

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
MONDAY, SEPTEMBER 22, 2008**

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

Councilman Denis Troy
Councilwoman Marie Manning
Councilman Michael Maturo
Councilwoman Nancy Low-Hogan

Also present: Charlotte Madigan, Town Clerk
John S. Edwards, Town Attorney
Teresa M. Kenny, 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
Brian Kenney, Assessor
John Giardiello, P.E., Director, OBZPAE
Rich Rose, Superintendent of Parks, Recreation and Buildings

Esta Baitler, Sparkill, led the Pledge of Allegiance to the Flag.

Kevin Nulty, Chief of Police, gave background information and introduced the newly hired Police Officers, Rafael Gonzalez, Christine McLaughlin, Scott Michel, Brandon Myers and Matthew Sullivan. Charlotte Madigan, Town Clerk, administered the Oath of Office to them.

Thom Kleiner introduced the 2009 Tentative Budget with a four (3.9%) percent increase. This increase is due to the hiring of a Justice Clerk, a Finance Clerk, contracts, health insurance, and energy. The debt service has a 25% increase to continue paying for the \$47 million sewage upgrade project and to pay the golf courses debt. A homeowner with property assessed at \$200,000 is looking at an \$83.00 increased. The Town Board will file the Preliminary Budget with the Town Clerk on October 27, 2008 and a public hearing will be held on November 3, 2008.

Public Comment:

Don Sullivan, Tappan, is against the O & R substation on Oak Tree Road. He asked the Town Board if Orange & Rockland purchases this property to build this substation and a conservation easement is given, will this affect the tax benefit. He questioned why the EAF Short Form was used rather than the long form and are there new plans, which include a 12 foot masonry façade? He also asked whether the speculation test was completed and does the Planning Board have to address the findings? He believes O & R may cause black-outs if they do not get approval by the Town. Esta Baitler, Sparkill, asked when will the sewer odors end and when the sidewalks along Route 340 will be completed.

Eileen Larkin, Palisades, spoke about traffic along Route 9W, the circuit breaker system for school taxes and energy savings.

Margaret McKee, Pearl River, requested a better meeting time for seniors to ask questions, particularly when there is an item for affordable housing on the agenda.

Pat Michel, Pearl River, asked the timeframe regarding the senior affordable housing.

RESOLUTION NO. 643

**OPEN PH/NOTIFICATION OF PUBLIC
HEARINGS BEFORE LAND USE
BOARDS**

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

Resolution No. 643 - Continued

RESOLVED, that the public hearing to consider a proposed local law regarding Notification of Public Hearings before Land Use Boards is hereby opened.

Ayes: Councilpersons Low-Hogan, Manning, Troy, Maturo
Supervisor Kleiner
Noes: None

Charlotte Madigan, Town Clerk, presented the Affidavit of Publication and Notice of Posting; copies are labeled Exhibit 9-C-08 and made a part of these minutes. Also, included in these minutes is the comment letter (Exhibit 9-C-08) from the County of Rockland Department of Planning.

Robert Magrino, Deputy Town Attorney, said Councilwoman Low-Hogan, John Giardiello, P.E., Director, OBZPAE, the ad-hoc committee and himself examined each section of the existing law. The Notification will increase to 500 feet, the letters will be mailed First Class Mail and signs will be posted for each Land Use Board. Councilwoman Low-Hogan thanked the ad-hoc committee for all their work.

Public portion:

Don Sullivan, Tappan, is glad to see the proposed changes and he asked if notification will be given for future changes?

Eileen Larkin, Palisades, agrees with changes but notification letters should be sent certified mail and she would like to see the long EAF form be completed.

Tracey Hancock, Pearl River, is in favor of this law. She thanked Councilwoman Low-Hogan and John Giardiello, P.E., Director, OBZPAE, along with their committee for all their time and effort they put into this law. She is a member of RUSH so she is very appreciative of this law.

Carmel Reilly, Pearl River, agrees with this law to change the present notification process and thanked everyone involved for their efforts.

Mike Palko, Pearl River, asked for clarification of the Appeal notification process and if residents will be notified if an Appeal is filed?

Larry Vail, Tappan, agrees with this local law but in addition he would like to see a public notice published. The notice will insure that neighbors would actually be aware of any development being proposed. He suggested adding a tutorial of the Land Use Boards process on the website.

Robert Dell, Tappan, thanked Councilwoman Low-Hogan and the ad hoc committee. He suggested envelopes be color-coded for each Land Use Board.

Fran Oldenburger, Blauvelt, is in favor of this local law and suggested mailing the letters by certified mail. She suggested expanded notification for properties located in an overlay zone, large acre properties, and commercial or industrial abutting residential properties. She recommended the notifications include the property address.

Carol Schulen, lives along the railroad tracks, agrees with this local law. She believes the notification should include the property address and could be mailed by the Town.

RESOLUTION NO. 644

**CLOSE PUBLIC PORTION
NOTIFICATION OF PUBLIC HEARINGS
BEFORE LAND USE BOARDS**

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

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

Ayes: Councilpersons Troy, Maturo, Manning, Low-Hogan
Supervisor Kleiner
Noes: None

RESOLUTION NO. 645

**DESIGNATION OF LEAD AGENCY
NOTIFICATION OF PUBLIC HEARINGS
BEFORE LAND USE BOARDS**

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

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

Ayes: Councilpersons Manning, Troy, Low-Hogan, Maturo
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 646

**NEGATIVE SEQRA DECLARATION
NOTIFICATION OF PUBLIC HEARINGS
BEFORE LAND USE BOARDS**

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

RESOLVED, that a negative SEQRA Declaration is hereby adopted, a copy is labeled Exhibit 9-D-08 and made a part of these minutes.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 647

**RESOLUTION OF THE TOWN
BOARD, ADOPTING LOCAL LAW NO.
5 OF 2008, AMENDING THE TOWN
CODE IN CONNECTION WITH THE
PUBLIC HEARING NOTIFICATION
PROVISIONS APPLICABLE TO THE
TOWN'S LAND USE BOARDS**

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

WHEREAS, the Town Board, over the course of the last four (4) ± months, has considered the various, and in some instances different, public hearing notice provisions in the Town Code applicable to the Town's Land Use Boards, including the Town Zoning Board of Appeals, Town Planning Board, Town Architecture and Community Appearance Board of Review and Town Historic Areas Board of Review; and

WHEREAS, as a result of its review the Town Board has determined that the interests of the Town's residents and/or property owners would be better served were the existing notification requirements to be amended in a manner that would make the requirements applicable to each such Board more uniform, and, in addition, ensure that those Town residents and/or property owners most likely to be affected by the action of the respective Board receive individual notice of any public hearing required to be held on an application or appeal, in addition to the published notice otherwise required by New York State law; and

WHEREAS, the Town Board has given special consideration to the distance factor to be included in any revised or amended notice requirement, and the need to balance the importance of providing adequate notice to those most adversely affected with the burden imposed on the applicants who appear before such Boards; and

WHEREAS, the Town Board has considered the environmental impacts associated with the proposed amendments, including but not limited to the information set forth in the Short Form Environmental Assessment Form prepared by the Director of the Town's Office of Building, Zoning, Planning and Enforcement, and has concluded (1) that it should be the Lead

