



TOWN OF ORANGETOWN TOWN BOARD MEETING

Tuesday October 25, 2022

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

Councilperson Thomas Diviny	_____
Councilperson Paul Valentine	_____
Councilperson Jerry Bottari	_____
Councilperson Brian Donohue	_____
Supervisor Teresa M. Kenny	_____

✪ Pledge of Allegiance to the Flag

ANNOUNCEMENTS:

- ◆ **Veterans Drive-By Lunch / November 11, 2022 from 11:30 am to 1:30 pm / Email veteran@orangetown.com to reserve your boxed lunch or call the Supervisor's Office**
- ◆ **Early voting at Town Hall is from Saturday, October 29, 2022 through Sunday, November 6, 2022 / Please visit Orangetown.com for more details**

PRESENTATIONS:

- ◆ **John H. Secor American Legion Post 329, Pearl River Plaque Presentation for Braunsdorf Park War Memorial in Honor of Captain Phillip T. Esposito**
- ◆ **Center for Safety and Change: October 2022 Domestic Violence Awareness Month**

DISCUSSION:

- ◆ **WORKSHOP OF AGENDA ITEMS**

PUBLIC COMMENT:

1. OPEN PUBLIC COMMENT PORTION

RESOLVED, that the public portion is hereby opened.

SUMMARY OF PUBLIC COMMENTS:

2. CLOSE PUBLIC COMMENT PORTION

RESOLVED, that the public portion is hereby closed.

**AGENDA ITEMS:
TOWN BOARD**

3. OPEN PUBLIC HEARING OF OCTOBER 25, 2022 AT 7:05 P.M. / ACCEPT DRAFT COMPREHENSIVE PLAN / CONSIDER ADOPTING THE ORANGETOWN COMPREHENSIVE PLAN

RESOLVED, that the Public Hearing regarding accepting the Draft Comprehensive Plan and consider adopting the Orangetown Comprehensive Plan, is hereby opened.

PRESENTATION of Affidavit of Public Hearing posting and publication.

SUMMARY OF COMMENTS:

4. CLOSE OR CONTINUE PUBLIC HEARING / ACCEPT DRAFT COMPREHENSIVE PLAN / CONSIDER ADOPTING THE ORANGETOWN COMPREHENSIVE PLAN

RESOLVED, that the Public Hearing regarding accepting the Draft Comprehensive Plan and consider adopting the Orangetown Comprehensive Plan is hereby closed and/or continued to _____.

5. CONTINUATION OF PUBLIC HEARING FROM RTBM OF OCTOBER 11, 2022 / 7:10 P.M. / 2023 PRELIMINARY BUDGET

RESOLVED, that the Public Hearing regarding the 2023 Preliminary Budget from October 11, 2022 is hereby continued.

6. CLOSE OR CONTINUE PUBLIC HEARING / 2023 PRELIMINARY BUDGET

RESOLVED, that the Public Hearing regarding the 2023 Preliminary Budget is hereby closed or continued to _____.

7. **APPROVE AMENDMENTS / 2023 PRELIMINARY BUDGET**

Note: Vote on amendments to the 2023 Preliminary Budget

8. **APPROVE 2023 PRELIMINARY BUDGET AS AMENDED**

RESOLVED, that the Town Board hereby approves the 2023 Preliminary Budget, as amended.

BE IT FURTHER RESOLVED, the Director of Finance is authorized to adjust the fund balance to accommodate these changes, all the while, staying under the levy tax cap.

9. **ACCEPT WITH REGRET / RESIGNATION OF STEPHEN SWEENEY / MEMBER / ORANGETOWN PLANNING BOARD / EFFECTIVE JUNE 6, 2022**

RESOLVED, that the Town Board accept with regret, the resignation of STEPHEN SWEENEY, Member of the Orangetown Planning Board, effective June 06, 2022.

10. **APPOINT LISA DEFICIANI / MEMBER / ORANGETOWN PLANNING BOARD / EFFECTIVE OCTOBER 25, 2022**

RESOLVED, that the Town Board hereby appoints **LISA DEFICIANI** as Member to the Orangetown Planning Board, to fill the unexpired term of Stephen Sweeney who resigned June 06, 2022. Her term of appointment starts October 26, 2022 and expires on December 31, 2023.

