

**TOWN OF ORANGETOWN  
REGULAR TOWN BOARD MEETING  
TUESDAY, JUNE 12, 2012**

This Town Board Meeting was opened at 7:35 p.m. Supervisor Stewart presided and the Town Clerk called the Roll. Present were:

Councilman Denis Troy  
Councilman Thomas Diviny  
Councilman Thomas Morr

Absent: Councilman Paul Valentine

Also present: Charlotte Madigan, Town Clerk  
John Edwards, Town Attorney  
Teresa Kenny, First Deputy Town Attorney  
Charles Richardson, Director of Finance  
Mike Yannazzone, Highway General Forman  
Joseph Moran, Commissioner of DEME  
John Giardiello, Director of OBZPAE  
Aric Gorton, Superintendent of Parks-Rec & Building Maint.  
Robert Simon, Receiver of Taxes

Charlotte Madigan led the Pledge of Allegiance to the Flag.

The Town Board discussed the charge-backs from the County to the Town. Currently the County pays the residential fees for students who attend community colleges outside of Rockland. The town will now be responsible for paying these fees, at an estimate of \$232,000.00. The County is also looking to impose a new 4% residential energy tax and also charging the towns for election costs.

**Summary of Public Comments:**

Frances Panczyk and Jason Binder, Tappan, complained about excessive noise from the events at the German Masonic property. He requested the owners of this property to be held accountable. Eileen Larkin, Palisades, asked about the status of The Pointe at Lake Tappan. She requested the Town Board to look at the code regarding noise from construction workers on the weekends. Mike Mandel, Pearl River, said \$5,000.00 is an excessive cost to clean up the property at 75 Mountainview Ave., Pearl River. He requested the PBA Memorializing Resolution be passed to have support from the Governor.

**RESOLUTION NO. 278**

**CLOSE PUBLIC COMMENTS**

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

RESOLVED, that the public portion is hereby closed.

Aye: Councilmen Troy, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 279**

**APPOINT/BLAUVELT FIRE DEPT  
ANDRIY TURCHYN**

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

**Resolution No. 279 - Continued**

RESOLVED, that Andriy Turchyn is hereby appointed to the position of Volunteer Firefighter, with the Blauvelt Volunteer Fire Company.

Aye: Councilmen Troy, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 280****MEMORIALIZING RESOLUTION/PBA  
AND BINDING ARBITRATION - 6/7/12**

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

WHEREAS, the Town of Orangetown, like most cities, towns and villages throughout the state, is presently faced with a dismal financial outlook, fueled not just by a temporary period of overall economic recession, but more so by steadily escalating salary and health care costs, unfunded state pension mandates, and other recurring expenses all required to be paid from an eroding real property tax base occasioned by declining property values and a migration of residents and businesses to neighboring states, and elsewhere; and

WHEREAS, the Town's residents already pay extremely high real property taxes, largely due to the ever increasing cost of salaries, pensions and health care; and

WHEREAS, the Town is fully committed to staying within the recently enacted N.Y.S. 2% tax levy cap through a reduction in services, employee attrition, and, to the extent possible, the consolidation of various of its operations, it cannot fully fund its operations and meet the constraints of the tax levy cap, except through the recurring use of reserve funds, *a practice which is not sustainable*; and

WHEREAS, the the Town police department, which provides an indispensable public safety service, and does so in a way that is professional, courteous and effective, nevertheless does so at a real cost which, due largely to state law issues, results in salary and other benefits that bear little practical connection to the surrounding economic realities; and

WHEREAS, in stark contrast to the Town's financial position, and that of the majority of Town residents, members of the PBA earn an average \$186,000 in salary and benefits, including free health care insurance both during employment and for life upon, and commencing at, retirement after 20 or more years of service, and

WHEREAS, the PBA has presented the Town with an ultimatum of settling contract negotiations with multi-year pay increases the Town cannot afford, or await the determination of the binding arbitration process imposed by N.Y.S. law, and

WHEREAS, if the Town and PBA do not reach a settlement the arbitrator will fix the amount of the yearly salary increases for 2011 and 2012 at a rate the Town cannot afford, since arbitrator decisions are based largely on the police contracts negotiated in adjacent and surrounding towns, such as Clarkstown and Ramapo, where police officers have received salary increases that are untenable in Orangetown (the exhibits about the Town's "ability to pay" used in contract negotiations are available for download at [www.Orangetown.com](http://www.Orangetown.com)); and

