

**TOWN OF ORANGETOWN  
REGULAR TOWN BOARD MEETING  
TUESDAY, OCTOBER 23, 2012**

This Town Board Meeting was opened at 7:33 p.m. Supervisor Stewart presided and the Deputy Town Clerk called the Roll. Present were:

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

Also present: Teresa Accetta-Pugh, Deputy Town Clerk  
John Edwards, Town Attorney  
Teresa Kenny, First Deputy Town Attorney  
Jeff Bencik, Finance Director  
Ann Maestri, Supervisor of Fiscal Services  
James Dean, Superintendent of Highways  
Joseph Moran, Commissioner of DEMA  
Robert Simon, Receiver of Taxes  
Rick Oliver, Building Inspector  
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

The Deputy Town Clerk led the Pledge of Allegiance to the Flag.

Summary of Public Comments:

Eileen Larkin, Palisades, is against the Sewer Department being sold to the County and employees losing jobs. She requested an update of the development of RPC.

Mike Mandel, Pearl River, said landscapers should be required to dump leaves at our highway facility for a fee. The Town should make sure South Orangetown Little League and the Soccer League pay their utility bills or put these accounts in the leagues' name. He requested the Town Board to look into the FAA's new plan and requested a revised Environmental Impact Study (EIS). Joe Wrafter, Broadacres' Manager, said closing Broadacres is not going to balance the budget. He reminded the Town Board about the one time \$50,000 capital improvement expenditures. He believes, Broadacres has done a tremendous job with encouraging our youth to play golf and keeping them away from drugs.

Carol Silverstein, Orangeburg, would like to know the reasons for overriding the 2% tax cap. She is in favor of selling RPC, the sewer plant, keeping taxes down and closing Broadacres.

May Krieder, President of Broadacres Ladies League, said it is important to have recreational facilities for all ages. She has voted for the facilities for our youth. However, you can not forget the older adults and seniors. She would like Broadacres to stay open, especially for our seniors and she asked not to make closing Broadacres the first choice.

**RESOLUTION NO. 489**

**CLOSE PUBLIC COMMENTS**

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

RESOLVED, that the public portion is hereby closed.

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

Noes: None

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**RESOLUTION NO. 490**

**SET PUBLIC HEARING/BLAUVELT  
VOLUNTEER FIRE COMPANY, INC.**

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

**Resolution No. 490 - Continued**

RESOLVED, that a public hearing is scheduled for November 7, 2012, at 8:00 p.m. for the purpose of considering contracting with the Blauvelt Volunteer Fire Company, Inc., to provide fire protection services to and throughout the Blauvelt Fire Protection District within the Town.

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

Noes: None

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**RESOLUTION NO. 491****RECEIVE/FILE/DOCUMENTS/TOWN CLERK'S OFFICE**

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

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

1. SPDES NY -0026051 Monthly Report for September 2012.
2. September 18, 2012 Executive Session; September 24, 2012 Regular Town Board Meeting/Audit Meeting/Executive Session; and October 2, 2012 Police Commission/Executive Session minutes.

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

Noes: None

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**RESOLUTION NO. 492****OPEN PH/AMEND TOWN CODE/CHAPTER 34, TAXATION-PROPERTY TAX CAP OVERRIDE FISCAL YEAR 2013**

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

RESOLVED, that the 8:00 p.m. public hearing to amend the Town Code, Chapter 34, Taxation-Property Tax Cap Override – Fiscal Year 2013 is hereby opened.

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

Noes: None

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The Deputy Town Clerk, presented the Affidavit of Publication and the Notice of Posting; copies are labeled Exhibit 10-A-12 and made a part of these minutes.

This proposed local law gives the Town Board the option to override the 2% tax cap limit and to adopt a budget that requires a tax increase over the 2% tax cap limit.

**Summary of Public Comments:**

Mike Mandel, Pearl River, is against overriding the 2% tax cap limit. Our taxes should not be subsidizing Broadacres or any other Interest Group. He asked if the Town's lobbyists have requested a change to the Taylor law and when will there be open budget discussions.

Eileen Larkin, Palisades, believes the governor should have imposed a more reasonable tax cap. She said eliminating home use of Town vehicles, putting a cap on overtime and employees paying into their pensions and medical insurance are all fair compromises.