11. **ACCEPT DONATION / PLAQUE FOR BRAUNSDORF PARK WAR MEMORIAL IN HONOR OF CAPTAIN PHILLIP T. ESPOSITO / JOHN H. SECOR AMERICAN LEGION POST 329**

WHEREAS, Phillip Thomas "Phil" Esposito, born on June 24, 1974, grew up in Pearl River, New York and graduated with honors from Albertus Magnus High School in Bardonia, New York in 1992; and,

WHEREAS, Phil earned a congressional appointment to attend the United States Military Academy West Point where he spent two years in A-1, the rigorous "First Out" company and served as a cadet first sergeant and company commander in H-2; and,

WHEREAS, upon graduation, Phil attended training at Fort Knox, KY and served with distinction in several leadership positions in the 3rd Battalion, 66th Armor before leaving active duty in 2000; and,

WHEREAS, Phil married his school classmate, Siobhan McMahon in 2001 and they had a beautiful daughter Madeline Rose in 2003; and,

WHEREAS, after September 11, 2001, Phil returned to active duty to support the National Guard efforts in New York City and in 2004, he was deployed as the Rainbow Division Headquarters company commander, stationed at Forward Operating Base "Danger" in Tikrit, Iraq; and,

WHEREAS, while honorably serving the country he loved, Phil was tragically killed in Iraq in 2005; and,

NOW THEREFORE BE IT RESOLVED, that the Town Board accepts with their sincerest gratitude the donation of a plaque for the war memorial in Braunsdorf Park from the John H. Secor American Legion Post 329, Pearl River, honoring the service and sacrifice of Captain Phillip T. Esposito. May his spirit, integrity and strength of character always be remembered.

12. **APPROVE / ORANGETOWN METRO SPORTS CLUB, INC. / THIRD AMENDED USE AGREEMENT**

WHEREAS, the Town of Orangetown and the Orangetown Metro Sports Club, Inc. (formerly known as OMM and hereinafter "OMSC"), are parties to several agreements related to land that is owned by the Town at the Orangetown Soccer Complex alongside Veteran's Memorial Drive, Orangeburg, NY (hereinafter "Complex"), and

WHEREAS, in Article XVIII of a Second Amended Use Agreement dated as of September, 2016 ("Use Agreement") OMSC is obligated to charge a non-resident fee to all non-Town residents who play at the Complex and to remit said non-resident fees to the Town, and

WHEREAS, in 2021, the parties entered into an agreement with respect to the replacement of Field 1 at the Complex (Field One Replacement Agreement), which Agreement is incorporated herein, wherein, among other items, the parties agreed to continue negotiations to amend the 2016 Use Agreement between the parties for OMSC's use and operation of the complex, including the potential for applying the non-resident fees toward certain improvements made by OMSC at the Complex, in exchange for relieving the Town of any obligation with respect to field replacement at the Complex moving forward, and

WHEREAS, the parties have been in negotiations with respect to same, and in order to make the Town's position clear, it has reviewed the attached proposal and by this resolution wishes to make its position known with respect thereto,

NOW THEREFORE BE IT RESOLVED, that the proposed Third Amended Use Agreement as incorporated by reference herein is acceptable to the Town, and the Town Attorney is hereby authorized to deliver same to OMSC representatives for execution by OMSC and delivery to the Town on or before November 14, 2022; and, upon such delivery the Town shall formally accept the Third Amended Use Agreement and the parties will proceed in accordance therewith.

