

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
MONDAY, NOVEMBER 9, 2009**

This Town Board Meeting was opened at 7:40 p.m. Supervisor Kleiner presided and the Town Clerk called the Roll. Present were:

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

Also present: Charlotte Madigan, Town Clerk
Eliot Tozer, Deputy Supervisor
John Edwards, Town Attorney
Teresa Kenny, First Deputy Town Attorney
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Ron Delo, Director of the Dept. of Env'tl Management & Engineering
Robert Simon, Receiver of Taxes
Brian Kenney, Assessor
John Giardiello, Director of OBZPAE
Aric T. Gorton, Superintendent Parks-Rec. & Building Maint.

Eliot Tozer, WW II Veteran, led the Pledge of Allegiance to the Flag.

On Thursday, November 12th at 7:30 p.m., a Route 303 & Erie Street Citizens Advisory Committee Meeting will be held in the Multipurpose Room of Town Hall.

On Thursday, November 19th a meeting regarding Transit Oriental Development will be held.

Town of Orangetown Highway Department is the Recipient of the New York Metropolitan Chapter of the American Public Works Association 2009 Municipal Agency Award for Phase I of the Kings Highway and Greenbush Road Drainage and Road Improvements.

Summary of Public Comments (RTBM)

Ann Marie Uhl, Sparkill, thanked the elected officials for their past and present service to the community. She asked about the qualifications and what happened to the \$750.00 community grant the Palisades/Sparkill Baseball League received this year.

Esta Baitler, Consumer Advocate for Cathy Lukens Home, would like the Traffic Advisory Board to do a safety study of Route 340. She asked when will the sewer odors be rectified.

Michael Mandel, Pearl River, supports Guy DeVincenzo being appointed to the Clerk of the Works position and this position should also include overseeing the Siemen's contract.

Eileen Larkin, Palisades, asked why the golf course is loosing money.

RESOLUTION NO. 680

CLOSE PUBLIC PORTION

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

RESOLVED, that the public comment portion is hereby closed.

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

Noes: None

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RESOLUTION NO. 681

**ESTABLISH/APPOINT CLERK OF
THE WORKS II/GUY DEVINCENZO**

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

Resolution No. 681 - Continued

RESOLVED that the position of Clerk of the Works II, in the Department of Environmental Management & Engineering, pending certification of the title by Rockland County Personnel Office is hereby established and Guy DeVincenzo is hereby appointed to the position of Clerk of the Works II to allow for the completion of capital projects in the Sewer Department, effective immediately.

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

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RESOLUTION NO. 682**ESTABLISH/REAL PROPERTY VALUATION ASSISTANT AND ELIMINATE REAL PROPERTY DATA COLLECTOR II**

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

RESOLVED, that the position of Real Property Valuation Assistant, grade 9, is hereby established in the Assessor's office, in lieu of the already budgeted title of Real Property Data Collector II title which will be eliminated.

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

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RESOLUTION NO. 683**APPOINT PARKING ENFORCEMENT AGENT/KENNETH M. TOMEO**

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

RESOLVED, that upon the recommendation of the Chief of Police, Kenneth M. Tomeo is hereby appointed to the position of Parking Enforcement Agent (part-time) from List No. 08055, at an hourly rate of \$18.94, effective November 21, 2009.

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

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RESOLUTION NO. 684**ACCEPT MINUTES**

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

RESOLVED, that the October 13, 2009 Regular Town Board Meeting, Audit Meeting and Executive Session minutes; the October 19, 2009 Audit Meeting and Executive Session minutes; and the October 26, 2009 Regular Town Board Meeting, Audit Meeting and Executive Session minutes are hereby accepted.

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

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RESOLUTION NO. 685**PROFESSIONAL SERVICES CONTRACT EMPLOYEE ASSISTANCE PROGRAM NYACK HOSPITAL/RECEIVE/FILE**

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

Resolution No. 685 - Continued

RESOLVED, that the fully executed Professional Services Contract (Employee Assistance Program) between the Town and Nyack Hospital is received and filed in the Town Clerk's Office.

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

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RESOLUTION NO. 686**APPROVE/WAIVE PERMIT &
APPLICATION FEES/TAPPAN LIBRARY**

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

RESOLVED, that the request of the Tappan Library to waive all permit and application fees estimated to \$11,000 associated with their building renovation is hereby approved.