RESOLUTION NO. 647 - Continued

Agency for environmental review under the State Environmental Quality Review Act (“SEQRA”); (2) that the proposed amendment is an “Unlisted” action under SEQRA; and (3) that the proposed amendments, to the extent they will ensure a greater measure of notification than do the existing provisions being amended, will not have a significant adverse environmental impact, and, therefore, adopts and authorizes a Negative Declaration under SEQRA; and

WHEREAS, the Town Board has further considered the response of the Rockland County Department of Planning, dated September 22, 2008, issued as part of its General Municipal Law § 239-(l) & (m) review, recommending various modifications to the proposed local law aimed principally at requiring the same level of individualized notification as contemplated for Town residents and/or property owners be given to residents of other municipalities that abut the Town of Orangetown, including residents of abutting Towns and Villages within Rockland County and in the State of New Jersey; and

WHEREAS, the Town Board has determined that, to the extent the proposed amendments continue to provide such residents of abutting municipalities with the level of notice required by State Law, i.e., published notice, while affording certain Town residents and/or property owners with “added”, more individualized notice, the proposed amendments adequately comport with State law, the Town Board has determined to override, and does override, County Planning Board Comments 1, 2, 3, and 4; and

WHEREAS, the proposed local law is clearly limited to, and at the same time encompasses, all actions by the various Land Use Boards concerning which, under State and/or Town Law, require the conduct of a lawfully noticed public hearing, no further clarification of the proposed law is required, and, accordingly, County Planning Comment 5 also is overridden;

NOW, THEREFORE, BE IT RESOLVED, Local Law No. 5 of 2008, amending the Town Code with respect to the public hearing notification provisions applicable to the Town Zoning Board of Appeals, Town Planning Board, Town Architecture and Community Appearance Board of Review and Town Historic Areas Board of Review is adopted.

Ayes: Councilpersons Low-Hogan, Troy, Manning, Maturo
Supervisor Kleiner
Noes: None

**LOCAL LAW NO. 5, 2008
OF THE TOWN OF ORANGETOWN**

PLANNING BOARD-SITE PLAN

§21A-14.1 Notice of Hearings Before The Board

A. Any public hearings on applications for pre-preliminary, preliminary and/or final site plan approval by the Board pursuant to this Chapter and New York Town Law must be advertised at least once in a newspaper of general circulation pursuant to the terms and conditions of New York Town Law §274-a, as amended.

B. In addition, all applicants, at least 10 days prior to any public hearings on applications for preliminary and/or final ~~subdivision~~ site plan approval by the Board pursuant to this Chapter and New York Town Law, shall send written notice by *first class mail* to all owners within 200 feet of the property as measured from the front, side, and rear lot lines of the subject parcel (*excluding public road ways, rights of way, and property owned by any public utility or public entity in measuring the 200 feet*), as well as all properties within 200 feet of the subject parcel along both sides of any street or roadway on which the subject parcel abuts, at the applicant’s expense. *Prior to mailing the notification, the applicant shall be responsible for generating a list of all property owners required to receive notice pursuant to this section. The written notices, in properly addressed and stamped envelopes, shall be returned to the Clerk of the Planning Board for the purpose of mailing from the Clerk’s office.* Property owners entitled to such notice shall be those listed as owners on the record in the Town of Orangetown Tax

Assessor's office as of the date of the mailing. The written notice shall contain information on a form

Local Law No. 5, 2008 - Continued

provided by the Clerk of the Planning Board and shall include the date and time of the hearing and to be continued as necessary, the name and address of the applicant and the applicant's attorney, if any, the street address of the property, the tax map designation of the property, the nature of the application, and an indication that further information on the application is available at the Office of Building Zoning Planning and Enforcement. Failure of a property owner whose name appears on the affidavit of property owners to receive the notice shall not affect the validity of the public hearing or any action taken thereat by the Board.

C. All applicants are further required to erect signs containing information regarding the public hearing as set forth in subdivision B of this section, on every lot corner and at least once every 100 feet thereafter, facing each public street on which the property abuts, giving notice that such application has been made and that a public hearing will be held. *Such signs shall be obtained from the Chief Clerk to the Planning Board or his/her designee.* Such signs are to be displayed for a period of not less than 5 days immediately preceding the hearing date or any adjourned hearing date. The sign shall not be set back more than 10 feet from any property or street line ~~and~~ shall not be less than two feet or more than six feet above grade at the property line and shall be clearly visible from the property line.

D. At the commencement of any public hearing, the applicant *must* file an affidavit with the Clerk of the Planning Board which states that the aforementioned notices have been complied with *and said affidavit shall include a list of the names and addresses of all property owners to whom notices were sent pursuant to this section and a statement that said properties are the only properties required to be notified pursuant to this section*. The Board shall not proceed with the hearing unless the affidavit has been filed.

E. In addition to the notice requirements contained herein, any applications with respect to the following projects shall require written notice by mail be made pursuant to Subdivision B of this section to all property owners within 500 feet of the proposed project:

- 1.) High Tension Transmission Lines.
- 2.) Railroad and Bus terminals.
- 3.) Satellite Dish Antennas.
- 4.) Public Utility Substations.
- 5.) Hotels and Motels.
- 6.) Radio and Television Towers.
- 7.) Public Parking Garages.
- 8.) Airports and Heliports.
- 9.) Elevated Standpipe and Water Tanks.
- 10.) Sand Pits, Gravel Pits (Mining), Topsoil, Landfill and Excavation Operations, all of which are not in accordance with the construction of buildings, structures or roads.

PLANNING BOARD-SUBDIVISIONS

§21- 39 Notice of Hearings Before The Board

A. Any public hearings on applications for pre-preliminary, preliminary and/or final subdivision approval by the Board pursuant to this Chapter and New York Town Law must be advertised at least once in a newspaper of general circulation pursuant to the terms and conditions of New York Town Law §276, as amended.

B. In addition, all applicants, at least 10 days prior to any public hearings on applications for preliminary and/or final subdivision approval by the Board pursuant to this Chapter and New York Town Law, shall send written notice by *first class mail* to all owners within 200 feet of the property as measured from the front, side, and rear lot lines of the subject parcel (*excluding public road ways, rights of way, and property owned by*

any public utility or public entity in measuring the 200 feet), as well as all properties within 200 feet of the subject parcel along both sides of any street or roadway on which

Local Law No. 5, 2008 - Continued

the subject parcel abuts, at the applicant's expense. *Prior to mailing the notification, the applicant shall be responsible for generating a list of all property owners required to receive notice pursuant to this section. The written notices, in properly addressed and stamped envelopes, shall be returned to the Clerk of the Planning Board for the purpose of mailing from the Clerk's office.* Property owners entitled to such notice shall be those listed as owners on the record in the Town of Orangetown Tax Assessor's office as of the date of the mailing. The written notice shall contain information on a form provided by the Clerk of the Planning Board and shall include the date and time of the hearing and to be continued as necessary, the name and address of the applicant and the applicant's attorney, if any, the street address of the property, the tax map designation of the property, the nature of the application, and an indication that further information on the application is available at the Office of Building Zoning Planning and Enforcement. Failure of a property owner whose name appears on the affidavit of property owners to receive the notice shall not affect the validity of the public hearing or any action taken thereat by the Board.

C. All applicants are further required to erect signs containing information regarding the public hearing as set forth in subdivision B of this section, on every lot corner and at least once every 100 feet thereafter, facing each public street on which the property abuts, giving notice that such application has been made and that a public hearing will be held. *Such signs shall be obtained from the Chief Clerk to the Planning Board or his/her designee.* Such signs are to be displayed for a period of not less than 5 days immediately preceding the hearing date or any adjourned hearing date. The sign shall not be set back more than 10 feet from any property or street line and shall not be less than two feet or more than six feet above grade at the property line and shall be clearly visible from the property line.