13. **AUTHORIZE / ZARIN & STEINMETZ / COMMENCE AND PROSECUTE EMINENT DOMAIN PROCEEDINGS / 334 ROUTE 9W, ORANGETOWN / HNA TRAINING CENTER**

WHEREAS, the property located at 334 Route 9W, Orangetown, New York (Tax Lot 78.13-1-1) ("Property") is currently owned by HNA Training Center NY LLC ("HNA" or "Owner"), which was primarily used and operated as a hotel/conference center; and

WHEREAS, the Property has been vacant and/or not in use as a hotel/conference center for approximately five (5) years;

WHEREAS, numerous violations have been issued to HNA due to the failure of the owner to upkeep the Property, causing the Property to exhibit a deteriorating and unsafe condition, including, but not limited to, several environmental incidents that have occurred recently on the Property; and

WHEREAS, the Property is currently in a blighted condition; and

WHEREAS, in addition to the numerous violations and blighted condition of the Property, HNA is currently in tax arrears of over \$4,000,000.00; and

WHEREAS, the Town of Orangetown (“Town”) has a vision for maximizing, revitalizing, and redeveloping the currently underutilized and vacant Property for the benefit of the community, with a use that will have the public purpose of enhancing the sound growth of the Town, increasing its tax base, preserving key environmental on-site features, providing public amenities and uses, and encouraging good design standards; and

WHEREAS, in furtherance of those goals, the Town, in cooperation with HNA, sought interest from the development community and the public for site development concepts that would meet the Town’s vision and comprehensive plans of utilizing the property for the benefit of the community, by soliciting expressions of interest and proposals from potential redevelopers of the Property; and

WHEREAS, after issuing a Request for Expressions of Interest (“RFEI”), and receiving and reviewing numerous proposals from interested parties, the Town chose Reveil LLC (“Developer” or “Reveil”) as its Preferred Developer; and

WHEREAS, the Town entered into a Memorandum of Understanding (“MOU”) with the Developer for the development of the Property to consist of a mixed-use campus, which would include conceptually a refurbished destination hotel and spa, various green facilities, a working farm and recording studio, co-working and other creative workshop spaces, possible residential development, as well as catering and test kitchens; and

WHEREAS, the Town Board found that this proposal would generate substantial economic and other benefits for the community, increase the tax base, provide public amenities and uses, while also preserving key environmental features on the Property and hopefully generate a fair purchase price for the Owner; and

WHEREAS, subsequent to the Town entering into the MOU with the Developer, HNA, with the assistance of the Town, entered into a Letter of Intent (“LOI”) with the Developer setting forth the terms pursuant to which the parties would enter into a consensual Purchase and Sale Agreement (“PSA”) to sell the Property to the Developer; and

WHEREAS, the LOI was accepted and executed by the parties on or around April 28, 2022; and

WHEREAS, in connection with the execution of the LOI, the Developer posted an initial deposit in the amount of \$200,000.00; and

WHEREAS, since signing the LOI, the Developer has proceeded in good faith to negotiate and consummate the PSA with HNA; and

WHEREAS, on or about October 7, 2022, the Developer executed the PSA and delivered signature pages to its counsel to hold pending execution by HNA, and posted an additional deposit with the Escrow Agent in the amount of \$400,000.00; and

WHEREAS, the Town, through its special counsel, Zarin & Steinmetz, has continued to work with both the Developer and HNA to finalize the execution of the PSA; and

WHEREAS, both the Developer and the Town believed that HNA's signing of the PSA was imminent; and

WHEREAS, the Town has made clear to HNA, and the MOU provides, that HNA, notwithstanding the terms of the MOU, has the legal right to submit, prior to entering into a PSA with the Developer, a bona-fide as-of-right land use application to the relevant Town agencies, and that such agencies would have the legal obligation to process said application, provided, the Town would have no legal or other obligation to consider any request for a zoning or zoning text change as part of such application pursuant to applicable law; and

WHEREAS, HNA has not filed an application to redevelop the Property during the past five (5) years; and

WHEREAS, despite Developer's and Town's best efforts to finalize the agreement with HNA, HNA has failed to execute the PSA and

WHEREAS, the Property continues to deteriorate and remain unoccupied and blighted; and

WHEREAS, the Developer is in full compliance under the terms of the MOU, and

WHEREAS, the MOU provides that if the Developer is not in default of the MOU, and is unable after a good faith effort to consummate a consensual agreement with HNA to acquire the Property, the Town may, as a last resort, exercise its eminent domain powers to acquire and develop the Property; and