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

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RESOLUTION NO. 687**OPEN PH/ILLEGAL SEWER HOOKUPS**

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

RESOLVED, that the 8:00 p.m. public hearing to consider the adoption of a local law, amending Chapter 30 of the Town Code by repealing Sections 30-25 and 30-33 and replacing with new Sections 30-25 and 30-33 is hereby opened. This proposed law would require that illegal sewer hookups be removed by property owners and imposed revised and continuing penalties.

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

Charlotte Madigan, Town Clerk, presented the Affidavit of Publication and the Notice of Posting; copies are labeled Exhibit 11-B-09 and made a part of these minutes.

Ron Delo, Director of the Dept. of Env'tl Management & Engineering, said this local law is to clarify the definitions of illegal connections, such as sump pumps, roof leaders, area drains and things that are storm water related which are connected to the sanitary sewer system. These create a public health problem by overloading the sanitary sewer system causing sewer backups, sewer overflows and violations at the treatment plant. Part of the Consent Order is to revise our local law to more clearly define these connections and to have escalating penalties.

Local Law Public portion:

Alex DiMenna, Blauvelt, said there needs to be proper enforcement mechanisms for any local law. He believes the Town could have a community or volunteer code enforcement arm. Donald Brenner, Attorney, asked how this statute is going to be legally enforced in the villages. Does the Town have the right to place a lien on properties in the villages?

John Edwards, Town Attorney, believes Donald Brenner has a valid point but he is not sure the Town Board wants to defer action tonight. There are significant problems throughout the Town other than the villages.

RESOLUTION NO. 688**CLOSE PUBLIC COMMENTS
ILLEGAL SEWER HOOKUPS**

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

RESOLVED, the public portion of the Illegal Sewer Hookups public hearing is hereby closed.

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

RESOLUTION NO. 689**DESIGNATION OF LEAD AGENCY
ILLEGAL SEWER HOOKUPS**

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

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

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

RESOLUTION NO. 690**NEGATIVE SEQRA DECLARATION
ILLEGAL SEWER HOOKUPS**

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

RESOLVED, that a negative SEQRA Declaration is hereby adopted.

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

LOCAL LAW NO. 8, 2009**AMENDING CHAPTER 30, SEWERS – RULES AND REGULATIONS, RELATING TO
ILLEGAL SEWER HOOK-UPS**

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

Section 1. § 30-1 shall be amended by adding the following definitions:

INFILTRATION – Water, other than wastewater, that enters a sewer system (excluding building drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

INFLOW – Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

Section 2. § 30-25 shall be replaced by the following:**§ 30-25. Inflow sources prohibited.**

A. No connection shall be made to any sanitary sewer contained in the Orangetown Sewer District, which connection is intended to discharge inflow, or has the effect of discharging

inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow. All such connections shall be considered illicit. The construction, use, maintenance or continued existence of any such illicit connection is prohibited.

B. When an inspection or test indicates that inflow is being discharged into the house sewer or the municipal sewer system, such discharge shall constitute a violation of this ordinance.

C. Such violation shall be cause for revocation of any permit previously granted to connect with the sewer, unless the necessary corrections are made within thirty (30) days from the date of written notice given to the owner of the premises or his agent.

Section 3. § 30-33 shall be replaced by the following:

§ 30-33. Violations and penalties.

A. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed fifteen days (15), or both.

B. The continuation of an offense shall constitute, for each week the offense is continued, a separate and distinct offense and shall require a separate and distinct penalty as per this chapter.

C. In the event that the New York Department of Environmental Conservation (DEC) imposes any fines or penalties upon the Town in relation to any illegal sewer connection, or the Town expends any moneys relating to the illegal sewer connection, the owner or occupant of the relevant property in addition to the penalties spelled out above shall be required to make full restitution to the Town.

D. In addition to the above described penalties, the Town may recover all reasonable attorney's fees incurred by the Town in enforcing the provisions of this Chapter, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Town may also recover court costs, and other expenses associated with the enforcement activities, including testing, sampling and monitoring expenses.

E. Additionally, an action or proceeding may be maintained in the name of the Town in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this ordinance.

F. The Board may, at any time, in its discretion, stop and prevent the discharge into the system of any substance deemed by it liable to injure the system or any pertinent part thereof or to interfere with the normal operation of the system or any pertinent part thereof, and said Board may, at any time, without notice and without liability, obligation or recourse, sever the house sewer connection or drain from the system through which such detrimental substances are discharged. Upon proof of the abatement of the detrimental discharge, or the correction of the cause of such discharge, the Board may cause any disconnected house sewer or drain to be reconnected to the system upon receipt of a fee of two hundred and fifty dollars (\$250) for each reconnection.

