

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
TUESDAY, SEPTEMBER 14, 2010**

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

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

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
Joe Rutkowski, Sewer Chief Operator
Scott Burton, Director of Environmental Management & Engineering
Robert Simon, Receiver of Taxes
John Giardiello, Director of OBZPAE
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Bob Simon led the Pledge of Allegiance to the Flag.

Summary of Public Comments (RTBM):

Mike Mandel, Pearl River, spoke in response to the PLA, union vs. non-union and believes the Town should level the playing field. He is in favor of the adopt-a-spot program and sponsors being recognized for their contributions to the Town.

Esta Baitler, Consumer Advocate for Cathy Lukens Home, asked when are the sewers going to be repaired and when are the sidewalks going to be completed, along Route 340.

Andrew Wiley, Pearl River, spoke about his FOIL requests and his issues with the Assessor.

John Clifford, Golf Advisory Board, wants to know when the golf course renovations will be started.

Peggy Powers, Pearl River, is against the zone change for the Mews at Pearl River.

Robert Simon, Receiver of Taxes, said property taxes can be paid on-line at <http://egov.basny.com/orangetown> by credit card or check with additional fees added to the total bill: Check - \$1.50; Mastercard, Discover, Visa – 2.45%; Visa Debit Card - \$3.95

RESOLUTION NO. 524

CLOSE PUBLIC COMMENTS

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

RESOLVED, that the public portion is hereby closed.

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

Noes: None

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RESOLUTION NO. 525

ACCEPT MINUTES

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

Resolution No. 525 - Continued

RESOLVED, that the August 10, 2010 Police Commission and Executive Session minutes are hereby accepted.

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

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RESOLUTION NO. 526

**LETPP HOMELAND SECURITY GRANT
 AGREEMENT/ROCKLAND COUNTY
 RECEIVE/FILE**

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

RESOLVED that the executed copy of LETPP Homeland Security Grant agreement with Rockland County for Counter-Terrorism Training overtime is received and filed in the Town Clerk's Office.

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

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RESOLUTION NO. 527

**EASEMENT AGREEMENT BARBARA
 ROSIN/114 RIVER ROAD/RECEIVE/FILE**

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

RESOLVED that the Easement Agreement between Barbara Rosin and the Town of Orangetown for located at 114 River Road, Grandview-on-Hudson, NY (71.46-1-3) is received and filed in the Town Clerk's Office.

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

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RESOLUTION NO. 528

**DECLARATION OF COVENANT
 STORM WATER CONTROL
 FACILITIES/DOMINICAN COLLEGE
 RECEIVE AND FILE**

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

RESOLVED, that the Declaration of Covenant for the Annual Inspection and Maintenance of Storm Water Control by Dominican College, which was recorded in the Rockland County Clerk's Office as Inst No. 2010-00025239, is received and filed in the Town Clerk's Office.

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

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RESOLUTION NO. 529

**APPROVE CONTRACT/EMPLOYEE
 ASSISTANCE CONTRACT (EAP)
 NYACK HOSPITAL**

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

Resolution No. 529 - Continued

RESOLVED, that the Employee Assistance Contract with Nyack Hospital, in the amount of \$9,625.00, for the period of October 1, 2010 through September 30, 2011, to be charged to Account A1622/457 is hereby approved.

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

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RESOLUTION NO. 530**ESTABLISH PERMANENT POSITION
AUTOMOTIVE MECHANIC I/DEME**

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

RESOLVED, that the position of Automotive Mechanic I (permanent), in the Department of Environmental Management & Engineering, to replace the temporary position of Automotive Mechanic I referred to in resolution No. 279, is hereby established.

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

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RESOLUTION NO. 531**APPROVE/STEARNS & WHELER
AMENDMENT #7/SCOPE OF SERVICES**

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

WHEREAS, Stearns & Wheler, LLC (ENGINEER) and the Town of Orangetown (OWNER) entered into an Agreement dated August 29, 2005 (Agreement) to perform Engineering and Construction Administration Services for the Phase I Capital Improvements Project for wastewater infrastructure (the "Project"); and

WHEREAS, the aforementioned Agreement was modified under Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, and Amendment No. 6 to state that OWNER and ENGINEER acknowledge that the maximum amount payable to the ENGINEER for performance of the Contract Services relating to the Project shall not exceed Three Million Nine Hundred Seventy-Three Thousand Two Hundred Twenty-Six Dollars (\$3,973,226); and

WHEREAS, the contract shall not be increased and the maximum amended amount payable to the ENGINEER for the performance of the Contract Services shall not exceed Three Million Nine Hundred Seventy-Three Thousand Two Hundred Twenty-Six Dollars (\$3,973,226); and

WHEREAS, except as otherwise modified herein, the terms of the Agreement, as amended and modified by Amendment Nos. 1, 2, 3, 4, 5, and 6 shall remain in force and effect, given the relationship between the parties.

