

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
THURSDAY, MARCH 15, 2012**

This Town Board Meeting was opened at 7:40 p.m. Supervisor Stewart presided and the Town Clerk called the Roll. Present were:

Councilman Denis Troy
Councilman Thomas Diviny
Councilman Thomas Morr
Councilman Paul Valentine

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, First Deputy Town Attorney
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Joseph Moran, Commissioner of DEME
Robert Simon, Receiver of Taxes
Bert Von Wurmb, Building Department
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Charlotte Madigan led the Pledge of Allegiance to the Flag.

James Dean, Superintendent of Highways, gave an update on the Tappan Memorial Green Park Improvement Project. The American Legion, the Tappan Reformed Church and the Tappan Historical Society decided to reconfigure the park and monuments. The Highway Department is ready to remove the existing dying trees and plant new trees. Last year, curbing, drainage and sidewalks were completed. Any work that cannot be done in-house will be covered by the \$800,000 bond that was received last year.

Donald Hoover, Minister of Tappan Reformed Church, said all this work is complementary to the church's renovations and thanked the Town for their help.

Summary of Public Comments (RTBM):

Gina Parisi, Blauvelt, wants the Town Board to consider a community center with children's activities, if the Town obtains RPC's children center.

Nancy Antonucci, member of REASON, is concerned about safety when the former RPC's children center is used for Police training. She also asked the Town Board to pressure the State Department of Mental Health to assure the safety and security of people in the RPC area.

Andrew Wiley, Pearl River, is concerned about a conflict of interest with Beckman Appraisals. He is opposed to the creation of a DEME Deputy Commissioner. He believes it is not in the best interest of the taxpayers.

Michael Mandel, Pearl River, is against the creation of a DEME Deputy Commissioner. He believes there is no justification for this position and he has confidence in the current DEME employees.

Carol Silverstein, Orangeburg, opposes hiring Ken Skibinski permanently and the creation of a DEME Deputy Commissioner. She asked, why someone was hired without the proper qualifications and/or licenses and how the Town is going to stay within budget when top heavy personnel are hired.

Mike Menegaux, Orangetown CSEA President, said the union members are dissatisfied with the Town's failure to negotiate a contract in good faith. Our 2010 salaries do not stretch as far in 2012 and our salaries are 6% behind from 2010. The Town has spent hundreds of thousands of dollars on unnecessary capital improvements projects, luxury items and real estate property but not on the employees. The Town's position of 0, 0, 1% plus other give back items is insulting. This really makes us feel unappreciated.

Eileen Larkin, Palisades, is against both positions in DEME. She asked, what is the Director's job description and if the employees and taxpayers will have to bear the brunt of these positions. Anne Putko, Piermont, urged the Town Board to pass an ordinance to restrict the use of leaf blowers for public health and quality of life.

Beth Riso, Nyack, said the Mayor of Nyack and Nyack's Environmental Committee supports an ordinance regarding leaf blowers. She also requested the Town Board to save taxpayers money by not approving the DEME positions.

Henry Rand, Nyack, is opposed to a DEME Deputy. The department is just not large enough to create a new position. He believes this item should be tabled permanently.

Genevieve Coffey, Pearl River, wants the Town Board to stop creating new positions that would overburden the taxpayers. She is against any Town ordinance restricting the use of leaf blowers. Shelly Morgan, Tappan, said if the Commissioner of DEME cannot handle 40 employees and keep the overtime down, he should be replaced.

RESOLUTION NO. 106**CLOSE PUBLIC COMMENTS**

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

RESOLVED, that the public portion is hereby closed.

Ayes: Councilmen Valentine, Troy, Diviny, Morr
Supervisor Stewart

Noes: None

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RESOLUTION NO. 107

**OPEN PH/AMEND CHAPTER 6,
BUILDING CONSTRUCTION &
ADMINISTRATION/ENERGY
EFFICIENCY/SUBJECT DWELLING
HOME ENERGY RATING SYSTEM
(HERS) REQUIREMENTS**

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

RESOLVED, that the 8:00 p.m. public hearing to amend the Town Code, Chapter 6, entitled "Building Construction and Administration," to require new subject dwellings to meet the Home Energy Rating System (HERS) index of 70 or less, as opposed to the currently required compliance with ENERGY STAR standards, is hereby opened (a copy of the proposed amendment is labeled Exhibit 03-B-12 and made a part of these minutes.

Ayes: Councilmen Diviny, Valentine, Troy, Morr
Supervisor Stewart

Noes: None

Charlotte Madigan, Town Clerk, presented the Affidavit of Publication and the Notice of Posting; copies are labeled Exhibit 03-A-12 and made a part of these minutes.

Supervisor Stewart explained that the purpose of this local law is to require new subject dwellings to meet the Home Energy Rating System (HERS) index of 70 or less or New York State Energy Efficiency Building Code requirements, as opposed to the currently required compliance with Energy Star standards. Energy Star standards are more rigorous than N.Y. S.

