

**TOWN OF ORANGETOWN
SPECIAL TOWN BOARD MEETING
MONDAY, JULY 10, 2007**

This Special Town Board Meeting was opened at 8:00 p.m. Supervisor Kleiner presided. The Town Clerk called the Roll. Present were:

Councilman Denis O'Donnell
Councilman Denis Troy
Councilwoman Marie Manning
Councilman Thomas A. Morr

Also present: Charlotte Madigan, Town Clerk
Teresa Kenny, Town Attorney
John S. Edwards, First Deputy Town Attorney
Suzanne Barclay, Exec Asst. to Supervisor
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Ron Delo, Director, Dept. Environmental Mgt. & Eng.
Kevin Nulty, Chief of Police
Robert Simon, Receiver of Taxes
Rich Rose, Superintendent of Parks, Recreation and Buildings

Charlotte Madigan, Town Clerk, led the Pledge of Allegiance to the Flag.

RESOLUTION NO. 455

**OPEN PH/INCREASED COST
ESTABLISHMENT OF SEWER
DISTRICT AND IMPROVEMENTS**

Councilman O'Donnell offered the following resolution, which was seconded by Councilwoman Manning and was unanimously adopted:

RESOLVED, that the public hearing a certain amended map, plan and report, including a revised estimate of cost to the establishment of the Sewer District, various improvements to the wastewater treatment plant and other equipment and expenses in connection there, at a new maximum estimated cost of \$46,922,000, which such District was previously approved at a maximum estimated cost of \$34,900,000, is hereby opened.

Ayes: Councilpersons O'Donnell, Manning, Troy, Morr
Supervisor Kleiner

Noes: None

The Town Clerk presented the affidavit of publication and the notice of posting, copies are labeled Exhibit 07-A-07 and made a part of these minutes.

The public portion was opened and the following people spoke:

Ron Delo, Director, Dept. Environmental Mgt. & Eng. explained the increased in cost from \$34 million to \$46 million. He said the scope of the project hasn't changed. It's strictly a matter of cost. He reminded everyone that this project is primarily due to a Consent Order from the NYS DEC, which could result in fines of up to \$37,500 per day. (See Exhibit 7-B-07).

Bob Butterworth, Project Principal, and Mike Tamblin, Project Manager of Stearns & Wheler, the Town's engineers, explained the increase in cost is due to increase in prices caused by increase in economic indicators. A copy of their Status Report is labeled Exhibit 7-B-07, and made a part of these minutes.

Michael Mandel, Pearl River, spoke regarding the several increases of this project and that it has increase 112%. The problem lies with the Town Board and the Supervisor because they approved this project to include parts of Nyack and Upper Nyack, which is not part of Orangetown, and they failed to maintain the equipment and the infrastructure. He believes maintenance of the equipment and the infrastructure should be budgeted each year and this project must be downsized.

Carol Silverstein, Orangeburg, is against any increases in this bond and Nyack, Upper Nyack and Rockleigh, NJ being tied into Orangetown's Sewer system. She asked what is their share of the bond? The money increase is more than \$25.00 per house and she spoke about all of the Town's bonds. This project should only include what is mandated by the state and nothing more.

Shelly Morgan, Tappan, is against this increase and believes if Rockleigh Industrial Park, Nyack and Upper Nyack opted out, the tax increase would be more. He asked about the RPC pump station's use and who is paying for the sewer system of the soccer fields?

Vincent Deleo, Pearl River, spoke about a sewage backup in his home and how he was told to handle a claim. John Dunn, Gallagher Bassett Insurance, informed him, he would not be reimbursed for his requested amount of \$2,425. He asked why are recreation fields a higher priority than the sewer system?

Joe, D'Urso, Orangetown, agrees with all other comments.

Ed Fisher, Orangeburg, said the Town Board said "No" to Mr. Beckerle's request to increase the budget for the sewer system. A \$46 million project should have a committee to use the knowledge of residents before a commitment is made.

Bill Clark, Pearl River, said sewer problems have been ignored for 30 years. This project needs to be completed and done now.