NOW, THEREFORE, ENGINEER and OWNER agree to amend the Agreement as follows.

SCOPE OF SERVICES

ENGINEER will provide engineering related services for the following items:

1. Closeout Phase for Contracts WWTP-06-1G - Wastewater Treatment Plant Improvements and WWTP-06-3G - Hunt Road Pumping Station Improvements.
 - a. Review of rejected, defective and non-conforming work as installed by contractor. Review and provide a response to the contractor proposed corrective work plans.

Resolution No. 531 - Continued

Provide certification that observed corrective work is in conformance with Contract Documents.

- b. Provide OWNER with a summary of potential liquidated damages amounts and advise them on the need for assessment of them.
 - c. Review of unresolved claims submitted by the contractor and provide the OWNER an assessment of their validity regarding the scope and cost of the work.
 - d. Perform a review of punch list items as provided by the OWNER and supplement the list as warranted based on observations of the work performed by the contractor. The review will be performed at each of the project sites, which include the Wastewater Treatment Plant and Hunt Road Pumping Station.
 - e. Witness and monitor the remaining equipment startup, testing and training. A total of nine (9) site visits are allocated for this task.
 - f. Participate in meetings with the OWNER and contractor to review the status of the work, verify what contractual work has been completed, and provide technical support during OWNER/contractor discussions. A total of eight (8) meetings at OWNER facilities are allocated for this task.
2. Construction Administration.
- a. Tier II/III Pumping Stations - Provide support to the OWNER for addressing contractor's request for information, interpretation of the contract requirements, shop drawing review, and field verification requests.

The following items, as listed in the Scope of Services section of Amendment No. 6, are being eliminated:

1. Wastewater Treatment Plant/Hunt Road Pumping Station Improvements - Construction administration (as defined in Amendment No. 6), resident services (as defined in Amendment No. 6), mediation, arbitration and litigation services.
2. Tier I Pumping Stations - Construction administration (as defined in Amendment No. 6), resident services (as defined in Amendment No. 6), mediation, arbitration and litigation services.
3. Tier II/III Pumping Stations - Construction administration (as defined in Amendment No. 6), resident services (as defined in Amendment No. 6), mediation, arbitration and litigation services.

AUTHORIZATION

The return of one (1) signed copy of this Amendment No. 7, together with a copy of a formal resolution of approval, constitutes acceptance of this Amendment and shall be written authorization for ENGINEER to proceed with the Scope of Service outlined above.

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment No. 7 as of the last date entered below.

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

Noes: None

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RESOLUTION NO. 532**REVISE/2009/2010 SNOW & ICE
AGREEMENT WITH NYSDOT**

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

RESOLVED, due to the severity of the winter during the 2009/2010 season, the Town hereby requested the Municipal Snow and Ice Agreement estimated expenditure of \$210,812.42 be revised to reflect the additional lane miles of state roads that were plowed/treated during the winter season, in the amount of \$252,553.28.

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

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RESOLUTION NO. 533**AWARD RFP/DUMP BODY RETROFIT
AND ACCESSORY INSTALLATION**

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

RESOLVED, that the RFP for dump body retrofit and accessory installation, in the amount of \$31,887.00, to be charged to Account # 5130-0200, be awarded to Trius Inc., Bohemia, New York, the lowest qualified bidder.

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

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RESOLUTION NO. 534**REQUEST FOR REGULATORY
HEARING RESOLUTION/CSX RR
GREENBUSH RD/HIGHVIEW AVE**

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

RESOLVED, The Town of Orangetown hereby requests a regulatory hearing to be held, pursuant to NYS RR Law Section 9, Alteration or Rehabilitation of Existing Crossing, concerning two public at-grade crossings, situated in the Town of Orangetown, Rockland County.

The two crossings are further identified as:

Greenbush Road @ CSX RR
USDOT AAR # 507 077S
MP QR – 19.40

Highview Avenue @ CSX RR
USDOT AAR # 507 075D
MP QR – 20.50

These two crossings are part of the Rockland County Quiet Zone project, and will involve alteration of the roadways traffic flow and warning devices at the crossings.

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

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RESOLUTION NO. 535**APPROVE/TAPPAN REFORMED
CHURCH/BARRICADES/TRASH CANS**

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

Resolution No. 535 - Continued

RESOLVED, that the request of The Tappan Reformed Church, Tappan NY, for the assistance of the Highway Department, for the use of barricades and trash cans, for their Fall Festival, to be held on September 25, 2010, is hereby approved.

