

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING AGENDA
TUESDAY, SEPTEMBER 29, 2015**

This Regular Town Board Meeting was opened at 7:45 p.m. Supervisor Stewart presided and Charlotte Madigan, Town Clerk, called the roll. Present were:

Councilman Denis Troy
Councilman Thomas Diviny
Councilman Thomas Morr
Councilman Paul Valentine

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, Deputy Town Attorney
Jeff Bencik, Finance Director
James Dean, Superintendent of Highways
Joe Moran, Commissioner of DEMA
Robert Simon, Receiver of Taxes
John Giardiello, Director of OBZPAE
Aric Gorton, Superintendent of Parks, Recreation & Building Maint
Kevin Nulty, Police Chief
James Brown, Police Captain
Donald Butterworth, Police Captain

Pledge of Allegiance to the Flag of the United States of America was led by Charlotte Madigan.

Announcements:

Orangetown Police Department - OPEN HOUSE – October 3RD 11:00 A.M.
Shredding Day at Town Hall – October 6th, 4:00 P.M. – 7:00 P.M

Presentation: Supervisor's 2016 Budget Proposal, Andy Stewart

RESOLUTION NO. 417

**APPROVE APPOINTMENT/THOMAS
HOLIHAN/DETECTIVE SERGEANT**

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

RESOLVED, upon the recommendation of the Chief of Police, effective September 30, 2015, detail Thomas Holihan the duties of a Detective Sergeant, with assignments to include: patrol, administrative, criminal, youth and internal affairs investigations, at a salary consistent with the current labor agreement, between the Town of Orangetown and the Orangetown PBA.

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

RESOLUTION NO. 418

**APPOINT POLICE OFFICER
ROBERT WENTLAND**

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

RESOLVED, upon the recommendation of the Chief of Police, Robert Wentland is hereby appointed, from Rockland County Civil Service List # (OC) 61-134, to the position of Police Officer/Permanent, effective October 6, 2015, at a salary consistent with the terms of the labor agreement, between the Town of Orangetown and Orangetown PBA.

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

RESOLUTION NO. 419**APPOINT POLICE OFFICER
MARTIN FOGARTY**

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

RESOLVED, upon the recommendation of the Chief of Police, Martin Fogarty is hereby appointed, from Rockland County Civil Service List # (OC) 61-134, to the position of Police Officer/Permanent, effective October 6, 2015, at a salary consistent with the terms of the labor agreement, between the Town of Orangetown and Orangetown PBA.

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

RESOLUTION NO. 420**APPOINT POLICE OFFICER
MARK DURNEY**

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

RESOLVED, upon the recommendation of the Chief of Police, Mark Durney is hereby appointed, from Rockland County Civil Service List # (OC) 61-134, to the position of Police Officer/Permanent, effective October 6, 2015, at a salary consistent with the terms of the labor agreement, between the Town of Orangetown and Orangetown PBA.

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

RESOLUTION NO. 421**APPOINT POLICE OFFICER
SHANE CURRAN**

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

RESOLVED, upon the recommendation of the Chief of Police, Shane Curran is hereby appointed, from Rockland County Civil Service List # (OC) 61-134, to the position of Police Officer/Permanent, effective October 6, 2015, at a salary consistent with the terms of the labor agreement, between the Town of Orangetown and Orangetown PBA.

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

Charlotte Madigan, Town Clerk, sworn-in these Police Officers.

RESOLUTION NO. 422**OPEN PH/AMEND TOWN CODE
CHAPTER 24C/PROPERTY
MAINTENANCE/REGULATION
OF BAMBOO**

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

RESOLVED, that the 8:00 pm public hearing to amend Chapter 24C, Property Maintenance, by adding a chapter - Regulation of Bamboo is hereby opened.

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

Charlotte Madigan, Town Clerk, presented the Affidavit of Publication and the Notice of Posting; copies are labeled Exhibit 09-A-15 and made a part of these minutes.

Summary of Public Comments:

Charles Hayes, KD Rothman, PC law-firm, is in litigation regarding bamboo. The Arbor and the American Bamboo Associations do not recommend metal or concrete barriers for control.

