

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
TUESDAY, MARCH 23, 2010**

This Town Board Meeting was opened at 7:35 p.m. Councilman Troy, acting as First Deputy Supervisor, presided over this meeting. Supervisor Whalen attended with a sore throat and decided not to speak. The Town Clerk called the Roll. Present were:

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

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, First Deputy Town Attorney
Robert Magrino, Deputy Town Attorney
Richard Pakola, Deputy Town Attorney
AnnMarie Hahr, Executive Assistant to the Supervisor
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Ron Delo, Director of the Dept. of Env'tl Management & Engineering
Paul Witte, Code Enforcement Officer
Aric T. Gorton, Superintendent Parks-Rec. & Building Maint.

Charlotte Madigan led the Pledge of Allegiance to the Flag.

Summary of Public Comments (RTBM)

Eliot Tozer, Tappan, was concerned that the Supervisor was unreachable, when the Town Attorney, John Edwards, was in court regarding Chief Nulty.

Esta Baitler, Consumer Advocate for Cathy Lukens Home, complained about the noise from the CSX trains during the night. She requested an update regarding the sidewalks along Route 340.

Martin Ryan, Environmental Committee chairperson, thanked the Town Board and Jim Dean for the placement of recycle bins for the St. Patrick's Day parade. The Environmental Committee will hold a Recycling Fair on April 24th at the Tappan Zee High School.

Eileen Larkin, Palisades, believes Cablevision did the Town a disservice by airing the parade on Channel 118.

RESOLUTION NO. 194

CLOSE PUBLIC COMMENTS

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

RESOLVED, that the public portion is hereby closed.

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

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RESOLUTION NO. 195

**PROPERTY MAINTENCE/GRAFFITI
PROPOSED LOCAL LAW/RESCHEDULE
PUBLIC HEARING DATE**

The Journal News failed to notice this public hearing on this proposed local law, therefore, Councilwoman Low-Hogan offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

Resolution No. 195 - Continued

RESOLVED, that the public hearing to consider a proposed local law amending Chapter 24C of the Town Code entitled "Property Maintenance" (Graffiti) is hereby rescheduled to April 13, 2010 at 8:05 p.m.

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

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RESOLUTION NO. 196**STREETS AND SIDEWALKS/PROPOSED LOCAL LAW/OPEN PH**

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

RESOLVED, that the 8:15 p.m. public hearing to consider a proposed local law amending Chapter 32 of the Town Code entitled "Streets and Sidewalks" is hereby opened.

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

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Charlotte Madigan, Town Clerk, presented the Affidavit of Publication and the Notice of Posting; copies are labeled Exhibit 3-G-10 and made a part of these minutes.

Richard Pakola, Deputy Town Attorney, explained there is an inconsistency between Subsection A and B. Subsection A says there is a duty on property owners and Subsection B says, in order for there to be a duty, there needs to be a Town Board resolution and that duty takes place 10 days after a Town Board resolution. This proposed local law fixes that inconsistency and sets straight forward guidelines. The guidance is fair for property owners and the Town.

James Dean, Superintendent of Highways, said it has never been interpreted that the property owner on the opposite side of the roadway has any responsibility. In the past, by sending a letter to the property owner, the problems were usually taken care of. We ran into an issue, in this particular case, where letters were sent and no action was taken. When I informed the Town Attorney's Office that we need to take action by hiring a contractor, I was advised that the Town can not. The present law does not give that property owner the ability to contest the Town's action. The reason the Town would take action is because the Town has a liability for that sidewalk. Although, by the Town Code, the repair is required, by the property owner and/or the tenant, we do not have a way to take action and this will give us that opportunity. If we give notice there is a defect and the property owner decides they want to fix it and they do not want to contest it, they can just fix it. If they do not respond to us within 14 days, then we can send some one to fix it. If they do not pay for it, it can be added to their taxes. If they want to contest it, they need to send us a letter and within 28 days, a meeting will be scheduled with the Town Board where they will have an opportunity to explain why they do not want to do it.

John Edwards, Town Attorney, said the purpose of the law is to release the Town of the obligation and impose it on a private party. He questioned abutting property owners and suggested taking out the word abutting.

