

**TOWN OF ORANGETOWN  
REGULAR TOWN BOARD MEETING  
TUESDAY, MARCH 22, 2011**

This Town Board Meeting was opened at 7:32 p.m. Supervisor Whalen presided and the Town Clerk called the Roll. Present were:

Councilman Denis Troy  
Councilwoman Nancy Low-Hogan  
Councilman Michael Maturo  
Councilman Thomas Diviny

Also present: Charlotte Madigan, Town Clerk  
John Edwards, Town Attorney  
Teresa Kenny, First Deputy Town Attorney  
AnnMarie Hahr, Executive Assistant to the Supervisor  
Charles Richardson, Director of Finance  
James Dean, Superintendent of Highways  
Scott Burton, Director of Environmental Management & Engineering  
Kevin Nulty, Police Chief  
Robert Simon, Receiver of Taxes  
John Giardiello, Director of OBZPAE  
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Esta Baitler led the Pledge of Allegiance to the Flag.

Supervisor Whalen announced that the Town has received \$84,107.39 as part of the grants of \$730,000.50 from the New York State Department of Environmental Conservation. The money is reimbursement for meeting storm water regulations with non-point source water pollution issues. He thanked Jim Dean and the Highway Department, along with the Supervisor's Office, for their efforts in achieving this money. Jim Dean also thanked the Engineering Department and the Town Attorney's Office, for their help.

Summary of Public Comments (RTBM):

Eliot Tozer, representing Keep Rockland Beautiful, spoke about planting of Lilacs within the Town. All are welcomed to help, starting April 1<sup>st</sup>, 11 a.m. at Town Hall.

Brian Quinn, O & R attorney, explained that the Revocable License, for the "H" Transition Structures, needs to be extended, due to the delays of passing the bill at the State legislation.

Eileen Larkin, Palisades, asked what impact will Pfizer's tax settlement have on residential taxpayers. She discussed issues with Cablevision.

Betsy Brenner, Orangeburg, said with the recent robberies, the Police have had meetings with the residents and a suggestion was made to have cameras placed in the Sickletown/Townline Road area.

Andrew Wiley, Pearl River, asked why the Assessor has a Town vehicle. How did the Town Board come up with \$65,000 to update the Comprehensive Plan.

Rich Lenihan, Pearl River, hopes the Board considers the tax structure and amount for homeowners with the Pfizer's tax settlement.

Esta Baitler, Consumer Advocate for Cathy Lukens Home, requested a completion date for the sidewalks along Route 340.

**RESOLUTION NO. 194**

**CLOSE PUBLIC COMMENTS**

Councilwoman Low-Hogan offered the following resolution, which was seconded by Councilman Troy and was unanimously adopted:

RESOLVED, that the public portion is hereby closed.

Ayes: Councilpersons Low-Hogan, Troy, Maturo, Diviny  
Supervisor Whalen  
Noes: None

**RESOLUTION NO. 195****TABLED/CONTRACT/SACCARDI &  
SCHIFF/COMPREHENSIVE PLAN**

Councilman Troy offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously **TABLED**:

A lengthy discussion took place between the Town Board and John Saccardi. He discussed five areas of study that are included in the proposal, public hearings and the time frame.

RESOLVED, that the contract with Saccardi & Schiff for the purpose of updating the Orangetown Comprehensive Plan at a cost of \$65,000.00 is hereby Tabled.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 196****AMEND REVOCABLE LICENSE  
O & R "H" TRANSITION STRUCTURES**

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

RESOLVED, that the Town Board hereby approves an amended Revocable License between the Town and Orange & Rockland Utilities in the form annexed hereto, relating to the proposed "H" structures and related structures and facilities on Town owned property.