Cynthia Anselmo, Palisades, explained that this local law states that the invaded neighbor has to let the bamboo owner and the Building Dept. know of their objections. She believes the height should be regulated and she should not be responsible for paying the costs for maintenance.

Carol Schelin, Tappan, wonders if vegetation can be legislated. Vegetation does not recognize property lines.

Watson Morgan, Blauvelt and Environmental Committee, is in favor of this local law. He spoke about state laws regarding bamboo. He agrees the invaded property owner should not be responsible for any costs.

RESOLUTION NO. 423

**CLOSE PH/AMEND TOWN CODE
CHAPTER 24C/PROPERTY
MAINTENANCE/REGULATION
OF BAMBOO**

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

RESOLVED, the public portion is hereby closed.

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

RESOLUTION NO. 424

**LEAD AGENCY/AMEND TOWN CODE
CHAPTER 24C/PROPERTY
MAINTENANCE/REGULATION OF
BAMBOO**

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

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

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

RESOLUTION NO. 425

**SEQRA DECLARATION/AMEND TOWN
CODE/CHAPTER 24C/PROPERTY
MAINTENANCE/REGULATION OF
BAMBOO**

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

RESOLVED, that a SEQRA Declaration of non-significance, indicating that the action the Town Board is contemplating will not have a significant negative impact on the environment, is hereby adopted; copy is labeled Exhibit 09-B-15 and made a part of these minutes.

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

RESOLUTION NO. 426**ADOPT/LOCAL LAW NO. 4/2015
AMEND TOWN CODE/CHAPTER 24C
PROPERTY MAINTENANCE/
REGULATION OF BAMBOO
SECTION 4.1**

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

WHEREAS, the Town of Orangetown has determined it is in the interest of the Town to promote and protect the property, property values and welfare of the residents of the Town of Orangetown, and to protect the property and preserve the aesthetic qualities of the environment of the Town of Orangetown. It is the finding of the Town Board that the planting and/or the growing of bamboo, a plant not indigenous within the Town of Orangetown, has been and will continue to be destructive to the natural environment, including indigenous flora, and destructive to structures and walks on properties within the Town adjoining and neighboring those properties where bamboo has been planted and/or permitted to grow; that because of these effects the planting and the growing of bamboo threatens the value and physical integrity of both public and private property in the Town; and that therefore, in order to protect and preserve said environment and values, the Town declares it necessary to regulate or prohibit the planting and/or growing of bamboo, specifically the species commonly known as “golden bamboo” (*Phyllostachys aurea*) and “yellow grove bamboo” (*Phyllostachys aureosulcata*) within the Town.

RESOLVED, Local Law No. 4 of 2015, amending Chapter 24C, entitled “Property Maintenance” by adding a new Section 4.1 entitled “Bamboo”, is hereby adopted; copy is labeled Exhibit 09-C-15 and made a part of these minutes.

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

Noes: None

Summary of Public Comments (RTBM):

Billy Valentine, Pearl River (Attorney), opposes rushing to pass a local law banning the manufacturing of BTX. He urged the Town Board to take time in drafting the law and being precise. The elected officials need to get this right for the benefit of the Town.

Ronnie Cummings, CSEA President, is concerned that the Supervisor’s budget omits funding for the Blue Hill Golf Course (BHGC). The union is against privatizing the BHGC, the Orangetown Sewer Department and the Parks and Recreation Department.

John Buckley, Orangeburg Library, is glad to see an increase in the Supervisor’s budget for the libraries. He congratulated the new Police Officers and wished them much success.

Michael Moroney, Pearl River, said the elimination, in the Supervisor’s budget, of funding for the BHGC is premature at best. If this budget is correct, what was the \$9.9 million bonding? The Anellotech litigation needs to be resolved before this project can move forward. He is offended by many of the Supervisor’s actions regarding many issues in the Town.

Amy Wertheim, Pearl River, explained Stop Anellotech has been on a fact finding mission. Their goal is to be able to educate, inform and generate awareness, regarding Anellotech and the manufacturing of BTX.