WHEREAS, regardless of whether the parties reach a settlement or the arbitrator writes a new contract (reasonable people can disagree on whether the Town should settle or allow the arbitrator to write the new contract), the N.Y.S. imposed binding arbitration process will almost certainly produce a contract that the Town cannot afford, making it impossible to staff the police department at a level recommended for continuing the department's outstanding service to Orangetown, and forcing the Town to cut staff and services in other departments as well,

NOW, THEREFORE, BE IT RESOLVED that, in the interest of maintaining Orangetown's outstanding police force and low crime rate, as well as other vital services, and in

the interest of the Town assuming full responsibility for its budget priorities rather than having them determined by state law, the members of the Orangetown Town Council call upon the Governor and all N.Y.S. representatives, as well as all Town residents, to support reforms to the binding arbitration process, as codified in the N.Y.S. Civil Service Law, including the Taylor Law and related Triborough Act, so that local elected officials who are charged with the duty to manage and govern our communities in a fiscally responsible manner, and who have been urged by the Governor and State Legislature to live within the 2% tax levy cap, may realistically do so, and in a way that does not gut vital local services, including policing itself, and

BE IT ALSO RESOLVED that the members of the Orangetown Town Council call upon the Governor and all N.Y.S. representatives, as well as all Town residents, to support reforms to the NYS pension system such that all employees contribute 3% of their salaries no matter the number of years of employment.

Aye: Councilmen Troy, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 281**

**TAX CERTIORARI SETTLEMENT  
JP MORGAN CHASE BANK**

Councilman Troy offered the following resolution, which was seconded by Councilman Morr 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 Judgment and Order regarding the tax certiorari proceeding *JPMorganChase Bank v. The Board of Assessors, et al.*, Tax Map designation 77.08-5-17, 45 & 45.1, for the tax assessment years 2010 through 2011, for a total refund by the County of \$206, a total refund by the Town of \$744 and a total refund by the School District of \$2,353. 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.

Aye: Councilmen Troy, Morr, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 282**

**TAX CERTIORARI SETTLEMENT  
JP MORGAN CHASE BANK**

Councilman Troy offered the following resolution, which was seconded by Councilman Morr 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 Judgment and Order regarding the tax certiorari proceeding *JPMorganChase Bank v. The Board of Assessors, et al.*, Tax Map designation 74.11-2-51 & 74.11-2-52, for the tax assessment years 2007 through 2011, for a total refund by the County of \$1,273, a total refund by the Town of \$5,780 and a total refund by the School District of \$16,430. 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.

Aye: Councilmen Troy, Morr, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

**RESOLUTION NO. 283****TAX CERTIORARI SETTLEMENT  
CORNELL MANUFACTURING**

Councilman Diviny 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 Judgment and Order regarding the tax certiorari proceeding *Cornell Manufacturing v. Town of Orangetown*, Tax Map designation 73.20-1-26, for the tax assessment year 2011, for a total refund by the County of \$2,703, a total refund by the Town of \$7,403 and a total refund by the School District of \$30,958. 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.

Aye: Councilmen Diviny, Troy, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 284****AUTHORIZE SUPERVISOR/SCHOOL  
RESOURCE OFFICER AGREEMENT**

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

RESOLVED, that upon the recommendation of the Town Attorney, authorize the Supervisor to sign the School Resource Officer Agreement, with Addendum, with Rockland BOCES for the 2011-2012 school year.

Aye: Councilmen Troy, Morr, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 285****AUTHORIZE/SETTLEMENT/VETERANS  
PARK BATTING & FOOD CORP.**

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

RESOLVED, upon the recommendation of the Superintendent of Parks & Recreation and the Town Attorney's Office, that the Town Board approves, and authorizes and directs the Supervisor to execute, a Stipulation of Settlement and Mutual General Release ("Settlement and Release"), to be entered into by *Veterans Park Batting & Food Corp.* ("VPBF") and the Town, which Settlement and Release shall provide, in summary, that: (i) VPBF shall pay \$5,000.00 to the Town, as consideration for the Town releasing VPBF from its obligations under the License Agreements for Veterans Memorial Park's food and beverage, and batting cages, concessions, dated January 2010 and 06/11/2010, respectively; (ii) VPBF's \$5,000.00 settlement payment shall be paid to the Town by way of the Town retaining \$5,000.00 of VPBF's \$26,000.00 total security deposits, which security deposits have been held by the Town relating to the said License Agreements, and which \$5,000.00 shall become an asset of the Town; and (iii) the net remaining \$21,000.00 (out of the said \$26,000.00 total security deposits) shall be returned, refunded and turned-over by the Town to VPBF.

