IT FURTHER

RESOLVED that the Supervisor be and hereby is directed to sign said agreement with the EMS Consulting on behalf of this Town Board, AND, BE IT FURTHER

RESOLVED that costs for said professional services, not to exceed $4,500.00, is to be charged to 01-3310-0004-4480.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 11b Motion by Councilman Johnson Seconded by Councilman Gabryszak

WHEREAS, this Town Board has authorized Nussbaumer & Clarke, Inc. to prepare a feasibility study to determine the advisability of replacing the pumping system at the Delavan Avenue Pumping Station or abandoning said pump station and discharging said wastes into the Buffalo Sewer Authority system, AND

WHEREAS, it had been determined that the most cost effective solution was to replace the original pumps and controls at our 45-50 year old pump station, AND

WHEREAS, said pumps and controls are in immediate need of replacement as budgeted, NOW, THEREFORE, BE IT

RESOLVED that the proposal of Nussbaumer & Clarke, Inc., as submitted to the Town Engineer and dated June 29, 1989 for the preparation of plans and specifications and for provisions of services during construction be and hereby is approved, AND, BE IT FURTHER

RESOLVED that the Supervisor, on behalf of this Town Board, is authorized and directed to sign said proposal of Nussbaumer & Clarke, Inc. for the provision of professional services for the Delavan Pump Station Remodeling Project, AND, BE IT FURTHER

RESOLVED that the cost for said professional services in the amount of $13,100.00 be charged to 25-8125-0004-4958.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 12 Motion by Councilman Kazukiewicz Seconded by Councilman Gabryszak

WHEREAS, Church World Service (CWS) and Cheektowaga Clergy

Item No. 11a Motion by Councilman Johnson Seconded by Councilman Kulyk

WHEREAS, a vehicular traffic safety problem has been identified through citizen complaints and accident history at the intersection of Castlewood Drive and Barbados Drive, AND

WHEREAS, there is a need for conducting an engineering analysis to document the problem, as well as other concerns of traffic safety, movement, volume, egress and ingress, in the area, and to recommend necessary highway geometric and traffic control improvements to mitigate the problems identified, AND

WHEREAS, said improvements may be essential to minimize Town maintenance effort, maximize vehicular and pedestrian capacity and safety and reduct Town liability related to substandard and hazardous features, NOW, THEREFORE, BE IT

RESOLVED that the proposal of EMS Consulting, as submitted to the Highway Superintendent, dated June 19, 1989, be and hereby is accepted and approved, AND, BE IT FURTHER

RESOLVED that the Supervisor be and hereby is directed to sign said agreement with the EMS Consulting on behalf of this Town Board, AND, BE IT FURTHER

RESOLVED that costs for said professional services, not to exceed $4,500.00, is to be charged to 01-3310-0004-4480.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, and Kulyk
NAYES: Councilman Kazukiewicz
ABSENT: Councilman Solecki

Item No. 11b Motion by Councilman Johnson Seconded by Councilman Gabryszak

WHEREAS, this Town Board has authorized Nussbaumer & Clarke, Inc. to prepare a feasibility study to determine the advisability of replacing the pumping system at the Delavan Avenue Pumping Station or abandoning said pump station and discharging said wastes into the Buffalo Sewer Authority system, AND

WHEREAS, it had been determined that the most cost effective solution was to replace the original pumps and controls at our 45-50 year old pump station, AND

WHEREAS, said pumps and controls are in immediate need of replacement as budgeted, NOW, THEREFORE, BE IT

RESOLVED that the proposal of Nussbaumer & Clarke, Inc., as submitted to the Town Engineer and dated June 29, 1989 for the preparation of plans and specifications and for provisions of services during construction be and hereby is approved, AND, BE IT FURTHER

RESOLVED that the Supervisor, on behalf of this Town Board, is authorized and directed to sign said proposal of Nussbaumer & Clarke, Inc. for the provision of professional services for the Delavan Pump Station Remodeling Project, AND, BE IT FURTHER

RESOLVED that the cost for said professional services in the amount of $13,100.00 be charged to 25-8125-0004-4958.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 12 Motion by Councilman Kazukiewicz Seconded by Councilman Gabryszak

WHEREAS, Church World Service (CWS) and Cheektowaga Clergy

Item No. 12 continued

Association (CCA) desire to sponsor a fund-raiser and consciousness-raising event in the Town of Cheektowaga in celebration of World Food Day and to help hungry people nationally and internationally through emergency food assistance and development projects, and

WHEREAS, Robert C. Hutchinson, Pastor, Cleveland Hill Evangelical Lutheran Church has requested permission from this Town Board to plan and supervise a ten kilometer "CROP walk" on Sunday, October 15, 1989 beginning at 1:30 P.M. in the town, and

WHEREAS, such CROP walk is planned to begin at the Stiglmeier Park Community Center and will proceed down Losson Road to Union Road to Bennett Road to Como Park Boulevard to Borden Road to Losson Road and will conclude at the Stiglmeier Park Community Center, and

WHEREAS, CWS and CCA have insurance coverage to protect even participants against accidental injury or death, and

WHEREAS, up to 25% of the funds raised by CWS and CCA may be returned to local agencies for programs such as the Meals on Wheels and other programs involved with feeding hungry people, and

WHEREAS, Cheektowaga's CROP Walk held on October 16, 1988 raised $6,261.47 to help hungry people around the world and over $1,500.00 was returned to the Town for the Town's Meals on Wheels and other local programs, and

WHEREAS, this Town Board feels that moneys raised through CROP Walks make significant contributions to the alleviation of hunger throughout the world and that a CROP Walk is an endeavor worthy of the Town Board's attention and approval, NOW, THEREFORE, BE IT

RESOLVED that CWS and CCA be and hereby are given permission to hold its October 15, 1989 ten kilometer walk along Losson Road, Union Road, Bennett Road, Como Park Boulevard and Borden Road in the town, and BE IT FURTHER

RESOLVED that the Chief of Police insure compliance with Section 1660(a)(6) of the Vehicle and Traffic Law of the State of New York; and he is authorized and directed to make arrangement for any and all traffic safety and escort services for such CROP Walk, and, BE IT FURTHER

RESOLVED that the Town Board hereby formally requests that CWS and CCA return 25% of the funds collected through the aforementioned CROP Walk to the Town of Cheektowaga and/or County of Erie to be used for the Town of Cheektowaga Meals on Wheels Program and other local programs involved with feeding hungry people, and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to forward a certified copy of this resolution to Robert C. Hutchinson, Pastor, Cleveland Hill Evangelical Lutheran Church, 261 Cleveland Drive, Cheektowaga, New York 14215.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 13 Motion by Councilman Johnson Seconded by Supervisor Swiatek

WHEREAS, this Town Board, by resolution dated June 5, 1989, affirmed a Non-Significant Determination recommendation made by the Town Environmental Advisory Committee for the Union Consumer Square Project, such affirmation being subject to further review to consider the closing off of North Creek Drive, and

WHEREAS, the Environmental Advisory Committee conducted further review to consider the environmental aspects of this project and, based on recommendations from the Town Traffic Safety Committee, recommended that a traffic study be conducted by Benderson Development Corporation for their project, and

Item No. 13 continued

WHEREAS, Benderson Development Corporation is also involved in developing other projects along Union Road between Zoerb Avenue and Orchard Place, and

WHEREAS, this Town Board concurs that there is a need for a traffic impact study to be conducted to determine:

1. the traffic impacts that would result due to either the closing or opening of North Creek Drive to the Union Consumer Square;
2. the traffic impacts resulting from the installation of a traffic signal on Union Road at South Creek Drive;
3. the traffic flow at the Union Road/Galleria Drive intersection; and
4. additional traffic resulting from proposed improvements at the shopping plaza located at the northeast corner of Union Road and George Urban Boulevard.

which such traffic study shall list mitigating measures that may be necessary in order to keep the levels of service within acceptable New York State Highway criteria, NOW, THEREFORE, BE IT

RESOLVED that Benderson Development Corporation be and hereby is directed, as part of its development plans along the east side of Union Road between Zoerb Avenue and Orchard Place, to undertake a traffic study as specified above, and BE IT FURTHER

RESOLVED that such traffic study shall be completed and submitted to the Town prior to the receipt of certificates of occupancy being issued for any portion of the Union Consumer Square Project.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 14a Motion by Councilman Gabryszak Seconded by Councilman Johnson

BE IT RESOLVED, that the following individuals be and hereby are terminated as Seasonal and/or Part Time employees in the Departments listed:

SANITATION DEPT.	EFFECTIVE
Cammilleri, Gary	immediately
Klenk, Lawrence	immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 14b Motion by Councilman Gabryszak Seconded by Councilman Kulyk

BE IT RESOLVED that the following individuals be and hereby are terminated as Seasonal and/or Part-Time employees in the Facilities Department:

Mark Syzdek	Immediately
James Malec	Immediately
Darryl Stachowiak	Immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 15a Motion by Councilman Kulyk Seconded by Councilman Gabryszak

WHEREAS, the Town of Cheektowaga Department of Sanitation has a vacancy for one (1) Laborer, AND

WHEREAS, said vacancy has been duly bid in the Sanitation Department as per the collective bargaining agreement between the Town of Cheektowaga and the Town of Cheektowaga Employees Association, NOW, THEREFORE, BE IT

RESOLVED that Carl M. Maciuba, Cheektowaga, New York be appointed to the position of Laborer in the Sanitation Department at a salary in accordance with the bargaining agreement between the Town and the Town of Cheektowaga Employees Association, retroactive as of May 24, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 15b Motion by Councilman Gabryszak Seconded by Councilman Kazukiewicz

WHEREAS, a General Mechanic vacancy exists in the Cheektowaga Facilities Department, Building Maintenance Division, AND

WHEREAS, said vacancy has been duly posted in compliance with the labor management agreement between the Town of Cheektowaga and the Cheektowaga Employee's Association, NOW, THEREFORE, BE IT

RESOLVED that Mr. James R. Budowski Sr., Cheektowaga, New York, be hereby appointed by the Town Board to the position of General Mechanic in the Facilities Department, Building Maintenance Division effective July 17, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 16a Motion by Councilman Gabryszak Seconded by Councilman Johnson

BE IT RESOLVED that Robert Strychalski of Cheektowaga, New York 14227 be hired as a part-time van driver (Job Class 0111) at a rate of $4.25 an hour in the Department of Senior Services.

Funding Source: Account 7620.1639

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 16b Motion by Councilman Jaworowicz Seconded by Councilman Kulyk

BE IT RESOLVED that the following individuals be and hereby are hired as seasonal and/or part-time employees in the various departments and at the rates listed:

MAIN PUMP STATION - $4.35 per hour	EFFECTIVE
Conrad Scharmack	Immediately
Daniel Swiriduk	7/5/89
SEWER MAINTENANCE DEPARTMENT - $4.35 per hour	
Michael Intericola	Immediately

Item No. 16b continued

SANITATION DEPARTMENT - $5.00 per hour	EFFECTIVE
James Ward	Immediately
Brian Szymanski	Immediately
Lynn Torgalski	Immediately
Michelle L. Majchrzak	7/10/89

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 16c Motion by Councilman Gabryszak Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following individuals be hired as alternates for the Cheektowaga Conservation Corps Programs:

NEW YORK STATE CONSERVATION CORPS - 01-7310-0001-1816 - $3.50 per hour

David Prellwitz	14206
Patrick Hutt	14227

CHEEKTOWAGA CONSERVATION CORPS - 01-7310-0001-1812 - $3.75 per hour

Robert Pierson	14206
Jeffrey Shamp	14225

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 16d Motion by Councilman Gabryszak Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following be hired to aid the Cheektowaga Recreation Department in conducting its 1989 summer programs retroactive to June 26, 1989.

LIFEGUARDS - $4.00 with WSI - $3.75 without WSI - A7180.1903

Christine Conley
Brent Sala
Jeff Coia

RECREATION LEADERS - $4.00 per hour - A7140.1614

Norman Sogaib

RECREATION ATTENDANTS - $3.50 per hour - A7140.1614

Michael Myhalenko

BE IT FURTHER RESOLVED that the above employees be terminated effective September 1, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 16e Motion by Councilman Gabryszak Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following individuals be hired by the Facilities Department to assist in conducting its 1989 Summer Program:

PARKS DIVISION - Act. #01-7110-0001-1491 at $4.35 per hour

Salvatore Carlino
Joseph Kaluzny

AND BE IT

FURTHER RESOLVED that effective immediately John P. Skubinski of 211 Orchard Place, Cheektowaga, New York, be terminated as a Seasonal Employee in the Sewer Maintenance Department and be hired in the Facilities Department -Parks Division at the hourly rate of $4.35.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 16f Motion by Supervisor Swiatek Seconded by Councilman Johnson

WHEREAS, funds are presently available under the Buffalo-Cheektowaga-Tonawanda Consortium, Summer Youth Program, and,

WHEREAS, the Summer Youth Program starts on July 5th, 1989, participants work a maximum of 40 hours per week at $3.35 per hour, and a termination not to exceed September 1st, 1989, NOW, THEREFORE, BE IT

RESOLVED that the following persons will be hired based on availability from the Department of Labor and that the alternate portion may be utilized to meet the demographic requirements as stated in our plan submitted to the Department of Labor:

Agro, Raymond 14225
Ast, Karen Depew 14043
Baginski, Kim 14206
Batch, Joe 14225
Becker, Christine Depew 14043
Biegalski, Andrew 14227
Bishop, Karen 14227
Bogdan, Michael 14225
Bona, Luca 14227
Bona, Marcella 14227
Bonak, Marco 14227
Boyle, Patrick 14211
Brady, Ronald 14225
Burgasser, Laurie 14225
Cavalieri, Louis Buffalo 14213
Cavalieri, Tammy Buffalo 14213
Cavalieri, William Buffalo 14213
Coleman, Donna 14227
Colligan, Kenneth 14225
Conner, Becky 14215
Creighton, Jeffrey
Cwiklinski, John 14227
Danner, Amy 14227
Danner, Patricia 14227
Dauman, Adam 14227
Dauman, Derrick 14227
DeFries, Tricia 14225
Dibble, Edward 14227
Dibble, Jennifer 14227
Dungan, Karen 14227
Dungan, Sheryl 14227

Item No. 16f continued

Eckel, Tammy 14227
Eckert, Jill 14227
Ersing, Joseph 14227
Fairchild, Matthew 14225
Fleck, Christopher 14225
Fleck, Robert 14225
Frontera, Frank 14227
Gallagher, Graden Sloan 14212
Gamber, Michael 14225
Gamber, Wayne 14225
Gawron, Robert 14225
Gawron, Tammy 14225
Gerlach, Eric 14227
Glanowski Paul 14227
Golebiewski, Brian 14227
Gould, Lorin 14225
Hagerty, Timothy 14225
Hall, Dana 14225
Harris, Donald 14211
Hidy, Jasen 14225
Higley, Richard 14215
Hirschman, Justin W. Seneca
Howard, Roger 14206
Hudson, Matthew 14227
Jainer, Jamie 14225
Jankowski, Timothy 14225
Johnson, Charles Depew, 14043
Juszczak, Holly 14227
Kilianski, Roger 14206
Koller, Renee 14225
Kornecki, Joelle Sloan 14212
Kowal, Regina Depew 14043
Kowalski, Michael 14227
Kraebel, James 14225
Kresin, Edward
Kresin, Steven 14225
Kropp, Denise Depew 14043
Kuhl, Carrie 14227
Lamarre, William 14225
Larkman, David 14227
Laschinger, Thomas 14211
Lattuca, Gregory 14225
Lawler, Edward 14215
Lazar, Mary Ann 14225
LeBarron, Gary 14225
LePage, Christina 14225
Lindner, Patrick 14227
Lorenz, Michelle 14225
Luciow, Jeffrey 14227
Malecki, Carl 14206
Mammoser, Steven 14227
Marciano, Michele Depew 14043
Martin, Robert 14225
McCall, Vickie 14225
McCloskey, Patrick 14225
Migon, Michelle 14215
Mook, Judith 14225
Nati, Andrea 14225
Nati, Glory 14206
Noworyta, Jonathan Depew 14043
Orticelli, BilliJo 14225
Piechalak, Kenneth 14206
Pieczynski, Paul 14227
Pilarek, Michelle 14225
Pionessa, Theresa 14225
Pokorski, Shawn Sloan 14212
Principato, Ann Marie 14225

Item No. 16f continued

Putt, Thomas	14227
Pytlak, Frederick	W.Seneca 14224
Rambadt, KarryAnn	14225
Rambadt, Wilfred	14225
Riederer, Christopher	14225
Roche, Michael	14225
Rote, David	14225
Rowland, Lisa	14206
Rowland, Marvin	14206
Royle, Richard	14225
Rozier, Elsie	14212
Ruchalski, John	14227
Ruth, Cyril	14225
Ruth, Neil	14225
Schmidt, Billie Jo	14206
Schreiner, Duane	14225
Sherry, Zenon	14225
Shotwell, James	14227
Shotwell, Mark	14227
Sigman, Leonard	14225
Skotarczak, Becky	14215
Skowron, Linda	Sloan 14212
Skrabski, Dawn	Sloan 14212
Smith, Susan	14225
Sodus, David	14225
Soucia, Josette	14227
Speaker, Stephanie	14225
Stachowski, Jennifer	Depew 14043
Stalker, Eric	14225
Stanko, BobbiJo	14225
Stanko, Michele	14225
Stanko, Patricia	14225
Stanko, Poppy	14225
Stein, Joseph	14225
Sundquist, Renee	14225
Szwarc, Derek	Depew 14043
Thompson, Susan	Depew 14043
Tobolski, Eric	14227
Tobolski, Kyle	14227
Trombley, Ann Marie	14225
Warcholak, Robert	Depew 14043
Warchol, Kreisten	Eden 14057
Was, Daniel	14225
Weber, Michael	14225
Weiglein, Robin	14225
Weinstein, Andy	14227
Wesolowski, Scott	Sloan 14212
Widzinski, Michael	14227
Wiedrich, Kimberly	4225
Wild, Christian	Depew 14043
Wilkins, Penelope	14215
Williams, Thomas	14206
Wodarczak, Mark	14227
Wojtkowski, Joseph	14227
Young, Rosemary	14225
Zietkiewicz, Brian	14227
McElroy, Shawn	14225
Kandefer, Gordon	West Seneca

Coordinator of Summer Youth Program at $3.35 per hour

Kathleen Butsch	14227

Upon Roll Call....

AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz

NAYES: 0

ABSENT: Councilman Solecki

Item No. 17 Motion by Councilman Kazukiewicz Seconded by Councilman Johnson

WHEREAS, Korri Ann Kaminski was hired as a seasonal employee in the Recreation Department, AND

WHEREAS, Korri Ann Kaminski has requested to be transferred to the Assessor's Office, NOW, THEREFORE, BE IT

RESOLVED that Korri Ann Kaminski be and hereby is terminated as a seasonal employee in the Recreation Department and is rehired as a seasonal employee in the Assessor's Office at the rate of $4.35 per hour, retroactive to June 26, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 18 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

BE IT RESOLVED, that the following transfers are hereby approved and made a part of hereof:

GENERAL FUND

FROM:	1110-01-1302 (Clerk of the Court-Justice)	$15,000.00
FROM:	9010-08-8101 (Employee Retirement)	4,500.00
TO:	1110-04-4592 (Contracted Clerical-Justice)	$15,000.00
TO:	3310-04-4480 (Castlewood Dr. Consul.)	4,500.00

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

Item No. 19 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

BE IT RESOLVED that the following vouchers and warrants submitted to the Town of Cheektowaga prior to July 3, 1989 are hereby approved and made a part hereof:

FUND	AMOUNT
GENERAL FUND	$1,336,633.08
HIGHWAY FUND	378,237.67
CAPITAL FUND	312,723.01
TRUST AND AGENCY FUND	28,099.20
HUD-CDBG FUND	6,667.07
PART TOWN FUND	34,582.06
HUD RENTAL REHABILITATION FUND	23,586.89
RISK RETENTION FUND	51,265.90
DEBT SERVICE FUND	15,945.50
HUD REHABILITATION FUND	17,528.48
SPECIAL DISTRICTS FUND	1,695,568.35
	$3,900,837.21

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: Councilman Solecki

II. DEPARTMENTAL COMMUNICATIONS

Item No. 20 Building Permits
Received and Filed

Item No. 21 Minutes of Cheektowaga Library Board/May 1989
Received and Filed

III. GENERAL COMMUNICATIONS

Item No. 22 NYS Department of Transportation regarding Access Highways
Copies were sent to: Frank E. Swiatek, Supervisor; Christopher J. Kowal, Highway Superintendent; Robert M. Lis, Chief of Police; Councilmen.
Received and Filed

Item No. 23 Summons & Complaint: Scott Rzepecki vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Christopher J. Kowal, Highway Superintendent
Received and Filed

Item No. 24 Notice of Claim: Natalie A. Odien vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Ronald Zoeller, Sanitation.
Received and Filed

Item No. 25 Motion by Councilman Jaworowicz Seconded by Councilman Kazukiewicz to adjourn the meeting

RICHARD M. MOLESKI
TOWN CLERK

PUBLIC HEARINGS
(held prior to Town Board meetings)

NO.	ITEM
	Meeting No. 17 July 17, 1989
1	Rezoning at **5 French Road** from C-Retail Business District to CM-General Commercial District and Special Use Permit for Public Garage (instant oil change)
	Meeting No. 20 September 5, 1989
1	Rezoning at **16 Dellwood Place** from R-Residential to C-Retail Business District
2	Rezoning at **1083 Cleveland Drive** from R-Residential to RA-Apartment District
3	Rezoning at **S.W. Corner of Galleria Drive (Postal Road) & Union Road** from M1-Light Manufacturing to CM-General Commercial District and Special Use Permit for Car Wash

PUBLIC HEARINGS

NO.	ITEM	PAGE
	Meeting No. 18 August 7, 1989	
2	Amendments to Traffic Ordinance - Art. X "Parking, Standing, Stopping - Grunner Road, Borden Road	1-2
	Meeting No. 19 August 22, 1989	
2.	AMENDMENTS TO TRAFFIC ORDINANCE:	
	a. Art. X "Parking, Standing, Stopping" - Grunner Road	1
	b. Art. VIII "Stop & Yield Int." - Wedgewood Dr.; Art. X "Parking, Standing, Stopping" - Peachtree, Sprucewood	1-2

F R O M T H E T A B L E

NO.	ITEM	PAGE
	Meeting No. 18 August 7, 1989	
3.	*Appointment of Working Foreman in Facilities*	2
4.	*Retain firm to appeal decision re: Benderson Development Co.*	2-3
	Meeting No. 20 September 5, 1989	
2.	*Authorize Town Clerk to notify several employees regarding Residency Law*	1
3.	*Memorialize Erie County Legislature & Erie County Executive to create special task force regarding playing facility for Buffalo Bills*	1

RESOLUTIONS

NO.	ITEM	PAGE
	Meeting No. 17 July 17, 1989	
2.	Change date of second Town Board meeting in August	1
3.	DECISIONS:	
	a. Special Review Zoning District Ordinance	2-3
	b. Special Use Permit - 440 Cayuga Road	4
	c. Special Use Permit - 3440 Genesee St.	5
	d. Rezoning - 4945 Genesee Street	6
	e. Special Use Permit - 4945 Genesee Street	7
	f. Special Use Permit - Thruway Mall (east lot)	8
	g. Special Use Permit - 3735 Union Road	9-10
4.	CALL FOR PUBLIC HEARINGS - AMENDMENTS TO TRAFFIC ORDINANCES:	
	a. Art. X "Parking, Standing, Stopping" - Grunner Rd., Borden Rd.	11
	b. Art. X "Parking, Standing, Stopping" - Grunner Rd., Borden Rd., Drive.	12
5.	AWARD OF BIDS:	
	a. One 1989-90 Model, Hydraulic Excavator Machine - Highway	12
	b. One 1989 used crawler tractor equipped/dozer blade - Highway	12
	c. Motor Oils, anti-freeze, etc. - Highway	12
6.	NOTICE TO BIDDERS:	
	a. One truck mounted vacuum/broom type street sweeper - Highway	13
	b. Repair of roof of Highway Department Garage Building	14
7.	AUTHORIZE SUPERVISOR TO EXECUTE:	
	a. Cultural Services Contract with N.Y.S. Council on the Arts	15
	b. Grant Agreement/Department of Housing & Urban Development	15
	c. Dog Disposal Agreement/Town of Lancaster	15
8.	Change name of Thomas Drive	16
9.	Direct Superintendent of Highways to remove barriers at Castlewood near Barbados	16
10.	Affirm recommendation of Environmental Advisory Committee regarding Transit/Strasmer Road	16-17
11.	Support of legislation regarding Pro-Life Amendment	17
12.	Memorialize NYS Housing Trust Fund Corp. & NYS Div. of Housing & Community Renewal regarding funding for proposed senior citizen housing on William St.	17-18
13.	CLEAN-UP OF PROPERTY:	
	a. 830 Borden Road (structure)	18
	b. 830 Borden Road	18
	c. Vacant property - east corner of French Rd. & Slate Dr.	18-19
	d. 19 Pine Circle	19
	e. South of 265 Pine Ridge Road	19
14.	Retain firm for professional service during construction of New Erie Industrial Center street lighting improvements	20
15.	TERMINATION OF SEASONAL EMPLOYEES:	
	a. Facilities Departments	21
	b. Various departments	21
16.	CREATE POSITION:	
	a. Clerk in Judge's Office	21
	b. Pump Operator at Sewage Treatment Plant	21-22
17.	APPOINTMENTS:	
	a. Temporary Pump Operator (provisional)	22
	b. Working Foreman in Facilities Department	22-23

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18	HIRING OF SEASONAL EMPLOYEES:	
	a. Recreation	23
	b. Youth Bureau	23-24
	c. Various Departments	24
19	Change in hourly rates of part-time employes in various departments	24-25
20	Transfer of seasonal emplyee in Facilities Department	25
21	Authorize Chief of Police to attend conference	25
22	AUTHORIZE N.Y.S. Electric & Gas:	
	a. to install lamp on Newport Road	26
	b. to remove lamp on Borden Road	27
23	AUTHORIZE PAYMENT:	
	a. Buffalo Sewer Authority regarding Burke Drive storm sewer project	28
	b. Plumbing costs for 1217 Walden Avenue and 65 Reo	28-29
	c. Niagara Mohawk for equipment removal costs associated with Kensington Expressway reconstruction	29
24	Change Order - Clinton Street Interceptor Sewer	29-30
25	Authorize temporary loan to Capital Fund From General Fund	32
26	TRANSFER OF FUNDS:	
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	b. Various	31-32
27	Warrant List	32
	Meeting No. 18 August 7, 1989	
5	DECISION:	
	a. Amendment to Traffic Ordinance: Article X "Parking, Standing, Stopping" - Grunner Road, Borden Road	5-7
	b. Special Use Permit - 5 French Road	8
	c. Rezoning - 5 French Road	9
6	Call for Public Hearing: Amendment to Traffic Ordinance- Art. VIII, "Stop & Yield Int. -Wedgewood & Castlewood; Art. X, "Parking Standing & Stopping, - Peachtree Road., Sprucewood Drive	10-11
7	AWARD OF BID:	
	a. Mafalda/Nina/Fontaine Phase II	12
	b. Reroofing Highway Department Garage Bldg.	13
	c. One New & Unused 1989-90 Model Truck Mounted, Vacuum Broom Type Sweeper	14
8	Rescind award of bid resolution of 7/17/89 & NOTICE TO BIDDERS for purchase of One (1) New & Unused 1989-90 Model Hydraulic Excavator Machine Mounted on Crawler Tracks	14-15
9	Extension of contract for construction of Infrastructure Improvement	16
10	CLEAN-UP OF PROPERTY LOCATED AT:	
	a. 465 French Road	16
	b. 5 French Road	16
	c. 1255-1331 French Road	17
	d. 3117-3119 Genesee Street	17
	e. 1281 & 1287 Walden Avenue	17-18
	f. 1561 Delavan Avenue	18
	g. 2810 Union Road	18
	h. 2875 Harlem Road	18-19
11	Change house numbers for property located on Brown Ave. & 768 Rein Rd.	11
12	Authorize NYSEG to replace light on Crisfield Street	20

NO.	ITEM	PAGE
	Meeting No. 18 August 7, 1989 cont'd	
13	PERMISSION FOR:	
	a. Cheektowaga Sesquicentennial Bicycle Race	21
	b. Cheektowaga Youth Engaged in Service (Y.E.S.) Program to use John C. Stiglmeier Park	21
14	AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH:	
	a. Cheektowaga-Sloan Union Free School District	21-22
	b. EMS Consulting	23
	c. Cheektowaga Economic Development Corporation	23
15	Authorize Supervisor & Town Clerk to attend bond closing	23-24
16	Retain firm on pending assessment proceedings	24-25
17	Acceptance of Center Park Subdivision	25
18	ACCEPTANCE OF DEED, EASEMENT, MAINTENANCE BOND FOR:	
	a. Losson Park Village Subdivision - Phase I	25
	b. Countryside Lane (Woodlands in the Park Subdivision)	26-27
19	Affirm recommendations of SEQR regarding 3788 Broadway & 1332 Walden Avenue	28-29
20	Direct Building Inspector to prepare declaration (SEQR) re: 3735 Union Rd.	3-4
21	Direct Superintendent of Highways to permanently remove barricades at Castlewood and Barbados	5
22	Order directing owner of 4976 Transit Rd. to construct sidewalks	30
23	Authorize S.I.S. to effectuate settlement with Alfreda Piatek	30
24	Change in rate of pay of part/time employee in Central Garage	31
25	Accounting transfers and payroll adjustment for employees of Cheektowaga Youth Bureau Adapted Recreation Program	31-32
26	Termination of seasonal/part time employees in various departments	32
27	Termination & Appointment of part-time employee in Sr. Services	32
28	APPOINTMENTS:	
	a. Assessor	32-33
	b. Police Officers	33
	c. Public Safety Dispatchers	33-34
	d. Superintendent, Wastewater Pump Station	34
	e. Assistant Superintendent, Wastewater Pump Station	34-35
	f. Pump Operator	34
	g. Auto Mechanic in Central Garage	35
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Item No. 1 At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Road, in said Town on the 17th day of July, 1989 at 7:30 o'clock P.M., Eastern Daylight Saving Time, there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

ABSENT: 0

Also present were: Richard M. Moleski, Town Clerk; Kevin Schenk, Deputy Town Attorney; William Pugh, Assistant Town Engineer; Sal LaGreca, Employment and Training Director II; Chairman Planning Commission; Ron Marten, Building and Plumbing Inspector; Donald Wegner, Chairman of Zoning Board of Appeals; Chris Kowal, Highway Superintendent; Bruce Chamberlin, Assistant Chief of Police.

I. RESOLUTIONS

Item No. 2 Motion by Supervisor Swiatek, Seconded by Councilman Solecki

WHEREAS, a regular Town Board meeting is scheduled for Monday, August 21, 1989, and

WHEREAS, a Townwide Sesquicentennial event is planned for such date and the Town Board meeting must be rescheduled, NOW, THEREFORE, BE IT

RESOLVED that the August 21, 1989 Town Board meeting is rescheduled for Tuesday, August 22, 1989 at 7:30 P.M., and BE IT FURTHER

RESOLVED that the Town Clerk is directed to notify the news media of this rescheduled Town Board meeting date.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

.....Scott Benson....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for .....1..... weeks: first publication JUL 20 1989 ; last publication JUL 20 1989 ; and that no more than six days intervened between publications.

.....Scott Benson.....

Sworn to before me this .....
day of JUL 20 1989, 19.....

.....Eve J. Allis.....

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 17th day of July, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT:0

Motion by Supervisor Swiatek and Seconded by Councilman Solecki

WHEREAS, a regular Town Board meeting is schedule for Monday, August 21, 1989, and

WHEREAS, a Townwide Sesquicentennial event is planned for such date and the Town Board meeting must be rescheduled, NOW, THEREFORE, BE IT

RESOLVED, that the August 21, 1989 Town Board meeting is rescheduled for Tuesday, August 22, 1989 at 7:30 P.M., and BE IT FURTHER

RESOLVED, that the Town Clerk is directed to notify the news media of this rescheduled Town Board meeting date.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

PUBLISH: July 20, 1989

Item No. 3a Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz
Councilman Johnson

WHEREAS, properties fronting on Walden Avenue between the Buffalo City line and Harlem Road are presently in the CM-General Commercial zoning district, and

WHEREAS, it is this Board's position that the present zoning district classification of a number of properties in this area appear to be incompatible with present uses, adjacent uses and surrounding properties, and

WHEREAS, with the planning and anticipation of a 55 acre commercial/industrial park south of Walden Avenue and adjacent to the above referenced Walden Avenue properties, further changes and development of this area are to be expected, and

WHEREAS, in the last 1970's-early 1980's, the Town was engaged in the Walden Avenue Revitalization Program and expanded a large amount of community development funds for various improvements to properties along Walden Avenue, and

WHEREAS, with the accelerating changes occurring in the Walden Avenue area, there is a great potential for future development of this area, and this Town Board wishes to ensure the proper and coordinated development of such area, and

WHEREAS, presently, the Planning Consultant to the Cheektowaga Economic Development Corporation and the Town Planning Board are studying this area of Town to devise a zoning classification and development scheme for same, and

WHEREAS, the courts have said that a local legislature may be interim or stop-gap ordinance stop for a reasonable time the commencement of building in an area under immediate consideration for zoning or rezoning, and

WHEREAS, such interim or stop-gap ordinance or calling of a moratorium on the issuance of permits has been found to be appropriate in circumstances such as are presented in the Walden Avenue area, and

WHEREAS, a public hearing on a proposed "SPECIAL REVIEW ZONING DISTRICT ORDINANCE" was duly held by this Town Board on the 3rd day of July, 1989 at 7:00 P.M. at the Cheektowaga Town Hall, corner of Broadway and Union Road, Cheektowaga, New York; and at which hearing all parties in interest and citizens had an opportunity to be heard and were heard, and

WHEREAS, it is in the public interest to adopt the "SPECIAL REVIEW ZONING DISTRICT ORDINANCE", NOW, THEREFORE, BE IT

RESOLVED that the "SPECIAL REVIEW DISTRICT ORDINANCE", as attached hereto, be and hereby is adopted, and BE IT FURTHER

RESOLVED that a copy of this resolution be entered in the minutes of the meeting of the Town Board of the Town of Cheektowaga held on July 17, 1989; and that a certified copy thereof be published in the CHEEKTOWAGA TIMES, a newspaper published in the Town of Cheektowaga and having a general circulation therein; and an affidavits of such publication shall be filed with the Town Clerk, and BE IT FURTHER

RESOLVED that the "SPECIAL REVIEW ZONING DISTRICT ORDINANCE" shall be effect ten (10) days after such publication, but said changes shall take effect from the date of their service as against a person served personally with a copy thereof certified by the Town Clerk under the corporate seal of the Town and showing the date of their passage and entry in the minutes.

Item No. 3a cont'd

* *

SPECIAL REVIEW ZONING DISTRICT ORDINANCE

1. For a period of 90 days, the following area is declared a Special Review Zoning District:

> Property fronting on Walden Avenue (north and south sides) from the Buffalo City Line east to the west line of Harlem Road.

2. All departments, agencies and authorities of the Town are directed to withhold the issuance of any permits for:

a. new construction;
b. construction creating an extension/expansion of an existing use (excluding one- and two-family residential structures); and
c. construction creating a change of use.

for properties described in subdivision 1 of this Ordinance.

3. The Town Board of the Town of Cheektowaga shall have the power to vary or modify the application of the provisions of this Ordinance upon the Town Board's determination, in its absolute discretion, that such variance or modification is consistent with the Town's comprehensive master plan and with the health, safety, morals and general welfare of the Town.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

Dated: July 18, 1989

RICHARD M. MOLESKI
Town Clerk

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

.....Scott Benson....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for ..... weeks; first publication .....JUL 20 1989..... ; last publication .....JUL 20 1989..... ; and that no more than six days intervened between publications.

.....Scott Benson.....

Sworn to before me this .....

day of .....JUL 20 1989....., 19.....

.....Eve J. Allis.....

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

REVIEW DISTRICT ORDINANCE," as attached hereto, be and hereby is adopted, and BE IT FURTHER

RESOLVED, that a copy of this resolution be entered in the minutes of the meeting of the Town Board of the Town of Cheektowaga held on July 17, 1989; and that a certified copy thereof be published in the CHEEKTOWAGA TIMES, a newspaper published in the Town of Cheektowaga and having a general circulation therein; and an affidavit of such publication shall be filed with Town Clerk, and BE IT FURTHER

RESOLVED, that the "SPECIAL REVIEW ZONING DISTRICT ORDINANCE" shall take effect ten (10) days after such publication, but said changes shall take effect from the date of their service as against a person served personally with a copy thereof certified by the Town Clerk under the corporate seal of the Town and showing the date of their passage and entry in the minutes.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

SPECIAL REVIEW ZONING DISTRICT ORDINANCE

1. For a period of 90 days, the following area is declared a Special Review Zoning District:

Property fronting on Walden Avenue (north and south sides) from the Buffalo City Line east to the west line of Harlem Road.

2. All departments, agencies and authorities of the Town are directed to withhold the issuance of any permits for:

a. new construction;

b. construction creating an extension/expansion of an existing use (exclusing one- and two-family residential structures); and

c. construction creating a change of use,

for properties described in subdivision 1 of this Ordinance.

3. The Town Board of the Town of Cheektowaga shall have the power to vary or modify the application of the provisions of this Ordinance upon the Town Board's determination, in its absolute discretion, that such variance or modification is consistent with the Town's comprehensive master plan and with the health, safety, morals and general welfare of the Town.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on July 17, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item No. 3a, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 17th day of July, 1989.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 20, 1989

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 17th day of July, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Kulyk and Seconded by Councilman Jaworowicz and Councilman Johnson

WHEREAS, properties fronting on Walden Avenue between the Buffalo City line and Harlem Road are presently in the CM-General Commercial zoning district, and

WHEREAS, it is this Board's position that the present zoning district classification of a number of properties in this area appear to be incompatible with present uses, adjacent uses and surrounding properties, and

WHEREAS with the planning and anticipation of a 55 acre commercial/industrial park south of Walden Avenue and adjacent to the above referenced Walden Avenue properties, further changes and development of this area are to be expected, and

WHEREAS, in the late 1970's-early 1980's, the Town was engaged in the Walden Avenue Revitalization Program and expended a large amount of community development funds for various improvements to properties along Walden Avenue, and

WHEREAS, with the accelerating changes occurring in the Walden Avenue area, there is a great potential for future development of this area, and this Town Board wishes to ensure the proper and coordinated development of such area, and

WHEREAS, presently, the Planning Consultant to the Cheektowaga Economic Development Corporation and the Town Planning Board are studying this area of Town to devise a zoning classification and development scheme for same, and

WHEREAS, the courts have said that a local legislature may be interim or stop-gap ordinance stop for a reasonable time the commencement of building in an area under immediate consideration for zoning or rezoning, and

WHEREAS, such interim or stop-gap ordinance or calling of a moratorium on the issuance of permits has been found to be appropriate in circumstances such as are presented in the Walden Avenue area, and

WHEREAS, a public hearing on a proposed "SPECIAL REVIEW ZONING DISTRICT ORDINANCE" was duly held by this Town Board on the 3rd day of July, 1989 at 7:00 P.M. at the Cheektowaga Town Hall, corner or Broadway and Union Road, Cheektowaga, New York; and at which hearing all parties in interest and citizens had an opportunity to be heard and were heard, and

WHEREAS, it is in the public interest to adopt the "SPECIAL REVIEW ZONING DISTRICT ORDINANCE," NOW, THEREFORE, BE IT RESOLVED, that the "SPECIAL

Item No. 3b Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, Joseph D. Meiler, lessee, applied for a Special Permit for an increase in used car sales on property located at 440 Cayuga Road, Cheektowaga, New York pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 15th day of May, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommended denial of the Special Permit modification because:

1. multiple use of this parcel does not permit any further expansion of the used car sales

2. the lost is not large enough to accommodate all of the proposed uses and the required landscaping.

NOW, THEREFORE, BE IT RESOLVED that said Special Permit modification be and hereby is denied based on the recommendations made by the Cheektowaga Planning Board.

* See next page for description

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

All that tract or parcel of land, situate in the Town of Cheektowaga, County of Erie and State of New York, described as follows:

Being subdivision Lots Number 68 and 66 as shown on Map Cover No. 1628 and filed in the Erie County Clerk's Office and being situated at the Northwest corner of Cayuga Road and Cleveland Drive and having a frontage of 140.17 feet on Cayuga Road, said map having filed in the Erie County Clerk's Office on April 2, 1941.

Item No. 3c Motion by Councilman Johnson, Seconded by Councilman Kulyk

WHEREAS, New Era Automotive, Inc. applied for a Special Permit for used car sales on property located at 3440 Genesee Street, Cheektowaga, New York pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommended denial of the Special Permit because the lot is not large enough for used car sales and the existing operations,

NOW, THEREFORE, BE IT RESOLVED that said Special Permit be and hereby is denied for the following reasons:

1. the lot is not large enough for used car sales and the existing operations
2. inadequate landscaping being provided
3. history of bad housekeeping.

* See next page for description

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

and assigns forever,

EL A

All that Tract or Parcel of Land, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Farm Lot No. 18, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point in the northerly line of Genesee Street (100 feet wide) at the distance of 950 feet westwardly from the point of intersection of the said northerly line of Genesee Street with the westerly line of Union Road (100 feet wide); extending thence (1) westwardly along the said northerly line of Genesee Street 150 feet to a point; thence (2) turning an interior angle of 75 degrees 08 minutes 30 seconds parallel with the said westerly line of Union Road northwardly 150 feet to a point in line of other land of the party of the first part: thence (3) turning an interior angle of 104 degrees 51 minutes 30 seconds parallel with said northerly line of Genesee Street eastwardly 150 feet to a point in line of other land of said party of the first part; thence (4) turning an interior angle of 75 degrees 08 minutes 30 seconds parallel with the said westerly line of Union Road southwardly 150 feet to the point and place of beginning; the last mentioned course and the first mentioned course forming an interior angle of 104 degrees 51 minutes 30 seconds.

B

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Farm Lot No. 18, Township 11, Range 7 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point in the northerly line of Genesee Street (100 feet wide), at the distance of 850 feet westwardly from the point of intersection of the said northerly line of Genesee Street with the westerly line of Union Road (100 feet wide); extending thence (1) westwardly along the said northerly line of Genesee Street 100 feet to the easterly line of land now or formerly owned by Metropolitan Life Insurance Company; thence (2) northerly along the easterly line of said Metropolitan Life Insurance Company 150 feet to a point; thence (3) Easterly on a line parallel with the northerly line of Genesee Street 100 feet to a point; and thence (4) Southerly and along a line parallel with the westerly line of Union Road 150 feet to the northerly line of Genesee Street.

EXCEPTING THEREFROM lands conveyed to St. Mary's Court Inc. by Deeds recorded in Liber 5509 of Deeds at Page 309 and in Liber 6288 of Deeds at Page 341.

Item No. 3d Motion by Councilman Kazukiewicz, Seconded by Councilman Solecki

WHEREAS, Talco Contractors, Inc. and Samuel W. Tadio have petitioned for the rezoning from R-Residential District to CM-General Commercial District of property owned by them and located at 4945 Genesee Street, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing on such petition was held before this Town Board on the 19th day of June, 1989 at 6:30 o'clock P.M., after publication and service of the notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof subject to the following conditions:

Section 82-71 - development plan approval

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment, subject to the following conditions:

1. detention facilities, as approved by the Town Engineer, be constructed in the Scajaquada Creek area
2. no more than 121 units be placed on the property
3. detailed plans be submitted at a future date to the appropriate departments for review

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED that the application of Talco Contractors, Inc. and Samuel W. Tadio for the rezoning from R-Residential District to CM-General Commercial District of the property specififed in the attached legal descriptions be and the same is hereby approved subject to the aforementioned conditions as recommended by the Cheektowaga Planning Board and the Town Environmental Advisory committee, and BE IT FURTHER

RESOLVED that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

* See next page for legal description

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak Kazukiewicz and Solecki
NAYES: Councilman Kulyk
ABSENT: 0

AFFIDAVIT - NEXT PAGE

PARCEL FOR REZONING

ALL THAT PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie, State of New York, being part of Lot 75 & 76, Township 11, Range 7, more particularly described as follows:

COMMENCING at the intersection of the south line at Genesee St. (66' R.O.W.) and the west line of Farm Lot 75, thence south along the west line of Farm Lot 75, 500.00 feet to the POINT OF BEGINNING; thence east at right angles to the west line of Farm Lot 76, 297 +/- ft. to a point on the west line of Liber 9560, page 505; thence south along the west line of Liber 9560, Page 505, 1690 +/- feet to the south west corner of Liber 9560, Page 505, also being a point on the north line of Liber 7221, Page 283; thence west along the north line of Liber 7221, page 283, Liber 9409, Page 459, Liber 5784, Page 250, Liber 9627, Page 47 and Liber 7444, Page 408, 860 +/- ft. to a point on the east line of Liber 9419, Page 187; thence north along the east line of Liber 9419, Page 187, 910 +/- ft. to a point; thence east at right angles to the west line of Farm Lot 76 and along the southerly edge of an existing private asphalt road, 485 +/- ft. to a point. Thence northerly along the easterly edge of an existing private asphalt road, 575 +/- ft. to a point; thence east at right angles to the west line of Farm Lot 76, 60+/- ft. to a point on the west line of Farm Lot 75; thence north along the west line of Farm Lot 75, 190 +/- ft. to the POINT OF BEGINNING.

Containing 22.1 +/- acres.

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson ....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for ..... weeks; first publication JUL 27 1989 ; last publication JUL 27 1989 ; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this .....
day of JUL 27 1989, 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 17th day of July, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Kazukiewicz and Seconded by Councilman Solecki

WHEREAS, Talco Contractors, Inc., and Samuel W. Tadio have petitioned for the rezoning from R-Residential District to CM-General Commercial District of property owned by them and located at 4945 Genesee Street, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing on such petition was held before this Town Board on the 19th day of June, 1989 at 6:30 o'clock P.M., after publication and service of notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof subject to the following conditions:

Section 82-71 - development plan approval

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment, subject to the following conditions:

1. detention facilities, as approved by the Town Engineer, be constructed in the Scajaquada Creek area
2. no more than 121 units be placed on the property
3. detailed plans be submitted at a future date to the appropriate departments for review

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee

NOW, THEREFORE, BE IT RESOLVED, that the application of Talco Contractors, Inc. and Samuel W. Tadio for the rezoning from R-Residential District to CM-General Commerical District of the property specified in the attached legal description be and the same is hereby approved subject to the conditions recommended by the Environmental Advisory Committee, and BE IT FURTHER

RESOLVED, that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting NAYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 6
NAYES: 1
ABSENT: 0

PARCEL FOR REZONING

ALL THAT PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie, State of New York, being part of Lot 75 & 76, Township 11, Range 7, more particularly described as follows:

COMMENCING at the intersection of the south line at Genesee St. (66' R.O.W.) and the west line of Farm Lot 75, thence south along the west line of Farm Lot 75, 500.00 feet to the POINT OF BEGINNING; thence east at right angles to the west line of Farm Lot 76, 297 +/- ft. to a point on the west line of Liber 9560, page 505; thence south along the west line of Liber 9560, Page 505, 1690 +/- feet to the south west corner of Liber 9560, Page 505, also being a point on the north line of Liber 7221, Page 283; thence west along the north line of Liber 7221, page 283, Liber 9409, Page 459, Liber 5784, Page 250, Liber 9627, Page 47 and Liber 7444, Page 408, 860 +/- ft. to a point on the east line of Liber 9419, Page 187; thence north along the east line of Liber 9419, Page 187, 910 +/- ft. to a point; thence east at right angles to the west line of Farm Lot 76 and along the southerly edge of an existing private asphalt road, 485 +/- ft. to a point. Thence northerly along the easterly edge of an existing private asphalt road, 575+/- ft. to a point; thence east at right angles to the west line of Farm Lot 76, 60 +/- ft. to a point on the west line of Farm Lot 75; thence north along the west line of Farm Lot 75, 190 +/- to the POINT OF BEGINNING.

Containing 22.1 +/- acres.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on July 17, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 3d, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 17th day of July, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: July 27, 1989

Item No. 3e Motion by Supervisor Swiatek, Seconded by Councilman Solecki

WHEREAS, Talco Contractors, Inc. and Samuel W. Tadio applied for a Special Permit for mobile homes on property located at 4945 Genesee Street, Cheektowaga, New York, pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 19th day of June, 1989 at 7:00 o'clock P.M., of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommended approval of the Special Permit subject to Town Code Section 82-71 Development Plan approval

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the Special Permit for the above-referenced property located at 4945 Genesee Street, and has rendered a determination that the Special Permit will not have a significant effect on the environment subject to the following conditions:

1. detention facilities, as approved by the Town Engineer, be constructed in the Scajaquada Creek area
2. no more than 121 units be placed on the property
3. detailed plans be submitted at a future date to the appropriate departments for review

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED that said Special Permit be and hereby is granted subject to the aforementioned conditions as recommended by the Cheektowaga Planning Board and Town Environmental Advisory Committee.

* See next page for legal description

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak Kazukiewicz and Solecki
NAYES: Councilman Kulyk
ABSENT: 0

AFFIDAVIT - NEXT PAGE

PARCEL FOR REZONING

ALL THAT PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie, State of New York, being part of Lot 75 & 76, Township 11, Range 7, more particularly described as follows:

COMMENCING at the intersection of the south line at Genesee St. (66' R.O.W.) and the west line of Farm Lot 75, thence south along the west line of Farm Lot 75, 500.00 feet to the POINT OF BEGINNING; thence east at right angles to the west line of Farm Lot 76, 297 +/- ft. to a point on the west line of Liber 9560, page 505; thence south along the west line of Liber 9560, Page 505, 1690 +/- feet to the south west corner of Liber 9560, Page 505, also being a point on the north line of Liber 7221, Page 283; thence west along the north line of Liber 7221, page 283, Liber 9409, Page 459, Liber 5784, Page 250, Liber 9627, Page 47 and Liber 7444, Page 408, 860 +/- ft. to a point on the east line of Liber 9419, Page 187; thence north along the east line of Liber 9419, Page 187, 910 +/- ft. to a point; thence east at right angles to the west line of Farm Lot 76 and along the southerly edge of an existing private asphalt road, 485 +/- ft. to a point. Thence northerly along the easterly edge of an existing private asphalt road, 575 +/- ft. to a point; thence east at right angles to the west line of Farm Lot 76, 60+/- ft. to a point on the west line of Farm Lot 75; thence north along the west line of Farm Lot 75, 190 +/- ft. to the POINT OF BEGINNING.

Containing 22.1 +/- acres.

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication JUL 27 1989; last publication JUL 27 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this

day of JUL 27 1989, 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 17th day of July, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo J. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Supervisor Swiatek and Seconded by Councilman Solecki

WHEREAS, Talco Contractors, Inc., and Samuel W. Tadio applied for a Special Permit for mobile homes on property located at 4945 Genesee Street, Cheektowaga, New York, pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 19th day of June, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommened approval of the Special Permit subject to Town Code Section 82-71 Development Plan approval,

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the Special Permit for the above-referenced property located at 4945 Genesee Street, and has rendered a determination that the Special Permit will not have a significant effect on the environment, subject to the following conditions:

1. detention facilities, as approved by the Town Engineer, be constructed in the Scajaquada Creek area
2. no more than 121 units be placed on the property
3. detailed plans be submitted at a future date to the appropriate departments for review

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED, that said Special Permit be and hereby is granted subject to the aforementioned conditions as recommended by the Cheektowaga Planning Board and Town Environmental Advisory Committee.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting NAYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 6
NAYES: 1
ABSENT: 0

PARCEL FOR REZONING

ALL THAT PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie, State of New York, being part of Lot 75 & 76, Township 11, Range 7, more particularly described as follows:

COMMENCING at the intersection of the south line at Genesee St. (66' R.O.W.) and the west line of Farm Lot 75, thence south along the west line of Farm Lot 75, 500.00 feet to the POINT OF BEGINNING; thence east at right angles to the west line of Farm Lot 76, 297 +/- ft. to a point on the west line of Liber 9560, page 505; thence south along the west line of Liber 9560, Page 505, 1690 +/- feet to the south west corner of Liber 9560, Page 505, also being a point on the north line of Liber 7221, Page 283; thence west along the north line of Liber 7221, page 283, Liber 9409, Page 459, Liber 5784, Page 250, Liber 9627, Page 47 and Liber 7444, Page 408, 860 +/- ft. to a point on the east line of Liber 9419, Page 187; thence north along the east line of Liber 9419, Page 187, 910 +/- ft. to a point; thence east at right angles to the west line of Farm Lot 76 and along the southerly edge of an existing private asphalt road, 485 +/- ft. to a point. Thence northerly along the easterly edge of an existing private asphalt road, 575+/- ft. to a point; thence east at right angles to the west line of Farm Lot 76, 60 +/- ft. to a point on the west line of Farm Lot 75; thence north along the west line of Farm Lot 75, 190 +/- to the POINT OF BEGINNING.

Containing 22.1 +/- acres.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on July 17, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 3e, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 17th day of July, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: July 27, 1989

NO. 18

Item No. 3f Motion by Councilman Kulyk, Seconded by Supervisor Swiatek

WHEREAS, Edwin L. Laupmanis applied for a Special Permit for an appliance store and public garage on property located at the Thruway Mall (East lot), Cheektowaga, New York pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommended approval of the Special Permit, such Special Permit to be limited to the electrical installation of items sold in the store relating to automobiles, and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the Special Permit for the above-referenced property located at the Thruway Mall (east lot), and has rendered a determination that the Special Permit will not have a significant effect on the environment provided landscaping is approved by the Planning Board, and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED that said Special Permit be and hereby is granted subject to the recommendations made by the Cheektowaga Planning Board and the Environmental Advisory Committee.

* See next page for legal description

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

DEED DESCRIPTION:

Harlem Road and Walden Avenue, southeast corner of Thruway Mall abutting Skating Rink Building and General Cinema Theatres.

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks:
first publication JUL 27 1989;
last publication JUL 27 1989;
and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this
day of JUL 27 1989, 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 17th day of July, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Kulyk and Seconded by Supervisor Swiatek

WHEREAS, Edwin L. Laupmanis applied for a Special Permit for an appliance store and public garage on property located at the Thruway Mall (East Lot), Cheektowaga, New York, pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommened approval of the Special Permit, such Special Permit to be limited to the electrical installation of items sold in the store relating to automobiles, and and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the Special Permit for the above-referenced property located at the Thruway Mall (east lot), and has rendered a determination that the Special Permit will not have a significant effect on the environment provided landscaping is approved by the Planning Board, and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED, that said Special Permit be and hereby is granted subject to the aforementioned conditions as recommended by the Cheektowaga Planning Board and Environmental Advisory Committee.

Upon roll call.....

Supervisor Swiatek Voting AYE

Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

DEED DESCRIPTION:
Harlem Road and Walden Avenue, southeast corner of Thruway Mall abutting Skating Rink Building and General Cinema Theatres.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on July 17, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 3f, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 17th day of July, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: July 27, 1989

Item No. 3g Motion by Councilman Johnson, Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, Benderson Development Co., Inc. applied for a Special Permit for a tire service center on property located at 3735 Union Road, Cheektowaga, New York pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested persons were given an opportunity to be heard at such hearing, and

WHEREAS, this Town Board feels that the proposed tire service center is located too near the residences to the rear and would generate:

1. excessive noise;
2. excessive air pollution;
3. dirt;
4. debris

deleteriously affecting nearby residential properties, thus devaluing such properties and affecting the health, safety and general welfare of residents of the area, NOW, THEREFORE, BE IT

RESOLVED, that said Special Permit for the tire service center at the location shown on the site plan is rejected by this Town Board for the aforementioned reasons, and BE IT FURTHER

RESOLVED, that Benderson Development Co., Inc. be and hereby is requested to submit a new site/development plan for this project showing the tire service center located as far away from the residential neighborhood as possible, and BE IT FURTHER

RESOLVED, that, prior to any approval of the site/development plan and the Special Permit, Benderson Development Co., Inc. must have completed and submitted to this Town Board the traffic study requested by Town Board resolution dated July 3, 1989, and BE IT FURTHER

* *

MOTION BY COUNCILMAN JAWOROWICZ, SECONDED BY COUNCILMAN JOHNSON TO AMEND THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Kulyk

the amended resolution is as follows:

* *

Motion by Councilman Johnson, Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, Benderson Development Co., Inc. applied for a Special Permit for a tire service center on property located at 3735 Union Road, Cheektowaga, New York pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

Item No. 3g cont'd

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested persons were given an opportunity to be heard at such hearing, and

WHEREAS, this Town Board feels that the proposed tire service center is located too near the residences to the rear and would generate:

1. excessive noise;
2. excessive air pollution;
3. dirt;
4. debris

deleteriously affecting nearby residential properties, thus devaluing such properties and affecting the health, safety and general welfare of residents of the area, NOW, THEREFORE, BE IT

RESOLVED, that said Special Permit for the tire service center at the location shown on the site plan is rejected by this Town Board for the aforementioned reasons, and BE IT FURTHER

RESOLVED, that Benderson Development Co., Inc. be and hereby is requested to submit a new site/development plan for this project showing the tire service center located as far away from the residential neighborhood as possible, and BE IT FURTHER

RESOLVED, that, prior to any approval of the site/development plan and the Special Permit, Benderson Development Co., Inc. must have completed and submitted to this Town Board the traffic study requested by Town Board resolution dated July 3, 1989, and BE IT FURTHER

RESOLVED, that, prior to any approval of the site/development plan and Special Permit, Benderson Development Co., Inc. shall be required and will agree to close and barricade North Creek Drive at its westerly property line at no expense to the Town of Cheektowaga.

* See next page for legal description

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES:	0
ABSENT:	0
ABSTAINED:	Councilman Kulyk

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 11, Township 11, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the east line of Union Road (as widened by a taking by the State of New York recorded in Liber 3877 of Deeds at page 118) 452 feet south of the north line of Lot No. 11; thence easterly and parallel to the north line of Lot No. 11, 429.30 feet to a point; thence southerly at right angles, 15.0 feet to a point; thence easterly at right angles, 140.0 feet to a point; thence northerly at right angles, 15.0 feet to a point; thence easterly at right angles and parallel to the north line of Lot No. 11, 616.22 feet to a point; thence southerly and parallel to the west line of Lot No. 11, 685.18 feet to a point; thence westerly and parallel to the north line of Lot No. 11, 932.86 feet to the southeast corner of a 2 1/2 acre parcel of land excepted in a deed recorded in Liber 4597 of Deeds at page 199; thence northerly parallel to the west line of Lot No. 11, and along the east line of said 2 1/2 acre parcel of land, 435.60 feet to the northeast corner of said 2 1/2 acre parcel of land; thence westerly parallel to the north line of Lot No. 11 and along the northerly line of said 2 1/2 acre parcel of land, 252.66 feet to the northwest corner of said 2 1/2 acre parcel of land, which is also a point on the east line of Union Road; thence northerly along the east line of Union Road, 249.58 feet to the point or place of beginning.

TOGETHER with the benefits of a Reciprocal Easement and Operation Agreement made between Aero Drive-In Inc. and Holiday-Union Associates, L.P., dated and recorded in Liber of Deeds at page granting rights over the following described lands:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Cheektowaga, County of Erie and State of New York, being parts of Lots Nos. 11 and 12, Township 11, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the east line of Union Road (as widened by a taking by the State of New York recorded in Liber 3877 of Deeds at page 118) 452 feet south of the north line of Lot No. 11; thence easterly and parallel to the north line of Lot No. 11, 429.30 feet to a point; thence southerly at right angles, 15.0 feet to a point; thence easterly at right angles, 140.0 feet to a point; thence northerly at right angles, 15.0 feet to a point; thence easterly at right angles and parallel to the north line of Lot No. 11, 616.22 feet to a point; thence northerly and parallel to the west line of Lot No. 11, 452.0 feet to a point on the north line of Lot No. 11 and also the south line of Lot No. 12; thence easterly along the north line of Lot No. 11 and also along the south line of Lot No. 12, 156.39 feet to a point on the west line of Ellsworth Drive (60 feet wide); thence northerly along the west line of Ellsworth Drive, 100.88 feet to a point on a line drawn parallel to the south line of Lot No. 12 and distant 100 feet northerly therefrom as measured at right angles thereto; thence westerly along said last described parallel line, 806.56 feet to the southwest corner of lands conveyed to The Town of Cheektowaga by Deed recorded in Liber 6950 of Deeds at page 373; thence northerly along the west line of the lands conveyed to The Town of Cheektowaga by Deed aforesaid, 159.38 feet to a point on the north line of lands conveyed to Edward Statler and Wanda Statler, his wife by deed recorded in Liber 4607 of Deeds at page 423; thence westerly along the north line of the lands conveyed to Statler by deed aforesaid, 539.41 feet to a point on the line of Union Road (as widened by a taking by the State of New York recorded in Liber 3861 of Deeds at page 432); thence southerly along the of Union Road (as so widened), 259.47 feet to the point of intersection of the line of Union Road (as so widened) with the north line of Lot No. 11 and the south line of Lot No. 12; thence easterly along the north line of Lot No. 11 and also along the south line of Lot No. 12, 325.62 feet to a point; thence southeasterly at an exterior angle of 116° 16' 20", 108.67 feet to a point; thence southwesterly at an exterior angle of 107° 59' 20", 298.54 feet to a point; thence westerly at an exterior angle of 140° 10' 20", 119.38 feet to a point; thence continuing westerly at an exterior angle of 169° 46' 40", 50.0 feet to a point on the east line of Union Road (as widened by a taking by the State of New York recorded in Liber 3877 of Deeds at page 118); thence southerly along the east line of Union Road (as so widened), 142.05 feet to the point or place of beginning.

Item No. 4a Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

WHEREAS, the Cheektowaga Traffic Safety Commission has recommended that the vehicle and traffic regulations of the Town be amended, NOW, THEREFORE, BE IT

RESOLVED that a public hearing on proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) be held on August 7, 1989 at 7:30 P.M. at the Town Hall, corner of Broadway and Union Road in said Town of Cheektowaga for the purpose of considering the advisability of adopting said amendments and the Town Clerk is hereby directed to publish the following Notice of Hearing in the CHEEKTOWAGA TIMES on the 20th day of July, 1989, said amendments being set forth in the Notice of Hearing.

* *

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Cheektowaga, Erie County, New York will hold a public hearing at the Town Hall, corner of Broadway and Union Road, in said Town of Cheektowaga on August 7, 1989 at 7:30 P.M., to consider the advisability of adopting amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic); said proposed amendments being as follows:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

BORDEN ROAD	west side	from the south curbline of Autumnwood Drive southerly 100 feet to a point

C. No Parking Here To Corner

GRUNNER ROAD	north side	for a distance of 30 feet east of the intersection of Wallace Avenue

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

Dated: July 17, 1989

RICHARD M. MOLESKI
Town Clerk

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication JUL 20 1989; last publication JUL 20 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this

day of JUL 20 1989, 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19 91

LEGAL NOTICE
NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Cheektowaga, Erie County, New York will hold a public hearing at the Town Hall, corner of Broadway and Union Road, in said Town of Cheektowaga on August 7, 1989 at 7:30 P.M., to consider the advisability of adopting amendments to Chapter 76 of the Code of the said Town of Cheektowaga (Vehicle and Traffic); said proposed amendments being as follows:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner
GRUNNER ROAD
north side
for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime
BORDEN ROAD
west side
from the south curbline of Autumnwood Drive southerly 100 feet to a point

C. No Parking Here to Corner
GRUNNER ROAD
north side
for a distance of 30 feet east of the intersection of Wallace Avenue

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 20, 1989

Item No. 4b — Call for public hearing - Amendment to Traffic Ordinance - Art. X "Parking, Standing, Stopping" - Grunner Rd., Borden Rd., Nagel Drive
This item was withdrawn.

Item No. 5a — Award of bid - One 1989-90 Model, Hydraulic Excavator Machine for the Highway Department
This item was withdrawn as per Chris Kowal, Highway Superintendent.

Item No. 5b — Motion by Councilman Kazukiewicz, Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening on July 14th, for One (1) Used, 1989 Crawler Tractor equipped w/dozer blade to be purchased by the Town Highway Department as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, NOW, THEREFORE, BE IT

RESOLVED that the bid be awarded to Mecca-Kendall Corp., Route 240, West Falls, NY 14170 for One (1) Used 1989 Crawler Tractor equipped w/dozer blade at a purchase price of $36,325. after trade-in, being the only bidder meeting specifications, and BE IT FURTHER

RESOLVED that monies be charged to line item #05191089091201.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 5c — Motion by Councilman Kazukiewicz, Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening held on July 14th, 1989, for the furnishing of fuel, oil, lubricants, etc. for use by various Town of Cheektowaga Departments as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, NOW, THEREFORE, BE IT

RESOLVED that bids be awarded to the lowest responsible bidders meeting specifications as set forth in the tabulation of the Superintendent of Highways, a copy of which is attached hereto and made a part hereof.

* See next two (2) pages for tabulation

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

CHRISTOPHER J. KOWAL
SUPERINTENDENT OF HIGHWAYS

HIGHWAY DEPARTMENT
3145 Union Road
Cheektowaga, N. Y. 14227-1083
(716) 686-3450
Mobile: 863-5867

Growing In A New Direction

TOWN OF CHEEKTOWAGA
Erie County, New York

July 17, 1989

MEMO

To: Town Board Members
From: Chris Kowal, Highway Superintendent

Tabulation for Oil, Lubricants, diesel fuel etc. on reverse side.

AWARD - 7/17/89

Motor oil, Diesel Fuel etc.

	Amer. Lub. Inc. 619 Bailey Ave. 14206 827-8300	Superior Lub. Inc. 32 Ward Rd. N Tonwanda 14120 693-6050	Niagara Lub Inc. 105 Manitoba St. Buffalo14240-0706 822-2300	T.F.Kurk Inc. 1276 Harlem Rd. Cheek (14206 892-0359
KEROSENE OIL	N/B	.97 Gal.	1.16Gal.	.959 Gal.
HYDRAULIC Oil #46 AW R&O Anti-wear, Rust & Oxidation Resistant	1.32 Ga/bulk	1.29 Ga/bulk	1.35Ga/bulk	
MOTOR OILS:				
SAE 30-SF,CD SUPER C (HEAVY DUTY MOTOR OIL) Meets or Exceeds Detroit Diesel Classification. Also used for Gas Engines	1.78 Ga/Bulk	1.94 Ga/Bulk	1.91 Ga/bulk	
10W30 SF-CC used for gas engines	1.73 Gal	1.85 Gal.	2.19 Gal.	
Reg SAE 30 Sa-SB This is a non-detergent motor oil for use where additive oils are not required or desired.	1.49 Gal	1.49 Gal.	1.57 Gal.	
15W-40 Super C - API services SF, CC & CD Meets or exceeds Mack Specs EOK-EOK2	1.78 Ga/bulk	1.84 Ga/bulk	1.99 Ga/bulk	
TRANSMISSION FLUID: ATF DEXTRON II	2.03 Ga/bulk	1.98 Ga/bulk	1.94 Ga/bulk	
UNIVERSAL TRANSMISSION-HYDRAULIC FLUID Meets or Exceeds Ford Specs for Hydraulic Oil #134	2.03 Gal.	2.19 Gal.	2.32 Gal.	
GEAR Oil:				
DSL APGO 80/90 classification GL-5. Meets or exceeds Mack Truck Specs	.42#/120# drum	.505#/120# drum	.34#/120# drum	
DSL APGO 140 GL-5 Same Specs as above	.42#/ "	.505#/ "	.34#/ "	
MULTI-PURPOSE LUBE:				
DSL E.P. GREASE LITHIUM #2 or as equal	.515#	.48#	.51#	
LUBRIPLATE - Wheel Bearing Grease or as equal	.55#	.65#	1.35#	
PERMANENT ANTI-FREEZE GM#6038 or as equal	6.45 Gal.	6.49 Gal.	N/B	
#2 Diesel Fuel (Bulk Del.	N/B	.565 plus GRT	N/B	.5175
PREMIUM UNLEADED GASOLINE	N/B	N/B	N/B	.7345

Item No. 6a Motion by Councilman Kazukiewicz, Seconded by Councilman Jaworowicz

BE IT RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of One New and Unused 1990 Truck Mounted, Vacuum/Broom Type Street Sweeper for use by the Cheektowaga Highway Department. Information to bidders and specifications may be obtained from the Office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York 14227, between the hours of 8:00 A.M. and 3:30 P.M., Monday thru Friday, and BE IT FURTHER

RESOLVED that the Town Clerk is hereby designated as the officer to open bids on the aforesaid item at 11:00 A.M. on August 4th, 1989 in the Council Chambers of the Town of Cheektowaga.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, TRUCK MOUNTED, VACUUM/BROOM TYPE, STREET SWEEPER for use by the Cheektowaga Highway Department, at a public bid opening at 11:00 A.M., August 4th, 1989, to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, N.Y. Proposals must be enclosed and sealed on an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL TRUCK MOUNTED VACUUM/BROOM TYPE STREET SWEEPER.

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI
Town Clerk

Dated: July 17, 1989

Published: July 20, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication JUL 20 1989; last publication JUL 20 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this JUL 20 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL TRUCK MOUNTED, VACUUM/BROOM TYPE, STREET SWEEPER for use by the Cheektowaga Highway Department, at a public bid opening at 11AM, August 4th, 1989, to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways at his office located at 3145 Union Road, Cheektowaga, NY. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL TRUCK MOUNTED VACUUM/BROOM TYPE STREET SWEEPER."

Non-collusion form must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD MOLESKI,
TOWN CLERK
PUBLISH: July 20, 1989

Item No. 6b Motion by Councilman Jaworowicz, Seconded by Councilman Johnson

WHEREAS, the roof on the Highway Department Garage Building is in need of immediate repair, NOW, THEREFORE, BE IT

RESOLVED that the Town Clerk be directed to publish a Notice to Bidders in connection with the furnishing of labor, materials, tools, and equipment for said roofing repairs, said notice to be published in the CHEEKTOWAGA TIMES, and BE IT FURTHER

RESOLVED that sealed bids will be received on the 28th day of July, 1989 at 11:00 A.M., Eastern Daylight Savings Time, at a public bid opening to be held in the Council Chambers at the Cheektowaga Town Hall.