Summary of Public Comments:

Andrew Ausbro, Pearl River, is currently under construction but due to this local law he has had to stop. He explained that these code requirements have increased his costs 50%.

Alex DiMenna, Blauvelt, questioned, if during these economic times do we really want to punish homeowners with additional costs.

Richard Lenihan, Pearl River, is in favor of using minimum regulations. He asked how far are we going to go with regulations.

Eileen Larkin, Palisades, asked if these regulations effect commercial properties. She said energy efficiency is a waste because O & R increases its rates.

Bert Von Wumb, Building Inspector, said Energy Star and HERS 70 only covers residential properties and not business properties.

Andy Anderson, Orangetown, asked if there are any rebates for homeowners.

Larry Scelo, homeowner & contractor, asked if the homeowner would still have to hire a HERS a rater.

Charlotte Madigan, Pearl River, said if you are building a home and you have a builder, everything they do is energy efficient. She does not feel we have to get involved, the N.Y.S. code is sufficient.

RESOLUTION NO. 108

**CLOSE PH/AMEND CHAPTER 6,
BUILDING CONSTRUCTION &
ADMINISTRATION ENERGY
EFFICIENCY/SUBJECT DWELLING
HOME ENERGY RATING SYSTEM
(HERS) REQUIREMENTS**

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

RESOLVED, that the public portion is hereby closed.

Ayes: Councilmen Troy, Valentine, Diviny, Morr
Supervisor Stewart
Noes: None

Allan Hicks, Energy Efficiency Consultants and who does the inspections for HERS, explained the difference between the HERS 70 index and the New York State Code. The HERS index is basically a sliding scale of a measure you can put on a home's energy efficiency. HERS 70 is basically the same provisions as Energy Star 2 that was adopted in 2009. He agrees, it adds additional costs.

RESOLUTION NO. 109

**SET PUBLIC HEARING DATE/REPEAL
ENERGY STAR/CHAPTER 6 – BUILDING
CONSTRUCTION & ADMINISTRATION
ENERGY EFFICIENCY**

Councilman Valentine offered the following resolution, which was seconded by Councilman Morr and was unanimously adopted:

RESOLVED, that a public hearing is scheduled for March 29, 2012 at 8:00 p.m. to consider a proposed Local Law repealing the provisions that established Energy Star, the energy efficiency standard applicable to new residential construction, Chapter 6 – Building Construction and Administration (Energy Efficiency).

Ayes: Councilmen Valentine, Morr, Troy, Diviny
Noes: Supervisor Stewart

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RESOLUTION NO. 110

**APPROVE SHOWMOBILE
REQUEST/VCS**

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

RESOLVED, that the request of VCS Inc, for use of the Showmobile on Sunday June 10, 2012, for Gay Pride Rockland Day, at a rental fee of \$350.00 with VCS Inc. providing a certificate of insurance listing the Town of Orangetown as additionally insured is hereby approved.

Ayes: Councilmen Diviny, Troy, Morr, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 111**APPROVE AID/DENNIS MCHUGH
FOUNDATION**

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

RESOLVED, that the request of the Dennis P. McHugh Foundation, for 6 port-o-johns (2 handicapped accessible), for their 9th Annual Run for Fun and Family Fair, being held on April 21, 2012 in Flywheel Park, Piermont is hereby approved.

Ayes: Councilmen Troy, Morr, Diviny, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 112**COMBINE AGENDA ITEMS**

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

RESOLVED, that agenda items 9 thru 11 are hereby combined.

Ayes: Councilmen Morr, Troy, Diviny, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 113**TAX CERTIORARI SETTLEMENT
EDGEWATER LANE, LLC.**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Assessor, approve and authorize Dennis D. Michaels, Deputy Town Attorney, to sign the Stipulation and Order and Judgment Reducing Assessments regarding the tax certiorari proceeding *Edgewater Lane, LLC v Town of Orangetown, et ano*, Tax Map designation 66.70-2-20, for the tax assessment years 2010 through 2011, for a total refund by the County of \$232, a total refund by the Town of \$440 and a total refund by the School District of \$2,945. Interest on the Town's liability as a result of assessment decrease or refund is waived if payment is made within sixty (60) days after a copy of the order based upon the settlement is served on the Town.

Ayes: Councilmen Morr, Troy, Diviny, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 114**TAX CERTIORARI SETTLEMENT
150 ROUTE 304, LLC.**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Assessor, approve and authorize Dennis D. Michaels, Deputy Town Attorney, to sign the Stipulation of Settlement and Consent Order and Judgment regarding the tax certiorari proceeding *150 Route 304, LLC v. The Town of Orangetown, et al.*, Tax Map designation 72.08-1-1, for the tax assessment years 2008 through 2011, for a total refund by the County of \$1,843, a total refund

Resolution No. 114 - Continued

by the Town of \$7,768 and a total refund by the School District of \$29,248. Interest on the Town's liability as a result of assessment decrease or refund is waived if payment is made within sixty (60) days after a copy of the order based upon the settlement is served on the Town.

