

8-L-04, 8/30/04

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Orangetown, in the

County of Rockland, New York

August 30, 2004

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A special meeting of the Town Board of the Town of Orangetown, in the County of Rockland, New York, was held at the Town Hall, Orangeburg, New York, on August 30, 2004.

There were present: Hon. Thom Kleiner Supervisor; and

Board Members: Councilman Denis O'Donnell
Councilman Denis Troy
Councilwoman Marie Manning
Councilman Thomas Morr

There were absent: None

Also present: Charlotte Madigan, Town Clerk

* * *

Councilman Morr offered the following resolution and moved its

adoption:

RESOLUTION OF THE TOWN OF ORANGETOWN, NEW YORK, ADOPTED AUGUST 30, 2004, AUTHORIZING THE CONSTRUCTION OF AN AQUATIC FACILITY & COMMUNITY CENTER; STATING THE ESTIMATED TOTAL COST THEREOF IS \$14,225,000; AND APPROPRIATING SAID AMOUNT THEREFOR.

Recitals

THE TOWN BOARD OF THE TOWN OF ORANGETOWN, IN THE COUNTY OF ROCKLAND, NEW YORK, HEREBY RESOLVES AS FOLLOWS:

Section 1. The Town of Orangetown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to construct an Aquatic Facility and Community Center on Town-owned property (the "Facility"), as further described in a plans prepared for the Town by Bargmann, Hendrie + Archetype, Inc., P.C., *et al.*, and Lawler, Matusky and Skelly, Engineers, LLP (as and where necessary): the construction of an approximately 35,000 square foot building; swimming pool construction; traffic signal and control device, and roadway, parking and sidewalk construction; all of the foregoing to include the original furnishings, equipment, machinery, apparatus and ancillary or related site and other work required in connection therewith; including surveys, preliminary and detailed plans, specifications and estimates of the Facility.

Section 2. The estimated total cost of said object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$14,225,000 and said amount is hereby appropriated therefor.

Section 3. This Resolution shall take effect immediately.

WHEREAS, such surveys, preliminary and detailed plans, specifications and estimates have produced information and specifications sufficient to allow the Town Board to authorize the financing the construction of the Facility; and

WHEREAS, said resolution limited the maximum maturity of the bonds to be issued to five years; and

WHEREAS, the Town Board the Town has now determined that it is in the best interests of the Town to amend such bond resolution to provide for a longer period of probable usefulness, as authorized under the Local Finance Law, and to provide that such bond resolution, as amended, shall therefore be subject to a mandatory referendum; and

WHEREAS, the estimated maximum cost of the construction of the Aquatic Facility and Community Center (the "Facility"), as further described in a plan prepared for the Town by Bargmann, Hendrie + Archetype, Inc., P.C., *et al.*, and Lawler, Matusky and Skelly, Engineers, LLP, including (as and where necessary): the construction of an approximately 35,000 square foot building; swimming pool construction; traffic signal and control device, and roadway, parking and sidewalk construction; all of the foregoing to include the original furnishings, equipment, machinery, apparatus and ancillary or related site and other work required in connection therewith; and any surveys, preliminary and detailed plans, specifications and estimates is \$14,225,000, to be financed through the application of \$1,550,000 funds expected to be received from S.T.E.J, LLC and the issuance of \$12,675,000 bonds by the Town.

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF ORANGETOWN,
IN THE COUNTY OF ROCKLAND, NEW YORK (by the favorable vote of not less than three-fifths of all members of said Town Board) AS FOLLOWS:

Section (A). The bond resolution of said Town adopted by the Town Board on June 9, 2003, entitled:

“BOND RESOLUTION OF THE TOWN OF ORANGETOWN, NEW YORK, ADOPTED JUNE 9, 2003, AUTHORIZING THE PREPARATION OF SURVEYS, PRELIMINARY AND DETAILED PLANS, SPECIFICATIONS AND ESTIMATES NECESSARY FOR PLANNING CONSTRUCTION OF A MUNICIPAL SWIMMING FACILITY AND COMMUNITY CENTER; STATING THE ESTIMATED COST THEREOF IS \$900,000, APPROPRIATING SAID AMOUNT THEREFOR AND AUTHORIZING THE ISSUANCE OF \$900,000 BONDS TO FINANCE SAID APPROPRIATION,”

is hereby amended to read as follows:

BOND RESOLUTION OF THE TOWN OF ORANGETOWN, NEW YORK, ADOPTED AUGUST 30, 2004 AMENDING THE BOND RESOLUTION ADOPTED ON JUNE 9, 2003, AUTHORIZING THE ISSUANCE OF \$12,675,000 BONDS OF SAID TOWN TO FINANCE THE CONSTRUCTION OF AN AQUATIC FACILITY & COMMUNITY CENTER AND DETERMINING THAT THIS BOND RESOLUTION SHALL BE SUBJECT TO A MANDATORY REFERENDUM.