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

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RESOLUTION NO. 536**APPROVE ADOPT-A-SPOT
COMMERCIAL COMMITTEE
DUTCHESS DR**

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

RESOLVED, that the Town of Orangetown, a municipal corporation, organized under the Town Law of the State of New York, which Town has a place of business at 26 Orangeburg Road, Orangeburg, New York 10962, expressly authorizes and approves the Adopt-A-Spot Committee, a Commercial Sponsor with Paul Kilgallen, President, Blue Sky Landscape, as part of the Adopt-A-Spot Committee to contribute toward the development and maintenance of a more attractive and litter-free Town Highway R.O.W. segment as described in the Highway Work Permit as Town Property located at the landscaped traffic island at the Intersection of Dutchess Drive and Orangeburg Road in Orangeburg, NY, otherwise known as the "SPOT", by performing necessary and /or desired clean-up activities, as particularly set forth in and pursuant to the terms and conditions of the Town of Orangetown Highway Department Commercial Adopt-A-Spot Agreement between the Town of Orangetown Highway Department and "Dutchess Drive Triangle" Commercial Adopt-A-Spot Committee, Dated September 14, 2010.

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

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RESOLUTION NO. 537**APPROVE ADOPT-A-SPOT
COMMITTEE/TAPPAN TRIANGLE**

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

RESOLVED, that the Town of Orangetown, a municipal corporation, organized under the Town Law of the State of New York, which Town has a place of business at 26 Orangeburg Road, Orangeburg, New York 10962, expressly authorizes and approves the Adopt-A-Spot Committee, a volunteer organization with Carol Lavallo and Joe Napoli as part of the Adopt-A-Spot Committee to contribute toward the development and maintenance of a more attractive and litter-free Town Highway R.O.W. segment as described in the Highway Work Permit as Town Property located at the landscaped traffic island at the intersection of Kings Highway and Greenbush Road, Tappan, NY otherwise known as the "SPOT", by performing necessary and /or desired clean-up activities, as particularly set forth in and pursuant to the terms and conditions of the Town of Orangetown Highway Department Adopt-A-Spot Agreement between the Town of Orangetown Highway Department and "Tappan Triangle" Adopt-A-Spot Committee, Dated September 14, 2010.

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

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RESOLUTION NO. 538**APPROVE ADOPT-A-SPOT
COMMITTEE DUTCHESS DRIVE**

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

Resolution No. 538 - Continued

RESOLVED, that the Town of Orangetown, a municipal corporation, organized under the Town Law of the State of New York, which Town has a place of business at 26 Orangeburg Road, Orangeburg, New York 10962, expressly authorizes and approves the Adopt-A-Spot Committee, a volunteer organization with Hector May, Paul Connell and Nick Hogan as part of the Adopt-A-Spot Committee to contribute toward the development and maintenance of a more attractive and litter-free Town Highway R.O.W. segment as described in the Highway Work Permit as Town Property located at the landscaped traffic island at the intersection of Dutchess Drive and Orangeburg Road, Orangeburg, NY otherwise known as the "SPOT", by performing necessary and /or desired clean-up activities, as particularly set forth in and pursuant to the terms and conditions of the Town of Orangetown Highway Department Adopt-A-Spot Agreement between the Town of Orangetown Highway Department and "Dutchess Drive Triangle" Adopt-A-Spot Committee, Dated September 14, 2010.

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

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RESOLUTION NO. 539**APPROVE SHOW MOBILE/PEARL RIVER FIRE DEPT/WET DOWN**

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

RESOLVED, that the request by the Pearl River Fire Dept., for use of the show mobile, for the 12 Tower Wet Down, August 28, 2010 from 12:30 pm to 11:00 pm, for a rental fee of \$350.00 is hereby approved.

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

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RESOLUTION NO. 540**APPROVE SHOW MOBILE/ITALIAN FEAST**

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

RESOLVED, that the use of the show mobile for the Italian Feast, Thursday, September 16, 2010 to Sunday, September 19, 2010, for a rental fee of \$350.00 is hereby approved.

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

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RESOLUTION NO. 541**APPROVE SHOW MOBILE/SOUTH ORANGETOWN SCHOOLS/ZEE NITE IV**

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

RESOLVED, that the request by the South Orangetown School District, for use of the show mobile, for their Zee Nite IV, Saturday, September 25, 2010 from 2:00 pm to 6:00 pm, for a rental fee of \$350.00 is hereby approved.

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

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RESOLUTION NO. 542**APPROVE SHOW MOBILE/
PEARL RIVER DAY**

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

RESOLVED, that the request by the Pearl River Chamber of Commerce, for use of the show mobile, for Pearl River Day, Saturday, October 2, 2010 from 8:00 am to 5:00 pm, for a rental fee of \$350.00 is hereby approved.

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

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RESOLUTION NO. 543**APPROVE COPIER LEASE
SUPERVISOR/ASSESSOR/TOWN
ATTORNEY**

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

RESOLVED, that the copier lease with ESP, for three Sharp copiers, for thirty-six months, for the Supervisor, Assessor and Town Attorney, at a total cost of \$684 per month, including maintenance and supplies (excluding paper and staples) is hereby approved. (This compares to \$771 per month for the previous three years).