Ayes: Councilpersons Troy, Maturo, Low-Hogan, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 197****APPROVE/AID/PEARL RIVER  
ROTARY/SOAP BOX DERBY RACE**

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

RESOLVED, that the request from the Pearl River Rotary, for use of five port-o-sans, trash receptacles and their removal, barricades, cones and hay bales on Central Avenue, for the Soap Box Derby Race trials, Sunday, May 22 and for Derby Race Day, Sunday June 5<sup>th</sup> (rain date June 19<sup>th</sup>), to be charged to Account No. A7550/50012050457 is hereby approved.

Ayes: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 198****APPOINT/SUBSTANCE ABUSE COMM  
CHRISTOPHER STUHLWEISSENBERG**

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

RESOLVED, that Christopher Stuhlweissenburg, as a Student Representative for Tappan Zee High School, is hereby appointed to the Substance Abuse Committee for 2011.

Ayes: Councilpersons Troy, Diviny, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 199****AUTHORIZE AGREEMENT/NOBLE  
NINTH/SUMMER DAY CAMP**

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

**Resolution No. 199 - Continued**

RESOLVED, that the Town Supervisor is authorized to sign the Letter of Extension Agreement, with The Noble Ninth, Inc, dated March 2, 2011, for use of the Noble Ninth's picnic grounds for the Town of Orangetown's 2011 Summer Day Camp Program from July 5, 2011 through August 12, 2011, 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, which is received and filed in the Town Clerk's Office.

Ayes: Councilpersons Troy, Maturo, Low-Hogan, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 200****SET PUBLIC HEARING DATE  
AMEND CHAPTER 26 – PARKING  
METERS/TOWN CODE**

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

RESOLVED, that a public hearing is scheduled April 12, 2011 at 8:05 PM to amend Chapter 26, entitled Parking Meters, §26-15, Violations and Penalties of the Town Code.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 201****SET PUBLIC HEARING DATE  
REPEAL & REPLACE CHAPTER 24 –  
PARKING LOTS TOWN CODE**

Councilman Troy offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously adopted:

RESOLVED, that a public hearing is scheduled April 12, 2011 at 8 PM to repeal and replace in its entirety, Chapter 24, entitled Parking Lots, Municipal of the Town Code.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 202****SET PUBLIC HEARING DATE  
AMEND TOWN CODE/SENIOR  
HOUSING**

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

RESOLVED, that a public hearing is scheduled May 10, 2011 at 8 PM to amend the Town Code regarding Senior Housing.

Ayes: Councilpersons Troy, Diviny, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 203****CERTIFICATE OF REGISTRATION  
2011 SEWER WORK**

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

**Resolution No. 203 - Continued**

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 2011 Sewer Work is approved to the following:

- Dutra Excavating & Sewer, Inc., 10 Stone Hollow Road, Montvale, NJ 07645
- Mr. Rooter/Dutchess County, Inc., PO Box 1740-75 West Road, Pleasant Valley, NY 12569

Ayes: Councilpersons Maturo, Diviny, Troy, Low-Hogan  
Supervisor Whalen

Noes: None

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**RESOLUTION NO. 204****COMBINED AGENDA ITEMS**

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

RESOLVED, that agenda items ten (10) thru fourteen (14) are hereby combined

Aye: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen

Noes: None

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**RESOLUTION NO. 205****ACCEPT MINUTES**

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

RESOLVED, that the March 1, 2011 Police Commission Meeting and Executive Session minutes are hereby accepted.

Ayes: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen

Noes: None

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**RESOLUTION NO. 206****JUSTICE COURT/STATEMENT OF CASH RECEIPTS, DISBURSEMENTS & BALANCES INDEPENDENT AUDITOR'S REPORT/RECEIVED/FILED**

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

RESOLVED, that the Statement of Cash Receipts, Cash Disbursements and Cash Balances with an Independent Auditors' Report, year ended December 31, 2010, for Orangetown Justice Court is received and filed in the Town Clerk's Office.