Carol Silverstein, Orangeburg, would like to hear line by line budget discussions. She is against making part-time positions full-time. She is in favor of privatizing or closing Broadacres.

Anne Putko, Piermont, is against overriding the 2% tax cap. She agrees that the tax burden on residents has become unbearable. She asked the Town Board to explore everything possible to reduce taxes; such as close or privatize the golf courses, sell RPC and bring in more ratables. Henry Rand, Nyack, opposes overriding the tax cap. He noted that Rockland County is the third highest taxed county in the country and he believes that high taxes decrease the values of our homes. He asked the Supervisor to freeze his salary and not to have a full-time assistant. We can no longer afford the golf courses and the employees should not get any raises.

Beth Riso, Nyack, is also against overriding the tax cap. People are discussed with high taxes and high taxes have a negative affect on people who want to buy real estate. She believes there should be a hiring freeze, layoffs, salary freezes and the golf courses should be sold or privatized.

Tony Riso, Piermont, is against overriding the tax cap. The Town Board must make an extraordinary effort to reduce the taxes. The pain of reducing the taxes has to be shared by the employees and town services.

Robert Grant, owns property in Nyack and South Nyack. He is about to face the 5-year chaos of a new Tappan Zee Bridge being built and the thought of having to face an increase in taxes as well is unthinkable.

**RESOLUTION NO. 493**

**CLOSE PH/AMEND TOWN  
CODE/CHAPTER 34, TAXATION  
PROPERTY TAX CAP OVERRIDE  
FISCAL YEAR 2013**

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

RESOLVED, that the public portion is hereby closed.

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

Noes: None

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**RESOLUTION NO. 494**

**LEAD AGENCY/AMEND TOWN  
CODE/CHAPTER 34, TAXATION-  
PROPERTY TAX CAP OVERRIDE  
FISCAL YEAR 2013**

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

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

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

Noes: None

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**RESOLUTION NO. 495**

**SEQRA DECLARATION/AMEND  
TOWN CODE/CHAPTER 34,  
TAXATION-PROPERTY TAX CAP  
OVERRIDE – FISCAL YEAR 2013**

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

WHEREAS, the Town Board has assumed the status of Lead Agency for environmental review in connection with the adoption of a Local Law relating to the override of the Tax Levy Limit provided at § 3-c of the N.Y.S General Municipal Law; and

WHEREAS, the Town Board has reviewed and approved the Short Environmental Assessment Form prepared and filed in connection with the proposed action; and

**Resolution No. 495 - Continued**

WHEREAS, the Town Board is familiar with the reasons why, in its collective judgment, the Town is required to exceed the Tax Levy Limit for Fiscal Year 2013;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, acting in its capacity as Lead Agency under the N.Y.S. Environmental Quality Review Act, determines and declares that the proposed action consisting of the adoption of a Local Law authorizing the override of the limit on the amount of real property taxes that may be levied by the Town of Orangetown pursuant to General Municipal law § 3-c, thereby allowing the Town to adopt a budget for the fiscal year 2013 that requires a real property tax levy in excess of the "tax levy limit" will not have a significant adverse environmental impact, and authorizes the Supervisor to execute a Determination of Non-significance in the form below.

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

Noes: None

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

**DATE:** October 23, 2012

**LEAD AGENCY:** The Town Board of the Town of Orangetown  
Orangetown Town Hall  
26 Orangeburg Road  
Orangeburg NY 10962

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

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

**TITLE OF ACTION:**

Local Law, authorizing the override of the Tax Levy Limit provided at General Municipal Law § 3-C for Fiscal Year 2013.

**SEQRA STATUS:**

Unlisted Action

**DESCRIPTION OF ACTION:**

The proposed action consists of the adoption of a Local Law, overriding the limit on the amount of real property taxes that may be levied by the Town of Orangetown pursuant to General Municipal law § 3-c, thereby allowing the Town to adopt a budget for the fiscal year 2013 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

**REASONS SUPPORTING THIS DETERMINATION:**

Among other reasons, the override is made necessary by the proposed charge back to the Town of various expenses formerly paid by the County of Rockland, including costs relating to the conduct of elections, and expenses associated with local students attending out of county community colleges, as well as by the resolution of certain real property tax certiorari proceedings, and the payment of refunds and the loss of assessment associated therewith.