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

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RESOLUTION NO. 544**APPROVE PUBLIC OFFICIALS
EMPLOYMENT PRACTICES
INSURANCE**

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

RESOLVED, that the renewal of public officials and employment practices insurance policy with Westchester Fire Insurance Company, at an annual cost of \$61,991 (identical cost as in 2009) is hereby approved.

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

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RESOLUTION NO. 545**AUTHORIZE FAMILY LEAVE
NATALIE SCHUTTER**

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

RESOLVED, that Natalie Schutter, in the Finance Office, is authorized to use the Family and Medical Leave Act for unpaid medical leave.

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

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RESOLUTION NO. 546**APPROVE ELECTRICAL INSPECTOR
NEW YORK CERTIFIED
ELECTRICAL INSPECTORS LLC**

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

RESOLVED, that upon the recommendation of the Building Dept. and the approval of the Town Attorney, New York Certified Electrical Inspectors, LLC is authorized, for work in the Town of Orangetown.

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

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RESOLUTION NO. 547**TABLE DENIED/POLICE MANAGEMENT
CONTRACT/MCSHANE AND ANDREWS**

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

RESOLVED, that a motion to TABLE a contract with McShane and Andrews, for a police management study, in the amount of \$25,300, to be charged to Account Number B3120.457.16 is hereby **denied**.

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

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RESOLUTION NO. 548**APPROVE/POLICE MANAGEMENT
CONTRACT/MCSHANE AND
ANDREWS**

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

RESOLVED, that a contract with McShane and Andrews, for a police management study, in the amount of \$25,300, to be charged to Account Number B3120.457.16 is hereby approved.

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

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RESOLUTION NO. 549**ENTERED AUDIT**

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

RESOLVED, that the Town Board entered the Audit Meeting at 8:40 p.m.

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

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RESOLUTION NO. 550**PAY VOUCHERS**

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

Resolution No. 550 - Continued

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 \$2,448,031.

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

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RESOLUTION NO. 551**RE-ENTER RTBM**

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

RESOLVED, that the Town Board re-entered the Regular Town Board Meeting at 8:50 p.m.

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

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RESOLUTION NO. 552**OPEN PH/THE MEWS AT PEARL RIVER/
ZONE CHANGE/PAC
SKYLINE PLAZA LLC**

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

RESOLVED, that the 9:00 p.m. public hearing, to consider changing the zoning designation for The Mews at Pearl River (68.16-6-62) from Community Shopping (CS) to Planned Adult Community (PAC) floating district, is hereby opened.

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

Charlotte Madigan, Town Clerk, presented the Affidavit of Publication, the Notice of Posting and the applicant's Affidavit of Mailings and Postings; copies are labeled Exhibit 9-A-10 and made a part of these minutes.

Donald Brenner, Applicant's Attorney, explained that this building could be developed to its full potential by installing new office-retail space on the first floor and senior citizen housing, in the form of apartment units, on the second and third floors.

Summary of Public portion:

Mike Mandel, Pearl River, is in favor of this zone change but only if parking is provided. Andrew Wiley, Pearl River, asked if the building permit is for this usage, has the building permit fee been paid and was the original permit for residential usage. He spoke about square footage, floor ratio, the Town Code and bulk tables.

Donald Brenner, Attorney, said this building can not provide parking and it is located in the downtown parking district. Tenants will have to find their own parking but his client has been negotiating with the MTA and he will try to negotiate with the Town of Orangetown.

The Town Board and Department Heads made comments and had a lengthy discussion with the Town Attorney.

RESOLUTION NO. 553

CLOSE PH/THE MEWS AT PEARL RIVER/ZONE CHANGE/PAC SKYLINE PLAZA LLC

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

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RESOLUTION NO. 554

ENTER EXECUTIVE SESSION

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

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

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

Resolution Nos. 555 and 556 see Executive Session.

RESOLUTION NO. 557

LEAD AGENCY/THE MEWS AT PEARL RIVER/ZONE CHANGE/PAC SKYLINE PLAZA LLC

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

RESOLVED, that the Town Board declares itself Lead Agency in this matter.

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

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RESOLUTION NO. 558

SEQRA DECLARATION/THE MEWS AT PEARL RIVER ZONE CHANGE/PAC SKYLINE PLAZA LLC

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

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ORANGETOWN ISSUING A NEGATIVE DECLARATION WITH RESPECT TO THE ADOPTION OF LOCAL LAW NO. 5, A ZONING TEXT AMENDMENT, CHANGING THE ZONING DISTRICT CLASSIFICATION FOR PROPERTY LOCATED IN THE HAMLET OF PEARL RIVER ON THE NORTHWEST CORNER OF THE INTERSECTION OF CENTRAL AVENUE AND WILLIAM STREET, AND SHOWN ON THE TAX MAP OF THE TOWN OF ORANGETOWN AS SBL 68.16-6-62.