Denise Shorn, Pearl River, encouraged the Town Board to move forward with amending the Code regarding the manufacturing of BTX. She is concerned about the Mid-Hudson Regional Counsel’s and IRG’s commitment in developing the Pfizer site with future chemical companies.

Dr. Kathy Kelley, Pearl River, continued to argue against the manufacturing of BTX and Anellotech. She believes the Town’s decision was shameful and a bad decision. The Town Board needs to reverse the Land Use Boards’ decisions.

Heather Hurley, Stop Anellotech, wants to know the Town Board’s comments about Trinity’s monitoring plan and why the emissions’ level is not at maximum. She said, the community is concerned about the Regional Counsel’s plans and the Code amendment needs to be passed sooner rather than later.

Chris Smith, Pearl River, would like to know why a vote cannot take place, on the amendment of banning BTX. He opposes the Anellotech project and others like it.

Watson Morgan, Blauvelt, spoke about clear cutting along the greenbelt (reservoir) and preserving open space, the rail-trail and town parks.

RESOLUTION NO. 427**CLOSE PUBLIC COMMENTS**

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

RESOLVED, that the public portion is hereby closed.

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

Noes: None

RESOLUTION NO. 428**APPROVE SETTLEMENT/SEWER
BACKUP/8 NB, INC./DBA/8 NORTH
BROADWAY-NYACK**

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

RESOLVED, the Town Attorney is hereby authorized to settle and if necessary enter into and execute stipulations of settlement and any other necessary settlement documents, on behalf of the Town of Orangetown, in the matter of the claim of 8 NB Inc. dba 8 North Broadway, in the full and final settlement amount of \$20,546.68, which is to be paid by the Town as follows: the sum of \$16,546.68 payable to Brav Industries, LLC dba Service Master By Quick Response and the sum of \$4,000.00 to 8 NB, Inc., which payments shall be full and final settlement of all claims against the Town of Orangetown arising out of a sewer backup incident that occurred at 8 North Broadway, Nyack, New York which occurred on March 14, 2015.

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

Noes: None

RESOLUTION NO. 429**RELEASE PERFORMANCE BOND
RAMSAY SUBDIVISION/110 SPARKILL
ST –SPARKILL 77.08/5/33**

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

RESOLVED, that upon the recommendation of the Planning Board (PB# 2015-44), the Town Highway Department, DEME, and the Town Attorney's Office, the Board hereby authorizes the release of the Ramsay Subdivision Performance Bond, 110 Sparkill Street, Sparkill, NY (Tax Lot 77.08 Block 5 Lot 33) and Assignment of Bank Account of Kevin J. Ramsay, held at Chase Bank in the amount of \$51,426.00, originally accepted by the Town pursuant to Town Board Resolution 2011-281."

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

Noes: None

RESOLUTION NO. 430**AGREEMENT/ROCKLAND COUNTY
REIMBURSEMENT/2015 TACTICAL
OFFICERS CONFERENCE**

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

RESOLVED, that upon the approval of the Town Attorney's Office, from a legal standpoint, the Town Supervisor is hereby authorized to sign an Inter-Municipal Agreement with

RESOLUTION NO. 430 - Continued

the County of Rockland, for law enforcement purposes of reimbursing the Town, for officer attendance, at the 2015 Tactical Officers Conference, for the term of April 28, 2015 through April 30, 2015, and further authorizes the Supervisor to take necessary steps to effectuate its terms.

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

Noes: None

RESOLUTION NO. 431

**AGREEMENT/ROCKLAND COUNTY
LAW ENFORCEMENT /REGIONAL
INVESTIGATIVE RESOURCE CENTER
(RIRC) CASES /MAY 01, 2015 –
DECEMBER 31, 2015**

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

RESOLVED, that upon the approval of the Town Attorney's Office, from a legal standpoint, the Town Supervisor is hereby authorized to sign an Inter-Municipal Agreement with the County of Rockland, for law enforcement purposes, to support the Regional Investigative Resource Center (RIRC) Cases, for the period May 1, 2015 through December 31, 2015, and further authorizes the Supervisor to take further steps as necessary to effectuate its terms.