Gail Raffaele, Tappan, reiterated that Bob Beckerle stated the need to replace the sewer infrastructure and it was ignored. She spoke about the Sewer Advisory Committee years ago, which consisted of engineers that lived in the community, volunteered their time and scrutinized everything.

Mr. Colella, Orangeburg, said the presentation of the Sewer Project was presented badly. He prefers to pay all at once and not do a bond.

Richard McNichol, Blauvelt, is charged for sewer service but is unable to hook up. He requested the Town give him service that is long overdue.

Andrew Wiley, Pearl River, spoke about referendums, the pool, the fields, purchase and sale of land, no appraisals on property and increase in taxes.

Somnath Konduru, Tappan, questioned charges for sewers and lives alone. He wants charges to be done by usage and meter readings. He pays school taxes and has no children in the schools. He believes taxes should be based on individual usage.

Mike Bryceland, Orangeburg, asked do all people pay into the sewer system, even if they are not in Orangetown, but use the system? He also asked whether this amount of money is the final figure?

RESOLUTION NO. 456

CLOSED PUBLIC COMMENT INCREASED COST ESTABLISHMENT OF SEWER DISTRICT AND IMPROVEMENTS

Councilman O'Donnell offered the following resolution, which was seconded by Councilwoman Manning and was unanimously adopted:

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

Ayes: Councilpersons O'Donnell, Manning, Troy, Morr
Supervisor Kleiner

Noes: None

RESOLUTION NO. 457

A RESOLUTION APPROVING THE INCREASED COST OF THE ESTABLISHMENT OF THE ORANGETOWN SEWER DISTRICT

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

Resolution No. 457 - Continued

WHEREAS, the Town Board of the Town of Orangetown, Rockland County, New York, has duly established Orangetown Sewer District at a maximum estimated cost of \$22,100,000; and

WHEREAS, it was necessary to increase the maximum estimated cost of the improvements to cover scope modifications for such District by \$12,800,000 to a new maximum estimated cost of \$34,900,000; and

WHEREAS, as a result of cost increases, it was further necessary to increase the maximum estimated cost of the improvements for such District by \$12,022,000 to a new maximum estimated cost of \$46,922,000; and

WHEREAS, an order was duly adopted by said Town Board on June 25, 2007, reciting the need to so increase such maximum estimated cost and specifying the 10th day of July, 2007, at 8:00 o'clock P.M., local time, at the Town Hall, in Orangetown, New York, in said Town, as the time when and the place where said Town Board would meet for the purpose of holding a public hearing to consider the proposed increase in cost and to hear all persons interested in the subject thereof concerning the same; and

WHEREAS, notice of the aforesaid public hearing was duly published and posted in the manner and within the time prescribed by Section 209-d of the Town Law, and proof of publications and postings have been duly presented to said Town Board; and

WHEREAS, said public hearing was duly held at the time and place at which all persons desiring to be heard were duly heard;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. The establishment of Orangetown Sewer District in the Town of Orangetown, Rockland County, New York, and the improvements therefor consisting of the various improvements to the wastewater treatment plant, pumping stations, sewer mains and buildings, including, original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, at a new maximum estimated cost of \$46,922,000, is hereby approved.

Section 2. This resolution is adopted subject to permissive referendum.

Ayes: Councilpersons Manning, O'Donnell, Morr
Supervisor Kleiner

Noes: Councilman Troy

RESOLUTION NO. 458

**A RESOLUTION AUTHORIZING THE
ISSUANCE OF AN ADDITIONAL
\$12,022,000 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**

Councilwoman Manning offered the following resolution, which was seconded by Councilman O'Donnell and on a roll call was adopted:

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 12-A of the Town Law, the Town Board of the Town of Orangetown, Rockland County, New York, has established Orangetown Sewer District in the Town of Orangetown; and

WHEREAS, said capital project has been determined to be an Unlisted Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of

Resolution No. 458 - Continued

which as proposed, the Town Board has determined will not result in any significant environmental effects; and

