

**TOWN OF ORANGETOWN
WORKSHOP/PUBLIC HEARING
TUESDAY, JUNE 13, 2017**

This Workshop Meeting was opened at 8:00 p.m. Supervisor Stewart presided and the Town Clerk called the roll.

Present were: Councilman Denis Troy
Councilman Thomas Diviny
Councilman Gerald Bottari
Supervisor Andrew Stewart

Absent: Councilman Paul Valentine

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, Deputy Town Attorney
Jeff Bencik, Finance Director
James Dean, Superintendent of Highways
Joseph Moran, Commissioner of DEMA
Aric Gorton, Superintendent of Parks, Recreation & Building Maint.
Kevin Nulty, Police Chief

Pledge of Allegiance to the Flag of the United States of America: Erin McCabe

Erin McCabe, Kelly Gazzara, Ashley Harrington, Kelly Surlis, Lisa Gallagher, Julia Branzetti, Keri McAleer and Clara Reichert of Girl Scout Troop 40125 were presented with Certificates of Recognition for their Bronze and Silver Award project at the Conway House.

William Klein explained his Eagle Scout project of removing invasive plants and other park improvements to the Nike Overlook Park.

The Musial Group, the Architects and Space Planners for a new Town Hall, presented preliminary concepts plans. They are looking for feedback. The Town Board requested the cost to make repairs to the existing Town Hall.

RESOLUTION NO. 322

**RE-OPEN PH/ENACT AN ENTITY
DISCLOSURE LAW**

Supervisor Stewart offered the following resolution, which was seconded by Councilman Bottari and was unanimously adopted:

RESOLVED, that public hearing, May 12, 2017, to consider a local law to amend Chapter 43 the Code of the Town of Orangetown to add a New Article, Article XVI entitled "Entity Disclosure" is hereby re-opened.

Ayes: Supervisor Stewart
Councilpersons Bottari, Troy, Diviny
Noes: None
Absent: Councilman Valentine

Robert Magrino, Deputy Town Attorney, presented an updated version of the proposed local law. He tweaked the definitions and the penalties, in his opinion, are appropriate.

Summary of Public Comments:

Maureen Agosti, Pearl River – in favor of this full disclosure law. It is very important to know who actually owns the properties in Orangetown. The fines should be more than \$5,000.

RESOLUTION NO. 323

CLOSE PH/ENTITY DISCLOSURE LAW

Councilman Troy offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLUTION NO. 323 – Continued

RESOLVED, that public hearing to consider a local law to amend Chapter 43 the Code of the Town of Orangetown to add a New Article, Article XVI entitled “Entity Disclosure’ is hereby re-closed.

Ayes: Councilpersons Troy, Diviny, Bottari
Supervisor Stewart
Noes: None
Absent: Councilman Valentine

RESOLUTION NO. 324

**ADOPT NEGATIVE DECLARATION
SEQR DETERMINATION/ENTITY
DISCLOSURE LAW**

Councilman Diviny offered the following resolution, which was seconded by Councilman Troy and was unanimously adopted:

WHEREAS, the Town Board has considered the adoption of a Local Law, amending Chapter 43 of the Town Code by adding Article XVI, entitled “Entity Disclosure” regarding the need for full and fair disclosure of all privately held and/or non-publically traded entities making land use applications to supply information as to all limited and general members, shareholders, officers and directors or other persons having control over the entity; and

WHEREAS, on or about May 8, 2017, the Town Board circulated amongst various potential interested agencies notice of its intention to assume Lead Agency status for the purpose of the environmental review of the above referenced action; and

WHEREAS, being the only Involved Agency, the Town Board hereby assumes the role of Lead Agency for environmental review; and

WHEREAS, acting in its capacity as Lead Agency for environmental review, and after taking a “hard look” at all of the potential environmental impacts that might result from the proposed action, the Town Board has concluded that there will be no significant environmental impact or effect caused or occasioned by the proposed change in the zoning law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts the Negative Declaration annexed hereto (Exhibit 06-A-17), and authorizes the Town Supervisor or his designated agent to execute the Environmental Assessment Form and to take such other and further steps as may be necessary to discharge the Town Board’s responsibilities as Lead Agency.