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

Noes: None

RESOLUTION NO. 432

**ACCEPT/RECEIVE/FILE/ TOWN
CLERK'S OFFICE**

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

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

- Restrictive Covenant for Pearl River Brick Building, 30 N. William Street, Pearl River (68.16-6-4) regarding parking (Rockland County Instr. No. 2015-4874).
- August 4, 2015 Executive Session minutes and August 11, 2015 Regular Town Board Meeting/Executive Session minutes.
- The Club at Pearl River, LLC (f/k/a The Pointe at Lake Tappan), 662 Blue Hill Rd, West, Pearl River (73.10-1-4): Deed to Pumping Station (RC Instr #2015-10350); Storm Water Maintenance Agreement (RC Instr #2015-10351); Variable Width Sanitary Sewer Easement (RC Instr #2015-10352); Twenty Foot Sanitary Sewer Easement (RC Instr #2015-1353); Sewer Access Easement (RC Instr #2015-10354); and Title Insurance Policy (Rockwest Abstract File CRC-15607) Old Republic National Title Insurance Company Policy OC-09612347.

Ayes: Councilperson Diviny, Supervisor Stewart
Councilpersons Troy, Morr, Valentine

Noes: None

RESOLUTION NO. 433

**SHOWMOBILE/DEL' ARTE/VENTURE
CELEBRATION**

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

RESOLUTION NO. 433 - Continued

RESOLVED, that upon completion of all the necessary paperwork, upon the recommendation of the Superintendent of Parks and Recreation, and approval by the Town Board, the use of the Showmobile by Del' Arte Restaurant and Venture for their 20th Anniversary Celebration" on Sunday, September 27, 2015, at a rental cost of \$350.00 with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured is hereby approved.

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

Noes: None

RESOLUTION NO. 434**SEWER BACK-UP CLAIM SETTLEMENT
JOHN AND ELAINE HAYES/14 MURPHY
COURT - BLAUVELT**

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

RESOLVED, that the Town Attorney is hereby authorized to compromise and settle, on behalf of the Town of Orangetown, the claim of John and Elaine Hayes, in the full and final settlement amount of \$17,689.63, arising out of a sewer back-up, on June 15, 2013, at premises located at 14 Murphy Court, Blauvelt, N.Y., which back-up occurred as a result of electrical and related pump failures at the Troop Road Pump Station; and

BE IT FURTHER RESOLVED, that the Town Attorney shall be authorized to execute all documents necessary to effectuate such result.

Ayes: Councilperson Diviny, Supervisor Stewart
Councilpersons Troy, Morr, Valentine

Noes: None

RESOLUTION NO. 435**POLICE LIGHT TOWER/FRANKLIN
AVENUE SCHOOL PICNIC**

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

RESOLVED, that upon completion of all the necessary paperwork, the use of a Police Light Tower, by Franklin Avenue School, for their picnic on Friday, October 2, 2015, is hereby approved.

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

Noes: None

RESOLUTION NO. 436**PAY VOUCHERS**

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

RESOLVED, upon the recommendation of Finance Director, Jeff Bencik, the Finance Office is hereby authorized to pay vouchers, for the General Fund, Town, Outside Villages, Blue Hill, Broadacres, Highway, Sewer, Capital Projects, Risk Retention, and Special Parking Funds, for a total amount of \$1,681,944.38.

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

Noes: None

RESOLUTION NO. 437

ADJOURNED/MEMORY

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

RESOLVED, at 10:25 p.m., the Town Board re-entered the Regular Town Board Meeting and adjourned, in memory of William “Billy” Capobianco (age 27), Pearl River; Rita Dinan, Orangeburg; Terence “Terry” Greenan, W Nyack; Maureen Malley, Pearl River; James (Jim) O’Keefe, Blauvelt; and Caitlin “Caity” Pieretti, Pearl River.

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

Charlotte Madigan, Town Clerk