G. Upon the failure of a property owner to pay any fine, penalty or restitution due under this section, the Town Board may hold a public hearing. The public hearing shall be held upon notice forwarded by certified mail, return receipt requested. If for any reason, no address is available, the notice shall be posted conspicuously on the affected property. Posting and service of such notice shall not be less than 15 days prior to the date of the public hearing. The Town Board, after the public hearing may direct that any unpaid fine, penalty or restitution shall be assessed against the record owner of the offending property. The expense so assessed shall

constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

Section 4.

The provisions of this local law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION NO. 691

ADOPT LOCAL LAW 8, 2009/ILLEGAL SEWER HOOKUPS

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

RESOLVED, that the proposed local law amending Chapter 30 of the Town Code by repealing Sections 30-25 and 30-33 and replacing with new Sections 30-25 and 30-33 is hereby adopted. This proposed law would require that illegal sewer hookups be removed by property owners and imposed revised and continuing penalties.

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

Noes: None

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RESOLUTION NO. 692

APPROVE AMENDMENTS/2010 PRELIMINARY BUDGET

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

RESOLVED, that the following changes to the 2010 Preliminary Budget are hereby approved.

| | | | Preliminary | Recommend | Change |
|------------|----------|-------|--------------|--------------|-------------|
| Retirement | B9015168 | 50800 | \$ 2,481,500 | \$ 2,246,000 | \$(235,500) |
| Salaries | A1410001 | 50100 | \$ 73,756 | \$ 72,692 | \$ (1,064) |
| Total | | | | | \$(236,564) |
| Mortgage | | | | | |
| Tax | A300500 | 43005 | \$ 1,500,000 | \$ 1,300,000 | \$(200,000) |
| Sales Tax | A112000 | 41220 | \$ 1,470,000 | \$ 1,440,000 | \$ (30,000) |
| | | | | | \$(230,000) |

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

Noes: None

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RESOLUTION NO. 693

ADOPT/2010 PRELIMINARY BUDGET

Councilwoman Manning offered the following resolution, which was seconded by Councilwoman Low-Hogan and on a roll call was adopted:

RESOLVED, that the 2010 Preliminary Budget is hereby adopted as the 2010 Final Budget.

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

Noes: Councilman Maturo

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RESOLUTION NO. 694**AUTHORIZE SUMMER CAMP
SCHOLARSHIPS**

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

RESOLVED, that the Superintendent Parks-Recreation is authorized to award, with Town Board approval, up ten (10) scholarships, for the 2010 Orangetown Day Camp.

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

Noes: None

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RESOLUTION NO. 695**ENTER AUDIT**

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

RESOLVED, that the Town Board entered the Audit Meeting at 8:55 p.m.

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

Noes: None

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RESOLUTION NO. 696**PAY VOUCHERS**

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

RESOLVED, that the Finance Office is hereby authorized to pay vouchers for General Fund, Town Outside Village, Blue Hill, Broadacres, Highway, Sewer, Trust and Agency, Special District, Special Parking and Capital Projects Funds, in the amount of \$1,650,396.18.

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

Noes: None

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RESOLUTION NO. 697**ADJOURNMENT**

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

RESOLVED, that the Town Board adjourned, in memory of James Bow, Pearl River; Bob Herskowitz, Orangeburg; and Michael Cassidy, Pearl River at 9:01 p.m.

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

Noes: None

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RESOLUTION NO. 698**REOPEN RTBM**

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

RESOLVED, that the Town Board re-opened this Regular Town Board Meeting at 9:05 p.m.

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

Noes: None

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RESOLUTION NO. 699

**SOUTH ORANGETOWN CENTRAL
SCHOOL DISTRICT/TERMINATE
POOL AGREEMENT**

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

RESOLVED that, in response to the South Orangetown Central School District’s notice to terminate the Town’s Agreement with the District for the use of its swimming pool, the Office of the Town Attorney is hereby authorized to institute and commence an action, for a declaratory judgment, against the South Orangetown Central School District.

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

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RESOLUTION NO. 700

ADJOURNMENT

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

RESOLVED, that the Town Board adjourned at 9:11 p.m.

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

Charlotte Madigan, Town Clerk