Ayes: Councilpersons Diviny, Troy, Bottari
Supervisor Stewart
Noes: None
Absent: Councilman Valentine

RESOLUTION NO. 325

**AMENDMENT/ENTITY DISCLOSURE
LAW/SECTION 3, §16.4 (B)
PENALTIES FOR OFFENSES**

Councilman Diviny offered the following resolution, which was seconded by Councilman Troy and was unanimously adopted:

RESOLVED, the Town Board amends the proposed local law in Section 3, §16.4(B) to read “be punishable by penalty pursuant to Chapter 41A” instead of “be subject to a fine not exceeding \$5,000”.

Ayes: Councilpersons Diviny, Troy, Bottari
Supervisor Stewart
Noes: None
Absent: Councilman Valentine

RESOLUTION NO. 326

ADOPT LOCAL LAW 7, 2017/ENTITY DISCLOSURE LAW

Councilman Diviny offered the following resolution, which was seconded by Councilman Troy and was unanimously adopted:

RESOLVED, the Town Board hereby adopts Local Law 7, 2017 adding a New Article, Article XVI entitled “Entity Disclosure” of the Town Code, as amended.

Ayes: Councilpersons Diviny, Troy, Bottari
Supervisor Stewart
Noes: None
Absent: Councilman Valentine

**TOWN OF ORANGETOWN
LOCAL LAW NO. 7, 2017 OF THE
INCORPORATED TOWN OF ORANGETOWN, NEW YORK
TOWN BOARD IMPLEMENTING AN ENTITY DISCLOSURE LAW
FOR ALL LAND USE APPLICATIONS IN THE
TOWN OF ORANGETOWN, NEW YORK**

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ORANGETOWN AS FOLLOWS:

Section 1. Chapter 43 of the Code of the Town of Orangetown is amended by adding a new Article, designated as Article XVI entitled “Entity Disclosure”, to read as follows:

§16.1

A. Legislative Findings and Intent.

The Town Board finds and determines that there is a critical and compelling need, in the public interests as set forth herein, to provide for full and fair disclosure of all privately held and/or non-publically traded entities making land use applications before the Town to the extent possible to ensure that any and all potential conflicts of interest or other ethical concerns are properly disclosed and addressed by any and all affected parties.

The Town finds and declares that there is no existing law that preempts the adoption of this Local Law so that the public interests in open and transparent government and land use applications can be promoted by enactment of this Local Law to require all privately held and/or non-publically traded entities making land use applications to supply information as to all limited and general members, shareholders, officers and directors or any other authorized persons having control over such privately held entities who apply for approval from the Town. Such disclosure will inform the public and the Town concerning the names of individuals with a vested interest in land use applications, will facilitate application review by the reviewing boards, will disclose actual or potential conflicts of interest and enhance enforcement of the code.

Section 2.

§16.2 Definitions.

For the purpose of this article, the following words and phrases shall have the meanings ascribed to them.

APPLICANT-The Owner of real property and/or Authorized Person of an Owner of real property, which seeks approval(s) by one or more land use board(s) of the Town, including the Town Board where applicable, in a Land Use Application.

AUTHORIZED PERSON-Any person or Entity who is authorized to act or does act either alone or in conjunction with others, on behalf of an Entity or Owner, or who has authority to direct, control or influence an Entity in any manner with respect to a Land Use Application.

LOCAL LAW NO. 7, 2017 - Continued

ENTITY-A limited liability company, limited liability partnership, general or limited partnership, professional corporation, joint venture, doing business as name or venture, association, business trust, or non-publically traded corporation.

LAND USE APPLICATION-An application form and supporting documents submitted by an Applicant and/or Owner for review and approval of a building permit, certificate of occupancy, subdivision plat, site plan, special use permit, conditional use permit, variance, zoning amendment, or any other permit, approval or certificate required, necessary or requested for the development of land or construction.

