

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
TUESDAY, JULY 24, 2012**

This Town Board Meeting was opened at 7:30 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
John Giardiello, Director of OBZPAE
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Esta Baitler led the Pledge of Allegiance to the Flag.

Summary of Public Comments:

Esta Baitler, Sparkill, said sidewalks, from Oak Tree Road to Route 9W, need to be addressed immediately and speed bumps should be installed on Route 340.

Mike Mandel, Pearl River, is in favor of the Town getting funding back from the County and he approves the use of PEG funds to improve the Town's broadcasts.

Donald Brenner, representing Mr. & Mrs. Curtis Frasca, Palisades, said his clients are requesting the Town Board to approve "No Parking" signs along Closter Road, which was recommended by the Traffic Advisory Board and to make sure businesses are not parking in the Town owned parcel.

RESOLUTION NO. 339

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.

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

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RESOLUTION NO. 340

**AMEND TOWN BOARD CALENDAR
SEPTEMBER**

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

RESOLVED, that the September 11, 2012 Regular Town Board Meeting is rescheduled to September 10, 2012.

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

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RESOLUTION NO. 341

**STBM/EXECUTIVE SESSION
SCHEDULE DATE/REAL ESTATE
CONSULTING SERVICES/RPC**

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

Resolution No. 341 - Continued

RESOLVED, that a Special Town Board Meeting, in Executive Session, is scheduled for August 7, 2012, at 7:00 p.m., to interview five firms for real estate consulting services regarding redevelopment of the RPC property.

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

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RESOLUTION NO. 342**APPROVE SHOWMOBILE/LEUKEMIA-LYMPHOMA SOCIETY**

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

RESOLVED, that the use of the Showmobile by the Leukemia - Lymphoma Society for their Light the Night Walk on Sunday, October 21, 2012 at a rental cost of \$350.00 with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured is hereby approved.

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

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RESOLUTION NO. 343**APPROVE BILLING ROCKLAND COUNTY/STREET LIGHTS HYDRANTS/COUNTY ROADS**

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

WHEREAS, the maintenance of roads within the Town of Orangetown is crucial to insure the health and safety of our residents, to promote the economic vitality of our businesses and to preserve the high quality of life which the Town and its residents have worked hard to achieve, and

WHEREAS, our roadway system is multi-jurisdictional, consisting of New York State, County of Rockland, Town of Orangetown, village and private roads, and

WHEREAS, each respective government entity has a non-delegable duty to maintain those roads within its jurisdiction in a reasonably safe condition, and

WHEREAS, a municipality's duty to maintain its roads includes the duty to maintain, at its sole cost and expense, not only the road surface itself, but also signs, street lights, traffic lights and fire hydrants appurtenant thereto, and

WHEREAS, the County of Rockland maintains and funds a highly capable Highway Department charged with maintaining County of Rockland roads, and

WHEREAS, a review of the street lights, traffic lights and fire hydrants within the Town of Orangetown has revealed that the Town has been paying for the costs of maintaining street lights, traffic lights and fire hydrants along County of Rockland roads within Orangetown, when all such costs are the legal responsibility of the County of Rockland, and

WHEREAS, it is in the public interest that all costs associated with County of Rockland roads be charged both prospectively and retroactively, to the extent permitted by law, to the municipal entity legally responsible for such costs, to wit: the County of Rockland,

Resolution No. 343 - Continued

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Orangetown that effective January 1, 2012 the Town's Director of Finance is hereby directed to bill the County of Rockland for all costs associated with street lights, traffic lights and fire hydrants adjacent to County of Rockland roads if such costs (including, but not limited to electric supply costs charged by Orange & Rockland Utilities, Inc. or other energy supply companies, repair costs, United Water hydrant charges, etc.) are initially billed to or paid by the Town of Orangetown, and

BE IT FURTHER RESOLVED, that the Town's Director of Finance is directed to arrange, if able to do so, for all future bills from service providers or vendors associated with street lights, traffic lights and fire hydrants adjacent to County of Rockland roads be charged directly to the County of Rockland, rather than the Town of Orangetown, to the extent permitted by law or contract, and