WHEREAS, the Town Board of the Town of Orangetown (the “Town Board”) is the duly elected legislative body of the Town, authorized to adopt zoning text amendments to the Town’s Zoning Law, and an “involved agency” under the State Environmental Quality Review Act (“SEQR”) with respect to the adoption of zoning text amendments applicable to property located within the Town of Orangetown; and

Resolution No. 558 - Continued

WHEREAS, by Petition dated as of April 2010, and accompanying application, SKYLINE PLAZA LLC, as owner of property located in the Hamlet of Pearl River, on the northwest corner of the intersection of Central Avenue and William Street, and shown on the Tax Map of the Town of Orangetown as SBL 68.16-6-62, formally petitioned the Town Board to change the zoning classification of the said property from Community Shopping ("CS") to Planned Adult Community ("PAC") in accordance with the provisions of Local Law No. 1 of 2004, as subsequently amended, by which the PAC zoning district was created as a "floating" district; and

WHEREAS, following its filing with, and receipt by, the Town, the Town Board caused to be circulated the said Petition and supporting documents amongst all other involved and/or interested agencies notice of its intention to assume Lead Agency status for the purpose of environmental review of the above referenced action; and

WHEREAS, more than thirty (30) calendar days have passed since the Town declared its intent to be Lead Agency for environmental review, and no other involved agency has expressed a desire or intent to act as Lead Agency, or otherwise has sought to contest the Town Board's authority to act in that capacity with respect to the referenced action, the Town Board has assumed the role of Lead Agency for environmental review; and

WHEREAS, the Town Board, acting in its capacity as Lead Agency for environmental review, having carefully considered all of the potential environmental impacts that might result from the proposed action, has concluded that there will be no significant environmental impacts or effects caused or occasioned by the change in the zoning classification of the subject parcel and its eventual improvement with a combination of retail/community shopping uses and active adult or senior residential housing,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board adopts the findings and conclusions relating to probable environmental impacts contained in the Short Form and Long Form Environmental Assessment Forms, and in the Negative Declaration annexed hereto, and authorizes the Town Supervisor, or his designated agent, to execute the Environmental Assessment Form and to file the Negative Declaration in accordance with the applicable provisions of law; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town Supervisor, or his designated agent, to take such further steps as may be necessary to discharge the Town Board's responsibilities as Lead Agency.

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

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TOWN OF ORANGETOWN

**STATE ENVIRONMENTAL QUALITY REVIEW
NEGATIVE DECLARATION
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

September 15, 2010

Lead Agency:

The Town Board of the Town of Orangetown
Orangetown Town Hall
26 Orangeburg Road
Orangeburg, New York 10962

This Notice is issued pursuant to Part 617 of the implementing regulations of Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant effect on the environment.

Title of Action:

Amendment to Town Zoning Law and Zoning Map / Zone Change Application from CS (Community Shopping) to PAC (Planned Adult Community).

SEQR Status :

Unlisted Action

Description of the Action:

The action consists of a proposed change to the Zoning Law and Zoning Map of the Town of Orangetown, affecting an existing three (3) story building situated on 0.16 acres ± on the northwest corner of the intersection of Central Avenue and William Street in the downtown Pearl River area. The building, formerly occupied as a movie theatre with other storefront uses, has been unoccupied for a many year period. Under the proposed zoning amendment, the building would be re-developed with a combination of retail/community shopping uses on the ground (street) level and 14 rental apartments on the second and third floors.

Location:

The proposed action affects property located in the Hamlet of Pearl River, on the northwest corner of the intersection of Central Avenue and William Street, and shown on the Tax Map of the Town of Orangetown as SBL 68.16-6-62.

**REASONS SUPPORTING
THIS DETERMINATION**

I. Information Reviewed and Relied Upon

In making its determination, the Town Board, acting in its capacity as Lead Agency, considered the following:

- (1) The Petition of the Owner, including :
 - ❖ a project description and Illustrative Site Plan;
 - ❖ regional and local area analysis, including demographic information;
 - ❖ traffic impact letter from John Collins Engineers, P.C., dated April 7, 2010;
 - ❖ property tax analysis;
 - ❖ vicinity map
- (2) Short and Full Environmental Assessment Forms;
- (3) The comments of the Rockland County Planning Department pursuant to GML § 239, dated July 9, 2010, as amended by subsequent letter dated September 14, 2010;
- (4) The comments of the Rockland County Highway Department dated June 30, 2010;
- (5) The comments of the Town of Orangetown Office of Building, Zoning and Planning, dated July 13, 2010;
- (6) The comments of the Town Planning Board, dated July 23, 2010.

The Board further considered the testimony and comments given at the public hearing on the proposed zone change, including that of the Project Sponsor and certain real estate and design consultants, as well as comments from members of the public both in support and in opposition.

II. Familiarity with the Site

The members of the Town Board, in general terms, are also each personally familiar with the location of the proposed development, including its proximity to the nearby roadways as well as other development in the area.