Aye: Councilmen Morr, Troy, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

**RESOLUTION NO. 286****PROPERTY MAINTENANCE  
VIOLATION/75 MOUNTAINVIEW  
AVE, PEARL RIVER**

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

WHEREAS, on October 19, 2010, following a public hearing duly noticed and conducted in accordance with the property maintenance provisions of Chapter 24C-15 of the Town Code, the Town Board by Resolution No. 621 of 2010 authorized the clean-up of property located at 75 Mountainview Avenue, in Pearl River (69.17-5-1.2) by the Town or its designees, agents or a private contractor, at a cost not to exceed \$5,000.00, said cost to be assessed against the record owner of the property and collected in the manner and at the same time as other Town charges; and

WHEREAS, on August 23, 2011, when the said property was again in violation of the Town's property maintenance provisions, and the Owner was similarly unresponsive, the Town Board, by Resolution 467 of 2011, directed that the property again be cleaned up, with the costs of such cleanup to be assessed against the property; and

WHEREAS, since the time of the last Town clean-up, the said property has continued to go unmaintained by the record owner, and presently is again in violation of the property maintenance provisions of the Town Code; and

WHEREAS, the condition of the said property continues to constitute a nuisance and hazard to the public health, safety and welfare, and otherwise remains unsightly in appearance.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby re-affirms its determination embodied in Resolution No. 621 of 2010, and, again, thereafter, in Resolution 467 of 2011, and again directs that the Town or its designees or agents, or through a private contractor, at a cost not to exceed \$5,000.00, abate the violation, and that the cost of such action be assessed against the record owner of the property and collected in the matter and at the same time as other Town charges.

Aye: Councilmen Diviny, Troy, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 287****AUTHORIZE POLICE CHIEF/DRUG  
TASK FORCE AGREEMENT**

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

RESOLVED, that upon the recommendation of the Chief of Police, authorize the Chief of Police to enter into an agreement termed, "The Organized Crime Drug Task Force Agreement", with the United States Department of Justice, Drug Enforcement Administration, for the years 2012/2013.

Aye: Councilmen Diviny, Morr, Troy  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 288****APPROVE PROJECT GRADUATION FUNDING**

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

RESOLVED, that upon the recommendation of the Finance Director, approve Project Graduation funding as follows, to be charged to Account No.A.4211.457, as follows:

- **Tappan Zee High School: \$1500.00**
- **Pearl River High School: \$1500.00**
- **Nanuet High School: \$ 750.00**
- **Nyack High School: \$ 750.00**
- **Albertus Magnus HS: \$ 200.00**

Aye: Councilmen Troy, Morr, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 289****AWARD BID/LIGHT UTILITY TRUCK**

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

WHEREAS, in accordance with the requirements of General Municipal Law § 103, the Town solicited bids (Exhibit 06-A-12) for the purchase of a new 2012 light duty utility truck; and

WHEREAS, the low bidder, Shultz Ford Nanuet, N.Y., failed to submit a bid bond as part of its proposal, as required by the bid package, but later did so upon being notified of the deficiency in its bid; and

WHEREAS, the only other bid, submitted by Gabrielli Truck Sales, in the amount of \$72,426.00, is more than \$15,000.00 higher than the Schultz bid; and

WHEREAS, the Board has concluded that, in this instance, the failure to *timely* submit the bid bond as part of the Schultz bid was not a material or substantial deviation from the bid specifications in that such failure did not give Schultz a substantial advantage not enjoyed by the other bidders, placing Schultz in a position of unfair economic advantage, or placing the other bidders at a competitive disadvantage; and, further, that there is no indication of favoritism, fraud or corruption in the bid process; and

WHEREAS, the Board has concluded that it is in the overall best economic interests of the Town to waive the defect in the Schultz submission,

NOW, THEREFORE, BE IT RESOLVED, that the bid for the new 2012 light duty utility truck is awarded to Schultz Ford Nanuet, NY, the qualified low bidder, in the amount of \$56,595.00, said cost to be charged to Account H5130200.”

Aye: Councilmen Diviny, Troy, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 290****ACCEPT/RECEIVE/FILE DOCUMENTS TOWN CLERK'S OFFICE**

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

**Resolution No. 290 - Continued**

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

1. Comprehensive Annual Financial Report for fiscal year ended December 31, 2011.
2. Municipal Separate Storm Sewer Systems (MS 4) Annual Report for the period of March 10, 2011 to March 9, 2012.
3. Assignment and Assumption of, and Town Consent and Modification to, License Agreement (Assignment & Assumption Agreement) between Veteran's Park Batting & Food Corp; Avida Distributors, Inc.; and Town of Orangetown, dated May 29, 2012, for food and non-alcoholic beverage concession located at Veterans Memorial Park.
4. May 1, 2012 Executive Session minutes; May 8, 2012 Police Commission and Executive Session; May 15, 2012 Regular Town Board Meeting and Executive Session minutes; and May 22, 2012 Executive Session minutes.