D. At the commencement of any public hearing, the applicant *must* file an affidavit with the Clerk of the Planning Board which states that the aforementioned notices have been complied with *and said affidavit shall include a list of the names and addresses of all property owners to whom notices were sent pursuant to this section and a statement that said properties are the only properties required to be notified pursuant to this section.* The Board shall not proceed with the hearing unless the affidavit has been filed.

E. In addition to the notice requirements contained herein, any applications with respect to the following projects shall require written notice by mail be made pursuant to Subdivision B of this section to all property owners within 500 feet of the proposed project:

- 1.) High Tension Transmission Lines.
- 2.) Railroad and Bus terminals.
- 3.) Satellite Dish Antennas.
- 4.) Public Utility Substations.
- 5.) Hotels and Motels.
- 6.) Radio and Television Towers.
- 7.) Public Parking Garages.
- 8.) Airports and Heliports.
- 9.) Elevated Standpipe and Water Tanks.
- 10.) Sand Pits, Gravel Pits (Mining), Topsoil, Landfill and Excavation Operations, all of which are not in accordance with the construction of buildings, structures or roads.

ZONING BOARD OF APPEALS

10.322. Notice and hearing. The Board of Appeals shall hold a public hearing on due notice on every appeal or other matter referred to said Board or upon which it is required to pass under this code. Every appeal or application shall state the specific provisions of this code which are involved and shall state precisely the interpretation which is sought, the use for which a special permit is sought or the details of the variance which is sought and the special

circumstances affecting the particular lot which are cited as justifying such variance, as the case may be.

Local Law No. 5, 2008 - Continued

A. Any such public hearings by the Board pursuant to this Chapter and New York Town Law must be advertised at least once in a newspaper of general circulation pursuant to the terms and conditions of New York Town Law §267-a, as amended.

B. In addition, all applicants or persons seeking relief before the Board, at least 10 days prior to any public hearings on any matter before the Board, shall send written notice by first class mail to all owners within 200 feet of the property as measured from the front, side, and rear lot lines of the subject parcel (excluding public road ways, rights of way, and property owned by any public utility or public entity in measuring the 200 feet), as well as all properties within 200 feet of the subject parcel along both sides of any street or roadway on which the subject parcel abuts, at the applicant's expense. Prior to mailing the notification, the applicant shall be responsible for generating a list of all property owners required to receive notice pursuant to this section. The written notices, in properly addressed and stamped envelopes, shall be returned to the Clerk of the Zoning Board of Appeals for the purpose of mailing from the Clerk's office. Property owners entitled to such notice shall be those listed as owners on the record in the Town of Orangetown Tax Assessor's office as of the date of the mailing. The written notice shall contain information on a form provided by the Clerk of the Board and shall include the date and time of the hearing and to be continued as necessary, the name and address of the applicant and the applicant's attorney, if any, the street address of the property, the tax map designation of the property, the nature of the application, and an indication that further information on the application is available at the Office of Building Zoning Planning and Enforcement. Failure of a property owner whose name appears on the affidavit of property owners to receive the notice shall not affect the validity of the public hearing or any action taken thereat by the Board.

C. All applicants or persons seeking relief before the Board are further required to erect signs containing information regarding the public hearing as set forth in subdivision B of this section, on every lot corner and at least once every 100 feet thereafter, facing each public street on which the property abuts, giving notice that such application has been made and that a public hearing will be held. Such signs shall be obtained from the Chief Clerk of the Zoning Board of Appeals. Such signs are to be displayed for a period of not less than 5 days immediately preceding the hearing date or any adjourned hearing date. The sign shall not be set back more than 10 feet from any property or street line, shall not be less than two feet or more than six feet above grade at the property line and shall be clearly visible from the property line.

D. At the commencement of any public hearing, the applicant must file an affidavit with the Clerk of the Zoning Board of Appeals which states that the aforementioned notices have been complied with and said affidavit shall include a list of the names and addresses of all property owners to whom notices were sent pursuant to this section and a statement that said properties are the only properties required to be notified pursuant to this section. The Board shall not proceed with the hearing unless the affidavit has been filed.

~~In addition to the notice of hearing required by the Town Law, for all such proceedings for a variance or special permit, the Board of Appeals shall also require that distinctive posters furnished by the Clerk of the Board giving notice of the hearing shall be posted at least once every 100 feet (and not more than five feet from the street) along the street frontage of the lot covered by the proposed application. Such posters shall be clearly legible, shall be posted five days prior to the date of the public hearing, exclusive of the day of posting, and shall remain in plain sight until after the hearing. The applicant shall be responsible for posting and maintaining such posters and shall file an affidavit of compliance with the Board at the public hearing.~~

~~a. In addition, notice of hearing shall be mailed to all abutting property owners at least seven days before such hearing. The applicant shall supply the names and addresses of all abutting property owners and property owners across any and all adjacent streets, together with stamped envelopes addressed to such property owners. The Clerk of the~~

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~~Zoning Board shall file an affidavit of service by mail with the Board at the public hearing.~~

E. An appeal to the Zoning Board of Appeals shall be taken within 30 days from the time that the Inspector shall make the determination sought to be appealed. The appeal shall be taken by filing with the Inspector from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Inspector from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

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F. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Inspector from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been signed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a course of record on application, or notice to the officer from whom the appeal is taken and/or due cause shown.

Local Law No. 5, 2008 - Continued

G. In addition to the notice requirements contained herein, any applications with respect to the following projects shall require written notice by mail be made pursuant to Subdivision B of this section to all property owners within 500 feet of the proposed project:

- 1.) High Tension Transmission Lines.
- 2.) Railroad and Bus terminals.
- 3.) Satellite Dish Antennas.
- 4.) Public Utility Substations.
- 5.) Hotels and Motels.
- 6.) Radio and Television Towers.
- 7.) Public Parking Garages.
- 8.) Airports and Heliports.
- 9.) Elevated Standpipe and Water Tanks.
- 10.) Sand Pits, Gravel Pits (Mining), Topsoil, Landfill and Excavation Operations, all of which are not in accordance with the construction of buildings, structures or roads.

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~~10.332. Variances. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing, at least five days prior to the date thereof, and shall, at least five days before such hearing, mail notices thereof to the parties and to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and shall decide the same within 60 days after the final hearing. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Code, the Board of Appeals shall have the power in passing upon appeals to vary or modify the application of any of the regulations or provisions of this Zoning Code relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this code shall be observed, public safety and welfare secured and substantial justice done. ACABOR~~

A. Any public hearings on applications or referrals for approval by the Board pursuant to this Chapter must be advertised at least once in a newspaper of general circulation of the Town at least 5 days prior to the date thereof.