III. Potential Impacts Ultimately Determined Not to Be Significant

In the course of its review, the Town Board, with the assistance of its professional staff, identified parking as a potential impact, requiring further analysis beyond that presented in the Petition and EAF. On balance, upon consideration of the area adjacent to, and surrounding, the subject parcel, the similarity between this existing building and others in the downtown area, the existence of nearby off-site municipal parking available to all downtown users and occupants, and the anticipated limited parking needs of the residential portion of the building when developed, the Board has determined that parking will not have a significant impact on the environment in the long, or in the short, term.

IV. Other Potential Impacts Considered and Determined Not to Be Significant

The Board has also considered the following issues and potential impacts, and has concluded that neither individually nor cumulatively will they have a significant impact on the environment:

- ***Agricultural Land Resources***

There are no anticipated impacts on agricultural lands.

- ***Aesthetic Resources***

Detailed designs for the senior units will be reviewed as part of the site plan process. The elevations and illustrative site plan submitted at this stage, however, show an existing, remodeled building covering most of the site. On appearance, the exterior portions of the existing building are aesthetically pleasing, having no adverse impact on the aesthetics of the surrounding area.

- ***Historic and Archaeological Resources***

There are no significant anticipated impacts on historic or archeological resources.

- ***Critical Environmental Areas (CEAs)***

There are no significant anticipated impacts on any CEA.

- ***Energy***

There are no anticipated significant impacts the community's sources of fuel or energy supply.

- ***Public Health***

There are no anticipated significant impacts on the public health.

- ***Air Quality and Noise Levels***

The proposed actions are not expected to have a significant impact on local air quality or noise levels.

- ***Human Health***

The proposed actions will not create a hazard to human health.

V. Existing and/or Approved PAC Developments of Adjacent and Nearby Lands

The Town Board, as part of its environmental review of the proposed action, has also considered and evaluated the action, and its potential impacts, in the light of other pending, or previously approved, applications for PAC zone changes, and has determined that (i) given the location of the proposed action, a considerable distance from other already improved PAC developments; (ii) its almost unique location in referenced to mass transit and other amenities desirable to an active adult population; and (iii) to a lesser degree, but nonetheless significant, the rental component of the proposed project, a need not yet filled by other PAC developments, the approval of this action will not conflict with or adversely affect other such developments, or result in a saturation of PAC market.

In summary, after evaluating all of the potential environmental impacts relating to the proposed actions, the Town Board concludes that there will be no significant environmental effect caused thereby

For Further Information, Contact:

Town Supervisor Paul G. Whalen
Town Hall, Town of Orangetown
26 Orangeburg Road
Orangeburg, New York 10962
(845) 359-5100

RESOLUTION NO. 559

TB DECISION/THE MEWS AT PEARL RIVER/ZONE CHANGE/PAC

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

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ORANGETOWN ADOPTING LOCAL LAW NO. 5 OF 2010, RELATING TO A ZONING TEXT AMENDMENT, CHANGING THE ZONING DISTRICT CLASSIFICATION FROM “CS” TO “PAC” FOR PROPERTY LOCATED IN THE HAMLET OF PEARL RIVER ON THE NORTHWEST CORNER OF THE INTERSECTION OF CENTRAL AVENUE AND WILLIAM STREET, AND SHOWN ON THE TAX MAPOF THE TOWN OF ORANGETOWN AS SBL 68.16-6-62.

WHEREAS, the Town Board of the Town of Orangetown (the “Town Board”) is the duly elected legislative body of the Town, authorized to adopt zoning text amendments to the Town’s Zoning Law; and

WHEREAS, by Petition dated as of April 2010, and accompanying application, SKYLINE PLAZA LLC, as owner of property located in the Hamlet of Pearl River, on the northwest corner of the intersection of Central Avenue and William Street, and shown on the Tax Map of the Town of Orangetown as SBL 68.16-6-62, formally petitioned the Town Board to change the zoning classification of the said property from Community Shopping (“CS”) to Planned Adult Community (“PAC”) in accordance with the provisions of Local Law No. 1 of 2004, as subsequently amended, by which the PAC zoning district was created as a “floating” district; and

WHEREAS, after notice duly given, and no other involved agency having expressed a desire or intention to act as Lead Agency, or otherwise having contested the Town Board’s

authority to act in that capacity with respect to the referenced action, the Town Board assumed the role of Lead Agency for environmental review in connection with the action; and

WHEREAS, by resolution duly adopted of even date herewith, but prior to the adoption of this resolution, the Town Board, acting in its capacity as Lead Agency for environmental review, concluded that there will be no significant environmental impacts or effects caused or occasioned by the change in the zoning classification of the subject parcel and its eventual improvement with a combination of retail/community shopping uses and active adult or senior residential housing; and

WHEREAS, in addition to the Petition, the Town Board also has considered, among other things, the following documents and/or comments in furtherance of its obligation to evaluate whether the proposed site is both eligible and appropriate for PAC zone designation:

- (1) a project description and Illustrative Site Plan (with proposed bulk and lot controls);
- (2) a regional and local area analysis, including demographic information;
- (3) a traffic impact letter from John Collins Engineers, P.C., dated April 7, 2010;
- (4) a property tax analysis;
- (5) a vicinity map;
- (6) Short and Full Environmental Assessment Forms;
- (7) The comments of the Rockland County Planning Department pursuant to GML § 239 l & m, dated July 9, 2010, amended by subsequent letter dated September 14, 2010;
- (8) The comments of the Rockland County Highway Department dated June 30, 2010;
- (9) The comments of the Town of Orangetown Office of Building, Zoning and Planning, dated July 13, 2010;
- (10) The comments of the Town of Orangetown Planning Board dated July 23, 2010.

and,

WHEREAS, the members of the Town Board, in general terms, are also each personally familiar with the location of the proposed development, including its proximity to the nearby roadways, parking and other development in the area; and

WHEREAS, following notice duly and properly given, a public hearing was conducted on the Petition, at which the Petitioner provided testimony and other evidence regarding various aspects of the mixed use proposed for the site under consideration, including consultants on design, market absorption, taxes and other such matters; and

WHEREAS, on the public hearing, members of the public were afforded the opportunity to speak concerning the proposed zone change and contemplated development, some of whom spoke in favor and some against the action; and

WHEREAS the Town Board has considered both the need for active adult housing within the Town as contemplated by the adoption of the PAC zoning classification, and the likely impact of such a development on the downtown Pearl River area;

NOW, BASED ON ALL OF THE INFORMATION BEFORE THE BOARD, AND THE FINDINGS HEREINAFTER MADE, BE IT RESOLVED, that the Town Board hereby adopts Local Law No.5, amending the Town's zoning map and zoning law to change the zoning classification from CS to PAC certain property located in the Hamlet of Pearl River, on the

Resolution No. 559 - Continued

northwest corner of the intersection of Central Avenue and William Street, and shown on the Tax Map of the Town of Orangetown as SBL 68.16-6-62, subject to conditions.

Specific Findings Relating to the Instant Petition

Pursuant to Chapter 43, Subsection 4.6.12, the Town Board makes the following specific Findings of Fact, pertaining to the instant Petition:

Marketability of the Proposed Units

Based on the market information provided by the Petitioner, it appears that there presently is a dearth of -- and, therefore, a need for -- rental housing in the downtown Pearl River area, meeting the specific needs and concerns of those in the 55 and older active adult age group. As of the date of this resolution, in the Town of Orangetown, only three sites have been re-zoned for a Planned Adult Community use, those being a site located on South Middletown Road, in the hamlet of Pearl River, on which eleven (11) adult units have been approved, and a second site located in close proximity to the instant site, on Veterans Memorial Drive, immediately adjacent to the site of the Hilton Hotel, known as the "Hollows", on which 124 units are to be developed, and a third site on Blue Hill Road West, east of the Blue Hill Plaza complex, all of which developments predominantly condominium or other ownership units.

Potential Saturation Within and About the Geographic Area of the Proposed Zoning Amendment.

Based on the findings set forth above, and other analyses relating to the number of eligible prospective occupants for the 14 units from within and without the Town, and the relative dearth of active adult rental housing in the relevant market area, the Town Board concludes that the approval of the instant zoning amendment, permitting the construction of up to 14 active adult housing units, will not saturate the neighborhood in which the site is located.

Suitability of the Site for Senior Housing; Vehicular Access, Transportation, Walking and Traffic Concerns in General.

The proposed residential component of the development will be age restricted and consist of 14 rental apartments above one or more ground floor community shopping / retail units.

The site is located in the center of the downtown Pearl River, convenient to mass transportation, downtown shopping and dining and other activities.

The apartments are moderately sized -- 12 one-bedroom and 2 two bedroom, in the 750 to 800 sq. ft. range -- and, thus, are not likely to attract more than 2 to 3 occupants each. They will be serviced by an elevator, and, as such, particularly suited to the active adult population.

Based on the letter report of John Collins Engineers, P.C., the proposed mixed use will generate less traffic on and along the adjoining roadways than would be generated by a movie theater of the size that formerly occupied the site.

Compatibility of a Planned Adult Community Project With the Surrounding Environment.

The proposed senior housing component of the project is compatible with the surrounding uses which include a mix of commercial, retail, dining and residential uses.

The Petitioner, in accordance with the requirements of the Local Law No. 1 of 2004, has presented to the Town Board an Illustrative layout, prepared by James H. Tanner, Architect, showing the layout of the proposed units throughout the existing building, as well as a Concept Site Plan with the existing, and thus proposed, lot and bulk controls.

Maximum Unit Count

By reason of the proposed layout, the Town Board further establishes 14 units as the maximum number of residential units permitted on the site.