BE IT FURTHER RESOLVED, that Town Attorney is authorized to commence a declaratory judgment action or other appropriate legal action or proceeding, either individually or in conjunction with joint or similar actions or proceedings by the Towns of Clarkstown, Ramapo, Haverstraw and Stony Point, to declare that the responsibility for all costs associated with street lights, traffic lights and fire hydrants adjacent to County of Rockland roads is that of the County of Rockland, not the Town of Orangetown, and to seek reimbursement from the County of Rockland for all such costs already paid by the Town of Orangetown, to the maximum extent permitted by law, and

BE IT FURTHER RESOLVED that the Town Clerk is directed to provide a copy of this Resolution to the Rockland County Executive, the Chairperson of the Rockland County Legislature, the Rockland County Superintendent of Highways and the Supervisors of the Towns of Clarkstown, Ramapo, Haverstraw and Stony Point.

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

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RESOLUTION NO. 344**SET PUBLIC HEARING DATE/ PROPERTY MAINTENANCE CODE VIOLATIONS**

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

RESOLVED, that upon the recommendation of the Code Enforcement Office, a public hearing is scheduled for August 28, 2012, at 8:00 p.m. to address property maintenance code violations (24C-15) for the following properties:

- 2 Parkway Drive, Blauvelt, NY 10913 – SBL 70.13.3.33
- 150 Howard Drive, Tappan, NY 10983 – SBL 74.17-3-1
- 26 N Troop Road, Blauvelt, NY 10913 – SBL 70.14-2-42
- 49 East Carroll St., Pearl River, NY 10965 – SBL 68.12-2-19

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

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RESOLUTION NO. 345**APPROVE USE OF "PEG" FUNDS (PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS CHANNELS)**

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

Resolution No. 345 - Continued

RESOLVED, that the use of not more than \$100,000 in PEG funds for developing the Town's capacity to broadcast public meetings and pre-recorded programming, contingent on approval of contracts with equipment sales and installation vendors is hereby approved.

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

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RESOLUTION NO. 346**AMEND RESOLUTION 102-2012
APPOINT BLYTHE YOST/ACABOR**

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

RESOLVED, that Resolution #102, dated 3/7/2012, which appointed Blythe Yost to the Architectural and Community Appearance Board of Review to fill an unexpired term, is hereby amended to change the term expiration date from 12/31/14 to 12/31/2013.

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

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RESOLUTION NO. 347**CERTIFICATE OF REGISTRATION
2012 SEWER WORK**

Councilman Troy 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: Hauser Brothers, Inc., 17 Old Schoolhouse Road, PO Box 65, Orangeburg, NY.

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

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RESOLUTION NO. 348**ACCEPT PERFORMANCE BOND NO.
057403/RELEASE PERFORMANCE BOND
NO. 0467255/ORANGEBURG COMMONS**

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

WHEREAS, FB Orangeburg, LLC, as the owner of certain property located at Route 303 and Stevens Way, Orangeburg, New York (Tax Lot 74.15 Block 1 Lot 21) applied for and received site plan approval from the Town of Orangetown Planning Board for construction of a mixed use facility at that location, pursuant to Planning Board decisions #2012-07 and 2012-28 and

WHEREAS, pursuant to the aforesaid site plan approvals, the Planning Board required that the applicant post a Performance Bond in the amount of \$1,073,869.50 (One Million Seventy Three Thousand Eight Hundred Sixty Nine and 50/100 Dollars) to ensure the construction and completion of certain public improvements at the site and within the subdivision, and

WHEREAS, the applicant FB Orangeburg, LLC has submitted a fully executed Performance Bond date July 6, 2012 (Bond #0574305) issued by International Fidelity Insurance Company as Surety and FB Orangeburg, LLC and Jay Furman and Richard Birdoff as co-principals and the Town of Orangetown as Obligee, in the amount of \$1,073,869.50 (One Million

Resolution No. 348 - Continued

Seventy Three Thousand Eight Hundred Sixty Nine and 50/100 Dollars) as collateral for such Bond, which has been approved to form and substance by the Town Attorney’s Office,

BE IT RESOLVED THAT, the Town hereby formally accepts, receives and files a Performance Bond issued by International Fidelity Insurance Company as Surety and FB Orangeburg, LLC, Jay Furman and Richard Birdoff as Co-Principals under Bond #0574305 in the amount of \$1,073,869.50 (One Million Seventy Three Thousand Eight Hundred Sixty Nine and 50/100 Dollars) in favor of the Town of Orangetown with respect to the Orangeburg Commons Site Plan, 170 Route 303 Orangeburg, NY (Tax Lot 74.15 Block 1 Lot 21) which Performance Bond requires completion of certain public improvements no later than June 13, 2014.