B. In addition, all applicants, at least 10 days prior to any public hearings pursuant to this section, shall send written notice by *first class mail* to all owners within 200 feet of the property as measured from the front, side, and rear lot lines of the subject parcel (*excluding public road ways, rights of way, and property owned by any public utility or public entity in measuring the 200 feet*), as well as all properties within 200 feet of the subject parcel along both sides of any street or roadway on which the subject parcel abuts, at the applicant's expense. *Prior to mailing the notification, the applicant shall be responsible for generating a list of all property owners required to receive notice pursuant to this section. The written notices, in properly addressed and stamped envelopes, shall be returned to the Clerk of the Board for the purpose of mailing from the Clerk's office.* Property owners entitled to such notice shall be those listed as owners on the record in the Town of Orangetown Tax Assessor's office as of the date of the mailing. The written notice shall contain information on a form provided by the Clerk of the ~~Planning~~ Board and shall include the date and time of the hearing and to be continued as necessary, the name and address of the applicant and the applicant's attorney, if any, the street address of the property, the tax map designation of the property, the nature of the application, and an indication that further information on the application is available at the Office of Building Zoning Planning and Enforcement. Failure of a property owner whose name appears on the affidavit of property owners to receive the notice shall not affect the validity of the public hearing or any action taken thereat by the Board.

C. All applicants are further required to erect signs containing information regarding the public hearing as set forth in subdivision B of this section, at each corner of the lot and at least once every 100 feet thereafter, facing each public street on which the property abuts, giving notice that such application has been made and that a public hearing will be held. *Such signs shall be obtained from the Clerk to the Board.* Such signs are to be displayed for a period of not less than 5 days immediately preceding the hearing date or any adjourned hearing date. The sign shall not be set back more than 10 feet from any property or street line, ~~and~~ shall not be less than two feet or more than six feet above grade at the property line, and shall be clearly visible from the property line.

D. At the commencement of any public hearing, the applicant *must* file an affidavit with the Clerk of the Board which states that the aforementioned notices have been complied with *and said affidavit shall include a list of the names and addresses of all property owners to whom notices were sent pursuant to this section and a statement that*

Local Law No. 5, 2008 - Continued

said properties are the only properties required to be notified pursuant to this section. The Board shall not proceed with the hearing unless the affidavit has been filed.

E. In addition to the notice requirements contained herein, any applications with respect to the following projects shall require written notice by mail be made pursuant to Subdivision B of this section to all property owners within 500 feet of the proposed project:

- 1.) High Tension Transmission Lines.
- 2.) Railroad and Bus terminals.
- 3.) Satellite Dish Antennas.
- 4.) Public Utility Substations.
- 5.) Hotels and Motels. (Not sure to include this but Traffic maybe of a concern)
- 6.) Radio and Television Towers.
- 7.) Public Parking Garages.
- 8.) Airports and Heliports.
- 9.) Elevated Standpipe and Water Tanks.
- 10.) Sand Pits, Gravel Pits (Mining), Topsoil, Landfill and Excavation Operations, all of which are not in accordance with the construction of buildings, structures or roads.

§18A-9 Notice of Hearings Before The Board

A. Any public hearings on applications or referrals for approval by the Board pursuant to this Chapter must be advertised at least once in a newspaper of general circulation of the Town at least 5 days prior to the date thereof.

B. In addition, all applicants, at least 10 days prior to any public hearings pursuant to this section, shall send written notice by *first class mail* to all owners within 200 feet of the property as measured from the front, side, and rear lot lines of the subject parcel (*excluding public road ways, rights of way, and property owned by any public utility or public entity in measuring the 200 feet*), as well as all properties within 200 feet of the subject parcel along both sides of any street or roadway on which the subject parcel abuts, at the applicant's expense. *Prior to mailing the notification, the applicant shall be responsible for generating a list of all property owners required to receive notice pursuant to this section. The written notices, in properly addressed and stamped envelopes, shall be returned to the Clerk of the Board for the purpose of mailing from the Clerk's office.* Property owners entitled to such notice shall be those listed as owners on the record in the Town of Orangetown Tax Assessor's office as of the date of the mailing. The written notice shall contain information on a form provided by the Clerk of the ~~Planning~~ Board and shall include the date and time of the hearing and to be continued as necessary, the name and address of the applicant and the applicant's attorney, if any, the street address of the property, the tax map designation of the property, the nature of the application, and an indication that further information on the application is available at the Office of Building Zoning Planning and Enforcement. Failure of a property owner whose name appears on the affidavit of property owners to receive the notice shall not affect the validity of the public hearing or any action taken thereat by the Board.

C. All applicants are further required to erect signs containing information regarding the public hearing as set forth in subdivision B of this section, on every lot corner and at least once every 100 feet thereafter, facing each public street on which the property abuts, giving notice that such application has been made and that a public hearing will be held. *Such signs shall be obtained from the Clerk to the Board.* Such signs are to be displayed for a period of not less than 5 days immediately preceding the hearing date or any adjourned hearing date. The sign shall not be set back more than 10 feet from any property or street line, ~~and~~ shall not be less than two feet or more than six feet above grade at the property line, and shall be clearly visible from the property line.

Local Law No. 5, 2008 - Continued

D. At the commencement of any public hearing, the applicant *must* file an affidavit with the Clerk of the Board which states that the aforementioned notices have been complied with *and said affidavit shall include a list of the names and addresses of all property owners to whom notices were sent pursuant to this section and a statement that said properties are the only properties required to be notified pursuant to this section.* The Board shall not proceed with the hearing unless the affidavit has been filed.

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- 7.) Public Parking Garages.
- 8.) Airports and Heliports.
- 9.) Elevated Standpipe and Water Tanks.

10.) Sand Pits, Gravel Pits (Mining), Topsoil, Landfill and Excavation Operations, all of which are not in accordance with the construction of buildings, structures or roads.

RESOLUTION NO. 648

**OPEN CONTINUANCE PH/ZONE
DISTRICT CLASSIFICATION
CHANGE/283 N MIDDLETOWN RD
PEARL RIVER**

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

RESOLVED, that the continuance of public hearing from September 8, 2008 to consider a proposed local law amending Chapter 43, Article II of the Town Code of the Town of Orangetown entitled Zoning Districts, and the Town Zoning Map, to change the zoning district classification for property located at 283 North Middletown Road, Pearl River, NY, bearing Tax Map Designation S/B/L 68.12-3-24 on the Tax Map of the Town of Orangetown from MFR (Multifamily Residential) to RG (One Residential Home) is hereby opened.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

Included in these minutes is the comment letter (Exhibit 9-E-08) from the County of Rockland Department of Planning.

Public portion:

Donald Brenner, Attorney for Petitioner, said the request is to change the district from Multifamily (MFR) to Residential (RG). The parcel is surrounded by a RG district. The remainder of the parcel will remain a MFR district.

Priscilla Roth, Pearl River, asked if the landscaping area will be cleaned up and if commercial trucks will stop, when property becomes residential. She was told yes because it will become a residential home, where the Buonadonna's will live.

RESOLUTION NO. 649

**CLOSE PUBLIC PORTION/ ZONE
DISTRICT CLASSIFICATION CHANGE
283 N MIDDLETOWN RD PEARL RIVER**

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

Resolution No. 649 - Continued

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

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

RESOLUTION NO. 650

**DESIGNATION OF LEAD AGENCY
ZONE DISTRICT CLASSIFICATION
CHANGE/283 N MIDDLETOWN RD
PEARL RIVER**

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

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

Ayes: Councilpersons Troy, Low-Hogan, Manning, Maturo
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 651

**NEGATIVE SEQRA DECLARATION
ZONE DISTRICT CLASSIFICATION
CHANGE/283 N MIDDLETOWN RD
PEARL RIVER**

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

RESOLVED, that a negative SEQRA Declaration is hereby adopted, a copy is labeled Exhibit 9-F-08 and made a part of these minutes.