OWNER- The legal holder of title to real property or an interest in real property, including but not limited to a contract purchaser or holder of an option to purchase such real property.

§16.3 Requirement for disclosure

A. A Land Use Application for land development or construction within the Town that lists an Entity as the Owner and/or Applicant shall complete an Entity Disclosure Statement in a form approved by the Town Board from time to time by resolution and provide all information required in said form. Said Entity Disclosure Statement shall be affirmed or sworn to under the penalty of perjury and shall be filed along with any such land use application or request for permission to undertake any construction activity within the Town. The following information shall be required to be disclosed in the Entity Disclosure Statement:

1) The name, address and contact information for each member, shareholder, officer, director, partner and any other authorized person having control over the Entity.

2) Each named person as set forth in subsection one shall identify all Town officers or employees for which disclosure of a relationship would be required pursuant to General Municipal Law §809.

3) Such other information as reasonably required by resolution of the Town Board in accordance with the purpose and intent of this section.

B. In the event that, prior to issuance of a Certificate of Occupancy for any project under this article, a project that has previously received approval is in any manner transferred, whether by transfer of the property or transfer of the management and/or operation of the original Entity making application to another Entity, the transferring Entity shall notify the Town and such succeeding Entity must fully comply with this article before any work on the project shall be permitted to proceed. It shall be the responsibility of both the applicant and the Entity to which transfer is being made, to notify the Town of any such transfer.

C. Said Entity Disclosure Statement shall apply to any land use applications, approvals or permission sought from the Building Inspector, Town Board, Town Planning Board, Town Zoning Board of Appeals, the Architectural Community Appearance Board of Review (ACABOR) or Historical Area Board of Review (HABOR). The Town shall not process, hear, rehear, approve or sign any new or pending preliminary or final site plan, preliminary or final subdivision map, special permit, variance or other land use application or permit which relates directly or indirectly to any construction, including but not limited to any grading permit, erosion and sediment control permit, wetland permit, sewer connection permit, floodplain development permit, water connection permit, which may be granted in association with any construction unless the application includes a fully completed Entity Disclosure Statement signed and either sworn to or affirmed and submitted with said application to the respective Board.

D. An Entity Disclosure Statement is not required for any of the following activities:

1. Construction of a private garage, not in excess of 500 square feet. Said building shall not be used for any other purpose than the storage of automotive vehicles.
2. Construction of accessory structures, other than garages, not in excess of 300 square feet.
3. Construction of outdoor decks, sidewalks, or porches;
4. Construction of outdoor swimming pools;

LOCAL LAW NO. 7, 2017 - Continued

5. Installation of fences;
6. Interior or exterior remodeling of a single family detached residential dwelling in existence and with a valid certificate of occupancy as of the effective date this local law, which does not involve any change of use or increase the size of the building, including but not limited to window replacement, door replacement, plumbing improvements, new siding, removal of interior walls, and similar improvements:
7. Installation or removal of home heating oil or propane tanks, in accordance with all applicable laws;
8. Repair, involving the removal and installation of an individual well or in-ground septic system, for a dwelling in existence and with a valid certificate of occupancy as of the effective date of this law;
9. Construction of a private shed not exceeding 300 square feet.
10. Other minor improvements to dwellings or residential lots with an existing certificate of occupancy, after the Building Inspector has conferred with the Town Board, and the Town Board has rendered a determination that the improvement falls within the scope and nature of the exemptions listed herein.

Section 3. §16.4 Penalties for offenses.

A. Where an Entity or its representative(s) refuses or fails to provide the information required under this Local Law, the further processing of such application and any work related thereto (“the application”) shall be suspended in all respects, until such time as the board or official before which application is submitted or pending determines that the Entity has fully complied with the provisions of this Local Law. In the event of any form of transfer of the property that is the subject of the application occurs or the ownership and/or management of the project is transferred in any manner to another Entity during a pending suspension of the application under the Local Law, the application shall remain suspended until such time as the succeeding Entity shall appear before such body or official before whom the application is pending and obtain approval for any continued work in relation to the application in addition to compliance with this Local Law. The Building Inspector is authorized to issue a Stop Work order on any project where an application has been suspended under this Local Law.