WHEREAS, as a result of modifications to the project scope, the maximum estimated cost of such object or purpose was revised to \$34,900,000, an increase of \$8,100,000 over that previously authorized; and

WHEREAS, it has now been determined that the maximum estimated cost of such object or purpose is \$46,922,000, an increase of \$12,022,000 over that previously authorized; and

WHEREAS, it is now desired to authorize the issuance of an additional \$12,022,000 serial bonds of said Town for such class of objects or purposes; NOW, THEREFORE,

WHEREAS, it is now desired to authorize the financing of said improvements; NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. For the class of objects or purposes of paying a part of the cost of improvements in connection with the establishment of Orangetown Sewer District, consisting of the various improvements to the wastewater treatment plant, pumping stations, sewer mains and buildings, including original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, as described in the map, plan and report prepared in connection therewith, there are hereby authorized to be issued an additional \$12,022,000 serial bonds of the Town of Orangetown, Rockland County, New York pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of such class of objects or purposes is now determined to be \$46,922,000, and that the plan for the financing thereof is as follows:

- a. By the issuance of the \$34,900,000 serial bonds of said Town authorized to be issued pursuant to bond resolutions dated and duly adopted June 26, 2006; and
- b. By the issuance of the additional \$12,022,000 serial bonds of said Town authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is forty years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law, calculated from March 30, 2006, such date being deemed to be the date of the first bond anticipation note issued therefor. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Orangetown, Rockland County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such bonds as the same respectively become due and payable. There shall be annually assessed upon and collected from the several lots and parcels of land within said Orangetown Sewer District in the manner provided by law, an amount sufficient to pay the principal and interest on said bonds as the same become due, but if not paid from such source, all the taxable real property in said Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on said bonds as the same shall become due.

Section 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of the Town, including, but not limited to, the power to sell said serial bonds to the New York State Environmental Facilities Corporation, provided, however, that in the exercise of these

Resolution No. 458 - Continued

delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 7. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, including the consolidation with other issues, shall be determined by the Supervisor.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. This bond resolution, which takes effect upon expiration of the permissive referendum period in connection with the public interest resolution, shall be published in summary in The Journal News, the official newspaper, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Ayes: Councilpersons Manning, O'Donnell, Morr
Supervisor Kleiner
Noes: Councilman Troy

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RESOLUTION NO. 459

**FAA/FEDERAL AVIATION
ADMINISTRATION/AIRSPACE
REDESIGN PLAN/PUBLIC HEARING**

Councilman Morr offered the following resolution, which was seconded by Councilman O'Donnell and was unanimously adopted:

RESOLVED, that the Town Board demands the Federal Aviation Administration (FAA) schedule a public hearing in Rockland County and not close the public comment period on the proposed New York/New Jersey/Philadelphia/Metropolitan Area Airspace redesign plan, request New York State's United States Senators and Rockland Congressional Delegation intercede with the FAA for that purpose, and formally support the Rockland County Legislature's Resolution #382 of 2007 requesting the same relief. (Resolution #382 is labeled Exhibit 7-C-07, and made a part of these minutes).

Ayes: Councilpersons Morr, O'Donnell, Troy, Manning
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 460

**AUTHORIZE/AGREEMENT
ROCKLAND COUNTY/RADIO
SUBSCRIBER EQUIPMENT**

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

Resolution No. 460 – Continued

RESOLVED, that the Supervisor is hereby authorized to execute an agreement with Rockland County for the purchase by Rockland County of radio subscriber equipment for Orangetown use necessary for a countywide interoperable public safety communications system.

Ayes: Councilpersons Morr, Troy, O'Donnell, Manning
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 461**ADJOURNMENT/MEMORY**

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

RESOLVED, that the Town Board adjourned in memory of Richard Menocker, Monsey and former Rockland County Legislature Clerk at 10:45 p.m.

Ayes: Supervisor Kleiner, Councilpersons Morr, O'Donnell, Troy, Manning
Noes: None

Charlotte Madigan, Town Clerk