Ayes: Councilpersons Troy, Low-Hogan, Manning, Maturo
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 652

**ADOPT LOCAL LAW 6, 2008/ZONE
DISTRICT CLASSIFICATION CHANGE
283 N MIDDLETOWN RD/PEARL RIVER**

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

Resolution of the Town Board, Adopting Local Law No. 6 of 2008, Amending Chapter 43, Article II of the Town Code of the Town of Orangetown Entitled Zoning Districts, to Change the Zoning Classification for a Portion of the Property Located at 283 North Middletown Road, Pearl River, NY 10965, Bearing Tax Map Designation S/B/L 68.12-3-24 on the Tax Map of the Town of Orangetown from MFR (Multifamily Residential) to RG (General Residence), and Amending the Town Zoning Map Accordingly

WHEREAS, a Petition has been filed with the Town by the owner of real property located at 283 North Middletown Road, Pearl River, NY 10965, bearing Tax Map Designation S/B/L 68.12-3-24 on the Tax Map of the Town of Orangetown, to Change the zoning classification of a portion of said property from MFR (Multifamily Residential) to RG (General Residence), and for a corresponding amendment to the Town’s Zoning Map; and

Resolution No. 652 - Continued

WHEREAS, the Town Board, pursuant to notice duly given in accordance with the requirements of the N.Y.S. Town Law and the Town Code of the Town of Orangetown, conducted a public hearing on the said Petition on September 8, 2008, which hearing was continued on September 22, 2008; and

WHEREAS, prior to the conduct of said public hearing the Town circulated the Petition and related supporting documentation to the Rockland County Planning Department, as required by General Municipal Law §§ 239-(l) & (m), requesting its review and comments, as well as to other State and local agencies, boards and departments under the State Environmental Quality Review Act (“SEQRA”), indicating the Town Board’s intention to act as Lead Agency for the coordinated environmental review of the proposed action; and

WHEREAS, in the course of its review and consideration, the Town Board has considered the proposed zone change in the light of the Town’s Comprehensive Plan, and concludes that the proposed change is consistent both with the Town’s Comprehensive Plan for the area and with the general character of the surrounding neighborhood and environs; and

WHEREAS, more than thirty (30) days have elapsed since such notice was given under SEQRA and no other agency has objected to the Town Board serving in such capacity; and

WHEREAS, after having taken a “hard look” at all of the potential environmental impacts associated with the contemplated action based on the Environmental Assessment Form

filed and reviewed herein, the Board’s familiarity with the area, including the existing overall development and character of the neighborhood and surrounding environs, as well as the potential for only limited future development of the portion property to be rezoned, the Town Board has determined (1) that the proposed action is an “Unlisted action” under SEQRA, and (2) that such action will not have any significant adverse impact on the environment, as a result of which it has adopted a Negative Declaration with respect to the action; and

WHEREAS, the Town Board has further considered the comments by the Rockland County Department of Planning, dated September 22, 2008, issued in connection with its General Municipal Law § 239-(l) & (m) review, recommending various modifications to the proposed local law; and

WHEREAS, the Town Board has determined to override County Comment 1 in that the proposed re-zoning of only a portion of the referenced property, as contemplated (1) will not create any greater non-conformity with respect to the existing landscape use located on the property than presently exists, in that more than one acre legally required for such use will remain in the existing zone; and (2) such re-zoning of this parcel will not affect permitted or existing lawful non-conforming landscape uses in other zones; and

WHEREAS, the Town Board, after having examined the other nearby lots referred to in County Comment 2, including the lot owned by the Town and recently improved with a drainage basin and related drainage improvements at a cost of over \$1 Million, has further concluded that such other tax parcels ought not be re-zoned, and that, for such reason, County Comment 2 also should be, and is, overridden,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts Local Law No. 6 of 2008, amending Chapter 43, Article II of the Town Code of the Town of Orangetown entitled “Zoning Districts”, to change the zoning classification for a portion of the property located at 283 North Middletown Road, Pearl River, NY 10965, bearing Tax Map Designation S/B/L 68.12-3-24 on the Tax Map of the Town of Orangetown from MFR (Multifamily Residential) to RG (General Residence), said portion more fully described in the Petition and Local Law made a part hereof, and amending the Town Zoning Map accordingly.

Ayes: Councilpersons Manning, Troy, Low-Hogan, Maturo
Supervisor Kleiner
Noes: None

* * *

**LOCAL LAW NO. 6, 2008
OF THE TOWN OF ORANGETOWN**

Change the zoning district classification for a portion of the property located at 283 North Middletown Road, Pearl River, NY 10965, bearing Tax Map Designation S/B/L 68.12-3-24 on the Tax Map of the Town of Orangetown from MFR (Multifamily Residential) to RG (General Residential) in accordance with the following description:

All that certain plot, piece or parcel of land with improvements erected thereon, situate, lying and being in Pearl River, Town of Orangetown, Rockland County, New York, being more particularly bounded and described as follows:

BEGINNING at point lying 823.53 feet west of Middletown Road, said point being the south westerly corner of lands now or formerly Buonadonna as described in Instrument No. 2000-19117 filed in the Rockland County Clerk’s Office, and the south west corner of the parcel about to be described and running thence

North 29 degrees 19 minutes 00 seconds East 110.33 feet

THENCE South 85 degrees 47 minutes 00 seconds East 211.81 feet

THENCE South 04 degrees 13 minutes 00 seconds West 99.91 feet

THENCE North 85 degrees 47 minutes 00 seconds West 258.61 feet to the POINT OR PLACE OF BEGINNING.

Together with and subject to covenants, easements, and restrictions of record.

Said property being a portion of Tax Lot 68.12-3-24 on the Tax Map of the Town of Orangetown and containing 0.5395 acres more or less.

RESOLUTION NO. 653

**2009 TENTATIVE BUDGET
DISTRIBUTED/RECEIVE/FILE**

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

RESOLVED, that the 2009 Tentative budget and budget messages, estimates and schedules of the various administrative units are received and filed in the Town Clerk’s Office the Town Clerk distributed to the Town Board.

Ayes: Councilpersons Maturo, Low-Hogan, Troy, Manning
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 654

**ADOPT/PLANNED ACTIVE ADULT
AFFORDABLE HOUSING PROGRAM
REGULATIONS AND PROCEDURES**

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

RESOLVED, that in accordance with Chapter 43, Section 4.66 of the Planned Adult Community Floating Zone, the following Planned Active Adult Affordable Housing Program Regulations and Procedures is hereby adopted.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

* * *

**Planned Active Adult Affordable Housing Program
Regulations and Procedures**

In furtherance of the legislative purposes sought to be achieved by the adoption of the Planned Adult Community zoning district, in general, and the affordable unit component thereof, in particular, the following regulations and procedures shall govern the eligibility, selection, pricing and re-sale pricing of all affordable units developed as part of such an approved PAC development that includes such units.

1. Determination of the Unit Purchase Price

Chapter 43, § Section 4.66 the Town’s PAC zone provides that “For owner-occupied units, the affordable units shall be sold at a price not to exceed 3.3 times 80% of the median family income for Rockland County, as established annually by the U.S. Department of Housing and Urban Development (“HUD”). This requires that the unit price be re-calculated annually.

Utilizing the median family income for a family of four (4), for 2008, the purchase price for an affordable unit (irrespective of size or amenities) is \$255,288.00. Before entering into a contract of sale for the purchase of an affordable unit, both sellers and purchasers should contact the Town’s “Monitoring Agent” to determine the permissible maximum price.