* *

NOTICE TO BIDDERS

Sealed proposals will be received and considered by the Town of Cheektowaga on July 28, 1989 at 11:00 A.M., Eastern Daylight Saving Time at the Town Hall corner of Broadway and Union Roads, for reroofing of the Highway Department Garage Building.

Information for bidders and specifications may be obtained from the Town Clerk at his office in said Town Hall.

The Town Board reserves the right to consider informal any bid not prepared and sumbitted in accordance with the provisions of the specifications and contract documents, and may waive any informalities, make an award to other than the low bidder should it be in the best interest of the Town, or reject any or all bids.

By order of the Town Board of the Town of Cheektowaga, Erie County, New York.

Richard M. Moleski
Town Clerk

DATED: July 17, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication JUL 20 1989 ; last publication JUL 20 1989 ; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this

day of JUL 20 1989, 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
NOTICE TO BIDDERS

Sealed propsoals will be received by the Town of Checktowaga on July 28, 1989 at 11:00 A.M., Eastern Daylight Savings Time, at the Town Hall, corner of Broadway and Union Roads, for reroofing of the Highway Department Garage Building.

Information for bidders and specifications may be obtained from the Town Clerk at his office in said Town.

The Town Board reserves the right to consider informal any bid not prepared and submitted in accordance with the provisions of the specifications and contract documents, and may waive any informalities, make an award to other than the low bidder, should it be in the best interest of the Town, or reject any or all bids.

By order of the Town Board of the Town Checktowaga, Erie County, New York.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: July 20, 1989

Item No. 7a Motion by Councilman Gabryszak, Seconded by Councilman Solecki

WHEREAS, the New York State Council on the Arts has approved a grant of $5,000 for the Town's 1989 Polish-American Arts Festival, and

WHEREAS, it is necessary for the Town to execute a Cultural Services Contract with the State for the receipt of said funds,

WHEREAS, the town also wishes to engage the services of various performing artists and craftsmen to participate in the Polish-American Arts Festival, NOW, THEREFORE, BE IT

RESOLVED that the Supervisor be and hereby is authorized to execute the Cultural Services Contract with the New York State Council on the Arts on behalf of the Town for the receipt of said grant funds, and BE IT FURTHER

RESOLVED that the Supervisor be and hereby is further authorized to sign all agreements necessary to secure the services of various performing artists and craftsmen for participation in the 1989 Polish-American Arts Festival.

Item No. 7b Motion by Councilman Johnson, Seconded by Councilman Solecki

WHEREAS, the Department of Housing & Urban Development has approved the Town's 1989-90 Program Year application for Community Development Block Grant funds in the amount of $665,000, and

WHEREAS, the Supervisor must execute a Grant Agreement with the Department of Housing and Urban Development for the receipt of said funds, NOW, THEREFORE, BE IT

RESOLVED that the Supervisor be and hereby is authorized to execute said Grant Agreement wit the Department of Housing & Urban Development for the receipt of a $665,000 in Community Development Block Grant funds for the 1989-90 Program Year.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 7c Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, the Town of Lancaster has requested the Town of Cheektowaga to renew its agreement with it for the proper disposal of dead dogs for the Town of Lancaster, and

WHEREAS, a new agreement between the Towns of Lancaster and Cheektowaga has been prepared and is acceptable as to form by the Town Attorney's Office, and

WHEREAS, this Town Board, in an expression of inter-municipal cooperation, is willing to enter into this new agreement with the Town of Lancaster, NOW, THEREFORE, BE IT

RESOLVED that the Supervisor be and hereby is authorized and directed to execute the attached Dog Disposal Agreement on behalf of the Town of Cheektowaga.

* See next pages for agreement

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

DOG DISPOSAL AGREEMENT

Made this 20th day of July, 1989, authorized by Article 5-G of the General Municipal Law of the State of New York and Article (7) of the New York Agricultural and Markets Law, by and between the TOWN OF CHEEK-TOWAGA, a municipal corporation in the State of New York, party of the first part, and the TOWN OF LANCASTER, a municipal corporation in the State of New York, and having its office and principal place of business at the Town Hall, 21 Central Avenue, in the Town of Lancaster, County of Erie and State of New York, party of the second part.

W I T N E S S E T H :

That the party of the first part, in consideration of the payment to it by the party of the second part of the sum of money to be paid in the manner hereinafter particularly described, hereby covenants and agrees that:

FIRST: The party of the first part, through its duly appointed agents and employees, will humanely destroy or dispose of, pursuant to and as provided in Section 118 of the Agricultural and Markets Law, dead dogs delivered to the party of the first part by the party of the second part.

SECOND: In consideration of the performance by the party of the first part of the terms of this Agreement, the party of the second part hereby agrees to pay the party of the first part the sum of Seven Dollars and Fifty Cents ($7.50) per dead dog.

THIRD: The party of the second part hereby agrees to indemnify and hold harmless the party of the first part from and against all claims,

damages, losses and expenses, including attorneys' fees, that shall or may be brought against or occasioned by the party of the first part arising out of the actions of the party of the second part prior to the delivery of the dead dogs to the party of the first part. In no event shall the party of the second part be responsible for damages caused by any negligent acts or omissions on the part of the party of the first part under this Agreement.

FOURTH: The aforesaid sum stated in condition numbered "SECOND" of this Agreement is to be billed monthly on a properly-itemized voucher by the party of the first part to the party of the second part.

FIFTH: Said dead dogs shall be delivered to the Cheektowaga Dog Pound by agents or employees of the party of the second part at a time mutually agreeable to both parties.

SIXTH: This Agreement shall commence on the 1st day of September, 1989 and shall continue for a period of one (1) year.

IN WITNESS WHEREOF, the parties hereto have caused their corporate seals to be hereunto affixed and this Agreement to be signed by their duly authorized officers, the day and year first above written.

(L.S.)

TOWN OF CHEEKTOWAGA

By _____
Supervisor

(L.S.)

TOWN OF LANCASTER

By _____
Supervisor

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
TOWN OF LANCASTER)

On this 20th day of July, 1989, before me personally came STANLEY JAY KEYSA, to me known to be the Supervisor of the Town of Lancaster, New York, and the person who executed the foregoing instrument on behalf of Town of Lancaster, who, being by me duly sworn, did depose and say that he executed the said instrument by Order and Resolution of the Town Board of the Town of Lancaster, New York, and that the Seal affixed is the seal of such Town and that it was so affixed thereto by like order of the Town Board of said Town.

David J. Brown

DAVID J. BROWN
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES 9/30/90

STATE OF NEW YORK)
COUNTY OF ERIE)
TOWN OF CHEEKTOWAGA)

On this 30th day of July, 1989, before me personally came FRANK E. SWIATEK, to me known to be the Supervisor of the Town of Cheektowaga New York, and the person who executed the foregoing instrument on behalf of the Town of Cheektowaga, who, being by me duly sworn, did depose and say that he executed the said instrument by Order and Resolution of the Town Board of the Town of Cheektowaga, New York, and that the Seal affixed is the seal of the Town and that it was so affixed thereto by like order of the Town Board of said Town.

Valerie A. Meyers

VALERIE A. MEYERS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES APRIL 11 19 90

Item No. 8 Motion by Councilman Kulyk, Seconded by Councilman Johnson

WHEREAS, there is a Town highway named Thomas Drive off of Barbados Drive in the Town, and

WHEREAS, with the development of the Losson Park Subdivision, Thomas Drive is to be extended to Towers Boulevard, and

WHEREAS, the United States Postal Service has notified the Town that the name of Thomas Drive should be changed, and

WHEREAS, this Town Board wishes to recognize the many hundreds of Ukranian-American citizens living in the Town of Cheektowaga by naming a street after Ukranian patriot Taras Shevchenko on this, the 175th anniversary of his birth, NOW, THEREFORE, BE IT

RESOLVED that Thomas Drive be and hereby is changed to Shevchenko Drive, and BE IT FURTHER

RESOLVED that the Town Clerk be directed to, within ten days, forward certified copies of this resolution to the following:

1. Town Assessor
2. Erie County Clerk
3. County Division of Highways
4. U.S. Post Office

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 9 Direct Superintendent of Highways to remove barriers at Castlewood near Barbados
This item failed due to lack of a second.

Item No. 10 Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga, the Environmental Advisory Committee reviews various applications for building permits, rezonings, special permits, etc. and renders its determination of environmental significance of such applications, and

WHEREAS, the Town Board, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga, is designated the lead agency in most instances, and

WHEREAS, since the Town Board is the lead agency, it must affirm or reject the recommendations submitted to it by the Advisory Committee, and

WHEREAS, the Advisory Committee, at its meeting held on April 7, 1989, rendered the determinations shown on the attached memo dated April 10, 1989, and

WHEREAS, this Town Board has reviewed the applications submitted and recomendations made by the Environmental Advisory Committee for the items listed below, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby affirms the recommendations (including stipulations, if any) made by the Advisory Committee with respect to the following referenced items which appear on the April 10, 1989 memo attached hereto:

Item III Transit/Strasmer Road

* See next page for memo

The new plan that was submitted shows additional landscaping at the front of the property and shows drainage for the site. It was the opinion of the committee that this project will have no environmental impact on the area but the conditions are as follows:

- Planning Board must approve landscaping for the site.
- Town Engineer must approve drainage for the site
- The Building Inspector must determine proper drainage for building downspouts.

ITEM III Transit/Strasmer Road - Proposed Office Building Northwest Corner

Applicant: Harold Weisemore

Determination: Non-Significant With Stipulations
The item had been previously discussed and additional information had been requested. The architect and owner, both present at the meeting, submitted a new plan with additional drainage information and calcuations. The plan calls for on-site detention of waters and the owner is willing to cooperate with the Highway Department on piping a portion of Strasmer Road. This piping will be accomplished under the guidance of the Highway Engineer.

The owner has contacted the New York State Department of Transporation and has gotten a preliminary verbal approval on the Transit Road access road but the Town of Cheektowaga Traffic Safety Commission has not yet commented on that access.

This area along Transit Road is zoned for, and has been developing as, offices and retail sales, therefore this proposed use is compatible with existing uses as well as the Town's Master Plan.

The conditions are as follows:

- The Traffic Safety Commission must comment on the Transit Road access drive.
- The Planning Board must approve landscaping.
- The dumpster must be screened from adjacent properties.
- The owner must coordinate with the Town Highway Department the piping of Strasmer Road in the vicinity of his property.

Item No. 10 cont'd

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 11 Motion by Councilman Solecki, Seconded by Councilman Kazukiewicz

WHEREAS, the sanctity of life has been violated by pro-abortion legislation, and

WHEREAS, the current review of Roe v. Wade again raises the question of the constitutional rights of the unborn to national attention, and

WHEREAS, there is a national effort supporting passage of a Human Life Amendment and other legislation to prevent abortion and protect unborn children, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby goes on record in support of these and all other legislative efforts directed at the protection of the rights of the unborn and the prevention of abortion, and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to forward a certified copy of this resolution to President Bush and Congressman Henry Nowak.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12 Motion by Supervisor Swiatek, Seconded by Councilman Johnson

WHEREAS, Belmont Shelter Corporation has proposed to renovate and convert the former Immaculate Heart of St. Mary's Children's Home on William Street in the Town into a senior citizen apartment complex, and

WHEREAS, to assist it in renovating such building, Belmont Shelter Corporation applied for funding from the New York State Housing Trust Fund Corporation, and

WHEREAS, State funding for such project was denied, and

WHEREAS, State funding of projects of similar or smaller scale in other areas of the State has been approved, and

WHEREAS, there is a history of denial of funding requests for such projects in Western New York, while other areas of the State receive such funding, and

WHEREAS, there is a real need in Cheektowaga for low-cost senior citizen housing, and

WHEREAS, without State funding, Belmont Shelter Corporation will be unable to afford to renovate the former Immaculate Heart of St. Mary's Children's Home to provide 87 senior citizen apartment units, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby appeals to and memorializes the New York State Housing Trust Fund Corporation and the New York State Division of Housing and Community renewal to reconsider and approve the application of Belmont Shelter Corporation for funding to convert the former Immaculate Heart of St. Mary's Children's Home into a senior citizen apartment complex, and BE IT FURTHER

RESOLVED that Assemblyman Paul A. Tokasz, Senator Dale M. Volker and Governor Mario Cuomo be and hereby are requested to take all actions possible to allow Belmont Shelter Corporation such funding, and BE IT FURTHER

Item No. 12 cont'd

RESOLVED that the Town Clerk be and hereby is directed to forward certified copies of this resolution to Richard Higgins, Commissioner of the New York State Division of Housing and Community Renewal; Assemblyman Tokasz; Senator Volker; and Governor Cuomo.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13a Motion by Councilman Kulyk, Seconded by Councilman Solecki

WHEREAS, the Town of Cheektowaga has received notification of an unsafe, abandoned structure at 830 Borden Road, Cheektowaga, New York, S.B.L. #114.20-9-12 that is unsecured, open to unauthorized entry and a danger to the safety of others and according to the Assessor's Office is owned by Borden-Losson Corporation, 38 Quincy, Lancaster, New York 14086, and

WHEREAS, these conditions require that some positive steps be taken to board over and secure all openings in this structure to protect the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that all openings in this structure be boarded over and secured and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13b Motion by Councilman Kulyk, Seconded by Councilman Solecki

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at 830 Borden Road (Tree Pickle), Cheektowaga, New York, S.B.L. #114.20-9-12 and according to the Assessor's Office is owned by Borden Losson Corporation, 38 Quincy, Lancaster, New York 14086, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13c Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located on vacant property - East corner of French Road and Slate Drive, Cheektowaga, New York, SBL #126.09-2-1 and according to the Assessor's Office is owned by Bernard Ceasar, Williamsville, New York 14221, and

Item No. 13c cont'd

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13d Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located on vacant property adjacent to 23 Pine Circle, known as 19 Pine Circle, Cheektowaga, New York, S.B.L. #101-36-12-3 and according to the Assessor's Office is owned by Neal K. Okonzak & 1, Buffalo, New York 14206, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13e Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located on Pine Ridge Road - South of 265 Pine Ridge Road, Cheektowaga, New York, SBL # 101-44-4-16 and according to the Assessor's Office is owned by Florence C. Hojnacki, Depew, New York 14043, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 14 Motion by Councilman Johnson, Seconded by Supervisor Swiatek

WHEREAS, the New Erie Industrial Center, Inc. petitioned for the Town to construct a street improvement consisting of a new roadway, concrete curbing, storm drainage, lighting and a sewer along such street improvement, all in the New Erie Industrial Park, and

WHEREAS, on November 21, 1988, this Town Board approved such petitioned and bonding in the amount of $420,000.00 for such purposes, and

WHEREAS, plans, specifications and bid documents for the Highway Lighting Improvements, New Erie Industrial Center were prepared and, on May 30, 1989, bid proposals for such work were received and opened, and

WHEREAS, by Town Board resolution dated June 19, 1989, the bid for Highway Lighting Improvements, New Erie Industrial Center, was awarded to Weydman Electric, Inc. for a total bid price of $22,184.00, and

WHEREAS, at the request of the Town Engineer, Nussbaumer & Clarke, Inc., Consulting Engineers, submitted a proposal for professional services during construction throughout the duration of the subject contract, which proposal dated July 11, 1989 is attached, and

WHEREAS, the Town Engineer approves and recommends acceptance of said proposal, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby accepts and approves the attached proposal of Nussbaumer & Clarke, Inc. for the provision of professional services during construction for the Highway Lighting Improvements Project, at a cost not to exceed $1,850.00, and BE IT FURTHER

RESOLVED that the Supervisor, on behalf of this Town Board, is hereby authorized and directed to sign said agreement with Nussbaumer & Clarke, Inc. for such professional services, and BE IT FURTHER

RESOLVED that money for such services to be rendered by Nussbaumer & Clarke, Inc. in connection with the Highway Lighting Improvements Project, New Erie Industrial Center shall be paid as follows out of the following account:

Account No. 05-1440-8824-0400 $1,850.00

* See next two (2) pages for proposal

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

T.C

Nussbaumer & Clarke, Inc.
Consulting Engineers Surveyors
310 Delaware Avenue Buffalo, New York 14202
(716) 853-7562

134 Water Street
PO Box 162
Oswego, New York 13126
(315) 342-3010

Buffalo Office Fax
(716) 852-2451
Oswego Office Fax
(315) 342-6114

July 11, 1989

Chester L. Bryan, P. E.
Cheektowaga Town Engineer
Broadway and Union Road
Cheektowaga, New York 14227

RECEIVED
1989 JUL 24 PM 2:49
CHEEKTOWAGA
TOWN CLERK

Re: New Erie Industrial Center
Street Lighting Installation
Proposal for General Services
During Construction
NCI File No. 89-133/Task 5

Dear Mr. Bryan:

Please be advised that the scope of our present agreement with the Town of Cheektowaga for the above-referenced project only includes the preparation and furnishing of plans and specifications for the street lighting installation. Therefore, we are hereby submitting this proposal for General Services During Construction relative to the street lighting work, as an addition to our present agreement for this project.

We propose to furnish the following scope of services in this regard:

1. General Services During Construction (Office and Field Services)

   a. Prepare a bid tabulation and a letter of recommendation for award of contract to be acted upon by the Town Board.

   b. Review of shop drawings and change orders, and interpretation of drawings and contract documents.

   c. Review of Contractor's payment requests, including recommendations to Town.

   d. Periodic site inspection by the Project Engineer or his representative (not to exceed 12 manhours).

   e. Attendance at job meetings (maximum of three).

We propose to furnish these services for a lump sum fee of $1,850.00.

Work on Items 1a through 1e will be invoiced on a monthly basis, in proportion to the percentage of work completed and billed by the contractor. Invoices will be due and payable upon receipt.

Should this proposal be acceptable to the Town of Cheektowaga, please execute this letter contract in the space provided and return the original to our office, retaining a copy for your records.

If there are any questions or comments with respect to the scope of work or the proposal contents, please feel free to contact us at your convenience.

Thank you for the opportunity to present this proposal. We look forward to continuing our work with the Town on this project.

Yours truly,

NUSSBAUMER & CLARKE, INC.

Dean T. Perry, P. E.
Vice President
C.E.O. - Engineering

Gerard M. Kapsiak, P. E.
Associate, Project Engineer

b

Accepted:

TOWN OF CHEEKTOWAGA, NEW YORK

By: _____
Supervisor

Date: 7-21-89

Item No. 15a Motion by Councilman Gabryszak, Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following individuals be and hereby are terminated as Seasonal and/or Part-time employees in the Facilities Department:

William Booker	Immediately
John Skubinski	Immediately
Stephen Thomas	Immediately
Marc Mallwitz	Immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 15b Motion by Councilman Kulyk, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following individuals hired as Seasonal and/or Part-time Employees in the various Departments listed, be and hereby are terminated:

	EFFECTIVE
MAIN PUMP STATION	
Norman Anderson	Immediately
POLICE DEPARTMENT	
Holly Biedron	Immediately
SANITATION DEPARTMENT	
John Cwiklinski	Immediately
Michael Beback	Immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16a Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, there currently exists two vacant part-time Clerk positions in the Town of Cheektowaga Justice Court, and

WHEREAS, it is in the best interests of the Town that such positions be abolished and that a full-time Clerk position be created in replacement thereof, NOW, THEREFORE, BE IT

RESOLVED that the two part-time Clerk positions in the Justice Court are hereby abolished, and that a full-time Clerk position in the Justice Court is hereby created in accordance with the Town's Agreement with the Town of Cheektowaga Employees Association.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16b Motion by Councilman Kulyk, Seconded by Councilman Johnson

WHEREAS, Robert Reger, Sewage Treatment Plant Operator, retired effective July 1, 1989, thereby creating a vacancy in said job title, and

Item No. 16b cont'd

WHEREAS, said job title of Sewage Treatment Operator is an out-of-date and non-existent title in the Town, and

WHEREAS, as a result of said retirement, it is necessary for the Town to create an additional position of Pump Operator, NOW, THEREFORE, BE IT

RESOLVED that the vacant position of Sewage Treatment Plant Operator is abolished and that an additional Pump Operator position be hereby created.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 17a Motion by Councilman Kulyk, Seconded by Councilman Johnson

WHEREAS, there is a temporary vacancy in the position of Pump Operator as a result of the appointment of the incumbent thereof to a promotional position, and

WHEREAS, there is no current valid Civil Service examination list for said job title, and

WHEREAS, the notice of vacancy has been posted pursuant to the provisions of the Town's Agreement with the Town of Cheektowaga Employees Association, and

WHEREAS, the applications for said position have been reviewed by the County of Erie Department of Personnel to determine whether the applicants meet the qualifications of the appointment, NOW, THEREFORE, BE IT

RESOLVED that Jon W. Nichy of Cheektowaga, be and hereby is appointed to the position of Temporary Pump Operator (provisional) at a salary in accordance with the terms of the Town's Agreement with the Town of Cheektowaga Employees Association.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 17b Motion by Councilman Kazukiewicz, Seconded by Councilman Kulyk

WHEREAS, a vacancy exists in the position of Working Foreman in the Facilities Department, and

WHEREAS, it is in the best interest of the Town to assign a current experienced Working Foreman to such vacancy, and

WHEREAS, it is also in the best interest of the Town for such Working Foreman to make recommendations directly to the Town Board on methods to better productivity in the Facilities Department and on improving the relationship between management and departmental employees, NOW, THEREFORE, BE IT

RESOLVED that Frank J. Dux, be and hereby is temporarily re-assigned as a Working Foreman in the Facilities Department for a period not to exceed ninety (90) days, and BE IT FURTHER

RESOLVED that the permanent vacancy of Working Foreman (Facilities Department) be re-posted in accordance with the terms of the Collective Bargaining Agreement between the Town and the Town of Cheektowaga Supervisory Unit.

Item No. 17b cont'd

* *

MOTION BY COUNCILMAN GABRYSZAK, SECONDED BY SUPERVISOR SWIATEK to table the above resolution, also referred it to committee and the voting was as follows:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

THE ABOVE RESOLUTION WAS TABLED.

* *

COUNCILMAN LEO KAZUKIEWICZ LEFT THE TOWN BOARD MEETING AT THIS TIME.

Item No. 18a Motion by Councilman Gabryszak, Seconded by Councilman Solecki

BE IT RESOLVED that the following be hired to aid the Cheektowaga Recreation Department in conducting its 1989 summer programs.

LIFEGUARD - $4.00 with WSI - $3.75 without WSI - A7180.1903

Jason Kenjockety

and BE IT FURTHER

RESOLVED that the above employee be terminated effective September 1, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 18b Motion by Councilman Gabryszak, Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following individuals be terminated from the Youth Bureau's summer programs as indicated:

Summer Day Camp for the Developmentally Disabled (01-7310-0001-1802)

Judy Schwab

New York State Conservation Corps (01-7310-0001-1816):

Peter Zglinicki

and BE IT FURTHER

RESOLVED that Dennis Piekarski, be hired as an alternate for the New York State Conservation Corps (01-7310-0001-1816) at a salary rate of $3.75 per hour, and BE IT FURTHER

RESOLVED that Thomas Jakubowicz, previously hired as a Summer Trainee for the Cheektowaga Conservation Corps (01-7310-0001-1812) at a salary rate of $3.75 per hour, be transferred to the New York State Conservation Corps Program (01-7310-0001-1816), as a Youth Leader, at a salary rate of $4.00 per hour, effective immediately.

Item No. 18b cont'd

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 18c Motion by Councilman Kazukiewicz, Seconded by Councilman Solecki

BE IT RESOLVED that the following individuals be and hereby are hired as Seasonal and/or part-time Employees in the various Departments and at the rates listed:

	EFFECTIVE
FACILITIES DEPARTMENT-Parks Division-Acct. #01-7110-0001-1491 - $4.35 per hour	
Roger Wilson	Immediately
SANITATION DEPARTMENT - $5.00 per hour	
Brian Leidolph	As needed
John Skonecki	As needed
Mark Zarczynski	As needed
COUNCIL OFFICE - Staff Assistant - Acct. #01-1010-0001-1354 - $5.25 per hour	
Nicole McKibbin	Immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 19 Motion by Councilman Solecki, Seconded by Councilman Johnson

BE IT RESOLVED that the following individuals, part-time employees in the Departments listed, be and hereby are granted an increase in their hourly rates, effective immediately, as follows:

SANITATION DEPARTMENT	
Lisa Pietrowski	$5.00 per hour
COUNCIL OFFICE	
Ann Marie Wojciechowski	$5.25 per hour
TOWN CLERK'S OFFICE	
Julie Miller	$5.25 per hour
Sophie Sunday	$5.25 per hour

* *

MOTION BY SUPERVISOR SWIATEK, SECONDED BY COUNCILMAN KULYK TO AMEND THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

and the amendment is as follows:

Item No. 19 cont'd

Motion by Councilman Solecki, Seconded by Councilman Johnson

BE IT RESOLVED that the following individuals, part-time employees in the Departments listed, be and hereby are granted an increase in their hourly rates, effective immediately, as follows:

SANITATION DEPARTMENT

Lisa Pietrowski	$5.00 per hour

COUNCIL OFFICE

Ann Marie Wojciechowski	$5.25 per hour

TOWN CLERK'S OFFICE

Julie Miller	$5.25 per hour
Sophie Sunday	$5.25 per hour

SUPERVISOR'S OFFICE

Joan Meyers	$5.25 per hour

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 20 Motion by Councilman Gabryszak, Seconded by Councilman Solecki

BE IT RESOLVED that Sean P. Kohler of hired by the Facilities Department on June 19, 1989 under Street Lighting Division, Account No. 01-1625-0001-1495 be transferred to Parks Division, Account #01-7110-0001-1491.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 21 Motion by Councilman Jaworowicz, Seconded by Councilman Solecki

WHEREAS, the Annual New York State Chiefs of Police Association Conference will be held in Rochester, New York from August 20-24, 1989, and

WHEREAS, the Town Chief of Police, who is the Sergeant of Arms of the Erie County Chiefs Association, has requested permission to attend such conference, NOW, THEREFORE, BE IT

RESOLVED that the Chief of Police be and hereby is authorized to attend the aforementioned conference, and BE IT FURTHER

RESOLVED that the Town shall pay all charges associated with his attendance at such conference at a total cost not to exceed $500.00, such moneys to be appropriated from budget line item number 01191000044082, and BE IT FURTHER

RESOLVED that the Chief of Police shall be authorized to use a Town vehicle to travel to and from such conference.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 22a Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

BE IT RESOLVED that New York State Electric & Gas Corporation be and hereby is authorized to install one 5200 lumen high pressure sodium lamp on Newport Road, Police No. 2, Line 2378, at an annual increase in the Town Lighting District of $93.33, in accordance with the attached proposal submitted by New York State Electric & Gas Corporation.

* See next page for proposal

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

NYSEG

July 13, 1989

STREET LIGHTING PROPOSAL
TOWN OF CHEEKTOWAGA

NEWPORT ROAD

Install 1-5200 lumen hps lamp @ $93.33 ea. ------- $ 93.33
(Pole 2, Line 2378)

TOTAL ANNUAL INCREASE --- $ 93.33

(this proposal is made contingent upon the terms and conditions covered in NYSEG's street lighting filed tariff agreement with the Town of Cheektowaga)

Item No. 22b Motion by Councilman Johnson, Seconded by Councilman Gabryszak

BE IT RESOLVED that New York State Electric & Gas Corporation be and hereby is authorized to remove 1-7000 lumen mercury vapor lamp and replace said lamp with 1-8500 lumen high pressure sodium lamp on Borden Road (Police No. 38, Line 220) at an annual decrease in the Town's General Lighting District of $7.40, in accordance with the attached proposal submitted by New York State Electric & Gas Corporation.

* See next page for proposal

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

NYSEG

June 27, 1989

STREET LIGHTING PROPOSAL
TOWN OF CHEEKTOWAGA

Borden Road (corner Strasmer)

Install 1-8500 lumen hps lamp @ $106.24 ea. ---------- $ 106.24
(Pole 38, Line 220)

Remove 1-7000 lumen mv lamp @ $113.64 ea. ---------- $ 113.64
(Pole 38, Line 220)

Annual Decrease --- $ 7.40

(this proposal is made contingent upon the terms and conditions covered in NYSEG's street lighting filed tariff agreement with the Town of Cheektowaga)

Item No. 23a Motion by Councilman Johnson, Seconded by Councilman Gabryszak

WHEREAS, this Town Board, by resolution dated May 15, 1989, requested the Buffalo Sewer Authority to increase the size of its proposed Burke Drive storm sewer to extend said Burke Drive storm sewer to Croy Avenue in the Town of Cheektowaga, and

WHEREAS, this Town Board agreed to reimburse the Buffalo Sewer Authority for costs incurred in the enlargement and extension of the Burke Drive storm sewer in order to allow the Town of Cheektowaga to provide flooding relief to Town residents on Croy Avenue, and

WHEREAS, bids were received by the Buffalo Sewer Authority on June 28, 1989 and the Town Engineer was informed that the Town's share, based on the lowest bid is $81,656.75, NOW, THEREFORE, BE IT

RESOLVED that this Town Board, acting as the Board of Managers of Storm Sewer District No. 1, be and hereby re-affirms its commitment to the Buffalo Sewer Authority on providing the Town's share of costs for the Burke Drive/Bame Avenue Storm Sewer Project, and BE IT FURTHER

RESOLVED that payment for the Town's share of costs shall be in an initial amount of $10,000.00, which funds are to be transferred to the Burke/Bame/Croy Account from SR 909 - Appropriated Fund Balance Storm Drainage District No. 1, and BE IT FURTHER

RESOLVED that the balance owed to the Buffalo Sewer Authority for a total amount of $81,656.75 shall be payable to the Buffalo Sewer Authority within a twelve (12) month period, and BE IT FURTHER

RESOLVED that the Town shall institute the necessary bond proceedings for said payment to the Buffalo Sewer Authority on behalf of the Town Drainage District No. 1.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 23b Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

WHEREAS, the homeowner at 1217 Walden Avenue engaged the services of a plumbing contractor to correct a crushed sanitary sewer problem, and

WHEREAS, said contractor, Roto-Rooter Services Company, at the time of repair called the Town Engineering Department advising that said sewer repair was caused by a Town storm sewer construction project in 1982 along Walden Avenue, in which, upon inspection by the Engineering Department, proved this to be correct, and

WHEREAS, the homeowner at 65 Reo Street engaged the services of a plumbing contractor to excavate and correct a crushed sanitary sewer, and

WHEREAS, said contractor, American Master Plumber, at the time of excavation in April 1982, discovered that the problem was caused by a Town sewer repair in the street at 65 Reo Street, and

WHEREAS, the homeowner requests reimbursement for plumbing costs which were attributed to the Town, NOW, THEREFORE, BE IT

RESOLVED that payment be made to Mrs. Wenerowicz,
for the cost incurred in repair of her house lateral as recommended by the Town Engineer in his memo dated July 12, 1989, and BE IT FURTHER

RESOLVED that payment be made to Mrs. Glowacki, for the costs incurred in the attempted repair of her house lateral as recommended by the Town Engineer in his memo dated July 12, 1989, and, BE IT FURTHER

Item No. 23b cont'd

RESOLVED that the costs in the amount of $3,750.00 for the 1217 Walden Avenue repair and the cost in the amount of $899.75 for plumbing costs at 65 Reo Street shall be paid from Sewer District No. 5 Account No. 25-8125-0004-4543.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 23c Motion by Councilman Johnson, Seconded by Councilman Gabryszak

WHEREAS, the New York State Department of Transportation (N.Y.S.D.O.T) is currently reconstructing the Kensington Expressway identified as S.H. 6508, P.I.N. 5512.23(01), within the geographical jurisdiction of the Town of Cheektowaga, and

WHEREAS, the N.Y.S.D.O.T., under the subject project, is totally reconstructing the highway lighting system within the Town, from Eggert Road to the I-90 Interchange, in accordance with the agreement between the Town and the State of New York dated October 23, 1987, and

WHEREAS, the subject agreement requires the Town to maintain the reconstructed highway lighting system and provide the electrical energy for the operation of the system located within the Niagara Mohawk service district, and

WHEREAS, the newly reconstructed highway lighting system being furnished and installed under the Kensington Expressway Reconstruction Project by the N.Y.S.D.O.T will significantly reduce annual utility company charges against the Town General Lighting District Budget, and

WHEREAS, the subject highway reconstruction project requires that the former highway lighting system partially owned by the Niagara Mohawk Power Corporation be removed by said utility company, with removal costs chargeable to the Town of Cheektowaga, and

WHEREAS, lighting equipment removal costs for the westbound lanes incurred under the Kensington Expressway Reconstruction Project currently being undertaken by Niagara Mohawk Power Corporation amount to $5,570.32, NOW, THEREFORE, BE IT

RESOLVED that payment to Niagara Mohawk Power Corporation in the amount of $5,570.32 for equipment removal costs associated with the westbound lanes of the Kensington Expressway is hereby approved and shall be chargeable against the General Lighting District Account #90-5182-0004-4432.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 24 Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

WHEREAS, this Town Board awarded the contract for the Clinton Street Interceptor Sewer and Plant No. 3 Flow Monitoring Facilities Modifications, Contract No. 2 Sanitary Sewer District No. 3 to Dolomite Construction Company, Inc. for the bid price of $407,805, and

WHEREAS, there is a need to approve Change Order No. 1 for the aforesaid Sanitary Sewer District No. 3, Contract No. 2 Project, as recommended by the Town Engineer in his letter dated July 13, 1989, attached hereto and considered part of the resolution, NOW, THEREFORE, BE IT

Item No. 24 cont'd

RESOLVED that Change Order No. 1 for the Clinton Street Interceptor Sewer and Plant No. 3 Flow Monitoring Facilities Modifications Contract No. 2, Sanitary Sewer District No. 3 in the amount of $6662.50 as an addition to the contract of Dolomite construction Co., Inc. and BE IT FURTHER

RESOLVED that the Supervisor, on behalf of this Town Board, be authorized and directed to sign said Change Order No. 1.

* See next page(s) for letter and change order

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

CHESTER L. BRYAN, P.E.
TOWN ENGINEER

Growing In A New Direction

TOWN OF CHEEKTOWAGA
Erie County, New York

July 13, 1989

TO SUPERVISOR SWIATEK AND
HONORABLE TOWN BOARD MEMBERS
TOWN OF CHEEKTOWAGA

Re: Change Order No. 1
Sanitary Sewer District No. 3
Clinton Street Interceptor Sewer
and Plant No. 3 Flow Monitoring Facilities Modifications
Contract No. 2

Gentlemen:

We are submitting for Town Board approval, Change Order No. 1 for the subject Sanitary Sewer District No. 3 contract held by Dolomite Construction Co., Inc. Contract No. 2 with an award amount of $407,805.00 has been completed with a final inspection having been conducted on June 15, 1989.

Change Order No. 1 for Contract No. 2, Sanitary Sewer District No. 3 entails the final adjustment of contract item quantities in accordance with as-built field measurements and provides for payment of additional work items necessary to complete this project. Change Order No. 1, in the amount of $6,662.50, as an addition to the contract held by Dolomite Construction Co., Inc., will be partially eligible for grant reimbursement as this project is funded in part through Federal and State Grants participation under the Clean Water Act.

Very truly yours,

TOWN OF CHEEKTOWAGA

William R. Pugh, P.E.
Assistant Town Engineer

WRP:mjh

CHANGE ORDER

AIA DOCUMENT G701

Distribution to:

OWNER	☒	Chester Bryan, PE, Tn.of Cheektowaga
ARCHITECT	☒	
CONTRACTOR	☒	
FIELD	☒	JFD
OTHER	☐	

PROJECT: (name, address) Cheektowaga/Police Dispatch Remodeling
Town of Cheektowaga
3223 Union Road
Cheektowaga, New York 14227

CHANGE ORDER NUMBER: C-1

INITIATION DATE: 11 July 1989

TO (Contractor):

Miller Enterprises
625 Cornwall Avenue
Tonawanda, New York 14150

ARCHITECT'S PROJECT NO: 88087

CONTRACT FOR: Construction Work

CONTRACT DATE: 17 April 1989

You are directed to make the following changes in this Contract:

Item 1: Modify rooms 10 & 11 in the basement, alter the new toilet room at the first floor to accomodate the handicapped, as outlined in Proposal Request C-1 dated 1 May 1989 and Miller Enterprises' letter of 11 May 1989.

ADD $ 2,875.25

JFD:jw

Not valid until signed by both the Owner and Architect.
Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original (Contract Sum) (~~Guaranteed Maximum Cost~~) was	$	37,638.00
Net change by previously authorized Change Orders	$	0
The (Contract Sum) (~~Guaranteed Maximum Cost~~) prior to this Change Order was	$	37,638.00
The (Contract Sum) (~~Guaranteed Maximum Cost~~) will be (increased) (~~decreased~~) (~~unchanged~~) by this Change Order	$	2,875.25
The new (Contract Sum) (~~Guaranteed Maximum Cost~~) including this Change Order will be	$	40,513.25
The Contract Time will be (~~increased~~) (~~decreased~~) (unchanged) by		(0) Days.
The Date of Substantial Completion as of the date of this Change Order therefore is 15 September 1989		

		Authorized:
TRAUTMAN ASSOCIATES	MILLER ENTERPRISES	TOWN OF CHEEKTOWAGA
ARCHITECT	CONTRACTOR	OWNER
470 Franklin Street	625 Cornwall Avenue	Broadway & Union Road
Address	Address	Address
Buffalo, N.Y. 14202	Tonawanda, N.Y. 14150	Cheektowaga, N.Y. 14227
BY Walter J. Trautman	BY [signature]	BY [signature]
DATE 18 July 1989	DATE 7/19/89	DATE 7/18/89

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THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON, D.C. 20006

Item No. 25 Motion by Supervisor Swiatek, Seconded by Councilman Johnson

WHEREAS, borrowings related to New Erie Industrial Center will not take place until the summer of 1989, NOW, THEREFORE, BE IT

RESOLVED that the General Fund be authorized to temporarily loan to the Capital Fund $60,000.00 to be paid upon the actual bond borrowing completion.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 26a Motion by Councilman Jaworowicz, Seconded by Councilman Kulyk

WHEREAS, by resolution dated June 6, 1988, this Town Board approved the Dispatch Room Capital Project and established Capital Project Account number 05-8802-3120-0220 for same, and

WHEREAS, additional funds need to be transferred into such account to complete the remodeling of the Dispatch Room, NOW, THEREFORE, BE IT

RESOLVED, that $20,000.00 be transferred from the General Fund to Capital Project Account number 05-8802-3120-0220.

RESOLVED that $8,000.00 be transferred from Trust & Agency Account to Capital Project Account Number 05-8802-3120-0220.

* *

MOTION BY SUPERVISOR SWIATEK, SECONDED BY COUNCILMAN GABRYSZAK TO AMEND THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS;

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

the amended resolution is as follows:

* *

Motion by Councilman Jaworowicz, Seconded by Councilman Kulyk

WHEREAS, by resolution dated June 6, 1988, this Town Board approved the Dispatch Room Capital Project and established Capital Project Account number 05-8802-3120-0220 for same, and

WHEREAS, additional funds need to be transferred into such account to complete the remodeling of the Dispatch Room, NOW, THEREFORE, BE IT

RESOLVED, that $20,000.00 be transferred from the General Fund to Capital Project Account number 05-8802-3120-0220.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 26b Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following transfers are hereby approved and made a part hereof:

Item No. 26b cont'd

GENERAL FUND

FROM:	9010-08-8101	(Employee Retirement)	$20,000.00
TO:	9950-08-1989	(Transfer to Capital - 1989)	$20,000.00

CAPITAL FUND

FROM:	5031-00-0000	(Inter-fund Transfer In)	$20,000.00
TO:	8802-3120-1100	(Police Dispatch Room)	$20,000.00

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 27 Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following vouchers and warrants submitted to the Town of Cheektowaga prior to July 17, 1989 are hereby approved and made a part hereof:

FUND	AMOUNT
GENERAL FUND	$ 56,405.67
HIGHWAY FUND	18,317.32
CAPITAL FUND	34,000.37
TRUST & AGENCY FUND	501.94
HUD FUND	18,415.51
PART TOWN FUND	891.00
HUD RENTAL REHAB. FUND	2,243.37
RISK RETENTION FUND	25,103.93
SPECIAL DISTRICT FUND	129,934.42
	$285,813.53

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

II. DEPARTMENTAL COMMUNICATIONS

Item No. 28a Minutes of meeting for month of June - Cheektowaga Planning Board
Received and Filed.

Item No. 28b Minutes of meeting for month of June- Cheektowaga Traffic Safety Commission
Received and Filed.

III. GENERAL COMMUNICATIONS

Item No. 29 E.C. Dept. of Public Works - letter regarding signal opOeration at Cleveland Drive and Harlem Road
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members; Chris Kowal, Highway Superintendent; Robert Lis, Chief of Police; Cheektowaga Traffic Safety Commission.
Received and filed.

Item No. 30a Petition from residents against proposal regarding Nokomis Park
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members; Sal LaGreca, Planning Board Chairman
Received and filed.

Item No. 30b Petition from residents in support of proposal regarding Nokomis Park
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members.
Received and filed.

Item No. 31a Notice of Claim - Joseph Galuszka vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Jim Matecki, Facilities Director; S.I.S., Insurance Carrier.
Received and filed.

Item No. 31b Notice of Claim - Rose Marie Sardo vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Sewer Department; S.I.S., Insurance Carrier.
Received and filed.

Item No. 31c Robert Stelianou vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Ron Zoeller, Working Foreman in Sanitation; Joseph J. Naples, Insurance Carrier.
Received and filed.

IV. SUSPENSION OF RULES

Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak to suspend the rules to include the following four (4) items.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 32 Motion by Supervisor Swiatek, Seconded by Councilman Kulyk

WHEREAS, the Town has been requested by the Erie County Department of Personnel to designate an "Appointing Officer" for the Town to perform various functions including the completion and execution of various personnel forms, personnel changes and report, and

WHEREAS, the offices of Employee relations has been performing these functions and is the proper office in the Town's Departmental structure for these functions, NOW, THEREFORE, BE IT

RESOLVED that Bruce R. Fenwick, Coordinator of Employee Relations be designated as "Appointing Officer" to perform such functions and that a copy of this resolution be forwarded to the Erie County Department of Personnel.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 33 Motion by Supervisor Swiatek, Seconded by Councilman Kulyk

WHEREAS, funding is available from the New York State Energy Office through the Energy Conservation Grant Program for Local Government and Public Care Facilities, and

WHEREAS, Robert J. Miller & Associates, the Town's grants consultants, has prepared two applications requesting funding assistance to install energy conservation systems at the Recreation Center/Ice Arena ($38,300.00) and at the Town Hall/Police & Court Building complex ($40,000), and

WHEREAS, this Town Board is interested in availing itself of such funding, NOW, THEREFORE, BE IT

RESOLVED that the Supervisor be and hereby is authorized and directed to execute the aforementioned funding applications on behalf of the Town, and BE IT FURTHER

RESOLVED that Robert J. Miller & Associates be and hereby is directed to forward such funding applications to the New York State Energy Office.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 34 Motion by Councilman Johnson, Seconded by Supervisor Swiatek

WHEREAS, by resolution dated July 18, 1988, this Town Board denied the application of Benderson Development Co., Inc. for a Rezoning and Special Permit for a mobile home park to be located on property owned by such corporation on the south side of Broadway east of Kennedy Road, and

WHEREAS, on the 15th day of August, 1988, the Town of Cheektowga was served with an Order to Show Cause and Petition in a Special Proceeding entitled "In the Matter of the Application of BENDERSON DEVELOPMENT COMPANY, INC., Petitioner vs FRANK E. SWIATEK, et al., Respondents"; which Special Proceeding called for the annulling of the aforesaid resolution, and

WHEREAS, the Hon. William J. Ostrowski, Justice of the Supreme Court, issued a Decision and Order, annulling the determinations of the Town Board and directing the Town to issue a Special Permit to Benderson Development Company, Inc., and

WHEREAS, this Board desires to appeal the Decision and Order of the Hon. William J. Ostrowski, NOW, THEREFORE, BE IT

RESOLVED that Mr. Peter M. Kooshoian, Attorney-at-law, 81 Linwood Avenue, Buffalo, New York, who the Town Attorney advises has experience and specialized knowledge in appellate matters, be and hereby is retained to process the appeal of the above referenced Decision and Order on behalf of the Town, and BE IT FURTHER

RESOLVED that reasonable fees, costs and expenses not to exceed $5,000, as monitored and approved by the Town Attorney, shall be paid by the Town towards such appeal.

* *

MOTION BY COUNCILMAN JOHNSON, SECONDED BY COUNCILMAN KULYK
TO TABLE THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 35 Motion by Councilman Jaworowicz, Seconded by Councilman Johnson

WHEREAS, this Town Board awarded the contract for the Police Dispatch Remodeling under four (4) contracts for a total bid price of $61,152.00, which low bid was substantially lower than anticipated and budgeted, and

WHEREAS, there is need to make alterations to the restrooms to accommodate the handicapped and to make modifications to Rooms #10 and #11 as requested by the Chief of Police, and

WHEREAS, this Town Board approves of the requested changes, NOW, THEREFORE, BE IT

RESOLVED that Change Order No. 1 for the Police Dispatch Remodeling as an addition of $2,875.25 to the contract of Miller Enterprises be approved, and BE IT FURTHER

RESOLVED that the Supervisor, on behalf of this Town Board, be authorized and directed to sign said Change Order No. 1.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: Councilman Kazukiewicz

Item No. 36 Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz to adjourn the meeting.

RICHARD M. MOLESKI
Town Clerk

Item No. 1 At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Road, in said Town on the 7th day of August, 1989 at 7:30 o'clock P.M., Eastern Daylight Saving Time, there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

ABSENT: 0

Also present were: Richard M. Moleski, Town Clerk; Kevin Schenk, Deputy Town Attorney; Chester Bryan, Town Engineer; Sal LaGreca, Employment and Training Director II; Chairman Planning Commission; Ron Marten, Building and Plumbing Inspector; Donald Wegner, Chairman of Zoning Board of Appeals; Chris Kowal, Highway Superintendent; Robert Lis, Chief of Police; Casimir Kozminski, Assessor; Michael Stachowski, Deputy Town Attorney; Terry Rusin, Thomas Skowronski, Town Employees.

I. PUBLIC HEARING

This being the time and place advertised for a public hearing to consider the advisability of adopting amendments to the Chapter 76 of the Code of the Town of Cheektowaga, (Vehicle and Traffic) hereinafter more particularly described, the Supervisor directed the Town Clerk to present proof of the publication and posting of the notice of hearing. The Town Clerk presented proof that such notice has been duly published and posted, and upon the order of the Supervisor such proof was duly filed. Said amendments being as follows:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

BORDEN ROAD	west side	from the south curbline of Autumnwood Drive southerly 100 feet to a point

C. No Parking Here To Corner

GRUNNER ROAD	north side	for a distance of 30 feet east of the intersection of Wallace Avenue

Item No. 2 continued

* *

The Supervisor announced that the Town Board would hear all persons interested in the subject of the hearing. Comments were heard, after which the Supervisor declared the hearing closed; decision was reserved.

II FROM THE TABLE

Item No. 3 Motion by Councilman Kazukiewicz Seconded by Councilman Kulyk

WHEREAS, a vacancy exists in the position of Working Foreman in the Facilities Department, AND

WHEREAS, it is in the best interest of the Town to assign a current experienced Working Foreman to such vacancy, AND

WHEREAS, it is also in the best interest of the Town for such Working Foreman to make recommendations directly to the Town Board on methods to better productivity in the Facilities Department and on improving the relationship between management and departmental employees, NOW, THEREFORE, BE IT

RESOLVED that Frank J. Dux, be and hereby is temporarily re-assigned as a Working Foreman in the Facilites Department for a period not to exceed ninety (90) days, and BE IT FURTHER

RESOLVED that the appointment be effective September 1, 1989.

RESOLVED that the permanent vacancy of Working Foreman (Facilities Department) be re-posted in accordance with the terms of the Collective Bargaining Agreement between the Town and the Town of Cheektowaga Supervisory Unit.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Solecki

Item No. 4 Motion by Councilman Johnson Seconded by Supervisor Swiatek

WHEREAS, by resolution dated July 18, 1988, this Town Board denied the application of Benderson Development Co., Inc. for a Rezoning and Special Permit for mobile home park to be located on property owned by such corporation on the south side of Broadway east of Kennedy Road, and

WHEREAS, on the 15th day of August, 1988 the Town of Cheektowaga was served with an Order to Show Cause and Petition in a Special Proceeding entitled "In the Matter of the Application of BENDERSON DEVELOPMENT COMPANY, INC., Petitioner, vs. FRANK E. SWIATEK, et al., Respondents"; which Special Proceeding called for the annulling of the aforesaid resolutions, and

WHEREAS, the Hon. William J. Ostrowski, Justice of the Supreme Court, issued a Decision and Order, annulling the determinations of the Town Board and directing the Town to issue a special permit to Benderson Development Company, Inc., and

WHEREAS, this Board desires to appeal the Decision and Order of the Hon. William J. Ostrowski, NOW, THEREFORE, BE IT

RESOLVED that Mr. Peter M. Kooshoian, attorney-at-law, 81 Linwood Avenue, Buffalo, New York, who the Town Attorney advises has experience and specialized knowledge in appellate matters, be and hereby is retained to process the appeal of the above referenced Decision and Order on behalf of the Town, and BE IT FURTHER

Item No. 4 continued

RESOLVED that reasonable fees, costs and expenses not to exceed $5,000.00, as monitored and approved by the Town Attorney, shall be paid money by the Town towards such appeal.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Kulyk

III. RESOLUTIONS

Item No. 20 Motion by Councilman Johnson Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, Benderson Development Corporation has applied to the Town of Cheektowaga for an environmental review of its request to obtain a special permit for land known as 3735 Union Road for a tire service center, pursuant to the State Environmental Quality Review Act, and

WHEREAS, the appropriate governmental agencies (State, County and Town) have been solicited by the Town for lead agency status and their coments, and

WHEREAS, there has been agreement by such agencies that the Town Board of the Town of Cheektowaga is to be designated lead agency in matters concerning this tire service center, and

WHEREAS, this Town Board, in accordance with Article 8 of the Environmental Conservation Law of the State of New York, feels that the following significant environmental effects relating to this project are present and should be addressed by the applicant in greater detail:

1. substantial potential for adverse changes in traffic levels
2. substantial potential for adverse changes in noise levels
3. significant potential for increased air pollution, dirt and debris
4. significant effect caused by height of building
5. effect on residences

NOW, THEREFORE, BE IT

RESOLVED that the Town of Cheektowaga hereby determines that a Draft Environmental Impact Statement must be prepared and submitted to the Town, based on this Town Board's determination that such tire service center could have a significant effect on the environment, and BE IT FURTHER

RESOLVED that the Town of Cheektowaga hereby determines that a Draft Environmental Impact Statement be prepared by Benderson Development and submitted to the Town Environmental Advisory Committee and this Town Board for review, and BE IT FURTHER

RESOLVED that the Town Building Inspector, as Intake Officer for the Town, prepare, file and publish a positive declaration for this project with the appropriate agencies and the applicant and otherwise make same available in accordance with Section 617.10(b) of the SEQR regulations, and BE IT FURTHER

RESOLVED that the Town Building Inspector, as Intake Officer for the Town, notify Benderson Development Corporation, Inc. and other interested and involved agencies of this requirement.

* * * * * * * * * * * * * * * * * * * *

Motion by Councilman Johnson and Seconded by Councilman Solecki to amend the above resolution and the voting was as follows:

Item No. 20 continued

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Kulyk

AMENDED

Motion by Councilman Johnson Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, Benderson Development Corporation has applied to the Town of Cheektowaga for an environmental review of its request to obtain a special permit for land known as 3735 Union Road for a tire service center, pursuant to the State Environmental Quality Review Act, and

WHEREAS, the appropriate governmental agencies (State, County and Town) have been solicited by the Town for lead agency status and their coments, and

WHEREAS, there has been agreement by such agencies that the Town Board of the Town of Cheektowaga is to be designated lead agency in matters concerning this tire service center, and

WHEREAS, this Town Board, in accordance with Article 8 of the Environmental Conservation Law of the State of New York, feels that the following significant environmental effects relating to this project are present and should be addressed by the applicant in greater detail:

1. substantial potential for adverse changes in traffic levels
2. substantial potential for adverse changes in noise levels
3. significant potential for increased air pollution, dirt and debris
4. significant effect caused by height of building
5. effect on residences

NOW, THEREFORE, BE IT

RESOLVED that the Town of Cheektowaga hereby determines that a Draft Environmental Impact Statement must be prepared addressing the foregoing impacts and such impacts as may be identified in the process and submitted to the Town, based on this Town Board's determination that such tire service center could have a significant effect on the environment, and BE IT FURTHER

RESOLVED that the Town of Cheektowaga hereby determines that a Draft Environmental Impact Statement be prepared by Benderson Development and submitted to the Town Environmental Advisory Committee and this Town Board for review, and BE IT FURTHER

RESOLVED that the Town Building Inspector, as Intake Officer for the Town, prepare, file and publish a positive declaration for this project with the appropriate agencies and the applicant and otherwise make same available in accordance with Section 617.10(b) of the SEQR regulations, and BE IT FURTHER

RESOLVED that the Town Building Inspector, as Intake Officer for the Town, notify Benderson Development Corporation, Inc. and other interested and involved agencies of this requirement.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Kulyk

Item No. 21 Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz
Councilman Johnson

WHEREAS, Castlewood Drive provides ingress and egress to numerous residences in the general area bounded by Losson Road and Borden Road, and

WHEREAS, the Board of Fire Commissioners of South Line Fire District No. 10 has stated that it studied the street closing and finds a potential for a compromise in Emergency Protection to the residents involved and that resident and firefighter safety may be negatively impacted by inaccessibility, and

WHEREAS, by resolution dated July 3, 1989, this Town Board engaged the services of EMS Consulting to conduct a study and recommend improvements necessary to address traffic safety concerns at this intersection, and

WHEREAS, the Town Superintendent of Highways has temporarily removed the barricades at the terminus of Castlewood Drive to facilitate the collection of data and analysis being conducted by EMS Consulting, and

WHEREAS, this Town Board has initiated action to amend the Traffic Ordinance to place a Stop sign at the intersection of Castlewood Drive and Wedgewood Drive to alleviate problems at the Castlewood/Barbados Drive intersection, and

WHEREAS, this Town Board desires to have Castlewood Drive remain open to traffic until such time as the recommendations of EMS Consulting is received and this Board directs an action to be otherwise taken, NOW, THEREFORE, BE IT

RESOLVED that the Town Board hereby reaffirms the recommendation of the Superintendent of Highways wherein the town will keep Castlewood Drive open until such time as the recommendations from EMS Consulting is received and the Board meets and acts on same.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 5a Motion by Councilman Johnson Seconded by Councilman Kazukiewicz

WHEREAS, this Town Board held a public hearing on August 7, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof,

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that it is in the public interest to adopt the following amendments to Chapter 76 of the Code of the Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Item No. 5a continued

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

BORDEN ROAD	west side	from the south curbline of Autumnwood Drive southerly 100 feet to a point

C. No Parking Here To Corner

GRUNNER ROAD	north side	for a distance of 30 feet east of the intersection of Wallace Avenue

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all of the Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES, a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

* *

MOTION BY COUNCILMAN JOHNSON AND SECONDED BY COUNCILMAN SOLECKI TO AMEND THE ABOVE RESOLUTION TO ELIMINATE ITEM C IN BOTH PLACES AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* *

AMENDED

Motion by Councilman Johnson Seconded by Councilman Kazukiewicz

WHEREAS, this Town Board held a public hearing on August 7, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof,

NOW, THEREFORE, BE IT RESOLVED as follows:

Item No. 5a continued

Section 1.

That this Town Board determine that it is in the public interest to adopt the following amendments to Chapter 76 of the Code of the Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

BORDEN ROAD	west side	from the south curbline of Autumnwood Drive southerly 100 feet to a point

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all of the Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES, a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES:	0
ABSENT:	0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication AUG 10 1989; last publication AUG 10 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 10 1989

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 7th day of August, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Johnson and Seconded by Councilman Kazukiewicz

WHEREAS, this Town Board held a public hearing on August 7, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof,

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that is is in the public interest to adopt the following amendments to Chapter 76 of the Code of The Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE X
Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No parking Anytime
BORDEN ROAD
west side
from the south curbline of Autumnwood Drive southerly 100 feet to a point

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all of the Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on August 7, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 5A, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 7th day of August, 1989.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: August 10, 1989

Item No. 5b Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, Valvoline Instant Oil Change, Inc. applied for a Special Permit for an auto oil change facility on property located at 5 French Road, Cheektowaga, New York pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 17th day of July, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommended approval of the Special Permit subject to the following conditions:

1. oil change and grease jobs only allowed
2. no other auto repair work, gasoline sales or auto storage be permitted, and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the Special Permit for the above-referenced property located at 5 French Road, and has rendered a determination that the Special Permit will not have a significant effect on the environment, and,

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee.

NOW, THEREFORE, BE IT RESOLVED that said Special Permit be and hereby is granted subject to compliance with the aforementioned conditions recommended by the Cheektowaga Planning Board.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication AUG 10 1989; last publication AUG 10 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 10 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 7th day of August, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Kulyk and Seconded by Councilman Jaworowicz

WHEREAS, Valvoline Instant Oil Change, Inc. applied for a Special Permit for an auto oil change facility on property located at 5 French Road, Cheektowaga, New York, pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance"); said property being further described in the attached copy of the legal description thereto, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 17th day of July, 1989 at 7:00 o'clock P.M. of said day for the purpose of considering said application for a Special Permit, after publication and service of notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has recommened approval of the Special Permit subject to the following conditions:

1. oil change and grease jobs only allowed
2. no other auto repair work, gasoline sales or auto storage be permitted,

● from page 44

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the Special Permit for the above-referenced property located at 5 French Road, and has rendered a determination that the Special Permit will not have a significant effect on the environment.

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee.

NOW, THEREFORE, BE IT RESOLVED, that said Special Permit be and hereby is granted subject to compliance of the aforementioned conditions as recommended by the Cheektowaga Planning Board and Environmental Advisory Committee.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 114, Township 10, Range 7 of the Buffalo Creek Reservation and more particularly bounded and described as follows:

Beginning at the intersection of the easterly right of way line of Union Road, Route N.Y. 277, also known as state highway No. 1733 as presently laid out and the southeast right of way line of French Road as presently laid out and monumented with a 5/8" rebar; thence northeasterly at an interior angle of 126 degrees 01 minutes 56 seconds, a distance of 283.00 feet to a 5/8" rebar; thence southwesterly at an interior angle of 49 degrees 27 minutes 45 seconds, a distance of 248.30 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 134 degrees 03 minutes 35 seconds, a distance of 226.00 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 151 degrees 45 minutes 30 seconds, a distance of 35.80 feet to a 5/8" diameter rebar; thence northeasterly at an interior angle of 78 degrees 41 minutes 14 seconds, a distance of 232.00 feet to a 5/8" diameter rebar, also being the point of beginning.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on August 7, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 5b, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

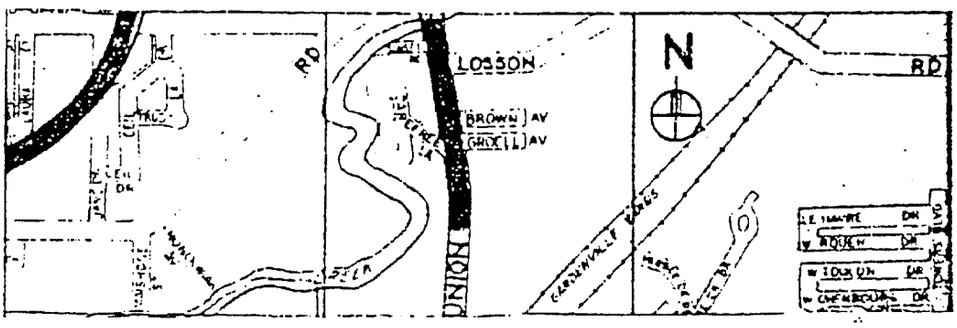
IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 7th day of August, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: August 10, 1989

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 114, Township 10, Range 7 of the Buffalo Creek Reservation and more particularly bounded and described as follows:

Beginning at the intersection of the easterly right of way line of Union road, Route N.Y. 277, also known as state highway No. 1733 as presently laid out and the southeast right of way line of French Road as presently laid out and monumented with a 5/8" rebar; thence northeasterly at an interior angle of 126 degrees 01 minutes 56 seconds, a distance of 283.00 feet to a 5/8" rebar; thence southwesterly at an interior angle of 49 degrees 27 minutes 45 seconds, a distance of 248.30 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 134 degrees 03 minutes 35 seconds, a distance of 226.00 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 151 degrees 45 minutes 30 seconds, a distance of 35.80 feet to a /8" diameter rebar; thence northeasterly at an interior angle of 8 degrees 41 minutes 14 seconds, a distance of 232.00 feet to a /8" diameter rebar, also being the point of beginning.



Item No. 5c Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, Valvoline Instant Oil Change, Inc. has petitioned for the rezoning from C-Retail Business District to CM-General Commercial District of property owned by Louis P. Galanes and located at 5 French Road, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 17th day of July, 1989 at 7:00 o'clock P.M., after publication and service of the notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof subject to the following conditions:

1. oil change and grease jobs only allowed
2. no other auto repair work, gasoline sales or auto storage be permitted, and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment, and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee.

NOW, THEREFORE, BE IT RESOLVED, that the application of Valvoline Instant Oil Change, Inc. for the rezoning from C-Retail Business District to CM-General Commercial District of the property specified in the attached legal description be and the same is hereby approved subject to compliance with the conditions recommended by the Cheektowaga Planning Board, and BE IT FURTHER

RESOLVED that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication AUG 10 1989; last publication AUG 10 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 10 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 114, Township 10, Range 7 of the Buffalo Creek Reservation and more particularly bounded and described as follows:

Beginning at the intersection of the easterly right of way line of Union Road, Route N.Y. 277, also known as state highway No. 1733 as presently laid out and the southeast right of way line of French Road as presently laid out and monumented with a 5/8" rebar; thence northeasterly at an interior angle of 126 degrees 01 minutes 56 seconds, a distance of 283.00 feet to a 5/8" rebar; thence southwesterly at an interior angle of 49 degrees 27 minutes 45 seconds, a distance of 248.30 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 134 degrees 03 minutes 35 seconds, a distance of 226.00 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 151 degrees 45 minutes 30 seconds, a distance of 35.80 feet to a 5/8" diameter rebar; thence northeasterly at an interior angle of 78 degrees 41 minutes 14 seconds, a distance of 232.00 feet to a 5/8" diameter rebar, also being the point of beginning.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on August 7, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 5c, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 7th day of August, 1989.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: August 10, 1989

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 7th day of August, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Kulyk and Seconded by Councilman Jaworowicz

WHEREAS, Valvoline Instant Oil Change, Inc. has petitioned for the rezoning from C-Retail Business District to CM-General Commercial District of property owned by Louis P. Galanes and located at 5 French Road, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing on such petition was held before this Town Board on the 17th day of July, 1989 at 7:00 o'clock P.M., after publication and service of notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof subject to the following conditions:

1. oil change and grease jobs only allowed

2. no other auto repair work, gasoline sales or auto storage be permitted

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment.

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

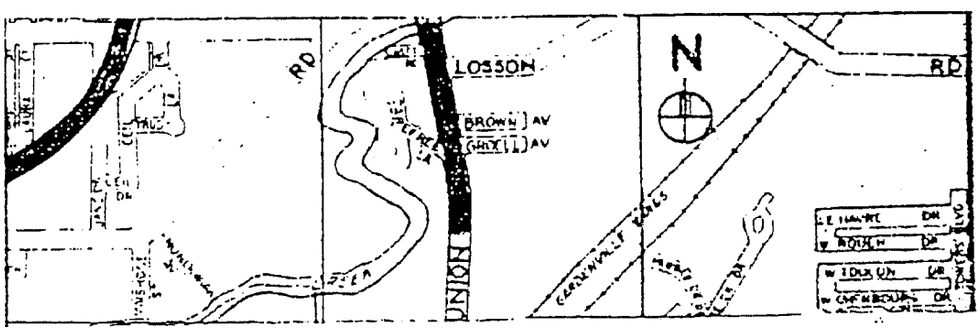
NOW, THEREFORE, BE IT RESOLVED, that the application of Valvoline Instant Oil Change, Inc. for the rezoning from C-Retail Business District to CM-General Commerical District of the property specified in the attached legal description be and the same is hereby approved subject to compliance with the conditions recommended by the Cheektowaga Planning Board, and BE IT FURTHER

RESOLVED, that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 114, Township 10, Range 7 of the Buffalo Creek Reservation and more particularly bounded and described as follows:

Beginning at the intersection of the easterly right of way line of Union road, Route N.Y. 277, also known as state highway No. 1733 as presently laid out and the southeast right of way line of French Road as presently laid out and monumented with a 5/8" rebar; thence northeasterly at an interior angle of 126 degrees 01 minutes 56 seconds, a distance of 283.00 feet to a 5/8" rebar; thence southwesterly at an interior angle of 49 degrees 27 minutes 45 seconds, a distance of 248.30 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 134 degrees 03 minutes 35 seconds, a distance of 226.00 feet to a 5/8" diameter rebar; thence southwesterly at an interior angle of 151 degrees 45 minutes 30 seconds, a distance of 35.80 feet to a /8" diameter rebar; thence northeasterly at an interior angle of 8 degrees 41 minutes 14 seconds, a distance of 232.00 feet to a /8" diameter rebar, also being the point of beginning.



Item No. 6 Motion by Councilman Johnson Seconded by Councilman Gabryszak

BE IT RESOLVED that a public hearing on proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) be held on August 22, 1989 at 7:30 P.M. at the Town Hall, corner of Broadway and Union Road in said Town of Cheektowaga for the purpose of considering the advisability of adopting said amendments and the Town Clerk is hereby directed to publish the following Notice of Hearing in the CHEEKTOWAGA TIMES on the 10th day of August, 1989, said amendments being set forth in the Notice of Hearing.

* *

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Cheektowaga, Erie County, New York will hold a public hearing at the Town Hall, corner of Broadway and Union Road, in said Town of Cheektowaga on August 22, 1989 at 7:30 P.M., to consider the advisability of adopting amendments to Chapter 76 of the Code of the said Town of Cheektowaga (Vehicle and Traffic): said proposed amendments being as follows:

ARTICLE VIII

Stop and Yield Intersections

Street	Direction	Entrance Street	Traffic Stops	Sign Location
Wedgewood Dr.	North-south	Castlewood Dr.	Westbound	N.E.Corner

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by deleting the following:

B. No Parking Anytime

Sprucewood Drive - east side; from the south curbline of Oakwood Drive ten (10) feet, plus or minus, south to the curve, thence, the south side westerly around the cul-de-sac, thence, the north side easterly to the east driveway line of 16 Sprucewood Drive then (10) feet, plus or minus.

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

PEACHTREE ROAD	North side	from the west curbline of Loxley Road westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Loxley Road easterly 40 feet to a point
PEACHTREE ROAD	North side	from the west curbline of Pendennis Place westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Pendennis Place easterly 40 feet to a point
SPRUCEWOOD DRIVE	East & South side	from the north curbline of Oakwood Drive southerly and westerly to the west lot line of #15 Sprucewood Drive

F. Miscellaneous Parking Signs

(16)

No Parking 7 AM to 4 PM except Saturday and Sunday

Item No. 6 continued

SPRUCEWOOD DRIVE South side	Beginning at the west lot line of #15 Sprucewood Drive, around the cul-de-sac to the north side of Sprucewood Drive, ending at the east lot line of #16 Sprucewood Dr.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

DATED: August 7, 1989

Richard M. Moleski, Town Clerk

* *

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES:	0
ABSENT:	0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication AUG 10 1989; last publication AUG 10 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 10 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Cheektowaga, Erie County, New York will hold a public hearing at the Town Hall, corner of Broadway and Union Road, in said Town of Cheektowaga on August 22, 1989 at 7:30 P.M., to consider the advisability of adopting amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic)' said proposed amendments being as follows:

ARTICLE VIII
Stop and Yield Intersections

Street	Direction	Entrance Street	Traffic Stops	Sign Location
Wedgewood Dr.	North-South	Castlewood Dr.	Westbound	N.E. Corner

ARTICLE X
Parking, Standing and Stopping

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by deleting the following:

B. No Parking Anytime

Sprucewood Drive - east side: from the south curbline of Oakwood ten (10) feet, plus or minus, south to the curb, thence, the south side westerly around the cul-de-sac, thence, the north side easterly to the east driveway line of 16 Sprucewood Drive then (10) feet, plus or minus.

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

PEACHTREE ROAD	North side	from the west curbline of Loxley Road westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Loxley Road easterly 40 feet to a point
PEACHTREE ROAD	North side	from the west curbline of Pendennis Place westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Pendennis Place easterly 40 feet to a point
SPRUCEWOOD DRIVE	East & South side	from the north curbline of Oakwood Drive southerly and westerly to the west lot line of #15 Sprucewood Drive.

F. Miscellaneous Parking Signs

(16)

No Parking 7 AM to 4 PM Except Saturday & Sunday

SPRUCEWOOD DRIVE	South side	Beginning at the west lot line of #15 Sprucewood Drive, around the cul-de-sac to the north side of Spruce wood Drive, ending at the east lot line of #16 Sprucewood Drive.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: August 10, 1989

Item No. 7a Motion by Councilman Johnson Seconded by Councilman Jaworowicz

WHEREAS, a Notice to Bidders was duly published for the receipt of bids for a storm sewer construction project identified as Mafalda/Nina/Fontaine Phase II, which bids were duly received and publicly opened on March 21, 1989, AND

WHEREAS, bids were referred to the Town Engineer and the consulting firm of Nussbaumer & Clarke, Inc. for analysis, tabulation and report, which said analysis, tabulation and report is hereto attached and contained in a letter from the Town Engineer to the Town Board dated July 31, 1989, AND

WHEREAS, said report recommends that the contract be awarded to Firstrhyme Construction Corp. Inc. for their submission of the lowest bid meeting the requirements of the specifications, NOW, THEREFORE, BE IT

RESOLVED that the Mafalda/Nina/Fontaine Storm Sewer Project, Phase II be and hereby is awarded to Firstrhyme Construction Corp. Inc. for Bid Sections A, B and C in the total amount of $199,710.35, said being the lowest bid price meeting the requirements of the specifications, AND, BE IT FURTHER

RESOLVED that the Supervisor, on behalf of this Town Board, be and hereby is authorized to sign said agreement with Firstrhyme Construction Corp., Inc., AND, BE IT FURTHER

RESOLVED that the cost of said Mafalda/Nina/Fontaine Storm Sewer Project, Phase II shall be charged to Account No. 05-8540-9919-1101.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGE

CHESTER L. BRYAN, P.E.
TOWN ENGINEER

Growing In A New Direction

TOWN OF CHEEKTOWAGA
Erie County, New York

July 31, 1989

TO SUPERVISOR FRANK E. SWIATEK
AND HONORABLE TOWN BOARD MEMBERS
TOWN OF CHEEKTOWAGA

Re: Mafalda/Nina/Fontaine
Phase II

Gentlemen:

On July 21, 1989 bids were received and opened by the Town Clerk at a public bid opening for the Mafalda/Nina/Fontaine Storm Sewer Project, Phase II. Bids were received under three (3) sections, A, B and C. The sections are identified on the attached sketch. The ten (10) bids were received with totals ranging from $199,710.35 to $343,534.00.