THE TOWN BOARD OF THE TOWN OF ORANGETOWN, IN THE COUNTY OF ROCKLAND, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than three-fifths of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town Board of the Town of Orangetown hereby authorizes the issuance of \$12,675,000 bonds pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the “Local

Finance Law”) to finance the construction of an aquatic facility and community center, as further described in the Recitals hereof.

Section 2. The estimated total cost of said object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$14,225,000. The plan of financing includes the application of \$1,550,000 funds expected to be received from S.T.E.J, LLC and the issuance of \$12,675,000 bonds of the Town to finance the Facility, the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 92 of the Law, is twenty (20) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five years.

Section 4. Each of the bonds and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Local Finance Law and said bonds and any notes issued in anticipation of said

bonds, shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation of said bonds, to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Local Finance Law and pursuant to the provisions of Section 21.00 relative to the issuance of bonds with substantially level or declining annual debt service, and of Section 30.00 relative to the issuance of bond anticipation notes and of Sections 50.00, 56.00 to 60.00 and 168.00 of the Local Finance Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. A Proposition for the approval or disapproval of this bond resolution, as amended, shall be submitted as a Proposition to the qualified voters of the Town at a Special Town Election to be held on November 2, 2004, and this bond resolution, as amended, shall take effect upon the approval of the Proposition by said voters of the Town at such Special Town Election.

Section (B). The amendment of the bond resolution set forth in Section (A) of this resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or actions taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or actions taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

Section (C). This resolution shall take effect immediately.

The adoption of the foregoing resolution was seconded by

Councilman O'Donnell and duly put to a vote on roll call, which resulted as follows:

AYES: Councilpersons Troy, O'Donnell, Manning, Morr
Supervisor Kleiner

NOES: None

The resolution was declared and adopted.

Councilman Morr offered the following resolution and moved its adoption:

RESOLVED BY THE TOWN BOARD OF THE TOWN OF ORANGETOWN,
IN THE COUNTY OF ROCKLAND, NEW YORK, AS FOLLOWS:

Section 1. A Proposition for the approval or disapproval of the bond resolution described in the previous resolution shall be submitted as a Proposition, as contained in the Notice hereinafter set forth, to the qualified voters of the Town at a Special Town Election to be held on November 2, 2004, and such bond resolution, as amended, shall take effect upon the approval of the Proposition by said voters of the Town at such Special Town Election.

Section 2. The Town Clerk is hereby authorized and directed to give notice of submission of such Proposition at said Special Town Election (a) by publishing, at least ten (10) days prior to such Special Town Election, a Notice thereof in form and substance as hereinafter set forth, at least once in "The Journal News", a newspaper having general circulation in the Town, and hereby designated the official newspaper of the Town for such publication, and (b) by posting such notice at least ten (10) days prior to such Special Town Election on the sign-board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law. Said Notice shall be in substantially the following form:

TOWN OF ORANGETOWN, NEW YORK
NOTICE OF SUBMISSION OF A PROPOSITION
AT THE SPECIAL TOWN ELECTION TO BE
HELD ON NOVEMBER 2, 2004

NOTICE IS HEREBY GIVEN that pursuant to the resolution duly adopted by the Town Board of the Town of Orangetown, in the County of Rockland, New York on August 30, 2004, a Proposition shall be submitted to the qualified voters present and voting at the Special Town Election to be held at the same time and place(s) as the General Election on November 2, 2004 in the Town of Orangetown. Such Special Town Election shall be conducted at the time and places and in accordance with procedures determined pursuant to applicable law and by the Rockland County Board of Elections. Such Proposition shall be in substantially the following form:

PROPOSITION

SHALL THE RESOLUTION ENTITLED: "Bond Resolution of the Town of Orangetown, New York, adopted August 30, 2004 amending the Bond Resolution adopted on June 9, 2003, authorizing the issuance of \$12,675,000 bonds of said Town to finance the construction of an Aquatic Facility & Community Center and determining that this bond resolution shall be subject to a mandatory referendum," BE APPROVED?