Summary of public portion:

Donald Brenner, Attorney, said these properties are owned by the State, the County and/or the Town. The County and the Town have spent over \$1.5 million repairing sidewalks in downtown Pearl River. They ignored the section the Town is currently trying to repair. It is highly unfair why this project was not completed. He thinks this is an unfair law and the Town Board should get the County to come up with the money to fix these sidewalks or use the Community Development money.

Peter Bellhouse, Kwan Thai Restaurant, applauds the efforts of the Town Board for amending this law. In order to fix the sidewalk, a building permit is required by the owner and he doesn't see why the burden would be placed on the lessee.

RESOLUTION NO. 197

**STREETS AND SIDEWALKS
PROPOSED LOCAL LAW/CLOSE PH**

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

RESOLVED, that the public portion of this public hearing is hereby closed.

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

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RESOLUTION NO. 198

**STREETS AND SIDEWALKS PROPOSED
LOCAL LAW/LEAD AGENCY**

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

RESOLVED, that the Town Board declares itself Lead Agency.

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

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RESOLUTION NO. 199

**STREETS AND SIDEWALKS
PROPOSED LOCAL LAW/SEQRA
DECLARATION**

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

RESOLVED, that a SEQRA Declaration of non-significance, indicating that the action the Town Board is contemplating will not have a significant negative impact on the environment, is hereby adopted; a copy is labeled Exhibit 3-E-10 and made a part of these minutes.

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

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RESOLUTION NO. 200

**STREETS AND SIDEWALKS
PROPOSED LOCAL LAW/REMOVE
THE WORD ABUTTING**

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

RESOLVED, that this proposed local law is amended to remove the word “abutting”.

Ayes: Councilpersons Troy, Diviny
Supervisor Whalen
Noes: Councilwoman Low-Hogan
Absent: Councilman Maturo

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RESOLUTION NO. 201**STREETS AND SIDEWALKS
PROPOSED LL/TABLED/REOPEN
PUBLIC PORTION/CONTINUE APRIL
13, 2010/TOWN BOARD DECISION**

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

RESOLVED, that the Town Board's decision on this Streets and Sidewalks proposed local law is to reopen the public portion and continue this public hearing on April 13, 2010 at 8:10 p.m.

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

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RESOLUTION NO. 202**CABLE TV COMMITTEE/APPOINT
ROSEMARY PITRUZZELLA/EILEEN
LARKIN**

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

RESOLVED, that Rosemary Pitruzzella and Eileen Larkin are hereby appointed to the Cable TV Committee for 2010.

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

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RESOLUTION NO. 203**CABLE TV COMMITTEE CHAIRWOMAN
APPOINT EILEEN LARKIN**

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

RESOLVED, that Eileen Larkin is hereby appointed Chairwoman of the Cable TV Committee for 2010.

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

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RESOLUTION NO. 204**TABLED/PURCHASE DEWATERING
FILTER/BOX TACONIC PIPELINE
EQUIPMENT**

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

RESOLVED that upon the recommendation of the Director of the Department of Environmental Management and Engineering, purchasing a dewatering filter box from Taconic Pipeline Equipment at a cost of \$22,500 less \$6,000 rental fee for a total of \$16,500.00, on a sole source basis is hereby **Tabled**.

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

RESOLUTION NO. 205**SIEMENS ENERGY PERFORMANCE
CONTRACT/APPROVE CHANGE
ORDER NO. 1**

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

RESOLVED that upon the recommendation of the Director of Department of Environmental Management and Engineering, Change Order No. 1 to the Siemens Energy Performance Contract to revise the scope as indicated at a net change in Cost of \$0.00 is hereby approved.

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

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RESOLUTION NO. 206**NYS TOWN CLERK'S ASSOCIATION
CONFERENCE/GRANT PERMISISON**

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

RESOLVED, that permission is hereby granted to Charlotte Madigan, Town Clerk, to attend the NYS Town Clerk's Association Conference in Saratoga Springs, New York, April 25-28, 2010, in the amount of \$1,394.69 to be charged to Account No. A1410/50441/50457.

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

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RESOLUTION NO. 207**PARKING TICKETS/APPROVE NEW
WORDING/COMPLUS USA**

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

RESOLVED that upon the recommendation of the Court Clerk, Complus USA is allowed to change the wording on parking tickets for the Town of Orangetown.