Other Findings and Conditions

- ***Site Development Plan and Other Required Municipal Approvals***

The adoption of this resolution granting the requested zoning amendment from CS to PAC based upon the illustrative site plan and related materials is not intended, nor shall it be interpreted, to circumvent or usurp the authority of the Planning Board or of any other land use board having authority over site specific details.

- ***Age Limitations Under the PAC Designation***

As required by § 4.6.5 of Local Law No.1 of 2004, occupancy of the units to be developed on the site as a result of this zoning amendment shall be restricted to persons 55 years of age or older, or couples, one of whom is 55 years of age or older. Persons less than 21 years of age shall not be permanent residents under any circumstances. Households containing one or more adult handicapped persons (over the age of 21) shall also be eligible.

The Petitioner, prior to the conveyance of the first unit, shall file with the Rockland County Clerk, in a form both recordable and acceptable to the Town Attorney, a covenant, which shall run with land and bind all Petitioners and subsequent Petitioners, restricting the occupancy of the units within the PAC development as set forth in this resolution.

- ***Parking***

As addressed *infra*, in connection with the Board's review of the County Planning Department's comments, the housing units, and the occupant's thereof, are subject to whatever parking regulations shall apply, now or in the future, within the downtown area, including those that limit overnight parking. Nothing in this Local Law is intended to, nor shall it, absolve any person of the obligation to comply with such regulations.

- ***Contribution Toward Parking Improvements***

In recognition of the immediate impact upon municipal parking imposed by the proposed zone change and development, this zone change is expressly conditioned on payment by the Petitioner for the benefit of the Pearl River Parking District the sum of \$1,500.00 per residential dwelling unit, the full sum to be paid prior to the issuance of the first building permit for a residential unit

- ***Lot and Bulk Controls***

Pursuant to Town Zoning Law § 4.69(C)(2), the Town Board hereby establishes as the applicable lot and bulk controls those that appear on the concept site plan submitted by the Petitioner, representing the existing conditions of the site. With respect to parking, no on site parking is required, provided, however, that the occupants/users of the property nevertheless shall be subject to all parking regulations, in effect now or as amended, in the Pearl River Parking District.

Rockland County Planning Department Conditions

The Town Board has received, and has considered, the General Municipal Law § 239 1 & m review letters, dated July 9, 2010 and September 13, 2010, submitted by the Rockland County Department of Planning, and responds to its comments and conditions as follows:

County Comment 1 (7/9/10): To the extent a County Highway permit is required, the Petitioner shall comply in the planning and/or development process.

County Comments 2 & 3 (7/9/10), relating to the detail of the submitted conceptual site plan and the absence of a bulk table, the Board finds that, inasmuch as the zone change contemplates the re-use of an existing building within the existing footprint, the conceptual plan of development submitted with the Petition, supplemented by the further site plan with bulk table reflecting the actual bulk and lot conditions that exist submitted at the public hearing, is sufficient for the Board to evaluate the request. To the extent the County's comment may be read to require more than has been submitted to, and accepted by this Board, such requirement is expressly overridden.

County Comment 4 (7/9/10, as modified by letter of 9/13/2010), relates to on site and off site parking.

The Board is aware of the limitations of the existing site with respect to parking, as a result of which no on-site parking has been proposed. That said, the limitations of the site in this regard is one shared by many other parcels in the downtown Pearl River area, as well as in other downtown community areas in the Town and across the region. The fact is, the very nature of older downtown business districts requires governments to confront the parking dilemma either by abandoning these once thriving areas, or by working with the local business and property owners to meet their needs for the good of all? This Board chooses to move in the latter direction.

For that reason, the Board overrides the recommendation of the County Department of Planning. At the same time, it does not wholly absolve the Petitioner of the obligation to work with the Town to provide adequate parking for those who require it. In this regard, the Board accepts that the street level businesses and the apartments above may use the available on street and nearby municipal lots to satisfy their parking needs, provided they comply with the existing (or, if amended, the amended) parking regulations applicable in the area, meaning, during the winter months, when parking is restricted, those with automobiles are subject to those restrictions and will have to accommodate their parking needs in a lawful manner.

At the same time, the Board will work with the downtown business and property owners to attempt to provide increased parking for all such business and residential uses through a permit system that is fair and equitable to all.

Comment 4, to the extent it requires the Petitioner to show on site and/or off site parking, is overridden.

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

* * *

RESOLUTION NO. 560

ADJOURNMENT/MEMORY

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

RESOLVED, that the Town Board adjourned in memory of Dr. Ruben Padre, Pearl River; Thomas L Mulhearn, Nanuet; Richard J. Messemer, Pearl River; Sheila Pegley, Pearl River; Patrick Crowe, Jr., Pearl River; Roy Holmes, Blauvelt and Donald Farrell, retired Orangetown employee, at 10:37 p.m.

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

Charlotte Madigan, Town Clerk