



TOWN OF ORANGETOWN TOWN BOARD MEETING

Tuesday June 22, 2021

This Town Board Meeting was opened at 7:00 PM.

Councilperson Denis Troy	_____
Councilperson Thomas Diviny	_____
Councilperson Paul Valentine	_____
Councilperson Jerry Bottari	_____
Supervisor Teresa M. Kenny	_____

☼ Pledge of Allegiance to the Flag

ANNOUNCEMENTS:

- ◆ **The Town Board would like to wish Esta Baitler a Happy 65th Birthday on June 21st!**
- ◆ **July 4, 2021 Sunday, 9:00 P.M. - Pearl River Parks & Activity Committee, Inc. will be hosting fireworks at the Pearl River Central Avenue Field**
- ◆ **Public Hearing / RTBM of July 13, 2021 at 7:05 P.M. / Re: Performance Standards / Town Code Chapters 6, 14, 24 and 43**
- ◆ **Public Hearing / RTBM of July 13, 2021 at 7:15 P.M. / Proposed Zone Change for BNE Real Estate Group / The Reserve at Pearl River Located on Veterans Memorial Drive Pearl River Tax Lot 73.10-1-6**
- ◆ **Motor-Fest sponsored by the Orangeburg Volunteer Fire Association / Saturday July 24, 2021 / 12 pm - 6 pm / Dutch Hill Fire House / Free Spectator Admission**

PUBLIC HEARING

1. **OPEN PUBLIC HEARING / RTBM OF JUNE 22, 2021 AT 7:05 PM RE: LOCAL LAW / OPT OUT OF ADULT USE CANNABIS / MARIJUANA RETAIL DISPENSERS AND ON-SITE CONSUMPTION SITES**

RESOLVED, that the Public Hearing on a proposed local law, to opt out of adult cannabis/marijuana retail dispensers and on-site consumption sites, is hereby opened.

PRESENTATION of Affidavit of Public Hearing posting and publication

SUMMARY OF COMMENTS:

2. **CLOSE / CONTINUE PUBLIC HEARING RE: LOCAL LAW / OPT OUT OF ADULT USE CANNABIS / MARIJUANA RETAIL DISPENSERS AND ON-SITE CONSUMPTION SITES**

RESOLVED, that the Public Hearing re: Local Law to opt out of adult use cannabis / marijuana retail dispensers and on-site consumption sites, is hereby closed or continued to _____.

3. **ADOPT LOCAL LAW ___ OF 2021, SUBJECT TO PERMISSIVE REFERENDUM, AMENDING THE TOWN CODE TO ESTABLISH A NEW CHAPTER 10D ENTITLED "CANNABIS REGULATION", SPECIFICALLY CODIFYING THE TOWN BOARD'S INTENT TO OPT-OUT FROM ALLOWING CANNABIS RETAIL DISPENSERIES AND ON-SITE CONSUMPTION SITES WITHIN THE UNINCORPORATED AREAS OF THE TOWN, AND REQUESTING THE CANNABIS CONTROL BOARD TO PROHIBIT SUCH RETAIL DISPENSERIES AND ON-SITE CONSUMPTION SITES WITHIN THE TOWN OF ORANGETOWN, AS AUTHORIZED BY N.Y.S. CANNABIS LAW ARTICLES 4 AND 6**

WHEREAS, the Town Board of the Town of Orangetown (the "Town Board") is the duly elected legislative body of the Town, and which, among other things, is authorized to take all measures and do all acts, by local law, not inconsistent with any general law, which shall be deemed expedient and desirable for the good government of the Town and the general welfare of its inhabitants; and

WHEREAS, the Town Board has before it for consideration a proposed local law which, if adopted, would amend the Town Code to establish a new Chapter 10D, entitled "Cannabis Regulation", and, more specifically, codify the Town Board's intent to opt-out from allowing cannabis retail dispensaries and on-site consumption sites within the unincorporated areas of the Town, and request that the N.Y.S. Cannabis Control Board prohibit such retail dispensaries and on-site consumption sites within the unincorporated areas of the Town; and