The lowest bid was $199,710.35 and compares with the engineers' estimate of $258,000.00. The tabulation of all the bids, as prepared by Nussbaumer & Clarke, Inc. is attached.

The scope of the project and the costs were reviewed through the Capital Improvements Committee under the chairmanship of Thomas Johnson. It is our recommendation that the bid be awarded for all three (3) bid sections for the total bid prices noted above. This bid price is well within the $277,000.00 that was appropriated for this project. A resolution is being submitted for Town Board approval for Bid Sections A, B and C.

Very truly yours,

TOWN OF CHEEKTOWAGA

Chester L Bryan

Chester L. Bryan, P.E.
Town Engineer

CLB:mjh

attachments: 2

Town Hall, Broadway & Union Road • Cheektowaga, New York 14227 • 716/686-3447 • 716/686-3448

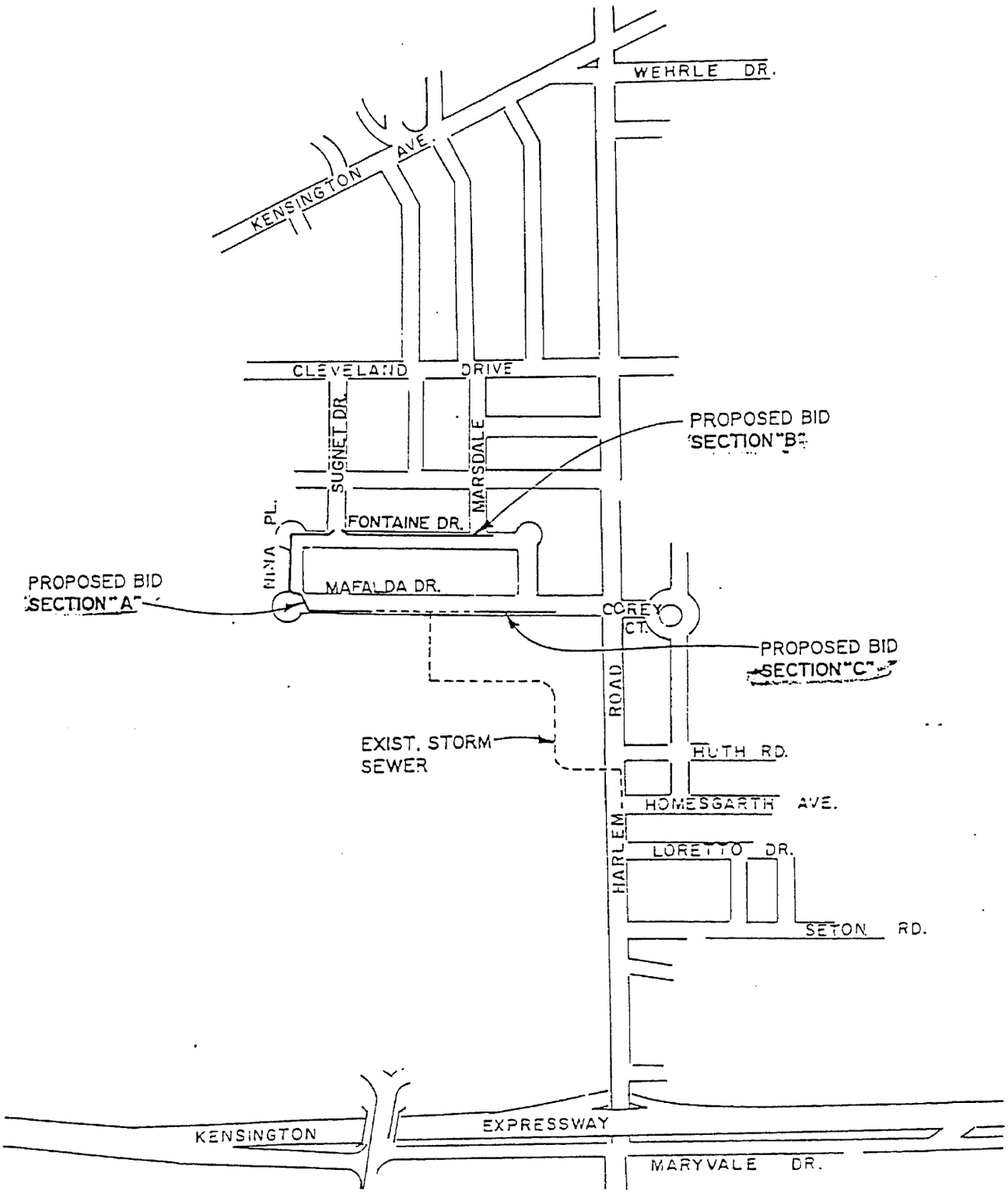
TOWN OF CHEEKTOWAGA, NEW YORK
SUMMARY OF BIDS RECEIVED JULY 21, 1989
FOR THE CONSTRUCTION OF
MAFALDA DRIVE, NINA PLACE, AND FONTAIN DRIVE
STORM SEWER EXTENSION, PHASE II

	Bid Section A	Bid Section B	Bid Section C	Bid Sections A & B	Bid Sections A & C	Bid Sections A, B and C
FIRSTRHYME CONSTR. CORP., INC.	$104,112.35	$ 53,893.05	$ 41,704.95	$158,005.40	$145,817.30	$199,710.35
KANDEY COMPANY, INC.	$104,769.15	$ 61,825.85	$ 41,177.45*	$166,595.00	$145,946.60*	$207,772.45*
ACCADIA ENTERPRISES, INC.	$121,667.00	$ 59,074.00	$ 41,563.00	$180,741.00	$163,230.00	$222,304.00
MARIN EXCAVATING, INC.	$110,465.00	$ 67,615.00	$ 44,400.00	$178,080.00	$154,865.00	$222,480.00
M.P.J. EXCAVATING	$110,137.00	$ 70,230.00	$ 47,275.00	$180,367.00	$157,412.00	$227,642.00
FRONTIER ASPHALT, INC.	$114,516.89	$ 70,296.16	$ 48,852.50	$184,813.05	$163,369.48	$233,665.64
JOHN R. SCHULER, INC.	$118,564.20	$ 75,159.00	$ 51,086.50	$193,723.20	$169,650.70	$244,809.70
AMADORI CONSTR. CO., INC.	$122,552.50	$ 76,222.00	$ 49,913.00	$198,774.50	$172,465.50	$248,687.50
KISSELL EXCAVATING, INC.	$144,640.00	$ 97,410.00	$ 64,905.00	$242,050.00	$209,545.00	$306,955.00
M. FALGIANO CONSTR. CO., INC.	$162,879.00	$110,454.00	$ 70,201.00	$273,333.00	$233,080.00	$343,534.00

orrect Figures

INDEX MAP

(NO SCALE)



Item No. 7b Motion by Councilman Jaworowicz Seconded by Councilman Johnson

WHEREAS, a Notice to Bidders was duly published for the receipt of bids for reroofing the Highway Department Garage Building, which bids were duly received and opened at a public bid opening called for that purpose, AND

WHEREAS, said bids were referred to the Town Engineer for analysis, tabulation and report, AND

WHEREAS, said Town Engineer has submitted the same which is hereto attached and made a part hereof, AND

WHEREAS, funds are available from Capital Funds under account 05513289021100, AND

RESOLVED that the contract to reroof the Highway Department Garage Building be and the same is hereby awarded to Jos. A. Sanders & Sons, Inc., 99-117 Lathrop St., P. O. Box 814, Buffalo, N.Y. 14240, said bid being the lowest meeting the requirements of the specifications.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* See next page

CHESTER L. BRYAN, P.E.
TOWN ENGINEER

Growing In A New Direction

TOWN OF CHEEKTOWAGA
Erie County, New York

August 3, 1989

Supervisor Swiatek
Honorable Town Board Members
Town of Cheektowaga

RE: Award of Bid Re-Roofing the Highway Department Garage Building

Gentlemen:

At a public bid opening on July 28, 1989, bids were received and publicly opened for the re-roofing of the Highway Department Garage Building, which bids are as follows:

Bidders	Item I	Alt. Item I	Total Bid Price
Jos. A. Sanders	$38,610.00	$7,260.00	$45,870.00
Jameson Roofing	48,162.00	3,500.00	51,662.00
McGonigle & Hilger	49,410.00	2,800.00	52,210.00

It is therefore recommended that the bid be awarded to Jos. A. Sanders & Sons Inc., 99-117 Lathrop St., P.O. Box 814, Buffalo, NY 14240, for submitting the lowest total bid price in the amount of $45,870, said bid meeting all the requirements of the specifications.

Very truly yours,

Henry Borkowski

Henry Borkowski
Engineering Aide

HB:km

Town Hall, Broadway & Union Road • Cheektowaga, New York 14227 • 716/686-3447 • 716/686-3448

Item No. 7c Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening on August 4th, 1989 for One New and Unused 1989-90 Model Truck Mounted Vacuum/Broom Type Street Sweeper to be purchased by the Town Highway Department as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, NOW, THEREFORE, BE IT

RESOLVED that the bid be awarded to Cyncon Equipment Inc., 6800 W. Henrietta Rd., W. Henrietta, N.Y. 14586, for One new and unused 1989-90 Johnston Series 600 Street Sweeper mounted on a Ford CF-7000 at a purchase price after trade-in of $83,900.00 being the lowest responsible bidder meeting specifications, and be it further

RESOLVED that monies to be charged to line item #05513089031203.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 8 Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

WHEREAS, after advertisement therefor, by resolution dated July 17, 1989, a bid for One (1) New and Unused 1989-90 Model, Hydraulic Excavator Machine Mounted on Crawler Tracks was awarded to Mecca Kendall Corp. at a purchase price of $53,639.00,

WHEREAS, only $40,000.00 is available under the capital bond and note resolution adopted by this Town Board on May 1, 1989, and

WHEREAS, the Town Superintendent of Highways has redrafted the specifications for such machine and has added another surplus vehicle to be traded in under such specifications, and has requested this Board to rescind the previous bid award and readvertise for bids, NOW, THEREFORE, BE IT

RESOLVED that the aforementioned Town Board resolution dated July 17, 1989 be and hereby is rescinded, and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of One (1) New and Unused 1989-90 Model, Hydraulic Excavator Machine Mounted on Crawler Tracks for use by the Cheektowaga Highway Department.

Information to bidders and specifications may be obtained from the Office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York, between the hours of 8:00 A.M. and 3:30 P.M., Monday through Friday, and BE IT FURTHER

RESOLVED that the Town Clerk is designated as the officer to open bids on the aforesaid item at 11:00 A.M. on August 18th, 1989 in the Council Chambers of the Town of Cheektowaga Town Hall.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive

Item No. 8 continued

proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, HYDRAULIC EXCAVATOR MACHINE MOUNTED ON CRAWLER TRACKS for use by the Cheektowaga Highway Department, at a public bid opening August 18, 1989 at 11:00 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways, at his office located at 3145 Union Road, Cheektowaga, N.Y. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL HYDRAULIC EXCAVATOR MACHINE MOUNTED ON CRAWLER TRACKS.

Non-Collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

Richard M. Moleski, Town Clerk

Dated: August 7, 1989

Published: August 10, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication AUG 10 1989; last publication AUG 10 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 10 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, HYDRAULIC EXCAVATOR MACHINE MOUNTED ON CRAWLER TRACKS for use by the Cheektowaga Highway Department, at a public bid opening AUGUST 18TH, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways, at his office located at 3145 Union Road, Cheektowaga NY. Proposals must be enclosed and sealed in opaque envelope plainly marked 'BID FOR ONE NEW AND UNUSED 1989-90 MODEL HYDRAULIC EXCAVATOR MACHINE MOUNTED ON CRAWLER TRACKS."

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD MOLESKI,
Town Clerk
PUBLISH: August 10, 1989

Item No. 9 Motion by Councilman Johnson Seconded by Supervisor Swiatek

WHEREAS, on April 3, 1989 this Town Board awarded the contract of Infrastructure Improvements, New Erie Industrial Center to Salvo Excavation, Inc., 9780 County Road, Clarence Center, New York 14032, AND

WHEREAS, said contractor has requested an extension of contract since a limit of ninety (90) days allotted to complete the contract is insufficient, AND

WHEREAS, Nussbaumer & Clarke, Inc., Consultilng Engineers and the Town Project Engineer recommend that the contract completion date be extended, NOW, THEREFORE, BE IT

RESOLVED that the contract of Salvo Excavation, Inc. for the construction of Infrastructure Improvements, New Erie Industrial Center be extended for a completion date of August 31, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10a Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds on property locatead at 465 French Road (vacant gas station), Cheektowaga, New YOrk, SBL #125.09-7-1 and according to the Assessors' Office is owned by Mobil Oil Corporation, Property Tax Division, P. O. Box 290, Dallas, Texas 75221, AND

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10b Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at 5 French Road, Cheektowaga, New York SBL #124.02-2-124 and according to the Assessors' Office is owned by Louis P. Galanes, Buffalo, New York 14240, AND

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10c Motion by Councilman Kulyk Seconded by Councilman Johnson

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at 1255-1331 French Road (Southwest Property Line), Cheektowaga, New York, SBL #125.12-10-4, and according to the Assessors' Office is owned by Samuel Pezzino & Et al, 5320 Willow Lake Drive, Clarence, New York 14031, AND

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10d Motion by Councilman Kulyk Seconded by Councilman Gabryszak

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at the Southeast Corner of Genesee Street and Wheaton Drive , Cheektowaga, New York, SBL #91.18-5-1 and according to the Assessor's Office is owned by Bernadette Judge, Cheektowaga, New York 14225, AND

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10e Motion by Councilman Kulyk Seconded by Councilman Gabryszak

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located 1281 and 1287 Walden Avenue,, Cheektowaga, New York, SBL #102.53-6-18./B and according to the Assessor's Office is owned by Geiger Enterprises, P. O. Box 201, Snyder, New York 14226, AND,

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Item No. 10e continued

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10f Motion by Councilman Kulyk Seconded by Councilman Johnson

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at 1561 Delavan Avenue (East corner - East End), Cheektowaga, New York, SBL #90.84-2-1 and according to the Assessor's Office is owned by Samuel Tabone & 1, 380 Connecticut Street, Buffalo, New York 14213, , and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10g Motion by Councilman Kulyk Seconded by Councilman Kazukiewicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on vacant property located South of the Edgebrook Apartment Complex, (Union Road entrance) known as 2810 Union Road, Cheektowaga, New York, SBL # 113.12-3-12 and according to the Assessor's Office is owned by Richard J. Powers and Wife, Lackawanna, New York 14218, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10h Motion by Councilman Kulyk Seconded by Councilman Gabryszak

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on the near east property line located at 2875 Harlem Road, Cheektowaga, New York, SBL #91.78-3-1.1 and according to the Assessors' Office is owned by Zeesa Realty, 2874 Harlem Road, Cheektowaga, New York 14225, and

Item No. 10h continued

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 11 Motion by Councilman Jaworowicz Seconded by Councilman Kulyk

WHEREAS, in order to assure that the timely and accurate response of emergency vehicles to properties in the Town, the Cheektowaga Police Department and Assessor's Office has recommended that the house addresses listed on the attached memo from Lt. John Howlett be changed to place them in the correct numerical sequence, and

WHEREAS, this Town Board agrees with the recommendations made by the Police Department and Assessor's Office, NOW, THEREFORE, BE IT

RESOLVED that the house numbers of those properties shown on the attached memo be and hereby are changed as stated, and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to, within 10 days of the date of this resolution, notify the following of such house number changes:

Assessor
Planning Board
County Clerk
County Highway Department
U. S. Post Office
Police Department

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE ATTACHED MEMO

Cheektowaga
Police Department
3223 Union Road, Cheektowaga, New York 14227-1080

Robert M. Lis
Chief of Police

Bruce D. Chamberlin
Assistant Chief

TO: ALL PERSONNEL AND DEPARTMENTS

DATE: 20 JULY 89

SUBJECT: REVISED ADDRESSES & STREET NAMES

Effective 20 July 89, the Cheektowaga Town Assessor's office has changed the following house address numbers in order to bring the homes into correct street and numerical sequence, and to more accurately reflect the true location of the structure. These adjustments are critical in assuring that all emergency services can make a quick and accurate response to these locations if required.

OLD		NEW	
number	street	number	street
1	BROWN AVE. Karen A. Felger L. Mancuso		BROWN AVE.
3	BROWN AVE. S. Majka		BROWN AVE.
5	BROWN AVE. James Kelly M. Militello		BROWN AVE.
7	BROWN AVE. Stephen D. Battaglia Thomas Monaghan Jr.		BROWN AVE.
10	BROWN AVE. George A. Sisson		BROWN AVE.
11	BROWN AVE. George D. Majchrzak		BROWN AVE.
15	BROWN AVE. Ora S. Morris		BROWN AVE.
16	BROWN AVE. Bernard Wysocki		BROWN AVE.
25	BROWN AVE. Ronald J. Smentkiewicz		BROWN AVE.

35	BROWN AVE. Garey E. Gawronski	BROWN AVE.
36	BROWN AVE. Gary R. Kapuscinski	BROWN AVE.
85	BROWN AVE. J. Nawrocki	BROWN AVE.
768	REIN RD. Bill Roche Reliant Vending	

Effective 17 July 89 the Cheektowaga Town Board re-named the following street:

THOMAS ST. to SHEVCHENKO DR.

Currently there are no houses or businesses on it.

If you have any questions or problems regarding these changes you may contact me at 686-3520.

Sincerely,

Lt. John Howlett
Communications & Records

Item No. 12 Motion by Councilman Johnson Seconded by Councilman Kulyk

BE IT RESOLVED that New York State Electric and Gas Corporation be and hereby is authorized to remove 1 - 5200 lumen high pressure sodium lamp on Crisfield Street, Pole 18, Line 1601, and replace said lamp with 1 - 8500 lumen high pressure sodium lamp, at an annual increase in the General Lighting District of $12.91, in accordance with the attached proposal submitted by New York State Electric and Gas.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGE FOR PROPOSAL

NYSEG

July 13, 1989

STREET LIGHTING PROPOSAL
TOWN OF CHEEKTOWAGA

Crisfield Street

Install 1-8500 lumen hps lamp @ $106.24 ea. ---------- $ 106.24
(Pole 18, Line 1601)

Remove 1-5200 lumen hps lamp @ $93.33 ea. ---------- $ 93.33
(Pole 18, Line 1601)

Annual Increase ---- $ 12.91

(this proposal is made contingent upon the terms and conditions covered in NYSEG's street lighting filed tariff agreement with the Town of Cheektowaga)

Item No. 13a Motion by Councilman Kazukiewicz Seconded by Councilman Kulyk

WHEREAS, in honor of the Town's 150th Birthday, a Sesquicentennial Bicycle Race will be held on Sunday, August 13, 1989 beginning at 1:30 P.M. and

WHEREAS, such bicycle race will begin on Losson Road at the entrance to Stiglmeier Park and proceed west down Losson Road to Union Road; thence north on Union Road to Bennett Road to Como Park Boulevard to Borden Road to Losson Road; and end on Losson Road at the entrance to Stiglmeier Park, and

WHEREAS, police traffic control will be necessary along the bicycle route to protect pedestrians, bicyclists and motorists, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby approves and authorizes the use of those highways mentioned above for the Cheektowaga Sesquicentennial Bicycle Race on August 13, 1989, and BE IT FURTHER

RESOLVED that the Chief of Police ensure compliance with Section 1660(a)(6) of the Vehicle and Traffic Law; and he is further authorized and directed to make arrangements for any and all traffic safety and/or escort services for such event.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13b Motion by Councilman Gabryszak Seconded by Councilman Kazukiewicz

WHEREAS, the Cheektowaga Youth Engaged in Service (Y.E.S.) Program has requested permission to conduct an overnight campout on August 25th and 26th, 1989 at John C.Stiglmeier Park, and

WHEREAS, Article 48-12 of the Code of the Town of Cheektowaga states that "All parks shall be closed, except for use of driveways therein, between the hours of sunset and sunrise the following morning, and no person shall lounge about or remain in any of the parks during the hours when so closed", NOW, THEREFORE, BE IT

RESOLVED that the Cheektowaga Town Board permit a waiver of Article 48-12 of the Code of the Town of Cheektowaga, said waiver extended to the Cheektowaga Youth Engaged (Y.E.S.) Program for the use of John C. Stiglmeier Park on August 25th and 26th, 1989, and BE IT FURTHER

RESOLVED that a copy of said resolution be forwarded to the Chief of Police, Facilities Department Director and Recreation Director.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 14a Motion by Councilman Gabryszak Seconded by Supervisor Swiatek

WHEREAS, by resolution dated June 5, 1989, this Town Board authorized the Supervisor to execute a proposed agrement with Cheektowaga-Sloan Union Free School District ("School District") for the use of premises known as the Theodore Roosevelt School (the "Property") located at 2495 William Street in the Town for playground and recreational purposes, and terminated a prior agreement dated September 8, 1980 for such Property, and

WHEREAS, such revisions are acceptable to this Town Board, NOW, THEREFORE, BE IT

RESOLVED that the aforementioned resolution dated June 5, 1989 be and

Item No. 14a continued

hereby is rescinded, and BE IT FURTHER

RESOLVED that this Town Board hereby agrees to terminate the agreement dated September 8, 1980 with the School District, and BE IT FURTHER

RESOLVED that the Supervisor be and hereby is authorized and directed to execute the attached agreement with the School District for use of the Property.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGES FOR AGREEMENT

AGREEMENT

THIS AGREEMENT made and entered into as of the 7th day of August, 1989, by and between the CHEEKTOWAGA-SLOAN UNION FREE SCHOOL DISTRICT, a domestic municipal corporation with offices at 166 Halstead Avenue in the Village of Sloan, County of Erie and State of New York ("School District") and the TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK, a domestic municipal corporation having its principal place of business at Broadway and Union Road in the Town of Cheektowaga, County of Erie and State of New York ("Town")

RECEIVED
1989 DEC -4 P 3:01
CHEEKTOWAGA
TOWN CLERK

WITNESSETH:

WHEREAS, the School District is the owner of certain premises commonly known as the Theodore Roosevelt School located at 2495 William Street in the Town of Cheektowaga, County of Erie, and State of New York, and

WHEREAS, the School District and the Town are desirous of jointly using a portion of the playground and recreational area located at 2495 William Street, Cheektowaga, New York, for playground and neighborhood recreational purposes, and

WHEREAS, an agreement by and between the School District and the Town for equipping, operating and maintaining such playground is authorized by Section 244-b of the General Municipal Law of the State of New York,

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. Grant of Joint Use

1.1 Grant

Upon the terms and conditions set forth herein, the School District hereby grants the Town the right to use, in common with the School District, for playground and neighborhood outdoor recreational purposes only, the playground and recreational area, owned by the School District at the Theodore Roosevelt School, 2495 William Street, Cheektowaga, New York, which is described on the attached Schedule A.

1.2 Scope of Joint Use; Scheduling

1.2.1 The School District hereby grants the Town the right to schedule softball activities for Town residents on one week night from 5:30 P.M. to dusk and one weekend day (Saturday or Sunday) from 10:00 A.M. to 2:00 P.M. during the period commencing May 1 through August 31, providing the school district receives notification from the Town no later than April 1. The weekday and weekend day to be granted are at the sole discretion of the School District and may be changed from year to year.

1.2.2 The School District hereby grants the Town the first priority to schedule activities related to tennis court and basketball court usage and playground equipment on weekdays and weekends from dawn until dusk during the period from June 23 through August 31. During such period, if requested by the School District, the Town shall provide the School District a reasonable amount of time to schedule activities at the facilities

set forth in this Paragraph 1.2.2 at mutually agreed times.

1.2.3 Notwithstanding the foregoing Paragraphs, during the school year, in school hours, the Town shall not schedule any activities that interfere with the needs of the School District and any activities so scheduled shall be subject to cancellation within the sole and exclusive discretion of the School District.

2. Term of Joint Use; Renewal

2.1 Term

The term of the grant of use given to the Town by the School District is five (5) years, commencing August 7, _____, 1989 through August 7 _____, 1994, and supercedes any previous agreement.

2.2 Renewal

The grant use shall be automatically renewed year to year after the aforementioned expiration date, unless either party gives written notice of cancellation to the other party at least ninety (90) days prior to the expiration of the original term hereof or prior to the expiration of any yearly renewal period.

3. Parking

In conjunction with the permitted use of the property as stated in Paragraph 1 above, the Town and its invitees shall have the right to use, in common with the School District for parking purposes only, the present paved parking areas at the school site of which the property described in the attached Schedule A is a part.

4. Improvements, Maintenance, Repairs

As part of the consideration for the grant of joint use by the School District, the Town agrees to the following duties and obligations as set forth in this Section 4.

4.1 Improvements

4.1.1 The Town shall, at its sole expense and at no cost to the School District, install wooden ballards along the south end of the property along Parker Avenue.

4.1.2 The Town shall agree at its sole expense and at no cost to the School District to provide labor and equipment for the extension of the current parking lot in a southerly direction to accommodate 16 additional parking spaces.

4.1.3 The School District shall agree to provide at its sole expense and at no cost to the Town the material necessary as determined by the Town for the parking lot extension.

4.1.4 The Town shall, at its sole expense and at no cost to the School District, install wooden ballards along the new extension and existing parking lot area in the rear of the school.

4.1.5 The Town shall provide labor and equipment at its sole expense and at no cost to the School District to grade the former track area from Parker Avenue to the parking lot along the east side of the property.

4.1.6 The School District shall agree to provide at its sole expense and at no cost to the Town the fill necessary to grade the former track area. The Town shall provide the seed at its sole expense.

4.1.7 The Town shall repair at its sole expense and at no cost to the School District the drainage ditch located near the basketball court.

4.1.8 The Town shall provide at its sole expense and at no cost to the School District the following playground equipment:

One (1) #1506 6' diameter spin around

One (1) #450 Climbing Play Unit

Additional and/or replacement playground equipment to be installed in years three (3) and four (4) not to exceed $1,000 each year, ($2,000 total). Play units to be mutually agreed upon.

4.1.9 Upon request by the School District, the Town shall provide at its sole expense and at no cost to the School District the erection of one (1) open sided picnic shelter in the fifth (5) year of this agreement. Request for the picnic shelter must be made in writing to the Town by July of year four (4) of this agreement.

4.1.10 Existing Facilities. The School District hereby acknowledges that the Town owns the following items presently on the Premises:

A. 1 Spring Animal - Mexico Forge Playground Company
B. 1 Moon Ride - Mexico Forge Playground Company
C. 1 Buckin Bronco - Mexico Forge Playground Company
D. 1 Four-Seat See Saw - Mexico Forge Playground Company
E. 1 Tennis Net Standards and Racquets
F. 2 Basketball Backboards and Standards
G. 2 Bleachers

4.2 Maintenance

The Town shall be responsible for the maintenance of the following areas: tennis court, basketball court, playground equipment, infield portion of softball diamonds along with portable bleachers and backstops, any other items provided for in Schedule A. The Town's maintenance responsibility for the softball diamond shall be in accordance with the maintenance program applied to all Town owned baseball diamonds by the Town's Facilities Department/Parks Division, which includes the installation of bases, home plate, pitcher's plate, striping and so forth. The School District shall be responsible for the maintenance of the outfield and other grassed portion of the playground.

4.3 Repairs and Replacements

The Town shall, at its own expense, make all necessary repairs and replacements to the equipment and improvements heretofore or hereafter installed or constructed on the playground or recreational area, and shall keep said improvements in a good and safe condition. Any such repairs and replacements shall be made promptly as and when necessary.

4.4 Original Condition

Upon removal of any equipment or improvements owned by the Town, the Town, at its sole expense, shall restore the property to its original condition.

4.5 School District's Option to Purchase

Upon termination or expiration of this agreement, the School District shall have the option to purchase any improve-

ments or equipment owned by the Town at the undepreciated portion of the cost of such improvement unless otherwise prohibited by applicable law.

5. Supervision

The Town shall be responsible for the supervision of the entire playground and recreational areas at such time as activities under the sponsorship of the Town are conducted thereon. At all other times, the supervision of the playground and recreational areas shall be the responsibility of the School District.

6. Indemnity

Each party shall indemnify and hold harmless the other from and against any and all claims, demands or actions arising from injury to any person or property occasioned by any act of omission or commission by such party, its agents, employees and invitees in connection with the use of the playground and recreational areas. Prior to the commencement of the term hereof, each party shall deliver to the other evidence to show that insurance coverage to protect against any risks which a prudent party would require to be in effect has been obtained and is in effect and such coverage shall be subject to the reasonable approval of the other party's insurance consultant or advisor.

7. Risk of Loss

Each of the parties hereto shall assume all risk of loss to property owned by it, whether arising out of loss

by fire, theft, inclemency of weather or otherwise.

8. Termination

This agreement shall terminate prior to the expiration of the term.

A. Upon the occurrence of a material breach of the covenants and conditions hereof, which breach shall not have been remedied within a reasonable period of time after written notice of the occurrence thereof to the offending party;

B. Upon the discontinuance of use of the property by the Town for the purpose stated in Section 1 hereof for a period of one (1) year, or

C. Upon the determination by the School District that the land in question should be utilized for purposes necessary to enhance the educational opportunities of the children and/or residents of the School District.

In the event of termination pursuant to this section, the rights of the Town shall cease to exist and the School District shall be released from any and all obligations under this agreement, and sole use of the real property shall revert to the School District. Should termination occur, the rights and obligations of the respective parties shall be governed by the applicable sections of this agreement.

9. Additional Provisions

9.1 Assignment

Neither this Agreement, nor any interest of either of the parties herein, may be assigned, conveyed, pledged,

transferred, hypothecated or otherwise disposed of without the prior written consent of the other party hereto.

9.2 Entire Agreement

This Agreement contains the entire agreement between the parties hereto, and there are no understandings, agreements or representations, express or implied, not specified herein respecting this Agreement; and no change or modification of this Agreement shall be valid unless the same shall be in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CHEEKTOWAGA-SLOAN UNION FREE SCHOOL DISTRICT

By _____, President

TOWN OF CHEEKTOWAGA, NEW YORK

By _____
Frank E. Swiatek, Supervisor

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

On this 16th day of August, 1989, before me personally came Richard KANKEWICZ to me personally known, who, being by me duly sworn, did depose and say that he/she resides in Cheektowaga, New York, that he/she is the President of the CHEEKTOWAGA-SLOAN UNION FREE SCHOOL DISTRICT as described herein, and which executed the above instrument; that he/she so signs by order of the Board of Education of the District; and that he/she signs his/her name thereto by like order.

MICHAEL A. CONNORS
Notary Public, State of New York
Qualified in Erie County
My Commission Expires [illegible]30, 19 92
7-31

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:
TOWN OF CHEEKTOWAGA)

On this 7th day of August, 1989, before me personally came FRANK E. SWIATEK, to me known, who, being by me duly sworn, did depose and say that he resides in Cheektowaga, New York, that he is the Supervisor of the TOWN OF CHEEKTOWAGA as described herein, and which executed the above instrument; that he so signs by order of the Town Board of the Town of Cheektowaga; and that he signs his name thereto by like order.

KEVIN G. SCHENK
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Feb. 28, 19 91

SCHEDULE A

DESCRIPTION OF THE PLAYGROUND
AND RECREATIONAL AREA

The Cheektowaga-Sloan Union Free School District owns certain property located at and behind 2495 William Street, Cheektowaga, New York. This tract of land is bordered by William Street on the north, Parker Street on the south, and generally Helen Street on the east and Bright Street on the west except that various private property (such as residential housing) is situated between the District's property and Helen and Bright Street.

For the purposes of this joint agreement the playground and recreational area shall include that portion of the District's aforementioned property currently operated as a playground and recreational area as well as the undeveloped property immediately south of the present facilities. Neither the school facility itself nor any other building are included within the playground and recreational area. No parking facilities are included except as otherwise provided for in this Agreement.

Item No. 14b Motion by Councilman Johnson Seconded by Councilman Solecki

WHEREAS, this Town Board authorized EMS Consulting to conduct an engineering and traffic control analysis to substantiate the need for the installation of a traffic signal at the intersection of Losson Road and Towers Boulevard, AND

WHEREAS, the first phase of the Losson Park Village Subdivision includes the completion of Towers Boulevard running southerly from Losson Road for some 1300 feet with the additional length of some 600 feet to be completed under the next phase of the subdivision construction, AND

WHEREAS, this Town Board wants to proceed on the installation of this traffic signal in the shortest time possible, NOW, THEREFORE, BE IT

RESOLVED that the proposal of EMS Consulting, as submitted to the Town Engineer and dated August 3, 1989 for the preparation of plans and specifications and for the provision of services during construction be and hereby is approved, AND, BE IT FURTHER

RESOLVED that the Supervisor be and hereby is directed to sign said Agreement with EMS Consulting on behalf of this Town Board, AND, BE IT FURTHER

RESOLVED that costs for said professional services in the amount of $6,500.00 be charged to Account No. 3310-8814-1102,

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, and Gabryszak
NAYES: Councilmen Jaworowicz, Kulyk, Kazukiewicz and Solecki
ABSENT: 0

Item No. 14c Motion by Councilman Johnson Seconded by Councilman Solecki

WHEREAS, the Town is committed to pursuing economic development activities in order to preserve existing jobs, create new job opportunities for Town residents, and improve the Town's tax base, AND

WHEREAS, in accordance with those goals, the Town has created the Cheektowaga Economic Development Corporation for the purpose of assisting and encouraging new industrial development and growth in the Town, and

WHEREAS, use of Community Development Block Grant funds has been approved by the Department of Housing and Urban Development for economic development purposes in the Town, NOW, THEREFORE, BE IT

RESOLVED that the Supervisor be and hereby is authorized to execute an agreement with the Cheektowaga Economic Development Corporation for the purpose of allocating Community Development Block Grant funds to that agency for the 1989-90 program year in an amount up to $882,004.03, which includes $236,000 from the 1989-90 program year and 646,004.03 from the 1986-1988 program years.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 15 Motion by Supervisor Swiatek Seconded by Councilman Solecki

WHEREAS, a bond closing for various Purposes Serial Bonds will take place in New York City on Monday, August 14, 1989, and

WHEREAS, it is necessary that the Town Clerk, Richard M. Moleski,and the Town Supervisor, Frank E. Swiatek, attend such closing and deliver the Serial Bonds to New York City, NOW, THEREFORE, BE IT

Item No. 15 continued

RESOLVED that Richard M. Moleski and Frank E. Swiatek be and hereby are authorized and directed to attend such bond closing, and BE IT FURTHER

RESOLVED that their necessary and reasonable expenses be reimbursed by the Town, not to exceed $550.00 per person and said expenses to be charged to ACcount #01-1910-0004-4082

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16 Motion by Councilman Solecki Seconded by Councilman Gabryszak

WHEREAS, subsequent to the completion and filing of the assessment roll for the current year, a number of special proceedings for the review of the assessment of certain real properties were commenced against the Town, and

WHEREAS, assessments and assessment review proceedings involve a specialized area of law, accounting and economics, and

WHEREAS, Joseph G. Sacco, attorney at law is an experienced practitioner in the aforementioned specialized field; and, in fact, has represented the Town on such proceedings for the past several years, and

WHEREAS, in addition, the Town Assessor has recommended the retention of Mr. Sacco for advice and representation on pending assessment proceedings,

NOW, THEREFORE, BE IT RESOLVED, that Joseph G. Sacco, Esq. be and hereby is retained to represent the Assessor, the Board of Assessment Review and the Town of Cheektowaga in all assessment review proceedings based on the current assessment roll, and BE IT FURTHER

RESOLVED that his reasonable fees and expenses, as audited by the Town Assessor and/or Town Attorney be paid.

* *

Motion by Councilman Solecki and seconded by Councilman Gabryszak to amend the above resolution and the voting was as followss:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AMENDED

Motion by Councilman Solecki Seconded by Councilman Gabryszak

WHEREAS, subsequent to the completion and filing of the assessment roll for the current year, a number of special proceedings for the review of the assessment of certain real properties were commenced against the Town, and

WHEREAS, assessments and assessment review proceedings involve a specialized area of law, accounting and economics, and

WHEREAS, Joseph G. Sacco, attorney at law is an experienced practitioner in the aforementioned specialized field; and, in fact, has represented the Town on such proceedings for the past several years, and

WHEREAS, in addition, the Town Assessor has recommended the retention of Mr. Sacco for advice and representation on pending assessment proceedings,

Item No. 16 continued

NOW, THEREFORE, BE IT RESOLVED, that Joseph G. Sacco, Esq. be and hereby is retained to represent the Assessor, the Board of Assessment Review and the Town of Cheektowaga in all assessment review proceedings based on the current assessment roll, and BE IT FURTHER

RESOLVED that his reasonable fees and expenses, as audited by the Town Assessor and/or Town Attorney be paid and be it further resolved that in not exceeed $58,392 annually.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 17 Acceptance of Center Park Subdivision.
This item was withdrawn.

Item No. 18a Motion by Councilman Kulyk Seconded by Councilman Kazukiewicz

WHEREAS, Losson Park Village, Inc., as part of the acceptance of the Losson Park Village Subdivision and as a prerequisite to the construction of any buildings in such subdivision, has submitted to the Town for its acceptance a warranty deed for the following properties:

1. a portion of Towers Boulevard
2. a portion of Parktrail Lane
3. a portion of Whitney Place
4. tributary of Slate Bottom Creek

and

WHEREAS, the Town Superintendent of Highways, in the attached letter dated July 27, 1989, has recommended that such deed and highway be accepted by the Town, and

WHEREAS, Losson Park Village, Inc. has also submitted a drainage easement to the Town, and

WHEREAS, Losson Park Village, Inc. has also submitted a maintenance bond for the aforementioned highways and certified checks to guarantee street lighting, bicycle-safe grates, bridge guardrails and storm sewer cleaning to the Town, NOW, THEREFORE, BE IT

RESOLVED that the aforementioned deed, easement, maintenance bond and certified checks are accepted by this Town Board, and BE IT FURTHER

RESOLVED that the Town Attorney be and hereby is directed to file the deed and easement in the Erie County Clerk's Office.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Kazukiewicz
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Solecki

* SEE NEXT PAGE FOR LETTER

CHRISTOPHER J. KOWAL
SUPERINTENDENT OF HIGHWAYS

HIGHWAY DEPARTMENT
3145 Union Road
Cheektowaga, N. Y. 14227-1083
(716) 686-3450
Mobile: 863-5867

RECEIVED
1989 AUG -3 AM 10: 05
CHEEKTOWAGA
TOWN CLERK

Growing In A New Direction

TOWN OF CHEEKTOWAGA
Erie County, New York
August 3, 1989

HONORABLE SUPERVISOR FRANK E. SWIATEK
HONORABLE TOWN BOARD MEMBERS
TOWN OF CHEEKTOWAGA NY 14227

Re: Losson Park Village Subdivision - Phase 1 - Acceptance

Dear Councillors:

Please be advised that timely and effective inspections during all phases of construction have been performed by Pratt & Hutt Associates and myself; and we find that the subdivision conforms to the current specifications of the Town of Cheektowaga and is recommended for acceptance into our system of highways.

The deed is in the office of the Town Attorney for approval and filing. The maintenance bond is in an amount commensurate with the Town's P.I.P. Ordinance. This bond is in the Town Attorney's Office for approval. Street lighting agreements are provided.

Trusting this meets with your approval, I remain

Very truly yours,

Christopher J. Kowal

Christopher J. Kowal
Superintendent of Highways

erp

cc: Town Clerk
Town Attorney
Building Inspector
Town Engineer

Item No. 18b Motion by Councilman Kazukiewicz Seconded by Councilman Kulyk

WHEREAS, L & G Bridgewood, Inc., as part of the acceptance of the Woodlands at the Park Subdivision and as a prerequisite to the construction of any buildings in such subdivision, has submitted to the Town for its acceptance of a warranty deed for the following highway:

Countryside Lane

and,

WHEREAS, the Town Superintendent of Highways, in the attached letter dated July 27, 1989, has recommended that such deed and highway be accepted by the Town, and

WHEREAS, L & G Bridgewood, Inc. has also submitted a drainage easement to the Town, and

WHEREAS, L & G. Bridgewood, Inc. has also submitted a maintenance bond for Countryside Lane and certified checks to guarantee street lighting, bicycle-safe grates and storm sewer cleaning to the Town, NOW, THEREFORE, BE IT

RESOLVED that the aforementioned deed, easement, maintenance bond and certified checks are accepted by this Town Board, and BE IT FURTHER

RESOLVED that the Town Attorney be and hereby is directed to file the deed and easement in the Erie County Clerk's Office.

* *

Motion by Councilman Johnson and seconded by Councilman Solecki to amend the above resolution and the voting was as follows:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* *

AMENDED

Motion by Councilman Kazukiewicz Seconded by Councilman Kulyk

WHEREAS, L & G Bridgewood, Inc., as part of the acceptance of the Woodlands at the Park Subdivision and as a prerequisite to the construction of any buildings in such subdivision, has submitted to the Town for its acceptance of a warranty deed for the following highway:

Countryside Lane

and,

WHEREAS, the Town Superintendent of Highways, in the attached letter dated July 27, 1989, has recommended that such deed and highway be accepted by the Town, and

WHEREAS, L & G Bridgewood, Inc. has also submitted a drainage easement to the Town, and

WHEREAS, L & G. Bridgewood, Inc. has also submitted a maintenance bond for Countryside Lane and certified checks to guarantee street lighting, bicycle-safe grates and storm sewer cleaning to the Town <u>including underground conduit and sidewalks</u>, NOW, THEREFORE, BE IT

RESOLVED that the aforementioned deed, easement, maintenance bond and certified checks are accepted by this Town Board, and BE IT FURTHER

Item No. 18b continued

RESOLVED that the Town Attorney be and hereby is directed to file the deed and easement in the Erie County Clerk's Office.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* See Next Page for letter

CHRISTOPHER J. KOWAL
SUPERINTENDENT OF HIGHWAYS

HIGHWAY DEPARTMENT
3145 Union Road
Cheektowaga, N. Y. 14227-1083
(716) 686-3450
Mobile: 863-5867

RECEIVED
1989 AUG -3 AM 10:05
CHEEKTOWAGA
TOWN CLERK

Growing In A New Direction

TOWN OF CHEEKTOWAGA
Erie County, New York

July 27, 1989

Honorable Frank Swiatek, Supervisor
Honorable Town Board Members
Town of Cheektowaga, NY 14227

Dear Town Board Members:

RE: WOODLANDS AT THE PARK SUBDIVISION ACCEPTANCE

Please be advised that timely and effective inspections during all phases of construction have been performed by Nussbaumer and Clarke and myself; and we find that the subdivision conforms to the current specifications of the Town of Cheektowaga and is recommended for acceptance into our system of highways.

The deed is in the office of the Town Attorney for approval and filing. The maintenance bond is in an amount commensurate with the Town's P.I.P. Ordinance. This bond is in the Town Attorney's office for approval. Street lighting agreements are provided.

Trusting this meets with your approval, I remain,

Very truly yours,

Christopher J. Kowal
Superintendent of Highways

ji
enc.
cc: Town Clerk
Town Attorney
Building Inspector
Town Engineer

Item No. 19 Motion by Councilman Kulyk Seconded by Councilman Kazukiewicz

WHEREAS, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga, the Environmental Advisory Committee reviews various applications for building permits, rezonings, special permits, etc. and renders its determination of environmental significance of such applications, and

WHEREAS, the Town Board, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga is designated the lead agency in most instances, and

WHEREAS, since the Town Board is the lead agency, it must affirm or reject the recommendations submitted to it by the Advisory Committee, and

WHEREAS, the Advisory Committee, at its meeting held on July 14, 1989, rendered the determinations shown on the attached memo dated July 25, 1989, and

WHEREAS, this Town Board has reviewed the applications submitted and the recommendations made by the Environmental Advisory Committee for the items listed below, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby affirms the recommendations (including stipulations, if any) made by the Advisory Committee with respect to the following reference items which appeal on the July 25, 1989 memo attached hereto:

Item I	3788 Broadway
Item III	1332 Walden Avenue

* *

Motion by Councilman Kulyk and seconded by Councilman Kazukiewicz to amend the amend the above resolution and the voting was as follows:

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES:	0
ABSENT:	0

* *

AMENDED

Motion by Councilman Kulyk seconded by Councilman Kazukiewicz

WHEREAS, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga, the Environmental Advisory Committee reviews various applications for building permits, rezonings, special permits, etc. and renders its determination of environmental significance of such applications, and

WHEREAS, the Town Board, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga is designated the lead agency in most instances, and

WHEREAS, since the Town Board is the lead agency, it must affirm or reject the recommendations submitted to it by the Advisory Committee, and

WHEREAS, the Advisory Committee, at its meeting held on July 14, 1989, rendered the determinations shown on the attached memo dated July 25, 1989, and

WHEREAS, this Town Board has reviewed the applications submitted and the recommendations made by the Environmental Advisory Committee for the items listed below, NOW, THEREFORE, BE IT

Item No. 19 continued

RESOLVED that this Town Board hereby affirms the recommendations (including stipulations, if any) made by the Advisory Committee with respect to the following reference items which appeal on the July 25, 1989 memo attached hereto:

Item III 1332 Walden Avenue

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE ATTACHED MEMO

The lot is being rezoned for use as additional parking for the Wagner Building on Genesee Street. The lot across the street is a bar/restaurant and parking lot. The committee did not find the use incompatible as it will reduce parking congestion.

The stipulations are as follows:

- 5' solid screening must be provided along the north and west lines.
- The gas meters must be protected from vehicle damage.
- Drainage must be approved by Engineering.

ITEM III 1332 Walden Avenue - Conversion Of A Two Family Into a One Family and Attorney's Office

Applicant: Terence Miller

Determination: Non-Significant
The area is zoned commercially and this type of use is preferred for the area. The Planning Board must review the final landscaping plan and Engineering the drainage plan.

ITEM IV 1083 Cleveland Drive - Proposed Rezone For Two Family

Applicant: W. Dickinson

Determination: Non-Significant
The area has a number of two families at the present time. The lot is in compliance with the Zoning Ordinance. The apartment is intended for a relative.

The building permit should be issued subject to Engineering approval of the drainage.

ITEM V Union/Postal - Proposed Rezone/Special Permit For Gas Dispensing And Car Wash

Applicant: Mobil Oil Corporation

Determination: -
The original proposal did not comply with a number of ordinance requirements and the applicant was told to re-design.

Item No. 22 Motion by Councilman Johnson Seconded by Councilman Solecki

WHEREAS, on June 6, 1955, the Town Board of the Town of Cheektowaga adopted an ordinance now known as Chapter 65, Article II, of the Code of the Town of Cheektowaga, setting forth Town specifications for the construction of sidewalks in the Town, and

WHEREAS, pursuant to Section 200-a of the Town Law of the State of New York, a town board may adopt orders from time to time directing the owners of lots abutting on streets within such town to construct sidewalks along same, and

WHEREAS, construction is currently proceeding on a lot on the northwest corner of Transit Road and Strasmer Road and this Board feels that sidewalks should be constructed along Transit Road and Strasmer Road for this property, NOW, THEREFORE, BE IT

ORDERED, that Mr. and Mrs. Harold L. Wiesmore be and hereby are directed to construct sidewalks along Transit Road and Strasmer Road where such roads abut their property located at 4976 Transit Road (Assessor's S.B.L. #114.02-10-23) in the Town of Cheektowaga on or before November 7, 1989; such sidewalks to be constructed in accordance with Town specifications, and BE IT FURTHER

ORDERED, that should said owners of 4976 Transit Road not so construct such sidewalks on or before November 7, 1989, this Board shall cause same to be built and assess the expense thereof against 4976 Transit Road, and BE IT FURTHER

ORDERED, that the Town Clerk be and hereby is directed to forward a certified copy of this resolution by certified mail to Mr. & Mrs. Harold L. Wiesmore at 1075 Exchange Street, Alden, New York 14004.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 23 Motion by Supervisor Swiatek Seconded by Councilman Solecki

WHEREAS, Alfreda Piatek caused a Notice of Claim to be served upon the Town on account of personal injuries sustained by reason of falling on the dance floor in the Senior Citizens Building on March 4, 1988; and

WHEREAS, on May 24, 1988, a summons and complaint on the aforesaid claim was served upon the Town; and

WHEREAS, the aforesaid lawsuit has been vigorously defended by attorneys retained by the claims administrator of the Town; and

WHEREAS, the said attorneys and claims administrator have agreed to dispose of the said lawsuit by the payment of $12,000.00, which sum has been approved by the Hon. Jerome C. Gorski, Justice, Supreme Court; and

WHEREAS, the said attorneys believe it is in the best interests of the Town to carry out the terms of the aforementioned settlement and compromise,

NOW, THEREFORE, BE IT RESOLVED that the sum of $12,000.00 be paid by the Town from its self-insurance reserve fund in full and final settlement of the aforesaid lawsuit, and BE IT FURTHER

RESOLVED that Self Insurers Service, Inc. (S.I.S.) be and hereby is authorized to execute the papers necessary to effectuate such settlement.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 24 Motion by Councilman Solecki Seconded by Councilman Gabryszak

BE IT RESOLVED that the following individuals, part-time employees in the departments listed, be and hereby are granted an increase in the hourly rates, effective immediately, as follows:

CENTRAL GARAGE

Carol Weber	$5.50 per hour

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 25 Motion by Councilman Gabryszak Seconded by Councilman Kazukiewicz

WHEREAS, the Cheektowaga Youth Bureau is sponsoring a residential campting experience for developmentally disabled youngsters at the conclusion of its summer day camp, and

WHEREAS, this will necessitate multiple accounting transfers and payroll adjustments, BE IT

RESOLVED that the following transactions take place:

That the following individuals be transferred from an hourly rate to a salary classification (01-7310-0001=1802) for the week of August 13th through August 19th, 1989 and revert back to their hourly status in the Adapted Recreation Program (01-7310-0001-1803), effective August 20th.

NAME/ADDRESS		RATE
Deborah Ann Wojtkowski,	Depew,NY 14043	$295.00
Christine Phillips,	Cheektowaga, N.Y. 14225	$225.00
Paulette Mecca.	Cheektowaga, N.Y. 14225	$200.00
David Imiola,	Cheektowaga, N.Y. 14227	$200.00
Bonnie Lynch,	Depew, N.Y. 14043	$200.00
Denise Bogdan,	Cheektowaga, N.Y. 14206	$175.00
Christy Male,	Cheektowaga, N.Y. 14225	$175.00
Colleen Schaub,	Cheektowaga, N.Y. 14227	$175.00
Kim Giczkowski,	Depew, N.Y. 14043	$175.00
Cindy Principato,	, Cheektowaga, N.Y. 14225	$185.00
Louanne Balus,	Cheektowaga, N.Y. 14225	$185.00
Paul Marchewka,	Cheektowaga, N.Y. 14227	$175.00
Tracy Hoerner,	Depew, N.Y. 14043	$185.00
Robin Straker,	Cheektowaga, N.Y. 14225	$185.00
Kathy Miller,	Cheektowaga, N.Y. 14227	$185.00
Anne Priester,	Cheektowaga, N.Y. 14225	$185.00
Lynda Diemert,	, Cheektowaga, N.Y. 14225	$185.00

That the following individual be transferred from an hourly rate to a salary classification for the week of August 13th through August 19th and be terminated at the conclusion of the residential camp effective August 20th:

NAME/ADDRESS		RATE
Marie Juergen,	Cheektowaga, N.Y. 14225	$200.00
John Miller,	, Cheektowaga, N.Y. 14225	$185.00

That the following individuals be transferred from the Day Camp for Developmentally Disabled (01-7310-0001-1802) to the Adapted Recreation Program (01-7310-0001-1803), effective August 20th:

NAME/ADDRESS		RATE
Barbara Zielinski.	Cheektowaga, New York 14225	$4.30 per hour
Karen Noworyta,	Depew, N.Y. 14043	$3.50 per hour

Item No. 25 continued

That the following individuals be terminated from the Day Camp for Developmentally Disabled, effective August 12, 1989:

NAME/ADDRESS	
Lisa German,	Cheektowaga, N.Y. 14225
Grace Glenn,	Depew, N.Y. 14043
Doreen Skowron,	Sloan, New York 13212
Victoria Strausser,	Cheektowaga, N.Y. 14225
Carl Vella,	Depew, N.Y. 14043
Lisa Reiner,	Cheektowaga, N.Y. 14225

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 26 Motion by Councilman Kulyk Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following individuals hired as Seasonal and/or Part-Time employees in the various Departments listed be and hereby are terminated:

SANITATION DEPARTMENT	EFFECTIVE
Jeff Bobeck	Immediately
COUNCIL OFFICE	
Beth Kuerzdoerfer	8/11/89
Brian Golas	8/31/89

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 27 Motion by Councilman Gabryszak Seconded by Councilman Johnson

BE IT RESOLVED that Robert Strychalski of be terminated as an employee in the Department of Senior Services.

BE IT FURTHER RESOLVED that Thomas S. Hajduk of Cheektowaga, New York 14211 be hired as a part-time van driver (Job Class 0111) at a rate of $4.25 an hour in the Department of Senior Services.

Funding Source: Account 7620.1639

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28a Motion by Supervisor Swiatek Seconded by Unanimously

WHEREAS, the term of office of Casimir A. Kozminski as Assessor of the Town of Cheektowaga expires on the 1st day of October, 1989; and

WHEREAS, Mr. Kozminski meets or exceeds the qualification standards established for the office of Assessor by the State Board; and

Item No. 28a continued

WHEREAS, Mr. Kozminski has successfully completed prescribed courses of training and education; and therefore, Mr. Kozminski has the experience, knowledge and training which enables him to perform the duties of Assessor in a manner most advantageous to the Town and its residents,

NOW, THEREFORE, BE IT RESOLVED that Mr. Casimir A. Kozminski be and hereby is appointed to the position of Assessor of the Town of Cheektowaga for a term commencing on October 1, 1989 and ending September 30, 1995.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28b Motion by Councilman Jaworowicz Seconded by Councilman Johnson

WHEREAS, according to the records of the Erie County Department of Personnel, there are 12 vacancies in the position of police officer in the Town of Cheektowaga, AND

WHEREAS, this Board is interested in appointing five (5) police officers at this time, AND

WHEREAS, the Civil Service eligible list for police officer has been canvassed and candidates were interviewed, NOW, THEREFORE, BE IT

RESOLVED that the following individuals be and hereby are appointed to the position of police officer, effective August 10, 1989, at a salary in accordance with the collective bargaining agreement between the Town and the Town of Cheektowaga Police Club, Inc.:

Daniel W. Petroski
Anthony Kostyo
Michael K. Hockwater
Scott Grant
Michael J. Isbrandt

AND BE IT FURTHER

RESOLVED that moneys for such positions shall be appropriated from budget line item number 01-3120-0001-1541.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28c Motion by Councilman Jaworowicz Seconded by Councilman Johnson

WHEREAS, by resolution, this Town Board previously created three (3) positions of Public Safety Dispatcher, and

WHEREAS, a vacancy exists in one of these positions, and

WHEREAS, there is a need to create nine (9) more Public Safety Dispatcher positions and fill all such positions, and

WHEREAS, the civil service eligible list for such positions has been canvassed and candidates were interviewed, NOW, THEREFORE, BE IT

RESOLVED that an additional nine (9) Public Safety Dispatcher positions be and hereby are created in the Town Police Department, effective immediately, and BE IT FURTHER

Item No. 28c continued

RESOLVED that the following individuals be and hereby are appointed to the position of Public Safety Dispatcher, effective August 21, 1989, at an annual salary of $18,000.00.

Kenneth C. Stoller, Jr. Cheektowaga	Kevin P. Cross , Cheektowaga
Ray W. Deuel Depew	Donald H. Douglas. Jr. Depew
Paul F. Hockwater, Jr. , Cheektowaga	Richard S. Szymecki Cheektowaga
Wayne A. Wydych , Sloan	Martin J. Schultz (temporary) Cheektowaga
William R. Palumbo (temporary) Depew	Guy H.Litchtenberger, Jr., (temporary) Depew

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28d Motion by Councilman Jaworowicz Seconded by Councilman Gabryszak

WHEREAS, Lawrence Golas has previously been appointed on a provisional basis to the position of Superintendent, Wastewater Pump Station, AND

WHEREAS, at the time of said appointment, Lawrence Golas was granted a leave of absence from his permanent position as Assistant Superintendent, Wastewater Pump Station to serve on such provisional basis, AND

WHEREAS, the County of Erie Department of Personnel has determined and certified that Lawrence Golas is eligible for a non-competitive promotion in accordance with the Civil Service Law of the State, and the rules promulgated thereunder, and that he is the only name on the preferred list for said position, NOW, THEREFORE, BE IT

RESOLVED that Lawrence Golas of Cheektowaga, New York, be appointed to the position of Superintendent, Wastewater Pump Station on a permanent basis, effective immediately at a salary and pursuant to the terms of the Town's Agreement with its Supervisory Unit, AND, BE IT FURTHER

RESOLVED that the leave of absence previously granted Lawrence Golas from his position as Assistant Superintendent, Wastewater Pump Station be terminated.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28e Motion by Councilman Johnson Seconded by Councilman Gabryszak

WHEREAS, Thomas Skowronski has previously been appointed to the position of Assistant Superintendent, Wastewater Pump Station, on a temporary basis, AND

WHEREAS, that said position has become vacant as a result of the permanent appointment of the incumbent thereof to another position, AND

WHEREAS, there is in existence a competitive Civil Service eligible list for the said position, which list has been canvassed for appointment, AND

Item No. 28e continued

WHEREAS, Thomas Skowronski has responded to said canvass favorably, NOW, THEREFORE, BE IT

RESOLVED that Thomas Skowronski of , Cheektowaga, New York be appointed to the position of Assistant Superintendent, Wastewater Pump Station, effective immediately, at a salaryand pursuant to the provisions of the Town's Agreement with its Supervisory Unit.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28f Motion by Councilman Kulyk Seconded by Councilman Johnson

WHEREAS, Jon Nichy has previously been appointed to the position of Pump Operator on a temporary, provisional basis, AND

WHEREAS, the position has now become vacant as a result of the incumbent thereof being appointed permanently to another position, NOW, THEREFORE, BE IT

RESOLVED that Jon Nichy is hereby appointed to the position of Pump Operator, provisionally, effective immediately, pending the results of a competitive Civil Service examination for said position.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28g Motion by Councilman Kulyk Seconded by Councilman Solecki

WHEREAS, there exists a vacancy in the job title of Auto Mechanic in the Central Garage, AND

WHEREAS, said vacancy has been posted in accordance with the terms and conditions of the Town's Agreement with the Town of Cheektowaga Employees Association, AND

WHEREAS, applicants for said vacancy have been interviewed, NOW, THEREFORE, BE IT

RESOLVED that James Kazmierczak of Cheektowaga, New York, be appointed to said vacancy, effective August 8, 1989, at a salary and in accordance with the Town of Cheektowaga Employees Association collective bargaining agreement.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28h Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

WHEREAS, John G. Egloff has resigned from his position of Director of Administration and Finance (PJC-Exempt), effective August 4, 1989, AND

WHEREAS, Theresa Rusin, a Junior Accountant in the Accounting Department has expressed interest in the position, is familiar with the duties, and meets all the requirements for such position, NOW, THEREFORE, BE IT

Item No. 28h continued

RESOLVED that Theresa Rusin be and hereby is temporarily appointed to the position of Director of Administration and Finance (PJC Exempt) until such position is filled permanently or for a maximum period of ninety (90) days, whichever is less, at an annual salary of $36,500.00, effective immediately, AND BE IT FURTHER

RESOLVED that Theresa Rusin be and hereby is granted a leave of absence from her position as Junior Accountant in the Accounting Department while she is serving temporarily in the position of Director of Administration and Finance (PJC-Exempt).

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 29a Motion by Councilman Kulyk Seconded by Councilman Solecki

BE IT RESOLVED that the following individuals be and hereby are hired as Part-time and/or Seasonal Employees in the Departments listed:

SANITATION DEPARTMENT - $5.00 per hour	EFFECTIVE
Kevin Powell	As Needed

COUNCIL OFFICE - Administrative Assistant - Acct. No. 01-1010-0001-1351
$5.25 per hour

Deborah Schugardt	Immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 29b Motion by Supervisor Swiatek Seconded by Councilman Solecki

WHEREAS, funds are presently available under the Buffalo-Cheektowaga-Tonawanda Consortium, Summer Youth Program, and,

WHEREAS, the Summer Youth participants work a maximum of 40 hours per week at a salary listed below, and carries a termination date not to exceed September 8th, 1989, NOW, THEREFORE, BE IT

RESOLVED that the following employees are hired at a salary and title as described below and based on fund availability from the Department of Labor:

COUNSELOR at a salary of $5.00 per hour

William Clerici	Cheektowaga,NY 14227

SUMMER YOUTH PARTICIPANT at $3.35 per hour

Kenneth Burley	Cheektowaga,NY 14227

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 30 Motion by Supervisor Swiatek Seconded by Councilman Kulyk

WHEREAS, Thaddeus Skowron III, a laborer in the Highway Department has requested a fifteen (15) day sick leave extension due to an injury sustained unrelated to his employement with the Town, AND

WHEREAS, Thaddeus Skowron III has exhaused all accrued sick leave as of August 3, 1989, AND

WHEREAS, the collective bargaining agreement between the Town of Cheektowaga and the Town of Cheektowaga Employees Association permits the Town Board to authorize a sick leave extension as per Article 8, Section 8.02(e), NOW, THEREFORE, BE IT

RESOLVED that the Town Board hereby grants Thaddeus Skowron III a fifteen (15) day sick leave extension, retroactive to August 4, 1989, to be repaid to the Town upon Mr. Skowron's return to service.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 31 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

WHEREAS, funding is periodically available from miscellaneous public and private grant sources to assist the town with various projects, and

WHEREAS, this town is in need of an outside consultant to maintain current information on the availability of and to apply for such funding, and

WHEREAS, Robert J. Miller & Associates, a grant development firm has represented the town to the various granting agencies for proposed projects including:

1. The Alexander Street School
2. New roofs for the Reinstein and North Branch Library
3. Cooperative programming funds throught the New York State Office for the Aging
4. Funding for vans to the Urban Mass Transportation Grant Program
5. Funding for an Industrial Park
6. Funding for parks projects
7. Several other grants including energy grants for the Cheektowaga Town Hall and the Cheektowaga Recreation Center

NOW, THEREFORE, BE IT RESOLVED, that Robert J. Miller & Associates, be authorized to represent the Town of Cheektowaga and the Town of Cheektowaga execute the attached letter of agreement with Robert J. Miller & Associates for grant services for a period of one year effective August 16, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGE FOR LETTER

LETTER OF AGREEMENT BETWEEN

TOWN OF CHEEKTOWAGA

AND

ROBERT J. MILLER & ASSOCIATES
124 Delaware Avenue
Tonawanda, New York 14150
(716) 694-8181
GRANTS CONSULTANTS

RECEIVED
1989 AUG 29 PM 2:47
TOWN CLERK
CHEEKTOWAGA, N.Y.

It is hereby agreed that Robert J. Miller & Associates will render direct grants consultation services as described below to the Town of Cheektowaga for a one year period commencing August 16, 1989 and ending August 15, 1990.

Robert J. Miller and Associates will perform the following tasks:

* Conduct comprehensive reviews of on-going and planned activities to identify potentially fundable programs.

* Prepare narrative summaries of fundable programs to include statement of need, proposed methodology, anticipated benefits and budgets.

* Conduct on-going search and survey of potential funding sources, both private and public, at the federal, state, and local levels.

* Identify and establish direct contact with funding sources.

* Prepare and submit formal letters of intent and full proposals in appropriate and final format to potential granting organizations.

* Maintain liaison and follow-up with all granting organizations where formal application has been made.

* Conduct briefings with designated members of client staff and board to report on progress achieved and to develop additional fundable programs and proposals.

In consideration of $7,000 for the first three month quarter of services payable in advance to Robert J. Miller & Associates, both parties agree to provisions contained herein. Fees for the continuation of services beyond the initial three month quarter shall be $7,000 for each subsequent and consecutive quarter payable in advance of each quarter.

This agreement may be terminated by the Town of Cheektowaga provided that written notice is given to Robert J. Miller & Associates by the Town of Cheektowaga 30 days prior to the end of any three month quarter in progress. In the event of early termination, Robert J. Miller & Associates shall be paid for the quarter then in process.

TOWN OF CHEEKTOWAGA

FRANK E. SWIATEK, Supervisor

Date: 8-15-89

ROBERT J. MILLER
GRANTS CONSULTANTS

ROBERT J. MILLER, President

Date: 8-15-89

Item No. 32 Motion by Supervisor Swiatek Seconded by Councilman Kazukiewicz

WHEREAS, each of the 25 Towns in Erie County has a contract with the County of Erie for snow removal and ice control of certain County Roads within the various Towns, and

WHEREAS, the contract price per lane mile has remained unchanged for the past several years at $1,000.00 per lane mile despite the increase in costs to the Towns, and

WHEREAS, this contract is not a grant to the various Towns, but a means of paying for or reimbursing the Towns for actual expenses incurred by the Towns for snow removal and ice control that the County would otherwise have to do itself, and

WHEREAS, this snow removal and ice control is a County responsibility and expense, and failure to pay the Towns a sum closer to the actual expenses forces local town taxpayers to absorb the extra expense and in effect to subsidize the County of Erie, and

WHEREAS, the County of Erie requires the Towns to indemnify and hold harmless the County for the work performed, then the County should increase the price paid to the Towns to reflect the actual costs incurred and the exposure to potential liability, and

WHEREAS, the Erie County Association of Town Superintendents of Highways has surveyed their members and calculated the actual average cost per lane mile for road snow removal and ice control to be $2,139.66, and

WHEREAS, the County of Cattaraugus currently pays its towns the sum of $1,300.00 per lane mile based on a 100 trip season, and if the season goes over the 100 trips, the towns get paid an additional average cost per trip, and

WHEREAS, the Erie County Association of Town Superintendents of Highways has unanimouslypassed a resolution seeking an increase in the rates of $300.00 per lane mile for each of the next three years of the snow removal and ice control contract with the County, that is, $1,600.00 for the year 1990-1991, and $1,900.00 for the year 1991-1992, and

WHEREAS, the Erie County Association of Local Governments has also voted unanimously to support this resolution seeking an increase in rates as outlined and approved by the Erie County Association of Town Superintendents of Highways,

NOW, THEREFORE, BE IT RESOLVED, that the Cheektwoaga Town Board hereby supports the increase in the rates in the snow removal and ice control contract in the amount of $1, 300.00 for the year 1989-1990, $1,600.0 for the year 1990-1991, and $1,900.00 for the year 1991-1992, and be it further

RESOLVED that copies of this resolution be forwarded to County Executive Dennis Gorski; Chairman of the Erie County Legislature, Roger I. Blackwell; Majority Leader, Leonard E. Lenihan; Minority Leader, Mary Lou Rath; Legislator Ralph M. Mohr; and to each of the Town Supervisors in the County of Erie, and all other County Legislators.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 33 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

BE IT RESOLVED that the following transfers are hereby approved and made a part hereof:

Item No. 33 continued

GENERAL FUND			
FROM:	1910-04-4711	(Contingency)	$12,000.00
	1010-02-2201	(Office Equipment-Council)	1,000.00
	2625.0000	(Crime Forfeiture Revenue)	2,736.45
	2625.0000	(Crime Forfeiture Revenue)	1,909.65
	2625.0000	(Crime Forfeiture Revenue)	1,134.00
	3510-01-1491	(PT Laborer-Dog Wardens)	3,000.00
	3510-01-1491	(PT Laborer-Dog Wardens)	3,000.00
TO:	9950-05-1989	(Transfer to Capital)	$12,000.00
	1010-04-4001	(Office Supplies-Council)	1,000.00
	3120-02-2205	(Police Copier Crime Forfeit.)	2,736.45
	3120-02-2205	(Police Fax Machine)	1,909.65
	3120-04-4092	(Paper & Supplies Fax Machine)	1,134.00
	3120-04-4073	(Clothing Allowance-Police)	3,000.00
	3020-04-4431	(Equip. Repairs & Main.-Police)	3,000.00
CAPITAL FUND			
FROM:	5031-0000-00	(Interfund Transfer In)	$12,000.00
TO:	5132-89021100	(Highway Roof)	12,000.00
PART TOWN FUND			
FROM:	9010-08-8131	(Employ. Workmens Comp.)	$500.00
TO:	8020-04-4081	(Planning-Dues)	500.00
SPECIAL DISTRICT FUND			
FROM:	15-8160-04-4089	(Recycling)	$1,000.00
TO:	15-8160-04-4188	(Equipment Rentals-Sanitation)	1,000.00
GENERAL FUND			
FROM	01-9010-08-8101	(Retirement Account)	$38,500.00
TO:	01-3120-01-1541	(Patrolman Line)	38,500.00

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 34 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

BE IT RESOLVED that the following vouchers and warrants submitted to the Town of Cheektowaga prior to August 7, 1989 are hereby approved and made a part hereof:

FUND	AMOUNT
GENERAL FUND	$ 238,977.19
HIGHWAY FUND	60,950.32
TRUST & AGENCY FUND	18,493.59
PART TOWN FUND	1,310.85
RISK RETENTION FUND	17,951.95
DEBT SERVICE FUND	249,381.00
SPECIAL DISTRICT FUND	167,083.35
CAPITAL FUND	360,791.60
HUD FUND	20,575.50
HUD RENTAL REHABILITATION FUND	1,957.50
HUD REHABILITATION FUND	2,375.00
	$1,139,847.85

Item No. 34 continued

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

IV. DEPARTMENTAL COMMUNICATIONS

Item No. 35 Building Permits
Received and Filed

Item No. 36 Minutes of Cheektowaga Traffic Safety Commission, July, 1989
Received and Filed

Item No. 37 Decision on appeals by Board of Assessment Review
Received and Filed

Item No. 38 Quarterly Report Office of Disaster Preparedness/April-June, 1989
Received and Filed

V. GENERAL COMMUNICATIONS

Item No. 39 NYSDOT Notice of Order: Prohibit left turns westbound on Genesee to Beryl Drive
Copies were sent to: Frank E. Swiatek, Supervisor; All Councilmen; Chief of Police, Robert M. Lis; Christopher Kowal, Highway Superintendent
Received and Filed

Item No. 40 Notice of Petition: ITT Corp. vs. Bd. of Assessment Review of Town of Cheektowaga
Copies were sent to: Town Attorney; Assessor's Office.
Received and Filed

Item No. 41 Summons: Sharon Ross vs. Town of Cheektowga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; S. I. S. Services, Insurance Carrier
Received and Filed

Item No. 42a Notice of Claim: Robert & Susan Wozniak vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Police Department; S.I.S. Service, Insurance Carrier
Received and Filed

Item No. 42b Notice of Claim: Theresa & Jeffrey Hauser vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Joseph J. Naples, Insurance Carrier; S.I.S. Services, Insurance Carrier; Zambelli Int.
Received and Filed

Item No. 42c Notice of Claim: Jeanette A. Kobus vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Highway Department; S.I.S. Services, Insurance Carrier
Received and Filed

Item No. 42d Notice of Claim: Arthur T. Kopacz vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Facilities Dept.; Sr. Services; S.I.S. Services, Insurance Carrier
Received and Filed

Item No. 43 Letter from Pyramid Co. withdrawing Nokomis Park Offer for Como Park land
Received and Filed

Item No. 44 Letter from Nokomis Park Homeowners Association regarding preservation and restoration of Nokomis Park
Received and Filed

* *

Motion by Councilman Kulyk and seconded by Councilman Gabryszak to suspend the rules to include the following items and the voting was as follows:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

VI. SUSPENSION OF RULES

Item No. 45 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

WHEREAS, by resolution of this Town Board, John G. Egloff was appointed to the position of Director of Administration and Finance (PJC-Exempt), effective June 26, 1989, AND

WHEREAS, the Town is in receipt of a letter of resignation from John Egloff resigning from his position, NOW, THEREFORE, BE IT

RESOLVED that the letter of resignation of John G. Egloff from the position of Director of Administration and Finance (PJF-Exempt), effective Friday, August 4, 1989, is hereby accepted.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 46 Motion by Councilman Johnson Seconded by Supervisor Swiatek

BE IT RESOLVED that a public hearing on proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) be held on August 11, 1989 at 7:30 P.M. at the Town Hall, corner of Broadway and Union Road in said Town of Cheektowaga for the purpose of considering the advisability of adopting said amendments and the Town Clerk is hereby directed to publish the following

Item No. 46 continued

NOTICE OF HEARING in the CHEEKTOWAGA TIMES on the 10th day of August, 1989, said amendments being set forth in the Notice of Hearing.