Ayes: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen

Noes: None

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**RESOLUTION NO. 207****BLUE HILL GOLF COURSE/PRO SHOP MANAGEMENT AGREEMENT RECEIVED/FILED**

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

**Resolution No. 207 - Continued**

RESOLVED, that the original executed Blue Hill Golf Course Pro Shop Management agreement dated February 15, 2011 between Chris Connelly/Bret Watzka and the Town is received and filed in the Town Clerk's Office.

Ayes: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 208****VERIZON WIRELESS LEASE/FIRST AMENDMENT/RECEIVED/FILED**

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

RESOLVED, that the original executed First Amendment to Verizon Wireless Lease, dated February 24, 2011, is received and filed in the Town Clerk's Office.

Ayes: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 209****TAPPAN FIRE DEPT/ANNUAL FINANCIAL REPORT/FISCAL YEAR ENDED 12/31/2010/RECEIVED/FILED**

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

RESOLVED, that Tappan Fire Department's Annual Financial Report, for the Fiscal Year Ended 12/31/2010 is received and filed in the Town Clerk's Office.

Ayes: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 210****APPROVE CHANGE ORDER #4 CONTRACT WWTP-06-1G JETT INDUSTRIES, INC.**

Councilman Diviny offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously adopted:

RESOLVED, that upon the recommendation of the Director of the Department of Environmental Management and Engineering and the Law Department, Change Order No. 4 to Contract WWTP-06-1G Jett Industries, Inc., in the amount of \$552,104.02, for additional work requested by Town, necessary to complete project is hereby approved. This change order represents the final agreed upon price for all additional work and is included in the close-out contract amount. This amount is to be charged to Account No. H8132513/502000.

Ayes: Councilpersons Diviny, Low-Hogan, Troy, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 211****POLICE/GRANT PERMISSION/NYS TACTICAL OFFICERS ASSOCIATION**

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

**Resolution No. 211 - Continued**

RESOLVED, that permission is hereby granted for four members of the REACT team to attend New York State Tactical Officers Association Annual Training Conference, Turning Stone Verona, NY, April 12-14, 2011, at a cost of \$1,020.00 to be charged to Acct. No. B3120.50441, and \$3,752.98 to be charged to B3120.161-50012, for a total cost of \$4,772.98.

Ayes: Councilpersons Troy, Maturo, Low-Hogan, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 212****POLICE/GRANT PERMISSION/NEW  
JERSEY EMERGENCY  
PREPAREDNESS CONFERENCE**

Councilwoman Low-Hogan offered the following resolution, which was seconded by Supervisor Whalen and was unanimously adopted:

RESOLVED, that permission is hereby granted for one police officer to attend the New Jersey Emergency Preparedness Conference, Atlantic City, NJ, May 3-5, 2011, at a cost of \$75.00 to be charged to B3120.50441, and \$300.00 to be charged to B3120.50480, for a total of \$375.00.

Ayes: Councilpersons Low-Hogan, Troy, Maturo, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 213****POLICE/GRANT PERMISSION  
WMD-TACTICAL OPERATIONS**

Councilman Troy offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously adopted:

RESOLVED, that permission is hereby granted for one police officer to attend Weapons of Mass Destruction-Tactical Operations, Oriskany, NY, March 21-25, at a cost of \$225.00 to be charged to B3120.50441 and \$200.00 to be charged to B3120.161-50012, for a total cost of \$425.00.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 214****AWARD BID/NYACK SEWER  
IMPROVEMENTS – 2010/MONTANA  
CONSTRUCTION CORP.**

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

WHEREAS, the Director of the Department of Environmental Management & Engineering duly advertised for sealed bids for NYACK SEWER IMPROVEMENTS - 2010, which were received and publicly opened on December 29, 2010.

WHEREAS, the bid for NYACK SEWER IMPROVEMENTS - 2010 was awarded to Precise Enterprises Inc., Wallkill, NY for \$176,000 as per Resolution No. 139/2011.

WHEREAS, Precise Enterprises Inc. has not provided the necessary bonds and signed contract which was required within ten (10) days since the Notice of Award.

WHEREAS, Precise Enterprises Inc. has also informed the Town that it would not proceed on the contract.