Aye: Councilmen Morr, Diviny, Troy  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 291**

**SCHEDULE PUBLIC HEARING  
BUREAU OF FIRE PREVENTION  
WORKING HOURS/INSPECTION  
FEES**

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

RESOLVED, that upon the recommendation of the Town Attorney, the Director of the OBZPA, and the Bureau of Fire Prevention, a public hearing is scheduled for June 26, 2012, at 8:00 p.m. to amend Chapter 15, Section 15-17, entitled Fees. The purpose of this amendment is to correct the normal working hours of the Bureau of Fire Prevention and to amend the fees for inspections conducted outside of normal working hours.

Aye: Councilmen Troy, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 292**

**SCHEDULE PUBLIC HEARING  
PEARL RIVER VETERANS LLC/THE  
POINTE AT LAKE TAPPAN/AMEND  
CONDITIONS/73.10-1-4-6**

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

RESOLVED, that upon the recommendation of the Town Attorney, a public hearing is scheduled for June 26, 2012, at 8:05 p.m. to consider a petition, by Pearl River Veterans LLC, to amend certain conditions, for The Point at Lake Tappan (73.10-1-4-6).

Aye: Councilmen Diviny, Morr, Troy  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 293****RPC/AMEND HOME RULE REQUEST  
OF CHILDREN'S PSYCHIATRIC  
CENTER/OTHER PARCELS****RESOLUTION APPROVING SUBMISSION OF HOME RULE REQUEST, RELATING  
TO THE SALE TO THE TOWN OF STATE OWNED LANDS ON, OR OTHERWISE  
COMPRISING A PART OF, THE ROCKAND PSYCHIATRIC CENTER OR THE  
ROCKLAND CHILDREN'S PSYCHIATRIC CENTER.**

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

WHEREAS, the Town Board believes that the successful economic development of the Town owned lands formerly a part of the Rockland Psychiatric Center with an appropriate mix of compatible commercial, residential and other uses, all in accordance with a comprehensive plan of development, requires that the Town have the ability to acquire and control other state owned lands that may be surplus by, and become available from, the State in the vicinity of the Rockland Psychiatric campus; and

WHEREAS, special legislation has been drafted for submission to both the N.Y.S. Assembly and N.Y.S. Senate that would facilitate such sale by the State,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Orangetown hereby approves the submission of a home rule request for the enactment of special state legislation, in the form of Assembly Bill A 10009 and Senate Bill S 7170, entitled "AN ACT authorizing the transfer of certain state lands in the town of Orangetown"; and it is further

RESOLVED, that the Town Supervisor and Town Clerk are authorized to execute and transmit all documents that may be necessary to effectuate this home rule request.

Aye: Councilmen Diviny, Troy, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 294****ENTERED AUDIT**

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

RESOLVED, that the Town Board entered the Audit Meeting at 8:30p.m.

Aye: Councilmen Troy, Morr, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Valentine

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**RESOLUTION NO. 295****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 \$659,273.73.

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



Absent: Councilman Valentine

**RESOLUTION NO. 296**

**ENTER EXECUTIVE SESSION**

In attendance, at this Executive Session, were Supervisor Stewart, Councilmen Troy, Diviny and Morr, Charlotte Madigan, John Edwards, Teresa Kenny, and Charles Richardson.

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

RESOLVED, that the Town Board entered Executive Session to discuss PBA contractual negotiations at 8:40 p.m.

Ayes: Councilmen Troy, Morr, Diviny  
Supervisor Stewart

Noes: None

Absent: Councilman Valentine

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**RESOLUTION NO. 297**

**REENTERED RTBM  
ADJOURNMENT/MEMORY**

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

RESOLVED, that the Town Board re-entered the Regular Town Board Meeting and adjourned, in memory of Martin Neyen, son of employee Bob Neyen; Steve Bello, Highway Department; and Mary Harrington, Nanuet at 9:05 p.m.

Ayes: Councilmen Morr, Troy, Diviny  
Supervisor Stewart

Noes: None

Absent: Councilman Valentine

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**Charlotte Madigan, Town Clerk**