2. Income and Asset Eligibility Criteria

A. Annual Income Limits

Section 4.67 of the PAC Zoning Law provides that “The maximum household income for affordable units shall be 80% of the median income for Rockland County families established annually by the U.S. Department of Housing and Urban Development. Because HUD annually publishes an array of income data which varies not only by location, but also by family size, and notwithstanding the fact that PAC zone purchasers will likely consist of one and two-person households, the Town Board has further determined to use the four-person household income for determining income eligibility in order to capture the greatest percentage of those persons intended to be benefited by the program. That four person household figure is also consistent with the figure used to compute the purchase price.

For 2008, the HUD established median income for a household of four in Rockland County is \$96,700.00, making the maximum annual household income \$77,360.00, *i.e.*, $80 \times \$96,700.00 = \$77,360.00$

(i) Definition of Household Income

Household income is defined as the total annual household income of the title owners of the affordable unit - those persons whose names will appear on the deed of the affordable unit. Household income includes both earned income and passive income. Income of adult children who live with their parents will be excluded, unless they are also on title.

Household income includes the following:

- earned income from current employment, social security and/or pensions;
- passive income, including interest from income producing assets, dividends, investments, real estate, etc.

(ii) Calculation and Inclusion of Passive Income

Unlike rental units, where household income generally must be certified yearly to determine continued eligibility, the PAC affordable units are for purchase, meaning that income (and asset) certification is a one time exercise. Given that distinction, and so that a prospective purchaser of an affordable unit is neither qualified or disqualified on the basis of the performance of an income generating asset in a single year, the Town Board has determined that it is more appropriate to impute an annual interest rate to all income producing assets and add that amount to the person’s annual earned income to determine income eligibility.

Planned Active Adult Affordable Housing Program Regulations and Procedures - Continued

The Town Board has selected 5% as a fair and reasonable % to compute the value of passive income. Five per cent is a discretionary percentage, but it is not an arbitrary %; rather, it is a rate intended to take into account significant historical fluctuations in the interest rate for a standard three-year Certificate of Deposit. Five percent (5%) is a discretionary percentage but takes into account the significant historical fluctuations in the interest rate for a standard three-year Certificate of Deposit.

Assets to be counted in the asset calculation include but are not limited to the following income producing or appreciating assets:

- revocable trusts, stocks, bonds, treasury funds, mutual funds,
- 401ks, IRAs, other non-cash retirement investment instruments, certificates of deposit,
- cash, bank deposits,
- other assets that are a part of an active business,
- income from real estate.

Assets to be excluded are non-income producing personal property such as safe deposit box contents, and the cash value of life insurance policies. The value of any pension or retirement instrument will not be counted unless the person is drawing it down as income.

(Generally, pensions or other similar retirement vehicles are intended to be drawn down as income during retirement and have a penalty imposed upon early withdrawal.)

B. Maximum Total Value of Assets

Consistent with the legislative intent of the Town Board when it adopted the PAC Zoning Law that a certain number of units in each PAC development should be made available to persons of “moderate” means -- the 80% of median income figure being the % ascribed by HUD as reflective of “moderate” income -- the Town Board has determined that there should be a limit on the total value of an eligible purchaser’s assets. Setting a maximum asset value will allow the limited number of units available to be more targeted to those of more modest means. (As a point of reference, the median sales price for a home in Rockland was \$450,000.00 in June, 2008.)

The Board further has established a formula by which to compute an asset maximum by multiplying the current affordable housing price by a multiplier of 2.35. This asset limit will increase annually without the Board taking any action since it is a linked to the price of the affordable housing unit which, in turn, is indexed to the HUD median income. When the HUD median income is increased annually, the price of the affordable housing unit and the maximum asset limit will be adjusted accordingly. For 2008, the limit for total assets is \$600,000.00 (\$255,288.00 x 2.35).

- **Net Proceeds from the Sale of the Home As a Component of One’s Assets**

It is assumed that the majority of applicants for an affordable unit will already own a home which they will be selling, or will have sold, in order to purchase the new affordable unit, investing a portion of the net proceeds of the sale in the purchase of the affordable unit. For the purposes of income and asset determination, the portion of the net proceeds from the sale of the purchaser’s existing home not invested in the affordable unit will be included in each (income / asset) calculation.

Either a HUD-1 Settlement Statement or a current market analysis of the existing home will be required to make a determination of the value of the includable asset. When a sale is pending, the contract price will be used to determine the asset’s value. Net proceeds includable as an asset are, thus, calculated as follows:

Current market analysis (contract price or sales price)	
-	(Closing costs)
-	<u>(Outstanding mortgage)</u>
	Net proceeds

Planned Active Adult Affordable Housing Program Regulations and Procedures - Continued

Once the net proceeds from the home sale are determined, the purchaser will be asked to indicate the minimum amount that will be used for the purchase of the affordable unit. The difference will be treated as an asset in the asset calculation and a percentage of that net amount applied in the income determination.

As an example, John Smith is 65 years old. Recently, Mr. Smith sold his home for \$500,000.00. He had an outstanding mortgage of \$100,000.00 and closing expenses of \$15,000.00. The net amount realized according to his HUD-1 Settlement Statement was \$385,000.00. He has indicated that he will pay \$175,000.00 towards the purchase of the affordable unit. The difference of \$210,000.00 will be considered an asset and included in the maximum asset calculation. The imputed interest rate will also be applied to this amount to calculate the value of his passive income in the income calculation.

\$500,000.00	Sales price
100,000.00	Outstanding mortgage
+ <u>15,000.00</u>	Closing costs
\$385,000.00	Net Proceeds

\$385,000.00 Net Proceeds

-175,000.00 Amount to be used for affordable unit
 \$210,000.00 Amount to be used for maximum asset calculation

C. Determination of Eligibility / An Example

Expanding on the example above, Mr. Smith no longer works but receives earned income from a pension and social security. Regarding passive income, Mr. Smith has another pension invested in various stocks worth approximately \$300,000.00. Although he is allowed to withdraw funds at any given time, he chooses to reinvest his dividends until age 70. Mr. Smith also has 2 certificates of deposit worth \$50,000.00 which earn 5% annually; a checking account earning 0% interest and a savings account earning 2% interest totaling \$10,000.00.

His passive income generating assets are:

\$210,000.00 Net proceeds from sale of home – amount for afford. unit
 (\$385,000 - \$175,000)
 300,000.00 Retirement investment
 50,000.00 Certificate of deposit
10,000.00 Checking/savings account
 \$570,000.00 Net assets

Using 5%, the total annual income derived from assets (5% x \$570,000.00) = \$28,500.00. Adding the amounts for earned and unearned income produces a total household income of \$56,500.00.

\$ 28,000.00 social security and pension
+ 28,500.00 imputed interest on assets
 \$ 56,500.00 annual income

Mr. Smith would qualify to purchase a unit based on his annual income of \$56,500.00 which falls below the \$77,360.00 maximum *and* his net assets of \$570,000.00 which are below \$600,000.00.

3. Income and Asset Certification

Income certification will be performed by the Town’s Monitoring Agent. Once an apparently eligible applicant has been offered a unit, the applicant must submit to the Monitoring Agent documentation for income / asset certification consisting of :

Planned Active Adult Affordable Housing Program Regulations and Procedures - Continued

- paycheck stubs;
- W2s and tax returns for the past two years;
- a verified statement of assets

Additionally, either a HUD 1 Settlement Statement or a current market analysis of the applicant’s current home will be required in order to make a determination of the worth of the applicant’s home for income eligibility, as described below. Other documentation may be required by the Monitoring Agent to substantiate compliance with these limitations.