* *

NOTICE OF PUBLIC HEARING

Take Notice that the Town Board of the Town of Cheektowaga, Erie County, New York will hold a public hearing at the Town Hall, corner of Broadway and Union Road, in said Town of Cheektowaga on August 22, 1989 at 7:30 P.M., to consider the advisability of adopting amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic); said proposed amendments being as follows:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by adding thereto the following:

C. No Parking Here to Corner

GRUNNER ROAD	north side	from the west line of Lemoine Avenue to the east line of Wallace Avenue.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

DATED: August 7, 1989

Richard M. Moleski
Town Clerk

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson ....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for .....1..... weeks: first publication AUG 10 1989 ; last publication AUG 10 1989 ; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 10 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

NO. 19

LEGAL NOTICE
NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Cheektowaga, Erie County, New York will hold a public hearing at the Town Hall, corner of Broadway and Union Road, in said Town of Cheektowaga on August 22, 1989 at 7:30 P.M., to consider the advisability of adopting amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) said proposed amendments being as follows:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner
GRUNNER ROAD
north side
for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by adding thereto the following:

C. No Parking Here to Corner
GRUNNER ROAD
north side
from the west line of Lemoine Avenue to the east line of Wallace Avenue

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK

RICHARD M. MOLESKI
Town Clerk

PUBLISH: August 10, 1989

NO. 19

Item No. 47 Motion by Councilman Kazukiewicz and seconded by Councilman Jaworowicz to adjourn the meeting.

RICHARD M. MOLESKI
Town Clerk

Item No. 1 At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Road, in said Town on the 22nd day of August, 1989 at 7:30 o'clock P.M., Eastern Daylight Saving Time, there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

ABSENT: 0

Also present were: Richard M. Moleski, Town Clerk; James Kirisits, Town Attorney; Ron Marten, Supervising Building and Plumbing Inspector; Ray Pugh, Planning Board Member; Bruce Chamberlin, Assistant Chief of Police; Chester Bryan, Town Engineer; Don Wegner, Chairman of Zoning Board of Appeals.

I. PUBLIC HEARINGS

Item No. 2a This being the time and place advertised for a public hearing to consider the advisability of adopting amendments to the Chapter 76 of the Code of the Town of Cheektowaga, (Vehicle and Traffic) hereinafter more particularly described, the Supervisor directed the Town Clerk to present proof of the publication and posting of the notice of hearing. The Town Clerk presented proof that such notice has been duly published and posted, and upon the order of the Supervisor such proof was duly filed. Said amendments being as follows:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by deleting therefrom the following:

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the Vehicle and Traffic Ordinance shall be amended by adding thereto the following:

GRUNNER ROAD	north side	from the west line of Lemoine Avenue to the east line of Wallace Avenue

* *

The Supervisor announced that the Town Board would hear all persons interested in the subject of the hearing. Comments were heard, after which the Supervisor declared the hearing closed; decision was reserved.

Item No. 2b This being the time and place advertised for a public hearing to consider the advisability of adopting amendments to the Chapter 76 of the Code of the Town of Cheektowaga, (Vehicle and Traffic) hereinafter more particularly described,

Item No. 2b cont'd

the Supervisor directed the Town Clerk to present proof of the publication and posting of the notice of hearing. The Town Clerk presented proof that such notice has been duly published and posted, and upon the order of the Supervisor such proof was duly filed. Said amendments being as follows:

ARTICLE VIII

Stop and Yield Intersections

Street	Direction	Entrance Street	Traffic Stops	Sign Location
Wedgewood Dr.	North-south	Castlewood Dr.	Westbound	N.E. Corner

ARTICLE X

Parking, Standing, Stopping

Section 76-102 of the traffic ordinance shall be amended be deleting the following:

B. No Parking Anytime

Sprucewood Drive - east side: from the south curbline of Oakwood Drive ten (10) feet, plus or minus, south to the curve, thence, the south side westerly around the cul-de-sac, thence, the north side easterly to the east driveway line of 16 Sprucewood Drive then (10) feet, plus or minus.

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

PEACHTREE ROAD	North side	from the west curbline of Loxley Road westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Loxley Road easterly 40 feet to a point
PEACHTREE ROAD	North side	from the west curbline of Pendennis Place westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Pendennis Place easterly 40 feet to a point
SPRUCEWOOD DRIVE	East & South side	from the north curbline of Oakwood Drive southerly and westerly to the west lot line of #15 Sprucewood Drive

F. Miscellaneous Parking Signs

(16)

No parking 7 AM to 4 PM Except Saturday & Sunday

SPRUCEWOOD DRIVE	South side	Beginning at the west lot line of #15 Sprucewood Drive, around the cul-de-sac to the north side of Sprucewood Drive ending at the east lot line of #16 Sprucewood Drive

* *

The Supervisor announced that the Town Board would hear all persons interested in the subject of the hearing. Comments were heard, after which the Supervisor declared the hearing closed; decision was reserved.

II. RESOLUTIONS

Item No. 3 Motion by Councilman Johnson, Seconded by Councilman Kulyk

WHEREAS, this Town Board held a public hearing on August 22, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof,

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that it is in the public interest to adopt the following amendments to Chapter 76 of the Code of the Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE VIII

Stop and Yield Intersections

Street	Direction	Entrance Street	Traffic Stops	Sign Location
Wedgewood Dr.	North-south	Castlewood Dr.	Westbound	N.E. Corner

ARTICLE X

Parking, Standing, Stopping

Section 76-102 of the traffic ordinance shall be amended be deleting the following:

B. No Parking Anytime

Sprucewood Drive - east side: from the south curbline of Oakwood Drive ten (10) feet, plus or minus, south to the curve, thence, the south side westerly around the cul-de-sac, thence, the north side easterly to the east driveway line of 16 Sprucewood Drive then (10) feet, plus or minus.

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

GRUNNER ROAD	North side	from the west line of Lemoine Avenue to the east line of Wallace Avenue
PEACHTREE ROAD	North side	from the west curbline of Loxley Road westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Loxley Road easterly 40 feet to a point
PEACHTREE ROAD	North side	from the west curbline of Pendennis Place westerly 40 feet to a point
PEACHTREE ROAD	North side	from the east curbline of Pendennis Place easterly 40 feet to a point

Item No. 3 cont'd

SPRUCEWOOD DRIVE	East & South side	from the north curbline of Oakwood Drive southerly and westerly to the west lot line of #15 Sprucewood Drive

* * * * * * * * * * * * * * * * * * * *

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all of the Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES, a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication AUG 31 1989; last publication AUG 31 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 31 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 22nd day of August, 1989 at 7:30 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Johnson and Seconded by Councilman Kulyk

WHEREAS, this Town Board held a public hearing on August 22, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that is is in the public interest to adopt the following amendments to Chapter 76 of the Code of The Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE VII
Stop and Yield Intersections

Street	Direction	Entrance Street	Traffic Stops	Sign Location
Wedgewood Dr.	North-south	Castlewood Dr.	Westbound	N.E. Corner

ARTICLE X
Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by deleting thereto the following:

B. No parking Anytime

Sprucewood Drive - east side: from the south curbline of Oakwood Drive ten (10) feet, plus or minus, south to the curve, thence, the south side westerly around the cul-de-sac, thence the north side easterly to the east driveway line of 16 Sprucewood Drive then ten (10) feet, plus or minus.

C. No Parking Here to Corner

GRUNNER ROAD	north side	for a distance of 20 feet east of the intersection of Wallace Avenue

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

B. No Parking Anytime

GRUNNER ROAD	north side	from the west line of Lemoine Avenue to the east line of Wallace Avenue
PEACHTREE ROAD	north side	from the west curbline of Loxley Rd. westerly 40 feet to a point
PEACHTREE ROAD	north side	from the east curbline of Loxley Road easterly 40 feet to a point
PEACHTREE ROAD	north side	from the west curbline of Pendennis Place westerly 40 feet to a point
PEACHTREE ROAD	north side	from the east curbline of Pendennis Place easterly 40 feet to a point
SPRUCEWOOD DRIVE	east & south side	from the north curbline of Oakwood Drive southerly and westerly to the west lot line of #15 Sprucewood Dr.

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all ofthe Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on August 22, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item No. 3, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 22nd day of August, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: August 31, 1989

Item No. 4a Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, William R. Dickinson has made application and requested the Rezoning from R-Residential District to RA-Apartment District for property located at 1083 Cleveland Drive, said applicant being the owner of the above named property, NOW, THEREFORE, BE

RESOLVED that a Public Hearing be held regarding said request under the provisions of the Zoning Ordinance on September 5, 1989 at 6:30 o'clock Eastern Standard Time at the Cheektowaga Town Hall, corner of Broadway and Union Roads.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

NO. 20

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

.....Scott Benson....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for .....1..... weeks: first publication ....AUG 24 1989..... ; last publication .....AUG 24 1989..... ; and that no more than six days intervened between publications.

.....Scott Benson.....

Sworn to before me this AUG 24 1989.....

day of ....., 19.....

.....Eve J. Allis.....

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Cheektowaga, Erie County, New York at the Town Hall in the said Town of Cheektowaga, corner of Broadway and Union Road on the 5th day of September, 1989 at 6:30 o'clock, P.M., Eastern Daylight Savings Time of said day for the purpose of considering the application of WILLIAM R. DICKSON to Rezone from R-Residence District to RA-Apartment District on property located at 1083 Cleveland Drive and amend the Zoning Map and Ordinance accordingly, pursuant to Article X and Section 82-70 of the Zoning Ordinance of the Town of Cheektowaga, New York.

All parties in interest and citizens will be given an opportunity to be heard in regard to such proposed application.

BY ORDER OF THE TOWN BOARD

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

RICHARD M. MOLESKI
Town Clerk

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot Number 19, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as all of Subdivision Lot Number 12 and west 10 feet front, 10.42 feet rear of Subdivision Lot Number 13 as shown on map filed in Erie County Clerk's Office under Cover Number 1481 situated on the south side of Cleveland Drive and being 50 feet front and 52.09 feet rear by 200.96 feet on the east line and 215.57 feet on the west line.

PUBLISH: August 24, 1989

Item No. 4b Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, Michael C. Wagner has made application and requested a Rezoning from R-Residential District to C-Retail Business District of property located at 16 Dellwood Place, Cheektowaga, New York, said applicant being the owner of the above property, NOW, THEREFORE, BE IT

RESOLVED that a Public Hearing be held regarding said request under the provisions of the Zoning Ordinance on September 5, 1989 at 6:30 o'clock Eastern Standard Time at the Cheektowaga Town Hall, corner of Broadway and Union Roads.

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES:	0
ABSENT:	0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication AUG 24 1989; last publication AUG 24 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 24 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

NO. 20

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Cheektowaga, Erie County, New York at the Town Hall in the said Town of Cheektowaga, corner of Broadway and Union Road on the 5th day of September, 1989 at 6:30 o'clock, P.M., Eastern Daylight Savings Time of said day for the purpose of considering the application of MICHAEL C. WAGNER to Rezone from R-Residence District to C-Retail Business District on property located at 16 Delawood Place and amend the Zoning Map and Ordinance accordingly, pursuant to Article X and Section 82-70 of the Zoning Ordinance of the Town of Cheektowaga, New York.

All parties in interest and citizens will be given an opportunity to be heard in regard to such proposed application.

BY ORDER OF THE TOWN BOARD

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

RICHARD M. MOLESKI
Town Clerk

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 26, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 92 as shown on a map filed in the Erie County Clerk's office under Cover No. 1266.

PUBLISH: August 24, 1989

Item No. 4c Motion by Councilman Kulyk, Seconded by Councilman Johnson

WHEREAS, Mobil Oil Corporation, Inc. has made application and requested a Rezoning from M-1-Light Manufacturing District to CM-General Commercial District and a Special Use Permit for a car wash for property located at the S.W. Corner of Galleria Drive (Postal Road) and Union Road, with the permission of the property owner, namely the Victor Reinstein Estate, NOW, THEREFORE, BE IT

RESOLVED that a Public Hearing be held regarding said request under the provisions of the Zoning Ordinance on September 5, 1989 at 6:30 o'clock Eastern Standard Time at the Cheektowaga Town Hall, corner of Broadway and Union Roads.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson
....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for .....1..... weeks: first publication AUG 24 1989 ; last publication AUG 24 1989 ; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 24 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICES

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Cheektowaga, Erie County, New York at the Town Hall in the said Town of Cheektowaga, corner of Broadway and Union Road on the 5th day of September, 1989 at 6:30 o'clock, P.M., Eastern Daylight Savings Time of said day for the purpose of considering the application of MOBIL OIL CORP./J. PALUMBO to Rezone from M-1 Light Industrial District to CM-General Commercial District on property located at southwest corner of Union Rd. & Galleria Drive (Postal) and amend the Zoning Map and Ordinance accordingly, pursuant to Article X and Section 82-70 of the Zoning Ordinance of the Town of Cheektowaga, New York.

All parties in interest and citizens will be given an opportunity to be heard in regard to such proposed application.

BY ORDER OF THE TOWN BOARD

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

RICHARD M. MOLESKI
Town Clerk

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 17, Township 11, Range 7 of the Holland Land Company's Survey and more particularly bounded and described as follows:

BEGINNING at the intersection of the westerly highway boundary of Union Road (100.0 feet wide) with the southerly highway boundary of Galleria Drive formerly (Postal Road) (80.0 feet wide); thence South 01 degrees 35' 00" West and along the westerly highway boundary of Union Road a distance of 210.04 feet; thence North 89 degrees 19'24" West and along the northerly line of lands conveyed under Liber 9709 Page 443 a distance of 350.0 feet, thence South 01 degree 35' 00" West and along the westerly line of lands conveyed under Liber 9709 Page 443 a distance of 100.0 feet; thence North 89 degrees 19' 24" West and along the southerly line of Lot 17, Township 11, Range 7, a distance of 250.0 feet; thence North 01 degrees 35' 00" East and along the easterly line of Liber 9081 Page 151 a distance of 305.17 feet; thence South 89 degrees 47' 19" East and along the southerly highway boundary of Postal Road a distance of 600.05 feet ot the place or point of beginning.

PUBLISH: August 24, 1989

STATE OF NEW YORK
COUNTY OF ERIE } **ss.**
TOWN OF CHEEKTOWAGA

Scott Benson, **of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is** Clerk **of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for** 1 **weeks: first publication** AUG 24 1989 **; last publication** AUG 24 1989 **; and that no more than six days intervened between publications.**

Scott Benson

Sworn to before me this AUG 24 1989

day of , **19**

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19 9/

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Cheektowaga, Erie County, New York at the Town Hall in the said Town of Cheektowaga, corner of Broadway and Union Road on the 5th day of September, 1989 at 6:30 o'clock, P.M., Eastern Daylight Savings Time of said day for the purpose of considering the application of MOBIL OIL CORP./J. PALUMBO for a Special Permit to operate a car wash on property located at southwest corner of Union Road & Galleria Dr. (Postal) and amend the Zoning Map and Ordinance accordingly, pursuant to Article VI and Section 82-33 of the Zoning Ordinance of the Town of Cheektowaga, New York.

All parties in interest and citizens will be given an opportunity to be heard in regard to such proposed application.

BY ORDER OF THE TOWN BOARD

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

RICHARD M. MOLESKI
Town Clerk
PUBLISH: August 24, 1989

Item No. 5 Motion by Councilman Kazukiewicz, Seconded by Councilman Jaworowicz

BE IT RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of One (1) New and Unused 1989-90 Articulated Steering Tractor Type Slope Mower for use by the Cheektowaga Highway Department. Information for bidders and specifications may be obtained from the Office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York 14227, between the hours of 8:00 A.M. and 3:30 P.M., Monday thru Friday and BE IT FURTHER

RESOLVED that the Town Clerk is hereby designated as the officer to open bids on the aforesaid item at 11:00 A.M. on September 1, 1989 in the Council Chambers of the Town of Cheektowaga.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, ARTICULATED STEERING TRACTOR TYPE SLOPE MOWER for use by the Cheektowaga Highway Department, at a public bid opening September 1, 1989 at 11:00 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways, at his office located at 3145 Union Road, Cheektowaga, New York. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL HYDRAULIC EXCAVATOR MACHINE MOUNTED ON CRAWLER TRACKS.

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI
Town Clerk

DATED: August 22, 1989
PUBLISHED: August 24, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE } ss.
TOWN OF CHEEKTOWAGA

Scott Benson
....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for .....1..... weeks; first publication.....AUG 24 1989.....; last publication.....AUG 24 1989.....; and that no more than six days intervened between publications.

.....Scott Benson.....

Sworn to before me this AUG 24 1989

day of ....., 19.....

.....Eve J. Allis.....

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, ARTICULATED STEERING TRACTOR TYPE SLOPE MOWER for use by the Cheektowaga Highway Department, at public bid opening SEPTEMBER 1, 1989 at 11A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways, at his office located at 3145 Union Road, Cheektowaga, NY. Proposals mustbe enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL HYDRAULIC EXCAVATOR MACHINE MOUNTED ON CRAWLER TRACKS."

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD MOLESKI,
Town Clerk
PUBLISH: August 24, 1989

Item No. 6 Motion by Councilman Johnson, Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, by resolution dated June 5, 1989, this Town Board affirmed the recommendation of the Town Environmental Advisory Review Committee declaring that the Union Consumer Square Project was environmentally non-significant subject to certain stipulations and further subject to further review concerning the closing off of North Creek Drive, and

WHEREAS, pursuant to regulations promulgated under the State Environmental Quality Review Act (6 NYCRR 616.6(I), a lead agency may rescind a negative declaration if it determines that a significant environmental effect may result from a project modification or that there exists a change of circumstances which was not previously addressed and prior to such rescission, other involved agencies and the applicant must be notified, and

WHEREAS, the Town of Cheektowaga designated the lead agency for the Union Consumer Square Project, and

WHEREAS, the following project modifications and/or change of circumstances with respect to the Union Consumer Square Project exist:

1. introduction of a tire service center

NOW, THEREFORE, BE IT

RESOLVED, that this Town Board hereby directs the Town's SEQRA Intake Officer, the Building Inspector, to notify involved agencies and the applicant, Benderson Development Company, of the Town's intention to rescind its negative declaration for the Union Consumer Square Project, as stated in the aformentioned Town Board resolution dated June 5, 1989, and BE IT FURTHER

RESOLVED, that Benderson Development Company be and hereby is given 30 days in which to respond to this notice of rescission.

* *

MOTION BY COUNCILMAN JOHNSON, SECONDED BY COUNCILMAN JAWOROWICZ TO AMEND THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Kulyk

the amended resolution is as follows:

* *

Motion by Councilman Johnson, Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, by resolution dated June 5, 1989, this Town Board affirmed the recommendation of the Town Environmental Advisory Review Committee declaring that the Union Consumer Square Project was environmentally non-significant subject to certain stipulations and further subject to further review concerning the closing off of North Creek Drive, and

WHEREAS, pursuant to regulations promulgated under the State Environmental Quality Review Act (6 NYCRR 616.6(I), a lead agency may rescind a negative declaration if it determines that a significant environmental effect may result from a project modification or that there exists a change of circumstances which was not previously addressed and prior to such rescission, other involved agencies and the applicant must be notified, and

Item No. 6 cont'd

WHEREAS, the Town of Cheektowaga designated the lead agency for the Union Consumer Square Project, and

WHEREAS, the following project modifications and/or change of circumstances with respect to the Union Consumer Square Project exist:

1. introduction of a tire service center

2. the need for a traffic impact study relative to Union Road subject to review and approval by the N.Y.S.D.O.T.

NOW, THEREFORE, BE IT

RESOLVED, that this Town Board hereby directs the Town's SEQRA Intake Officer, the Building Inspector, to notify involved agencies and the applicant, Benderson Development Company, of the Town's intention to rescind its negative declaration for the Union Consumer Square Project, as stated in the aforementioned Town Board resolution dated June 5, 1989, and BE IT FURTHER

RESOLVED, that Benderson Development Company be and hereby is given 30 days in which to respond to this notice of rescission.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0
ABSTAINED: Councilman Kulyk

Item No. 7a Motion by Councilman Johnson, Seconded by Councilman Kulyk

WHEREAS, the Town is the owner of a vacant parcel of land located on the north side of French Road west of Brentwood Drive (Assessor's S.B.L. No. 125.11-1-19.1, and

WHEREAS, New York State Electric & Gas Corporation ("NYSEG") desires an easement to install poles, underground wires, etc. for the transmission and/or distribution of electric current over the southwesterly portion of such property, and

WHEREAS, the Town Engineering Department has reviewed this matter and feels the granting of such easement will not interfere with the Town's use of such property, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby approves the granting of the aforementioned easement to NYSEG and authorizes and directs the Supervisor to execute such easement, and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to execute the attached Notice of Adoption of Resolution Subject to Permissive Referendum in the Cheektowaga Times.

* *

NOTICE OF ADOPTION OF RESOLUTION

SUBJECT TO PERMISSIVE REFERENDUM

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Cheektowaga, on August 22, 1989, adopted a resolution authorizing the granting of a utility easement to New York State Electric & Gas Corporation for the purpose of providing electric service to residences located north of French Road near Brentwood Drive.

Item No. 7a cont'd

TAKE FURTHER NOTICE that such resolution is further subject to permissive referendum under Article 7 of the Town Law of the State of New York.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

DATED: August 22, 1989

* *

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES:	0
ABSENT:	0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication AUG 31 1989 ; last publication AUG 31 1989 ; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 31 1989

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
NOTICE OF ADOPTION OF RESOLUTION
SUBJECT TO PERMISSIVE REFERENDUM

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Cheektowaga, on August 22, 1989, adopted a resolution authorizing the granting of a utility easement to New York State Electric & Gas Corporation for the purpose of providing electric service to residences located north of French Road near Brentwood Drive.

TAKE FURTHER NOTICE that such resolution is further subject to permissive referendum under Article 7 of the Town Law of the State of New York.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk
PUBLISH; August 31, 1989

Item No. 7b Motion by Councilman Gabryszak, Seconded by Councilman Kazukiewicz

WHEREAS, the Town of Cheektowaga is eligible for partial reimbursement of funds expended for youth programming during Fiscal year 1990, and

WHEREAS, the Town of Cheektowaga will submit a State Aid application to the New York State Division for Youth for funding under the following Project Funding Categories: Youth Bureau, Youth Service, Youth Initiatives and Recreation, NOW, THEREFORE, BE IT

RESOLVED that said application is approved contingent upon the appropriation of funds in the adopted 1990 Town of Cheektowaga budget and that the Supervisor is hereby directed and authorized to duly execute and present same to the New York State Division for Youth.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 8 Motion by Councilman Kazukiewicz, Seconded by Councilman Kulyk

WHEREAS, the subdivision known as Woodlands at the Park was heretofore approved by resolution passed by this Town Board, and

WHEREAS, the approved subdivision map, filed in the Erie County Clerk's Office under Map Cover No. 2542, shows ingress to and egress from the various subdivision lots from Como Park Boulevard, a county highway, to Countryside Lane, a town highway, and

WHEREAS, to avoid possible confusion, the legal description of the aforesaid town highway, Countryside Lane, should be accurately stated, accepted and recorded,

NOW, THEREFORE, BE IT RESOLVED that the attached legal description be and hereby is declared to be the dedicated town highway known as Countryside Lane, and BE IT FURTHER

RESOLVED that the Town Attorney file a certified copy of this resolution with the attached legal description of Countryside Lane in the Erie County Clerk's Office.

* See next two (2) pages for description.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

COUNTRYSIDE LANE
RIGHT-OF-WAY
MAP COVER 2542

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Cheektowaga, County of Erie, State of New York, being part of Lot 71, Township 11, Range 7 of the Holland Land Company's Survey and more particularly bounded and described as follows:

BEGINNING at a point located on the northerly line of Subdivision Map entitled Woodlands at the Park and filed in the Erie County Clerk's Office under Map Cover 2542 said point being 998.66 feet westerly from the westerly highway boundary of Honorine Drive (80.0 feet wide) as measured along the northerly line of Map Cover 2542; thence North 1° 23' 07" East a distance of 26.98 feet; thence westerly along a curve to the right having a radius of 5829.65 feet a distance of 60.50 feet; thence South 1° 23' 07" West a distance of 221.23 feet; thence South 1° 23' 07" West a distance of 185.85 feet; thence southwesterly along a curve to the right having a radius of 35.00 feet a distance of 54.98 feet; thence South 88° 36' 53" West a distance of 261.54 feet; thence northwesterly along a curve to the right having a radius of 60.00 feet a distance of 50.86 feet; thence southwesterly along a curve to the left having a radius of 76.00 feet a distance of 367.60 feet; thence northeasterly along a curve to the right having a radius of 60.0 feet a distance of 50.86 feet; thence North 88° 36' 53" West a distance of 669.66 feet; thence southeasterly along a curve to the right having a radius of 60.00 feet a distance of 50.86 feet; thence northeasterly along a curve

to the left having a radius of 76.00 feet a distance of 367.60 feet; thence southwesterly along a curve to the right having a radius of 60.00 feet a distance of 50.86 feet; thence South 88° 36' 53" West a distance of 278.12 feet; thence northwesterly along a curve to the right having a radius of 35.00 feet a distance of 54.98 feet; thence North 1° 23' 07" East a distance of 186.50 feet to the place or point of beginning.

Item No. 9 Motion by Councilman Kulyk, Seconded by Councilman Kazukiewicz

WHEREAS, by resolution dated August 1, 1988, this Town Board enacted Local Law No. 1 of the Year 1988, entitled "A Local Law known as Residency Law", and

WHEREAS, such Residency Law requires Town employees to be residents of the Town and to remain Town residents throughout the course of their employment, and

WHEREAS, there is reason to believe that the following Town employees are not residents:

Bruce Fenwick
Michael Miecznikowski

and BE IT FURTHER

RESOLVED that, in accordance with Section 6 of the Residency Law, the Town Clerk be and hereby is directed to forward the attached Notice form to the aforementioned Town employees.

* *

NOTICE OF ALLEGED VIOLATION OF
RESIDENCY LAW OF THE TOWN OF CHEEKTOWAGA

TAKE NOTICE that it is alleged that you are not a resident of the Town of Cheektowaga as is required by the Residency Law of the Town of Cheektowaga.

You are hereby allowed seven (7) calendar days after your receipt of this Notice in which to respond to this allegation in writing directed to the Town Board.

Should you fail to respond to this Notice or if your response is not, in the opinion of the Town Board, sufficient to satisfy the requirements of the Residency Law of the Town of Cheektowaga, a hearing shall be scheduled to examine the charge of nonresidency.

Should your response state that you admit you are a nonresident of the Town, you shall be given 45 days after the date of this Notice (up to October 6, 1989) to submit proof to the Town Board that you have become a resident of the Town of Cheektowaga in compliance with the Residency Law of the Town of Cheektowaga.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

DATED: August 22, 1989

* *

MOTION BY SUPERVISOR SWIATEK, SECONDED BY COUNCILMAN GABRYSZAK
TO TABLE THIS ITEM UNTIL THE NEXT TOWN BOARD MEETING.

Item No. 10a Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, by resolution dated April 17, 1989, this Town Board amended Chapter 76 of the Code of Cheektowaga (Vehicle and Traffic), Article VIII, by requiring the posting of Stop signs on the southwest and northeast corners of Woodgate and Barbados Drives, and

WHEREAS, there are two intersections of Woodgate Drive with Barbados Drive, and

WHEREAS, it was the intention of this Board to have such Stop signs posted at the southernmost intersection of Woodgate and Barbados Drives, NOW, THEREFORE, BE IT

Item No. 10a cont'd

RESOLVED that the aforementioned resolution dated April 17, 1989 be and hereby is amended so that the change to Chapter 76, Article VIII reads as follows:

ARTICLE VIII

Stop and Yield Intersections

Street	Direction	Entrance Street	Traffic Stops	Sign Location
Woodgate Dr.	North-South	Barbados Drive (southernmost intersection)	Eastbound	S.W. Corner
Woodgate Dr.	North-South	Barbados Drive (southernmost intersections)	Westbound	N.E. Corner

and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to forward a certified copy of this resolution to General Code Publishers for publication in the Town's Code Book.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication AUG 31 1989; last publication AUG 31 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this AUG 31 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie unty, New York held at the Town Hall, corner of Broadway and Union Roads, aid Town on the 22nd day of August, 1989 at 7:30 o'clock p.m. Eastern /light Saving Time there were:

RESENT:
upervisor Frank E. Swiatek
ouncilman Thomas M. Johnson, Jr.
ouncilman Patricia A. Jaworwicz
ouncilman Dennis H. Gabryszak
ouncilman Andrew A. Kulyk
ouncilman Leo T. Kazukiewicz
ouncilman Richard B. Solecki
BSENT: 0

lotion by Councilman Kulyk and Seconded by Councilman Jaworowicz

HEREAS, by resolution dated April 17, 1989, this Town Board amended pter 76 of the Code of Cheektowaga (Vehicle and Traffic), Article VIII, by uring the posting of Stop signs on the southwest and northeast corners of dgate and Barbados Drives, and

HEREAS, there are two intersections of Woodgate Drive with Barbados e, and

HEREAS, it was the intention of this Board to have such Stop signs posted e southernmost intersection of Woodgate and Barbados Drives, NOW,

REFORE, BE IT

ESOLVED, that the aforementioned resolution dated April 17, 1989 be and by is amended so that the change to Chapter 76, Article VIII reads as follows:

ARTICLE VIII
Stop and Yield Intersections

reet	Direction	Entrance Street	Traffic Stops	Sign Location
oodgate Dr.	North-south	Barbados Drive (southernmost intersection)	Eastbound	S.W. Corner
oodgate Dr.	North-south	Barbados Drive (southernmost intersection)	Westbound	N.E. Corner

and, BE IT FURTHER

RESOLVED, that the Town Clerk be and hereby is directed to forward a ertified copy of this resolution to General Code Publishers for publication in the own's Code Book.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

PUBLISH: August 31, 1989

Item No. 10b Amend resolution dated 8/7/89 regarding connection of Towers Boulevard
This item was withdrawn.

Item No. 11 Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

WHEREAS, the Town operates a Housing Rehabilitation Loan Program through the Office of Community Development, and

WHEREAS, the Town Community Development Director has recommended that the maximum loan limits be increased from the current limits of $8,000 for deferred loans and $10,000 for payback loans, NOW, THEREFORE, BE IT

RESOLVED that the loan limits for the Town's Housing Rehabilitation Loan Program are increased to $10,000 for deferred loans and $12,000 for payback loans.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12 Motion by Councilman Jaworowicz, Seconded by Councilman Kazukiewicz

WHEREAS, the Student Council of John F. Kennedy High School has requested permission to hold its annual Homecoming Motorcade on Saturday, September 23, 1989 at 1:00 P.M., and to have a police escort for same, and

WHEREAS, this motorcade would begin at Doyle I Fire Hall on William Street; then proceed eastbound down William Street to Henry Street; then proceed southbound down Henry Street into the John F. Kennedy High School parking lot, and

WHEREAS, this Town Board desires to approve the aforesaid motorcade and to provide a police escort for same, NOW, THEREFORE, BE IT

RESOLVED that the Student Council of John F. Kennedy be and hereby is authorized to conduct its motorcade at the above mentioned time and place, and BE IT FURTHER

RESOLVED that the Chief of Police be and hereby is directed to provide traffic safety and escort arrangements for such motorcade and to ensure compliance with Section 1660(a)(6) of the Vehicle and Traffic Law of the State of New York.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13 Motion by Councilman Kazukiewicz, Seconded by Councilman Kulyk

WHEREAS, on June 6, 1955, the Town Board of the Town of Cheektowaga adopted an ordinance now known as Chapter 65, Article II, of the Code of the Town of Cheektowaga, setting forth Town specifications for the construction of sidewalks in the Town, and

WHEREAS, pursuant to Section 200-a of the Town Law of the State of New York, a town board may adopt orders from time to time directing the owners of lots abutting on streets within such town to construct sidewalks along such street, and

WHEREAS, there is presently no sidewalk in front of 151 Banko Drive (Assessor's S.B.L. No. 92.19-5-1.1) and the owner of such property and the Town are desirous of having a sidewalk in front of such property, NOW, THEREFORE, BE IT

Item No. 13 cont'd

ORDERED that Ms. Karen A. Sommerfeld, the owner of , be and hereby is directed to construct a sidewalk in front of in the Town of Cheektowaga on or before September 15, 1989, and BE IT FURTHER

ORDERED that should said owner of not so construct such sidewalk on or before September 15, 1989, this Board shall cause same to be built and assess the expense thereof against and BE IT FURTHER

ORDERED that the Town Clerk be and hereby is directed to forward a certified copy of this resolution by certified mail to Ms. Karen A. Sommerfeld at Depew, New York 14043.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 14a Motion by Councilman Kulyk, Seconded by Councilman Gabryszak

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located to the rear of 3466 Genesee Street, Cheektowaga, New York, SBL #91.16-1-20 and according to the Assessor's Office is owned by Alfred Doro, 3466 Genesee Street, Cheektowaga, New York 14225, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 14b Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on vacant property located North of 438 Kennedy Road, Sublots 71, 72, 73, Cheektowaga, New York, SBL #113.06-4-6 and according to the Assessor's Office is owned by John Ogiony & One, 23 Woodrow Street, Cheektowaga, New York 14225, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 14c Motion by Councilman Solecki, seconded by Councilman Kazukiewicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on vacant property located at 25 Rushford, Cheektowaga, New York, SBL #114.17-7-26 and according to the Assessor's Office is owned by Los-Green Incorporated, 405 Convention Towers, Buffalo, New York 14202, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 15a Motion by Councilman Gabryszak, Seconded by Councilman Kazukiewicz

BE IT RESOLVED that the following individual be and hereby is terminated as Seasonal and/or Part-time employee in the Facilities Department:

Joseph Kaluzny	49 Patricia Lane	8/15/89

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 15b Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

BE IT RESOLVED that the following individuals be and hereby are terminated as Seasonal and/or Part-time employees in the Departments listed:

	EFFECTIVE
SANITATION DEPARTMENT	
David Cavanaugh	Immediately
Mark Zarczynski	"
Daniel Bossi	"
Jeffrey Jozwiak	"
Jason Jurek	"
Michelle Majchrzak	"
POLICE DEPARTMENT	
James D. Martina	Immediately
Caroline Stang	"

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16a Motion by Councilman Jaworowicz, Seconded by Councilman Johnson

WHEREAS, a vacancy exists in the position of Clerk in the Town Justice Department, and

WHEREAS, said vacancy was posted in accordance with the terms and conditions of the Town's Agreement with the Town of Cheektowaga Employees Association, and

WHEREAS, the said vacant position falls within the competitive class of Civil Service, and

WHEREAS, the existing Civil Service list for said position has been canvassed, and

WHEREAS, Linda Ruhland is currently employed in a competitive Civil Service position, Clerk-Typist, by another municipality, and

WHEREAS, Linda Ruhland has been interviewed for such vacant position and meets the qualification, NOW, THEREFORE, BE IT

RESOLVED that Linda Ruhland of , Cheektowaga, New York, be appointed to the position of Clerk, effective September 5, 1989, provisionally, pending the approval of the Erie County Department of Personnel, at a salary in accordance with the terms and conditions of the Town of Cheektowaga Employees Association Agreement.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16b Motion by Councilman Jaworowicz, Seconded by Councilman Johnson

WHEREAS, Martin J. Schultz and Guy H. Litchtenberger, Jr. were previously appointed to the position of Public Safety Dispatcher on a temporary basis by resolution dated August 7, 1989, and

WHEREAS, the Erie County Department of Personnel has now advised the Town that such individuals can be appointed on a permanent basis, NOW, THEREFORE, BE IT

RESOLVED that Martin J. Schultz and Guy H. Litchtenberger, Jr., are hereby appointed to the position of Public Safety Dispatcher on a permanent basis, effective August 21, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16c Motion by Councilman Kulyk, Seconded by Councilman Gabryszak

WHEREAS, a Temporary General Mechanic vacancy exists in the Cheektowaga Facilities Department, and

WHEREAS, said vacancy has been duly posted in compliance with the labor management agreement between the Town of Cheektowaga and the Town of Cheektowaga Employees Association, NOW, THEREFORE, BE IT

RESOLVED that Gordon Hagmier of , Cheektowaga, be appointed by the Town Board to the position of Temporary General Mechanic in the Facilities Department, effective August 23, 1989.

Item No. 16c cont'd

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16d Motion by Supervisor Swiatek, Seconded by Councilman Kulyk

WHEREAS, by Chapter 49 of the Laws of 1988, the New York State Legislature enacted Section 11-c of the Domestic Relations Law, which authorizes town boards to appoint marriage officers who shall have the authority to solemnize marriages, and

WHEREAS, on numerous occasions, Town residents interested in being married in a private ceremony are unable to fund an individual willing to perform such ceremony, and

WHEREAS, it would appear to be to the benefit of Town taxpayers to have marriage officers appointed to perform private marriage ceremonies, NOW, THEREFORE, BE IT

RESOLVED that the following named individuals be and hereby are appointed as marriage officers authorized to solemnize marriages within the territory of the Town of Cheektowaga:

Richard M. Moleski
Mary F. Holtz
Vickie L. Dankowski

and BE IT FURTHER

RESOLVED that the terms of such marriages officers shall be effective immediately and terminating on December 31, 1991.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 17 Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

BE IT RESOLVED that the following individuals be and hereby are hired as part-time and/or seasonal employees in the Departments listed:

	EFFECTIVE
COUNCIL OFFICE - Administrative Assistant - Acct. #01-1010-0001-1355 at $5.25/hr.	
Paul Folsom	9/1/89
SANITATION DEPARTMENT - $5.00 per hour	
Jean L. Cadwallader	Immediately

and BE IT FURTHER

RESOLVED that Susan Ciezak, , Currently a seasonal employee in the Recreation Department, be transferred to the Police Department at the rate of $4.25 per hour, effective August 23, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 18 Motion by Councilman Kulyk, Seconded by Councilman Solecki

WHEREAS, the Forensic Mental Health Association and Citizens Committee on Rape, Sexual Assault and Sexual Abuse is conducting a seminar entitled "Child Sexual Abuse-Clinical Intervention with Victims and Offenders" on September 20, 1989 at the Hyatt Regency Hotel in Buffalo, New York, and

WHEREAS, such seminar is designed to provide information and instruction to persons working with victims and perpetrators of child sexual abuse, and

WHEREAS, the Chief of Police has requested permission for three of his officers (Lieutenant Richard Chamberlin, Sergeant Charles Shields and Juvenile Detective Joseph Ostempowski) to attend this seminar, NOW, THEREFORE, BE IT

RESOLVED that Lieutenant Richard Chamberlin, Sergeant Charles Shield and Juvenile Detective Joseph Ostempowski be and hereby are authorized to attend the aforementioned seminar, and BE IT FURTHER

RESOLVED that the Town shall pay all costs associated with such officers' attendance at said seminar, at a total cost not to exceed $240.00, out of budget line item number 01-1910-0004-4082.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 19 Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following transfers are hereby approved and made a part hereof:

GENERAL FUND

FROM:	6410-04-4194	(Publicity-Media)	$3,000.00
	1010-01-1392	(Staff Assist. - Shared)	1,346.81
	1010-01-1392	(Staff Assist. - Shared)	1,346.81
	1010-01-1392	(Staff Assist. - Shared)	1,346.81
	1110-04-4001	(Office Equip. - Justice)	1,795.00
	1110-04-4051	(Microfilming - Justice)	1,032.75
	1220-04-4701	(Coupon Expense - Accounting)	500.00
	1450-04-4431	(Equip. Repair - Bd. of Elections)	5,000.00
	2625.0000	(Crime Forfeiture Revenue - Police)	1,240.00
	2625.0000	(Crime Forfeiture Revenue - Police)	786.00
	2625.0000	(Crime Forfeiture Revenue - Police)	1,995.00
	2625.0000	(Crime Forfeiture Revenue - Police)	3,742.47
TO:	1010-04-4001	(Office Supplies - Council)	$3,000.00
	1010-01-1355	(Staff Assist. - Councilman Kulyk)	1,346.81
	1010-01-1354	(Staff Assist. - Councilman Kazukiewicz)	1,346.81
	1010-01-1352	(Staff Assist. - Councilman Jaworowicz)	1,346.81
	1110-04-4431	(Equip. Maint. - Justice)	1,795.00
	1110-04-4431	(Equip. Maint. - Justice)	1,032.75
	1220-04-4431	(Equip. Maint. - Accounting)	500.00
	1410-04-4001	(Office Supplies - Town Clerk)	5,000.00
	3020-02-2514	(Cellular Phones - Police)	1,240.00
	3020-02-2515	(Police Car Radio	876.00
	3020-02-2516	(Video Camera Sys. - Police)	3,742.47
	3020-02-2517	(Audio Recovery Sys. - Police)	1,995.00

SPECIAL DISTRICT FUND

FROM:	8160-04-4089	(Recycling)	148.87
TO:	8160-01-1490	(Labor - Recycling)	148.87

Item No. 19 cont'd

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 20 Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following vouchers and warrants submitted to the Town of Cheektowaga prior to August 22, 1989 are hereby approved and made a part hereof:

FUND	AMOUNT
GENERAL FUND	$1,245,570.31
HIGHWAY FUND	349,208.59
CAPITAL FUND	474,812.82
TRUST & AGENCY FUND	7,663.36
HUD FUND	5,893.27
PART TOWN FUND	45,928.93
HUD - RENTAL REHAB. FUND	19,429.94
RISK RETENTION FUND	46,656.88
HUD - REHAB. FUND	10,537.50
SPECIAL DISTRICT FUND	812,693,65
	$3,018,395.25

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

III. DEPARTMENTAL COMMUNICATIONS

Item No. 21 Cheektowaga Library Board - minutes of June meeting
Received and Filed.

IV. GENERAL COMMUNICATIONS

Item No. 22 Notice of Petition - New Era Automotive vs Town of Cheektowaga
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members; James Kirisits, Town Attorney; Ron Marten, Supervising Building & Plumbing Inspector.
Received and filed.

Item No. 23 Order to Show Cause - Benderson Development Co. vs Town of Cheektowaga
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members; James Kirisits, Town Attorney; Ron Marten, Supervising Building & Plumbing Inspector.
Received and filed.

Item No. 24a Notice of Claim - Ann Tonelli vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Chris Kowal, Highway Superintendent; S.I.S. Services, Insurance Carrier.
Received and filed.

Item No. 24b Notice of Claim - Maureen Wheeler vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Chris Kowal, Highway Superintendent; Sewer Maintenance Department; S.I.S Services, Insurance Carrier.
Received and filed.

Item No. 24c Notice of Claim - Loretta Boneberg vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Chris Kowal, Highway Superintendent; S.I.S. Services, Insurance Carrier.
Received and filed.

Item No. 25a Notice & Petition and Assessment - Sibley's Department Store Co. vs Town Assessor, Board of Assessment Review
Copies were sent to: Casey Kozminski, Town Assessor; James Kirisits, Town Attorney
Received and filed.

Item No. 25b Notice & Petition of Assessment - Shoe Town (NY) vs Town Assessor, Board of Assessment Review
Copies were sent to: Casey Kozminski, Town Assessor; James Kirisits, Town Attorney
Received and filed.

V. SUSPENSION OF RULES

Motion by Supervisor Swiatek, Seconded by Councilman Kulyk
to suspend the rules to include the following four (4) items.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 26 Motion by Councilman Jaworowicz, Seconded by Councilman Kazukiewicz
Councilman Johnson

WHEREAS, one of the previously appointed Public Safety Dispatchers subsequently declined such appointment, thus creating a vacancy, and

WHEREAS, there is no longer in existence any valid Civil Service eligible list for said position, and

WHEREAS, Todd J. Schmiegel meets the minimum qualificaitons for said position, NOW, THEREFORE, BE IT

RESOLVED that Todd J. Schmiegel of , Cheektwoaga, New York 14225, be appointed to the position of Public Safety Dispatcher, effective August 21, 1989, provisionally, pending the results of the Competitive Civil Service Examination to be held for said position, at a starting salary of $18,000.00

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 27 Motion by Councilman Kazukiewicz, Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening on August 18th, 1989 for One New and Unused 1989-90 Hydraulic Excavator Machine mounted on Crawler Tracks to be purchased by the Town Highway Department as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, NOW, THEREFORE, BE IT

RESOLVED that the bid be awarded to Mecca Kendall Corp., Route 240, West Falls, New York 14170 being the only responsible bidder meeting specifications, at a purchase price of $39,989. after trade-in, and BE IT FURTHER

RESOLVED that this be charged to line item #05513089031204.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 28 Motion by Councilman Solecki, Seconded by Councilman Johnson
Councilman Kulyk

WHEREAS, the Town Sanitation Department currently has deposited on Town property a quantity of yard waste/compost material and wishes to dispose of same, and

WHEREAS, presently, the Town's contract with Occidental Chemical Corporation calls for the Town to pay Occidental $20.13 per ton to dispose of the Town's garbage and by 1990, the cost for such disposal will increase to $41.48 per ton, and

WHEREAS, Kreher Farms in the Town of Clarence has facilities enabling it to accept the Town's compost materials and has agreed to accept same, and

WHEREAS, it is not anticipated that the cost for the disposal of the Town's compost materials will exceed the amount that would require competitive bidding, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby authorizes the Sanitation Department General Foreman to dispose of compost materials collected by his department through Kreher Farms, 5411 Davison Road, Clarence, New York 14031 at a cost not to exceed $10 per ton.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 29 Motion by Councilman Kulyk, Seconded by Unanimous

WHEREAS, the Buffalo Bills football team has indicated that it does not intend to continue playing at Rich Stadium when their lease with the County of Erie expires in 1998, and

WHEREAS, the presence of a football franchise in Western New York provides a significant economic impact to our area as well as positive national exposure, and the loss of the Bills would be a major detriment to the people of Buffalo, Cheektowaga, and all of Western New York, and

WHEREAS, this Town Board believes that positive and responsible action can be initiated now to insure that the Buffalo Bills remain in Western New York well into the 21st Century, NOW, THEREFORE, BE IT

Item No. 29 cont'd

RESOLVED that the Cheektowaga Town Board hereby memorializes County Executive Dennis T. Gorski and the Erie County Legislature to create a special task force to develop recommendations for a suitable playing facility for the Buffalo Bills, including evaluating the alternatives of construction of a new stadium, or renovating Richard Stadium to include a roof, new seating, lighting, scoreboard and state of the art fan amenities, and BE IT FURTHER

RESOLVED that this body make recommendations to the Erie County Legislature that will lead to the signing of a new lease with the Buffalo Bills, and BE IT FURTHER

RESOLVED that certified copies of this resolution be forwarded to County Executive Dennis T. Gorski, Legislature Chairman Roger Blackwell, Legislators Dusza, Mazur, Rath, Ranzenhofer and Pauly, and Buffalo Bills General Manager, Bill Polian.

* *

MOTION BY COUNCILMAN JAWOROWICZ, SECONDED BY COUNCILMAN KAZUKIEWICZ TO TABLE THE ABOVE RESOLUTION.

Item No. 30 Motion by Councilman Jaworowicz, Seconded by Councilman Kulyk to adjourn the meeting.

RICHARD M. MOLESKI
Town Clerk

NO. 20

Item No. 1 At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Road, in said Town on the 5th day of September, 1989 at 7:30 o'clock P.M., Eastern Daylight Saving Time, there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

ABSENT: 0

Also present were: Richard M. Moleski, Town Clerk; James Kirisits, Town Attorney; Ron Marten, Supervising Building and Plumbing Inspector; Chester Bryan, Town Engineer; Don Wegner, Chairman of Zoning Board of Appeals; Robert M. Lis, Chief of Police; Casey Kozminski, Assessor; Sal LaGreca, Employment and Training Director II; Christopher Kowal, Highway Superintendent; Pat Wojcik, Senior Services Coordinator; Terry Rusin, Director of Administration & Finance.

I. FROM THE TABLE

Item No. 2 Authorize Town Clerk to notify several employees regarding Residency Law.

Motion by Supervisor Swiatek and seconded by Councilman Gabryszak to move this resolution to Executive Session at the end of this town board meeting and the voting was as follows:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kazukiewicz and Solecki
NAYES: Councilman Kulik
ABSENT: 0

Item No. 3 Memorialize Erie County Legislature and Erie County Executive to create special task force regarding playing facility for Buffalo Bills.
This item was withdrawn.

II. RESOLUTIONS

Item No. 4 Motion by Councilman Kazukiewicz Seconded by Councilman Jaworowicz

WHEREAS, bids were duly received by this Town Board at a bid opening on September 1, 1989 for One New and Unused 1989-90 Articulated Steering Tractor Type Mower to be purchased by the Town Highway Department as a result of advertisement thereof, and such bids were referred to the Superintendent of Highways for analysis, tabulation and report, and

WHEREAS, such analysis, tabulation and report have been completed, now, therefore, BE IT

Item No. 4 continued

RESOLVED that the bid be awarded to CYNCON EQUIPMENT INC., 6800 W. Henrietta Rd., W. Henrietta, New York 14586, for a 1989-90 Articulated Steering Tractor Type Slope Mower at a purchase price of $34,995.00, being the lowest responsible bidder meeting specifications and be it further

RESOLVED that monies to be charged to line item #05191089091202/mower.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 5a Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, the Town of Cheektowaga and the Town of Cheektowaga Police Club, Inc. have agreed to the terms and conditions for a successor 1989-1990 collective bargaining agreement between such parties, NOW, THEREFORE, BE IT

RESOLVED that the Supervisor be and hereby is authorized and directed to execute the attached collective bargaining agreement between the Town of Cheektowaga and the Town of Cheektowaga Police Club, Inc.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGES FOR AGREEMENT

AGREEMENT

between

THE TOWN OF CHEEKTOWAGA, NEW YORK

and

THE TOWN OF CHEEKTOWAGA POLICE CLUB, INC.

January 1, 1989 - December 31, 1990

DIXON, DE MARIE & SCHOENBORN, P.C.
Attorneys for THE TOWN OF
CHEEKTOWAGA POLICE CLUB
930 Convention Tower
Buffalo, New York 14202
Telephone: 856-0024

THIS AGREEMENT, entered into by and between the TOWN OF CHEEKTOWAGA, NEW YORK hereinafter referred to as the "Town" and the TOWN OF CHEEKTOWAGA POLICE CLUB, hereinafter referred to as the "Club".

ARTICLE I

SECTION 1.01 - PURPOSE OF AGREEMENT

The parties hereto desire to provide, through this Agreement: methods for orderly collective bargaining between the Town and the Club; to secure prompt and equitable disposition of grievances that may arise; to establish fair wages, fringe benefits and working conditions for police personnel in the negotiating unit; and to promote, to the highest degree, efficiency in providing service to the public.

In consideration of the mutual covenants and agreements, herein contained, the Town and the Club, through their authorized representatives, agree as follows:

SECTION 1.02 - APPLICABLE LAW

This Agreement has been negotiated pursuant to the provisions of the Public Employees Fair Employment Act and is governed by the provisions of the New York State Law and also non-conflicting local laws of the Town.

SECTION 1.03 - LEGISLATIVE REQUIREMENTS

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

ARTICLE II

SECTION 2.01 - RECOGNITION

The Town recognizes the Club as the sole and exclusive representative and collective bargaining agent for all police personnel in the negotiating unit who are hereinafter referred to, individually as "police officer" and collectively as "police officers".

The negotiating unit is defined as: all police officers, employed by the Town of Cheektowaga, New York, pursuant to the New York State Civil Service Law, excepting police officers holding the rank of Chief of Police, Assistant Chief of Police, Captain or Lieutenant.

This recognition shall extend for the maximum period of time allowed by law and until the expiration of this Agreement, according to its terms. The Town shall not negotiate, during this Agreement, with any organization, on behalf of the police officers, defined herein, other than the Club and, unless notified by the Town, the Club will undertake to negotiate and represent the same unit for a successive agreement.

ARTICLE III

SECTION 3.01 - DUES CHECKOFF

Upon written authorization from a police officer, on a form provided by the Club, the Town will deduct from the salary of such police officer, on a weekly basis, membership dues as the police officer may specify, and the Town will transmit said sums, promptly to the Club, within five (5) days from the end of each month.

The Town agrees to deduct from the wage or salary of police officers, represented by the Club, who are not members of the Club, an amount equivalent to the dues levied by the Club on its members, and such sum shall be transmitted by the Town to the President or Treasurer of the Club.

The Club, pursuant to such deductions, hereby affirms that it has established and will maintain a procedure providing for the refund of any non-member police officer demanding the return of any part of such agency fee deduction which represents his pro rata share of the expenditures by the Club in aid of activities or causes of a political or ideological nature, only incidentally related to terms and conditions of employment.

SECTION 3.02 - NEW JOB CLASSIFICATIONS

The Town agrees that in the event it establishes any new classifications, recognized within the negotiating unit, the Town will furnish the Club with the new job description and will confer and negotiate with the Club the basic annual salaries for each such position.

SECTION 3.03 - NON-COMPETITIVE JOB CLASSIFICATIONS

In the event the Town decides to fill a vacancy, falling under this Section, assignment shall be made by the Town from the five (5) most senior officers, requesting assignment and providing that the officer(s) involved is (are) qualified as determined by the Town.

(a) A non-competitive job classification is defined as: the assignment to duties not ordinarily performed by patrol officers, within the Department, on a regular or routine basis.

(b) When a vacancy exists in a non-competitive job classification or a temporary assignment as Detective, Juvenile Detective, VGN Detective, SIU Detective, K-9 Officer, Field Training Officer, Range Officer, Crossing Guard Officer, Arson Investigator, SWAT Officer, Communications Unit Officer, Traffic Unit Officer, CPS Records Officer, Front Desk Officer, CPS Records Sergeant, Traffic Unit Sergeant, Juvenile Sergeant, or Training Sergeant, notice of the existence of such vacancy shall be conspicuously posted on a bulletin board in the police station for a period of twenty (20) days and police officers of qualified rank may affix their name thereto, indicating their desire to be considered for the filling of such vacancies.

(c) Officers who elect and are assigned to a non-competitive job as defined in this Section, shall remain in such position for a period of twelve (12) months. Assignment to such position shall begin and end on the first Monday in May and/or the first Monday in November, each year.

Officers who are assigned to such positions based upon inverse seniority, will remain in the positions for a six month period. Beginning and ending as stated above.

Notice of vacancy of such position shall be posted on March 15 and September 15 and filled in accordance with this Section.

Notice of appointment to such position shall be posted at least fifteen (15) days before the scheduled schedule change.

Assignments to such positions after the first Monday in May and before October 31 shall terminate on the first Monday in November and assignment to such positions after the first Monday in November and before April 30 shall terminate on the first Monday in May.

(d) An officer in a non-competitive position, for more than one year, will not be removed from the position without cause, unless the position is abolished.

(e) The Town will decide when a vacancy exists and whether or not it will be filled.

(f) Vacancies filled to date will not be disturbed by this Agreement.

SECTION 3.04 - MOVEMENT OF DETECTIVES

When a vacancy exists in a position of Detective, in any of the following units: General Unit (Detective Bureau), Juvenile Unit, Identification Unit or Gambling, Vice, Narcotics Division, an assignment to such vacancy shall be based upon seniority pursuant to Section 3.03, as a Detective, so that an officer assigned to one of these divisions will have the right to be assigned to a vacancy, in any other of these divisions, before a uniformed officer can be considered. Additionally, notice of the vacancy will be posted within the Detective Division, for ten (10) days during the time it is posted as notice to uniformed officers.

If no officer, so eligible, requests to be so assigned, the position shall be filled in accordance with Section 3.03(b).

SECTION 3.05 - FILLING OF VACANCIES

If the Town declares a vacancy, the same must be filled within thirty (30) days after the vacancy exists.

SECTION 3.06 - ASSIGNMENTS

When a police officer is assigned to a job classification, which is not a temporary classification, assignment to such classification shall be made permanent at the end of 6 months.

All appointments shall be probationary for the aforementioned 6 month period.

SECTION 3.07 - SERGEANTS

The position of the sergeant is to be a competitive civil service position by competitive examination. A police officer must have three (3) years of service before he is qualified to take the sergeants' examination. The officer's three (3) years of service must be completed prior to the date of the sergeants' examination.

ARTICLE IV

SECTION 4.01 - UNIFORM ALLOWANCE

Each police officer shall be paid the sum of $600.00 for the year 1989, for the purchase, maintenance and cleaning of police clothing, uniforms and equipment. This sum will be $650.00 for the year 1990.

Officers assigned to motorcycle, honor guard, mounted division, SWAT and K-9 officers shall be paid the additional sum of $50.00 per year.

Newly appointed officers will receive the additional sum of $400.00 for the initial purchase of uniforms.

Bullet proof vest covers that become worn and unserviceable will be replaced by the Town at no expense to the officer.

Uniforms and equipment unintentionally damaged by an officer in the performance of duty will be replaced by the Town at no expense to the officer.

Uniform allowance will be paid by January 30th of each year.

Each officer will be responsible for maintenance of his uniforms and equipment and failure to reasonably maintain the same may be the subject of disciplinary action.

The Town will negotiate with the Club, regarding the impact of changes in articles of clothing or equipment.

ARTICLE V

SECTION 5.01 - SENIORITY

Seniority shall be based entirely upon a police officer's uninterrupted service in the department and shall be broken if he leaves active service, for any period of time, for any reason, except authorized sick leave, military leave or authorized leave of absence.

Seniority shall be within rank and based upon date of appointment and position on the Civil Service List, where more than one (1) appointment was made on the same date. An up-to-date seniority list, showing the officer's rank and date of appointment to such position shall be made available to all police officers. Seniority in the Detective Division shall be based upon the time of appointment to the Detective Division. The Detective Division shall include the General Unit of the Detective Bureau, the Juvenile Unit, the Identification Unit and the Vice-Gambling-Narcotics Unit.

When a tie exists because two officers, or more, have the same position on the Civil Service List, seniority shall be determined by badge number with the lower badge number constituting the senior officer for purposes of seniority within this Agreement.

SECTION 5.02 - SHIFT PREFERENCE

Each police officer shall have the right to choose his own shift, based upon seniority. Shift changes must be requested in writing, to the commanding officer of the platoon, shift or bureau, at least two (2) weeks prior to shift change. Shift change meetings will be held with two (2) representatives of the Club, selected by its members, every twenty-four (24) weeks and notice of said meetings will be posted at least fifty (50) days prior to the meetings. Each police officer shall remain on an assigned shift for the twenty-four (24) week shift schedule.

The results of shift change meetings must be posted at least ten (10) days prior to the effective date of changes resulting from the meeting.

Effective each six (6) month period thereafter, each police officer, in accordance with this Section, shall have the right to choose his/her own shift, based upon seniority.

Every six (6) or twelve (12) months, each police officer shall have the right to choose assignment to a non-competitive job, as defined in Section 3.03, based upon seniority on his assigned shift. Appointment to those positions will be subject to the Town's prerogative of selecting from the five (5) most senior officers requesting such assignment.

Shift changes will take place on the first Monday in May and the first Monday in November, each year and requests for the shifts and assignments, as stated above, must be submitted to the Office of the Chief of Police no later than two (2) weeks prior to the semi-annual or annual schedule change.

See Section 7.01, below, regarding shift assignments.

ARTICLE VI

SECTION 6.01 - SALARIES

Each police officer shall be paid pursuant to the following salary schedule:

RANK	SERVICE	JAN. 1, 1989	JAN. 1, 1990
Patrol Officer	1st	$24,504.61	$25,852.36
Patrol Officer	2nd	29,780.52	31,418.45
Patrol Officer	3rd	30,634.23	32,319.12
Patrol Officer	4th	32,373.60	34,154.15
Patrol Officer	5th	33,573.60	35,414.15
Detective	1st	34,928.12	36,846.67
Detective	2nd	35,445.38	37,392.37
Sergeant		36,463.74	38,467.50

Officers regularly assigned to the afternoon shift will be paid the additional sum of $0.30 per hour and officers regularly assigned to the midnight shift will be paid the additional sum of $0.40 per hour. This shift-differential will not apply to court pay or training time and will not be paid to officers who are not regularly assigned to those shifts.

Sergeants assigned to the Detective Bureau shall be paid the additional sum of $200.00 per year, added to their weekly salary.

SECTION 6.02 - LONGEVITY

Each police officer shall be paid the following, cumulative, longevity increments, each year:

After 5 years of service	$400.00
After 10 years of service	325.00
After 15 years of service	425.00
After 25 years of service	300.00

Beginning January 1, 1990, $50.00 will be added to the 5 and 10 year steps, $125.00 will be added to the 15 year step. The 25 year step will remain the same.

Longevity pay will be paid within thirty (30) days after an officer's anniversary date and will be included in salary for all purposes, including retirement purposes.

Upon termination of service, prior to the anniversary date, accrued longevity shall be paid to the officer, or his estate, on a pro-rata basis.

SECTION 6.03 - RATE OF PAY

The hourly rate of pay shall be obtained by dividing the annual salary by 2080.

SECTION 6.04 - OVERTIME

Overtime shall be all work beyond a normally scheduled eight-hour tour of duty and any work beyond a normally scheduled forty (40) hour work week and such overtime shall be paid at the rate of time and one-half.

SECTION 6.05 - OUT OF RANK

When a police officer is required and assigned by the Chief of Police or by the officer in charge, to perform the duties of a higher paid job classification or rank for one hour or more, the officer shall be paid the salary for the higher paid job classification or rank for the actual hours worked.

If the officer is performing the duties of the higher paid job classification or rank for more than 30 consecutive days, then the higher salary shall apply to all authorized time-off, of any kind, except sick bank time, pursuant to Section 13.03.

If an absent Lieutenant, is replaced, he will be replaced by a sergeant who is assigned to the shift and who is working. In the event a sergeant is absent (or a sergeant's absence is the result of a sergeant replacing an absent lieutenant) and the chief of police or the officer in change decides to appoint an officer as "acting sergeant", then the most senior officer who is working and who is assigned to the unit affected, shall first be offered the assignment. If that officer declines the assignment, then the next most senior officer who is working and is assigned to the unit will be offered the assignment, in order of seniority, provided, however, the offer will not be made to officers who do not have at least three years of service in the Town Police Department. If no officer accepts the assignment, then the chief of police or the officer in charge may require an officer to fill the "acting position" on the basis of inverse seniority, from among officers with at least three years of service as defined.

Officers who are appointed as acting lieutenant or acting sergeant shall be notified at least 24 hours prior to the assignment. This notice will be waived in the event of emergency or illness.

If an officer is assigned to an out-of-rank position, and the assignment is canceled on less than 24 hours notice, the officer will receive out-of-rank pay for that tour of duty.

SECTION 6.06 - WAIVER

If an officer is eligible for overtime or out of rank work and is aware that an officer with less seniority is being granted such overtime or out of rank assignment, it is his responsibility to notify his supervisor and his failure will constitute a waiver of his right to the overtime or assignment.

SECTION 6.07 - CALL-IN

1. If an officer is requested to report to the police station for duty or ordered to report for duty, during other than regularly scheduled hours (except for reasons of his own neglect) and more than two (2) hours prior to the beginning of his regularly scheduled work shift, he shall be paid a minimum of three (3) hours pay at the rate of time and one-half. Court

appearances and training schedules will not be considered call-in, and this Section will not apply in those instances.

In the event of a general call to duty, unless otherwise detailed in this Section, call-in will be on a seniority basis, based upon seniority within the Department.

2. In the event police officers are called to duty because of manpower shortages, call-in, on each shift, shall be accomplished in the following manner:

Patrol Division:

1. On a seniority basis of assigned patrol officers.
2. On a combined seniority basis of the assigned traffic and communication officers.
3. On a seniority basis, using a general call-in, of patrol officers.

Traffic Unit:

1. Notify the Traffic Unit sergeant.
2. On a seniority basis of assigned traffic officers.
3. On a seniority basis, using a general call-in, of traffic unit officers.
4. Traffic Unit sergeant.

Communications Unit, when a Sergeant is working:

1. On a seniority basis of assigned communications officers.
2. On a seniority basis, using a general call-in, of communications officers.
3. On a seniority basis of communication sergeants.

Communications Unit, when a Sergeant is not working:

1. Assigned sergeant (if on regular day off).
2. On a seniority basis of communication sergeants.
3. On a seniority basis of assigned communications officers.
4. On a seniority basis, using a general call-in, of communications officers.

Field Training Officers, during a training program:

1. If on their regular day off, within their regular assignment
2. Will be considered for all applicable general call-ins.

Detective Division:

1. On a seniority basis of assigned detectives within the specific unit (General, VGN, Juvenile, etc...).
2. On a seniority basis, using a general call-in, of detectives.
3. 3rd platoon Bureau covers a call-in need from 2400-0400, on a seniority basis.
4. 2nd platoon Bureau covers a call-in need from 0400-0800, on a seniority basis.

In the event a detective or detectives are assigned a specific investigation, and a need arises which creates an overtime situation solely related to that specific investigation, the detectives assigned to the investigation shall be called first. If additional manpower is required it shall be filled as stated above. For purposes of call-in, beyond or before the normal shift, the above shall apply except that the 1600-2400 detectives shall be called until 0400, and the 0800-1600 detectives shall be called after 0400.

The Detective Division currently consists of:

General Detective Bureau	VGN
Juvenile	SIU
Arson	Sex Crimes Unit

Sergeants:

After each sergeant, assigned to the Communications Unit, has had the opportunity to work overtime, during a month, then when a sergeant so assigned is absent, the vacancy can be filled by an officer of lower rank who will be assigned as acting sergeant for that shift.

In the event no sergeant desires to fill the vacancy it will be filled in accordance with the provisions of Section 6.05, above.

In the event of a general call-to-duty, due to an anticipated or unanticipated emergency, the sergeant will be called for overtime in accordance with seniority, within rank, and in accordance with the needs of the department for sergeants.

SECTION 6.08 - K-9 OFFICERS

Each police officer, assigned to K-9 duty, shall be paid the sum of $120.00 per month, for the care, maintenance and feeding of the K-9 dog assigned to him. The Town will pay all medical expenses for the dog and will install a dog-run on the premises of the K-9 officer, and will post reasonable and necessary warning signs on the premises, concerning the dog.

The Town will reimburse the officer the cost of boarding and kenneling of the K-9 dog when the K-9 officer is on authorized vacation of one week or longer and is out of town, in an amount not to exceed $10.00 plus tax per day.

SECTION 6.09 - OFF DUTY ARRESTS

An officer will be paid for the time spent for booking and court time for necessary court appearances for arrests made during other employment, unless he is paid by another employer, or the arrest is solely related to the other employer's business and no additional, unrelated charges flow from the original arrest.

SECTION 6.10 - REDEMPTION OF ACCUMULATED TIME

The Town may redeem all or part of the compensatory time, in excess of 120 hours credited to an officer, upon payment for the value of such time, or the granting of time-off in lieu thereof. The option must be exercised between November 15th and December 15th of each year.

SECTION 6.11 - EDUCATION INCENTIVE PAY

Each police officer who attends, or has attended, approved Police Science Courses shall receive educational incentive payments annually as follows:

1. One Hundred Dollars ($100.00) a year to a police officer who has an Associate Art and Science Degree (two (2) year program), and who was appointed to the department before January 1, 1987. Effective January 1, 1990 this sum be $200.00.

2. Three Hundred Dollars ($300.00) to a police officer who has a Bachelor of Science or a Bachelor of Arts Degree (four (4) year program). Effective January 1, 1990 this sum shall be $500.00.