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

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RESOLUTION NO. 208**GOLF CARTS/APPROVE RFP
CLUB CAR, INC. CT/NY**

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

WHEREAS, the Superintendent Parks-Recreation & Building Maintenance duly advertised for a lease agreement for golf carts at the Blue Hill Golf Course, which were received and publicly opened on January 27, 2010. The Superintendent made this recommendation to the Town Board; a copy is labeled Exhibit 3-F-10, and made a part of these minutes. Now, Therefore, Be It

Resolution No. 208 - Continued

RESOLVED, that this bid (lease agreement) is hereby awarded to Club Car for the leasing of 115 golf carts for Blue Hill Golf Course in the amount of \$82,944.00 per year for five years, to be charged to Account No. E7250004/50444.

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

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RESOLUTION NO. 209**COMPUTER NETWORK SPECIALIST
NOMINATE/NICHOLAS DIMARCO**

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

RESOLVED, that upon the recommendation of the Personnel Administrator, provisional employee, Nicholas DiMarco, is hereby nominated, to the position of Computer Network Specialist, from Nominating Certification List #09056, issued by Rockland County Personnel Office, so that he can be scheduled for the practical test.

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

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RESOLUTION NO. 210**MIDDLE GRAND VIEW PUMPING
STATION/APPROVE EASEMENT
AGREEMENT**

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

WHEREAS, the Orangetown Sewer Department Middle Grand View Pumping Station requires upgrades;

WHEREAS, the Orangetown Sewer Department is applying for New York State Environmental Facilities Corporation (NYSEFC) revolving funds to assist in financing the projected upgrades;

WHEREAS, in order to obtain NYSEFC revolving funds, the Town must certify that it has a valid easement over the property in question;

WHEREAS, the Middle Grand View Pumping Station is on Village of Grand View-on-Hudson property;

WHEREAS, there is currently no filed easement agreement giving the Town authority to maintain and operate the pumping station;

WHEREAS, the Orangetown Town Attorney's Office drafted an easement agreement for the area in question and coordinated with the Grand View Village Attorney and the Grand View Board of Trustees on the easement agreement;

WHEREAS, the proposed easement agreement was considered by the Grand View Board of Trustees, which adopted a resolution granting the easement and authorizing the Mayor to sign the easement after it is approved by the Orangetown Town Board;

WHEREAS, the Town Attorney's Office and the Department of Environmental Management and Engineering recommend acceptance of the proposed easement agreement;

Resolution No. 210 - Continued

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Supervisor to execute all documents necessary to effectuate the entering into the proposed easement agreement.

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

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RESOLUTION NO. 211

**SEWER DISTRICT CAPITAL
 IMPROVEMENT PROJECT ISSUANCE
 OF ADDITIONAL \$3,000,000 SERIAL
 BONDS/AUTHORIZE**

There was a discussion between the Town Board, Finance and the Town Attorney and a decision was made to pass this resolution that addresses consent orders.

Supervisor Whalen offered the following resolution, which was seconded by Councilman Diviny and on a roll call was adopted:

RESOLVED, that the issuance of an additional \$3,000,000 in serial bonds of the Town Of Orangetown, Rockland County, New York, to pay part of the cost of the establishment of Orangetown Sewer District in said Town is hereby authorized.

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

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RESOLUTION NO. 212

**ARTHUR J GALLAHER/LLOYDS OF
 LONDON/INSURANCE COMPANY OF
 PENNSYLVANIA/GALLAGHER
 BASSETT EXCESS INSURANCE
 CONTRACTS APPROVE**

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

RESOLVED, that 2010-2011 excess insurance contracts for property, liability, workman's compensation insurance, and claims management to the Arthur J. Gallaher group of companies consisting of Lloyds of London, Insurance Company of Pennsylvania, and Gallaher Bassett, in the amount not to exceed \$672,319.89 per year to be charged to Account Numbers MS171048, 171049, 172248, and 172249, with the workers compensation self insured retention set at \$175,000 per occurrence.