BE IT FURTHER RESOLVED THAT, based upon the amended Site Plan Approvals for this site and the submission and acceptance of Bond #0574305 as set forth herein, the Town hereby releases the previously posted Performance Bond with respect to the site, which Performance Bond issued by International Fidelity Insurance Company as Surety and FB Orangeburg, LLC, Jay Furman and Richard Birdoff as Co-Principals under Bond #0574305 in the amount of \$1,073,869.50 (One Million Seventy Three Thousand Eight Hundred Sixty Nine and 50/100 Dollars), which bond was accepted by the Town pursuant to Town Board Resolution 2011-358.

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

Noes: None

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RESOLUTION NO. 349

APPROVE CONTRACT/HARBRIDGE CONSULTING

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

RESOLVED that the contract with Harbridge Consulting for valuing post retirement health care benefits in the amount of \$11,800 for 2012 and \$2,000 for 2013, to be charged to account number A.1622.457 is hereby approved.

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

Noes: None

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RESOLUTION NO. 350

APPOINT ELIZABETH DECORT CLERK TYPIST/OBZPAE

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

RESOLVED that Elizabeth Decort is hereby appointed to the permanent position of Clerk Typist in the Department of Building, Zoning, Planning, Administration & Enforcement, from Eligible List No. 10051/10051, with a six month mandatory probationary period, grade 2, annual salary \$33,458.00, effective immediately.

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

Noes: None

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RESOLUTION NO. 351

DEME/RECLASSIFY JAMES DOHERTY ASSISTANT PLANT OPERATOR I

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

Resolution No. 351 - Continued

RESOLVED that upon the recommendation of the Commissioner of DEME, James Doherty is hereby reclassified from Assistant Plant Operator I (Trainee), grade 10, to Assistant Plant Operator I, Grade 11, Step 8/13, with a salary of \$66,437, effective July 10, 2012 whereas he passed his NYSDEC Plant Operator Grade I certification examination.

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

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RESOLUTION NO. 352**AUTHORIZE SUPERVISOR/FY2012
CDBG CONTRACT/PUBLIC
FACILITIES PROJECT**

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

RESOLVED, that the Supervisor is authorized to execute the FY2012 CDBG contract with the County of Rockland in the amount of \$25,000.00 for the Orangetown Public Facilities Improvement Project to remove architectural barriers along its safety sidewalk routes in Blauvelt and Orangeburg to enhance the mobility or accessibility of elderly persons and severely disabled adults.

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

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RESOLUTION NO. 353**ACCEPT/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 accepted, received and filed in the Town Clerk's Office:

1. Sparkill-Palisades Fire District June 12, 2012 Special Election results.
2. Stipulation of Settlement and Mutual General Release dated June 15, 2012, with Veteran's Park Batting & Food Corp. (Snack Shack & Batting Cages Concessions at Veteran's Memorial Park.
3. June 5, 2012 Police Commission and Executive Session minutes; June 12, 2012 Regular Town Board Meeting, Audit Meeting and Executive Session minutes; June 18, 2012 Special Town Board Meeting minutes; and June 19, 2012 Executive Session minutes.
4. School Resource Officer Program Agreement for the school year 2011/2012, dated June 14, 2011.
5. Sanitary Sewer Easement and Title Insurance Policy for Suncap Orangetown, LLC, 622 Route 303, Blauvelt (Fed Ex), 65.14-1-11. (Rockland Cty Instr #2012-14389).
6. Sanitary Sewer and Access Easement (Rockland Cty Instr #2012-17323) and Declaration of Covenant for Inspection of SW Facilities (Rockland Cty Instr #2012-17322) for FB Orangetown, LLC, Orangeburg Commons, Stevens Way and Route 303, Orangeburg (74.15-1-21).
7. Siemens Performance Assurance Report for the period of December 1, 2011-November 30, 2012 and Siemens Site Visit Electrical Use at the Waste Water Treatment Plant, dated June 29, 2012.
8. County Flow Control Updated Implementation Schedule, dated July 12, 2012.
9. Central Nyack Fire District's independent audit for year ending 12/31/11.
10. Agreement between the County of Rockland and the Town, dated July 9, 2012, for reimbursement for overtime for counter-terrorism training.