3. Beginning January 1, 1990, the sum of $600 will be paid annually to a police officer who has a master's degree.

SECTION 6.12 - SHOOTING INCENTIVE PAY

Each officer, who qualifies with his handgun, pursuant to the 1988 test standard, as established by the Cheektowaga Range Officer, will be paid an annual sum equal to one-half of one percent of the officer's previous years annual base salary, which sum will be added to salary for establishing the hourly rate of pay.

The sum will be divided equally and paid in the regularly weekly pay.

Any officer who does not qualify will be afforded the opportunity to qualify, as in the past.

For all purposes herein, annual salary shall mean salary plus shooting incentive pay.

ARTICLE VII

SECTION 7.01 - WORK DAY AND WORK WEEK

The standard work day shall be eight (8) hours and the standard work week shall be forty (40) hours. The work day and work week shall be pursuant to existing New York State Law. Whenever practicable, two (2) consecutive days-off shall be provided within a seven (7) day calendar period. Each officer shall be entitled to a thirty (30) minute lunch period in each eight (8) hour tour of duty. When practicable, each police officer shall work a three (3) platoon system.

Each police officer shall sign-in at the start of his tour of duty and sign-out at the end of his tour of duty in order to be compensated. A daily record shall be kept by the Chief of Police or his agent, which record shall be collected, daily, and be made part of the officer's personnel record. Each officer shall observe the scheduled work hours that are posted in all reports of duty, according to the posted time and date.

Officers assigned to patrol, traffic and communications shall be assigned and work 4 days followed by 2 consecutive days off, followed by 4 days work and 2 consecutive days off, followed by 5 days work and 2 consecutive days off and the cycle shall then be repeated, continually, to provide rotating days-off to officers so assigned. This schedule shall be referred to as the 4-2/5-2 work schedule.

Officers assigned as detective, crossing guard officer, CPS records officer, CPS records sergeant and training sergeant shall be assigned and work 5 days, followed by 2 consecutive days off. This shall be referred to as the 5-2 work schedule. Officers assigned to the 5-2 work schedule will be assigned the same number of days-off as officers who work the 4-2/5-2 work schedule. The granting of any such additional days-off will be made in such a manner as to avoid the necessity to work officers overtime.

When a member of the Communications Unit is reassigned due to his replacement by a Public Service Dispatcher, the officer will be permitted to choose a work schedule, based on seniority and availability.

Officers shall not be arbitrarily removed from their selected and assigned work schedules.

Officers who elect to change shifts shall be assigned a schedule by the commanding officer.

SECTION 7.02 - INTERRUPTED LUNCH

In the event an officer is precluded from eating his meal by headquarters or as a result of an offense being committed in the officer's presence, which requires the officer's action, said officer shall be compensated at the rate of time and one-half for the unused part of the officer's thirty (30) minute lunch period.

SECTION 7.03 - SPECIAL LUNCH LEAVE

An officer assigned to duty at a facility without food preparation facilities shall be permitted to leave said facility to secure food at a location of his choice, within the Town limits, provided said officer is properly relieved. An officer so assigned will be granted forty-five (45) minutes for lunch leave.

ARTICLE VIII

SECTION 8.01 - COURT PAY

When a police officer is required to make a court appearance, within the Town of Cheektowaga, at any time other than his regularly scheduled work hours, he shall be paid a minimum of three (3) hours salary at his regular hourly rate. If an officer is required to appear outside of the Town of Cheektowaga, he shall be paid a minimum of four (4) hours pay at his regular hourly rate of pay. If the appearance exceeds the minimum hours, the officer shall be entitled to payment for all actual time spent at his regular hourly rate of pay.

An officer scheduled to appear will be paid the minimum appearance time in the event of an adjournment, unless he is given notice of the adjournment, at least ten (10) hours prior to the scheduled appearance.

The Town will provide verification court appearance forms, to be signed by the presiding judge, justice, administrative officer, court clerk, or other appropriate personnel and the Town will make reasonable efforts to pay court pay in the pay period immediately following the period during which it was earned.

SECTION 8.02 - RANGE OFFICER

An officer assigned as range officer, shall be paid the same rate of salary as a detective, first year.

Officers assigned to assist the range officer shall be paid the same rate as detective, first year, for the hours worked in that assignment.

SECTION 8.03 - CROSSING GUARD OFFICER

An officer assigned in charge of the crossing guards shall be paid the same rate of salary as a detective, first year.

SECTION 8.04 - FIELD TRAINING OFFICER

An officer assigned as a field training officer shall be paid the same rate of salary as a detective, first year, for all hours, so assigned.

SECTION 8.05 - RADIO DISPATCHER

Police officers assigned as police radio dispatcher will be paid at the same rate of pay as detective, first year.

The Town agrees to employ only civil service police officers to do police work, in any capacity, except routine clerical work, now being performed by clerks in the Town. The Town agrees that it will not enter into any private contracts that eliminate police connected services or work now being performed by members of the police department, except as hereinafter set forth.

The Town will phase-out police officer radio dispatchers and the Town agrees that there will be no decrease in the number of police officers employed as a result of such phasing-out.

As an officer leaves the department (for reasons other than lay-off) a police officer dispatcher may be moved into other duties and be replaced by a civilian dispatcher. When there are no police officers assigned to a shift as radio dispatcher, a sergeant will be assigned to supervise that shift of civilian radio dispatchers. No sergeant will be required if there is at least one (1) police officer assigned as a dispatcher.

Officers assigned shall not be required to remain in the position for 12 months, unless they have bid the position and been assigned in accordance with Section 3.03.

An officer assigned as a radio dispatcher, who is replaced by a civilian dispatcher, before the end of 6 months, will continue to be paid as if working as a radio dispatcher for the balance of the 6 month period. If the radio dispatcher had bid for the position, and is replaced by a civilian dispatcher, before the end of 12 months, he will continue to be paid as a radio dispatcher for the remainder of the 12 month period.

SECTION 8.06 - ARSON INVESTIGATOR

Officers assigned as arson investigators will be paid at the same rate as a detective for all hours worked in such assignment.

ARTICLE IX

SECTION 9.01 - HOLIDAYS

Each police officer shall be given compensatory time-off or be paid the value of the following holidays, whether he works the holiday or not:

New Year's Day	Columbus Day
Lincoln's Birthday	Veteran's Day
Washington's Birthday	Election Day
Good Friday	Thanksgiving Day
Memorial Day	December 24th
Independence Day	Christmas Day
Labor Day	January 2nd

Each police officer shall notify the Chief of Police, or his designee, by December 1st, as to the holidays he elects to be paid for and the holidays he elects for compensatory time-off, during the following year. An officer who requests to be paid holiday-pay, will be paid in a lump sum, no later than the third pay period week of October, each year.

In addition to the above holidays, each police officer shall be given compensatory time-off for any holiday granted to other employees of the Town of Cheektowaga by resolution of the Town Board or declaration of the Town Supervisor, outside of their respective collective bargaining agreements. An officer who elects to be paid for a holiday may be granted the day off which shall be charged against the officer's accumulated compensatory time-off, without loss of the holiday pay.

ARTICLE X

SECTION 10.01 - VACATIONS

Each police officer shall be entitled to an annual vacation, with pay, during each calendar year as follows:

After 1 year	12 working days
After 5 years	19 working days
After 10 years	22 working days
After 15 years	26 working days
After 20 years	29 working days

Beginning January 1, 1990, each officer will be entitled to an annual vacation, with pay, during each calendar year:

After 1 year	12 working days
After 5 years	19 working days
After 10 years	23 working days
After 15 years	27 working days
After 20 years	30 working days

Vacation periods will be divided into the following:

Winter	December through February
Spring	March through May
Summer	June through September
Fall	October through November

A police officer shall not be entitled to more than 10 or 13 consecutive work days of vacation, as described below, during any of the above vacation periods, unless, in the opinion of the commanding officer, additional vacation days, during any such period, will not interfere with the smooth operation of the department. The commanding officer shall have the sole right to designate the number of police officers who will be on vacation at any time, but a minimum of four (4) police officers will be permitted vacation during any vacation period.

Vacation schedules shall be posted for sixty (60) days prior to the beginning of a vacation period, and during the first forty-five (45) days, vacation scheduling shall be determined based upon seniority, within each shift or bureau concerned. At the end of the said forty-five (45) days, vacation scheduling shall be determined in order of date or request and not by seniority. The choice of vacations, during the first forty-five (45) days for each vacation period will be based upon seniority.

Police officers shall not be permitted to split vacations during any of the vacation periods, for periods of time less that one (1) calendar week.

In the event an officer decides not to utilize the vacation time he selected, notice will be given to less senior officers and they will be entitled to use the vacation time not used with selection based upon seniority for that shift or bureau.

Nothing contained herein shall prevent the granting of vacations one day at a time.

Except as herein provided, no police officer will be permitted to carry-over or to accumulate more that 60 days annual vacation.

Officers assigned to work on a 4-2/5-2 work schedule shall have the right to select vacation in accordance with seniority as follows: a minimum of 4 consecutive working days and a maximum of 13 consecutive working days during each vacation period.

Officers assigned to the 5-2 work schedule shall have the right to select vacation in accordance with seniority as follows: a minimum of 5 consecutive working days and a maximum of 10 consecutive working days during each vacation period.

Nothing contained herein shall prohibit the taking of more vacation leave, if, in the opinion of the commanding officer, there is sufficient manpower to warrant additional vacation leave during any of the vacation periods.

If an officer has been granted vacation leave, during any of the vacation periods, and then requests additional leave during the same vacation period, for purposes of selecting the second leave period, his seniority will not count and he will be treated as junior, in seniority, to all other officers requesting vacation leave during the same vacation period and who have not been granted vacation leave during that same period.

Once a vacation leave has been granted, if the officer changes shift or work schedule his vacation assignment will not be changed.

SECTION 10.02 - UNUSED VACATION

Each police officer shall be paid, at the time of retirement, the monetary value of any unused vacation time and overtime, standing to his credit, on the date of retirement. In the event of death, the value of such time, standing to his credit, will be paid to his estate or his heirs at law.

Police officers intending to retire may notify the Town two (2) years in advance and will be permitted to accumulate time-off and vacations for one and one-half years, the value of which will be paid as salary during the final year of employment and included as wages for pension purposes

insofar as permitted by law.

Upon termination of employment, for any reason, an officer will be paid the value of all accumulated vacation or other time-off, including sick leave. However, in the event termination is as a result of discharge or dismissal, there would be no payment for accumulated sick leave.

An officer who has at least 17 years of service may elect to be paid the value of not more than 10 days of accumulated vacation, each year, in lieu of leave. Payment will be made the first pay period in February.

SECTION 10.03 - VACATION PAY ADVANCE

Upon written request, at least two (2) weeks prior to vacation time, a police officer will be paid the estimated amount due him for his vacation period, not later than the Friday before he begins his vacation.

ARTICLE XI

SECTION 11.01 - BEREAVEMENT LEAVE

Upon request, a police officer shall be granted a leave of absence because of death in his immediate family. Such leave shall be taken, without loss of pay or other benefits, and shall begin on the date of death.

Such leave shall consist of 4 working days if the officer is assigned to a 4 day work week. The leave shall consist of 5 working days if the officer is assigned to a 5 day work week.

Immediate family, for the purposes of this Section, shall mean: mother, father, spouse, child, grandchild, grandparent, brother, sister, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law.

In the event of death of a relative, not included in immediate family, the police officer, upon request, shall be granted time-off, without loss of pay or other benefits, for the day of the funeral, which time shall be charged against accumulated time-off or sick leave, at the officer's choice.

ARTICLE XII

SECTION 12.01 - PERSONAL LEAVE

Each police officer shall be entitled to five (5) non-cumulative personal leave days each year. Personal leave shall be used at the police officer's discretion. In order to enable the department to maintain necessary manpower requirements, personal leave must be requested at least twenty-four (24) hours in advance of the requested time-off. This will not preclude the granting of personal leave on less that twenty-four (24) hours notice, upon the approval of the commanding officer. Personal leave will not be granted if the granting of such leave will seriously hamper or impede the operation of the police department. Personal leave requested in case of emergency, however, will not be denied.

Personal leave will not be used in less than one-half day increments.

Personal leave will be granted based upon the priority of the emergency and if no emergency exists, upon the chronological time requested.

For non-emergency, request for personal leave on Saturday, Sunday, or holiday will not be denied unless determined at the time the leave is requested that the granting of such leave would reduce manpower below the minimum manpower standards as set by the Chief of Police, without resort to overtime or call-in.

At the end of each year or upon retirement an officer shall elect to credit unused personal leave days to vacation time or to accumulated sick leave, at the officer's option.

SECTION 12.02 - PROBATIONARY POLICE OFFICERS

During civil service probation, police officers will accumulate sick leave and personal leave on a pro-rata basis, per month, which leave cannot be used during the probationary period.

At the end of probation, police officers will continue to accumulate sick leave at the same rate for the balance of that calendar year and will be granted such leave in the same manner as is granted to other police officers.

Newly appointed police officers will be granted the uniform allowance, for their first year of service herein provided, immediately, upon appointment.

SECTION 12.03 - AUTHORIZED LEAVE

Authorized leave means: personal leave, accumulated compensatory time-off, all vacation time and all other authorized time-off.

Request for authorized leave shall not unreasonably be denied. Once granted, authorized leave will not be cancelled except in the event of a community disaster or unanticipated emergency. If authorized leave is otherwise cancelled, the affected officer will be paid for the time he is then required to work, at the rate of time and one-half, with the option of receiving salary or compensatory time-off, at the same rate.

Requests for authorized leave for accumulated compensatory time and single vacation days shall not be made more than 45 days prior to the time leave is sought and shall be granted, based upon chronological order (in order of request).

ARTICLE XIII

SECTION 13.01 - SICK LEAVE

Each police officer, except as otherwise provided, shall be entitled to accumulate one and one-half sick days per month to a maximum accumulation of 300 days.

An officer who has accumulated the maximum number of sick days, may redeem up to 9 unused sick days which exceed the maximum number. Payment shall be at the officers regular rate of pay, and be made in November, each year.

A female police officer who is incapable of performing her duties because of maternity disability may utilize accumulated sick leave credits and continue all other benefits under this Agreement during such absence.

Maternity leave shall be considered to commence on the date that the officer is no longer capable of performing her duties and shall end on the date the officer can resume the performance of her regular duties. The officer will be requested or required to bring in a doctor's note to verify the date when she is not capable of performing her duties or when she is

capable of returning to work. In addition, she may be required to submit to a physical examination by a doctor of the Town's choice to verify the starting and ending date of such maternity leave.

SECTION 13.02 - NOTIFICATION

A police officer will not be granted sick leave, unless he notifies his commanding officer that he will be absent and the reason for the same, at least one (1) hour prior to the time he is scheduled to report for duty. In cases of emergency, the one (1) hour notice requirements will be waived.

SECTION 13.03 - SICK BANK

In order to aid police officers who have suffered a prolonged illness and whose regular sick leave has been exhausted, a sick bank has been established.

1. Each officer who participates in the sick bank has contributed two (2) accumulated sick-leave days from his current accumulated sick-leave. An officer who elected not to participate will not be allowed to enter the sick bank, except between January 1 and January 30 each year.

2. The Town has contributed twenty-five (25) sick-leave days to the sick bank.

3. Each year, officers who participate shall contribute one (1) additional sick-day to the bank, between January 1 and January 30, in order to continue as a participant.

4. If at any time, the accumulated number of sick days in the sick bank falls below seventy-five (75) the Town will contribute a sufficient number of days to bring the total number of sick-days, in the sick bank, to seventy-five (75) days.

5. An officer who elects to participate and who is otherwise qualified, must elect, in writing, between January 1 and January 30 each year. Officers who become qualified after January 30, in any year, must submit their election in writing, within 30 days after the time they become qualified to participate and thereafter will submit their election, in writing, between January 1 and January 30, each year.

6. Officers who enter the sick bank after January 1, 1983, and who have been previously qualified to participate, will be required to

contribute the same number of accumulated sick-days as they would have contributed had they become a participant when first qualified to enter the sick-leave-bank.

7. An officer who is a participant in the sick bank and who has exhausted all of his accumulated sick-leave and any other accumulated time, may apply for additional sick-leave from the sick bank, created herein, to a committee consisting of the President of the Police Club and the Supervisor of the Town of Cheektowaga, or their designees.

8. An applicant may be allowed sick-leave of absence, debited from the sick bank, provided the committee consents to the application.

9. In the event both members of the committee cannot agree to accept or reject the granting of such sick leave, then, in that event, the committee shall select a third person, in accordance with the procedure for the selection of an arbitrator, as provided in the Grievance Procedure in this Agreement. The decision of the sick leave bank committee shall be final and binding upon the Town and the applicant.

10. The Town will provide the Club with an accounting of the number of accumulated sick-days in the sick-leave bank by March 1, of each year.

11. If the sick-leave bank is discontinued, unused sick days shall be equally distributed to those members of the sick-leave bank, who are members at the time.

SECTION 13.04 - WORKER'S COMPENSATION BENEFITS

A police officer, who is entitled to receive Worker's Compensation Benefits, shall be paid full pay and the benefits under Worker's Compensation, to which he is entitled, shall be assigned to the Town. Absence from duty in this event will not be chargeable against sick leave and no other benefits, provided by this Agreement, will be lost during that period of time. Absence from duty for work-related disability will not be chargeable against sick leave and no other benefits, provided by this Agreement, will be lost during such absence.

In the event of a third-party claim, payment of medical expenses and wages will be made pursuant to General Municipal Law, Section 207 c. and not pursuant to Worker's Compensation Law, thereby reserving the right of the Town to pursue reimbursement for sums paid to or on behalf of the affected officer, directly from the third-party and not from the officer.

SECTION 13.05 - SICK LEAVE RECORDS

Each police officer will be provided with a record of his accumulated sick leave within sixty (60) days after the beginning of each calendar year.

SECTION 13.06 - ILLNESS OF FAMILY MEMBERS

Sick leave shall apply to absence due to illness of a police officer's immediate family, residing in his household.

Immediate family means parents, spouse, children and step-children.

SECTION 13.07 - SICK LEAVE UPON TERMINATION

1. Upon termination of employment, except by discharge, an officer or his estate, shall be paid the present value of accumulated sick days, pursuant to this Section.

2. In the event of retirement a police officer may convert accumulated sick days into value by written application, signifying his intention, on a form provided by the Town.

3. Upon receipt of such notification, the Town will convert such accumulated sick days into value by taking the actual cash value of the accumulated sick days and multiplying by the rate of 55%. Beginning January 1, 1990 said value will be obtained by multiplying by the rate of 65%. The resulting sum shall be paid to the officer, as directed in writing, or to his estate, in the following manner:

(a) The sum shall be paid to the officer as part of his final year's average salary by dividing the sum by the number of pay periods so as to allow for equal distribution over his last year of employment, or

(b) The sum shall be paid to the officer on the date of his retirement or termination, or to his estate, within a reasonable time after his death.

4. If an officer shall notify the Town of his intention to retire and such notice is given less than one year prior to the date of retirement, the Town will have the option of making a one-time lump sum payment or of dividing the sum by the number of pay periods remaining, so as to allow for equal distribution during the remaining time of employment.

(a) If the notice exceeds six months, the conversion shall be in accordance with Paragraph 3(a), above.

(b) If the notice is six months or less, the officer's accumulated sick leave shall be converted into value in accordance with Paragraph 3(b), above.

ARTICLE XIV

SECTION 14.01 - EXPENSES

A police officer, who is required to leave the Town, by reason of his employment or as part of his official duty, shall be reimbursed for all actual, reasonable and necessary expenses incurred, including meals, if he is absent from the Town during normal meal time.

A police officer on official police business will be provided with transportation by the Town and if he is required to use his own vehicle on police business, the officer shall be paid at the current rate per mile for each mile driven. In no event will a police officer be required to use his own motor vehicle during the normal course of his employment.

ARTICLE XV

SECTION 15.01 - LIFE INSURANCE

The Town will provide each officer with a $25,000 group life insurance policy, insuring the officer, without cost, pursuant to the life insurance plan offered through the Police Conference of New York, Inc. and it will allow officers to exercise the options provided in that program, through weekly payroll deductions, and will comply with the requirements of the same.

SECTION 15.02 - HEALTH INSURANCE

The Town will provide, at its own expense, the following health insurance benefits:

Blue Shield Health Insurance, at least equivalent to the 82-83 plan; (Traditional Plan), together with the following riders or their equivalent.

$1 million major medical, $50 deductible;

$1.00 co-pay prescription rider;

Blue Shield, Basic Rider 8 (Insuring dependents to age 23 years);

Major Medical Rider 8 ($50 deductible);

Prescription Drug Rider 8 (covering dependents to age 23 years);

Option Two, Vision Care, with Rider 8;

Blue Shield, Basic Rider 4 (covering emergency, accidents, etc.);

Blue Shield, Basic Rider 3 (in-patient visits to 365);

Blue Shield, Basic Rider 12;

Blue Shield Rider 21; (Psychiatric Care)

Blue Shield Dental Plan No. 3 with all riders including Rider No. 8.

If an officer dies, while employed by the Town, the Town will provide and pay for health insurance for the officers surviving spouse and dependents until the spouse remarries or obtains comparable coverage.

The Town will continue to provide health insurance for officers who retired after December 31, 1982, and before June 29, 1985, up to age 65 years. Officers who retire prior to that date have the option of participating in the health insurance coverage plan, at their own expense.

The Town will continue to provide health insurance for officers who retire after June 29, 1985, including all present health insurance benefits up to age 55 years. Upon reaching age 55 retirees shall receive the same benefits as officers who retire at age 55 or older.

Officers who retire at age 55 years or older will be provided, without expense, Blue Shield Health Insurance at least equivalent to the 82-83 Plan, or comparable plan, including, the $1 million Major Medical with $50 deductible and $1.00 co-pay prescription rider and Blue Shield Rider No. 21, plus any additional coverage or riders provided to other retired Town employees.

At age 65 years retirees will be provided with Blue Shield Supplemental Coverage with $1.00 co-pay prescription rider plus those riders which are provided to other retired Town employees.

The Town may select a different carrier or carriers as long as the benefits provided are substantially the same and the issue, if any , of substantially the same benefits, is agreed to by the Club. In the event such agreement is not had, the issue shall be submitted directly to arbitration pursuant to the grievance procedure herein.

SECTION - 15.03 - INDEMNIFICATION

The Town will indemnify each police officer for claims made against him based upon false arrest, false imprisonment, civil rights violations and other torts within indemnification coverage pursuant to the provisions of Section 50-j of the General Municipal Law and Section 1983 et seq of the United States Code.

ARTICLE XVI

SECTION 16.01 - RETIREMENT BENEFITS

The Town will provide and maintain a non-contributory retirement plan of benefits for police officers, pursuant to the following provisions of the New York State Retirement and Social Security Law:

The benefits provided in Section 384 f, g and h to provide what is commonly known as the 1/60th, 25-year retirement plan;

The benefits pursuant to Section 375(i), more commonly known as the Improved Retirement Benefits;

The benefits pursuant to Section 302, 9-d, more commonly referred to as the Final Average Salary, and Section 360-b, Death Benefit; and

The benefits pursuant to Section 384-d, more commonly known as the 20-Year Retirement Plan.

ARTICLE XVII

SECTION 17.01 - CLUB REPRESENTATIVES

Police officers, who are designated by the Club as representatives, for the purpose of adjusting grievances or assisting in the negotiation or administration of this or future agreements, shall be permitted a reasonable amount of time from their regular duty to fulfill these obligations, when and if so required; however, not more than two officers will be named per shift and not more than one officer may investigate a specific grievance at any one time. Reasonable advance notice shall be given to the head of the department, or his representative, stating, in brief, the reason for such absence. The President of the Club shall be allowed ten (10) hours per week for these purposes.

The President of the Club, upon request, will be assigned to the 8 A.M. to 4 P.M. shift, within the division he is presently assigned to, irrespective of the seniority provisions contained in this Agreement.

The Club agrees that no more than seven (7) members of the Executive Board, plus the President and Vice President, will request time-off, with pay, to conduct the affairs of the Club, including attendance at Executive Board and Club meetings.

Whenever possible, a request for time-off shall be submitted at least five (5) days prior to the required date, but the parties agree that circumstances may arise which will not permit such notice and in that event time-off will be granted upon reasonable request.

Police officers who are designated by the Club, may attend state-wide conventions and meetings of the Police Conference of New York, Inc., Western New York Police Association, Inc., and the National Association of Police Officer, Inc., in pursuance of their profession as police officers. Attendance at these affairs shall be without loss of time or salary. This privilege will be extended to officers of the Western New York Police Association and the New York State Police Conference, Inc. Not more than seven (7) officers covered by this Agreement, plus the President, and the Vice President may be relieved from duty to attend these meetings. Up to three (3) additional officers may be granted the privilege to attend, by the Town, without pay, if the functioning of the Police Department is not placed in jeopardy and if approval is granted by the head of the department.

SECTION 17.02 - CLUB OFFICE

The Town will allow the Club to install its own telephone at its own expense, which telephone will not be connected, in any manner, with present police telephone communication system.

ARTICLE XVIII

SECTION 18.01 - DISCIPLINARY ACTIONS

A police officer will be given a copy of any warning, reprimand, suspension or disciplinary action entered into his personnel record within two (2) weeks of the action taken.

SECTION - 18.02 - RECORD OF COMPLAINTS

No record or reference to a complaint, either departmental or external, lodged against a police officer, will be entered into his record if after investigation the complaint is decided, by the Town, to be unfounded.

SECTION 18.03 - SUBSTANCE OF COMPLAINTS

A police officer who has a complaint lodged against him by a citizen shall have the substance of the complaint presented to him in writing.

ARTICLE XIX

SECTION 19.01 - IN-SERVICE TRAINING

Any police officer required to attend in-service training on his off-duty time, shall be compensated for such time at his regular rate of pay with a minimum of two (2) hours.

The Town will notify all police officers, by posting, of law enforcement educational and training opportunities being offered by other departments or other police or educational agencies, so that police officers who are eligible and who desire to attend may notify their superiors of their interest or desire. The Town will provide the same notice and opportunity as to training opportunities being offered by the Town Police Department.

The Club may purchase and maintain vending machines, to be installed and used, in the section of the building frequented solely by police officers and the revenues derived therefrom shall be funds of the Police Benevolent Fund and will not be used for union purposes.

The Club will indemnify the Town against any claims arising out of installation or use of such machines.

SECTION 20.04 - SAFETY

After officers are assigned to duty singly to each of six (6) patrol vehicles and two (2) officers are assigned to duty in an accident car, additional officers, on duty, will be assigned so that patrol vehicles, including the first six (6) patrol vehicles, are manned by two (2) patrol officers.

All patrol and detective vehicles, purchased for and assigned to officers, shall be equipped with air conditioning and a standard police package. The Town will discuss proposed equipment changes with the Club before such changes are made.

ARTICLE XXI

SECTION 21.01 - GRIEVANCE PROCEDURE

A grievance shall mean any difference or dispute, between the parties hereto, as to the interpretation or application of any portion of this Agreement or any administrative act affecting general working condition.

Step 1 - Any police officer may present a grievance, orally or in writing, to his immediate supervisor within twenty (20) days of the occurrence and attempt to adjust the matter. If the matter is not satisfactorily adjusted the police officer may request a representative of the Club meet with him and his immediate supervisor for the purpose of adjusting the grievance.

Step 2 - If the grievance is not satisfactorily settled, under Step 1, above, the Club representative may forward a copy of the grievance to the Club President. After review of the grievance, the Club President will forward a copy of the grievance to the Chief of Police. The Chief of Police will, within five (5) calendar days of presentation to him, discuss the

matter with the Club Grievance Committee in an attempt to settle the grievance.

Step 3 - In the event the grievance is not settled, under Step 2, above, a report of the grievance will be made by the Club President to the Coordinator of Employee Relations who will discuss the grievance with the Club President, within fifteen (15) calendar days after receipt of the written report.

Step 4 - In the event the matter is not satisfactorily settled, either party may take the matter to arbitration, upon service of written notice to the other party of intention to do so. The notice must be served within twenty (20) calendar days after the close of discussion and in the event a notice of intention to arbitrate is not filed within thirty (30) days, the matter will be considered closed and not subject to further prosecution.

The arbitration proceeding shall be conducted by an arbitrator to be selected by the Town and the Club within thirty (30) days after notice has been given from a panel of arbitrators supplied by the New York State Public Employment Relations Board.

The decision of the arbitrator shall be final and binding on the parties and the arbitrator shall issue his decision within thirty (30) calendar days after the conclusion of testimony and argument unless such time is mutually extended. The arbitrator shall not have the power to amend, modify or delete any provision of this Agreement.

Expenses for arbitration shall be born equally by the Town and the Club. However, each party shall be responsible for compensating its own representatives who appear. Police officers who appear during their work hours will not suffer any loss of salary or other benefits. If either party desires a recording of the proceedings it must pay for the cost of the same and make a copy of the same available, without charge, to the other party and to the arbitrator.

SECTION 21.02 - GRIEVANCE COMMITTEE

The Grievance Committee shall consist of nine (9) members selected by the Club who shall be permitted to leave work after reasonable notice to their respective supervisors, for the purpose of adjusting grievances and to attend required meetings or arbitrations in connection with the same.

SECTION 21.03 - EXTENSIONS

The parties may mutually extend all time limitations herein.

ARTICLE XXII BILL OF RIGHTS

The provisions of this Article shall not apply to criminal investigations or investigations or possible criminal activity or violations.

SECTION 22.01 - TIME OF INTERROGATION

The interrogation of police officers shall be conducted at reasonable hours, preferably, when the officer is on duty and if not on duty during daylight hours, unless the exigencies of the investigation dictate otherwise.

SECTION 22.02 - IDENTIFICATION OF INVESTIGATING OFFICERS

A police officer who is under investigation for a matter, which would not constitute a crime, must be informed of the name of the officer in charge of the investigation and the names of the officers who will be conducting any portion of interrogation or investigation.

SECTION 22.03 - INFORMATION REGARDING INVESTIGATION

An officer must be informed of the nature of an investigation before any interrogation begins. The information must be sufficient to reasonably inform him of the investigation which is being conducted.

SECTION 22.04 - LENGTH OF INTERROGATION

Interrogation shall be completed with reasonable dispatch. Reasonable rest periods will be allowed and time will be provided for personal necessities, meals, telephone calls and rest periods as reasonably required.

SECTION 22.05 - COERCION

A police officer shall not be subjected to offensive language and shall not be threatened with transfer, dismissal or other disciplinary punishment. No promise or reward shall be made as an inducement to answering questions. Nothing herein is to be construed as to prohibit the investigating from informing an officer that his conduct may be subject to

other disciplinary action with resultant disciplinary punishment.

SECTION 22.06 - RIGHT TO COUNCIL

A police officer who is under investigation has the right to have a representative of the Police Club present and also has the right to the presence of an attorney, with him, during any questioning, hearing or interrogation.

SECTION 22.07 - RECORDING OF INTERROGATION

Interrogation of a police officer for any disciplinary investigation will be recorded, either mechanically or by a stenographer, and there will be no off-the-record statements.

SECTION 22.08 - ADVICE OF CONSTITUTIONAL RIGHTS

If a police officer is the subject or target of a disciplinary investigation he shall be advised of his constitutional rights.

SECTION 22.09 - FURNISHING OF COPIES

A police officer under investigation will be furnished with a copy of any statement he has signed or made or of any proceedings that have been recorded, in any manner.

SECTION 22.10 - POLYGRAPH

Police officers will not be given polygraphic examinations.

SECTION 22.11 - NON-WAIVER OF CONSTITUTIONAL RIGHTS

No police officer will be required to or requested to waive constitutional rights granted under the United States or the New York State Constitution.

SECTION 22.12 - HEARING OFFICER

In the event the Town elects to select a hearing officer, pursuant to Section 75 of the Civil Service Law, who is not either a Town employee or Town official, then, in that event, the hearing officer will be mutually selected by the Town and by the police officer who is charged. If the parties are unable to agree upon a hearing officer or if the hearing officer

agreed upon is, or becomes unable to or unwilling to act, then the parties shall mutually apply to Special Term of the New York State Supreme Court for the appointment of a hearing officer.

ARTICLE XXIII

SECTION 23.01 - LEAVE OF ABSENCE

Police officers may be granted leave of absence, with or without pay, as provided for in the Civil Service Law of the State of New York.

SECTION 23.02 - NON-DISCRIMINATION

There will be no discrimination with respect to the race, color, creed, sex, political persuasion or because a police officer is engaged in Police Club activities. All police officers shall receive the full protection of all of the provisions herein.

SECTION 23.03 - PAYROLL DEDUCTIONS

The Town will provide a payroll savings and U.S. Savings Bond deduction plan and make it available for all police officers who desire the same.

SECTION 23.04 - RESIDENCY

After 15 years of employment as a police officer, the officer may reside within the County of Erie.

ARTICLE XXIV

SECTION 24.01 - MANAGEMENT RIGHTS

All of the authority, right and responsibilities possessed by the Board and not covered by this Agreement are retained by it, including, but not limited to, the right to determine the mission, purposes, objectives and policies of the Board; to determine the facilities, methods, means and number of personnel required for conduct of Board programs; to administer the examination, selection, recruitment, hiring, appraisal, training, retention, promotions, assignments or transfer of employees, pursuant to law; to direct, deploy and utilize the work force; to establish specifications for each class of positions, and to classify or reclassify and to allocate or reallocate new or existing positions, in accordance with the

law; and to discipline or discharge employees, in accordance with law, and within the provisions of the Agreement.

SECTION 24.02 - SAVINGS CLAUSE

If any section, sub-section, sentence, clause, phrase or any portion of this Agreement is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions of this Agreement.

SECTION 24.03 - PROFESSIONAL CONDUCT

In order to maintain good order and moral, each supervising officer shall treat other officers with proper respect and accord. Failure to comply will not be grounds for grievance against the Town.

SECTION 24.04 - TERMS OF AGREEMENT

This Agreement, except as may be hereafter modified in writing, by both parties, shall become effective January 1, 1989 (retroactively) and remain in force until December 31, 1990, or until such time as a subsequent agreement becomes effective.

SECTION 24.05 - RENEWAL OF AGREEMENT

The parties agree that negotiations for renewal of this Agreement shall commence on or about July 1, 1990, or on such other date as shall be mutually agreed upon.

SECTION 24.06 - PAST PRACTICE

This Agreement shall supersede conflicting rules, regulations or practices heretofore existing. Established practices, not specifically covered herein, shall continue in force and effect.

SECTION 24.07 - ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 13th day of Dec, 1989.

Town Supervisor

President, Cheektowaga
Police Club, Inc.

SUBRECIPIENT AGREEMENT

THIS AGREEMENT, entered into this 5th day of September 19 89, between the Town of Cheektowaga, a municipal corporation of the State of New York, with principal offices located at Broadway & Union Roads, Cheektowaga, New York, 14227, (hereinafter referred to as the "Town"), and the Village of Depew, a municipal corporation of the State of New York, located at 85 Manitou, Depew, NY 14043, (hereinafter referred to as the "Subrecipient").

W I T N E S S E T H

WHEREAS, the parties hereto have entered into a cooperation agreement for the purpose of undertaking or assisting in undertaking essential community development and housing assistance activities and publicly assisted housing under the Housing and Community Development Act of 1974 as amended (hereinafter referred to as the "Act"); and

WHEREAS, the Town has received grant funds from the Department of Housing and Urban Development (hereinafter referred to as "HUD") for the purposes of the Act; and

WHEREAS, the Town desires to enter into an agreement with the Subrecipient for the purpose of undertaking eligible activities under the act:

NOW, THEREFORE,

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO, as follows:

1. DEFINITIONS

A. "Town" shall mean the Town of Cheektowaga.

B. "Subrecipient" shall mean the Village of __Depew__.

C. "HUD" shall mean the United States Department of Housing and Urban Development.

D. "Act" shall mean the Housing and Community Development Act of 1974, and as amended.

E. "Federal Government" shall mean the Government of the United States and all departments thereof heretofore or hereinafter created, including "HUD".

F. "Project" shall mean the approved work described in Exhibit "A" to be performed by the Subrecipient under the terms of the Housing and Community Development Act of 1974 as amended, all implementing present and future federal government regulations, and this contract.

2. EXHIBITS INCORPORATED.

The following exhibits are attached to this Agreement and made a part hereof.

A. Exhibit "A" - Project Description and Budget

B. Exhibit "B" - Applicability of Uniform Administrative Requirements.

C. Exhibit "C" - Eligible Community Development Block Grant Activities

D. Exhibit "D" - Use of Real Property

E. Exhibit "E" - Program Income

F. Exhibit "F" - Records to be Maintained

G. Exhibit "G" - Reports to be Maintained

H. Exhibit "H" - Subpart K - Other Program Requirements

VILLAGE OF Depew
CONTRACT CONDITIONS

1. Time of Performance: The Subrecipient shall complete their CDBG program within a 18-month period beginning with the effective date of this Agreement.

2. Method of Payment: The Town will pay to the Subrecipient the amount of funds for projects listed in Exhibit A upon receipt of a voucher and invoice from the Subrecipient. In each instance the Subrecipient will specify that it has performed the work under this Agreement in conformance with the terms of this Agreement and that it is entitled to receive the amount requisitioned.

3. Termination of Contract for Cause: In accordance with 24 CFR 85.43, the Town has the right to suspend or terminate this Agreement if the Subrecipient materially fails to fulfill or comply with the terms of this Agreement.

4. Termination for Convenience of Town: This Agreement may be terminated for convenience in accordance with 24 CFR 85.44.

5. The Subrecipient will comply with all applicable uniform administrative requirements as described in Section 570.502 (Exhibit "B").

6. The Subrecipient will carry out each activity in compliance with all Federal laws and regulations described in Subpart K of 24 CFR 570 (Exhibit "H") except that: (1) the subrecipient does not assume the Town's environmental responsibility described at Section 570.604; and (2) the subrecipient does not assume the Town's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

7. No officer, member, or employee of the Subrecipient and no member of its governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking of this project, shall participate in any decision relating to this Agreement which

affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly interested or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

8. The Subrecipient covenants that it presently has no interest and shall not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having any such interest shall be employed.

9. No members of or Delegates to the Congress of the United States of America, and no Resident Commissioner, shall be admitted to any share or part thereof or to any benefit to arise herefrom.

10. At any time during normal business hours and as often as the Town may deem necessary, there shall be made available to the Town for examination all of subrecipient's records with respect to all matters covered by this Agreement and the Sub-recipient will permit the Town to audit, examine and make excerpts of transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel conditions of employment and other data relating to all matters covered by this Agreement. The Subrecipient shall commission an audit of the CDBG award to be performed either on an annual or fiscal year basis as is appropriate.

11. The Subrecipient agrees that in the event it contracts with private contractors for any project or part of the project undertaken pursuant to this Agreement, it will observe the Laws of New York and Federal Government requirements as found in 24 CFR 85 regarding bidding requirements and the letting of private contracts (procurement).

12. The Subrecipient agrees to abide by all present and future applicable New York State and Federal Government requirements in performing the project described in Exhibit "A" attached hereto and made a part hereof. Federal Labor Standards and

Prevailing Wage Rates are to be observed as required.

13. This Agreement shall be valid only to the extent that the Federal Government appropriates monies for the project under the Act.

14. Reports and Records: The Subrecipient will maintain and submit the specific records and reports, as applicable and required by the Town, outlined in Exhibits "F" and "G" of this Agreement in order to assist the Town in its record-keeping requirements and in meeting reporting requirements.

15. Program income received by the Subrecipient shall be returned to the Town.

16. Upon expiration of the Agreement the Subrecipient shall transfer to the recipient any C.D.B.G. funds on-hand at the time of expiration and any accounts receivable attributable to the use of C.D.B.G. funds. Any property acquired or improved by the sub-recipient, in whole or in part with C.D.B.G. funds in excess of $ 25,000 will be used to meet one of the national objectives in 24 CFR 570.208 (Exhibit "C") until five years after expiration of the Agreement or will be disposed of in a manner consistent with Exhibit "D", Use of Real Property.

17. The Subrecipient will not assign any interest in this Agreement witnout the prior written consent of the Town.

18. This Agreement may be amended only by written instruments executed by the parties to this Agreement except that Exhibit "A" may be amended to add, delete and/or modify projects and project budgets within the amount of funding allocated for the Subrecipient's projects by notification in writing to the Town accompanied by a copy of a resolution approved by the Village Board at a duly called meeting authorizing such amendments, deletions and/or modifications. Such amendment shall be in conformance with applicable federal requirements including those found at 24 CFR 570.305.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

By: _____
Frank E. Swiatek, Supervisor
Town of Cheektowaga

By: _____
, Mayor
Village of

MUNICIPAL CORPORATION ACKNOWLEDGEMENT

STATE OF NEW YORK
COUNTY OF ERIE

On the 8th day of September 1989, before me personally came Frank E. Swiatek, to me known, who being by me duly sworn, did depose and say that he/she resides in the Town of Cheektowaga; that he/she is the Supervisor of the Town of Cheektowaga and that he executed the foregoing instrument for and on behalf of the Town of Cheektowaga by virtue of the authority in him vested as Supervisor.

Valerie A. Meyers

VALERIE A. MEYERS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES APRIL 11 1990

STATE OF NEW YORK
COUNTY OF ERIE

On the 21 day of September, 1989, before me personally came ARTHUR J. DOMINO, to me known, who being by me duly sworn, did depose and say that he/~~xxx~~ resides in THE Village of Depew; that he~~xxx~~ is the Mayor of the Village of Depew, and that he/~~xxx~~ executed the foregoing instrument for and on behalf of Village of Depew by virtue of the authority in him/~~xxx~~ vested as Mayor.

Marion R. Ziemer

MARION R. ZIEMER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires December 31, 1990

EXHIBIT "A"

Project Description/Budget

Village of Depew

A.) Capital Projects

1.) $64,696.60 - Sanilac St. Retaining Wall
Repairs/reconstruction of retaining wall.

2.) $90,304.79 - Water Lines
Replacement of water lines in eligible neighborhoods/target areas, including Dean Road-Hyland Blvd. - George Urban Blvd.

3.) $6,138.00 - Street Repair/Resurfacing
Repair/resurfacing of street(s) in eligible target area neighborhoods.

4.) $25,000 - Gazebo
Construction of a Gazebo in Veterans Park which is located in a low-moderate income block group.

B.) Planning

1.) $1,890.00 - Census Data Verification Study
Study to be performed by Erie & Niagara Counties Regional Planning Board to verify 1990 census data.

C.) Housing Rehabilitation

1.) $39,145 - Housing Rehabilitation Program
The program will be carried out by the Town on eligible properties located in the Village.

§ 570.502 Applicability of uniform administrative requirements "Exhibit B"

(a) Recipients, and subrecipients which are governmental entities (including public agencies), shall comply with the requirements and standards of OMB Circular No. A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments," OMB Circular A-128, "Audits of State and Local Governments" (implemented at 24 CFR Part 44) and with the following sections of 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments":

(1) Section 85.3, "Definitions";

(2) Section 85.6, "Exceptions";

(3) Section 85.12, Special grant or subgrant conditions for "high-risks" grantees";

(4) Section 85.20, "Standards for financial management systems," except paragraph (a);

(5) Section 85.21, "Payment," except as modified by §570.513;

(6) Section 85.22, "Allowable costs";

(7) Section 85.26, "Non-federal audits"

(8) Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds shall be program income;

(9) Section 85.33, "Supplies";

(10) Section 85.34, "Copyrights";

(11) Section 85.35, "Subawards to debarred and suspended parties";

(12) Section 85.36, "Procurement," except paragraph (a);

(13) Section 85.37, "Subgrants";

(14) Section 85.40, "Monitoring and reporting program performance," except paragraphs (b) - (d) and (f);

(15) Section 85.41, "Financial reporting," except paragraphs (a),(b), and (e);

(16) Section 85.42, "Retention and access requirements for records";

(17) Section 85.43, "Enforcement";

(18) Section 85.44, "Termination for convenience";

(19) Section 85.51, "Later disallowances and adjustments"; and

(20) Section 85.52, "Collection of amounts due."

(b) Subrecipients, except subrecipients which are governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for NonProfit Organizations" or OMB Circular No. A-21, "Cost Principles for Educational Institutions," as applicable, and the following Attachments to OMB Circular No. A-110:

(1) Attachment A, "Cash Depositories," except for paragraph 4 concerning deposit insurance;

(2) Attachment B, "Bonding and Insurance";

(3) Attachment C, "Retention and Custodial Requirements for Records," except that in lieu of the provisions in

paragraph 4, the retention period for records pertaining to individual CDBG activities starts from the date of submission of the annual performance and evaluation report, as prescribed in § 570.507, in which the specific activity is reported on for the final time;

(4) Attachment F, "Standards for Financial Management Systems";

(5) Attachment H, "Monitoring and Reporting Program Performance," paragraph 2;

(6) Attachment N, "Property Management Standards," except for paragraph 3 concerning the standards for real property and except that paragraphs 6 and 7 are modified so that in all cases in which personal property is sold, the proceeds shall be program income and that personal property not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient; and

(7) Attachment O, "Procurement Standards."

3. Subpart C of Part 570 is revised to read as follows:

Subpart C -- Eligible Activities.

Sec.

570.200 General policies.
570.201 Basic eligible activities.
570.202 Eligible rehabilitation and preservation activities.
570.203 Special economic development activities.
570.204 Special activities by subrecipients.
570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.
570.206 Program administrative costs.
570.207 Ineligible activities.
570.208 Criteria for national objectives.

Subpart C -- Eligible Activities.

§ 570.200 General policies.

(a) Determination of eligibility. An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(1) Compliance with section 105 of the Act. Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this subpart.

(2) Compliance with national objectives. Grant recipients under the Entitlement and HUD-administered Small Cities programs must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement and HUD-administered Small Cities programs must ensure, and maintain evidence, that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are contained at § 570.208.

(3) Compliance with the primary objective. The Act establishes as its primary objective the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, Entitlement and HUD-administered Small Cities recipients must ensure that, over a period of time specified in their certification not to exceed three years, not less than 60 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) for benefiting low and moderate income persons. In determining the percentage of funds expended for such activities:

(i) Cost of administration and planning elibible under § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation;

(ii) Funds deducted by HUD for repayment of urban renewal temporary loans pursuant to § 570.802(b) shall be excluded;

(iii) Funds expended for the repayment of loans guaranteed under the provisions of Subpart M shall also be excluded;

(iv) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under § 570.208(a)(3) shall be counted for this purpose but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons.

(v) Funds expended for any other activities qualifying under § 570.208(a) shall be counted for this purpose in their entirety.

(4) Compliance with environmental review procedures. The environmental review procedures set forth at 24 CFR Part 58 must be completed for each activity (or project as defined in 24 CFR Part 58), as applicable.

(5) Cost principles. Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with the requirements of OMB Circulars A-87, "Cost Principles Applicable to Grants and Contracts with State and Local

Governments," A-122, "Cost Principles for Non-profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. All items of cost listed in Attachment B of these Circulars which require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such circulars and are otherwise eligible under this subpart. However, pre-agreement costs are limited to those costs described at § 570.200(h).

(b) Special policies governing facilities. The following special policies apply to:

(1) Facilities containing both eligible and ineligible uses. A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) Fees for use of facilities. Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities, are not permitted.

(c) Special assessments under the CDBG program. The following policies relate to special assessments under the CDBG program:

(1) Definition of special assessment. The term "special assessment" means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real

to program execution. The use of consultants is governed by the following:

(1) Employer-employee type of relationship. No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the maximum daily rate of compensation for a GS-18 as established by Federal law. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) Independent contractor relationship. Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR 85.36 and are not subject to the GS-18 limitation.

(e) Recipient determinations required as a condition of eligibility. In several instances under this subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written determination is required for any activity carried out under the authority of §§ 570.201(f), 570.202(b)(3), 570.203(b), 570.204, and 570.206(f). A written determination is also required for certain relocation costs under § 570.201(i).

(f) Means of carrying out eligible activities.

(1) Activities eligible under this subpart, other than those authorized under § 570.204(a), may be undertaken, subject to local law:

(i) By the recipient through:

(A) Its employees, or

(B) Procurement contracts governed by the requirements of 24 CFR 85.36; or

(ii) Through agreements with subrecipients, as defined at § 570.500(c); or

(iii) By one or more public agencies, including existing local public agencies, that are designated by the chief executive officer of the recipient.

(2) Activities made eligible under § 570.204(a) may only be undertaken by subrecipients specified in that section.

estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

(2) Special assessments to recover capital costs. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. Such assessments constitute program income.

(ii) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(3) Public improvements not initially assisted with CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this part including environmental, citizen participation and Davis-Bacon requirements;

(ii) The installation of the public improvement meets a criterion for national objectives in § 570.208(a)(1), (b), or (c); and

(iii) The requirements of § 570.200(c)(2)(ii) are met.

(d) Consultant activities. Consulting services are eligible for assistance under this part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating

otherwise promote religious interests. This limitation includes the acquisition of property for ownership by primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities (except as permitted under paragraph (j)(2) of this section with respect to rehabilitation and under paragraph (j)(4) of this section with respect to repairs undertaken in connection with public services) regardless of the use to be made of the property or structure. Property owned by primarily religious entities may be acquired with CDBG funds at no more than fair market value for a non-religious use.

(2) CDBG funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose under the following conditions:

(i) The building (or portion thereof) that is to be improved with the CDBG assistance has been leased to an existing or newly established wholly secular entity (which may be an entity established by the religious entity);

(ii) The CDBG assistance is provided to the lessee (and not the lessor) to make the improvements;

(iii) The leased premises will be used exclusively for secular purposes available to persons regardless of religion;

(iv) The lease payments do not exceed the fair market rent of the premises as they were before the improvements are made;

(v) The portion of the cost of any improvements that also serve a non-leased part of the building will be allocated to and paid for by the lessor;

(vi) The lessor enters into a binding agreement that unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements;

(vii) The lessee must remit the amount received from the lessor under subparagraph (2)(vi) of this section to the recipient or subrecipient from which the CDBG funds were derived.

(g) Limitation on planning and administrative costs. No more than 20 percent of the sum of any grant plus program income received during the program year (or the grant period for grants under Subpart F) shall be expended for planning and program administrative costs, as defined in §§ 570.205 and 570.206 respectively. Recipients of entitlement grants under Subpart D will be considered to be in conformance with this limitation if expenditures for planning and administration during the most recently completed program year did not exceed 20 percent of the sum of the entitlement grant made for that program year and the program income received during that program year.

(h) Reimbursement for pre-agreement costs. Prior to the effective date of the grant agreement, a recipient may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building purposes authorized by § 570.205(b), for engineering and design costs associated with an activity eligible under § 570.201 through § 570.204, for the provision of information and other resources to residents pursuant to § 570.206(b), for relocation activities carried out pursuant to § 570.606, and for costs of complying with procedural requirements for acquisition under § 570.606 but not for the cost of the real property itself. After the effective date of the grant agreement, the recipient may be reimbursed with funds from its grant to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this part and 24 CFR Part 58.

(i) Urban Development Action Grant. Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of Subpart G, for:

(1) Activities eligible for assistance under this subpart; and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(j) Constitutional prohibition. In accordance with First Amendment Church/State Principles, as a general rule, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of CDBG funds.

(1) CDBG funds may not be used for the acquisition of property or the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures to be used for religious purposes or which will

The lessee can also enter into a management contract authorizing the lessor religious entity to use the building for its intended secular purpose, e.g., homeless shelter, provision of public services. In such case, the religious entity must agree in the management contract to carry out the secular purpose in a manner free from religious influences in accordance with the principles set forth in paragraph (j)(3) of this section.

(3) As a general rule, CDBG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement with the recipient or subrecipient from which the CDBG funds are derived that, in connection with the provision of such services:

(i) it will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) it will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(iii) it will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;

(iv) the portion of a facility used to provide the public services shall contain no religious symbols or decorations, other than those permanently affixed to or part of the structure.

(4) Where the public services provided under paragraph (j)(3) of this section are carried out on property owned by the primarily religious entity, CDBG funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the CDBG expenditure for the public services.

§ 570.201 Basic eligible activities.

CDBG funds may be used for the following activities:

(a) Acquisition. Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by

purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207.

Disposition. Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.504.

Public facilities and improvements. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals; nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § 570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b).

Clearance activities. Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.

Public services. Provision of public services (including labor, supplies, and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment,

crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs. In order to be eligible for CDBG assistance, public services must meet each of the following criteria:

(1) A public service must be either a new service, or a quantifiable increase in the level of a service above that which has been provided by or in behalf of the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) in the twelve calendar months prior to the submission of the statement. (An exception to this requirement may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the unit of general local government.)

(2) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant except as provided in paragraph (3) below. For entitlement grants under Subpart D, compliance is based on the amount of CDBG funds obligated for public service activities in each program year compared to 15 percent of the entitlement grant made for that program year.

(3) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding any assistance received pursuant to Public Law 98-8), may obligate more CDBG funds than 15 percent of its grant for public services so long as the amount obligated in any program year does not exceed the percentage or amount obligated in Federal fiscal year 1982 or 1983, whichever method of calculation yields the higher amount.

(f) Interim assistance.

(1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) Payment of non-Federal share. Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) Urban renewal completion. Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) Relocation. Relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where assistance is:

(1) Required under the provisions of § 570.606(a), (b) or (c); or

(2) Determined by the recipient to be appropriate under the provisions of § 570.606(d).

(j) Loss of rental income. Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) Removal of architectural barriers. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements.

(l) Privately owned utilities. CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) Construction of housing. CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

§ 570.202 Eligible rehabilitation and preservation activities.

(a) Types of buildings and improvements eligible for rehabilitation assistance. CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvements to the exterior of the building and the correction of code violations (further improvements to such buildings may be undertaken pursuant to §570.203(b)); and

(4) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

(b) Types of assistance. CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures,

installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.605.

(iv) Procedures concerning inspection and testing for and abatement of lead-based paint, pursuant to § 570.608.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or

analysis to determine that the amount of any financial assistance to be provided is not excessive, taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived from the economic development project. The recipient shall document the analysis as well as any factors it considered in making its determination that the assistance is necessary or appropriate to carry out the project. The requirement for making such a determination applies whether the business is to receive assistance from the recipient or through a subrecipient.

§ 570.204 Special activities by certain subrecipients.

(a) Eligible activities. The recipient may provide CDBG funds (e.g., grant or loan) to any of the three types of subrecipients specified in paragraph (c) of this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. Such a project may include activities listed as eligible under this subpart, and activities not otherwise listed as eligible under this subpart, except those described as ineligible in § 570.207(a), when the recipient determines that such activities are necessary or appropriate to achieve its community development objectives. Notwithstanding that such subrecipients may carry out activities as part of such project that are not otherwise eligible under this subpart, this provision does not authorize:

(1) provision of public services that do not meet the requirements of § 570.201(e)(1) and (2);

(2) provision of assistance to a for-profit business that does not comply with the requirements of § 570.203(b); or

(3) carrying out activities that would otherwise be eligible under §§ 570.205 or 570.206 but that would result in the recipient exceeding the limitation in § 570.200(g).

(b) Recipient responsibilities. Recipients are responsible for ensuring that CDBG funds are used by the subrecipients in a manner consistent with the requirements of this part and other applicable Federal, State, or local law. Recipients are also responsible for carrying out the environmental review and clearance responsibilities.

(c) Eligible subrecipients. The following are subrecipients authorized to receive assistance under this section.

(1) Neighborhood-based nonprofit organizations. A neighborhood-based nonprofit organization is an

under section 17 of the United States Housing Act of 1937; and

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937.

(c) Code enforcement. Code enforcement in deteriorating or deteriorated areas where such enforcement together with public improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of the area.

(d) Historic preservation. CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) Renovation of closed buildings. CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

§ 570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart which may be carried out as part of an economic development project. Special activities authorized under this section do not include assistance for the construction of new housing. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is necessary or appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a). In order to ensure that any such assistance does not unduly enrich the for-profit business, the recipient shall conduct an

association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out. A neighborhood is defined as:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation;

(ii) The entire jurisdiction of a unit of general local government which is under 25,000 population; or

(iii) A neighborhood, village, or similar geographical designation in a New Community as defined in § 570.403(a)(1).

(2) Section 301(d) Small Business Investment Companies. A Section 301(d) Small Business Investment Company is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making.

(3) Local development corporations. A local development corporation is:

(i) An entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community partnership Act of 1974 (42 U.S.C. 2981) or the

Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.);

(ii) An entity eligible for assistance under section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 696);

(iii) Other entities incorporated under State or local law whose membership is representative of the area of operation of the entity (including nonresident owners of businesses in the area) and which are similar in purpose, function, and scope to those specified in (i) or (ii) above; or

(iv) A State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695).

§ 570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

(1) Comprehensive plans;

(2) Community development plans;

(3) Functional plans, in areas such as:

(i) Housing, including the development of a housing assistance plan;

(ii) Land use and urban environmental design;

(iii) Economic development;

(iv) Open space and recreation;

(v) Energy use and conservation;

(vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;

(vii) Transportation;

(viii) Utilities; and

(ix) Historic preservation.

(4) Other plans and studies such as:

(i) Small area and neighborhood plans;

(ii) Capital improvements programs;

(iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201-570.204);

(iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies. However, costs necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under

§§ 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of § 570.200(g);

(v) Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;

(vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and

(vii) Analysis of impediments to fair housing choice.

(b) Policy - planning - management - capacity building activities which will enable the recipient to:

(1) Determine its needs;

(2) Set long-term goals and short-term objectives, including those related to urban environmental design;

(3) Devise programs and activities to meet these goals and objectives;

(4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and

(5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

§ 570.505 Use of real property. EXHIBIT "D"

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of $25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change, and either:

(1) The new use of such property qualifies as meeting one of the national objectives in § 570.208 and is not a building for the general conduct of government; or

(2) The requirements in paragraph (b) are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for such use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs subsequent to closeout, the provisions governing income from the disposition of the real property in § 570.504(b)(4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program pursuant to paragraph (b) of this section, the property is no longer subject to any CDBG requirements.

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EXHIBT "E"

§ 570.504 Program income.

(a) Recording program income. The receipt and expenditure of program income as defined in § 570.500(a) shall be recorded as part of the financial transactions of the grant program.

(b) Disposition of program income received by recipients.

(1) Program income received prior to grant closeout may be retained by the recipient if such income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.

(2) If the recipient chooses to retain program income, such income shall affect withdrawals of grant funds from the U.S. Treasury as follows:

(i) Program income in the form of repayments to, or interest earned on, a revolving fund as defined in § 570.500(b), shall be substantially disbursed from such fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. This rule does not prevent a lump sum disbursement to finance the rehabilitation of privately owned properties as provided for in § 570.513.

(ii) All other program income shall be substantially disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury.

(3) Program income on hand at the time of closeout shall continue to be subject to the eligibility requirements in Subpart C and all other applicable provisions of this part until such program income is expended.

(4) Unless otherwise provided in any grant closeout agreement, and subject to the requirements of paragraph (5) below, income received subsequent to closeout shall not be governed by the provisions of this part: Except that, if at the time of closeout the recipient has another ongoing CDBG grant received directly from HUD, funds received subsequent to closeout shall be treated as program income of the ongoing grant program.

(5) If the recipient does not have another ongoing grant received directly from HUD at the time of closeout, income received subsequent to closeout from the disposition of real property or from loans outstanding at the time of closeout, shall not be governed by the provisions of this part, except that such income shall be used for activities which meet one of the national objectives in § 570.208 and the eligibility requirements described in section 105 of the Act.

(c) Disposition of program income received by subrecipients. The written agreement between the recipient and the subrecipient, as required by § 570.503, shall specify whether program income received is to be returned to the recipient or retained by the subrecipient. Where program income is to be retained by the subrecipient, the agreement shall specify the activities that will be undertaken with the program income and that all provisions of the written agreement shall apply to such activities. When the subrecipient retains program income, transfers of grant funds by the recipient to the subrecipient shall be adjusted according to the principles described in paragraphs (b)(2)(i) and (ii) of this section. Any program income on hand when the agreement expires or received after such expiration shall be paid to the recipient, as required by § 570.503(b)(8).

(d) Disposition of certain program income received by urban counties. Program income derived from activities carried out by an urban county within the jurisdiction of a unit of general local government that has since become a nonparticipant in the county's program shall be treated as program income for use in the urban county's program, except that the urban county may elect to permit the unit of general local government, upon its termination of urban county participation, to retain the program income for use in its own CDBG entitlement program.

EXHIBIT "F"

§ 570.506 Records to be maintained.

Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed:

(a) Records providing a full description of each activity assisted (or being assisted) with CDBG funds, including its location (if the activity has a geographical locus), the amount of CDBG funds budgeted, obligated and expended for the activity, and the provision in Subpart C under which it is eligible.

(b) Records demonstrating that each activity undertaken meets one of the criteria set forth in § 570.208. (Where information on income by family size is required, the recipient may substitute evidence establishing that the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the definitions of "low and moderate income person" and "low and moderate income household" (as applicable) at § 570.3; or the recipient may substitute a copy of a verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit established in accordance with § 570.3; or the recipient may substitute a notice that the assisted person is a referral from a state, county or local employment agency or other entity that agrees to refer individuals it determines to be low and moderate income persons based on HUD's criteria and agrees to maintain documentation supporting these determinations.) Such records shall include the following information:

(1) For each activity determined to benefit low and moderate income persons, the income limits applied and the point in time when the benefit was determined.

(2) For each activity determined to benefit low and moderate income persons based on the area served by the activity:

(i) The boundaries of the service area;

(ii) The income characteristics of families and unrelated individuals in the service area; and

(iii) If the percent of low and moderate income persons in the service area is less than 51 percent, data showing that the area qualifies under the exception criteria set forth at § 570.208(a)(1)(ii);

(3) For each activity determined to benefit low and moderate income persons because the activity involves a facility or service designed for use by a limited clientele consisting exclusively or predominantly of low and moderate income persons:

(i) Documentation establishing that the facility or service is designed for and used by senior citizens, handicapped persons, battered spouses, abused children, the homeless, illiterate persons, or migrant farm workers, for which the regulations provide presumptive benefit to low and moderate income persons; or

(ii) Documentation describing how the nature and, if applicable, the location of the facility or service establishes that it is used predominantly by low and moderate income persons; or

(iii) Data showing the size and annual income of the family of each person receiving the benefit.

(4) For each activity carried out for the purpose of providing or improving housing which is determined to benefit low and moderate income persons:

(i) A copy of a written agreement with each landlord or developer receiving CDBG assistance indicating the total number of dwelling units in each multifamily structure assisted and the number of those units which will be occupied by low and moderate income households after assistance;

(ii) The total cost of the activity, including both CDBG and non-CDBG funds.

(iii) For each unit occupied by a low and moderate income household, the size and income of the household;

(iv) For rental housing only:

(A) The rent charged (or to be charged) after assistance for each dwelling unit in each structure assisted; and

(B) Such information as necessary to show the affordability of units occupied (or to be occupied) by low and moderate income households pursuant to criteria established and made public by the recipient;

(v) For each property acquired on which there are no structures, evidence of commitments ensuring that the criteria in § 570.208(a)(3) will be met when the structures are built; and

(vi) Where applicable, records demonstrating that the activity qualifies under the special conditions at § 570.208(a)(3)(i).

(5) For each activity determined to benefit low and moderate income persons based on the creation of jobs, the recipient shall provide the documentation described in either (i) or (ii) below.

(i) Where the recipient chooses to document that at least 51 percent of the jobs will be available to low and moderate income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

(1) A commitment by the business that it will make at least 51 percent of the jobs available to low and moderate income persons and will provide training for any of those jobs requiring special skills or education;

(2) A listing by job title of the permanent jobs to be created indicating which jobs will be available to low and moderate income persons, which jobs require special skills or education, and which jobs are part-time, if any; and

(3) A description of actions to be taken by the recipient and business to ensure that low and moderate income persons receive first consideration for those jobs; and

(B) A listing by job title of the permanent jobs filled, and which jobs of those were available to low and moderate income persons, and a description of how first consideration was given to such persons for those jobs. The description shall include what hiring process was used; which low and moderate income persons were interviewed for a particular job; and which low and moderate income persons were hired.

(ii) Where the recipient chooses to document that at least 51 percent of the jobs will be held by low and moderate income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

(1) A commitment by the business that at least 51 percent of the jobs, on a full-time equivalent basis, will be held by low and moderate income persons; and

(2) A listing by job title of the permanent jobs to be created, identifying which are part-time, if any;

(B) A listing by job title of the permanent jobs filled and which jobs were initially held by low and moderate income persons; and

(C) For each such low and moderate income person hired, the size and annual income of the person's family prior to the person being hired for the job.

(6) For each activity determined to benefit low and moderate income persons based on the retention of jobs:

(i) Evidence that in the absence of CDBG assistance jobs would be lost;

(ii) For each business assisted, a listing by job title of permanent jobs retained, indicating which of those jobs are part-time and (where it is known) which are held by low and moderate income persons at the time the CDBG assistance is provided. Where applicable, identification of any of the retained jobs (other than those known to be held by low and moderate income persons) which are projected to become available to low and moderate income persons through job turnover within two years of the time CDBG assistance is provided. Information upon which the job turnover projections were based shall also be included in the record;

fair housing choice in the recipient's community, and documentation of any other official actions the recipient has taken which demonstrate its support for fair housing, such as development of a fair housing analysis described in § 570.904(c).

(2) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

(3) Data on employment in each of the recipient's operating units funded in whole or in part with CDBG funds, with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap in operating units funded in whole or in part under this part.

(4) Data indicating the race and ethnicity of households (and gender of single heads of households) displaced as a result of CDBG funded activities, together with the address and census tract of the housing units to which each displaced household relocated. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

(5) Documentation of actions undertaken to meet the requirements of § 570.607(b) which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low and moderate income persons and the use of local businesses.

(6) Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with CDBG funds, data indicating which of those entities are women's business enterprises as defined in Executive Order 12138, the amount of the contract or subcontract, and documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment,

construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.

(7) Documentation of the affirmative action measures the recipient has taken to overcome prior discrimination, where the courts or HUD have found that the recipient has previously discriminated against persons on the ground of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds.

(h) Financial records, in accordance with the applicable requirements listed in § 570.502.

(i) Agreements and other records related to lump sum disbursements to private financial institutions for financing rehabilitation as prescribed in § 570.513; and

(j) Records required to be maintained in accordance with other applicable laws and regulations set forth in Subpart K of this part.

(Approved by the Office of Management and Budget under Control No. 2506-0077)

§ 570.507 Reports. EXHIBIT "G"

(a) Performance and evaluation report.

(1) Content. Each performance and evaluation report must contain completed copies of all forms and narratives prescribed by the Secretary, including a summary of the citizen comments received on the report, as prescribed in (a)(3) of this section.

(2) Timing.

(i) Entitlement grants. Each entitlement grant recipient shall submit a performance and evaluation report:

(A) No later than 90 days after the completion of the most recent program year showing the status of all activities as of the end of the program year;

(B) No later than October 31 each year showing housing assistance performance as of the end of the Federal fiscal year; and

(C) No later than 90 days after the criteria for grant closeout, as described in § 570.509(a), have been met.

(ii) HUD-administered small cities grants. Each small cities recipient shall submit a performance and evaluation report on each grant:

(A) No later than 12 months after the date of the grant award and annually thereafter on the date of the award until completion of the activities funded under the grant; and

(B) No later than 90 days after the criteria for grant closeout, as described in § 570.509(a), have been met. If HUD determines that the previous report adequately describes project results, HUD will notify the recipient that a final report is not necessary.

(3) Citizen comments on the report. Each recipient shall make copies of the performance and evaluation report available to its citizens in sufficient time to permit the citizens to comment on the report prior to its submission to HUD. Each recipient may determine the specific manner and times the report will be made available to citizens consistent with the preceding sentence.

(b) Equal employment opportunity reports. Recipients of entitlement grants or HUD-administered small cities grants shall submit to HUD each year a report (HUD/EEO-4) on recipient employment containing data as of June 30.

(c) Minority business enterprise reports. Recipients of entitlement grants, HUD-administered small cities grants or Urban Development Action Grants shall submit to HUD, by April 30, a report on contracts and subcontract activity during the first half of the fiscal year and by October 31 a report on such activity during the second half of the year.

(d) Other reports. Recipients may be required to submit such other reports and information as HUD determines are necessary to carry out its responsibilities under the Act or other applicable laws.

(Approved by the Office of Management and Budget under Control Nos. 2506-0077 for paragraph (a) and 2529-0008 for paragraph (b) and 2506-0066 for paragraph (c))

EXHIBIT "H"

7. Subpart K of Part 570 is revised to read as follows:

Subpart K -- Other Program Requirements.

Sec.

570.600 General.
570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; and Executive Order 11063.
570.602 Section 109 of the Act.
570.603 Labor standards.
570.604 Environmental standards.
570.605 National Flood Insurance Program.
570.606 Relocation, displacement and acquisition.
570.607 Employment and contracting opportunities.
570.608 Lead-based paint.
570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.
570.610 Uniform administrative requirements and cost principles.
570.611 Conflict of interest.
570.612 Executive Order 12372.

Subpart K -- Other Program Requirements.

$ 570.600 General.

(a) Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary, among other things, that the grant "will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284," and, further, that the grantee "will comply with the other provisions of this title and with other applicable laws." Section 104(e)(1) of the Act requires that the Secretary determine with respect to grants made pursuant to section 106(b) (Entitlement Grants) and 106(d)(2)(B) (HUD-administered Small Cities Grants), at least on an annual basis, among other things, "whether the grantee has carried out [its] certifications in compliance with the requirements and the primary objectives of this title and with other applicable laws...." Certain other statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or Executive Orders which may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental departments or agencies other than the Secretary or the Department. This Subpart K enumerates laws which the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to States made pursuant to section 106(d) of the

EXHIBIT "H"

Act, for purposes of the determinations described above to be made by the Secretary under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws which the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(e)(2) of the Act, see § 570.496.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (Subparts D and F, respectively), the requirements of this Subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (Subparts E and G, respectively), and to loans guaranteed pursuant to Subpart M.

§ 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary that the grant "will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284 and the grantee will affirmatively further fair housing." Similarly, section 107 provides that no grant may be made under that section (Secretary's Discretionary Fund) or section 119 (UDAG) without satisfactory assurances that the grantee's program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284.