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

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RESOLUTION NO. 213

**TAPPAN FREE LIBRARY
 CORRECTION DEED/EASEMENT
 EXECUTE**

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

WHEREAS, the Tappan Free Library has made application to the Planning Board for a re-subdivision and site plan with respect to properties it owns located at 93 Main Street and 2 Oak Tree Road, Tappan, New York, and

Resolution No. 213 - Continued

WHEREAS, there currently exists an easement in favor of the Town of Orangetown, which grants to the general public ingress and egress across the Tappan Free Library property located at 93 Main Street, Tappan, New York, to and from a Town of Orangetown public park known as Tappan Memorial Park which is located behind the Tappan Free Library property, which easement was granted on September 28, 1993 and recorded in the Rockland County Clerk's Office at Book 710, Page 4513, and

WHEREAS, the legal description attached to that easement describes the entire property located at 93 Main Street, Tappan, New York and is a potential impediment to the Tappan Free Library's application before the Planning Board and therefore requires clarification as to the exact location of the intended easement, and

WHEREAS, the Board has reviewed the proposed site plan for the Tappan Free Library, which includes a proposed connection building between the two properties owned by the library, as well as a concrete walk and gravel walkway providing access between Main Street and the Tappan Memorial Park which has been proposed to be the detailed and correct location of the Town easement as originally intended and granted, and

WHEREAS the Planning Board, on or about February 24, 2010 declared itself to be Lead Agency and conducted a review of the project pursuant to the New York State Environmental Quality Review Act (SEQRA) and issued a Negative Declaration thereon finding no significant environmental impact,

NOW THEREFORE BE IT RESOLVED that, the Town hereby consents to the acceptance of an easement from the Tappan Free Library by way of the acceptance and filing of a Correction Deed with respect to the 1993 easement which shall more fully and accurately describe the Town easement across the Tappan Free Library property as shown on the parking lot study prepared by Jane Slavin, architect, dated March 9, 2010, and the re-subdivision map prepared by Robert Sorace, PLS, dated February 23, 2009 (and as revised) to be filed upon the granting of final re-subdivision approval by the Planning Board, said easement more fully described as being across a gravel walk leading to and from the Tappan Memorial Park bridge and continuing along a concrete walk alongside the library building leading to and from the public street known as Main Street, and

BE IT FURTHER RESOLVED, that the Supervisor, or his designee, shall, upon receipt from the Tappan Free Library of a Correction Deed in a form and substance acceptable to the Town Attorney's Office, along with necessary recording fees, execute any and all necessary transfer documents to formally accept, receive and file the Correction Deed with the Rockland County Clerk's Office.

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

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RESOLUTION NO. 214**ACCEPT MINUTES**

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

RESOLVED, that the March 9, 2010 Regular Town Board Meeting and Audit Meeting minutes are hereby accepted.

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

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RESOLUTION NO. 215

**WASTEWATER TREATMENT
PLANT/HUNT ROAD PUMPING
STATION IMPROVEMENTS (WWTP-
06-1HV)/CHANGE ORDER NO. 1
PEARL RIVER PLUMBING HEATING
& ELECTRIC (d/b/a BERTUSSI'S)
RECEIVE AND FILE**

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

RESOLVED, that the fully executed original of Change Order No. 1 with Pearl River Plumbing Heating & Electric, Inc. (d/b/a Bertussi's) for the Wastewater Treatment Plant and Hunt Road Pumping Station Improvements (WWTP-06-1HV) is hereby received and filed in the Town Clerk's Office.

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

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RESOLUTION NO. 216

**CERTIFICATE OF REGISTRATION
2010 SEWER WORK**

Under new business, Councilwoman Low-Hogan offered the following resolution, which was seconded by Councilman Diviny 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 2010 Sewer Work is approved for W. Harris & Son, Inc., 37 West Washington Avenue, Pearl River, NY 10965.

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

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RESOLUTION NO. 217

**NYS ORANGETOWN PUBLIC
LIBRARY LAW/SEPARATE TAXING
DISTRICTS/RE-AFFIRM SUPPORT**

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

RESOLVED, that the Town Board's past support, Town Board Resolution No(s). 487/2006 and 254/2008, to change the NYS Orangetown Library Law to allow separate taxing districts and tax rates for the four hamlet libraries is hereby re-affirmed.

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

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RESOLUTION NO. 218

ENTERED AUDIT

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

Resolution No. 218 - Continued

RESOLVED, that the Town Board entered the Audit Meeting at 9:10 p.m.

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

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RESOLUTION NO. 219

PAY VOUCHERS

Councilwoman Low-Hogan 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 for a total amount of \$772,475.12.

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

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RESOLUTION NO. 220

ADJOURNMENT/MEMORY

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

RESOLVED, that the Town Board adjourned, in memory of Walter Blount, Jr., Orangeburg and Steve Dunne, Orangeburg, at 9:20 p.m.

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

Charlotte Madigan, Town Clerk