**Negative Declaration - Continued**

In addition, the fact that the Town recently concluded labor negotiations with the local police union, resulting in a multi-year contract that includes a wage increase in excess of 2% for fiscal 2013, and remains in contract negotiations with the CSEA, which, when resolved, also will include fiscal year 2013.

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Based on the aforesaid, the Town Board determines that there will be no significant adverse environmental impact as a result of the proposed action.

**For Further Information, Contact:**

Town Supervisor Andy Stewart  
Town Hall, Town of Orangetown  
26 Orangeburg Road  
Orangeburg, New York 10962  
(845) 359-5100

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**RESOLUTION NO. 496**

**AMEND TOWN CODE/CHAPTER 34,  
TAXATION-PROPERTY TAX CAP  
OVERRIDE FISCAL YEAR 2013  
LOCAL LAW 5, 2012**

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

RESOLVED, that the Town Board hereby adopts Local Law 5, 2012 amending the Town Code, Chapter 34, Taxation-Property Tax Cap Override – Fiscal Year 2013.

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

Noes: None

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**LOCAL LAW NO. 5 OF 2012  
AUTHORIZING THE OVERRIDE OF THE TAX LEVY LIMIT  
PROVIDED AT GENERAL MUNICIPAL LAW  
§ 3-C FOR FISCAL YEAR 2013**

Be it enacted by the Town Board of the Town of Orangetown, as follows:

*Section 1:* Chapter 34 of the Town Code of the Town of Orangetown, entitled “Taxation”, is hereby amended to add a new Article VIII, which shall read as follows:

**ARTICLE VIII  
Tax Levy Limit Override**

**§ 34-35 Legislative Intent.**

It is the intent of this Local Law to override the limit on the amount of real property taxes that may be levied by the Town of Orangetown pursuant to General Municipal Law § 3-c, and to allow the Town Board of the Town of Orangetown to adopt a budget for the fiscal year 2013 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

Among other reasons, the override is made necessary by the proposed charge back to the Town of various expenses formerly paid by the County of Rockland, including costs relating to the conduct of elections, and expenses associated with local students attending out of county community colleges, as well as by the

**Local Law No. 5 of 2012 - Continued**

resolution of certain real property tax certiorari proceedings, and the payment of refunds and the loss of assessment associated therewith.

**§ 34-36 Authority.**

This Local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a local law approved by a vote of sixty percent (60%) of the Town Board.

**§ 34-37 Tax Levy Limit Override.**

The Town Board of the Town of Orangetown, County of Rockland, is hereby authorized to adopt a budget for the fiscal year 2013 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law § 3-c.

**§ 34-38 Tax Levy Limit Override.**

If any clause, paragraph, subdivision or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

*Section 2: Effective Date.* This Local Law shall take effect immediately upon its filing with the Secretary of State.

**RESOLUTION NO. 497****RELEASE PERFORMANCE BOND  
ORANGEBURG WAREHOUSE SITE PLAN**

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

RESOLVED, that upon the recommendation of the Planning Board (PB# 2012-43), the Town Highway Department, DEME and the Town Attorney's Office, the Board hereby authorizes the release, through the Town Attorney's Office, of the Orangeburg Warehouse Site Plan Performance Bond (Bond #0358609) in the amount of \$80,796.00, issued by the International Fidelity Insurance Company, for the property located at 2 Greenbush Road, Orangeburg, NY. The Site Plan Approval for the Orangeburg Warehouse Site Plan has been superseded by the approval of the Orangeburg Commons Site Plan at the same site and thus is no longer a valid site plan approval upon which a building permit may issue."