WHEREAS, by resolution 2021-212 duly adopted at a regular Board meeting held on May 25, 2021, the Town Board determined to proceed with its consideration of the proposed local law, toward which end it 1) set the proposed law down for a public hearing, and 2) declared itself to be lead agency under the State Environmental Quality review Act and determined the proposed action to be a Type II action under to 6 NYCRR § 617.5 (26), (33), *namely*, the adoption of regulations, policies, procedures and local legislative decisions relating to routine and continuing agency administration and management not including new programs affecting the environment for which reason the action is not subject to further review under SEQRA; and

WHEREAS, pursuant to resolution 2021-212, following notice duly and properly given, a public hearing on the proposed local law was conducted on June 22, 2021, at which time members of the public were afforded the opportunity to speak or otherwise to provide comment,

WHEREAS, the Board has determined, given, among other things, the relative close proximity of the various commercial locations within which cannabis establishments might be located to parks, schools, churches and residential zones throughout the Town, coupled further with the as yet unresolved issues addressing enforcement and other guidelines related to cannabis sale and use, impeding the Town's ability to

adopt time, manner and place regulations which remain within its purview under the law, including the option to timely opt-out, that, at the current time, it would not be in the interests of Town residents to allow retail sales and on-site consumption establishments within the Town,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts Local Law No. ___ of 2021, amending the Town Code to establish a new Chapter 10D, entitled “Cannabis Regulation”, and, more specifically, codifying the Town Board’s intent to opt-out from allowing cannabis retail dispensaries and on-site consumption sites within the unincorporated areas of the Town, and request that the N.Y.S. Cannabis Control Board prohibit such retail dispensaries and on-site consumption sites within the Town.

This resolution is subject to permissive referendum.

LOCAL LAW NO. ___ OF 2021 OF THE TOWN OF ORANGETOWN, NEW YORK

TOWN BOARD TO ADD A NEW CHAPTER TO THE TOWN CODE OF THE TOWN OF ORANGETOWN TO BE IDENTIFIED AS CHAPTER 10D ENTITLED “CANNABIS REGULATION”

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ORANGETOWN AS FOLLOWS:

A local law to opt out of allowing cannabis retail dispensaries and on-site consumption sites as otherwise authorized under Article 4 of the Cannabis Law of the State of New York.

The Town Board of the Town of Orangetown hereby adopts a new Chapter 10D of the Town Code, entitled “Cannabis Regulation”, initially for the purpose of requesting that the N.Y.S. Cannabis Control Board prohibit the establishment of retail dispensary licenses and/or on-site consumption licenses contained in Article 4 of Chapter 7-a within the jurisdiction of the unincorporated areas of the Town of Orangetown as authorized by Article 6 thereof. As adopted, this Local Law shall read as follows:

CHAPTER 10D CANNABIS REGULATION

ARTICLE I Town Opt-out

Section 1. Legislative Intent

§10D-1 Legislative Intent.

It is the intent of this local law to request the Cannabis Control Board of the State of New York (“Cannabis Control Board”), as established pursuant to the New York Cannabis Law, Chapter 7-a of the Consolidated Laws of the State of New York (“Cannabis Law”), to permit the Town of Orangetown (“Town”) to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town of Orangetown, that would otherwise be allowed under Article 4 of the Cannabis Law.

The recently established Cannabis Law, Chapter 7-a provides in Article 6, §131 that the licensure and establishment of a retail dispensary license and/or on-site consumption license under the provisions of Article Four of Chapter 7-a shall not be applicable to a town, which, after the effective date of the Cannabis Law, which was March 31, 2021, and before December 31, 2021, adopts a local law, subject to permissive referendum as governed by §24 of the Municipal Home Rule Law of the State of New York, requesting the Cannabis Control Board to prohibit the establishment of such retail dispensary licenses and/or on-site consumption licenses contained in Article Four of the Cannabis Law, within the jurisdiction of the town.

The Town Board finds that, at the current time, it is in the best interests of the residents of the Town of Orangetown to adopt a local law as per Cannabis Law §131 prohibiting and requesting the Cannabis Control Board to prohibit the establishment of retail dispensary licenses and on-site consumption licenses that would otherwise be allowed under Article 4 of the Cannabis Law. The Town Board finds that permitting such establishments without reviewing the unique and novel impact that the establishment of such businesses would have on the health, safety and welfare of the residents of the Town of Orangetown, given, among other things, the relative close proximity of commercial locations within which such establishments might be located to parks, school, churches and residential zones throughout the Town, coupled with as yet unresolved issues addressing enforcement of the new laws and guidelines related to cannabis use, would not be, at the current time, in the interests of Town residents. The Town adopts this local law in accordance with the timeframe and guidelines as set forth in Chapter 7-a, subsequent to March 31, 2021 and prior to December 31, 2021.