Ayes: Councilmen Morr, Troy, Diviny, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 115**TAX CERTIORARI SETTLEMENT
523 ROUTE 303 REAL ESTATE, LLC.**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Assessor, approve and authorize Dennis D. Michaels, Deputy Town Attorney, to sign the Stipulation of Settlement and Consent Order and Judgment regarding the tax certiorari proceeding *523 Route 303 Real Estate LLC v. Brian Kenney, et al.*, Tax Map designation 70.19-1-42, for the tax assessment years 2009 through 2011, for a total refund by the County of \$563, a total refund by the Town of \$2,901 and a total refund by the School District of \$8,372. Interest on the Town's liability as a result of assessment decrease or refund is waived if payment is made within sixty (60) days after a copy of the order based upon the settlement is served on the Town.

Ayes: Councilmen Morr, Troy, Diviny, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 116**CERTIFICATE OF REGISTRATION
2012 SEWER WORK**

Councilman Morr offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that upon the recommendation of the Town Attorney and the Director of the Department of Environmental Management and Engineering, a Certificate of Registration for 2012 Sewer Work is approved to the following:

- TOBAR EXCAVATING, INC., 385 High Street, Norwood, NJ 07648
- J.D. BACKHOE SERVICE INC., P.O. Box 342, Sparkill, NY 10976-0342
- RONALD FILERA LANDSCAPE CONTRACTORS, LLC, 520 South Pascack Road, Chestnut Ridge, New York 10977
- RONALD TARIGO, 5 Crosscreek Lane, Stony Point, NY 10980

Ayes: Councilmen Morr, Valentine, Troy, Diviny
Supervisor Stewart
Noes: None

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RESOLUTION NO. 117**SUSPENSION OF EMPLOYEE #2599**

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

WHEREAS, Employee # 2599 was suspended from employment on October 4, 2011, pending a hearing on disciplinary charges preferred against the employee; and

WHEREAS, additional disciplinary charges have been preferred against said employee on February 23, 2012;

Resolution No. 117 - Continued

NOW, THEREFORE, BE IT RESOLVED, that, effective March 16, 2012, such suspension shall be without pay for a period not to exceed thirty (30) days.”

Ayes: Councilmen Troy, Diviny, Morr, Valentine
Supervisor Stewart
Noes: None

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The Town Board had a long lengthy discussion and gave their comments regarding appointing permanently a DEME Chief Operator and creating the position of DEME Deputy Commissioner.

RESOLUTION NO. 118**ESTABLISH/APPOINT CHIEF
OPERATOR GRADE 3 (WASTEWATER)
KENECK SKIBINSKI**

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

RESOLVED, that the position of Chief Operator, Grade 3 (Wastewater) in the Department of Environmental Management and Engineering is hereby established and Ken Skibinski is hereby appointed to the position of Chief Operator Grade 3 (Wastewater) in the Department of Environmental Management and Engineering, provisional, grade 28-1, annual salary of \$110,850.00, effective March 16, 2012.

Ayes: Councilmen Troy, Diviny, Morr, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 119**ELIMINATE FUNDING/CREATE
POSITION/DEME DEPUTY
COMMISSIONER**

Councilman Troy offered the following resolution, which was seconded by Councilman Morr and on a roll call was adopted:

RESOLVED, that the full-time position of Deputy Commissioner in the Department of Environmental Management and Engineering at an annual salary of \$83,000 is hereby created. DEME Director/Commissioner will advertise the position, conduct a competitive interview process, and hire the preferred candidate. Contingent upon hiring of Deputy, funding will be eliminated for Clerk II position.

Ayes: Councilmen Troy, Morr
Supervisor Stewart
Noes: Councilman Diviny
Abstained: Councilman Valentine

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RESOLUTION NO. 120**APPROVE TRAINING REQUEST/NJ
PREPAREDNESS CONFERENCE**

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

RESOLVED, that upon the recommendation of the Police Chief, the request for PO Hugh Johnson to attend the New Jersey Preparedness Conference, May 1, 2 & 3, 2012 in Atlantic City, NJ at a cost of \$521.50 to be charged to Account #sB3120.441.16 and B3120.480.16 is hereby approved.

Ayes: Councilmen Diviny, Troy, Morr, Valentine
Supervisor Stewart
Noes: None

RESOLUTION NO. 121**AUTHORIZE SEIZURE MONIES
EQUIPMENT & CABLING
EMERGENCY OPERATIONS CENTER**

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

RESOLVED, that upon the recommendation of the Chief of Police and the Finance Director, the use of seizure monies, in the amount of \$110,000 (?), for the equipment and cabling for an Emergency Operations Center in Town Hall is hereby authorized. (The auditors have indicated that a resolution is needed for the use of these monies.)