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

RESOLUTION NO. 354

CONFIRM MILITARY LEAVE STATUS/DARREL BUTLER

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

RESOLVED, that the Town Board hereby acknowledges, with gratitude, the forthcoming active military service of Highway Department Employee Darrel Butler, with anticipated deployment to Afghanistan, and confirms the applicability of Resolution 291 of 2008 with respect to Mr. Butler’s payroll and benefits status during the period of his deployment.

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

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RESOLUTION NO. 355

APPROVE 2012 BUDGET TRANSFERS/PBA AGREEMENT

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

RESOLVED that the following 2012 budget transfers to reflect PBA agreement are hereby approved.

Budget Transfer for
Police Contract

	Account	Original Budget	Change	Revised Budget
Police Permanent Salaries	B.3120.011.16	\$ 10,129,956	\$ 550,000	\$10,679,956
Time & One-Half	B.3120.012.16	\$ 1,135,025	\$ 65,000	\$ 1,200,025
Contingency	B.1990.500.16	\$ 410,000	\$ (410,000)	\$ -
Health Insurance	B.9060.800.16	\$ 3,176,000	\$ (205,000)	\$ 2,971,000

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

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RESOLUTION NO. 356

APPROVE PUBLIC OFFICIALS AND EMPLOYMENT PRACTICES INSURANCE

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

RESOLVED, that the Public Officials and Employment Practices Insurance contract with Hiscox Insurance in the amount of \$43,905 for the period of August 4, 2012 through August 3, 2013 is hereby approved.

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

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RESOLUTION NO. 357

APPROVE NETWORK/CYBER LIABILITY INSURANCE

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

Resolution No. 357 - Continued

RESOLVED that the Network/Cyber Liability Insurance contract with Allied World National Assurance, in the amount of \$1,609, for the period of August 4, 2012 through August 3, 2013 is hereby approved.

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

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RESOLUTION NO. 358**AMEND TOWN BOARD CALENDAR
AUGUST**

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

RESOLVED, that the August 14, 2012 Police Commission/Workshop Meeting is rescheduled to August 21, 2012 and the August 21, 2012 Regular Town Board Meeting is rescheduled to August 28, 2012.

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

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RESOLUTION NO. 359**PERMISSION GRANTED
INTERNATIONAL ASSOC OF CHIEFS
OF POLICE ANNUAL TRAINING
CONFERENCE**

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

RESOLVED that permission is hereby granted for Chief Kevin A. Nulty, to attend the 119th Annual Training Conference of the International Association of Chiefs of Police (IACP) in San Diego, CA., between the dates of September 29, 2012 to October 3, 2012, with training expenses being paid through Rockland County Federal Assets Forfeiture funds.

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

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RESOLUTION NO. 360**APPROVE AID/ANNUAL SK8
NITE/ORANGEBURG FIRE DEPT/ST.
THOMAS AQUINAS COLLEGE
CAMPUS SAFETY DEPT**

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

RESOLVED that the request from St. Thomas Aquinas College Campus Safety Department and the Orangeburg Fire Department for three port-o-johns (1 handicap) for the Annual SK8 Nite being held August 7, 2012 at Tappan Zee High School is hereby approved.

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

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RESOLUTION NO. 361**ENTERED AUDIT**

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

Resolution No. 361 - Continued

RESOLVED, that the Town Board entered the Audit Meeting at 8:33p.m.

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

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RESOLUTION NO. 362**PAY VOUCHERS**

Councilman Morr offered the following resolution, which was seconded by Councilman Troy 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 \$1,735,614.79.

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

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RESOLUTION NO. 363**ENTER EXECUTIVE SESSION**

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

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

RESOLVED, that the Town Board entered Executive Session to discuss particular Police matters at 8:45 p.m.

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

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RESOLUTION NO. 364**REENTERED RTBM
ADJOURNMENT/MEMORY**

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

RESOLVED, that the Town Board re-entered the Regular Town Board Meeting and adjourned, in memory of John Haugh, Sparkill and Mary Murray, Pearl River at 9:00 p.m.

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

Charlotte Madigan, Town Clerk