The income asset certification is conducted only once to ascertain eligibility for purchasing a unit. Because this is ownership housing and not rental housing, there is no annual recertification.

4. Preferences

Affordable Units shall be made available giving recognition to the following preferences:

1. Current Orangetown residents who have lived in the Town at least 10 consecutive years;
2. All others.

Federal fair housing laws allow municipalities to give preference to residents.

5. Duration of Affordability

Affordable units shall remain affordable, meaning they shall remain subject to these regulations and procedures, as same may be amended from time to time, for a period of 99 years measured from the date of initial sale. The restrictions on ownership, price and eligibility, all consistent with the PAC Zoning Law and these implementing regulations, as from time to time may be amended, shall be embodied in a Restrictive Covenant, in a form approved by the Town Attorney, recorded against each affordable unit. (Provided, however, that no amendment to these Procedures and Regulations shall restrict the price on resale to an amount less than the price paid on purchase as adjusted in accordance with §§ 6 and 11 below.)

6. Resale Formula

The PAC zoning law requires that the maximum price on re-sale of an affordable unit be based on a formula tied to the HUD median income at the time of resale, as at the time of the initial sale by the developer. The HUD median income established for each county typically, but not always, increases annually by approximately 2% to reflect inflation, meaning the maximum re-sale would be expected to increase in the same amount, provided, however, as set forth above at § 5 above, the maximum re-sale price shall never be deemed restricted to an amount less than that paid by the seller.

In addition to any increase in price occasioned by an increase in the HUD median income, and subject to the limitations set forth at § 11 below, the sales price on any re-sale may include an upward adjustment equal to the actual cost of any allowable capital improvement made to the unit by the unit owner during the period of his/her ownership, said allowable amount reduced at a rate of 10% per year measured from the date of such improvement, but in no event shall any actual increase in price attributable to such improvement(s), on resale, be greater than a total \$25,000.00. The unit owner shall retain receipts for all work performed at, or equipment purchased for, the unit. "Capital improvements" are intended to be those improvements that would be recognized as such by the IRS.

7. Resale Monitoring

The Town will designate a person or entity each year to perform the duties of Monitoring Agent set forth herein. Among the responsibilities hereby delegated to the Monitoring Agent shall be to compute the maximum re-sale price and to determine purchaser eligibility, both in accordance with the provisions hereof.

Planned Active Adult Affordable Housing Program Regulations and Procedures - Continued

The fee for the services provided by the Monitoring Agent, as established by contract with the Town, will be paid directly by the purchaser of the unit sold. The fee is in the nature of a closing cost that may be added as an upward adjustment to the price on re-sale.

8. Outreach to Potential Buyers

To ensure that residents have current information about the program and the available units, the Town will host an informational workshop with the Monitoring Agent for each development before the affordable units of that development come on line. The agenda at such sessions will cover:

1. Program Basics:

- income eligibility; asset limitations; verification process and resale restrictions
- restrictive covenant; duration of affordability and preferences;
- PAC restrictions on occupancy (55 years and over, no children, etc.), overview of condominium ownership;

2. Selection and Lottery Process

3. The Development

- presentation of development (renderings);
- identification of units available for purchase;
- square footage, number of bedrooms (floor plans); common charges, taxes for each unit;
- amenities;
- offering plan overview;
- contract issues unique to the Development;
- example of mortgage amount and monthly payment for the unit.

9. Notification by Developer of Available Units

The developer responsible for developing affordable units as stipulated in the PAC zone change approval must provide the Town with a written construction schedule for the applicable units upon issuance of the first building permit for any unit in the development. The developer must further notify the Town, in writing, 4 months before the developer anticipates receiving a certificate of occupancy for any affordable unit. The developer must also submit a copy of the approved Offering Plan and all amendments at the time they are filed.

10. Process for Selection of Purchasers

The following process avoids unnecessary involvement by the Town in selection or income certification and, at the same time, ensures an appropriate degree of oversight.

A. Information Meeting – The Monitoring Agent, the Town and the Developer shall hold an information meeting at which the overall program and process will be presented orally and through written handouts. Basic information will also be available on the affordable units at the specific development. Income verification forms will be available, as will the form of the deed restriction so that prospective purchasers can review them. Key dates and deadlines will be explained, including the date of the lottery.

B. Site Visit – Prospective purchasers will be encouraged to visit the development and tour the affordable, or similar, units (when available) to determine which units, if any, might be of interest. Interested persons will be directed to the developer's contact person for appointments and tours. Prospective purchasers will be asked to visit the development within two weeks of the information meeting.

Planned Active Adult Affordable Housing Program Regulations and Procedures - Continued

C. Initial Application - If a prospective purchaser decides to participate in the program, he or she must submit an Initial Application within thirty days following the Information Meeting, together with a \$100 application fee. By signing the Initial Application, the applicant also agrees to pay an administrative fee to the Monitoring Agent to be set annually by the Town Board upon signing a contract to purchase a unit.

The Initial Application shall also be used to ascertain whether an applicant meets any preference category. That determination will be made by the Monitoring Agent and indicated on the form designed for the lottery.

Applicants will be notified in writing of their preference status and of the lottery date.

D. Lottery – With the assistance of the Monitoring Agent, the Town will publicly conduct one lottery for each development for all of the affordable units within that development. Regardless of whether the construction of the units is undertaken in phases, one lottery will be held for all affordable units within the development.

A card for each eligible applicant who has previously submitted an Initial Application will be prepared, indicating, among other things, the applicant's preference status. All cards will be placed in a container for the drawing. All cards will be pulled, and the names will be

announced along with their preference status. Each name will be assigned a number in the order it is drawn and entered onto one of the two preference lists. The first list will consist of those applicants meeting the Town residency preference criteria, and the second list will consist of all other applicants. By pulling all of the names, applicants will learn their number order and relative chance of obtaining a unit.

E. Unit Selection - After the two lists have been established, the applicant designated number 1 on the Town preference list will be offered his or her first choice, followed by number 2 on the Town preference list, who will be offered one of the remaining units, and so forth until all units have been spoken for.

Units will not be offered to anyone on the second (non-Town) list until all of the names from the first list have been exhausted.

The entire selection process is estimated to take approximately six weeks from the date of the Information Meeting to the announcement of lottery winners.

F. Income Certification – After the lottery is conducted and the prospective purchasers are selected, the purchasers will be required to submit a more thorough application and income documentation, including paycheck stubs, W2s, tax returns, and other financial information as may be required by the Monitoring Agent to confirm eligibility. An applicant will have 30 days within which to submit this information.

The Monitoring Agent will review the submission and inform each applicant in writing whether they meet the income and asset eligibility criteria. For those who are eligible, the Monitoring Agent will certify to the Town that each applicant meets the income / asset eligibility guidelines.

G. Contract - After eligibility is certified for an applicant, the applicant will have thirty (30) days within which to enter into a contract with the developer and, if necessary, apply for a mortgage.

If the applicant cannot sign a contract within the deadline or negotiate an extension with the developer, the unit will be offered to the next person.

H. Deed restriction – The title company will record the deed with restriction as prepared and approved by the Town.

I. Payment to Monitoring Agent – The Monitoring Agent will be paid a set fee per unit directly by the purchaser at the time of contract signing.