Ayes: Councilmen Morr, Diviny, Troy, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 122**APPROVE CONSULTING
AGREEMENT/BECKMANN
APPRAISALS/PFIZER**

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

RESOLVED, that upon the recommendation of the Assessor, a consulting agreement for Beckmann Appraisals, for work related to the 2012 equalization rate and base proportions issues related to Pfizer, for an amount not to exceed \$7,000, to be charged to account number A.1355.48 is hereby approved.

Ayes: Councilmen Diviny, Troy, Morr, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 123**APPROVE BUDGET TRANSFER
RECEIVER OF TAXES/ELECTIONS**

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

RESOLVED, that a budget transfer, from Receiver of Taxes personnel/Deputy position to the Town's Local Elections budget line is hereby approved.

Ayes: Councilmen Morr, Diviny, Troy, Valentine
Supervisor Stewart
Noes: None

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RESOLUTION NO. 124**ACCEPT MINUTES**

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

RESOLVED, that the January 10, 2012 Regular Town Board Meeting and Audit Meeting minutes; January 17, 2012 Police Commission and Executive Session minutes; and January 24, 2012 Regular Town Board Meeting, Audit Meeting and Executive Session minutes are hereby accepted.

Ayes: Councilmen Troy, Valentine, Diviny, Morr
Supervisor Stewart
Noes: None

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RESOLUTION NO. 125**RECEIVE/FILE/DOCUMENTS
TOWN CLERK'S OFFICE**

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

RESOLVED, that the following documents are received and filed in the Town Clerk's Office:

- 1) Annual Financial Report for the Tappan Fire District (year ending 12/31/2011).
- 2) Annual Financial Report and Independent Auditor's Report for Sparkill-Palisades Fire District (year ending 12/31/2010).
- 3) Annual Financial Report for the Pearl River Fire District (year ending 12/31/2011).

Ayes: Councilmen Diviny, Morr, Troy, Valentine
Supervisor Stewart

Noes: None

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RESOLUTION NO. 126**COUNTY NARCOTICS/INTEL UNIT
PARTICIPATION/FUNDING**

Under new business, Councilman Diviny offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

WHEREAS, the shared narcotics and intel programs have been largely successful, enabling the Town to leverage resources to prevent crime.

WHEREAS, the County has in years past reimbursed the Town for the cost of two police officers assigned to these units.

WHEREAS, the Town has received only half of its 2011 reimbursement, despite our best efforts to get the money owed.

WHEREAS, the County has provided the Town with neither payment for the first quarter of 2012, nor any sort of contract for 2012, and by all appearances is in deep financial trouble.

WHEREAS, it is possible that if the County fails to get Albany to allow a sales tax increase the County will cut the narcotics/intel program and any other budget items it is legally entitled to cut, so the continuation of this program is in doubt for 2013.

WHEREAS, all Town Supervisors have attempted to negotiate with the District Attorney and County for full reimbursement,

The Town Board of Orangetown joins the other four Towns in the following proposition to the County/DA's office:

We will remove our police officers from full participation in the joint taskforces on narcotics and intel on April 15th if the County does not provide:

- 1) reimbursement for 2011 costs as promised (Orangetown is owed 50%)
- 2) a contract for 2012
- 3) reimbursement for first quarter of 2012.

Ayes: Councilmen Diviny, Valentine, Troy
Supervisor Stewart

Noes: Councilman Morr

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RESOLUTION NO. 127**ENTERED AUDIT**

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

Resolution No. 127 - Continued

RESOLVED, that the Town Board entered the Audit Meeting at 10:40 p.m.

Aye: Councilmen Troy, Morr, Diviny, Valentine
Supervisor Stewart

Noes: None

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RESOLUTION NO. 128

PAY VOUCHERS

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

RESOLVED, that the Finance Office is hereby authorized to pay vouchers for the General Fund, Town Outside Village, Blue Hill, Broadacres, Highway, Sewer, Capital Projects, Risk Retention, and Special Parking Funds in the amount of \$1,684,871.40.

Ayes: Councilmen Troy, Morr, Diviny, Valentine
Supervisor Stewart

Noes: None

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RESOLUTION NO. 129

ADJOURNMENT/MEMORY

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

RESOLVED, that the Town Board adjourned, in memory of Robert (Bob) Signor, Pearl River; William Albert, Pearl River; and Elaine Spano-Guarino, Pearl River at 10:48 p.m.

Ayes: Councilmen Diviny, Troy, Morr, Valentine
Supervisor Stewart

Noes: None

Charlotte Madigan, Town Clerk