(a) "Public Law 88-352" refers to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 of the Civil Rights Act of 1964 directs each Federal department and agency empowered to extend Federal financial assistance to any program or activity by way of grant to effectuate the foregoing prohibition by issuing rules, regulations, or orders of general applicability which

shall be consistent with achievement of the statute authorizing the financial assistance. HUD regulations implementing the requirements of Title VI with respect to HUD programs are contained in 24 CFR Part 1.

(b) "Public Law 90-284" refers to title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), popularly known as the Fair Housing Act, which provides that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, or national origin. Title VIII further requires the Secretary to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of Title VIII. Pursuant to this statutory direction, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of Title VIII; furthermore, section 104(b)(2) of the Act requires that each grantee receiving funds under section 106 of the Act (entitlement or small cities grantees) certify to the satisfaction of the Secretary that it will affirmatively further fair housing.

(c) Executive Order 11063, as amended by Executive Order 12259, directs the Department to take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government. HUD regulations implementing Executive Order 11063 are contained in 24 CFR Part 107.

§ 570.602 Section 109 of the Act.

(a) Section 109 of the Act requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. For purposes of this section "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient, or by any unit of government, subrecipient, or

private contractor receiving community development funds or loans from the recipient. "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants or proceeds from HUD guaranteed loans have been transferred by the recipient or a subrecipient to an identifiable administrative unit and disbursed in a program or activity. In subsection (b) of this section, "recipient" means recipient as defined in 24 CFR 1.2(f).

(b) Specific discriminatory actions prohibited and corrective actions.

(1) A recipient may not, under any program or activity to which the regulations of this part may apply, directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any individual any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form, from that provided to others under the program or activity.

(iii) Subject an individual to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.

(iv) Restrict an individual in any way in access to, or in the enjoyment of, any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an individual an opportunity to participate in a program or activity as an employee.

(2) A recipient may not use criteria or methods of administration which have the effect of subjecting persons to discrimination on the basis of race, color, national

origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to persons of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location which have the effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4)

(i) In administering a program or activity funded in whole or in part with CDBG funds regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin or sex, or if there is sufficient evidence to conclude that such discrimination existed, the recipient must take remedial affirmative action to overcome the effects of prior discrimination. The word "previously" does not exclude current discriminatory practices.

(ii) In the absence of discrimination, a recipient, in administering a program or activity funded in whole or in part with funds made available under this part, may take any nondiscriminatory affirmative action necessary to ensure that the program or activity is open to all without regard to race, color, national origin or sex.

(iii) After a finding of noncompliance or after a recipient has a firm basis to conclude that discrimination has occurred, a recipient shall not be prohibited by this section from taking any action eligible under Subpart C to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to remedy prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial

services can properly be performed only by a member of the same sex as the recipients of the services.

(c) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped person as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act. HUD regulations implementing the Age Discrimination Act are contained in 24 CFR Part 146 and the regulations implementing section 504 are contained in 24 CFR Part 8.

§ 570.603 Labor standards.

Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units. With respect to the labor standards specified in this section, the Secretary of Labor has the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 1332-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

§ 570.604 Environmental standards.

Section 104(g) expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary)...[be] most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purposes of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to section 104(g) of the Act and contained in 24 CFR Part 58. Section 104(g) also provides that, in lieu of the environmental protection procedures otherwise applicable, the Secretary may under regulations provide for the release of funds for particular projects to grantees who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, and the other provisions of law specified by the Secretary as described above, that would apply to the Secretary were he/she to

undertake such projects as Federal projects. Grantees assume such environmental review, decisionmaking, and action responsibilities by execution of grant agreements with the Secretary. The procedures for carrying out such environmental responsibilities are contained in 24 CFR Part 58.

§ 570.605 National Flood Insurance Program.

Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(a) of said Act (42 U.S.C. 400(a)), one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, for use in any area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipient's application (or, in the case of grants made under Subpart D, the date of submission of the grantee's final statement pursuant to § 570.302), funds provided under this part shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program in accordance with 44 CFR Parts 59-79, or less than a year has passed since FEMA notification to the community regarding such hazards; and flood insurance is obtained in accordance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

§ 570.606 Relocation, displacement and acquisition.

(a) Uniform Relocation Act.

(1) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C 4601) and HUD implementing regulations at 24 CFR Part 42 apply to the acquisition of real property by a State agency for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. The grantee's certification of compliance with the URA is required in the grant agreement.

(2) An acquisition and resulting displacement by a State agency is "for an assisted activity" if it occurs on or after the date of the initial submission of a final statement under 24 CFR 570.302(a)(2) (Entitlement Grants);

the initial submission of an application to HUD by a unit of general local government under §§ 570.426, 570.430, or 570.435(d) that is granted for the requested activity (HUD administered Small Cities Program); or the submission of an application to HUD by a city or urban county under § 570.458 that is granted for the requested activity (UDAG). However, an acquisition or displacement that occurs on or after the described date is not subject to the URA if the grantee determines that the acquisition or displacement was not carried out for an assisted activity, and the HUD Field Office concurs in that determination. An acquisition or displacement that occurs before the described date is subject to the URA, if the grantee or the HUD Field Office determines that the acquisition or displacement was carried out for the assisted activity. The grantee may, at any time, request a HUD determination whether an acquisition or displacement will be considered to be for an assisted activity and thus subject to these regulations. To be eligible for relocation assistance, however, a person must also meet the eligibility criteria in 24 CFR Part 42.

(6) Residential antidisplacement and relocation assistance plan. Under section 104(d) of the Act, each grantee must adopt, make public and certify that it is following a residential antidisplacement and relocation assistance plan providing one-for-one replacement units (paragraph (b)(1) of this section), and relocation assistance (paragraph (b)(2) of this section). The plan must also indicate the steps that will be taken consistent with other goals and objectives of this part to minimize the displacement of persons from their homes as a result of any activities assisted under this part.

(1) One-for-one replacement units.

(i) All occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of an activity assisted under this part must be replaced by governmental agencies or private developers with low/moderate-income dwelling units. Replacement low/moderate-income dwelling units may include public housing, or existing housing receiving Section 8 project-based assistance under the United States Housing Act of 1937. The replacement low/moderate-income dwelling units must be provided within three years of the commencement of the demolition or rehabilitation related to the conversion, and must meet the following requirements:

(A) The units must be located within the grantee's jurisdiction.

(B) The units must be sufficient in number and size to house at least the number of occupants that could have been housed in the units that are demolished or converted. The number of occupants that may be housed in units shall be determined in accordance with local housing occupancy codes.

(C) The units must be provided in standard condition. Replacement low/moderate-income dwelling units may include units that have been raised to standard from substandard condition.

(D) The units must be designed to remain low/moderate-income dwelling units for at least 10 years from the date of initial occupancy.

(ii) Before obligating or expending funds provided under this part for any activity that will directly result in the demolition of low/moderate-income dwelling units or the conversion of low/moderate-income dwelling units to another use, the grantee must make public, and submit the following information in writing to HUD:

(A) A description of the proposed assisted activity;

(B) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for low/moderate-income dwelling units as a direct result of the assisted activity;

(C) A time schedule for the commencement and completion of the demolition or conversion;

(D) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;

(E) The source of funding and a time schedule for the provision of replacement dwelling units;

(F) The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy.

(iii)

(A) The requirements of paragraph (b)(1) of this section do not apply if the HUD Field Office determines, based upon objective data, that there is an adequate supply of vacant low/moderate-income dwelling units

in standard condition available on a nondiscriminatory basis within the grantee's jurisdiction. In making this determination, the HUD Field Office will consider the housing vacancy rate for the jurisdiction, the number of vacant low/moderate-income dwelling units in the jurisdiction (excluding units that will be demolished or converted) and the number of eligible families on waiting lists for housing assisted under the United States Housing Act of 1937 in the jurisdiction.

(B) The HUD Field Office may consider the supply of vacant low/moderate-income dwelling units in standard condition available on a nondiscriminatory basis in an area that is larger than the grantee's jurisdiction. Such additional dwelling units shall be considered if the HUD Field Office determines that the units would be suitable to serve the needs of the low- and moderate income households that could be served by the low/moderate-income dwelling units that are to be demolished or converted to another use. The HUD Field Office must base this determination on geographic and demographic factors, such as location and access to places of employment and to other facilities.

(C) The grantee must submit a request for a determination under paragraph (b)(1)(iii) of this section, directly to the HUD Field Office.

(2) Relocation assistance.

(i) Each low- or moderate-income household that is displaced by demolition or by the conversion of a low/moderate income dwelling unit to another use as a direct result of an activity assisted under this part shall be provided with relocation assistance. The low- or moderate-income household may elect to receive relocation assistance described at 24 CFR Part 42 (HUD's regulations implementing the URA), or may elect to receive the following relocation assistance:

(A) The relocation assistance described at 24 CFR Part 42, Subpart C (General Relocation Requirements) and Subpart D (Payment for Moving and Related Expenses). Relocation notices must be issued consistent with, and in the manner prescribed under, 24 CFR 42.203. The definition of "comparable replacement dwelling" used in 24 CFR Part 42 is modified as described in paragraph (b)(3)(i) of this section. Displaced households provided with replacement housing assistance under paragraph

(b)(2)(i)(C) of this section, in the form of a certificate or housing voucher under Section 8 of the United States Housing Act of 1937, must be provided referrals to comparable replacement dwelling units whose owners are willing to participate in the housing voucher or certificate program. The grantee shall advise tenants of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such a manner that, whenever feasible, they will have a choice between relocating within their neighborhoods and other neighborhoods consistent with the grantee's responsibility to affirmatively further fair housing;

(B) The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and credit checks required to rent or purchase the replacement dwelling unit; and

(C) Replacement housing assistance. Households are eligible to receive one of the following forms of replacement housing assistance:

(1) Each household must be offered compensation designed to ensure that, for a five-year period, the displaced household will not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent. Such compensation shall be either:

(i) A certificate or housing voucher for rental assistance provided through the local Public Housing Agency under Section 8 of the United State Housing Act of 1937; or

(ii) Cash rental assistance equal to 60 times the amount that is obtained by subtracting 30 percent of the displaced household's monthly gross income (with such adjustments as the grantee may deem appropriate) from the lesser of: the monthly cost of rent and utilities at a comparable replacement dwelling unit or the monthly cost of rent and utilities at the decent, safe and sanitary replacement dwelling to which the household relocates. The grantee may provide the cash payment in either a lump sum or in installments. The grantee may at its discretion offer the household a choice between the certificate/housing voucher or cash rental assistance.

(2) If the household purchases an interest in a housing cooperative or mutual housing association and occupies a decent, safe and sanitary unit in the cooperative or association, the household may elect to receive a lump sum payment. This lump sum payment shall be equal to the capitalized value of 60 monthly installments of the amount that is obtained by subtracting 30 percent of the displaced household's monthly gross income (with such adjustments as the grantee may deem appropriate) from the monthly cost of rent and utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings deposits by a federally-insured bank or savings and loan institution conducting business within the grantee's jurisdiction. To the extent necessary to minimize hardship to the household, the grantee shall, subject to appropriate safeguards, issue a payment in advance of the purchase of the interest in the housing cooperative or mutual housing association.

(ii) Eligibility for relocation assistance.

(A) A low- or moderate-income household that is required to move as a direct result of demolition or conversion of a low/moderate income dwelling unit to another use, is eligible for relocation assistance under paragraph (b)(2) of this section if:

(1) The household is required to move from the dwelling unit on or after the date that the owner submits a request to the grantee for financial assistance that is later approved for the requested activity. (This applies to dwelling units owned by a person other than a Federal or State agency, as defined under the URA).

(2) The household is required to move from the dwelling unit on or after the date of the initial submission of a final statement under 24 CFR 570.302(a)(2) (Entitlement Grants); the initial submission of an application to HUD by a unit of general local government under §§ 570.426, 570.430, or 570.435(d) that is granted for the requested activity (HUD administered Small Cities Program); or the submission of an application to HUD by a city or urban county under § 570.458 that is granted for

the requested activity (UDAG). (This applies to dwelling units owned by a Federal or State agency as defined under the URA.)

(B) If the displacement occurs on or after the appropriate date described in paragraph (b)(2)(ii)(A) of this section, the low- or moderate-income household is not eligible for relocation assistance if:

(1) The household is evicted for cause;

(2) The household moved into the property on or after the date described in paragraph (b)(2)(ii)(A) of this section, after receiving written notice of the expected displacement; or

(3) The grantee determines that the displacement was not a direct result of the assisted activity, and the HUD office concurs in that determination.

(C) If the displacement occurs before the appropriate date described in paragraph (b)(2)(ii)(A) of this section, the low- or moderate-income household is eligible for relocation assistance if the grantee or HUD determines that the displacement was a direct result of an activity assisted under this part.

(3) Definitions. For the purposes of paragraph (b) of this section:

(i) "Comparable replacement dwelling unit" means a dwelling unit that:

(A) Meets the criteria of 24 CFR 42.2(c)(1) through (4); and

(B) Is available at a monthly cost for rent plus estimated average monthly utility costs that does not exceed 30 percent of the household's average gross monthly income (with such adjustments to income as the grantee may deem appropriate) after taking into account any rental assistance the household would receive. Where a certificate or housing voucher is provided to a household under paragraph (b)(2)(i)(C)(1)(i) of this section, the dwelling unit must be available to the household at a monthly cost for rent and estimated average monthly utility cost that does not exceed the Fair Market Rent or the payment standard, respectively.

(ii) "Decent, safe and sanitary dwelling" means a decent, safe and sanitary dwelling as defined in 24 CFR 42.2(e).

(iii) "Low/moderate income dwelling unit" means a dwelling unit with a market rental (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing and moderate rehabilitation established under 24 CFR Part 888.

(iv) "Occupiable dwelling unit" means a dwelling unit that is in a standard condition, or is in a substandard condition, but is suitable for rehabilitation.

(v) "Standard condition" and "substandard condition suitable for rehabilitation." If the grantee has a HUD-approved Housing Assistance Plan, the definitions of "standard condition" and "substandard condition suitable for rehabilitation" established in the plan will apply. If the grantee does not have a HUD-approved Housing Assistance Plan, the grantee must establish and make public its definition of these terms consistent with the requirements of § 570.306(e)(1).

(4) Effective date. For all grants except those made under Subpart D of this part (Entitlement Grants), the provisions of this paragraph (b) are applicable to grants made on or after October 1, 1988. For grants made under Subpart D, these provisions will govern all activities for which funds are first obligated by the grantee on or after the date the first grant is made after September 30, 1988, without regard to the source year of the funds used for the activity.

(c) Section 104(k) relocation requirements. Section 104(k) of the Act requires that reasonable relocation assistance be provided to persons (families, individuals, businesses, nonprofit organizations, or farms) displaced (i.e., moved permanently and involuntarily) as a result of the use of assistance received under this part to acquire or substantially rehabilitate property. If such displacement is subject to paragraph (a) or (b) of this section, above, this paragraph does not apply. The grantee must develop, adopt and provide to persons to be displaced a written notice of the relocation assistance for which they are eligible. The minimum requirements for such assistance under the UDAG Program are described at § 570.457(b). Under CDBG programs, persons entitled to assistance under this paragraph must be provided relocation assistance, including at a minimum:

(1) Reasonable moving expenses;

(2) Advisory services needed to help in relocating. The grantee shall advise tenants of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such a manner that, whenever feasible, they will have a choice between relocating within their neighborhoods and other neighborhoods consistent with the grantee's responsibility to affirmatively further fair housing; and

(3) Financial assistance sufficient to enable any person displaced from his or her dwelling to lease and occupy a suitable, decent, safe and sanitary replacement dwelling where the cost of rent and utilities does not exceed 30 percent of the household's gross income.

(d) Optional relocation assistance. Under section 105(a)(11) of the Act, the grantee may provide relocation payments and other relocation assistance for individuals, families, businesses, nonprofit organizations and farms displaced by an activity not subject to paragraphs (a), (b) or (c) of this section. The grantee may also provide relocation assistance to persons covered under paragraphs (a), (b) or (c) of this section beyond that required. Unless such assistance is provided pursuant to State or local law, the grantee must provide the assistance only upon the basis of a written determination that the assistance is appropriate and must adopt a written policy available to the public that describes the relocation assistance that the grantee has elected to provide and that provides for equal relocation assistance within each class of displacees.

(e) Appeals. If a person disagrees with the grantee's determination concerning the person's eligibility for, or the amount of a relocation payment under this section, the person may file a written appeal of that determination with the grantee. The appeal procedures to be followed are described in 24 CFR 42.10. A low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee decision, to the HUD Field Office.

(f) Responsibility of grantee.

(1) The grantee is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this part.

(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.

(3) The grantee must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.

(g) Displacement. For the purposes of this section, a "displaced person" is a person that is required to move permanently and involuntarily and includes a residential tenant who moves from the real property if:

(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building or in a nearby building on the real property following the completion of the assisted activity at a monthly rent and estimated average cost for utilities that does not exceed the greater of

(i) 30 percent of the tenant household's average monthly gross income; or

(ii) The tenant's monthly rent and average cost for utilities before

(A) The date that the owner submits a request to the grantee for financial assistance that is later approved for the requested activity. (This applies to dwelling units owned by a person other than a Federal or State agency, as defined under the URA); or

(B) The date of the initial submission of a final statement under § 570.302(a)(2)(Entitlement Grants); the initial submission of an application to HUD by a unit of general local government under § 570.426, 570.430, or 570.435(d) that is granted for the requested activity (HUD administered Small Cities Program); or the submission of an application to HUD by a city or urban county under § 570.458 that is granted for the requested activity (UDAG). (This applies to dwelling units owned by a Federal or State agency as defined under the URA); or

(2) The tenant is required to move to another dwelling in the real property but is not reimbursed for all actual reasonable out-of-pocket costs incurred in connection with the move; or

(3) The tenant is required to relocate temporarily and:

(i) Is not reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving costs and any increased rent and utility costs; or

(ii) Other conditions of the temporary relocation are not reasonable.

§ 570.607 Employment and contracting opportunities.

(a) Grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on Federal or federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) requires, in connection with the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible opportunities for training and employment be given to low and moderate income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county) as determined by the Secretary, in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project. Grantees shall adopt appropriate procedures and requirements to assure good faith efforts toward compliance with the statutory directive. HUD regulations at 24 CFR Part 135 are not applicable to activities assisted under this part but may be referred to as guidance indicative of the Secretary's view of the statutory objectives in other contexts.

§ 570.608 Lead-based paint.

(a) Prohibition against the use of lead-based paint. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures constructed or rehabilitated with assistance provided under this part.

(b) Notification of hazards of lead-based paint poisoning.

(1) The Secretary has promulgated requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1978 of the hazards of lead-based paint poisoning at 24 CFR Part 35, Subpart A. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.5(c) and supersedes, with respect to all housing to which it applies, the notification requirements prescribed by Subpart A of 24 CFR Part 35.

(2) For properties constructed prior to 1978, applicants for rehabilitaion assistance provided under this part and tenants or purchasers of properties owned by the grantee or its subrecipient and acquired or rehabilitated with assistance provided under this part shall be notified:

(i) That the property may contain lead-based paint;

(ii) of the hazards of lead-based paint;

(iii) of the symptoms and treatment of lead-based poisoning;

(iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance amd removal techniques for eliminating such hazards);

(v) of the advisability and availability of blood lead level screening for children under seven years of age; and

(vi) that in the event lead-based paint is found on the property, appropriate abatement procedures may be undertaken.

(c) Elimination of lead-based paint hazards. The purpose of this paragraph is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards due to the presence of paint which may contain lead and to which children under seven years of age may be exposed in existing housing which is rehabilitated with assistance provided under this part. The Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35.

(1) Applicability. This paragraph applies to the rehabilitation of applicable surfaces in existing housing which is assisted under this part. The following activities assisted under the Community Development Block Grant program are not covered by this paragraph:

(i) Emergency repairs (not including lead-based paint-related emergency repairs);

(ii) weatherization;

(iii) water or sewer hook-ups;

(iv) installation of security devices;

(v) facilitation of tax exempt bond issuances which provide funds for rehabilitation;

(vi) other similar types of single-purpose programs that do not include physical repairs or remodeling of applicable surfaces (as defined in 24 CFR 35.22) of residential structures; and

(vii) any non-single purpose rehabilitation that does not involve applicable surfaces (as defined in 24 CFR 35.22) that does not exceed $3,000 per unit.

(2) Definitions. - Applicable surface. All intact and nonintact interior and exterior painted surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint surface. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm^2.

(3) Inspection and Testing

(i) Defective paint surfaces. The grantee shall inspect for defective paint surfaces in all units constructed prior to 1978 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.

(ii) Chewable surfaces. The grantee shall be required to test the lead content of chewable surfaces if the family residing in a unit, constructed prior to 1978 and receiving rehabilitation assistance, includes a child under seven years of age with an identified EBL condition. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm^2 or higher using an XRF shall be considered positive for presence of lead-based paint.

(iii) Abatement without testing. In lieu of the procedures set forth in paragraph (c)(3)(ii) of this section, in the case of a residential structure constructed prior to 1978, the grantee may forgo testing and abate all applicable surfaces in accordance with the methods set out in 24 CFR 35.24(b)(2)(ii).

(4) Abatement Actions.

(i) For inspections performed under § 570.608(c)(3)(i) and where defective paint surfaces are found, treatment shall be provided to defective areas. Treatment shall be performed before final inspection and approval of the work.

(ii) For testing performed under § 570.608(c)(3)(ii) and where interior chewable surfaces are found to contain lead-based paint, all interior chewable surfaces in any affected room shall be treated. Where exterior chewable surfaces are found to contain lead-based paint, the entire exterior chewable surface shall be treated. Treatment shall be performed before final inspection and approval of the work.

(iii) When weather prohibits repainting exterior surfaces before final inspection, the grantee may permit the owner to abate the defective paint or chewable lead-based paint as required by this section and agree to repaint by a specified date. A separate inspection is required.

(5) Abatement methods. At a minimum, treatment of the defective areas and chewable lead-based paint surfaces shall consist of covering or removal of the painted surface as described in 24 CFR 35.24(b)(2)(ii).

(6) Funding for inspection, testing and abatement. Program requirements and local program design will determine whether the cost of inspection, testing or abatement is to be borne by the owner/developer, the grantee or a combination of the owner/developer and the grantee.

(7) Tenant protection. The owner/developer shall take appropriate action to protect tenants from hazards associated with abatement procedures. Where necessary, these actions may include the temporary relocation of tenants during the abatement process. The owner/developer shall notify the grantee of all such actions taken.

(8) Records. The grantee shall keep a copy of each inspection and/or test report for at least three years.

(9) Monitoring and enforcement. HUD field office monitoring of rehabilitation programs includes reviews for compliance with applicable program requirements for lead-based paint. The CPD Field Monitoring Handbook which currently includes instructions for monitoring lead-based paint requirements will be amended as appropriate. In cases of noncompliance, HUD may impose conditions or sanctions on grantees to encourage prompt compliance.

(10) Compliance with other program requirements, Federal, State and local laws.

(i) Other program requirements. To the extent that assistance from any of the programs covered by this section is used in conjunction with other HUD program assistance which have lead-based paint requirements which may have more or less stringent requirements, the more stringent requirements will prevail.

(ii) HUD responsibility. If HUD determines that a State or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a level of protection from the hazards of lead-based paint poisoning at least comparable to that provided by the requirements of this section and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requfirements of this section in such manner as may be appropfiate to promote efficiency while ensuring such comparable level of protection.

(iii) Grantee responsibility. Nothing in this section is intended to relieve any grantee in the programs covered by this section of any responsibility for compliance with State or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement.

(iv) Disposal of lead-based paint debris. Lead-basd paint and defective paint debris shall be disposed of in accordance with applicable Federal, State or local requirements. (See, e.g., 40 CFR Parts 260 through 271.)

§ 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.

Assistance under this part shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

§ 570.610 Uniform administrative requirements and cost principles.

The recipient, its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 24 CFR Part 85 and OMB Circulars A-87, A-110, A-122, and A-128 (implemented at 24 CFR Part 44), as applicable, as they relate to the acceptance and use of Federal funds under this part. The applicable sections of 24 CFR Part 85 and OMB Circular A-110 are set forth at § 570.502.

§ 570.611 Conflict of interest.

(a) Applicability.

(1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at § 570.204(c)), the conflict of interest provisions in 24 CFR 85.36 and OMB Circular A-110, respectively, shall apply.

(2) In all cases not governed by 24 CFR 85.36 and OMB Circular A-110, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient, by its subrecipients, or to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation,

preservation, and other improvements of private properties or facilities pursuant to § 570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to § 570.203, § 570.204 or § 570.455).

(b) Conflicts prohibited. Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a CDBG assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or subrecipients which are receiving funds under this part.

(d) Exceptions: threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this

section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 570.612 Executive Order 12372.

(a) General. Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR Part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.

(b) Applicability. Executive Order 12372 applies to the CDBG Entitlement program and the UDAG program. The Executive Order applies to all activities proposed to be assisted under UDAG, but it applies to the Entitlement program only where a grantee proposes to use funds for the planning or construction (reconstruction or installation) of water or sewer facilities. Such facilities include storm sewers as well as all sanitary sewers, but do not include water and sewer lines connecting a structure to the lines in the public right-of-way or easement. It is the responsibility of the grantee to initiate the Executive Order review process if it proposes to use its CDBG or UDAG funds for activities subject to review.

SUBRECIPIENT AGREEMENT

THIS AGREEMENT, entered into this 5th day of September 19 89, between the Town of Cheektowaga, a municipal corporation of the State of New York, with principal offices located at Broadway & Union Roads, Cheektowaga, New York, 14227, (hereinafter referred to as the "Town"), and the Village of Sloan, a municipal corporation of the State of New York, located at 425 Reiman St., Sloan, NY 14212, (hereinafter referred to as the "Subrecipient").

W I T N E S S E T H

WHEREAS, the parties hereto have entered into a cooperation agreement for the purpose of undertaking or assisting in undertaking essential community development and housing assistance activities and publicly assisted housing under the Housing and Community Development Act of 1974 as amended (hereinafter referred to as the "Act"); and

WHEREAS, the Town has received grant funds from the Department of Housing and Urban Development (hereinafter referred to as "HUD") for the purposes of the Act; and

WHEREAS, the Town desires to enter into an agreement with the Subrecipient for the purpose of undertaking eligible activities under the act:

NOW, THEREFORE,

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO, as follows:

1. DEFINITIONS

A. "Town" shall mean the Town of Cheektowaga.

B. "Subrecipient" shall mean the Village of Sloan.

C. "HUD" shall mean the United States Department of Housing and Urban Development.

D. "Act" shall mean the Housing and Community Development Act of 1974, and as amended.

E. "Federal Government" shall mean the Government of the United States and all departments thereof heretofore or hereinafter created, including "HUD".

F. "Project" shall mean the approved work described in Exhibit "A" to be performed by the Subrecipient under the terms of the Housing and Community Development Act of 1974 as amended, all implementing present and future federal government regulations, and this contract.

2. EXHIBITS INCORPORATED.

The following exhibits are attached to this Agreement and made a part hereof.

A. Exhibit "A" - Project Description and Budget

B. Exhibit "B" - Applicability of Uniform Administrative Requirements.

C. Exhibit "C" - Eligible Community Development Block Grant Activities

D. Exhibit "D" - Use of Real Property

E. Exhibit "E" - Program Income

F. Exhibit "F" - Records to be Maintained

G. Exhibit "G" - Reports to be Maintained

H. Exhibit "H" - Subpart K - Other Program Requirements

affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly interested or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

8. The Subrecipient covenants that it presently has no interest and shall not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having any such interest shall be employed.

9. No members of or Delegates to the Congress of the United States of America, and no Resident Commissioner, shall be admitted to any share or part thereof or to any benefit to arise herefrom.

10. At any time during normal business hours and as often as the Town may deem necessary, there shall be made available to the Town for examination all of subrecipient's records with respect to all matters covered by this Agreement and the Subrecipient will permit the Town to audit, examine and make excerpts of transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel conditions of employment and other data relating to all matters covered by this Agreement. The Subrecipient shall commission an audit of the CDBG award to be performed either on an annual or fiscal year basis as is appropriate.

11. The Subrecipient agrees that in the event it contracts with private contractors for any project or part of the project undertaken pursuant to this Agreement, it will observe the Laws of New York and Federal Government requirements as found in 24 CFR 85 regarding bidding requirements and the letting of private contracts (procurement).

12. The Subrecipient agrees to abide by all present and future applicable New York State and Federal Government requirements in performing the project described in Exhibit "A" attached hereto and made a part hereof. Federal Labor Standards and

Prevailing Wage Rates are to be observed as required.

13. This Agreement shall be valid only to the extent that the Federal Government appropriates monies for the project under the Act.

14. Reports and Records: The Subrecipient will maintain and submit the specific records and reports, as applicable and required by the Town, outlined in Exhibits "F" and "G" of this Agreement in order to assist the Town in its record-keeping requirements and in meeting reporting requirements.

15. Program income received by the Subrecipient shall be returned to the Town.

16. Upon expiration of the Agreement the Subrecipient shall transfer to the recipient any C.D.B.G. funds on-hand at the time of expiration and any accounts receivable attributable to the use of C.D.B.G. funds. Any property acquired or improved by the sub-recipient, in whole or in part with C.D.B.G. funds in excess of $ 25,000 will be used to meet one of the national objectives in 24 CFR 570.208 (Exhibit "C") until five years after expiration of the Agreement or will be disposed of in a manner consistent with Exhibit "D", Use of Real Property.

17. The Subrecipient will not assign any interest in this Agreement without the prior written consent of the Town.

18. This Agreement may be amended only by written instruments executed by the parties to this Agreement except that Exhibit "A" may be amended to add, delete and/or modify projects and project budgets within the amount of funding allocated for the Subrecipient's projects by notification in writing to the Town accompanied by a copy of a resolution approved by the Village Board at a duly called meeting authorizing such amendments, deletions and/or modifications. Such amendment shall be in conformance with applicable federal requirements including those found at 24 CFR 570.305.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

By: _____
Frank E. Swiatek, Supervisor
Town of Cheektowaga

By: _____, Mayor
Village of Sloan

MUNICIPAL CORPORATION ACKNOWLEDGEMENT

STATE OF NEW YORK
COUNTY OF ERIE

On the 8th day of September 1989, before me personally came Frank E. Swiatek, to me known, who being by me duly sworn, did depose and say that he/she resides in the Town of Cheektowaga; that he/she is the Supervisor of the Town of Cheektowaga and that he executed the foregoing instrument for and on behalf of the Town of Cheektowaga by virtue of the authority in him vested as Supervisor.

Valerie A. Meyers

VALERIE A. MEYERS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES ARPIL 11, 1990

STATE OF NEW YORK
COUNTY OF ERIE

On the 12th day of September, 1989, before me personally came Adeline Sicignano, to me known, who being by me duly sworn, did depose and say that he/she resides in Village of Sloan; that he/she is the Mayor of the Village of Sloan, and that he/she executed the foregoing instrument for and on behalf of Village of Sloan by virtue of the authority in him/her vested as Mayor.

Rosaline Pilarski 4699807

ROSALINE PILARSKI
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 30, 1991

EXHIBIT "A"

Project Description/Budget

Village of Sloan

A.) Capital Projects

1.) $37,929.00 - Sidewalks
Replacement/repair of sidewalks on eligible streets and locations.

2.) $23,500 - Demolition
Demolition of dilapidated, hazardous structures.

3.) $52,629.00 - Site Preparation
Site preparation activities for site targeted for elderly housing/economic development.

4.) $7,000 - Senior Community Center Safety Improvements
Funding for necessary safety improvements to Senior Community Center, including replacement and enclosure of fire-escape and installation of new doors.

B.) Planning

1.) $696.00 - Census Data Verification Study
Study to be performed by Erie & Niagara Counties Regional Planning Board to verify 1990 census data.

C.) Housing Rehabilitation

1.) $17,788.44 - Housing Rehabilitation Program
The program will be carried out by the Town on eligible properties located in the Village.

§ 570.502 Applicability of uniform administrative requirements "Exhibit B"

(a) Recipients, and subrecipients which are governmental entities (including public agencies), shall comply with the requirements and standards of OMB Circular No. A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments," OMB Circular A-128, "Audits of State and Local Governments" (implemented at 24 CFR Part 44) and with the following sections of 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments":

(1) Section 85.3, "Definitions";

(2) Section 85.6, "Exceptions";

(3) Section 85.12, Special grant or subgrant conditions for "high-risks" grantees";

(4) Section 85.20, "Standards for financial management systems," except paragraph (a);

(5) Section 85.21, "Payment," except as modified by §570.513;

(6) Section 85.22, "Allowable costs";

(7) Section 85.26, "Non-federal audits"

(8) Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds shall be program income;

(9) Section 85.33, "Supplies";

(10) Section 85.34, "Copyrights";

(11) Section 85.35, "Subawards to debarred and suspended parties";

(12) Section 85.36, "Procurement," except paragraph (a);

(13) Section 85.37, "Subgrants";

(14) Section 85.40, "Monitoring and reporting program performance," except paragraphs (b) - (d) and (f);

(15) Section 85.41, "Financial reporting," except paragraphs (a),(b), and (e);

(16) Section 85.42, "Retention and access requirements for records";

(17) Section 85.43, "Enforcement";

(18) Section 85.44, "Termination for convenience";

(19) Section 85.51, "Later disallowances and adjustments"; and

(20) Section 85.52, "Collection of amounts due."

(b) Subrecipients, except subrecipients which are governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for NonProfit Organizations" or OMB Circular No. A-21, "Cost Principles for Educational Institutions," as applicable, and the following Attachments to OMB Circular No. A-110:

(1) Attachment A, "Cash Depositories," except for paragraph 4 concerning deposit insurance;

(2) Attachment B, "Bonding and Insurance";

(3) Attachment C, "Retention and Custodial Requirements for Records," except that in lieu of the provisions in

paragraph 4, the retention period for records pertaining to individual CDBG activities starts from the date of submission of the annual performance and evaluation report, as prescribed in § 570.507, in which the specific activity is reported on for the final time;

(4) Attachment F, "Standards for Financial Management Systems";

(5) Attachment H, "Monitoring and Reporting Program Performance," paragraph 2;

(6) Attachment N, "Property Management Standards," except for paragraph 3 concerning the standards for real property and except that paragraphs 6 and 7 are modified so that in all cases in which personal property is sold, the proceeds shall be program income and that personal property not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient; and

(7) Attachment O, "Procurement Standards."

EXHIBIT "C"

3. Subpart C of Part 570 is revised to read as follows:

Subpart C -- Eligible Activities.

Sec.
570.200 General policies.
570.201 Basic eligible activities.
570.202 Eligible rehabilitation and preservation activities.
570.203 Special economic development activities.
570.204 Special activities by subrecipients.
570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.
570.206 Program administrative costs.
570.207 Ineligible activities.
570.208 Criteria for national objectives.

Subpart C -- Eligible Activities.

§ 570.200 General policies.

(a) Determination of eligibility. An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(1) Compliance with section 105 of the Act. Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this subpart.

(2) Compliance with national objectives. Grant recipients under the Entitlement and HUD-administered Small Cities programs must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement and HUD-administered Small Cities programs must ensure, and maintain evidence, that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are contained at § 570.208.

(3) Compliance with the primary objective. The Act establishes as its primary objective the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this objective, Entitlement and HUD-administered Small Cities recipients must ensure that, over a period of time specified in their certification not to exceed three years, not less than 60 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) for benefiting low and moderate income persons. In determining the percentage of funds expended for such activities:

(i) Cost of administration and planning elibible under § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation;

(ii) Funds deducted by HUD for repayment of urban renewal temporary loans pursuant to § 570.802(b) shall be excluded;

(iii) Funds expended for the repayment of loans guaranteed under the provisions of Subpart M shall also be excluded;

(iv) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under § 570.208(a)(3) shall be counted for this purpose but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons.

(v) Funds expended for any other activities qualifying under § 570.208(a) shall be counted for this purpose in their entirety.

(4) Compliance with environmental review procedures. The environmental review procedures set forth at 24 CFR Part 58 must be completed for each activity (or project as defined in 24 CFR Part 58), as applicable.

(5) Cost principles. Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with the requirements of OMB Circulars A-87, "Cost Principles Applicable to Grants and Contracts with State and Local

estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

(2) Special assessments to recover capital costs. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. Such assessments constitute program income.

(ii) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(3) Public improvements not initially assisted with CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this part including environmental, citizen participation and Davis-Bacon requirements;

(ii) The installation of the public improvement meets a criterion for national objectives in § 570.208(a)(1), (b), or (c); and

(iii) The requirements of § 570.200(c)(2)(ii) are met.

(d) Consultant activities. Consulting services are eligible for assistance under this part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating

Governments," A-122, "Cost Principles for Non-profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. All items of cost listed in Attachment B of these Circulars which require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such circulars and are otherwise eligible under this subpart. However, pre-agreement costs are limited to those costs described at § 570.200(h).

(b) Special policies governing facilities. The following special policies apply to:

(1) Facilities containing both eligible and ineligible uses. A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) Fees for use of facilities. Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities, are not permitted.

(c) Special assessments under the CDBG program. The following policies relate to special assessments under the CDBG program:

(1) Definition of special assessment. The term "special assessment" means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real

to program execution. The use of consultants is governed by the following:

(1) Employer-employee type of relationship. No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the maximum daily rate of compensation for a GS-18 as established by Federal law. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) Independent contractor relationship. Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR 85.36 and are not subject to the GS-18 limitation.

(e) Recipient determinations required as a condition of eligibility. In several instances under this subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written determination is required for any activity carried out under the authority of §§ 570.201(f), 570.202(b)(3), 570.203(b), 570.204, and 570.206(f). A written determination is also required for certain relocation costs under § 570.201(i).

(f) Means of carrying out eligible activities.

(1) Activities eligible under this subpart, other than those authorized under § 570.204(a), may be undertaken, subject to local law:

(i) By the recipient through:

(A) Its employees, or

(B) Procurement contracts governed by the requirements of 24 CFR 85.36; or

(ii) Through agreements with subrecipients, as defined at § 570.500(c); or

(iii) By one or more public agencies, including existing local public agencies, that are designated by the chief executive officer of the recipient.

(2) Activities made eligible under § 570.204(a) may only be undertaken by subrecipients specified in that section.

(g) Limitation on planning and administrative costs. No more than 20 percent of the sum of any grant plus program income received during the program year (or the grant period for grants under Subpart F) shall be expended for planning and program administrative costs, as defined in §§ 570.205 and 570.206 respectively. Recipients of entitlement grants under Subpart D will be considered to be in conformance with this limitation if expenditures for planning and administration during the most recently completed program year did not exceed 20 percent of the sum of the entitlement grant made for that program year and the program income received during that program year.

(h) Reimbursement for pre-agreement costs. Prior to the effective date of the grant agreement, a recipient may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building purposes authorized by § 570.205(b), for engineering and design costs associated with an activity eligible under § 570.201 through § 570.204, for the provision of information and other resources to residents pursuant to § 570.206(b), for relocation activities carried out pursuant to § 570.606, and for costs of complying with procedural requirements for acquisition under § 570.606 but not for the cost of the real property itself. After the effective date of the grant agreement, the recipient may be reimbursed with funds from its grant to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this part and 24 CFR Part 58.

(i) Urban Development Action Grant. Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of Subpart G, for:

(1) Activities eligible for assistance under this subpart; and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(j) Constitutional prohibition. In accordance with First Amendment Church/State Principles, as a general rule, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of CDBG funds.

(1) CDBG funds may not be used for the acquisition of property or the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures to be used for religious purposes or which will

otherwise promote religious interests. This limitation includes the acquisition of property for ownership by primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities (except as permitted under paragraph (j)(2) of this section with respect to rehabilitation and under paragraph (j)(4) of this section with respect to repairs undertaken in connection with public services) regardless of the use to be made of the property or structure. Property owned by primarily religious entities may be acquired with CDBG funds at no more than fair market value for a non-religious use.

(2) CDBG funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose under the following conditions:

(i) The building (or portion thereof) that is to be improved with the CDBG assistance has been leased to an existing or newly established wholly secular entity (which may be an entity established by the religious entity);

(ii) The CDBG assistance is provided to the lessee (and not the lessor) to make the improvements;

(iii) The leased premises will be used exclusively for secular purposes available to persons regardless of religion;

(iv) The lease payments do not exceed the fair market rent of the premises as they were before the improvements are made;

(v) The portion of the cost of any improvements that also serve a non-leased part of the building will be allocated to and paid for by the lessor;

(vi) The lessor enters into a binding agreement that unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements;

(vii) The lessee must remit the amount received from the lessor under subparagraph (2)(vi) of this section to the recipient or subrecipient from which the CDBG funds were derived.

The lessee can also enter into a management contract authorizing the lessor religious entity to use the building for its intended secular purpose, e.g., homeless shelter, provision of public services. In such case, the religious entity must agree in the management contract to carry out the secular purpose in a manner free from religious influences in accordance with the principles set forth in paragraph (j)(3) of this section.

(3) As a general rule, CDBG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement with the recipient or subrecipient from which the CDBG funds are derived that, in connection with the provision of such services:

(i) it will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) it will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(iii) it will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;

(iv) the portion of a facility used to provide the public services shall contain no religious symbols or decorations, other than those permanently affixed to or part of the structure.

(4) Where the public services provided under paragraph (j)(3) of this section are carried out on property owned by the primarily religious entity, CDBG funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the CDBG expenditure for the public services.

§ 570.201 Basic eligible activities.

CDBG funds may be used for the following activities:

(a) Acquisition. Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by

purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207.

Disposition. Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.504.

Public facilities and improvements. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals; nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § 570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b).

Clearance activities. Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.

Public services. Provision of public services (including labor, supplies, and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment,

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) Payment of non-Federal share. Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) Urban renewal completion. Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) Relocation. Relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where assistance is:

(1) Required under the provisions of § 570.606(a), (b) or (c); or

(2) Determined by the recipient to be appropriate under the provisions of § 570.606(d).

(j) Loss of rental income. Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) Removal of architectural barriers. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements.

crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs. In order to be eligible for CDBG assistance, public services must meet each of the following criteria:

(1) A public service must be either a new service, or a quantifiable increase in the level of a service above that which has been provided by or in behalf of the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) in the twelve calendar months prior to the submission of the statement. (An exception to this requirement may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the unit of general local government.)

(2) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant except as provided in paragraph (3) below. For entitlement grants under Subpart D, compliance is based on the amount of CDBG funds obligated for public service activities in each program year compared to 15 percent of the entitlement grant made for that program year.

(3) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding any assistance received pursuant to Public Law 98-8), may obligate more CDBG funds than 15 percent of its grant for public services so long as the amount obligated in any program year does not exceed the percentage or amount obligated in Federal fiscal year 1982 or 1983, whichever method of calculation yields the higher amount.

(f) Interim assistance.

(1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(l) Privately owned utilities. CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) Construction of housing. CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

§ 570.202 Eligible rehabilitation and preservation activities.

(a) Types of buildings and improvements eligible for rehabilitation assistance. CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvements to the exterior of the building and the correction of code violations (further improvements to such buildings may be undertaken pursuant to §570.203(b)); and

(4) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

(b) Types of assistance. CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures,

installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.605.

(iv) Procedures concerning inspection and testing for and abatement of lead-based paint, pursuant to § 570.608.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or

under section 17 of the United States Housing Act of 1937; and

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937.

(c) Code enforcement. Code enforcement in deteriorating or deteriorated areas where such enforcement together with public improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of the area.

(d) Historic preservation. CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) Renovation of closed buildings. CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

§ 570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart which may be carried out as part of an economic development project. Special activities authorized under this section do not include assistance for the construction of new housing. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is necessary or appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a). In order to ensure that any such assistance does not unduly enrich the for-profit business, the recipient shall conduct an

association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out. A neighborhood is defined as:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation;

(ii) The entire jurisdiction of a unit of general local government which is under 25,000 population; or

(iii) A neighborhood, village, or similar geographical designation in a New Community as defined in § 570.403(a)(1).

(2) Section 301(d) Small Business Investment Companies. A Section 301(d) Small Business Investment Company is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making.

(3) Local development corporations. A local development corporation is:

(i) An entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community partnership Act of 1974 (42 U.S.C. 2981) or the

Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.);

(ii) An entity eligible for assistance under section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 696);

(iii) Other entities incorporated under State or local law whose membership is representative of the area of operation of the entity (including nonresident owners of businesses in the area) and which are similar in purpose, function, and scope to those specified in (i) or (ii) above; or

(iv) A State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695).

analysis to determine that the amount of any financial assistance to be provided is not excessive, taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived from the economic development project. The recipient shall document the analysis as well as any factors it considered in making its determination that the assistance is necessary or appropriate to carry out the project. The requirement for making such a determination applies whether the business is to receive assistance from the recipient or through a subrecipient.

§ 570.204 Special activities by certain subrecipients.

(a) Eligible activities. The recipient may provide CDBG funds (e.g., grant or loan) to any of the three types of subrecipients specified in paragraph (c) of this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. Such a project may include activities listed as eligible under this subpart, and activities not otherwise listed as eligible under this subpart, except those described as ineligible in § 570.207(a), when the recipient determines that such activities are necessary or appropriate to achieve its community development objectives. Notwithstanding that such subrecipients may carry out activities as part of such project that are not otherwise eligible under this subpart, this provision does not authorize:

(1) provision of public services that do not meet the requirements of § 570.201(e)(1) and (2);

(2) provision of assistance to a for-profit business that does not comply with the requirements of § 570.203(b); or

(3) carrying out activities that would otherwise be eligible under §§ 570.205 or 570.206 but that would result in the recipient exceeding the limitation in § 570.200(g).

(b) Recipient responsibilities. Recipients are responsible for ensuring that CDBG funds are used by the subrecipients in a manner consistent with the requirements of this part and other applicable Federal, State, or local law. Recipients are also responsible for carrying out the environmental review and clearance responsibilities.

(c) Eligible subrecipients. The following are subrecipients authorized to receive assistance under this section.

(1) Neighborhood-based nonprofit organizations. A neighborhood-based nonprofit organization is an

§ 570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

(1) Comprehensive plans;

(2) Community development plans;

(3) Functional plans, in areas such as:

(i) Housing, including the development of a housing assistance plan;

(ii) Land use and urban environmental design;

(iii) Economic development;

(iv) Open space and recreation;

(v) Energy use and conservation;

(vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;

(vii) Transportation;

(viii) Utilities; and

(ix) Historic preservation.

(4) Other plans and studies such as:

(i) Small area and neighborhood plans;

(ii) Capital improvements programs;

(iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201-570.204);

(iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies. However, costs necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under

§§ 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of § 570.200(g);

(v) Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;

(vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and

(vii) Analysis of impediments to fair housing choice.

(b) Policy - planning - management - capacity building activities which will enable the recipient to:

(1) Determine its needs;

(2) Set long-term goals and short-term objectives, including those related to urban environmental design;

(3) Devise programs and activities to meet these goals and objectives;

(4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and

(5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

§ 570.505 Use of real property. EXHIBIT "D"

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of $25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change, and either:

(1) The new use of such property qualifies as meeting one of the national objectives in § 570.208 and is not a building for the general conduct of government; or

(2) The requirements in paragraph (b) are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for such use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs subsequent to closeout, the provisions governing income from the disposition of the real property in § 570.504(b)(4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program pursuant to paragraph (b) of this section, the property is no longer subject to any CDBG requirements.

EXHIBT "E"

§ 570.504 Program income.

(a) Recording program income. The receipt and expenditure of program income as defined in § 570.500(a) shall be recorded as part of the financial transactions of the grant program.

(b) Disposition of program income received by recipients.

(1) Program income received prior to grant closeout may be retained by the recipient if such income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.

(2) If the recipient chooses to retain program income, such income shall affect withdrawals of grant funds from the U.S. Treasury as follows:

(i) Program income in the form of repayments to, or interest earned on, a revolving fund as defined in § 570.500(b), shall be substantially disbursed from such fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. This rule does not prevent a lump sum disbursement to finance the rehabilitation of privately owned properties as provided for in § 570.513.

(ii) All other program income shall be substantially disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury.

(3) Program income on hand at the time of closeout shall continue to be subject to the eligibility requirements in Subpart C and all other applicable provisions of this part until such program income is expended.

(4) Unless otherwise provided in any grant closeout agreement, and subject to the requirements of paragraph (5) below, income received subsequent to closeout shall not be governed by the provisions of this part: Except that, if at the time of closeout the recipient has another ongoing CDBG grant received directly from HUD, funds received subsequent to closeout shall be treated as program income of the ongoing grant program.

(5) If the recipient does not have another ongoing grant received directly from HUD at the time of closeout, income received subsequent to closeout from the disposition of real property or from loans outstanding at the time of closeout, shall not be governed by the provisions of this part, except that such income shall be used for activities which meet one of the national objectives in § 570.208 and the eligibility requirements described in section 105 of the Act.

(c) Disposition of program income received by subrecipients. The written agreement between the recipient and the subrecipient, as required by § 570.503, shall specify whether program income received is to be returned to the recipient or retained by the subrecipient. Where program income is to be retained by the subrecipient, the agreement shall specify the activities that will be undertaken with the program income and that all provisions of the written agreement shall apply to such activities. When the subrecipient retains program income, transfers of grant funds by the recipient to the subrecipient shall be adjusted according to the principles described in paragraphs (b)(2)(i) and (ii) of this section. Any program income on hand when the agreement expires or received after such expiration shall be paid to the recipient, as required by § 570.503(b)(8).

(d) Disposition of certain program income received by urban counties. Program income derived from activities carried out by an urban county within the jurisdiction of a unit of general local government that has since become a nonparticipant in the county's program shall be treated as program income for use in the urban county's program, except that the urban county may elect to permit the unit of general local government, upon its termination of urban county participation, to retain the program income for use in its own CDBG entitlement program.

EXHIBIT "F"

§ 570.506 Records to be maintained.

Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed:

(a) Records providing a full description of each activity assisted (or being assisted) with CDBG funds, including its location (if the activity has a geographical locus), the amount of CDBG funds budgeted, obligated and expended for the activity, and the provision in Subpart C under which it is eligible.

(b) Records demonstrating that each activity undertaken meets one of the criteria set forth in § 570.208. (Where information on income by family size is required, the recipient may substitute evidence establishing that the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the definitions of "low and moderate income person" and "low and moderate income household" (as applicable) at § 570.3; or the recipient may substitute a copy of a verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit established in accordance with § 570.3; or the recipient may substitute a notice that the assisted person is a referral from a state, county or local employment agency or other entity that agrees to refer individuals it determines to be low and moderate income persons based on HUD's criteria and agrees to maintain documentation supporting these determinations.) Such records shall include the following information:

(1) For each activity determined to benefit low and moderate income persons, the income limits applied and the point in time when the benefit was determined.

(2) For each activity determined to benefit low and moderate income persons based on the area served by the activity:

(i) The boundaries of the service area;

(ii) The income characteristics of families and unrelated individuals in the service area; and

(iii) If the percent of low and moderate income persons in the service area is less than 51 percent, data showing that the area qualifies under the exception criteria set forth at § 570.208(a)(1)(ii);

(3) For each activity determined to benefit low and moderate income persons because the activity involves a facility or service designed for use by a limited clientele consisting exclusively or predominantly of low and moderate income persons:

(i) Documentation establishing that the facility or service is designed for and used by senior citizens, handicapped persons, battered spouses, abused children, the homeless, illiterate persons, or migrant farm workers, for which the regulations provide presumptive benefit to low and moderate income persons; or

(ii) Documentation describing how the nature and, if applicable, the location of the facility or service establishes that it is used predominantly by low and moderate income persons; or

(iii) Data showing the size and annual income of the family of each person receiving the benefit.

(4) For each activity carried out for the purpose of providing or improving housing which is determined to benefit low and moderate income persons:

(i) A copy of a written agreement with each landlord or developer receiving CDBG assistance indicating the total number of dwelling units in each multifamily structure assisted and the number of those units which will be occupied by low and moderate income households after assistance;

(ii) The total cost of the activity, including both CDBG and non-CDBG funds.

(iii) For each unit occupied by a low and moderate income household, the size and income of the household;

(iv) For rental housing only:

(A) The rent charged (or to be charged) after assistance for each dwelling unit in each structure assisted; and

(B) Such information as necessary to show the affordability of units occupied (or to be occupied) by low and moderate income households pursuant to criteria established and made public by the recipient;

(v) For each property acquired on which there are no structures, evidence of commitments ensuring that the criteria in § 570.208(a)(3) will be met when the structures are built; and

(vi) Where applicable, records demonstrating that the activity qualifies under the special conditions at § 570.208(a)(3)(i).

(5) For each activity determined to benefit low and moderate income persons based on the creation of jobs, the recipient shall provide the documentation described in either (i) or (ii) below.

(i) Where the recipient chooses to document that at least 51 percent of the jobs will be available to low and moderate income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

(1) A commitment by the business that it will make at least 51 percent of the jobs available to low and moderate income persons and will provide training for any of those jobs requiring special skills or education;

(2) A listing by job title of the permanent jobs to be created indicating which jobs will be available to low and moderate income persons, which jobs require special skills or education, and which jobs are part-time, if any; and

(3) A description of actions to be taken by the recipient and business to ensure that low and moderate income persons receive first consideration for those jobs; and

(B) A listing by job title of the permanent jobs filled, and which jobs of those were available to low and moderate income persons, and a description of how first consideration was given to such persons for those jobs. The description shall include what hiring process was used; which low and moderate income persons were interviewed for a particular job; and which low and moderate income persons were hired.

(ii) Where the recipient chooses to document that at least 51 percent of the jobs will be held by low and moderate income persons, documentation for each assisted business shall include:

(A) A copy of a written agreement containing:

(1) A commitment by the business that at least 51 percent of the jobs, on a full-time equivalent basis, will be held by low and moderate income persons; and

(2) A listing by job title of the permanent jobs to be created, identifying which are part-time, if any;

(B) A listing by job title of the permanent jobs filled and which jobs were initially held by low and moderate income persons; and

(C) For each such low and moderate income person hired, the size and annual income of the person's family prior to the person being hired for the job.

(6) For each activity determined to benefit low and moderate income persons based on the retention of jobs:

(i) Evidence that in the absence of CDBG assistance jobs would be lost;

(ii) For each business assisted, a listing by job title of permanent jobs retained, indicating which of those jobs are part-time and (where it is known) which are held by low and moderate income persons at the time the CDBG assistance is provided. Where applicable, identification of any of the retained jobs (other than those known to be held by low and moderate income persons) which are projected to become available to low and moderate income persons through job turnover within two years of the time CDBG assistance is provided. Information upon which the job turnover projections were based shall also be included in the record;

(iii) For each retained job claimed to be held by a low and moderate income person, information on the size and annual income of the person's family;

(iv) For jobs claimed to be available to low and moderate income persons based on job turnover, a description covering the items required for "available to" jobs in paragraph (5) of this section; and

(v) Where jobs were claimed to be available to low and moderate income persons through turnover, a listing of each job which has turned over to date, indicating which of those jobs were either taken by, or available to, low and moderate income persons. For jobs made available, a description of how first consideration was given to such persons for those jobs shall also be included in the record.

(7) For each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area:

(i) The boundaries of the area; and

(ii) A description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the criteria in § 570.208(b)(1).

(8) For each residential rehabilitation activity determined to aid in the prevention or elimination of slums or blight in a slum or blighted area:

(i) The local definition of "substandard";

(ii) A pre-rehabilitation inspection report describing the deficiencies in each structure to be rehabilitated; and

(iii) Details and scope of CDBG assisted rehabilitation, by structure.

(9) For each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area:

(i) A description of the specific condition of blight or physical decay treated; and

(ii) For rehabilitation carried out under this category, a description of the specific conditions detrimental to public health and safety which were identified and the details and scope of the CDBG assisted rehabilitation by structure.

(10) For each activity determined to aid in the prevention or elimination of slums or blight based on addressing slums or blight in an urban renewal area, a copy of the Urban Renewal Plan, as in effect at the time the activity is carried out, including maps and supporting documentation.

(11) For each activity determined to meet a community development need having a particular urgency:

(i) Documentation concerning the nature and degree of seriousness of the condition requiring assistance;

(ii) Evidence that the recipient certified that the CDBG activity was designed to address the urgent need;

(iii) Information on the timing of the development of the serious condition; and

(iv) Evidence confirming that other financial resources to alleviate the need were not available.

(c) Records which demonstrate that the recipient has made the determinations required as a condition of eligibility of certain activities, as prescribed in §§ 570.201(f), 570.201(i), 570.202(b)(3), 570.203(b), 570.204(a), and 570.206(f).

(d) Records which demonstrate compliance with § 570.505 regarding any change of use of real property acquired or improved with CDBG assistance.

(e) Records which demonstrate compliance with the citizen participation requirements prescribed in section 104(a)(3) of the Act, and in §§ 570.301(b) and 570.305 for entitlement recipients or § 570.431 for HUD-administered small cities recipients.

(f) Records which demonstrate compliance with the requirements in § 570.606 regarding acquisition, displacement, relocation, and replacement housing.

(g) Fair housing and equal opportunity records containing:

(1) Documentation of the actions the recipient has carried out with its housing and community development and other resources to remedy or ameliorate any conditions limiting

fair housing choice in the recipient's community, and documentation of any other official actions the recipient has taken which demonstrate its support for fair housing, such as development of a fair housing analysis described in § 570.904(c).

(2) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

(3) Data on employment in each of the recipient's operating units funded in whole or in part with CDBG funds, with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap in operating units funded in whole or in part under this part.

(4) Data indicating the race and ethnicity of households (and gender of single heads of households) displaced as a result of CDBG funded activities, together with the address and census tract of the housing units to which each displaced household relocated. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

(5) Documentation of actions undertaken to meet the requirements of § 570.607(b) which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 170lU) relative to the hiring and training of low and moderate income persons and the use of local businesses.

(6) Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with CDBG funds, data indicating which of those entities are women's business enterprises as defined in Executive Order 12138, the amount of the contract or subcontract, and documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment,

construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.

(7) Documentation of the affirmative action measures the recipient has taken to overcome prior discrimination, where the courts or HUD have found that the recipient has previously discriminated against persons on the ground of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds.

(h) Financial records, in accordance with the applicable requirements listed in § 570.502.

(i) Agreements and other records related to lump sum disbursements to private financial institutions for financing rehabilitation as prescribed in § 570.513; and

(j) Records required to be maintained in accordance with other applicable laws and regulations set forth in Subpart K of this part.

(Approved by the Office of Management and Budget under Control No. 2506-0077)

§ 570.507 Reports. EXHIBIT "G"

(a) Performance and evaluation report.

(1) Content. Each performance and evaluation report must contain completed copies of all forms and narratives prescribed by the Secretary, including a summary of the citizen comments received on the report, as prescribed in (a)(3) of this section.

(2) Timing.

(i) Entitlement grants. Each entitlement grant recipient shall submit a performance and evaluation report:

(A) No later than 90 days after the completion of the most recent program year showing the status of all activities as of the end of the program year;

(B) No later than October 31 each year showing housing assistance performance as of the end of the Federal fiscal year; and

(C) No later than 90 days after the criteria for grant closeout, as described in § 570.509(a), have been met.

(ii) HUD-administered small cities grants. Each small cities recipient shall submit a performance and evaluation report on each grant:

(A) No later than 12 months after the date of the grant award and annually thereafter on the date of the award until completion of the activities funded under the grant; and

(B) No later than 90 days after the criteria for grant closeout, as described in § 570.509(a), have been met. If HUD determines that the previous report adequately describes project results, HUD will notify the recipient that a final report is not necessary.

(3) Citizen comments on the report. Each recipient shall make copies of the performance and evaluation report available to its citizens in sufficient time to permit the citizens to comment on the report prior to its submission to HUD. Each recipient may determine the specific manner and times the report will be made available to citizens consistent with the preceding sentence.

(b) Equal employment opportunity reports. Recipients of entitlement grants or HUD-administered small cities grants shall submit to HUD each year a report (HUD/EEO-4) on recipient employment containing data as of June 30.

(c) Minority business enterprise reports. Recipients of entitlement grants, HUD-administered small cities grants or Urban Development Action Grants shall submit to HUD, by April 30, a report on contracts and subcontract activity during the first half of the fiscal year and by October 31 a report on such activity during the second half of the year.

(d) Other reports. Recipients may be required to submit such other reports and information as HUD determines are necessary to carry out its responsibilities under the Act or other applicable laws.

(Approved by the Office of Management and Budget under Control Nos. 2506-0077 for paragraph (a) and 2529-0008 for paragraph (b) and 2506-0066 for paragraph (c))

EXHIBIT "H"

EXHIBIT "H"

7. Subpart K of Part 570 is revised to read as follows:

Subpart K -- Other Program Requirements.

Sec.

570.600 General.
570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; and Executive Order 11063.
570.602 Section 109 of the Act.
570.603 Labor standards.
570.604 Environmental standards.
570.605 National Flood Insurance Program.
570.606 Relocation, displacement and acquisition.
570.607 Employment and contracting opportunities.
570.608 Lead-based paint.
570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.
570.610 Uniform administrative requirements and cost principles.
570.611 Conflict of interest.
570.612 Executive Order 12372.

Subpart K -- Other Program Requirements.

§ 570.600 General.

(a) Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary, among other things, that the grant "will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284," and, further, that the grantee "will comply with the other provisions of this title and with other applicable laws." Section 104(e)(1) of the Act requires that the Secretary determine with respect to grants made pursuant to section 106(b) (Entitlement Grants) and 106(d)(2)(B) (HUD-administered Small Cities Grants), at least on an annual basis, among other things, "whether the grantee has carried out [its] certifications in compliance with the requirements and the primary objectives of this title and with other applicable laws...." Certain other statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or Executive Orders which may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental departments or agencies other than the Secretary or the Department. This Subpart K enumerates laws which the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to States made pursuant to section 106(d) of the

Act, for purposes of the determinations described above to be made by the Secretary under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws which the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(e)(2) of the Act, see § 570.496.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (Subparts D and F, respectively), the requirements of this Subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (Subparts E and G, respectively), and to loans guaranteed pursuant to Subpart M.

§ 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary that the grant "will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284 and the grantee will affirmatively further fair housing." Similarly, section 107 provides that no grant may be made under that section (Secretary's Discretionary Fund) or section 119 (UDAG) without satisfactory assurances that the grantee's program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284.

(a) "Public Law 88-352" refers to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 of the Civil Rights Act of 1964 directs each Federal department and agency empowered to extend Federal financial assistance to any program or activity by way of grant to effectuate the foregoing prohibition by issuing rules, regulations, or orders of general applicability which

shall be consistent with achievement of the statute authorizing the financial assistance. HUD regulations implementing the requirements of Title VI with respect to HUD programs are contained in 24 CFR Part 1.

(b) "Public Law 90-284" refers to title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), popularly known as the Fair Housing Act, which provides that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, or national origin. Title VIII further requires the Secretary to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of Title VIII. Pursuant to this statutory direction, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of Title VIII; furthermore, section 104(b)(2) of the Act requires that each grantee receiving funds under section 106 of the Act (entitlement or small cities grantees) certify to the satisfaction of the Secretary that it will affirmatively further fair housing.

(c) Executive Order 11063, as amended by Executive Order 12259, directs the Department to take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government. HUD regulations implementing Executive Order 11063 are contained in 24 CFR Part 107.

§ 570.602 Section 109 of the Act.

(a) Section 109 of the Act requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. For purposes of this section "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient, or by any unit of government, subrecipient, or

private contractor receiving community development funds or loans from the recipient. "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants or proceeds from HUD guaranteed loans have been transferred by the recipient or a subrecipient to an identifiable administrative unit and disbursed in a program or activity. In subsection (b) of this section, "recipient" means recipient as defined in 24 CFR 1.2(f).

(b) Specific discriminatory actions prohibited and corrective actions.

(1) A recipient may not, under any program or activity to which the regulations of this part may apply, directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any individual any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form, from that provided to others under the program or activity.

(iii) Subject an individual to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.

(iv) Restrict an individual in any way in access to, or in the enjoyment of, any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an individual an opportunity to participate in a program or activity as an employee.

(2) A recipient may not use criteria or methods of administration which have the effect of subjecting persons to discrimination on the basis of race, color, national

origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to persons of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location which have the effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4)

(i) In administering a program or activity funded in whole or in part with CDBG funds regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin or sex, or if there is sufficient evidence to conclude that such discrimination existed, the recipient must take remedial affirmative action to overcome the effects of prior discrimination. The word "previously" does not exclude current discriminatory practices.

(ii) In the absence of discrimination, a recipient, in administering a program or activity funded in whole or in part with funds made available under this part, may take any nondiscriminatory affirmative action necessary to ensure that the program or activity is open to all without regard to race, color, national origin or sex.

(iii) After a finding of noncompliance or after a recipient has a firm basis to conclude that discrimination has occurred, a recipient shall not be prohibited by this section from taking any action eligible under Subpart C to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to remedy prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial

services can properly be performed only by a member of the same sex as the recipients of the services.

(c) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped person as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act. HUD regulations implementing the Age Discrimination Act are contained in 24 CFR Part 146 and the regulations implementing section 504 are contained in 24 CER Part 8.

§ 570.603 Labor standards.

Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units. With respect to the labor standards specified in this section, the Secretary of Labor has the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 1332-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

§ 570.604 Environmental standards.

Section 104(g) expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary)...[be] most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purposes of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to section 104(g) of the Act and contained in 24 CFR Part 58. Section 104(g) also provides that, in lieu of the environmental protection procedures otherwise applicable, the Secretary may under regulations provide for the release of funds for particular projects to grantees who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, and the other provisions of law specified by the Secretary as described above, that would apply to the Secretary were he/she to

undertake such projects as Federal projects. Grantees assume such environmental review, decisionmaking, and action responsibilities by execution of grant agreements with the Secretary. The procedures for carrying out such environmental responsibilities are contained in 24 CFR Part 58.

§ 570.605 National Flood Insurance Program.

Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(a) of said Act (42 U.S.C. 400(a)), one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, for use in any area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipient's application (or, in the case of grants made under Subpart D, the date of submission of the grantee's final statement pursuant to § 570.302), funds provided under this part shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program in accordance with 44 CFR Parts 59-79, or less than a year has passed since FEMA notification to the community regarding such hazards; and flood insurance is obtained in accordance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

§ 570.606 Relocation, displacement and acquisition.

(a) Uniform Relocation Act.

(1) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C 4601) and HUD implementing regulations at 24 CFR Part 42 apply to the acquisition of real property by a State agency for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. The grantee's certification of compliance with the URA is required in the grant agreement.

(2) An acquisition and resulting displacement by a State agency is "for an assisted activity" if it occurs on or after the date of the initial submission of a final statement under 24 CFR 570.302(a)(2) (Entitlement Grants);

the initial submission of an application to HUD by a unit of general local government under §§ 570.426, 570.430, or 570.435(d) that is granted for the requested activity (HUD administered Small Cities Program); or the submission of an application to HUD by a city or urban county under § 570.458 that is granted for the requested activity (UDAG). However, an acquisition or displacement that occurs on or after the described date is not subject to the URA if the grantee determines that the acquisition or displacement was not carried out for an assisted activity, and the HUD Field Office concurs in that determination. An acquisition or displacement that occurs before the described date is subject to the URA, if the grantee or the HUD Field Office determines that the acquisition or displacement was carried out for the assisted activity. The grantee may, at any time, request a HUD determination whether an acquisition or displacement will be considered to be for an assisted activity and thus subject to these regulations. To be eligible for relocation assistance, however, a person must also meet the eligibility criteria in 24 CFR Part 42.

(6) Residential antidisplacement and relocation assistance plan. Under section 104(d) of the Act, each grantee must adopt, make public and certify that it is following a residential antidisplacement and relocation assistance plan providing one-for-one replacement units (paragraph (b)(1) of this section), and relocation assistance (paragraph (b)(2) of this section). The plan must also indicate the steps that will be taken consistent with other goals and objectives of this part to minimize the displacement of persons from their homes as a result of any activities assisted under this part.

(1) One-for-one replacement units.

(i) All occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of an activity assisted under this part must be replaced by governmental agencies or private developers with low/moderate-income dwelling units. Replacement low/moderate-income dwelling units may include public housing, or existing housing receiving Section 8 project-based assistance under the United States Housing Act of 1937. The replacement low/moderate-income dwelling units must be provided within three years of the commencement of the demolition or rehabilitation related to the conversion, and must meet the following requirements:

(A) The units must be located within the grantee's jurisdiction.

(B) The units must be sufficient in number and size to house at least the number of occupants that could have been housed in the units that are demolished or converted. The number of occupants that may be housed in units shall be determined in accordance with local housing occupancy codes.

(C) The units must be provided in standard condition. Replacement low/moderate-income dwelling units may include units that have been raised to standard from substandard condition.

(D) The units must be designed to remain low/moderate-income dwelling units for at least 10 years from the date of initial occupancy.

(ii) Before obligating or expending funds provided under this part for any activity that will directly result in the demolition of low/moderate-income dwelling units or the conversion of low/moderate-income dwelling units to another use, the grantee must make public, and submit the following information in writing to HUD:

(A) A description of the proposed assisted activity;

(B) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for low/moderate-income dwelling units as a direct result of the assisted activity;

(C) A time schedule for the commencement and completion of the demolition or conversion;

(D) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;

(E) The source of funding and a time schedule for the provision of replacement dwelling units;

(F) The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy.

(iii)

(A) The requirements of paragraph (b)(1) of this section do not apply if the HUD Field Office determines, based upon objective data, that there is an adequate supply of vacant low/moderate-income dwelling units

in standard condition available on a nondiscriminatory basis within the grantee's jurisdiction. In making this determination, the HUD Field Office will consider the housing vacancy rate for the jurisdiction, the number of vacant low/moderate-income dwelling units in the jurisdiction (excluding units that will be demolished or converted) and the number of eligible families on waiting lists for housing assisted under the United States Housing Act of 1937 in the jurisdiction.

(B) The HUD Field Office may consider the supply of vacant low/moderate-income dwelling units in standard condition available on a nondiscriminatory basis in an area that is larger than the grantee's jurisdiction. Such additional dwelling units shall be considered if the HUD Field Office determines that the units would be suitable to serve the needs of the low- and moderate income households that could be served by the low/moderate-income dwelling units that are to be demolished or converted to another use. The HUD Field Office must base this determination on geographic and demographic factors, such as location and access to places of employment and to other facilities.

(C) The grantee must submit a request for a determination under paragraph (b)(1)(iii) of this section, directly to the HUD Field Office.