Section 2. Authority

§10D-2 Authority.

This local law is adopted pursuant to Cannabis Law § 131 which expressly authorizes a town board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses and/or on-site consumption licenses within the jurisdiction of the town and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law § 24.

Section 3. Local Opt-Out

§10D-3 Cannabis Opt-Out.

The Town Board of the Town of Orangetown hereby opts out from allowing the establishment of retail cannabis dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town and requests the Cannabis Control Board prohibit the licensing and establishment of such dispensaries and consumption sites within the unincorporated areas of Town of Orangetown.

Section 4. Severability

§10D-4 Severability.

If any clause, sentence, 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 5. Permissive Referendum

§10D-5 Permissive Referendum.

This local law is subject to a referendum on petition in accordance with Cannabis Law § 131 and the procedure outlined in Municipal Home Rule Law § 24.

Section 6. Effective date

§10D-6 Effective date.

This local law shall take effect in accordance with Municipal Home Rule Law §24, namely, forty-five days after its adoption and upon filing with the Secretary of State within twenty days after the time period for filing a petition in accordance with Municipal Home Rule §24 has expired. In the event a valid petition protesting against this local law is filed within forty-five days after its adoption, then this local law shall not be effective until approved by the affirmative vote of a majority of the qualified electors of the Town of Orangetown voting on a proposition for its approval in accordance with the requirements of Municipal Home Rule Law §24.

EXECUTIVE SESSION

4. ENTER EXECUTIVE SESSION

RESOLVED, at _____ pm, the Town Board entered Executive Session to discuss personnel matters.

5. RE-ENTER RTBM

RESOLVED, at _____ pm, the Town Board re-entered the Regular Town Board Meeting.

PRESENTATIONS:

- ◆ **Raymond W. Demeola VFW Post 1615 Presentation**
- ◆ **PRESENT AWARD TO JEFFREY BENCIK, DIRECTOR OF FINANCE - "CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING" by the Government Finance Officers Association (GFOA) for fiscal year ended December 2019.**
- ◆ **PKF O'CONNER DAVIES AUDIT PRESENTATION**

DISCUSSION:

◆ **WORKSHOP OF AGENDA ITEMS**

PUBLIC COMMENT:

6. **OPEN PUBLIC COMMENT PORTION**

RESOLVED, that the public portion is hereby opened.

SUMMARY OF PUBLIC COMMENTS:

7. **CLOSE PUBLIC COMMENT PORTION**

RESOLVED, that the public portion is hereby closed.

AGENDA ITEMS:

TOWN BOARD

8. **APPROVE / OVERAGE / STREET LIGHT REPAIRS / ALL BRIGHT ELECTRIC**

RESOLVED, that upon the recommendation of the Town Attorney and Director of Finance, and as authorized by the Supervisor's Office, approve the overage for 34 street light repairs by All Bright Electric per their agreement with the Town in the amount of \$6,460 for time and materials to be charged from account #B.5182.452.17.

9. **ACCEPT RESIGNATION / MARTYN RYAN / MEMBER / ORANGETOWN ENVIRONMENTAL COMMITTEE / EFFECTIVE JUNE 22, 2021**

RESOLVED, that the Town Board hereby accepts the resignation of MARTYN RYAN as Member of the Orangetown Environmental Committee, effective June 22, 2021

10. **APPOINT LISA DEFECIANI / MEMBER / ORANGETOWN ENVIRONMENTAL COMMITTEE / EFFECTIVE JUNE 23, 2021 THROUGH DECEMBER 31, 2021 / TO FILL THE UNEXPIRED TERM OF MARTYN RYAN**

RESOLVED, that the Town Board appoint LISA DEFECIANI as Member of the Orangetown Environmental Committee, effective June 23, 2021 through December 31, 2021 to fill the unexpired term of Martyn Ryan.