B. Any Entity or representative of an Entity that provides false information or grossly inaccurate information regarding any application, or who fails to advise the Town of a change in ownership shall, in addition to the suspension of any pending application as set forth in subdivision A above, be punishable by a penalty pursuant to Chapter 41A of the Town Code for violation of this Article. The Town Building Inspector/Code Enforcement Officer is hereby authorized to issue an appearance ticket or other process for a violation of this Local Law.

C. Nothing herein shall be deemed to preclude a criminal proceeding being instituted by the People of the State of New York against the Entity or any of its representatives in the Justice Court or County Court for any offenses where the conduct committed may constitute a violation of the New York State Penal Law or other criminal statutes.

D. Civil Penalty: In addition to those penalties prescribed by herein and by state law, any person or Entity who violates any provision of this chapter shall be liable for a civil penalty of not more than \$3,000.00 for each offense. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town. In any such proceeding to collect a civil penalty, the Town shall be entitled to collect interest, costs and disbursements incurred in connection with such proceeding and in addition reasonable counsel fees or a charge to reimburse the Town for expenditures for attorneys employed or appointed by the Town.

Section 4. Severability Clause

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid parts.

LOCAL LAW NO. 7, 2017 - Continued

Section 5. Effective Date.

This Local Law shall become effective immediately upon being filed with the Secretary of State.

RESOLUTION NO. 327

AGREEMENT/THE NOBLE NINTH, INC/USE OF NOBLE NINTH'S PICNIC GROUNDS/ ORANGETOWN 2017 SUMMER DAY CAMP

Councilman Troy offered the following resolution, which was seconded by Supervisor Stewart and was unanimously adopted:

RESOLVED, that the Town Supervisor is authorized to sign The Letter of Extension Agreement with The Noble Ninth, Inc, dated May 2017, for use of the Noble Ninth's picnic grounds for the Town of Orangetown's 2017 Summer Day Camp, from June 28, 2017 through August 4, 2017, under the same terms and conditions as set forth in a certain agreement entered into between the Town of Orangetown and the German Masonic Home Corporation dated, May 18, 1991, as received and filed in the Town Clerk's Office.

- Ayes: Councilperson Troy, Supervisor Stewart
Councilpersons Diviny, Bottari
- Noes: None
- Absent: Councilman Valentine

RESOLUTION NO. 328

WORKSHOP AGENDA ITEMS

Supervisor Stewart offered the following resolution, which was seconded by Councilman Bottari and was unanimously adopted:

RESOLVED, the Town Board discussed and reviewed Agenda items, 6 thru 22, except item no. 18.

- Ayes: Supervisor Stewart
Councilpersons Bottari, Troy, Diviny
- Noes: None
- Absent: Councilman Valentine

RESOLUTION NO. 329

**ENTER EXECUTIVE SESSION
LABOR CONTRACTS / PERSONNEL
MATTER**

In attendance, at this Executive Session, were Supervisor Stewart, Councilpersons Troy, Diviny and Bottari, John Edwards, and Teresa Kenny.

Supervisor Stewart offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, at 9:23 p.m. the Town Board entered Executive Session to discuss the CSEA labor contract and a personnel matter. Supervisor Stewart said no further votes will be taken.

- Ayes: Supervisor Stewart
Councilpersons Diviny, Troy, Bottari
- Noes: None
- Absent: Councilman Valentine

RESOLUTION NO. 330

**RE-ENTERED WORKSHOP
ADJOURNED**

Supervisor Stewart offered the following resolution, which was seconded by Councilman Troy and was unanimously adopted:

RESOLVED, at 9:55 pm, the Town Board re-entered the Workshop and adjourned.

Ayes: Supervisor Stewart
Councilpersons Troy, Diviny, Bottari
Noes: None
Absent: Councilman Valentine

Charlotte Madigan, Town Clerk