(2) Relocation assistance.

(i) Each low- or moderate-income household that is displaced by demolition or by the conversion of a low/moderate income dwelling unit to another use as a direct result of an activity assisted under this part shall be provided with relocation assistance. The low- or moderate-income household may elect to receive relocation assistance described at 24 CFR Part 42 (HUD's regulations implementing the URA), or may elect to receive the following relocation assistance:

(A) The relocation assistance described at 24 CFR Part 42, Subpart C (General Relocation Requirements) and Subpart D (Payment for Moving and Related Expenses). Relocation notices must be issued consistent with, and in the manner prescribed under, 24 CFR 42.203. The definition of "comparable replacement dwelling" used in 24 CFR Part 42 is modified as described in paragraph (b)(3)(i) of this section. Displaced households provided with replacement housing assistance under paragraph

(b)(2)(i)(C) of this section, in the form of a certificate or housing voucher under Section 8 of the United States Housing Act of 1937, must be provided referrals to comparable replacement dwelling units whose owners are willing to participate in the housing voucher or certificate program. The grantee shall advise tenants of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such a manner that, whenever feasible, they will have a choice between relocating within their neighborhoods and other neighborhoods consistent with the grantee's responsibility to affirmatively further fair housing;

(B) The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and credit checks required to rent or purchase the replacement dwelling unit; and

(C) Replacement housing assistance. Households are eligible to receive one of the following forms of replacement housing assistance:

(1) Each household must be offered compensation designed to ensure that, for a five-year period, the displaced household will not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent. Such compensation shall be either:

(i) A certificate or housing voucher for rental assistance provided through the local Public Housing Agency under Section 8 of the United State Housing Act of 1937; or

(ii) Cash rental assistance equal to 60 times the amount that is obtained by subtracting 30 percent of the displaced household's monthly gross income (with such adjustments as the grantee may deem appropriate) from the lesser of: the monthly cost of rent and utilities at a comparable replacement dwelling unit or the monthly cost of rent and utilities at the decent, safe and sanitary replacement dwelling to which the household relocates. The grantee may provide the cash payment in either a lump sum or in installments. The grantee may at its discretion offer the household a choice between the certificate/housing voucher or cash rental assistance.

(2) If the household purchases an interest in a housing cooperative or mutual housing association and occupies a decent, safe and sanitary unit in the cooperative or association, the household may elect to receive a lump sum payment. This lump sum payment shall be equal to the capitalized value of 60 monthly installments of the amount that is obtained by subtracting 30 percent of the displaced household's monthly gross income (with such adjustments as the grantee may deem appropriate) from the monthly cost of rent and utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings deposits by a federally-insured bank or savings and loan institution conducting business within the grantee's jurisdiction. To the extent necessary to minimize hardship to the household, the grantee shall, subject to appropriate safeguards, issue a payment in advance of the purchase of the interest in the housing cooperative or mutual housing association.

(ii) Eligibility for relocation assistance.

(A) A low- or moderate-income household that is required to move as a direct result of demolition or conversion of a low/moderate income dwelling unit to another use, is eligible for relocation assistance under paragraph (b)(2) of this section if:

(1) The household is required to move from the dwelling unit on or after the date that the owner submits a request to the grantee for financial assistance that is later approved for the requested activity. (This applies to dwelling units owned by a person other than a Federal or State agency, as defined under the URA).

(2) The household is required to move from the dwelling unit on or after the date of the initial submission of a final statement under 24 CFR 570.302(a)(2) (Entitlement Grants); the initial submission of an application to HUD by a unit of general local government under §§ 570.426, 570.430, or 570.435(d) that is granted for the requested activity (HUD administered Small Cities Program); or the submission of an application to HUD by a city or urban county under § 570.458 that is granted for

the requested activity (UDAG). (This applies to dwelling units owned by a Federal or State agency as defined under the URA.)

(B) If the displacement occurs on or after the appropriate date described in paragraph (b)(2)(ii)(A) of this section, the low- or moderate-income household is not eligible for relocation assistance if:

(1) The household is evicted for cause;

(2) The household moved into the property on or after the date described in paragraph (b)(2)(ii)(A) of this section, after receiving written notice of the expected displacement; or

(3) The grantee determines that the displacement was not a direct result of the assisted activity, and the HUD office concurs in that determination.

(C) If the displacement occurs before the appropriate date described in paragraph (b)(2)(ii)(A) of this section, the low- or moderate-income household is eligible for relocation assistance if the grantee or HUD determines that the displacement was a direct result of an activity assisted under this part.

(3) Definitions. For the purposes of paragraph (b) of this section:

(i) "Comparable replacement dwelling unit" means a dwelling unit that:

(A) Meets the criteria of 24 CFR 42.2(c)(1) through (4); and

(B) Is available at a monthly cost for rent plus estimated average monthly utility costs that does not exceed 30 percent of the household's average gross monthly income (with such adjustments to income as the grantee may deem appropriate) after taking into account any rental assistance the household would receive. Where a certificate or housing voucher is provided to a household under paragraph (b)(2)(i)(C)(1)(i) of this section, the dwelling unit must be available to the household at a monthly cost for rent and estimated average monthly utility cost that does not exceed the Fair Market Rent or the payment standard, respectively.

(ii) "Decent, safe and sanitary dwelling" means a decent, safe and sanitary dwelling as defined in 24 CFR 42.2(e).

(iii) "Low/moderate income dwelling unit" means a dwelling unit with a market rental (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing and moderate rehabilitation established under 24 CFR Part 888.

(iv) "Occupiable dwelling unit" means a dwelling unit that is in a standard condition, or is in a substandard condition, but is suitable for rehabilitation.

(v) "Standard condition" and "substandard condition suitable for rehabilitation." If the grantee has a HUD-approved Housing Assistance Plan, the definitions of "standard condition" and "substandard condition suitable for rehabilitation" established in the plan will apply. If the grantee does not have a HUD-approved Housing Assistance Plan, the grantee must establish and make public its definition of these terms consistent with the requirements of § 570.306(e)(1).

(4) Effective date. For all grants except those made under Subpart D of this part (Entitlement Grants), the provisions of this paragraph (b) are applicable to grants made on or after October 1, 1988. For grants made under Subpart D, these provisions will govern all activities for which funds are first obligated by the grantee on or after the date the first grant is made after September 30, 1988, without regard to the source year of the funds used for the activity.

(c) Section 104(k) relocation requirements. Section 104(k) of the Act requires that reasonable relocation assistance be provided to persons (families, individuals, businesses, nonprofit organizations, or farms) displaced (i.e., moved permanently and involuntarily) as a result of the use of assistance received under this part to acquire or substantially rehabilitate property. If such displacement is subject to paragraph (a) or (b) of this section, above, this paragraph does not apply. The grantee must develop, adopt and provide to persons to be displaced a written notice of the relocation assistance for which they are eligible. The minimum requirements for such assistance under the UDAG Program are described at § 570.457(b). Under CDBG programs, persons entitled to assistance under this paragraph must be provided relocation assistance, including at a minimum:

(1) Reasonable moving expenses;

(2) Advisory services needed to help in relocating. The grantee shall advise tenants of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such a manner that, whenever feasible, they will have a choice between relocating within their neighborhoods and other neighborhoods consistent with the grantee's responsibility to affirmatively further fair housing; and

(3) Financial assistance sufficient to enable any person displaced from his or her dwelling to lease and occupy a suitable, decent, safe and sanitary replacement dwelling where the cost of rent and utilities does not exceed 30 percent of the household's gross income.

(d) Optional relocation assistance. Under section 105(a)(11) of the Act, the grantee may provide relocation payments and other relocation assistance for individuals, families, businesses, nonprofit organizations and farms displaced by an activity not subject to paragraphs (a), (b) or (c) of this section. The grantee may also provide relocation assistance to persons covered under paragraphs (a), (b) or (c) of this section beyond that required. Unless such assistance is provided pursuant to State or local law, the grantee must provide the assistance only upon the basis of a written determination that the assistance is appropriate and must adopt a written policy available to the public that describes the relocation assistance that the grantee has elected to provide and that provides for equal relocation assistance within each class of displacees.

(e) Appeals. If a person disagrees with the grantee's determination concerning the person's eligibility for, or the amount of a relocation payment under this section, the person may file a written appeal of that determination with the grantee. The appeal procedures to be followed are described in 24 CFR 42.10. A low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee decision, to the HUD Field Office.

(f) Responsibility of grantee.

(1) The grantee is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this part.

(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.

(3) The grantee must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.

(g) Displacement. For the purposes of this section, a "displaced person" is a person that is required to move permanently and involuntarily and includes a residential tenant who moves from the real property if:

(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building or in a nearby building on the real property following the completion of the assisted activity at a monthly rent and estimated average cost for utilities that does not exceed the greater of

(i) 30 percent of the tenant household's average monthly gross income; or

(ii) The tenant's monthly rent and average cost for utilities before

(A) The date that the owner submits a request to the grantee for financial assistance that is later approved for the requested activity. (This applies to dwelling units owned by a person other than a Federal or State agency, as defined under the URA); or

(B) The date of the initial submission of a final statement under § 570.302(a)(2)(Entitlement Grants); the initial submission of an application to HUD by a unit of general local government under § 570.426, 570.430, or 570.435(d) that is granted for the requested activity (HUD administered Small Cities Program); or the submission of an application to HUD by a city or urban county under § 570.458 that is granted for the requested activity (UDAG). (This applies to dwelling units owned by a Federal or State agency as defined under the URA); or

(2) The tenant is required to move to another dwelling in the real property but is not reimbursed for all actual reasonable out-of-pocket costs incurred in connection with the move; or

(3) The tenant is required to relocate temporarily and:

(i) Is not reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving costs and any increased rent and utility costs; or

(ii) Other conditions of the temporary relocation are not reasonable.

§ 570.607 Employment and contracting opportunities.

(a) Grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on Federal or federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) requires, in connection with the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible opportunities for training and employment be given to low and moderate income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county) as determined by the Secretary, in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project. Grantees shall adopt appropriate procedures and requirements to assure good faith efforts toward compliance with the statutory directive. HUD regulations at 24 CFR Part 135 are not applicable to activities assisted under this part but may be referred to as guidance indicative of the Secretary's view of the statutory objectives in other contexts.

§ 570.608 Lead-based paint.

(a) Prohibition against the use of lead-based paint. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures constructed or rehabilitated with assistance provided under this part.

(b) Notification of hazards of lead-based paint poisoning.

(1) The Secretary has promulgated requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1978 of the hazards of lead-based paint poisoning at 24 CFR Part 35, Subpart A. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.5(c) and supersedes, with respect to all housing to which it applies, the notification requirements prescribed by Subpart A of 24 CFR Part 35.

(2) For properties constructed prior to 1978, applicants for rehabilitaion assistance provided under this part and tenants or purchasers of properties owned by the grantee or its subrecipient and acquired or rehabilitated with assistance provided under this part shall be notified:

(i) That the property may contain lead-based paint;

(ii) of the hazards of lead-based paint;

(iii) of the symptoms and treatment of lead-based poisoning;

(iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance amd removal techniques for eliminating such hazards);

(v) of the advisability and availability of blood lead level screening for children under seven years of age; and

(vi) that in the event lead-based paint is found on the property, appropriate abatement procedures may be undertaken.

(c) Elimination of lead-based paint hazards. The purpose of this paragraph is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards due to the presence of paint which may contain lead and to which children under seven years of age may be exposed in existing housing which is rehabilitated with assistance provided under this part. The Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C. This paragraph is promulgated pursuant to the authorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35.

(1) Applicability. This paragraph applies to the rehabilitation of applicable surfaces in existing housing which is assisted under this part. The following activities assisted under the Community Development Block Grant program are not covered by this paragraph:

(i) Emergency repairs (not including lead-based paint-related emergency repairs);

(ii) weatherization;

(iii) water or sewer hook-ups;

(iv) installation of security devices;

(v) facilitation of tax exempt bond issuances which provide funds for rehabilitation;

(vi) other similar types of single-purpose programs that do not include physical repairs or remodeling of applicable surfaces (as defined in 24 CFR 35.22) of residential structures; and

(vii) any non-single purpose rehabilitation that does not involve applicable surfaces (as defined in 24 CFR 35.22) that does not exceed $3,000 per unit.

(2) Definitions. - Applicable surface. All intact and nonintact interior and exterior painted surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint surface. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm^2.

(3) Inspection and Testing

(i) Defective paint surfaces. The grantee shall inspect for defective paint surfaces in all units constructed prior to 1978 which are occupied by families with children under seven years of age and which are proposed for rehabilitation assistance. The inspection shall occur at the same time the property is being inspected for rehabilitation. Defective paint conditions will be included in the work write-up for the remainder of the rehabilitation work.

(ii) Chewable surfaces. The grantee shall be required to test the lead content of chewable surfaces if the family residing in a unit, constructed prior to 1978 and receiving rehabilitation assistance, includes a child under seven years of age with an identified EBL condition. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm^2 or higher using an XRF shall be considered positive for presence of lead-based paint.

(iii) Abatement without testing. In lieu of the procedures set forth in paragraph (c)(3)(ii) of this section, in the case of a residential structure constructed prior to 1978, the grantee may forgo testing and abate all applicable surfaces in accordance with the methods set out in 24 CFR 35.24(b)(2)(ii).

(4) Abatement Actions.

(i) For inspections performed under § 570.608(c)(3)(i) and where defective paint surfaces are found, treatment shall be provided to defective areas. Treatment shall be performed before final inspection and approval of the work.

(ii) For testing performed under § 570.608(c)(3)(ii) and where interior chewable surfaces are found to contain lead-based paint, all interior chewable surfaces in any affected room shall be treated. Where exterior chewable surfaces are found to contain lead-based paint, the entire exterior chewable surface shall be treated. Treatment shall be performed before final inspection and approval of the work.

(iii) When weather prohibits repainting exterior surfaces before final inspection, the grantee may permit the owner to abate the defective paint or chewable lead-based paint as required by this section and agree to repaint by a specified date. A separate inspection is required.

(5) Abatement methods. At a minimum, treatment of the defective areas and chewable lead-based paint surfaces shall consist of covering or removal of the painted surface as described in 24 CFR 35.24(b)(2)(ii).

(6) Funding for inspection, testing and abatement. Program requirements and local program design will determine whether the cost of inspection, testing or abatement is to be borne by the owner/developer, the grantee or a combination of the owner/developer and the grantee.

(7) Tenant protection. The owner/developer shall take appropriate action to protect tenants from hazards associated with abatement procedures. Where necessary, these actions may include the temporary relocation of tenants during the abatement process. The owner/developer shall notify the grantee of all such actions taken.

(8) Records. The grantee shall keep a copy of each inspection and/or test report for at least three years.

(9) Monitoring and enforcement. HUD field office monitoring of rehabilitation programs includes reviews for compliance with applicable program requirements for lead-based paint. The CPD Field Monitoring Handbook which currently includes instructions for monitoring lead-based paint requirements will be amended as appropriate. In cases of noncompliance, HUD may impose conditions or sanctions on grantees to encourage prompt compliance.

(10) Compliance with other program requirements, Federal, State and local laws.

(i) Other program requirements. To the extent that assistance from any of the programs covered by this section is used in conjunction with other HUD program assistance which have lead-based paint requirements which may have more or less stringent requirements, the more stringent requirements will prevail.

(ii) HUD responsibility. If HUD determines that a State or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a level of protection from the hazards of lead-based paint poisoning at least comparable to that provided by the requirements of this section and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this section in such manner as may be appropriate to promote efficiency while ensuring such comparable level of protection.

(iii) Grantee responsibility. Nothing in this section is intended to relieve any grantee in the programs covered by this section of any responsibility for compliance with State or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement.

(iv) Disposal of lead-based paint debris. Lead-basd paint and defective paint debris shall be disposed of in accordance with applicable Federal, State or local requirements. (See, e.g., 40 CFR Parts 260 through 271.)

§ 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.

Assistance under this part shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

§ 570.610 Uniform administrative requirements and cost principles.

The recipient, its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 24 CFR Part 85 and OMB Circulars A-87, A-110, A-122, and A-128 (implemented at 24 CFR Part 44), as applicable, as they relate to the acceptance and use of Federal funds under this part. The applicable sections of 24 CFR Part 85 and OMB Circular A-110 are set forth at § 570.502.

§ 570.611 Conflict of interest.

(a) Applicability.

(1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at § 570.204(c)), the conflict of interest provisions in 24 CFR 85.36 and OMB Circular A-110, respectively, shall apply.

(2) In all cases not governed by 24 CFR 85.36 and OMB Circular A-110, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient, by its subrecipients, or to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation,

preservation, and other improvements of private properties or facilities pursuant to § 570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to § 570.203, § 570.204 or § 570.455).

(b) Conflicts prohibited. Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a CDBG assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or subrecipients which are receiving funds under this part.

(d) Exceptions: threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this

section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 570.612 Executive Order 12372.

(a) General. Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR Part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.

(b) Applicability. Executive Order 12372 applies to the CDBG Entitlement program and the UDAG program. The Executive Order applies to all activities proposed to be assisted under UDAG, but it applies to the Entitlement program only where a grantee proposes to use funds for the planning or construction (reconstruction or installation) of water or sewer facilities. Such facilities include storm sewers as well as all sanitary sewers, but do not include water and sewer lines connecting a structure to the lines in the public right-of-way or easement. It is the responsibility of the grantee to initiate the Executive Order review process if it proposes to use its CDBG or UDAG funds for activities subject to review.

Item No. 5d Motion by Councilman Johnson Seconded by Supervisor Swiatek

WHEREAS, the Town of Cheektowaga is the owner of property known as Case Way and generally located on the south side of Genesee Street near Transit Road, which property constitutes 0.85± acres, and

WHEREAS, the Town Highway Superintendent, pursuant to Section 207 of the Town Law of the State of New York, has determined that Case Way is unnecessary for highway purposes and has consented to the discontinuance of same as a public highway, and

WHEREAS, the Town Assessor has established the fair market value of Case Way (the "Parcel") at $15,000.00, and

WHEREAS, Henry M. Hansen and Monroe Tractor & Implement Co., Inc. have offered to purchase the Parcel from the Town for $15,000.00, and

WHEREAS, the Parcel is not needed by the Town for any purpose, and

WHEREAS, such purchase by Henry M. Hansen and Monroe Tractor & Implement Co., Inc. would place the Parcel on the Town's tax rolls, eliminate any highway maintenance costs to the Town and eliminate potential Town liability attendant to the ownership of the Parcel, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby approves the sale and transfer of the Parcel (as more particularly described in the attached deed) to Henry M. Hansen and Monroe Tractor & Implement Co., Inc. for $15,000.00, and BE IT FURTHER

RESOLVED that the Supervisor be and hereby is authorized and directed to execute the attached warranty deed conveying the Parcel to Henry M. Hansen and Monroe Tractor & Implement Co., Inc., and BE IT FURTHER

RESOLVED that, pursuant to Section 64(2) of the Town Law, the conveyance of the Parcel shall be subject to permissive referendum and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is directed to publish the attached Notice of Adoption of Resolution Subject to Permissive Referendum in the CHEEKTOWAGA TIMES.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGES

NOTICE OF ADOPTION OF RESOLUTION

SUBJECT TO PERMISSIVE REFERENDUM

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Cheektowaga, on September 5, 1989, adopted a resolution authorizing the sale of a parcel of land known as Case Way measuring 0.85± acres located on the south side of Genesee Street west of Transit Road for $15,000.00. A more detailed legal description for this property is available in the Town Clerk's Office where same may be examined during regular business hours.

TAKE FURTHER NOTICE that such resolution is subject to permissive referendum under Article 7 of the Town Law of the State of New York.

Dated: September 5, 1989

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication SEP 07 1989; last publication SEP 07 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this SEP 07 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
NOTICE OF ADOPTION OF RESOLUTION
SUBJECT TO PERMISSIVE REFERENDUM

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Cheektowaga, on September 5, 1989, adopted a resolution authorizing the sale of a parcel of land known as Case Way measuring 0.85+/- acres located on the south side of Genesee Street west of Transit Road for $15,000.00. A more detailed legal description for this property is available in the Town Clerk's Office where same may be examined during regular business hours.

TAKE FURTHER NOTICE that such resolution is subject to permissive referendum under Article 7 of the Town Law of the State of New York.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: September 7, 1989

LEGAL NOTICE
NOTICE OF ADOPTION OF RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Cheektowaga, on September 5, 1989, adopted a resolution authorizing the sale of a parcel of land known as Case Way measuring 0.85+/- acres located on the south side of Genesee Street west of Transit Road for $15,000.00. A more detailed legal description for this property is available in the Town Clerk's Office where same may be examined during regular business hours.

TAKE FURTHER NOTICE that such resolution is subject to permissive referendum under Article 7 of the Town Law of the State of New York.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: September 7, 1989

Item No. 5e — Authorize Supervisor to file application with NYS Office of Parks, Recreation and Historic Preservation.
This Item was withdrawn.

Item No. 6 — Petition NFTA, Conrail, Amtrak and NYS Department of Transportation to conduct feasibility study on rail lines.
This Item was withdrawn.

Item No. 7a — Memorialize NYS Legislature to arrange funding for erection of noise barriers along NYS Thruway.
This Item was withdrawn.

Item No. 7b — Memorialize NYS Legislature to provide funding for trees/buffers along section of Broadway.
This Item was withdrawn.

Item No. 8a — Motion by Councilman Kazukiewicz Seconded by Councilman Kulyk

WHEREAS, Theodore Kulbacki has submitted plans for an 8-lot subdivision on Center Avenue and Vita Avenue in the Town, and

WHEREAS, the Cheektowaga Planning Board has reviewed such plans and has recommended approval of same, and

WHEREAS, the Cheektowaga Environmental Advisory Committee has also reviewed such subdivision and has stated that such development will not have a significant effect on the environment subject to the condition that the drainage plans be reviewed and approved by the Town Engineer, Town Highway and Erie County Highway Departments, and

WHEREAS, the Town Highway Superintendent has also reviewed such plans and has found same to be satisfactory provided the developer conveys easements for drainage and sidewalks to the Town, ad

WHEREAS, Theodore Kulbacki has submitted drainage and sidewalk easements to the Town in a form acceptable to the Town Attorney, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby concurs with the findings made by the Cheektowaga Environmental Review Advisory Committee with respect to Center Park Subdivision, and BE IT FURTHER

RESOLVED that Center Park Subdivision be and hereby is accepted by this Town Board, and BE IT FURTHER

RESOLVED that this Town Board hereby accepts the drainage and sidewalk easements for Center Park Subdivision and directs the Town Attorney to record same in the Erie County Clerk's Office.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 8b — Acceptance of deed, easement and maintenance bond regarding portion of Baywood and Cherrywood Drive.
This Item was withdrawn.

Item No. 9 — Motion by Councilman Gabryszak Seconded by Councilman Johnson

WHEREAS, representatives from John F. Kennedy High School have requested permission to hold their Third Annual Cross-Country Meet in Stiglmeier Park on Saturday, October 7, 1989, and

Item No. 9 continued

WHEREAS, representatives from John F. Kennedy High School have also requested permission to hold two of their other cross-country meets in Stiglmeier Park on Tuesday, September 19, 1989 and Tuesday, September 26, 1989, and

WHEREAS, permission has been granted in the past for such track meets and they have been conducted without interference to others using the park, NOW, THEREFORE, BE IT

RESOLVED that the John F. Kennedy High School Cross-Country teams be and hereby are granted permission to hold their Third Annual Cross-Country Meet on Saturday, October 7, 1989 in Stiglmeier Park, and BE IT FURTHER

RESOLVED that the John F. Kennedy Cross-Country teams be and hereby are also granted permission to hold their September 19, 1989 and September 26, 1989 track meets in Stiglmeier Park, and BE IT FURTHER

RESOLVED that the coaches of such cross-country teams be requested to contact the Director of the Facilities Department to make arrangements for such track meets.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 10 Motion by Councilman Kulyk Seconded by Councilman Johnson

WHEREAS, Mobil Oil Corporation has applied to the Town of Cheektowaga for an environmental review of its request to rezone from M1-Light Manufacturing District to CM-General Commercial District and to obtain a special permit for the construction of a gasoline service station and car wash on property located on the southwest corner of Union Road and Galleria Drive, and

WHEREAS, the appropriate governmental agencies (State, County and Town) have been solicited by the Town for lead agency status and their comments, and

WHEREAS, the Town Environmental Review Advisory Committee has reviewed the applications of Mobil Oil Corporation and has stated that there exists the potential for significant environmental impacts and has recommended that a Draft Environmental Impact Statement ("DEIS") be prepared for the project, and

WHEREAS, this Town Board in accordance with Article 8 of the Environmental Conservation Law of the State of New York, feels that the following significant environmental effects relating to this project are present and should be addressed by the applicant in greater detail:

1. compatibility of proposed used to Town's Master Plan, Zoning Map and surrounding area
2. substantial potential for adverse changes in traffic levels
3. significant potential for increased air pollution
4. significant potential for increased noise

NOW, THEREFORE, BE IT

RESOLVED that the Town of Cheektowaga hereby determines that a Draft Environmental Impact Statement must be prepared and submitted to the Town, based on this Town Board's determination that such gasoline service station and car wash could have a significant effect on the environment, and BE IT FURTHER

RESOLVED that Mobil Oil Corporation be directed to submit a Draft Environmental Impact Statement to the Town Environmental Advisory Committee and this Town Board for review, and BE IT FURTHER

RESOLVED that the Town Building Inspector as Intake Officer for the Town, prepare, file and publish a positive declaration for this project with the

Item No. 10 continued

appropriate agencies and the applicant and otherwise make same available in accordance with Section 617.10(b) of the SEQR regulations, and BE IT FURTHER

RESOLVED that the Town Building Inspector, as Intake Officer for the Town, notify Mobil Oil Corporation and other interested and involved agencies of this requirement.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 11 Motion by Councilman Gabryszak Seconded by Councilman Kulyk

WHEREAS, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga, the Environmental Advisory Committee reviews various applications for building permits, rezonings, special permits, etc. and renders its determination of environmental significance of such applications, and

WHEREAS, the Town Board, pursuant to the Environmental Impact Review Ordinance of the Town of Cheektowaga, is designated the lead agency in most instances, and

WHEREAS, since the Town Board is the lead agency, it must affirm or reject the recommendations submitted to it by the Advisory Committee, and

WHEREAS, the Advisory Committee, at its meeting held on July 14, 1989, rendered the determinations shown on the attached memo dated July 25, 1989, and

WHEREAS, this Town Board has reviewed the applications submitted and the recommendations made by the Environmental Advisory Committee for the items listed below, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby affirms the recommendations (including stipulations, if any) made by the Advisory Committee with respect to the following referenced items which appeal on the July 25, 2989 memo attached hereto:

Item I 3788 Broadway

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGE FOR MEMO

OFFICE OF
BUILDING & PLUMBING INSPECTIONS

RONALD MARTEN
Supervising Bldg. and Plbg. Inspector

Town Hall, Broadway and Union Road
Cheektowaga, New York 14227
686-3470

Growing In A New Direction
TOWN OF CHEEKTOWAGA
Erie County, New York

M E M O

TO: Supervisor Frank Swiatek
Honorable Town Board Members
Richard Moleski, Town Clerk
James Kirisits, Town Attorney

FROM: Thomas Adamczak
Building Inspector

DATE: July 25, 1989

The following is a summary of the proposals which have been reviewed by the Town Environmental Quality Review Advisory Committee at a meeting held on July 14, 1989, in the Town Hall Council Chambers.

ITEM I 3788 Broadway - Proposed Contractor: Equipment Storage Building

Applicant: J.J. Juliano

Determination: Non-Significant With Stipulations
This item was before the Committee previously and the applicant was informed that a new plan was needed. A new plan was submitted which complied with all code requirements. The landscaping was given a preliminary approval by the Planning Board.

The area is zoned M2-General Manufacturing and the proposed use is compatible with the master plan. Although there are residences in the area, development has been of the Business/Commercial variety.

The stipulations are as follows:
- Extra blacktop is to be installed along the east side for maneuvering of vehicles.
- No storage permitted in the front or sides of the building.
- Landscaping strips are to be provided along the east and west property lines.

ITEM II 16 Dellwood - Proposed Rezoning For Parking Lot

Applicant: Michael Wagner

Determination: Non-Significant With Stipulations

Item No. 12a Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at 170 Gardenvale Drive, South Corner of Huth Road, Cheektowaga, New York, SBL #91.06-10-1 , and according to the Assessor's Office is owned by Donald and Ronald Morlock, , Williamsville, New York 14221, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12b Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located 1091 Maryvale Drive, Cheektowaga, New York, SBL # 92.09-4-2 and according to the Assessor's Office is owned by Joseph S. Matuszewski, , Cheektowaga, New York 14225, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12c Motion by Councilman Kulyk Seconded by Councilman Solecki

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at the corner of Losson Road and Groell Avenue, known as 133 Losson Road, Sublot 9, , Cheektowaga, New York, SBL # 113.20-5-11 and according to the Assessor's Office is owned by Losson Green Incorporated, 405 Convention Tower, Buffalo, New York 14202, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Item No. 12c continued

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12d Motion by Councilman Kulyk Seconded by Councilman Solecki

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on vacant property located located at the corner of Losson Road and Groell Avenue, known as 129 Losson Road, Sublot 8, , Cheektowaga, New York, SBL # 113.20-5-10 and according to the Assessor's Office is owned by Iona Builders Incorporated, 16 Phillip Drive, Cheektowaga, New York 14227, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12e Motion by Councilman Kulyk Seconded by Councilman Solecki

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located at 4347 Union Road, Cheektowaga, New York, SBL # 91.52-1-44 and according to the Assessor's Office is owned by Jean Ettelson, , Williamsville, New York 14221, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 12f Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on vacant property located on South Rossler Avenue, 60' North of Griswold Street, East of Meadowbrook Parkway, Cheektowaga, New York, SBL # 123.28-3-2, and according to the Assessor's Office is owned by Hugh Allan & Associates Incorporated, 4560 Gunnville Road, Clarence, New York 14031, and

Item No. 12f continued

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13a Motion by Councilman Kazukiewicz Seconded by Councilman Gabryszak

BE IT RESOLVED that the following Seasonal and/or Part-Time employees be and hereby are terminated in the Facilities Department:

PARKS DIVISION	EFFECTIVE:
Tyler Westbrook	8/26/89
David Klosko	9/5/89
John Barberio	9/3/89
James Rogowski	9/1/89
Todd Iozzia	9/3/89
Anthony Schubert	8/23/89
Paul Heary	8/28/89
Robert Nowak	9/1/89
Paul Owens, Jr.	8/24/89
Roger Wilson	Immediately
Thomas Bukowski	9/5/89

STREET LIGHTING DIVISION:	
Christian Ozolins	8/16/89
David Hapeman	8/23/89
Todd Brubaker	9/2/89
Timothy Przepiora	9/1/89
Scott Schneider	9/1/89

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 13b Motion by Councilman Gabryszak Seconded by Councilman Johnson

BE IT RESOLVED that Celio M. Nero, , Cheektowaga, New York and Thomas S. Hajduk , Cheektowaga, New York be terminated as employees in the Department of Senior Services.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 14 Motion by Councilman Jaworowicz Seconded by Councilman Kulyk

BE IT RESOLVED that the following individuals be and hereby are hired

Item No. 14 continued

as Seasonal and/or Part-Time employees in the various department and at the rates listed:

POLICE DEPARTMENT - $4.35 per hour	EFFECTIVE
Cheryl A. Twardowski	Immediately
Brigitte Wilk	"
SANITATION DEPARTMENT - $5.00 per hour	
James V. Crean	Immediately
Christopher S. Elminowski	"
James S. McElligott	"

AND, BE IT FURTHER

RESOLVED that the resolution dated August 22, 1989 hiring Susan Ciezak as a seasonal employee in the Police Department be and hereby is amended to read at the hourly rate of $4.35 per hour, effective August 23, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 15a Motion by Councilman Gabryszak Seconded by Councilman Kulyk

WHEREAS, there is a need in the Department of Senior Services for the full-time position of Recreation Attendant, AND

WHEREAS, the creation of said position is pending approval of the Erie County Department of Personnel, NOW, THEREFORE, BE IT

RESOLVED that the position of Recreation Attendant be and hereby is created, AND, BE IT FURTHER

RESOLVED that such position be posted for a period of ten (10) work days, in accordance with the collective bargaining agreement between the Town of Cheektowaga and the Town of Cheektowaga Employees Association.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 15b Create position of Pump Operator.
This Item was withdrawn.

Item No. 16a Motion by Supervisor Swiatek Seconded by Councilman Kazukiewicz

WHEREAS, there exists a temporary vacancy in the position of Junior Accountant in the Accounting and Payroll Department, AND

WHEREAS, the Town has been advised by the Erie County Department of Personnel that there currently exists no valid examination list for said job title, AND

WHEREAS, the Town has interviewed for such position and has determined that Robert E. Kaczmarek meets the minimum qualifications, NOW, THEREFORE, BE IT

Item No. 16a continued

RESOLVED that Robert E. Kaczmarek of 78 McKenzie Court, Cheektowaga, New York be hired as a Junior Accountant on a temporary, provisional basis, effective, September 6, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 16b Motion by Supervisor Swiatek Seconded by Councilman Solecki

WHEREAS, the term of Arnold F. Kogut as a member of the Board of Assessment Review of the Town of Cheektowaga will expire on September 30, 1989, and

WHEREAS, Arnold F. Kogut has performed his duties as a member of the Board of Assessment Review in an exemplary manner, and

WHEREAS, this Board is desirous of retaining Arnold F. Kogut as a member of the Board of Assessment Review, NOW, THEREFORE, BE IT

RESOLVED that Arnold F. Kogut of 97 Alpine Place, Cheektowaga, New York 14225 be and hereby is reappointed as a member of the Board of Assessment Review to the Town of Cheektowaga for a term ending September 30, 1994.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 17a Motion by Councilman Jaworowicz Seconded by Councilman Kazukiewicz

WHEREAS, for the past 8 years, members of the Cheektowaga Police S.W.A.T. Team have been sent to Fort Drum, New York for specialized training, and

WHEREAS, this year, the Chief of Police is requesting that the 13 S.W.A.T. Team Members be authorized to attend an improved course to be held in Summit Point, Virginia for two days, and

WHEREAS, the training exercise in Summit Point, Virginia is designed for total anti-terrorist training and will utilize outdoor firing ranges and a shooting house, NOW, THEREFORE, BE IT

RESOLVED that the following named officers be and hereby are authorized to attend the aforementioned training exercise at Summit Point, Virginia from October 24 - 25, 1989;

Lt. Richard Chamberlin
Sgt. Jerald Barber
Det. Floyd Lukowski
Det. Thomas Wentland
Officer William Ertel
Officer Edward Brotz
Captain John Schaller
Sgt. Kenneth Hycner
Det. Gerald Grant
Officer Henry Selbert
Officer Thomas Tomczak
Officer Russell Paul
Officer Gerald Jankowski

and BE IT FURTHER

RESOLVED that such officers be authorized to use two of the Town's surplus vehicles for transportation to and from such exercise, and BE IT FURTHER

RESOLVED that Lt. Richard Chamberlin and Cpt. John Schaller hereby are authorized to leave October 22, 1989 to handle pre-processing and storage of teams weapons, and BE IT FURTHER

Item No. 17a continued

RESOLVED that such officers shall be reimbursed by the Town up to a maximum of $2,960 for any reasonable and necessary expenses incurred in attending said training exercise from budget line item number 01-1910-0004-4082.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 17b Motion by Supervisor Swiatek Seconded by Councilman Solecki

WHEREAS, the New York State Division of Equalization and Assessment is conducting a Conference on Assessment Administration in Monticello, New York on October 10th thru October 13, 1989, and

WHEREAS, said Conference is administered by the New York State Division of Equalization and Assessment for Assessors to obtain continuing education credits, and

WHEREAS, said Conference is given at no cost to the Town of Cheektowaga, NOW, THEREFORE, BE IT

RESOLVED that Casimir A. Kozminski, Assessor, be and hereby is authorized to attend said Conference on October 10th thru October 13, 1989.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 18 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

BE IT RESOLVED that the following transfers are hereby approved and made a part hereof:

GENERAL FUND

FROM:	1420-04-4501	(Contracted Legal Services-Law)	$ 2,500.00
	9010-08-8131	(Employee-Workman's Comp.)	750.00
	1110-01-1391	(Part Time Clerk-Justice)	5,700 00
	9010-08-8131	(Employee-Workman's Comp.)	74,600.00
TO:	1420-04-4013	(Law Books)	2,500.00
	9010-08-8155	(Supervisory Union-Health)	750.00
	1110-01-1371	(Clerk-Justice Dept.)	5,700.00
	9950-08-8729	(Transfer to Capital-1989)	74,600.00

HUD-CDBG FUND

FROM:	1984-0040-0727	(Depew-Architectural Bar)	$ 1,777.84
	1985-0040-0727	(Depew-Architectural Barriers)	4,000.00
	1985-0040-0722	(Depew-Water Lines)	14,976.76
TO:	1984-0040-0735	(Depew-Sanilac Retaining Wall)	1,777.84
	1985-0040-0735	(Depew-Sanilac Retaining Wall)	4,000.00
	1985-0040-0735	(Depew-Sanilac Retaining Wall)	14,976.76

CAPITAL FUND

FROM:	05-5031	(Interfund Transfer-In)	$ 74,600.00
TO:	8540-8821-1103	(U-Crest-North)	$ 5,000.00
	5132-8902-1100	(Highway-Garage)	1,750.00

Item No. 18 continued

CAPITAL FUND:

TO:	5130-8903-1201 (Dump Truck Plow)	22,500.00
	5130-8903-1203 (Sweeper)	4,250.00
	5130-8903-1204 (Mini Excavator)	2,000.00
	5130-8903-1205 (Leaf Picker)	2,000.00
	1440-8905-1101 (S.W. Drainage)	4,500.00
	1440-8905-1103 (Scajaquada Tributary)	14,000.00
	1625-8906-1100 (Alexander School)	7,750.00
	7110-8907-1202 (Veterans Memorial)	2,650.00
	7110-8907-1203 (Playground Equipment)	1,000.00
	7140-8907-1201 (Water Slide)	2,500.00
	1910-8909-1201 (Bulldozer)	2,500.00
	1910-8909-1202 (Slope Mower)	2,200.00

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 19 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak

BE IT RESOLVED that the following vouchers and warrants submitted to the Town of Cheektowaga prior to September 5, 1989 are hereby approved and made a part hereof:

FUND	AMOUNT
GENERAL FUND	$186,232.32
HIGHWAY FUND	75,771.60
TRUST & AGENCY FUND	5,046.65
HUD FUND	3,439.08
PART TOWN FUND	2,503.05
HUD RENTAL REHAB. FUND	819.08
RISK RETENTION FUND	12,100.00
CAPITAL FUND	319,594.51
SPECIAL DISTRICT FUND	277,155.86
	$888,989.23

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

III. DEPARTMENTAL COMMUNICATIONS

Item No. 20 Building Permits
Received and Filed

IV. GENERAL COMMUNICATIONS

Item No. 21a N.Y.S.D.O.T.-Notice of Order: Parking Prohibited on portion of Genesee St.
Copies were sent to: Frank E. Swiatek, Supervisor; Town Board Members; Christopher Kowal, Highway Superintendent; Robert M. Lis, Chief of Police
Received and Filed.

Item No. 21b — N.Y.S.D.O.T.-Notice of Order: Parking Prohibited on portion of Genesee Street between 7 a.m. and 7 p.m.
Copies were sent to: Frank E. Swiatek, Supervisor; Town Board Members; Christopher Kowal, Highway Superintendent, Robert M. Lis, Chief of Police
Received and Filed.

Item No. 22 — N.Y.S.D.O.T.-Designation of Restricted Highway: Rt. 78 beginning at intersection of Rt. 16 northerly to intersection of Rt. 130
Copies were sent to: Frank E. Swiatek, Supervisor; Town Board Members; Christopher Kowal, Highway Superintendent; Robert M. Lis, Chief of Police
Received and Filed.

Item No. 23 — Notice of Claim: Gerald & Jennifer L. Papiernik vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Recreation Department; Facilities Department; S.I.S. Services, Insurance Carrier
Received and Filed.

Item No. 24 — Order to Show Cause: Benderson Development Co. vs. Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; Town Board Members; James Kirisits, Town Attorney, Building Department.
Received and Filed.

Item No. 25a — NOTICE OF PETITION: Transamerica Partners III - 2195 Harlem Road. vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25b — NOTICE OF PETITION: Tri-Cities Rental - Industrial Park, French Rd., South Seine and Idylwoods Apartments vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25c — NOTICE OF PETITION: Benderson Dev. Co., Inc. - 3 properties vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25d — NOTICE OF PETITION: Robert J. Bradley - 2929 Walden Avenue vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25e — NOTICE OF PETITION: Central Trust Co. - 2535 Walden Avenue vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25f — NOTICE OF PETITION: Carl & Eva Gifaldi - 3253 Walden Avenue vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25g — NOTICE OF PETITION: Benenson Capital Corp. -6350 Transit Road vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25v NOTICE OF PETITION: Ted's Jumbo Red Hots Inc., - 3637 Union Rd. vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25w NOTICE OF PETITION: Southland Employees' Trust - 2540 George Urban Blvd. vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25x NOTICE OF PETITION: Southland Corp. - five parcels vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25y NOTICE OF PETITION: Flanigan's Furniture Showrooms vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25z NOTICE OF PETITION: Stroehmann Bakeries Company vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25AA NOTICE OF PETITION: Cook Moving Systems, Inc. vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25BB NOTICE OF PETITION: Firestone Tire & Rubber Co. - 2240 Harlem Road vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25CC NOTICE OF PETITION: G.C. Acquisition Corp. - 2915 (2929) Walden Ave. vs Town Assessor, Board of Assessment Review
Received and Filed.

Item No. 25DD NOTICE OF PETITION: Jerome Weinstein & Phoebe Chason trustees of Godfrey M. Weinstein Trust - Kensington Village, Kenville Homes vs Town Assessor, Board of Assessment Review
Received and Filed.

MOTION BY SUPERVISOR SWIATEK AND SECONDED BY COUNCILMAN GABRYSZAK TO SUSPEND THE RULES TO INCLUDE THE FOLLOWING RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

V. SUSPENSION OF RULES

Item No. 26 Motion by Councilman Jaworowicz Seconded by Councilman Johnson

WHEREAS, the New York State Communications and Managers Association will be holding a seminar entitled "Computerization of Communications and Recording Systems" at the Onondaga County Sheriff's Department in Syracuse, New York on September 13, 1989, and

WHEREAS, the Chief of Police has requested permission for Lt. John Howlett to attend such seminar, and

Item No. 26 continued

WHEREAS, such seminar will be valuable to the Town in light of the Town's new E-911 system and the creation of the positions of Public Safety Dispatcher, NOW, THEREFORE, BE IT

RESOLVED that Lt. John Howlett be and hereby is authorized to attend the aforementioned seminar, and BE IT FURTHER

RESOLVED that the Town shall pay the reasonable and necessary expenses of Lt. Howlett associated with such seminar in an amount not to exceed $92.00 out of budget line item number 01-1910-0004-4082, and BE IT FURTHER

RESOLVED that Lt. Howlett be and hereby is authorized to use a surplus Town vehicle to travel to and from such seminar.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 27 Motion by Supervisor Swiatek Seconded by Councilman Gabryszak to adjourn this meeting to Wednesday, September 13, 1989 at 6:00 p.m. Eastern Daylight Saving Time.

RICHARD M. MOLESKI,
Town Clerk

P U B L I C H E A R I N G S
(held prior to Town Board meetings)

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1	Rezoning at 2421 Harlem Road from C-Retail Business District to M1-Light Manufacturing District

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NO. 21

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NO. 21

ADJOURNED MEETING NO. 21
September 13. 1989

Item No. 1 At an adjourned meeting of the Town Board of the Town of Cheektowaga. Erie County. New York held at the Town Hall. corner of Broadway and Union Road. in said Town on the 13th day of September. 1989 at 6:00 o'clock P.M., Eastern Daylight Saving Time. there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson. Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

ABSENT: 0

Also present were: Richard M. Moleski. Town Clerk; James Kirisits. Town Attorney; Ron Marten. Supervising Building and Plumbing Inspector; Chester Bryan. Town Engineer; Don Wegner. Chairman of Zoning Board of Appeals; Sal LaGreca. Employment and Training Director II;

I. RESOLUTIONS

Item No. 2 Motion by Councilman Kulyk Seconded by Councilman Kazukiewicz

WHEREAS. by resolution dated August 1 1988. this Town Board enacted Local Law No. 1 of the Year 1988. entitled "A Local Law known as Residency Law". and

WHEREAS. such Residency Law requires Town employees to be residents of the Town and to remain Town residents throughout the course of their employment.

WHEREAS. there is reason to believe that the following Town employees are not Town residents:

Bruce Fenwick
Michael Miecznikowski

NOW. THEREFORE. BE IT

RESOLVED that. in accordance with Section 6 of the Residency Law. the Town Clerk be and hereby is directed to forward the attached Notice form to the aforementioned Town employees.

MOTION BY SUPERVISOR SWIATEK AND SECONDED BY COUNCILMAN KULYK TO TABLE THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGE FOR ATTACHED NOTICE

NOTICE OF ALLEGED VIOLATION OF
RESIDENCY LAW OF THE TOWN OF CHEEKTOWAGA

TAKE NOTICE, that it is alleged that you are not a resident of the Town of Cheektowaga as is required by the Residency Law of the Town of Cheektowaga.

You are hereby allowed seven (7) calendar days after your receipt of this Notice in which to respond to this allegation in writing directed to the Town Board.

Should you fail to respond to this Notice or if your response is not, in the opinion of the Town Board, sufficient to satisfy the requirements of the Residency Law of the Town of Cheektowaga, a hearing shall be scheduled to examine the charge of nonresidency.

Should your response state that you admit you are a nonresident of the Town, you shall be given 45 days after the date of this Notice (up to . . 1989) to submit proof to the Town Board that you have become a resident of the Town of Cheektowaga in compliance with the Residency Law of the Town of Cheektowaga.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

Dated: . 1989

ADJOURNED MEETING NO. 21
September 13. 1989

Item No. 3a Motion by Councilman Kulyk Seconded by Councilman Jaworowicz

WHEREAS. William R. Dickinson has petitioned for the rezoning from R-Residential District to RA-Apartment District of property owned by him and located at 1083 Cleveland Drive. Cheektowaga. New York. which property is more particularly described in the attached legal description. and

WHEREAS. a public hearing on such petition was held before this Town Board on the 5th day of September. 1989 at 6:30 o'clock P.M., after publication and service of the notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"). and the Town Law; and all interested parties were given an opportunity to be heard at such hearing. and

WHEREAS. the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof. and

WHEREAS. the Environmental Advisory Committee of the Town of Cheektowaga. pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga." has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment. subject to the following conditions:

1. Subject to the approval of the drainage by the Town Engineering Department. and

WHEREAS. this Town Board agrees with the determination made by the Environmental Advisory Review Committee.

NOW. THEREFORE. BE IT RESOLVED that the application of William R. Dickinson for the rezoning from R-Residential District to RA-Apartment District of the property specified in the attached legal description be and the same is hereby approved subject to the aforementioned condition recommended by the Town Environmental Advisory Committee. and BE IT FURTHER

RESOLVED that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

* *

MOTION BY COUNCILMAN SOLECKI AND SECONDED BY COUNCILMAN JOHNSON TO TABLE THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS:

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* SEE NEXT PAGE FOR LEGAL DESCRIPTION

second part, and his heirs

All that Tract or Parcel of Land,

Situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot Number 19, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as all of Subdivision Lot Number 12 and west 10 feet front, 10.42 feet rear Subdivision Lot Number 13 as shown on map filed in Erie County Clerk's Office under Cover Number 1481 situated on the south side Cleveland Drive and being 50 feet front and 52.09 feet rear by 200.96 feet on the east line and 215.57 feet on the west line.

Item No. 3b Motion by Councilman Kulyk Seconded by Councilman Kazukiewicz

WHEREAS. Michael C. Wagner has petitioned for the rezoning from R-Residential District to C-Retail Business District of property owned by him and located at 16 Dellwood Place. Cheektowaga. New York, which property is more particularly described in the attached legal description, and

WHEREAS. a public hearing on such petition was held before this Town Board on the 22nd day of August. 1989 at 6:30 o'clock P.M., after publication and service of the notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"). and the Town Law; and all interested parties were given an opportunity to be heard at such hearing. and

WHEREAS. the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof. and

WHEREAS. the Environmental Advisory Committee of the Town of Cheektowaga. pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga." has also duly considered the application for the aforementioned rezoning. and has rendered a determination that such rezoning will not have a significant effect on the environment. subject to the following conditions:

1. 5 ft. high solid screening must be provided along the north and west lines
2. the gas meters must be protected from vehicle damage
3. drainage must be approved by the Town Engineering Department

and

WHEREAS. this Town Board agrees with the determination made by the Environmental Advisory Review Committee.

NOW. THEREFORE. BE IT RESOLVED. that the application of Michael C. Wagner for the rezoning from R-Residential District to C-Retail Business District of the property specified in the attached legal description be and the same is hereby approved subject to the aforementioned conditions recommended by the Town Environmental Advisory Committee. and BE IT FURTHER

RESOLVED. that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* See next page for legal description

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication SEP 21 1989; last publication SEP 21 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this SEP 21 1989

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At an adjourned meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 13th day of September, 1989 at 6:00 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki
ABSENT: 0

Motion by Councilman Kulyk and Seconded by Councilman Kazukiewicz

WHEREAS, Michael C. Wagner has petitioned for the rezoning from R-Residential District to C-Retail Business District of property owned by him and located at 16 Dellwood Place, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing on such petition was held before this Town Board on the 22nd day of August, 1989 at 6:30 o'clock P.M., after publication and service of notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment, subject to the following conditions:

1. 5 foot high solid screening must be provided along the north and west lines
2. the gas meters must be protected from vehicle damage
3. drainage must be approved by the Town Engineering Department,

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED, that the application of Michael C. Wagner for the rezoning from R-Residential District to C-Retail Business District of the property specified in the attached legal description be and the same is hereby approved subject to the aforementioned conditions recommended by the Town Environmental Advisory Committee, and BE IT FURTHER

RESOLVED, that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

Upon roll call.....
Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE
AYES: 7
NAYES: 0
ABSENT: 0

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot No. 26, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 92 as shown on a map filed in the Erie County Clerk's office under Cover No. 1266.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIED as follows:

1. An adjourned meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on September 13, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear at item 3b, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held, and who attended said meeting

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 13th day of September, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: September 21, 1989

Item No. 3c Motion by Councilman Johnson Seconded by Councilman Gabryszak

WHEREAS. this Town Board held a public hearing on August 22. 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law. at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof.

NOW. THEREFORE. BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that it is in the public interest to adopt the following amendments to Chapter 76 of the Code of the Town of Cheektowaga. County of Erie and State of New York. and said amendments are herewith adopted and enacted:

ARTICLE X

Parking. Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

F. Miscellaneous Parking Signs

(16)

No Parking 7 AM to 4 PM Except Saturday and Sunday

SPRUCEWOOD DRIVE	South side	Beginning at the west lot line of #15 Sprucewood Drive. around the cul-de-sac to the north side of Sprucewood Drive. ending at the east lot line of #16 Sprucewood Drive.

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts. if any. which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York.

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application

These amendments shall apply to all of the Town of Cheektowaga. Erie County. New York outside of the villages of Depew and Sloan.

Section 4. Publication.

That these amendments to Chapter 76 of the Code of the Town of Cheektowaga shall be entered in the minutes of this Town Board and shall be published in the CHEEKTOWAGA TIMES.a newspaper published in this Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

.....Scott Benson....., of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is .....Clerk..... of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for ..... weeks: first publication .....SEP 21 1989..... ; last publication .....SEP 21 1989..... ; and that no more than six days intervened between publications.

.....Scott Benson.....

Sworn to before me this .....SEP 21 1989.....

day of ....., 19.....

.....Eve J. Allis.....

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19[illegible]

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At an adjourned meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 13th day of September, 1989 at 6:00 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:

Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Leo T. Kazukiewicz
Councilman Richard B. Solecki

ABSENT: 0

Motion by Councilman Johnson and Seconded by Councilman Gabryszak

WHEREAS, this Town Board held a public hearing on August 22, 1989 at 7:30 P.M. to consider the advisability of adoption of proposed amendments to Chapter 76 of the Code of the Town of Cheektowaga (Vehicle and Traffic) said hearing being held in accordance with Notice thereof which was duly published as required by law, at which hearing an opportunity to be heard was afforded all persons interested in the subject thereof.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1.

That this Town Board determine that is is in the public interest to adopt the following amendments to Chapter 76 of the Code of The Town of Cheektowaga, County of Erie and State of New York, and said amendments are herewith adopted and enacted:

ARTICLE X

Parking, Standing and Stopping

Section 76-102 of the traffic ordinance shall be amended by adding thereto the following:

F. Miscellaneous Parking Signs

(16)

No Parking 7 AM to 4 PM Except Saturday and Sunday

SPRUCEWOOD DRIVE

South side

Beginning at the west lot line of #15 Sprucewood Drive, around the cul-de-sac to the north side of Sprucewood Drive, ending at the east lot line of #1 Sprucewood Drive

Section 2. Time to take effect.

(a) These amendments shall take effect when properly posted within a reasonable time except those parts, if any, which are subject to approval under Section1684 of the Vehicle and Traffic Law of the State of New York

(b) Any part or parts of these amendments which are subject to approval under Section 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the date on which approval in writing is received from the New York State Traffic Commission.

Section 3. Territorial Application.

These amendments shall apply to all of the Town of Cheektowaga, Erie County, New York outside of the villages of Depew and Sloan.

Section 4. Publication.

76 of the Code of the Town of Cheek towaga shall be entered in the minute of this Town Board and shall be published in the CHEEKTOWAGA TIMES a newspaper published in the Town and affidavits of such publication shall be filed with the Town Clerk and the Town Clerk shall likewise enter in the Ordinance Book a copy of said amendments specifying the date of adoption thereof.

Upon roll call.....

Superyisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting AYE
Councilman Solecki Voting AYE

AYES: 7
NAYES: 0
ABSENT: 0

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIE as follows:

1. An adjourned meeting of the Town Board of the Town of Cheektowaga, a town located in the County of Erie, State of New York, was duly held on September 13, 1989, and minutes of said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear in item 3c, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 13th day of September, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: September 21, 1989

Item No. 4 Motion by Councilman Kazukiewicz Seconded by Councilman Johnson

WHEREAS. by resolutions dated March 20. 1989 and June 5. 1989. this Town Board established a Veterans Memorial Capital Project and entered into a contract for the construction of a Veterans Memorial monument. and

WHEREAS. on May 1. 1989. this Town Board approved bonding in the amount of $53.000 for such monument. and

WHEREAS. various veterans groups have initiated a campaign to solicit private funding to assist the Town in paying for such memorial. and

WHEREAS. the Town has received money from various individuals and groups to be used towards the construction of the Veterans Memorial monument. and

WHEREAS. Section 64(8) of the Town Law of the State of New York authorizes this Town Board to accept gifts upon terms and conditions prescribed by donors. and

WHEREAS. this Town Board is willing to accept the monetary gifts from the individuals/groups listed below upon the condition that such moneys be used towards the costs for the construction of the Veterans Memorial monument. NOW, THEREFORE. BE IT

RESOLVED that this Town Board hereby agrees to accept the $1.804.00 from the following individuals/groups. such moneys to be used for the construction of the Veterans Memorial monument:

Am Vets Buddy Knaus Post No. 14. Inc.
Ziggy & Zon's World
Am Vets Hank Nowak Auxiliary Post No. 45
Joseph W. & Sylvia Lipowski
Erie County Council of Am Vets
Marie Gorski
NAPA Auto Parts
NYS Federation of Home Bureaus. Inc.. Southline Crafters
Nussbaumer & Clarke. Inc.
J. Donald & Jean Griffin
Clara Balzanowski
The Hair Shoppe
Town of Cheektowaga Employee's Association
United Auto Workers
Louise Zawadzki
Donald Gallo
James D. & Janet M. Hitzel
Victor's Paint & Hardware Store
Ladies Auxiliary Canadian Corps No. 104
Richard B. Solecki & wife

and. BE IT FURTHER

RESOLVED that such moneys shall be deposited into Trust and Agency Account No. 06-0875-0000-0000. to be thereafter transferred into the Veterans Memorial Capital Project account to be used for construction of the Veterans Memorial Monument.

* *

Motion by Supervisor Swiatek and Seconded by Councilman Solecki to amend the above resolution and the voting was as follows:

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 4 continued

* *

AMENDED

Motion by Councilman Councilman Kazukiewicz seconded by Councilman Johnson

WHEREAS. by resolutions dated March 20. 1989 and June 5. 1989. this Town Board established a Veterans Memorial Capital Project and entered into a contract for the construction of a Veterans Memorial monument. and

WHEREAS. on May 1. 1989. this Town Board approved bonding in the amount of $53.000 for such monument. and

WHEREAS. various veterans groups have initiated a campaign to solicit private funding to assist the Town in paying for such memorial. and

WHEREAS. the Town has received money from various individuals and groups to be used towards the construction of the Veterans Memorial monument. and

WHEREAS. Section 64(8) of the Town Law of the State of New York authorizes this Town Board to accept gifts upon terms and conditions prescribed by donors. and

WHEREAS. this Town Board is willing to accept the monetary gifts from the individuals/groups listed below upon the condition that such moneys be used towards the costs for the construction of the Veterans Memorial monument. NOW. THEREFORE. BE IT

RESOLVED that this Town Board hereby agrees to accept the $1.804.00 from the following individuals/groups. such moneys to be used for the construction of the Veterans Memorial monument:

Am Vets Buddy Knaus Post No. 14. Inc.
Ziggy & Zon's World
Am Vets Hank Nowak Auxiliary Post No. 45
Joseph W. & Sylvia Lipowski
Erie County Council of Am Vets
Marie Gorski
NAPA Auto Parts
NYS Federation of Home Bureaus. Inc.. Southline Crafters
Nussbaumer & Clarke. Inc.
J. Donald & Jean Griffin
Clara Balzanowski
The Hair Shoppe
Town of Cheektowaga Employee s Association
United Auto Workers
Louise Zawadzki
Donald Gallo
James D. & Janet M. Hitzel
Victor's Paint & Hardware Store
Ladies Auxiliary Canadian Corps No. 104
Richard B. Solecki & wife

and. BE IT FURTHER

RESOLVED that any and all moneys shall be deposited into Trust and Agency Account No. 06-0875-0000-0000. to be thereafter transferred into the Veterans Memorial Capital Project account to be used for construction of the Veterans Memorial Monument.

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 5 Motion by Councilman Kazukiewicz Seconded by Councilman Johnson

WHEREAS. the Town of Cheektowaga is celebrating its 150th Anniversary in 1989. and

WHEREAS. George R. Ross. a Town resident and employee who serves on the Cheektowaga Veterans Memorial Committee. has composed poems entitled "A Poem for Cheektowaga's Sesquicentennial" and "Old Glory. Keep Her Flying". and

WHEREAS. such poems depict a sense of pride in the Town of Cheektowaga and in the United States of America and are appropriate for the Town's Sesquicentennial Celebration. NOW. THEREFORE. BE IT

RESOLVED that "A Poem for Cheektowaga s Sesquicentennial" and "Old Glory. Keep Her Flying" be and hereby are adopted by this Town Board as the official Town of Cheektowaga Sesquicentennial poems. and BE IT FURTHER

RESOLVED that this Town Board hereby gives its thanks to George R. Ross for composing such poems.

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 6a Councilman Johnson Seconded by Councilman Solecki

WHEREAS. on June 6. 1955. the Town Board of the Town of Cheektowaga adopted an ordinance now known as Chapter 65. Article II. of the Code of the Town of Cheektowaga. setting forth Town Specifications for the construction of public sidewalks in the Town. AND

WHEREAS. pursuant to Section 200-a of the Town Law of the State of New York. a town board may adopt orders from time to time directing the owners of lots abutting on streets within such town to construct public sidewalks along same. AND

WHEREAS. property located at 184 Dean Road (SBL #92.19-5-3) does not have public sidewalks along Dean Road and this Board feels that sidewalks should be constructed along Dean Road for this property. which according to the Assessors' Office is owned by Paul Stencel. Depew. New York 14043. NOW. THEREFORE. BE IT

ORDERED. that Paul Stencel said owner be and hereby is directed to construct public sidewalks along Dean Road where such road abuts his property located at on or before November 18. 1989; such sidewalks to be constructed in accordance with Town specifications. and BE IT FURTHER

ORDERED. that should said owner of not so construct such sidewalks on or before November 18. 1989. this Board shall cause same to be built and assess the expense thereof against 184 Dean Road. and BE IT FURTHER

ORDERED. that the Town Clerk be and hereby is directed to forward a certified copy of this resolution by certified mail to Paul Stencel. 184 Dean Road. Depew. New York 14043.

* *

MOTION BY COUNCILMAN JOHNSON AND SECONDED BY COUNCILMAN SOLECKI TO TABLE THE ABOVE RESOLUTION

* *

Item No. 6b Motion by Councilman Johnson Seconded by Councilman Solecki

WHEREAS. on June 6. 1955. the Town Board of the Town of Cheektowaga adopted an ordinance now known as Chapter 65. Article II. of the Code of the Town of Cheektowaga. setting forth Town Specifications for the construction of public sidewalks in the Town. AND

WHEREAS. pursuant to Section 200-a of the Town Law of the State of New York. a town board may adopt orders from time to time directing the owners of lots abutting on streets within such town to construct public sidewalks along same. AND

WHEREAS. property located at 218 Dean Road (SBL #92.15-3-17.1) does not have public sidewalks along Dean Road and this Board feels that sidewalks should be constructed along Dean Road for this property. which according to the Assessors' Office is owned by Arthur V. Zielin. Depew. New York 14043. NOW, THEREFORE. BE IT

ORDERED. that Arthur V. Zielin said owner be and hereby is directed to construct public sidewalks along Dean Road where such road abuts his property located at on or before November 18. 1989; such sidewalks to be constructed in accordance with Town specifications. and BE IT FURTHER

ORDERED. that should said owner of not so construct such sidewalks on or before November 18. 1989. this Board shall cause same to be built and assess the expense thereof against 218 Dean Road. and BE IT FURTHER

ORDERED. that the Town Clerk be and hereby is directed to forward a certified copy of this resolution by certified mail to Arthur V. Zielin. 218 Dean Road. Depew. New York 14043.

* *

MOTION BY COUNCILMAN JOHNSON AND SECONDED BY COUNCILMAN SOLECKI TO TABLE THE ABOVE RESOLUTION

* *

Item No. 6c Motion by Councilman Johnson Seconded by Councilman Solecki

WHEREAS. on June 6. 1955. the Town Board of the Town of Cheektowaga adopted an ordinance now known as Chapter 65. Article II. of the Code of the Town of Cheektowaga. setting forth Town Specifications for the construction of public sidewalks in the Town. AND

WHEREAS. pursuant to Section 200-a of the Town Law of the State of New York. a town board may adopt orders from time to time directing the owners of lots abutting on streets within such town to construct public sidewalks along same. AND

WHEREAS. property located at 228 Dean Road (SBL #92.15-4-23) does not have public sidewalks along Dean Road and this Board feels that sidewalks should be constructed along Dean Road for this property. which according to the Assessors' Office is owned by Ronald J. Nowicki. Depew. New York 14043. NOW, THEREFORE. BE IT

ORDERED. that Ronald J. Nowicki said owner be and hereby is directed to construct public sidewalks along Dean Road where such road abuts his property located at on or before November 18. 1989; such sidewalks to be constructed in accordance with Town specifications. and BE IT FURTHER

ORDERED. that should said owner of not so construct such sidewalks on or before November 18. 1989. this Board shall cause same to be built and assess the expense thereof against 228 Dean Road. and BE IT FURTHER

ORDERED. that the Town Clerk be and hereby is directed to forward a certified copy of this resolution by certified mail to Ronald J. Nowicki. Depew. New York 14043.

Item No. 6c continued

* *

MOTION BY COUNCILMAN JOHNSON AND SECONDED BY COUNCILMAN SOLECKI TO TABLE THE ABOVE RESOLUTION

* *

Item No. 6d Motion by Councilman Johnson Seconded by Councilman Solecki

WHEREAS. on June 6. 1955. the Town Board of the Town of Cheektowaga adopted an ordinance now known as Chapter 65. Article II. of the Code of the Town of Cheektowaga. setting forth Town Specifications for the construction of public sidewalks in the Town. AND

WHEREAS. pursuant to Section 200-a of the Town Law of the State of New York. a town board may adopt orders from time to time directing the owners of lots abutting on streets within such town to construct public sidewalks along same. AND

WHEREAS. property located at 240-244 Dean Road (SBL #92.15-3-15) does not have public sidewalks along Dean Road and this Board feels that sidewalks should be constructed along Dean Road for this property. which according to the Assessors' Office is owned by Sally Pantano. Lancaster. New York 14086 NOW. THEREFORE. BE IT

ORDERED. that Sally Pantano said owner be and hereby is directed to construct public sidewalks along Dean Road where such road abuts his property located at on or before November 18. 1989; such sidewalks to be constructed in accordance with Town specifications. and BE IT FURTHER

ORDERED. that should said owner of not so construct such sidewalks on or before November 18. 1989. this Board shall cause same to be built and assess the expense thereof against 240-244 Dean Road. and BE IT FURTHER

ORDERED. that the Town Clerk be and hereby is directed to forward a certified copy of this resolution by certified mail to Sally Pantano. . Lancaster. New York 14086

* *

MOTION BY COUNCILMAN JOHNSON AND SECONDED BY COUNCILMAN SOLECKI TO TABLE THE ABOVE RESOLUTION

* *

Item No. 7 Motion by Councilman Johnson Seconded by Supervisor Swiatek

WHEREAS. this Town Board. at a regular meeting of May 1. 1989. authorize a Bond and Capital Note Resolution to construct various drainage improvements in the Town of Cheektowaga including the Southwest Drainage Project. the U-Crest South Drainage Project and Scajaquada Tributary Improvements for an authorized funding in the amount of $550.000.00. AND

WHEREAS. the Bond Closing for such Bonds and Capital Notes took place on August 14. 1989 and funds from same have been deposited with the Town. AND

WHEREAS. it is essential at this time to undertake several drainage improvement tasks including but not limited to the Madeira Detention Basin Improvements. Slate Bottom Creek Flow Improvement Work and the Prince Drive Drainage Improvement. NOW. THEREFORE. BE IT

RESOLVED that funds in the amount of $65.000.00 from said Town Drainage Improvements Bond be and hereby is approved for said drainage improvement projects with a budget account to be allocated for said miscellaneous drainage projects.

Item No. 7 continued

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

Item No. 8 Motion by Councilman Gabryszak Seconded by Supervisor Swiatek

WHEREAS. this Town Board is interested in renovating the former Alexander Street School and making improvements in Town Park. and

WHEREAS. moneys are available under Title 9 of the Environmental Quality Bond Act of 1986 for such purposes. NOW. THEREFORE. BE IT

RESOLVED that Frank E. Swiatek. the Supervisor. is authorized and directed to file an application on forms prescribed by the New York State Office of Parks. Recreation and Historic Preservation for financial assistance in accordance with the provisions of Title 9 of the Environmental Quality Bond Act of 1986. in an amount not to exceed $1.081,500. and upon approval of said request to enter into and execute a project agreement for such financial assistance to this municipality for the Town Park/Alexander Street Community Center Improvement Project.

Upon Roll Call....
AYES: Supervisor Swiatek. Councilmen Johnson. Jaworowicz. Gabryszak. Kulyk Kazukiewicz and Solecki
NAYES: 0
ABSENT: 0

* *

MOTION BY SUPERVISOR SWIATEK AND SECONDED BY COUNCILMAN SOLECKI TO MOVE INTO EXECUTIVE SESSION AT 6·50 P.M

RESUME REGULAR MEETING AT 7·15 P.M.