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

Noes: None

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**RESOLUTION NO. 498****APPROVE/PERFORMANCE BOND  
EXTENSION/ROUTE 9W GOLF  
SUBDIVISION/ROUTE 9W/PALISADES  
(78.13-1-2 & 3; 78.14-1-2)**

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

**Resolution No. 498 - Continued**

RESOLVED, that upon the recommendation of the Planning Board (PB2012-47), the Town Highway Department, DEME and the Town Attorney's Office, the Board hereby agrees to extend to October 10, 2014, the term of the Subdivision Performance Bond No. 08821738 in the sum of \$350,000.00 from Lennar, New York, LLC as "Principal" and Fidelity and Deposit Company of Maryland, as "Surety", in favor of the Town of Orangetown, as "Obligee", in connection with a certain subdivision known as the "Route 9W Golf Subdivision", and which said Performance Bond is dated February 24, 2006 and originally accepted, received and filed pursuant to Town Board Resolution 2006-254, and reduced to \$350,000.00 pursuant to Town Board Resolution 2009-469. The Surety has agreed to extend its obligations to October 10, 2014, by way of a "Verification Certificate" dated September 25, 2012, which Verification Certificate is hereby accepted, received and filed in the Town Clerk's Office.

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

Noes: None

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**RESOLUTION NO. 499****AUTHORIZE AGREEMENT/MCLAREN  
ENGINEERING/SPARKILL CREEK FLOOD  
RELIEF ENGINEERING INVESTIGATION**

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

RESOLVED, that the Town Superintendant of Highways is authorized to enter into an agreement with McLaren Engineering for the purpose of conducting the "Sparkill Creek Flood Relief Engineering Investigation" for the amount of \$10,500.00.

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

Noes: None

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**RESOLUTION NO. 500****AWARD BID/ONE (1) LIGHT DUTY  
TRUCK/VAN BORTEL FORD INC.**

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

WHEREAS, the Superintendent of Highways duly advertised for sealed bids for One (1) Light Duty Truck, which were received and publicly opened on September 27, 2012. The Superintendent made this recommendation to the Town Board; a copy of the Affidavit of Publication, Notice of Posting and Bid Sheet is labeled Exhibit 10-B-12, and made a part of these minutes. Now, Therefore, Be It

RESOLVED, that this bid is hereby awarded to Van Bortel Ford Inc., Rochester, NY, the only qualified bidder, in the amount of \$50,478.00, to be charged to Account H5130200.

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

Noes: None

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**RESOLUTION NO. 501****AWARD BID/24-YARD DUMP  
TRAILER/VASSO WASTE SYSTEMS INC.**

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

**Resolution No. 501 - Continued**

WHEREAS, the Superintendent of Highways duly advertised for sealed bids for a 24-Yard Dump Trailer, which were received and publicly opened on September 27, 2012. The Superintendent made this recommendation to the Town Board; a copy of the Affidavit of Publication, Notice of Posting and Bid Sheet is labeled Exhibit 10-C-12, and made a part of these minutes. Now, Therefore, Be It

RESOLVED, that this bid is hereby awarded to Vasso Waste Systems Inc., Brooklyn, NY, the only qualified bidder, in the amount of \$36,420.00, to be charged to Account H5130200.

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

Noes: None

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**RESOLUTION NO. 502****ENTERED AUDIT**

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

RESOLVED, that the Town Board entered the Audit Meeting at 9:13 p.m.

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

Noes: None

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**RESOLUTION NO. 503****PAY VOUCHERS**

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

RESOLVED, that the Finance Office is hereby authorized to pay vouchers for the General Fund, Town Outside Village, Blue Hill, Broadacres, Highway, Sewer, Capital Projects, Risk Retention, and Special Parking Funds in the amount of \$880,263.06.

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

Noes: None

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**RESOLUTION NO. 504****ENTER EXECUTIVE SESSION**

In attendance, at this Executive Session, were Supervisor Stewart, Councilmen Troy, Diviny, Morr and Valentine, John Edwards, Teresa Kenny, and Jeff Bencik.

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

RESOLVED, that the Town Board entered Executive Session to discuss a legal matter regarding filing the 2013 Preliminary Budget and a particular Police Disciplinary matter at 9:15 p.m.

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

Noes: None

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**RESOLUTION NO. 506****ADJOURNMENT/MEMORY**

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

**Resolution No. 506 - Continued**

RESOLVED, that the Town Board re-entered the Regular Town Board Meeting and adjourned, in memory of Thomas Robert Scognamiglio, (16 yrs old), Pearl River; and Mary Donohue, Pearl River, at 10:25 p.m.

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

Noes: None

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Teresa Accetta-Pugh, Deputy Town Clerk