Planned Active Adult Affordable Housing Program Regulations and Procedures - Continued

11. Selection of Purchasers for Units that are Resold

The Monitoring Agent, in cooperation with the Town, will establish a waiting list year for the resale of any of the affordable units.

12. Upgrades to Newly Constructed Affordable Units

While there is no limit to the dollar cost of upgrades to a newly constructed affordable unit that a purchaser may expend, the re-sale price of the unit shall not increase by more than \$25,000.00 attributable to such upgrades. (The term “upgrade”, is not intended to encompass those capital improvements required to maintain the unit in good habitable condition.)

* * *

RESOLUTION NO. 655

COMBINE AGENDA ITEMS

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

RESOLVED, that items thirteen (13) through twenty-four (24) are hereby combined.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 656 **APPOINT/DEME MAINTENANCE
MECHANIC I/KEVIN O'CONNELL**

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

RESOLVED, that employee, Kevin O'Connell, is hereby appointed to the position of Maintenance Mechanic I, in the Department of Environmental Management and Engineering, permanent with a mandatory 6-month probationary period, grade 13-3, annual salary \$56,217, effective September 23, 2008.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 657 **RESCIND RESOLUTION NO. 469/2008
RETAIN GOLF PROPERTY
ANALYSTS/MANHATTAN WOODS**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Assessor, Town Board Resolution No. 469 of 2008 is hereby rescinded and Golf Property Analysts is hereby retained to prepare a preliminary and trial appraisal (latter if necessary) for the real property known as Manhattan Woods Enterprises LLC, S/B/L 69.06-2-24; S/B/L 64.18-2-75; S/B/L 69.11-1-1; at a cost of \$6,000 for the preliminary report, and \$18,000.00 for the trial appraisal (if necessary), with testimony at trial to be billed at \$350 per hour; with one-third (1/3) of the cost of the appraisal to be paid by the Pearl River School District.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 658 **APPROVE/SETTLEMENT
STEPHANIE JOHNSON v TOWN OF
ORANGETOWN**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office, the settlement of \$13,266.09, as set forth by Gallagher Bassett, in the matter of Stephanie Johnson v. the Town of Orangetown is hereby approved.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 659 **AUTHORIZE/INTERMUNICIPAL
AGREEMENT/COUNTY OF
ROCKLAND/REACT TEAM**

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

RESOLVED, that upon the recommendation and approval of the Town Attorney's Office, the Town Supervisor is hereby authorized to sign the Intermunicipal Agreement with the County of Rockland for police department overtime for counter-terrorism training for the County REACT Team as outlined in the LETTP Homeland Security Grant from July 1, 2006 and terminating June 30, 2008.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

* * *

RESOLUTION NO. 660 **AUTHORIZE/STIPULATION OF DISCONTINUANCE/30 RAMLAND ROAD/73.02-1-28**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Assessor, Dennis D. Michaels, Deputy Town Attorney, is hereby authorized to sign the Stipulation of Discontinuance regarding the tax certiorari proceeding 30 Ramland Road, LLC v. The Assessor of the Town of Orangetown, et al., Tax Map designation 73.02-1-28 for the tax assessment years 2002 and 2004, Supreme Court, Westchester County Index No. 5062/02 and Index No. 5023/04.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 661 **AUTHORIZE CONSENT JUDGEMENT TAX CERTIORARI/30 RAMLAND ROAD LLC/73.02-1-28**

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

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Assessor, Dennis D. Michaels, Deputy Town Attorney, is hereby authorized to sign the Consent Judgment regarding the tax certiorari proceeding 30 Ramland Road, LLC v. The Assessor of the Town of Orangetown, et al., Tax Map designation 73.02-1-28 for the tax assessment years 2005, **Resolution No. 661 - Continued**

2006, and 2007, for a total refund by the County of \$4,163, and for a total refund by the Town of \$16,124. Interest on the Town's liability as a result of assessment decrease or refund is waived if payment is made within sixty (60) days after a copy of the order based upon the settlement is served on the Town.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 662 **ACCEPT MINUTES**

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

RESOLVED, that the September 8, 2008 Regular Town Board Meeting and Audit Meeting minutes and September 10th and 11th Special Town Board Meeting minutes are hereby accepted.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 663

AWARD BID/TRAFFIC CALMING DEVICES/TRAFFIC LOGIX/HIGHWAY

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

WHEREAS, the Superintendent of Highways duly advertised for sealed bids for traffic calming devices, which were received and publicly opened on September 10, 2008. The Superintendent made this recommendation to the Town Board; a copy is labeled Exhibit 9-G-08, and made a part of these minutes. Now, Therefore, Be It

RESOLVED, that this bid is hereby awarded to Traffic Logix, Spring Valley, NY, the only bidder, in the amount of \$40,000 to be charged to Traffic Calming Grant funded by Senator Tom Morahan.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 664

AWARD BID/SALT STORAGE FACILITY ROOF /HIGHWAY

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

WHEREAS, the Superintendent of Highways duly advertised for sealed bids for traffic calming devices, which were received and publicly opened on August 20, 2008. The Superintendent made this recommendation to the Town Board; a copy is labeled Exhibit 9-H-08, and made a part of these minutes. Now, Therefore, Be It

RESOLVED, that this bid is hereby awarded to Stiles Contracting Co., West Nyack, NY, the lowest qualified bidder, in the amount of \$39,500 to be charged to Account No. D51420449.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 665

AWARD BID/NEW ROLLER AND TRAILER/HIGHWAY

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

WHEREAS, the Superintendent of Highways duly advertised for sealed bids for one new roller and trailer, which were received and publicly opened on August 27, 2008. The Superintendent made this recommendation to the Town Board; a copy is labeled Exhibit 9-I-08, and made a part of these minutes. Now, Therefore, Be It

RESOLVED, that this bid is hereby awarded to Edward Ehrbar Inc., NY, the lowest qualified bidder, in the amount of \$42,144 to be charged to Account No. D513005250200.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 666

ADOPT-A-ROAD/HUNT ROAD/HDR ENGINEERING/HIGHWAY

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

RESOLVED, that the Adopt-A-Road Program Application submitted by HDR Engineering, Inc., for the section of Hunt Road from Veteran’s Memorial Drive to Blaisdell Road in Pearl River is hereby approved.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 667

**APPOINT HEARING OFFICER /JOSEPH
A WOOLEY ESQ/EMPLOYEE NO. 1443**

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

RESOLVED, that Joseph A. Wooley, Esq., with offices at P. O. Box #6, Hawthorne, New York 10532, is hereby approved to act as a hearing officer pursuant to §75 of the Civil Service Law of the State of New York with respect to employee number 1443 and certain disciplinary charges preferred by the Superintendent of Parks & Recreation against said employee, and hereby directs that officer to conduct a hearing, make findings of fact and issue a recommendation of guilt or innocence along with a recommended penalty, if appropriate, to the Town Board; and that Joseph A. Wooley, Esq. shall be compensated at a rate of \$175.00 per hour for services rendered.

Ayes: Councilpersons Maturo, Manning, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 668

ADJOURNMENT/MEMORY/ENTER AUDIT

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

RESOLVED, that the Town Board adjourned this meeting in memory of Paul K. Prisco, Palisades and Olivia McHugh, Blauvelt and entered the Audit Meeting at 10:10 p.m.

Ayes: Councilpersons Manning, Maturo, Troy, Low-Hogan
Supervisor Kleiner
Noes: None

Charlotte Madigan, Town Clerk