11. **TERMINATION BY REASON OF DISABILITY RESULTING FROM OCCUPATIONAL INJURY / CIVIL SERVICE LAW SECTION 71 / EMPLOYEE NO. 1330**

WHEREAS, Employee No.1330 suffered a work related injury on January 22, 2019, and has been unable to perform the duties of his position for the Town of Orangetown for a period in excess of one year by reason of a disability resulting from an

occupational injury, as defined in the New York State Workers' Compensation Law; and

WHEREAS, by letter dated June 11, 2021, Employee No. 1330 was notified that Town Board, intended to conduct a hearing to consider the nature and status of his injury, inviting Employee No. 1330 to appear and to provide medical documentation, testimony or any other information he deemed relevant for the Board to consider prior to terminating leave with pay pursuant to Article 10 of the Collective Bargaining Agreement; and

WHEREAS, on June 22, 2021, the Town Board having conducted a hearing and having found that Employee No. 1330 has been absent from work and unable to perform the duties of his position for a period in excess of one year, and

WHEREAS, Employee No. 1330 having had an opportunity to be heard and offering no evidence that he is physically capable of returning to work at this time and/or no evidence showing that he no longer suffers from a disability resulting from an occupational injury,

NOW THEREFORE, BE IT RESOLVED, that the Town Board hereby terminates Employee No. 1330 from employment with the Town of Orangetown, effective June 22, 2021, pursuant to §71 of the Civil Service Law, subject to reinstatement rights provided for therein and provided further that this determination will not alter or affect any benefit to which the employee is entitled under the provisions of the New York State Workers' Compensation laws.

HIGHWAY

12. APPROVE/ LEND ASSISTANCE / 2021 PEARL RIVER CARNIVAL / JUNE 17-20, 2021

RESOLVED, upon the recommendation from the Superintendent of Highways, that the Town Board hereby authorizes the Town of Orangetown Highway Department to lend assistance which includes the use of trash receptacles, field clean up, large dumpster & message board, for the Pearl River Carnival to be held from June 17-20, 2021 at the Central Avenue Field (Thurs and Fri 6:00 pm - 10:00 pm, and Sat and Sun 4:00 pm to 10:00 pm).

PARKS AND RECREATION

13. AWARD CONTRACT / TOWN HALL / HVAC MAINTENANCE AND AUTOMATION CONTROL / JOHNSON CONTROLS

RESOLVED, that upon the recommendation of the Superintendent of Parks and Recreation award the contract for HVAC Mechanical Service and Automation Control to Johnson Controls of Hawthorne, NY as per Sourcewell Contract: 030917 – JHN in the amount of \$25,879.00 for Mechanical Service and \$3,665.00 for Automation Services for a term of one year.

HIGHWAY / POLICE

14. APPROVE / LEND ASSISTANCE / ORANGEBURG FIRE ANTIQUE APPARATUS / CAR SHOW / JULY 24, 2021

RESOLVED, the Superintendent of Highways and the Chief of Police have forwarded for approval by the Town Board, authorization for the Highway Department and Police Department to lend assistance which includes the use of barricades and trash barrels from the Highway Department, and auxiliary police detail from the Police Department for Orangeburg Fire Antique Apparatus/ Car Show on Saturday, July 24, 2021 (11 am - 4 pm).

AUDIT

15. PAY VOUCHERS

RESOLVED, upon the recommendation of the Director of Finance, Jeffrey Bencik, the Finance Office is hereby authorized to pay vouchers for a total amount of three (3) warrants (attached) for a total of \$1,298,234.84.

EXECUTIVE SESSION

16. ENTER EXECUTIVE SESSION

RESOLVED, at _____ pm, the Town Board enter Executive Session to discuss the proposed acquisition/sale/lease of real property when publicity might affect value.

ADJOURNMENTS

17. RE-ENTER RTBM / ADJOURNED / MEMORY

RESOLVED, at ____ pm, the Town Board re-entered the Regular Town Board Meeting and adjourned in memory of:

- ❖ **Diane Morrison**, *Resident of Blauvelt*
- ❖ **Theresa V. O'Brien**, *Resident of Pearl River*
- ❖ **John Roche**, *Resident of Pearl River*