An abstract of said bond resolution, concisely stating the purpose and effect thereof, is as follows:

FIRST: RECITING that the Town of Orangetown is authorized to construct an Aquatic Facility and Community Center (the "Facility") as further described in a plan prepared for the Town by Bargmann, Hendrie + Archetype, Inc., P.C., *et al.*, and Lawler, Matusky and Skelly, Engineers, LLP including (as and where necessary): the construction of an approximately 35,000 square foot building; swimming pool construction; traffic signal and control device, and roadway, parking and sidewalk construction; all of the foregoing to include the original furnishings, equipment, machinery, apparatus and ancillary or related site and other work required in connection therewith; including surveys, preliminary and detailed plans, specifications and estimates at the estimated maximum cost of \$14,225,000; AUTHORIZING the Town to issue bonds in the principal amount of \$12,675,000 to finance the construction of the Facility; STATING the estimated total cost thereof is \$14,225,000; and STATING the plan of financing includes the application of \$1,550,000 funds expected to be received from S.T.E.J, LLC and the issuance of \$12,675,000 bonds of the Town, the levy and collection of taxes upon all the taxable real property within the Town to pay the principal of said bonds and interest thereon;

SECOND: DETERMINING and STATING the period of probable usefulness applicable to the object or purpose for which said bonds are authorized to be issued is twenty (20) years; the proceeds of the bonds may be used to reimburse the Town for expenditures made after the effective date hereof for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

THIRD: DETERMINING that said bonds or any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FOURTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof, and other related powers and duties; and

FIFTH: STATING that the validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if: (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or (c) such obligations are authorized in violation of the provisions of the constitution; and

SIXTH: DETERMINING that a Proposition for the approval or disapproval of this bond resolution shall be submitted to the qualified voters of the Town at the Special Town Election to be held at the same time and place(s) as the General Election on November 2, 2004 and that this bond resolution, as amended, shall take effect upon such approval; and that the Town Clerk is authorized and directed to give appropriate notice of the presentation of said Proposition at such Special Town Election.

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF ORANGETOWN

Dated: August 30, 2004
Orangeburg, New York

CHARLOTTE MADIGAN
Town Clerk
Town of Orangetown
County of Rockland
State of New York

Section 3. The Town Board hereby authorizes and directs the Town Clerk to take all necessary steps, with assistance of the Town Attorney, to ensure that such Proposition is properly placed before the duly qualified Electors of the Town at the Special Town Election to be held on November 2, 2004.

Section 4. The Town Clerk is hereby directed, after said bond resolution, as amended, shall take effect, to cause said bond resolution, as amended, to be published, in summary, in the newspaper referred to in Section 2 hereof, and hereby designated the official newspaper of the Town for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

The adoption of the foregoing resolution was seconded by
Councilwoman Manning and duly put to a vote on roll call, which resulted as follows:

AYES: Councilpersons Morr, Manning, O'Donnell, Troy
Supervisor Kleiner

NOES: None

The resolution was declared adopted.

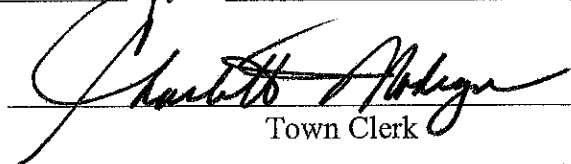
CERTIFICATE

I, CHARLOTTE MADIGAN, Town Clerk of the Town of Orangetown, in the County of Rockland, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said the Town of Orangetown duly called and held on August 30, 2004, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said the Town of Orangetown this

1st day of September, 2004.

(SEAL)

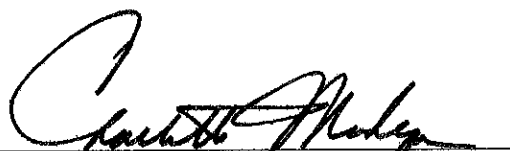

Town Clerk

STATE OF NEW YORK)
 :ss:
COUNTY OF ROCKLAND)


CHARLOTTE MADIGAN, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned ^{she}~~he~~ was the duly elected,
qualified and acting Town Clerk of the Town of Orangetown, in the County of Rockland, State
of New York;

That on September 1, 2004, she has caused to be conspicuously posted and
fastened up on the sign board of the Town maintained pursuant to Subdivision 6 of Section 30 of
the Town Law, a copy of the Notice of Submission of a Proposition at the Special Town Election
to be held on November 2, 2004, setting forth the Proposition to be submitted to the qualified
voters of the Town at such election, including an abstract of the bond resolution duly adopted by
the Town Board on August 30, 2004, a copy of which Notice is annexed hereto and made a part
hereof.


Charlotte Madigan, Town Clerk
Town of Orangetown

Subscribed and sworn to before me
this 1st day of September, 2004.


Notary Public, State of New York

CHARLES J. RICHARDSON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01R18106425
QUALIFIED IN ROCKLAND COUNTY
COMMISSION EXPIRES MARCH 1, 2007