* *

Item No. 9 Motion by Councilman Johnson Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS. Benderson Development Co.. Inc.. submitted a site plan to the Town Environmental Quality Review Advisory Committee relating to a retail center known as Union Consumer Square located at 3735 Union Road. Cheektowaga. New York. and. by resolution dated June 5. 1989. this Town Board affirmed said Advisory Committee's determination that Union Consumer Square was environmentally non-significant subject to certain stipulations and further subject to further review concerning the closing off of North Creek Drive. and

WHEREAS. on or about May 22. 1989. Benderson Development Co., Inc. applied for a Special Use Permit pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance") for a tire service center to be located within said Union Consumer Square. and

WHEREAS. a public hearing was held before the Cheektowaga Town Board on the 3rd day of July. 1989 at 7:00 P.M. of said day for the purpose of considering said application for a Special Use Permit. after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested persons were given an opportunity to be heard at such hearing. and

WHEREAS. by resolution dated July 3. 1989. this Town Board directed Benderson Development Co.. Inc. to undertake a certain traffic impact study. and

WHEREAS. by resolution dated July 17. 1989. this Town Board rejected the aforementioned Special Permit application at the location shown on the submitted site plan due to its proximity to the nearby residences and requested Benderson

Item No. 9 continued

Development Co.. Inc. to submit a new site/development plan for the Union Consumer Plaza located as far away from the residential neighborhood as possible. and

WHEREAS. by resolution dated August 7. 1989. this Town Board directed Benderson Development Co.. Inc. to prepare a draft Environmental Impact Statement addressing various impacts relating to the aforementioned tire service center. and

WHEREAS. on or about August 16 1989. Benderson Development Co., Inc. instituted an Article 78 proceeding in Supreme Court. Erie County challenging the legality of the aforementioned resolutions of July 17. 1989 and August 7. 1989. and

WHEREAS. on or about August 21. 1989. certain individuals residing in close proximity to the Union Consumer Square project applied for the Court's permission to intervene in the aforementioned Article 78 proceeding and challenged the aforementioned resolution of June 5. 1989 as violative of the requirements of the State Environmental Quality Review Law. and

WHEREAS. by resolution dated August 22. 1989. this Board expressed its intention to rescind its negative declaration for the Union Consumer Square Project incorporated in the aforementioned resolution of June 5. 1989. and

WHEREAS. on September 6. 1989. this Town Board. Benderson Development Co.. Inc.. and the aforementioned residents. by and through their respective legal counsel. appeared before the Hon. Jerome C. Gorski for oral argument relating to the aforementioned Article 78 proceeding. at which time the said Hon. Jerome C. Gorski asked the parties to attempt to resolve their disputes by way of a resolution of this Town Board. and

WHEREAS. this Town Board. Benderson Development Co.. Inc. and the aforementioned residents wish to resolve the various disputes. and believe they have reached an agreement that serves the best interests of the parties and the Town of Cheektowaga. NOW. THEREFORE. BE IT

RESOLVED that Benderson Development Co., Inc. shall construct the aforementioned tire service center at the location closest to Union Road. as is shown on the site plan for Union Consumer Square (SK-2) prepared by Lauer-Manguso & Associates Architects. dated August 1. 1989. and BE IT FURTHER

RESOLVED that this Town Board hereby finds that at the aforesaid location. the said tire service center is an accessory use to the Pace Store to be located in the M1-Light Manufacturing District without a Special Use Permit. provided all activities are conducted within a completely enclosed building. and BE IT FURTHER

RESOLVED that to ensure compliance with the State Environmental Quality Review Act and its implementing regulations (6NYCRR Part 617). and to mitigage the potential adverse impacts on the environment that may result from the Union Consumer Plaza. the site plan for the entire Union Consumer Plaza is approved subject to the following conditions:

1. The Benderson Development Co.. Inc.. or any successor in interest shall close and barricade the west end of North Creek Drive at the easterly property line of the subject parcel at no expense to the Town of Cheektowaga. and shall keep said North Creek Drive permanently closed and barricaded;

2. The Benderson Development Co.. Inc.. or any successor in interest. shall take no steps itself. and shall neither directly nor indirectly encourage any other person or entity. to utilize a certain strip of land located between the residences of 119 and 129 Ellsworth Drive. as a thoroughfare. and shall otherwise take no steps to open up Ellsworth Drive as a thoroughfare or means of ingress or egress toor from Union Consumer Square;

3. The roadway to be constructed to the rear of Union Consumer Square near the easterly border of the subject parcel and parallel to Ellsworth Drive shall be a means of ingress and egress for emergency vehicles. and shall not be utilized at any time as a thoroughfare for customers or employees at Union Consumer Square;

Item No. 9 continued

4. The Benderson Development Co.. Inc.. shall complete and submit to this Town Board the traffic impact study requested in the resolution of this Town Board dated July 3. 1989. and shall fully cooperate with the Town of Cheektowaga and/or other governmental agencies in resolving any traffic problems identified in said study;

5. The Benderson Development Co.. Inc.. shall construct a first-quality eight-foot cedar fence along the entire easterly end of the subject parcel. and shall plant along said fence first-quality green space. trees and landscaping as shall be mutually agreed by the North Creek Homeowners Association and Benderson Development Co.. Inc.. in accordance with the landscape regulations in the Zoning Ordinance. and said Benderson Development Co.. Inc.. or any successor in interest. shall keep said fence. green space. trees and landscaping in first-rate condition.'

6. The Benderson Development Co.. Inc.. or any successor in interest. shall adhere to the restrictions relating to the utilization of said tire service center recommended by the Town Environmental Quality Review Advisory Committee. namely; (a) no outside storage or new or used tires is to be allowed; (b) the conducting of no other automotive use. other than the installation of tires. is to be allowed within or outside of said tire service center; (c) the hours of operation of the tire service center shall be no earlier than 10:00 a.m. and no later than 8:30 p.m.; (d) the doors for the bays of the tire service center are to be kept closed at all times while the tire service center is in operation; and

7. The Benderson Development Co.. Inc.. or any successor in interest. shall require that the following terms and restrictions relating to loading and/or unloading of trucks be strictly enforced; a) loading and unloading of trucks shall normally only occur between the hours of 8:00 a.m. and 8:00 p.m. on Monday through Saturday; b) unless actively engaged in the process of loading and unloading any trucks servicing any tenant or occupant of Union Consumer Square shall be parked in specially designated truck parking spaces located along the southerly end of the subject parcel; and c) any federal. state or local laws. ordinances or regulations relating to the running of diesel engines shall be strictly complied with; and BE IT FURTHER

RESOLVED. that no certificate of occupancy shall be issued for any portion of the Union Consumer Square project unless and until the Town Building Inspector determines that each of the conditions enumerated above has been complied with. AND BE IT FURTHER

RESOLVED that theaforementioned decisions and resolutions of this Town Board. dated July 17. 1989. August 7. 1989 and August 22. 1989. having been superceded by the resolution herein. be and the same are hereby annulled. vacated and of no further force and effect.

* *

MOTION BY COUNCILMAN JOHNSON AND SECONDED BY SUPERVISOR TO TABLE THE ABOVE RESOLUTION

Item No. 10 Motion by Supervisor Swiatek Seconded by Councilman Johnson to adjourn the meeting.

RICHARD M. MOLESKI.
Town Clerk

Item No. 1 At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Road, in said Town on the 18th day of September, 1989 at 7:30 o'clock P.M., Eastern Daylight Saving Time, there were:

PRESENT: Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworowicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Richard B. Solecki

ABSENT: 0

EXCUSED: Councilman Leo T. Kazukiewicz

Also present were: Richard M. Moleski, Town Clerk; James Kirisits, Town Attorney; Bill Pugh, Assistant Town Engineer; Don Wegner, Chairman of Zoning Board of Appeals; Sal LaGreca, Employment and Training Director II; Chris Kowal, Highway Superintendent.

I. FROM THE TABLE

Item No. 2 Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, by resolution dated August 1, 1988, this Town Board enacted Local Law No. 1 of the Year 1988, entitled "A Local Law known as Residency Law", and

WHEREAS, such Residency Law requires Town employees to be residents of the Town and to remain Town residents throughout the course of their employment,

WHEREAS, there is reason to believe that the following Town employees are not Town residents:

Bruce Fenwick
Michael Miecznikowski

NOW, THEREFORE, BE IT

RESOLVED that, in accordance with Section 6 of the Residency Law, the Town Clerk be and hereby is directed to forward the attached Notice form to the aforementioned Town employees.

* * * * * * * * * * * * * * * * * * * *

NOTICE OF ALLEGED VIOLATION OF
RESIDENCY LAW OF THE TOWN OF CHEEKTOWAGA

TAKE NOTICE that it is alleged that you are not a resident of the Town of Cheektowaga as is required by the Residency Law of the Town of Cheektowaga.

You are hereby allowed seven (7) calendar days after your receipt of this Notice in which to respond to this allegation in writing directed to the Town Board.

Item No. 2 cont'd

Should you fail to respond to this Notice or if your response is not, in the opinion of the Town Board, sufficient to satisfy the requirements of the Residency Law of the Town of Cheektowaga, a hearing shall be scheduled to examine the charge of nonresidency.

Should your response state that you admit you are a nonresident of the Town, you shall be given 45 days after the date of this Notice (up to November 2, 1989) to submit proof to the Town Board that you have become a resident of the Town of the Town of Cheektowaga in compliance with the Residency Law of the Town of Cheektowaga.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

Dated: September 18, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 3a Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, William R. Dickinson has petitioned for the rezoning from R-Residential District to RA-Apartment District of property owned by him and located at 1083 Cleveland Drive, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing on such petition was held before this Town Board on the 5th day of September 1989 at 6:30 o'clock P.M., after publication and service of the notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing, and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof, and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment, subject to the following conditions:

1. Subject to the approval of the drainage by the Town Engineering Department, and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED that the application of William R. Dickinson for the rezoning from R-Residential District to RA-Apartment District of the property specified in the attached legal description be ad the same is hereby approved subject to the aforementioned condition recommended by the Town Environmental Advisory Committee, and BE IT FURTHER

RESOLVED that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

* See next page for description

second part, and his heirs

All that Tract or Parcel of Land,

Situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot Number 19, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as all of Subdivision Lot Number 12 and west 10 feet front, 10.42 feet rear Subdivision Lot Number 13 as shown on map filed in Erie County Clerk's Office under Cover Number 1481 situated on the south side Cleveland Drive and being 50 feet front and 52.09 feet rear by 200.96 feet on the east line and 215.57 feet on the west line.

Item No. 3a cont'd

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES:	0
ABSENT:	0
EXCUSED:	Councilman Kazukiewicz

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication SEP 21 1989; last publication SEP 21 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this SEP 21 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19 91

LEGAL NOTICE
EXTRACTS FROM MINUTES OF CHEEKTOWAGA TOWN BOARD

At a regular meeting of the Town Board of the Town of Cheektowaga, Erie County, New York held at the Town Hall, corner of Broadway and Union Roads, in said Town on the 18th day of September, 1989 at 6:00 o'clock p.m. Eastern Daylight Saving Time there were:

PRESENT:
Supervisor Frank E. Swiatek
Councilman Thomas M. Johnson, Jr.
Councilman Patricia A. Jaworwicz
Councilman Dennis H. Gabryszak
Councilman Andrew A. Kulyk
Councilman Richard B. Solecki
ABSENT: 0
EXCUSED: Councilman Leo T. Kazukiewicz

Motion by Councilman Kulyk and Seconded by Councilman Jaworowicz

WHEREAS, William R. Dickinson has petitioned for the rezoning from R-Residential District to RA-Apartment District of property owned by him and located at 1083 Cleveland Drive, Cheektowaga, New York, which property is more particularly described in the attached legal description, and

WHEREAS, a public hearing on such petition was held before this Town Board on the 5th day of September, 1989 at 6:30 o'clock P.M., after publication and service of notices required by the provisions of the Code of the Town of Cheektowaga ("Zoning Ordinance"), and the Town Law; and all interested parties were given an opportunity to be heard at such hearing and

WHEREAS, the Cheektowaga Planning Board has reviewed such application and has recommended approval thereof

and

WHEREAS, the Environmental Advisory Committee of the Town of Cheektowaga, pursuant to the "Environmental Impact Review Ordinance of the Town of Cheektowaga," has also duly considered the application for the aforementioned rezoning, and has rendered a determination that such rezoning will not have a significant effect on the environment, subject to the following conditions:

1.Subject to the approval of the drainage by the Town Engineering Department,

and

WHEREAS, this Town Board agrees with the determination made by the Environmental Advisory Review Committee,

NOW, THEREFORE, BE IT RESOLVED, that the application of William R. Dickinson for the rezoning from R-Residential District to RA-Apartment District of the property specified in the attached legal description be and the same is hereby approved subject to the aforementioned conditions recommended by the Town Environmental Advisory Committee and BE IT FURTHER

RESOLVED, that the Zoning Map and Ordinance of the Town of Cheektowaga be amended in accordance with the above.

Upon roll call.....

Supervisor Swiatek Voting AYE
Councilman Johnson Voting AYE
Councilman Jaworowicz Voting AYE
Councilman Gabryszak Voting AYE
Councilman Kulyk Voting AYE
Councilman Kazukiewicz Voting
EXCUSED
Councilman Solecki Voting AYE

AYES: 6
NAYES: 0
ABSENT: 0
EXCUSED: 1

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Cheektowaga, County of Erie and State of New York, being part of Lot Number 19, Township 11, Range 7 of the Holland Land Company's Survey and further distinguished as all of Subdivision Lot Number 12 and west 1 feet front, 10.42 feet rear Subdivision Lot Number 13 as shown on map filed in Erie County Clerk's Office under Cover Number 1481 situated on the south side Cleveland Drive and being 50 feet front and 52.09 feet rear 200.96 feet on the east line and 215.2 feet on the west line.

STATE OF NEW YORK
COUNTY OF ERIE

I, RICHARD M. MOLESKI, Town Clerk of the Town hereinafter described, DO HEREBY CERTIFIE as follows:

1. A regular meeting of the Town Board of the Town of Cheektowaga town located in the County of Erie State of New York, was duly held September 18, 1989, and minutes said meeting have been duly recorded in the Minute Book by me in accordance with law for the purpose of recording the minutes of meeting of said Board, and such minutes appear item 3a, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof insofar as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened, the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the corporate seal of said Town, this 18th day of September, 1989.

RICHARD M. MOLESKI
Town Clerk

PUBLISH: September 21, 1989

Item No. 3b Motion by Councilman Johnson, Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, Benderson Development Co., Inc., submitted a site plan to the Town Environmental Quality Review Advisory Committee relating to a retail center known as Union Consumer Square located at 3735 Union Road, Cheektowaga, New York, and, by resolution dated June 5, 1989, this Town Board affirmed said Advisory Committee's determination that Union Consumer Square was environmetally non-significant subject to certain stipulations and further subject to further review concerning the closing off of North Creek Drive, and

WHEREAS, on or about May 22, 1989, Benderson Development Co., Inc. applied for a Special Use Permit pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance") for a tire service center to be located within said Union Consumer Square, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July, 1989 at 7:00 P.M. of said day for the purpose of considering said application for a Special Use Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested persons were given an opportunity to be heard at such hearing, and

WHEREAS, by resolution dated July 3, 1989, this Town Board directed Benderson Development Co., Inc. to undertake a certain traffic impact study, and

WHEREAS, by resolution dated July 17, 1989, this Town Board rejected the aforementioned Special Permit application at the location shown on the submitted site plan due to its proximity to the nearby residences and requested Benderson Development Co., Inc. to submit a new site/development plan for the Tire Center located as far away from the residential neighborhood as possible, and

WHEREAS, by resolution dated August 7, 1989, this Town Board directed Benderson Development Co., Inc. to prepare a draft Environmental Impact Statement addressing various impacts relating to the aforementioned tire service center, and

WHEREAS, on or about August 16 1989, Benderson Development Co., Inc. instituted an Article 78 proceeding in Supreme Court, Erie County challenging the legality of the aforementioned resolutions of July 17, 1989 and August 7, 1989, and

WHEREAS, on or about August 21, 1989, certain individuals residing in close proximity to the Union Consumer Square project applied for the Court's permission to intervene in the aforementioned Article 78 proceeding and challenged the aforementioned resolution of June 5, 1989 as violative of the requirements of the State Environmental Quality Review Law, and

RESOLVED by resolution dated August 22, 1989, this Board expressed its intention to rescind its negative declaration for the Union Consumer Square Project incorporated in the aforementioned resolution of June 5, 1989, and

WHEREAS, on September 6, 1989, this Town Board, Benderson Development Co., Inc., and the aforementioned residents, by and through their respective legal counsel, appeared before the Hon. Jerome C. Gorski for oral argument relating to the aforementioned Article 78 proceeding, at which time the said Hon. Jerome C. Gorski asked the parties to attempt to resolve their disputes by way of a resolution of this Town Board, and

WHEREAS, this Town Board, Benderson Development Co., Inc. and the aforementioned residents wish to resolve the various disputes, and believe they have reached an agreement that serves the best interests of the parties and the Town of Cheektowaga, NOW, THEREFORE, BE IT

RESOLVED that Benderson Development Co., Inc. shall construct the aforementioned tire service center at the location closest to Union Road, as is shown on the site plan for Union Consumer Square (SK-2) prepared by Lauer-Manguso & Associates Architects, dated August 1, 1989, and BE IT FURTHER

Item No. 3b cont'd

RESOLVED that this Town Board hereby finds that at the aforesaid location, the said tire service center is an accessory use to the Pace Store to be located in the M1-Light Manufacturing District without a Special Use Permit, provided all activities are conducted within a completely enclosed building, and BE IT FURTHER

RESOLVED that to ensure compliance with the State Environmental Quality Review Act and its implementing regulations (6NYCRR Part 617), the site plan for the entire Union Consumer Plaza is approved subject to the following conditions:

1. The Benderson Development Co., Inc., or any successor in interest shall close and barricade the west end of North Creek Drive at the easterly property line of the subject parcel at no expense to the Town of Cheektowaga, and shall keep said North Creek Drive permanently closed and barricade;

2. The Benderson Development Co., Inc., although it does not own the strip described herein, agrees in principal not to utilize a certain strip of land located between the residences of 19 and 29 Ellsworth Drive, as a thoroughfare, and otherwise agrees in principal to take no steps to open up Ellsworth Drive as a thoroughfare or means of ingress or egress to or from Union Consumer Square.

3. The roadway to be constructed to the rear of Union Consumer Square near the easterly border of the subject parcel and parallel to Ellsworth Drive shall be a means of ingress and egress for emergency vehicles, and Benderson Development Co., Inc. shall discourage utilization as a thoroughfare for customers or employees at Union Consumer Square, except for parking purposes.

4. The Benderson Development Co., Inc., shall complete and submit to this Town Board the traffic impact study requested in the resolution of this Town Board dated July 3, 1989.

5. The Benderson Development Co., Inc., shall remove the existing chain link fence and construct a first-quality eight-foot cedar fence along the entire easterly end of the subject parcel, and shall plant along said fence first-quality green space, trees and landscaping as shall be mutually agreed by the North Creek Homeowners Association and Benderson Development Co., Inc., in accordance with the landscape regulations in the Zoning Ordinance, and said Benderson Development Co., Inc., or any successor in interest, shall keep said fence, green space, trees and landscaping in first-rate condition.'

6. The Benderson Development Co., Inc., or any successor in interest, shall adhere to the restrictions relating to the utilization of said tire service center recommended by the Town Environmental Quality Review Advisory Committee, namely; (a) no outside storage or new or used tires is to be allowed; (b) the conducting of no other automotive use, other than the installation of tires, is to be allowed within or outside of said tire service center; (c) the hours of operation of the tire service center shall be no earlier than 9:00 a.m. and no later than 8:30 p.m.; (d) the doors for the bays of the tire service center are to be kept closed at all times while the tire service center is in operation, except for ingress and egress of automobiles.

7. The Benderson Development Co., Inc., or any successor in interest, shall specifically designate delivery truck parking spaces located along the southerly end of the subject parcel to be utilized by any delivery trucks not actively engaging in the process of loading or unloading.

NOW, THEREFORE, BE IT RESOLVED that theaforementioned decisions and resolutions of this Town Board, dated July 17, 1989, August 7, 1989 and August 22, 1989, having been superseded by the resolution herein, be and the same are hereby annulled, vacated and of no further force and effect.

* *

MOTION BY COUNCILMAN JOHNSON, SECONDED BY SUPERVISOR SWIATEK TO AMEND THE ABOVE RESOLUTION AND THE VOTING WAS AS FOLLOWS

Item No. 3b cont'd

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

and the amended resolution is as follows:

* *

Motion by Councilman Johnson, Seconded by Councilman Jaworowicz
Councilman Gabryszak

WHEREAS, Benderson Development Co., Inc., submitted a site plan to the Town Environmental Quality Review Advisory Committee relating to a retail center known as Union Consumer Square located at 3735 Union Road, Cheektowaga, New York, and, by resolution dated June 5, 1989, this Town Board affirmed said Advisory Committee's determination that Union Consumer Square was environmetally non-significant subject to certain stipulations and further subject to further review concerning the closing off of North Creek Drive, and

WHEREAS, on or about May 22, 1989, Benderson Development Co., Inc. applied for a Special Use Permit pursuant to Section 82-33 of the Code of the Town of Cheektowaga ("Zoning Ordinance") for a tire service center to be located within said Union Consumer Square, and

WHEREAS, a public hearing was held before the Cheektowaga Town Board on the 3rd day of July, 1989 at 7:00 P.M. of said day for the purpose of considering said application for a Special Use Permit, after publication and service of the notices required by the provisions of the Zoning Ordinance and the Town Law; and all interested persons were given an opportunity to be heard at such hearing, and

WHEREAS, by resolution dated July 3, 1989, this Town Board directed Benderson Development Co., Inc. to undertake a certain traffic impact study, and

WHEREAS, by resolution dated July 17, 1989, this Town Board rejected the aforementioned Special Permit application at the location shown on the submitted site plan due to its proximity to the nearby residences and requested Benderson Development Co., Inc. to submit a new site/development plan for the Tire Center located as far away from the residential neighborhood as possible, and

WHEREAS, by resolution dated August 7, 1989, this Town Board directed Benderson Development Co., Inc. to prepare a draft Environmental Impact Statement addressing various impacts relating to the aforementioned tire service center, and

WHEREAS, on or about August 16 1989, Benderson Development Co., Inc. instituted an Article 78 proceeding in Supreme Court, Erie County challenging the legality of the aforementioned resolutions of July 17, 1989 and August 7, 1989, and

WHEREAS, on or about August 21, 1989, certain individuals residing in close proximity to the Union Consumer Square project applied for the Court's permission to intervene in the aforementioned Article 78 proceeding and challenged the aforementioned resolution of June 5, 1989 as violative of the requirements of the State Environmental Quality Review Law, and

RESOLVED by resolution dated August 22, 1989, this Board expressed its intention to rescind its negative declaration for the Union Consumer Square Project incorporated in the aforementioned resolution of June 5, 1989, and

WHEREAS, on September 6, 1989, this Town Board, Benderson Development Co., Inc., and the aforementioned residents, by and through their respective legal counsel, appeared before the Hon. Jerome C. Gorski for oral argument relating to the aforementioned Article 78 proceeding, at which time the said Hon. Jerome C. Gorski asked the parties to attempt to resolve their disputes by way of a resolution of this Town Board, and

Item No. 3b cont'd

WHEREAS, this Town Board, Benderson Development Co., Inc. and the aforementioned residents wish to resolve the various disputes, and believe they have reached an agreement that serves the best interests of the parties and the Town of Cheektowaga, NOW, THEREFORE, BE IT

RESOLVED that Benderson Development Co., Inc. shall construct the aforementioned tire service center at the location closest to Union Road, substantially and in accordance with the site plan for Union Consumer Square (SK-2) prepared by Lauer-Manguso & Associates Architects, dated August 1, 1989, and BE IT FURTHER

RESOLVED that this Town Board hereby finds that at the aforesaid location, the said tire service center is an accessory use to the Pace Store to be located in the M1-Light Manufacturing Disrict without a Special Use Permit, provided all activities are conducted within a completely enclosed building, and BE IT FURTHER

RESOLVED that to ensure compliance with the State Environmental Quality Review Act and its implementing regulations (6NYCRR Part 617), the site plan for the entire Union Consumer Plaza is approved subject to the following conditions:

1. The Benderson Development Co., Inc., or any successor in interest shall close and barricade the west end of North Creek Drive at the easterly property line of the subject parcel at no expense to the Town of Cheektowaga, and shall keep said North Creek Drive permanently closed and barricade;

2. The Benderson Development Co., Inc., although it does not own the strip described herein, agrees in principal not to utilize a certain strip of land located between the residences of 19 and 29 Ellsworth Drive, as a thoroughfare, and otherwise agrees in principal to take no steps to open up Ellsworth Drive as a thoroughfare or means of ingress or egress to or from Union Consumer Square.

3. The roadway to be constructed to the rear of Union Consumer Square near the easterly border of the subject parcel and parallel to Ellsworth Drive shall be a means of ingress and egress for emergency vehicles, and Benderson Development Co., Inc. shall discourage utilization as a thoroughfare for customers or employees at Union Consumer Square, except for parking purposes.

4. The Benderson Development Co., Inc., shall complete and submit to this Town Board the traffic impact study requested in the resolution of this Town Board dated July 3, 1989.

5. The Benderson Development Co., Inc., shall remove the existing chain link fence and construct a first-quality eight-foot cedar fence along the entire easterly end of the subject parcel, and shall plant along said fence first-quality green space, trees and landscaping as shall be mutually agreed by the North Creek Homeowners Association and Benderson Development Co., Inc., in accordance with the landscape regulations in the Zoning Ordinance, and said Benderson Development Co., Inc., or any successor in interest, shall keep said fence, green space, trees and landscaping in first-rate condition.'

6. The Benderson Development Co., Inc., or any successor in interest, shall adhere to the restrictions relating to the utilization of said tire service center recommended by the Town Environmental Quality Review Advisory Committee, namely; (a) no outside storage or new or used tires is to be allowed; (b) the conducting of no other automotive use, other than the installation of tires, is to be allowed within or outside of said tire service center; (c) the hours of operation of the tire service center shall be no earlier than 9:00 a.m. and no later than 8:30 p.m.; (d) the doors for the bays of the tire service center are to be kept closed at all times while the tire service center is in operation, except for ingress and egress of automobiles.

7. The Benderson Development Co., Inc., or any successor in interest, shall specifically designate delivery truck parking spaces located along the southerly end of the subject parcel to be utilized by any delivery trucks not actively engaging in the process of loading or unloading.

Item No. 3b cont'd

NOW, THEREFORE, BE IT RESOLVED that theaforementioned decisions and resolutions of this Town Board, dated July 17, 1989, August 7, 1989 and August 22, 1989, having been superseded by the resolution herein, be and the same are hereby annulled, vacated and of no further force and effect.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 4a Authorize owner of property to construct sidewalks at 184 Dean Road
This resolution was withdrawn.

Item No. 4b Authorize owner of property to construct sidewalks at 218 Dean Road
This resolution was withdrawn.

Item No. 4c Authorize owner of property to construct sidewalks at 228 Dean Road
This resolution was withdrawn.

Item No. 4d Authorize owner of property to construct sidewalks at 240-244 Dean Road
This resolution was withdrawn.

II. RESOLUTIONS

Item No. 5a Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

WHEREAS, the Sewer Maintenance Department is in need of a Sewer Rodding Machine, NOW, THEREFORE, BE IT

RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of a Sewer Rodding Machine for the Sewer Maintenance Department. Information for bidders and specifications may be obtained from the Office of the Town Clerk, said notice to be published in the CHEEKTOWAGA TIMES, and BE IT FURTHER

RESOLVED that sealed bids will be received by the Town of Cheektowaga on October 2, 1989 at 11:00 A.M., Eastern Daylight Savings Time, at the Town Hall, at which time they will be publicly opened and read.

* *

NOTICE TO BIDDERS

Sealed proposals will be received and considered by the Town of Cheektowaga on October 2, 1989, at 11:00 A.M., Eastern Daylight Savings Time at the Town Hall corner of Broadway and Union Roads, for the furnishing of a Sewer Rodding Machine for the Sewer Maintenance Department.

Information for bidders and specifications may be obtained from the Town Clerk at his office in said Town Hall.

Item No. 5a cont'd

The Town Board reserves the right to consider informal any bid not prepared and submitted in accordance with the provisions of the specifications and contract documents, and may waive any informalities, make an award to other than the low bidder should it be in the best interest of the Town, or reject any or all bids.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

DATED: September 18, 1989

* *

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES:	0
ABSENT:	0
EXCUSED:	Councilman Kazukiewicz

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication SEP 21 1989; last publication SEP 21 1989; and that no more than six days intervened between publications.

Scott Benson

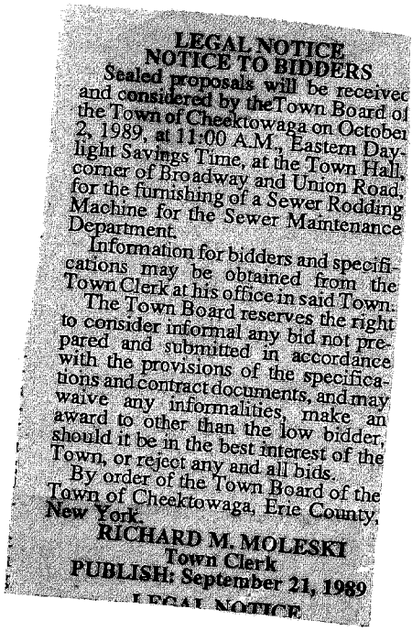
Sworn to before me this SEP 21 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991



LEGAL NOTICE
NOTICE TO BIDDERS

Sealed proposals will be received and considered by the Town Board of the Town of Cheektowaga on October 2, 1989, at 11:00 A.M., Eastern Daylight Savings Time, at the Town Hall, corner of Broadway and Union Road, for the furnishing of a Sewer Rodding Machine for the Sewer Maintenance Department.

Information for bidders and specifications may be obtained from the Town Clerk at his office in said Town.

The Town Board reserves the right to consider informal any bid not prepared and submitted in accordance with the provisions of the specifications and contract documents, and may waive any informalities, make an award to other than the low bidder, should it be in the best interest of the Town, or reject any and all bids.

By order of the Town Board of the Town of Cheektowaga, Erie County, New York.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: September 21, 1989

LEGAL NOTICE

Item No. 5b Motion by Councilman Johnson, Seconded by Councilman Jaworowicz

WHEREAS, the Main Pump Station is in need of a 3/4 ton 4 X 4 pick-up truck with plow, NOW, THEREFORE, BE IT

RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of said vehicle for the Main Pump Station. Information for bidders and specifications may be obtained from the office of the Town Clerk, said Notice to be published in THE CHEEKTOWAGA TIMES, and BE IT FURTHER

RESOLVED that sealed bids will be received by the Town of Cheektowaga on September 27, 1989 at 11:00 A.M., Eastern Daylight Savings Time, at the Town Hall, at which time they will be publicly opened and read.

* *

NOTICE TO BIDDERS

Sealed proposals will be received and considered by the Town of Cheektowaga on September 27, 1989 at 11:00 A.M., Eastern Daylight Savings Time, at the Town Hall corner of Broadway and Union Roads, for the furnishing of a 3/4 ton 4 X 4 pick-up/plow for the Main Pump Station.

Information for bidders and specifications may be obtained from the Town Clerk at his office in said Town Hall.

The Town Board reserves the right to consider informal any bid not prepared and submitted in accordance with the provisions of the specifications and contract documents, and may waive any informalities, make an award to other than the low bidder should it be in the best interest of the Town, or reject any or all bids.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK.

RICHARD M. MOLESKI
Town Clerk

DATED: September 18, 1989

* *

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES:	0
ABSENT:	0
EXCUSED:	Councilman Kazukiewicz

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication SEP 21 1989; last publication SEP 21 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this SEP 21 1989

day of ....., 19.....

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19[illegible]

NOTICE TO BIDDERS

Sealed proposals will be received and considered by the Town Board of the Town of Cheektowaga on September 27, 1989, at 11:00 A.M., Eastern Daylight Savings Time, at the Town Hall, corner of Broadway and Union Road, for the furnishing of a 3/4 ton 4x4 pick-up/plow for the Main Pump Station.

Information for bidders and specifications may be obtained from the Town Clerk at his office in said Town.

The Town Board reserves the right to consider informal any bid not prepared and submitted in accordance with the provisions of the specifications and contract documents, and may waive any informalities, make an award to other than the low bidder, should it be in the best interest of the Town, or reject any and all bids.

By order of the Town Board of the Town of Cheektowaga, Erie County, New York.

RICHARD M. MOLESKI
Town Clerk
PUBLISH: September 21, 1989

Item No. 5c Motion by Councilman Gabryszak, Seconded by Supervisor Swiatek

WHEREAS, it is in order that bids be advertised for General Construction; Heating, Ventilating and Air Conditioning, and Plumbing and Electrical construction at the Alexander Community Center, and

WHEREAS, the firm of Scaffidi & Moore, P.C. has previously been retained to prepare plans and specifications for said project, NOW, THEREFORE, BE IT

RESOLVED that the Cheektowaga Town Clerk be and hereby is directed to publish a Notice to Bidders for General Construction, Heating, Ventilating, Air Conditioning and Plumbing and Electrical construction at the Alexander Community Center, said notice to be published in the CHEEKTOWAGA TIMES and the BUFFALO NEWS, and BE IT FURTHER

RESOLVED that sealed bids will be received on the 12th day of October, 1989 at 10:00 A.M., Eastern Daylight Savings Time at a public bid opening to be held in the Council Chambers at the Cheektowaga Town Hall.

* * * * * * * * * * * * * * * * * * * *

NOTICE TO BIDDERS

Separate sealed bids for General Construction; Heating, Ventilating, Air Conditioning, and Plumbing and Electric Work are invited and will be received, publicly opened and read on behalf of the Cheektowaga Town Board on October 12, 1989 at 10:00 A.M. in the Cheektowaga Town Hall, corner of Broadway and Union Roads, Cheektowaga, New York for reconstruction projects at the Alexander Community Center, Alexander Avenue, Cheektowaga, New York.

Specifications (including information for Bidders and Form of Bid) and Plans for each project may be examined at the office of Scaffidi & Moore, Architects, 4535 Bailey Avenue, Buffalo, New York 14226, and a copy may be obtained upon payment of $100.00 per set for each project as a deposit to guarantee the safe return thereof.

Any bidder for the project furnishing the required bid security, other than the successful bidder, who returns such copy in good condition within fifteen (15) days following the receipt of bids for the project for which such bidder shall have submitted bid or the rejection of the bid of such bidder, will be refunded the full amount of the deposit, including the successful bidder, and one half of the deposit will be reimbursed for the return of all other copies of the plans and specifications in good condition following the award of the contract or the rejection of the bids covered by such plans and specifications.

The Town Board reserves the right to may waive any informalities in or reject any or all bids, as the same is permitted by law.

Each bidder must deposit with his bid, security in an amount of not less than 10% of the Base Bid for each project bid in the form and subject to the conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under this contract.

Bids shall remain open for acceptance for 45 days subsequent to the opening thereof.

BY ORDER OF THE CHEEKTOWAGA TOWN BOARD

RICHARD M. MOLESKI, Town Clerk

Dated: September 18, 1989

* * * * * * * * * * * * * * * * * * * *

Item No. 5c cont'd

Upon Roll Call....

AYES:	Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES:	0
ABSENT:	0
EXCUSED:	Councilman Kazukiewicz

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks; first publication SEP 21 1989; last publication SEP 21 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this SEP 21 1989

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 1991

LEGAL NOTICE
NOTICE TO BIDDERS

Separate sealed bids for General Construction; Heating, Ventilating, Air Conditioning, and Plumbing and Electrical Work are invited and will be received, publicly opened and read on behalf of the Cheektowaga Town Board on October 12, 1989 at 10:00 AM in the Cheektowaga Town Hall, corner of Broadway and Union Roads, Cheektowaga, New York for reconstruction projects at the Alexander Community Center, Alexander Avenue, Cheektowaga, New York.

Specifications (including information for Bidders and Form of Bid) and Plans for each project may be examined at the office of Scaffidi & Moore, Architects, 4535 Bailey Avenue, Buffalo, New York 14226, and a copy may be obtained upon payment of $100.00 per set for each project as a deposit to guarantee the safe return thereof.

Any bidder for the project furnishing the required bid security, other than the successful bidder, who returns such copy in good condition within fifteen (15) days following the receipt of bids for the project for which such bidder shall have submitted bid or the rejection of the bid of such bidder, will be refunded the full amount of the deposit, including the successful bidder, and one half of the deposit will be reimbursed for the return of all other copies of the plans and specifications in good condition following the award of the contract or the rejection of the bids covered by such plans and specifications.

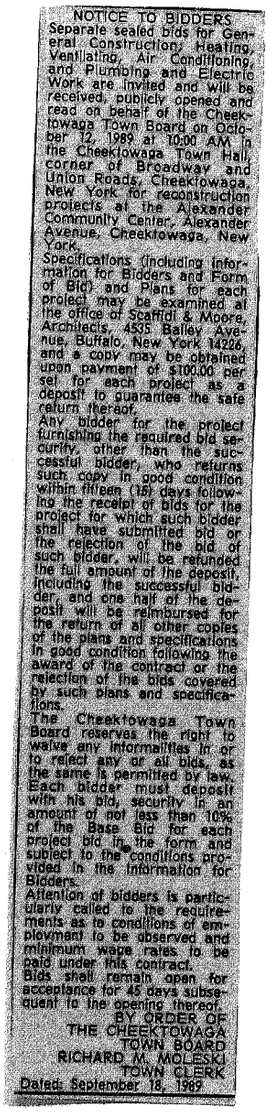
The Cheektowaga Town Board reserves the right to waive any informalities in or to reject any or all bids, as the same is permitted by law.

Each bidder must deposit with his bid, security in an amount of not less than 10% of the Base Bid for each project bid in the form and subject to the conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under this contract.

Bids shall remain open for acceptance for 45 days subsequent to the opening thereof.

BY ORDER OF THE CHEEKTOWAGA TOWN BOARD
RICHARD M. MOLESKI, TOWN CLERK
PUBLISH: September 21, 1989



NOTICE TO BIDDERS

Separate sealed bids for General Construction, Heating, Ventilating, Air Conditioning, and Plumbing and Electric Work are invited and will be received, publicly opened and read on behalf of the Cheektowaga Town Board on October 12, 1989 at 10:00 AM in the Cheektowaga Town Hall, corner of Broadway and Union Roads, Cheektowaga, New York for reconstruction projects at the Alexander Community Center, Alexander Avenue, Cheektowaga, New York.

Specifications (including Information for Bidders and Form of Bid) and Plans for each project may be examined at the office of Scaffidi & Moore, Architects, 4535 Bailey Avenue, Buffalo, New York 14226, and a copy may be obtained upon payment of $100.00 per set for each project as a deposit to guarantee the safe return thereof.

Any bidder for the project furnishing the required bid security, other than the successful bidder, who returns such copy in good condition within fifteen (15) days following the receipt of bids for the project for which such bidder shall have submitted bid or the rejection of the bid of such bidder, will be refunded the full amount of the deposit. Including the successful bidder, and one half of the deposit will be reimbursed for the return of all other copies of the plans and specifications in good condition following the award of the contract or the rejection of the bids covered by such plans and specifications.

The Cheektowaga Town Board reserves the right to waive any informalities in or to reject any or all bids, as the same is permitted by law. Each bidder must deposit with his bid, security in an amount of not less than 10% of the Base Bid for each project bid in the form and subject to the conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under this contract.

Bids shall remain open for acceptance for 45 days subsequent to the opening thereof.

BY ORDER OF
THE CHEEKTOWAGA
TOWN BOARD
RICHARD M. MOLESKI
TOWN CLERK

Dated: September 18, 1989

D. Eileen Perry

of the City of Buffalo, New York, being duly sworn, deposes and says that she/he is Principal Clerk of BUFFALO EVENING NEWS, INC., Publisher of THE BUFFALO NEWS, a newspaper published in said city, that the notice of which the annexed printed slip taken from said newspaper is a copy, was inserted and published therein 1 time, the insertion being on the 22nd day of September 1989

D. Eileen Perry

Sworn to before me this 25th day

of September 19 89

Jane E. Bielman

PAUL E. BIELMAN
Notary Public, State of New York
Qualified In Erie County
My Commission Expires November 30, 1989

Notary Public, Erie County, N.Y.

No. 23

No. 24

No. 25

No. 26

Item No. 5d Motion by Councilman Jaworowicz. Seconded by Councilman Kulyk

BE IT RESOLVED that the Town Clerk be and hereby is directed to publish a Notice to Bidders for the purchase of One (1) New and Unused 1989-1990 Model, Pneumatic Tire, Gasoline Powered (5,000) lbs. Capacity, Fork Lift Truck for use by the Cheektowaga Highway Department.

Information for bidders and specifications may be obtained from the office of the Superintendent of Highways located at 3145 Union Road, Cheektowaga, New York 14227, between the hours of 8:00 A.M. and 3:30 P.M., Monday thru Friday and BE IT FURTHER

RESOLVED that the Town Clerk is hereby designated as the officer to open bids on the aforesaid item at 11:00 A.M. on September 29, 1989 in the Council Chambers of the Town of Cheektowaga.

* *

TOWN OF CHEEKTOWAGA HIGHWAY DEPARTMENT

LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, PNEUMATIC TIRE, GASOLINE POWERED (5,000) LBS. CAPACITY FORK LIFT TRUCK for use by the Cheektowaga Highway Department, at a public bid opening September 29, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

Information for bidders and specifications may be obtained from the office of Christopher J. Kowal, Superintendent of Highways, at his office located at 3145 Union Road, Cheektowaga, New York. Proposals must be enclosed and sealed in an opaque envelope plainly marked "BID FOR ONE NEW AND UNUSED 1989-90 MODEL PNEUMATIC TIRE, GASOLINE POWERED (5,000) LBS. CAPACITY, FORK LIFT TRUCK.

Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD M. MOLESKI
Town Clerk

Dated: September 18, 1989

Published: September 21, 1989

* *

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

AFFIDAVIT - NEXT PAGE

STATE OF NEW YORK
COUNTY OF ERIE
TOWN OF CHEEKTOWAGA } ss.

Scott Benson, of the town of Cheektowaga, in said County of Erie, being duly sworn, deposes and says that he (she) is Clerk of the Cheektowaga Times, a public newspaper published weekly in said town; that the notice, of which the annexed printed slip, taken from said newspaper is a copy, was inserted and published in said paper once a week for 1 weeks: first publication SEP 21 1989; last publication SEP 21 1989; and that no more than six days intervened between publications.

Scott Benson

Sworn to before me this SEP 21 1989

day of , 19

Eve J. Allis

Notary public in and for Erie County, N. Y.

EVE J. ALLIS
Notary Public, State of New York
Qualified In Erie County
My commission expires March 30, 19 9/

LEGAL NOTICE
TOWN OF CHEEKTOWAGA
HIGHWAY DEPARTMENT
LEGAL NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, in compliance with Section 103 of the General Municipal Finance Law, that the Town of Cheektowaga Highway Department will receive proposals for the purchase of ONE (1) NEW AND UNUSED 1989-90 MODEL, PNEUMATIC TIRE, GASOLINE POWERED (5,000) LBS. CAPACITY FORK LIFT TRUCK for use by the Cheektowaga Highway Department, at a public bid opening September 29, 1989 at 11 A.M. to be held in the Council Chambers at the Cheektowaga Town Hall.

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Non-collusion forms must be signed and submitted with each bid. The Superintendent of Highways may reject any or all bids submitted.

RICHARD MOLESKI,
Town Clerk
PUBLISH: September 21, 1989

Item No. 6 Motion by Councilman Solecki, Seconded by Councilman Kulyk

WHEREAS, Section 64 (5-a) of the Town Law of the State of New York provides that a town board may require the owners of land within such town to cut, trim or remove from the land owned by them brush, grass, rubbish, weeds, etc. and may, if the owner neglects to do so, perform the necessary maintenance work and assess the real property for the expenses involved, and

WHEREAS, the State Comptroller's Office has ruled that, pursuant to Section 64 (5-a) of the Town Law, a board may assess upon the defaulting owner, an administrative expense incidental to the cost involved in performing the work, and

WHEREAS, the Supervising Building & Plumbing Inspector has reviewed his department's administrative expenses involved in cleaning up property pursuant to Section 64 (5-a) of the Town Law and has determined that an administrative fee of $50.00 should be added to the defaulting property owner's tax bill for clean up of his property, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby establishes an administrative expense of $50.00 as the fee to be added to a defaulting property owner's tax bill pursuant to Section 64 (5-a) of the Town Law, and BE IT FURTHER

RESOLVED that this administrative fee shall be effective immediately.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 7 Motion by Councilman Kulyk, Seconded by Supervisor Swiatek

WHEREAS, the Town of Cheektowaga Building Code requires that all Building and Plumbing Permit fees shall be as specified in a schedule as approved by the Town Board, and

WHEREAS, it has been recommended that the attached Building and Plumbing Permit fee schedule be adopted, and

WHEREAS, it is in the public interest to adopt the attached Building and Plumbing Permit fee schedule, NOW, THEREFORE, BE IT

RESOLVED that the Building and Plumbing Permit fees shall be as set forth on the attached fee schedule, effective October 1, 1989.

* See next page for fee schedule

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

TOWN OF CHEEKTOWAGA
BUILDING AND PLUMBING PERMIT FEE SCHEDULE

Each application shall be accompanied by the required fee based upon the valuation of the structure or improvement except where a specific fee is provided herein.

COMMERCIAL STRUCTURES
$4.00 per thousand for the first $50,000.00 valuation
$1.00 per thousand over $50,000.00 valuation
(Minimum Fee $50.00)

RESIDENTIAL STRUCTURES
$4.00 per thousand for the first $50,000 valuation
$1.00 per thousand over $50,000.00 valuation
(Minimum Fee $20.00)

ADVERTISING SIGN ..(PER SIGN FACE).....	$40.00
DEMOLITION OR TANK REMOVAL (PER STRUCTURE) ..	$20.00
IDENTIFICATION SIGN (PER SIGN FACE).....	$20.00
MOBILE HOMES.....	$25.00
MOVING OF BUILDINGS	$50.00
PORTABLE SIGNS.....	$40.00
STORAGE TANKS	$50.00
SWIMMING POOLS..(ABOVE GROUND).....	$20.00
SWIMMING POOLS..(IN GROUND).....	$50.00

CERTIFICATE OF OCCUPANCY

When Building Permit In Force	No Charge
One & Two Family Dwellings	$25.00
Multiple Dwellings (Per Apartment)	$15.00
All Other Buildings	$50.00

PLUMBING PLAN FILING FEE (COMMERCIAL)	$20.00
PLUMBING PLAN FILING FEE (RESIDENTIAL)	$10.00
BUILDING SEWER OR DRAIN PERMIT (ALL DISTRICTS).....	$10.00

TOWN SANITARY SEWER DISTRICT TAP FEE (SEE SEWER USE ORDINANCE)	
COUNTY SANITARY SEWER DISTRICT INSPECTION FEE	$10.00
SEWER REPAIR FEE.....	$10.00
FEE FOR FIXTURES (FIRST FIXTURE).....	$10.00
ALL ADDITIONAL FIXTURES (EACH).....	$ 2.00

BUILDING SEWER AND DRAIN INSPECTION FEE (FOR EACH 100 FT. AND FRACTION THEREOF).....	$ 5.00
STORM SEWER OR YARD DRAIN CONNECTION FEE	$25.00
STORM SEWER OR YARD DRAIN INSPECTION FEE (FOR EACH 100 FT. AND FRACTION THEREOF).....	$ 5.00
REINSPECTION FEE	$10.00

No fees for bonafide religious, charitable, or educational organizations where such exemptions are consistent with provisions applicable to taxes generally.

In the event that work requiring a building or plumbing permit is commenced prior to the issuance of the permit, the fee for the permit shall be double the regular rate or the additional sum of $25.00 whichever is greater. This shall be in addition to any other penalty provided for commencement of work without a permit.

In the event an application for a building permit is not approved or when a valid building permit shall have expired by limitation or abandonment the applicant shall be entitled to a refund of 50% of the fee paid with a minimum to be retained of $10.00.

Item No. 8 Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, Michael Wysocki, as part of the acceptance of the Losson Meadows Subdivision Phase II, and as a prerequisite to the construction of any buildings in such subdivision, has submitted to the Town for its acceptance a warranty deed for the following properties:

1. a portion of Baywood Drive
2. a portion of Cherrywood Drive

and

WHEREAS, the Town Superintendent of Highways, in the attached letter dated September 18, 1989 has recommended that such deed and highway be be accepted by the Town, and

WHEREAS, Michael Wysocki has also submitted a drainage easement to the Town, and

WHEREAS, Michael Wysocki has also submitted a maintenance bond for the aforementioned highways and certified checks to guarantee street lighting and storm sewer cleaning to the Town, NOW, THEREFORE, BE IT

RESOLVED that the aforementioned deed, easement, maintenance bond and certified checks are accepted by this Town Board, and BE IT FURTHER

RESOLVED that the Town Attorney be and hereby is directed to file the deed and easement in the Erie County Clerk's Office, and BE IT FURTHER

RESOLVED that the Highway Superintendent is directed to keep Knollwood Drive barricaded and its terminus at Baywood Drive until such time that EMS Consulting provides the results of its traffic study for the adjoining streets and until such time that this Town Board makes further decisions as to road improvements for better traffic distribution in the Castlewood Drive and Cathedral Heights areas.

*See next two (2) pages for letter from the Highway Superintendent

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

CHRISTOPHER J. KOWAL
SUPERINTENDENT OF HIGHWAYS

HIGHWAY DEPARTMENT
3145 Union Road
Cheektowaga, N. Y. 14227-1083
(716) 686-3450
Mobile: 863-5867

Growing In A New Direction

RECEIVED
1989 SEP 18 AM 9 57
CHEEKTOWAGA
TOWN CLERK

TOWN OF CHEEKTOWAGA
Erie County, New York

September 18, 1989

Honorable Frank Swiatek, Supervisor
Honorable Members of the Town Board
Cheektowaga, NY 14225

RE: ACCEPTANCE OF PART OF CHERRYWOOD DRIVE, BAYWOOD DRIVE, KNOLLWOOD DRIVE IN LOSSON MEADOWS SUBDIVISION, PH. II

Councillors:

Please be advised that timely and effective inspections during all phases of construction have been performed by my Engineer, T. Skowron and myself; and we find the below described streets do conform to the current standards of the Town of Cheektowaga and I recommend acceptance as Town highways.

The streets are more particularly described as follows:

1.) Cherrywood Drive- A 60' w. R.O.W. beginning at the south line of s.l. 7 and running south a distance of ±200' to the intersection of Baywood Dr. fronting sublots 6, 7 & 8.

2.) Baywood Drive- A 60' w. R.O.W. beginning at the north line of s.l. 21 then running south and west a distance of ±1580' to a point intersecting the west line of s.l. 45 fronting s.l. 1-6 and 8-45, inclusive.

3.) Knollwood Drive- A 60' w. R.O.W. beginning in the south R.O.W. line of Baywood Dr. then running south a distance of ±140' to intersection with south line of s.l. 42 fronting s.l. 42 and 43.

The deed is in the Town Attorney's office for review and filing. The maintenance bond is in an amount commensurate with the provisions of the P.I.P. Ordinance. The bond is in the Attorney's Office for review. A street lighting agreement is provided. Drainage easements are to be filed. Lot grading is acceptable to both the Town Engineer

con't.

and Building Inspector. Escrow fund for storm sewer cleaning is in place. Tree planting arrangements must satisfy the Building Inspector.

Trusting this meets with your approval, I remain,

Very truly yours,

Christopher Kowal
Superintendent of Highways

ji

cc: Town Attorney
Town Clerk
Town Engineer
Building Inspector

Item No. 9 Call for DEIS for Comfort Suites Hotel-Motel Complex
This item was withdrawn.

Item No. 10a Motion by Councilman Johnson, Seconded by Councilman Gabryszak

WHEREAS, on the 7th day of May, 1984, this Town Board adopted an Ambulance Ordinance. The EMS Board, which was created at that time, has completed a review and evaluation of new/renewal license applications for ambulances and has recommended that the Town Board license such ambulance(s), NOW, THEREFORE, BE IT

RESOLVED that the Town Board, pursuant to Section A-5 of the Ambulance Ordinance accept the recommendations of the Emergency Medical Services Board, and approve the following:

AMBULANCE LICENSES

OWNER	VEHICLE: MAKE & MODEL	LICENSE NO.	CALL NO.
Joseph H. Oddo (Town's)	1986 Ford (N)	AA3023	557
Joseph H. Oddo (Town's)	1987 Ford (N)	AA3022	564

(N)* denotes new vehicle

and BE IT FURTHER

RESOLVED that the Town Clerk is hereby authorized, directed and empowered to issue ambulance licenses to the applicants set forth above, providing such ambulance so listed meets the insurance requirements set forth in the Ambulance Ordinance.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 10b Motion by Councilman Johnson, Seconded by Councilman Gabryszak

WHEREAS, on the 7th day of May, 1984, this Town Board adopted an Ambulance Ordinance. The EMS Board, which was created at that time, has completed a review and evaluation of new/renewal license applications for driver(s)/ attendant(s), and has recommended that the Town Board issue such licenses,and

NOW, THEREFORE, BE IT RESOLVED that the recommendations of EMS Board concerning the licensing of new/renewal driver(s)/attendant(s) shown on the attached list be and hereby are accepted and approved, for a period to expire upon the expiration of such ambulance driver(s)/attendant(s) Emergency Medical Technician ("EMT") card, and BE IT FURTHER

RESOLVED that the Town Clerk be and hereby is authorized, empowered and directed to issue new/renewal licenses to the driver(s)/attendant(s) set forth on the annexed schedule, pursuant to the terms of this resolution.

*See next page for list of driver(s)/attendant(s)

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

TOWN OF CHEEKTOWAGA AMBULANCE DRIVER/ATTENDENT LICENSE

NAME	ADDRESS	AMBULANCE COMPANY	EMT EXPIRES
*Hockwater, Paul F.	Cktw. NY 14227	Town's	3/31/92
*Hagmier, Roger E.	Lackawanna, NY 14218	Town's	5/31/91
*Costello, Henry D.	Buffalo, NY 14222	Town's	12/31/91
*McDonald, Scott A.	Amherst, NY 14221	Town's	5/31/91
*Kishbaugh, Daniel A.	Cktw. NY 14225	Town's	12/31/91
*Henderson, Kenneth L.	Snyder, NY 14226	Town's	3/31/92
*Doskocz, John M.	Cktw. NY 14225	Town's	12/31/91
Mazurowski, Thomas E.	Lancaster, NY 14086	Town's	1/31/90
Young, Deneen I.	Buffalo, NY 14206	Town's	1/31/92
Baumgart, Lawrence A. II	Lancaster, NY 14086	Town's	11/30/91
Joyce, Heather F.	Lackawanna, NY 14218	Town's	5/31/90
Zaleski, David E.	Williamsville, NY 14221	Town's	3/31/92
Kriebler, Suzanne L.	Williamsville, NY 14221	Town's	5/31/92
Schenbock, Kelly L.	Amherst, NY 14226	Town's	5/31/92

**Donotes Renewal Licenses

Item No. 11a Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

WHEREAS, continuous complaints have been received by the Housing Inspector regarding storage of unlicensed motor vehicles, unsanitary conditions, and dilapidated structures on property located at 125 Beryl Drive, Cheektowaga, New York, said property have SBL #91.19-1-2 and according to the Assessors' Office is owned by Alex Peresan, , Cheektowaga, New York, and

WHEREAS, the Housing Inspector has issued a violation order to said property owner stating that there exists a public nuisance on his property and requesting said owner to remedy the aforesaid violation, and

WHEREAS, the property owner has failed to remove the violation, and

WHEREAS, the Cheektowaga Justice Court has issued a court order authorizing the Housing Inspector to enter the aforesaid premises and remedy said violation, NOW, THEREFORE, BE IT

RESOLVED that pursuant to §36-61 of the Residential Housing Standards of the Town of Cheektowaga, any and all costs incurred by the Housing Inspector in remedying the aforesaid violation at 125 Beryl Drive be a lien thereon and so be entered on the tax rolls for the property hereinbefore described as being due and payable.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 11b Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, continuous complaints have been received by the Town Board regarding high weeds and accumulated debris on property located 5 French Road, Cheektowaga, New York, SBL #124.02-2-14, and according to the Assessor's Office is owned by Louis P. Galanes, Buffalo, New York 14240, and

WHEREAS, these conditions require that some positive steps be taken to rectify same by cutting and removing the high weeds and removing the debris to prevent the premises from becoming a hazard to the health and safety of others, NOW, THEREFORE, BE IT

RESOLVED that pursuant to Article 4, Section 64, Paragraph 5a of the Town Law of the State of New York, the high weeds be cut and removed and the debris be removed by the Town and all costs incurred be assessed against the property hereinbefore described.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 12 Motion by Councilman Gabryszak, Seconded by Councilman Johnson

WHEREAS, a Town Superintendent of Highways, with the consent of the Town Board, may permit underground crossings of Town highways, and

WHEREAS, on or about June 6, 1989, the Superintendent of Highways of the Town of Cheektowaga issued a permit to MCI Telecommunications Corporation ("MCI") "to make a road cut and excavation of same" on Crescent Court at or near Dawn and Camel Road, Cheektowaga, New York, and

Item No. 12 cont'd

WHEREAS, for internal financing reasons, MCI has requested that the Town consent and agree to a transfer and assignment of its rights under the aforesaid permit, and

WHEREAS, the Town Attorney has reviewed this matter and has no legal objection to the aforesaid transfer and assignment, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby consents to the permit for a road cut and excavation of same on Crescent Court at or near Dawn and Camel Road, Cheektowaga, New York, heretofore issued to MCI by the Superintendent of Highways, and BE IT FURTHER

RESOLVED that the Supervisor be and he hereby is authorized to sign, on behalf of this Town Board, a consent and agreement to transfer and assign MCI's rights under the aforesaid permit.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 13 Motion by Councilman Gabryszak, Seconded by Councilman Kulyk

WHEREAS, the Cheektowaga Youth Bureau's Adapted Recreation Program has requested permission to conduct an overnight campout on November 3rd and 4th, 1989 at John C. Stiglmeier Park, and

WHEREAS, Article 48-12 of the Code of the Town of Cheektowaga states that "All parks shall be closed, except for use of driveways therein, between the hours of sunset and sunrise the following morning, and no person shall lounge about or remain in any of the parks during the hours when so closed", NOW, THEREFORE, BE IT

RESOLVED that the Cheektowaga Town Board permit a waiver of Article 48-12 of the Code of the Town of Cheektowaga, said waiver extended to the Cheektowaga Youth Bureau's Adapted Recreation Program for the use of John C. Stiglmeier Park on November 3rd and 4th, 1989, and BE IT FURTHER

RESOLVED that a copy of said resolution be forwarded to the Chief of Police, Facilities Department and Recreation Director.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 14 Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

WHEREAS, Western New York Business Services has submitted a report to the Town of Cheektowaga relative to the computer needs of the Town and has recommended that the Town purchase certain computer hardware and software, and

WHEREAS, moneys are available from various bond proceeds and other sources for the purchase of such computer equipment,and

WHEREAS, the computer hardware is available from Digital Equipment Corporation through the New York State Office of General Services bid award list and therefore does not have to be competitively bid, and

Item No. 14 cont'd

WHEREAS, the computer software the Town needs is geared specifically to the needs of the Town and is not generally available from companies other than Adirondack Systems Associates, NOW, THEREFORE, BE IT

RESOLVED that this Town Board hereby approves the purchase of the following described computer hardware from the New York State Office of General Services Contract No. P-27620 from Digital Equipment Corporation:

Quantity	Model No.	Description	Total Cost
1	DU-380T1-AA	Microvax 3800 System	$ 73,265.76
1	RF71E-SA	400 megabyte disc	$ 9,478.60
2	DSRVB-AA	Decserver 200	$ 6,879.04
2	DSRVF-BA	Decserver 300 terminals	$ 9,432.12
1	QA-VTUAA-H5	Server software	$ 465.63
1	LG01-EA	600 LPM Text printer	$ 10,446.38
39	VT320-CA	Mono Amber Test Printers	$ 14,820.00
22	DF-224-AA	Scholar 2400 BPS Modems	$ 12,690.70
1	DELNI-BA	Local Network Interconnect	$ 1,240.85
5	BNE3H-10	Cable	$ 410.85
1	TSV05-SE	Industry Standard Magtape	$ 11,722.92
20	LA75-CA	Printers	$ 9,125.00
		Delivery	$ 1,109.09
		One Year Basic System Support	$ 0.00
			$161,086.94

out of the following Town budget account numbers as follows:

Account Number	Amount
05.1910.8820.1100	$146,566.54
1910.8908.1204	14,520.40

and BE IT FURTHER

RESOLVED that this Town Board hereby approves the purchase of the following referenced computer software from Adirondack Systems Associates:

Finance, Payroll. Personnek, Fixed Asset, Budget, Word Processing, Complaint System	$ 78,800.00
Informix 4GL (Runtime)	$ 9,750.00
Informix SQL (Full version)	$ 9,900.00
Installation cost	$ 10,400.00
TOTAL	$108,850.00

out of the following referenced Town budget account numbers as follows:

Account Number	Amount
05.1910.8908.1205	$83,850.00
1910.8821.1101	$25,000.00

and BE IT FURTHER

RESOLVED that the Supervisor be and hereby is authorized and directed to execute the Quotation document from Digital Equipment Corporation and all other documents necessary to effectuate the purchase of the above referenced computer hardware, software and services.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 15a Motion by Councilman Gabryszak, Seconded by Councilman Kulyk

BE IT RESOLVED that the following Seasonal and/or Part-Time employees be and hereby are terminated in the Facilities Department:

	Effective
Clerical	
Dolores C. Booker	9/9/89
Street Lighting Division	
Dennis Kazmierczak	9/1/89

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 15b Motion by Councilman Gabryszak, Seconded by Councilman Kulyk

BE IT RESOLVED that the following individuals be terminated from the Cheektowaga Youth Bureau's Conservation Corps Program(s), effective immediately.

Cheektowaga Conservation Corps-Trainee Supervisor - (01-7310-0001-1811)

Thomas Beneduce
Christopher Kowalewski
Richard Musielak, Jr.

New York State Conservation Corps-Crew Supervisor - (01-7310-0001-1815)

Alan Miano
Ruthann Rusin

New York State Conservation Corps-Youth Leaders - (01-7310-0001-1816)

Kevin Wisniewski
Thomas Jakubowicz

Cheektowaga Conservation Corps-Youth Leaders - (01-7310-0001-1812)

Michael Wojtkowiak
William Froman

Cheektowaga Conservation Corps-Summer Trainees - (01-7310-0001-1812)

Eric Metz
Shawn Surdej
Marc Sciolino
Claude Gillman
Paul Siembida
Jason Zaifert
James Bobeck
Melissa Cimra
Tammy Ozolins
Jeffrey Keller
George Smolen
Kris Wittmeyer
Robert Sweeney
Daryl Bernys
Kirk Wilde
Christopher Calamita
Barbara Mederski
Tiffany Mroz
Jason Ozolins

Cheektowaga Conservation Corps-Alternates - (01 -7310-0001-1812)

Steve Brady
John Nowak
Robert Pierson
Lou Mueller
Steven Zielinski
John Greentaner
Jennifer Monnin
Jeffrey Shamp
Thomas Ziomek

Item No. 15b cont'd

New York State Conservation Corps-Summer Trainees - (01-7310-0001-1816)

Jamie Kalsteck	Stephanie Bakowski
Geri Marie Burke	Sarah Jane Garcea
Jennifer Garcea	Teri Lynn Burke
Mark Czosnyka	Sean Ross
Brian Kasmierczak	John Harris
Scott Corcoran	Jason Catania
Jeffrey Ciesla	Jim Borczynski
Peter Schuch	Peter Tonsoline

New York State Conservation Corps-Alternates - (01-7310-0001-1816)

Jason Dauscher	Timothy Schaefer
Kevin Corcoran	Corey J. Bernardi
Derek Prellwitz	Patrick Hutt

and BE IT FURTHER

RESOLVED that Amy Lukasik, Depew, New York 14043, be terminated from the Administrative Intern Program (01-7310-0001-1804), effective immediately.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 15c Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

BE IT RESOLVED that the following individuals be and hereby are terminated as Seasonal and/or Part-time employees in the Departments listed:

	Effective:
SANITATION DEPARTMENT	
Allen, Raymond Jr.	9/1/89
Brudz, Thomas	8/25/89
Choinski, Jeffrey	8/25/89
Holtz, Joseph	8/25/89
Leidolph, Brian	9/5/89
Skonecki, John	9/1/89
Szymanski, Brian	8/18/89
Trietly, Christopher	8/25/89
Trietly, Kevin	8/30/89
Ward, James	8/25/89
Wdowik, Anthony	9/22/89
Pajak, Alex	Immediately
TOWN CLERK'S OFFICE	
Lou Ann Aepelbacher	Immediately
Tracy Krawczyk	Immediately
Kara Jeffords	Immediately
Kelly Jeffords	Immediately
SEWER MAINTENANCE DEPARTMENT	
Dennis Mrugalski	Immediately
Michael Intericola	Immediately
Steven Golovin	Immediately
Richard Brzezinski	Immediately
Alex Nesteruk	Immediately

Item No. 15c cont'd
Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 16a Hiring of part-time employees in Park Division
This item was withdrawn.

Item No. 16b Motion by Councilman Gabryszak, Seconded by Councilman Johnson

BE IT RESOLVED that Joseph Miller of Cheektowaga, New York 14211 be hired as a part-time van driver (Job Class 0111) at a rate of $4.25 per hour in the Department of Senior Services.

Funding Source: Account 7620.1639

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 16c Motion by Councilman Johnson, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following individuals be and hereby are hired as Seasonal and/or Part-time employees in the various Departments and at the rates listed:

	EFFECTIVE
SANITATION DEPARTMENT - $5.00 per hour	
John J. Russ	Immediately
Scott Pyc	Immediately
James Kwiatkowski	Immediately
Paul Ciechanski	Immediately

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 17 Motion by Councilman Kulyk, Seconded by Councilman Jaworowicz

WHEREAS, the records of the County of Erie Department of Personnel reflect only six (6) Police Sergeant positions in the Town of Cheektowaga, and

WHEREAS, in fact the Town has seven (7) persons in said job title, and,

WHEREAS, it is therefore necessary for the Town to create such an additional position, NOW, THEREFORE, BE IT

RESOLVED that a position of Police Sergeant be hereby created.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 18 Motion by Councilman Gabryszak, Seconded by Supervisor Swiatek

WHEREAS, Safe Air Environmental Group, Inc. has recommended that employees of the Facilities Department attend an Asbestos Handling and supervision Course, and

WHEREAS, certain employees may come in contact with asbestos under emergency conditions, and

WHEREAS, Safe Air Environmental Group, Inc. is certified by the Environmental Protection Agency and the New York state Labor Department to conduct said course, NOW, THEREFORE, BE IT

RESOLVED that the firm of Safe Air Environmental Group, Inc., 1975 Wehrle Drive, P.O. Box 1769, Williamsville, New York 14231-1767 is hereby retained to perform Asbestos Handling and Asbestos Supervision courses at a fee not to exceed $2,490.00; funding for said action to be derived from Capital Improvement Account #05-1626-8906-1100, and BE IT FURTHER

RESOLVED that the following individuals are hereby authorized to attend a training course on asbestos handling and asbestos supervision:

Asbestos Handling	Asbestos Supervision
Jack Ludtka	James J. Matecki
Kenneth Meyers	Charles Gies
David Wass	Frank Dux

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 19 Motion by Councilman Gabryszak, Seconded by Councilman Kulyk

WHEREAS, the Cheektowaga Youth Bureau, as a recipient of a New York State Office of Parks, Recreation and Historic Preservation Grant, has conducted the New York State Conservation Corps (NYSCC) Program for the summer of 1989, and

WHEREAS, a wrap up and evaluation of this summer's program will be conducted at Saratoga State Park, NOW, THEREFORE, BE IT

RESOLVED that Rob Off, Program Coordinator, be authorized to attend said session, and BE IT FURTHER

RESOLVED that all necessary travel expenses be reimbursed (01-1910-0004-4082), not to exceed $300.00.

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 20 Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following transfers are hereby approved and made a part hereof:

GENERAL FUND

FROM:	1220.04-4001	(Supervisor-Office Supplies)	$ 100.00
	7620.04-4491	(Sr. Services-Special Events)	704.45
	2625.00-0000	(Crime Forfeiture-Revenue)	2,987.00
	3120.01-1561	(Dispatchers)	30,000.00
	1910.04-4711	(Contingency)	18,716.54
TO:	1220.02.2201	(Supervisor-Office Supplies)	$ 100.00
	7550.04-4374	(Polish American Festival	704.45
	3120.02.2211	(P.C. Computer and Accessories)	2,987.00
	9950.08.1989	(Transfer to Capital)	30,000.00
	9950.08.1989	(Transfer to Capital)	18,716.54

SPECIAL DISTRICT FUND

FROM:	8134.04.4547	(Main Pump Station-Sludge Removal)	$17,000.00
TO:	8135.02.2517	(Pick-up Main Pump Station)	$17,000.00

CAPITAL FUND

FROM:	3097.00.0000	(State Grant Computer)	$70,000.00
	5031.00.0000	(Interfund Transfer-In)	48,716.54
TO:	1910.8810.1100	(Computer-Hardware)	$46,566.54
	1910.8908.1205	(Computer Software)	$38,850.00
	1910.8821.0200	(Computer-Review)	7,300.00
	1910.8908.0215	(Computer-Follow-Up Consulting)	26,000.00

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

Item No. 21 Motion by Supervisor Swiatek, Seconded by Councilman Gabryszak

BE IT RESOLVED that the following vouchers and warrants submitted to the Town of Cheektowaga prior to September 18, 1989 are hereby approved and made a part hereof:

FUND	AMOUNT
GENERAL FUND	$196,882.12
HIGHWAY FUND	22,594.30
TRUST & AGENCY FUND	15,218.65
PART TOWN FUND	3,206.50
RISK RETENTION FUND	32,096.74
SPECIAL DISTRICTS FUND	96,448.80
HUD FUND	163.09
HUD RENTAL REHAB. FUND	2,697.50
STATE AHC HOME IMPROVEMENT	499.00
HUD REHABILITATION FUND	8,542.50
CAPITAL FUND	28,565.12
	$406,914.32

Item No. 21 cont'd

Upon Roll Call....
AYES: Supervisor Swiatek, Councilmen Johnson, Jaworowicz, Gabryszak, Kulyk and Solecki
NAYES: 0
ABSENT: 0
EXCUSED: Councilman Kazukiewicz

III. GENERAL COMMUNICATIONS

Item No. 22 Cheektowaga Planning Board - minutes of meeting of August
Received and Filed.

IV. GENERAL COMMUNICATIONS

Item No. 23 Notice of Petition - Consolidated Rail Corp. vs State Board of Equalization and Assessment
Received and Filed.

Item No. 24a Order to Show Cause - John Grandits, Daniel Pachalski, Evelyn Strezlec & David H. Pierce vs Town of Cheektowaga
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members; James Kirisits, Town Attorney
Received and filed.

Item No. 24b Order to Show Cause - Benderson Development Co. vs Town of Cheektowaga
Copies were sent to: Frank Swiatek, Supervisor; Town Board Members; James Kirisits, Town Attorney; Ron Marten, Supervising Building and Plumbing Inspector
Received and filed.

Item No. 25a Notice of Claim - Joseph & Calogera Curcio vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Chester Bryan, Town Engineer.
Received and filed.

Item No. 25b Notice of Claim - Sophia Budny vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; James Matecki, Facilities Director; S.I.S. Services, Insurance Carrier.
Received and filed.

Item No. 25c Notice of Claim - Edna Swiate vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; James Matecki, Facilities Director; S.I.S. Services, Insurance Carrier.
Received and filed.

Item No. 25d Notice of Claim - Joanne Haas vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Mike Miecznikowski, Recreation Director; S.I.S. Services, Insurance Carrier.
Received and filed.

Item No. 25e Notice of Claim - Richard Carine vs Town of Cheektowaga
Copies were sent to: Frank E. Swiatek, Supervisor; James Kirisits, Town Attorney; Thomas M. Johnson, Jr., Councilman; Sylvia Slawiak, Accounting Department; Mike Miecznikowski, Recreation Director; S.I.S. Services, Insurance Carrier.
Received and filed.

Item No. 26 Motion by Councilman Jaworowicz, Seconded by Councilman Kulyk to adjourn the meeting.

RICHARD M. MOLESKI
Town Clerk