WHEREAS, Precise Enterprises Inc. has inappropriately repudiated the contract.

**Resolution No. 214 - Continued**

WHEREAS, the Director of the Department of Environmental Management & Engineering duly advertised for sealed bids for NYACK SEWER IMPROVEMENTS - 2010, which were received and publicly opened on March 16, 2011. Now, Therefore, Be It

RESOLVED, that this bid upon the recommendation by the Director of the Department of Environmental Management & Engineering and the Town Attorney's Office is hereby awarded to Montana Construction Corp. Inc., Lodi, NJ, the lowest qualified bidder, in the amount of \$169,000 to be charged to Account G 8197.452.

In awarding the within contract to Montana, the Board expressly waives, as non-material, Montana's failure to meet the 10:30 a.m. bid delivery requirement of the Instructions to Bidders, finding as follows:

- 1) Montana's bid was delivered at 10:52 a.m., prior to the public opening of all bids at 11:00 a.m.;
- 2) Such late delivery did not give Montana an economic advantage over any other bidder, nor did it place any other bidder at an economic disadvantage;
- 3) There is no evidence of fraud, collusion or dishonesty in the submission of Montana's bid; and
- 4) The award of the bid to Montana for the amount bid is in the best financial interests of the Town.

Ayes: Councilpersons Maturo, Troy, Low-Hogan, Diviny  
Supervisor Whalen

Noes: None

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**RESOLUTION NO. 215****MEMORIZALING RESOLUTION  
PAULA BOHOVESKY/PAROLE**

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

WHEREAS, on October 28, 1980, Richard LaBarbera and Robert McCain savagely attacked, sexually assaulted, and brutally murdered 16 year old Paula Bohovesky,

WHEREAS, Paula was an honor student and a much loved and valued member of the Orangetown Community,

WHEREAS, both men were tried and convicted for the murder of Paula Bohevesky Paula Bohevesky and received the maximum sentence of 25 years to life,

WHEREAS, both men were denied parole in 2005, 2007 and 2009, and are now up for parole again,

WHEREAS, Dr. Zugible, the Medical Examiner, said that it was the most brutal attack he had seen,

WHEREAS, we as a Town Board believe that those who commit violent sex crimes cannot be trusted not to kill again,

WHEREAS, we as a Town Board believe that we have a responsibility to protect the innocent from sexual predators,

WHEREAS, we as a Town Board do not believe that either Richard LaBarbera, nor Robert McCain, should be granted parole,

**Resolution No. 215 - Continued**

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby petitions the New York State Parole Board to deny the requests of Richard LaBarbera and Robert McCain for parole.

Aye: Councilpersons Diviny, Troy, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 216****ENTERED AUDIT**

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

RESOLVED, that the Town Board entered the Audit Meeting at 8:50 p.m.

Aye: Councilpersons Troy, Diviny, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 217****PAY VOUCHERS**

Councilman Troy offered the following resolution, which was seconded by Councilman Diviny 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 \$1,303,900.73.

Ayes: Councilpersons Troy, Diviny, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**RESOLUTION NO. 218****ENTER EXECUTIVE SESSION**

Councilwoman Low-Hogan offered the following resolution, which was seconded by Councilman Maturo and was unanimously adopted:

RESOLVED, that the Town Board entered Executive Session at 9:10 p.m.

Ayes: Councilpersons Low-Hogan, Maturo, Troy, Diviny  
Supervisor Whalen  
Noes: None

**Resolution Nos. 219 and 220 see Executive Session.**

**RESOLUTION NO. 221****ADJOURNMENT**

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

RESOLVED, that the Town Board adjourned, in memory of Geraldine M. Neeck, Pearl River; and Allison L. Florio, Blauvelt; at 10:40 p.m.

Ayes: Councilpersons Troy, Diviny, Low-Hogan, Maturo  
Supervisor Whalen  
Noes: None

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**Charlotte Madigan, Town Clerk**