WHEREAS, in light of HNA's refusal to execute the PSA, after the parties expended significant time and resources in good faith negotiating said agreement, the Town is exercising its right under the MOU to proceed under the provisions of the Eminent Domain Procedures Law in order to acquire the Property so that the blighted conditions can be ameliorated, and the Property can be redeveloped and revitalized for the benefit of the community.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that based upon HNA's failure to sign the PSA with Reveil, the continuing and worsening blighted nature of the Property, the various open violations, and the significant amount of taxes in arrears, the Town Board of the Town of Orangetown hereby authorizes Zarin & Steinmetz to take all necessary steps pursuant to the MOU to commence and prosecute eminent domain proceedings against the Property and HNA, and that the Supervisor or her designee is hereby authorized to execute any and all documents necessary for carrying out the purposes of this resolution.

14. AWARD / PARKING REVIEW AND STUDY FOR SOUTH NYACK / LABERGE GROUP

WHEREAS, on or about September 14, 2022, the Town issued a Request for Proposals (“RFP”) for a consultant/planner to provide professional services to provide a Parking Review and Study, including recommendations for parking regulations to be applicable in the areas comprising the former Village of South Nyack; and

WHEREAS, three proposals were received, reviewed and all found to be qualified, in light of the Laberge Group’s work with the Village of South Nyack during the dissolution process and with the Town of Orangetown since such dissolution, Laberge Group was found to be the best qualified to perform the study;

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Laberge Group to conduct a Parking Review and Study, including Code amendments for Town Board consideration, in accordance with the terms and conditions of the proposal and authorizes the Supervisor to execute an agreement as approved by the Town Attorney.

HIGHWAY

15. APPROVE / RECLASSIFY POSITION / APPOINT MICHAEL O’SULLIVAN / MAINTENANCE SUPERVISOR (AUTOMOTIVE) / HIGHWAY DEPARTMENT / EFFECTIVE OCTOBER 25, 2022

RESOLVED, upon the recommendation of the Rockland County Personnel Department, through an approved P.O. 27, reclassify Auto Mechanic to the position of Maintenance Supervisor (Automotive), an existing title in the Highway Department and appoint Michael O’Sullivan to the position, Grade 17, Step 18, at a salary of 113,036.00 effective October 25, 2022.

16. APPROVE / FUNDING 2022 TOWN LEAF REMOVAL OVERTIME BUDGET

RESOLVED, the Town Board hereby authorizes to fund the Highway Department Overtime Accounts in the amount of \$211,000. Brush and Weed Account, D.5140.012.05, shall be funded in the amount of \$126,000 and Brush and Weed Account, D.5140.020.05, shall be funded in the amount of \$85,000 to cover overtime costs associated with the Town’s 2022 Leaf Removal Program.

17. AUTHORIZE / AGREEMENT / NYS DOT / PIN 8780.54 NORTH MIDDLETOWN ROAD PEDESTRIAN LINK TO PEARL RIVER BUSINESS DISTRICT/ CONTRACT # D040725

WHEREAS, authorizing the implementation, and funding in the first instance 100% of the federal-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore; and

WHEREAS, a Project for the North Middletown Road Pedestrian Link to Pearl River Business District in the Town of Orangetown, Rockland County, PIN 8780.54 (the “Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 75% Federal funds and 25% non-federal funds; and

WHEREAS, the Town of Orangetown desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of construction and construction inspection;

WHEREAS, the Orangetown Town Board duly convened upon this matter;

NOW THEREFORE BET IT RESOLVED, that the Orangetown Town Board hereby approves the above-subject project; and

BE IT FURTHER RESOLVED, that the Orangetown Town Board hereby authorizes the Town of Orangetown to pay in the first instance 100% of the federal and non-federal share of the cost of construction and construction inspection work for the Project or portions thereof; and

BE IT FURTHER RESOLVED, the sum of \$288,000.00 is hereby appropriated from H.5110.200.99, and made available to cover the cost of participation in the above phase of the Project; and it is further

BE IT FURTHER RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Orangetown Town Board shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Supervisor thereof, and it is further

BE IT FURTHER RESOLVED, that the Supervisor of the Town of Orangetown be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the Town of Orangetown with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

BE IT FURTHER RESOLVED, that in addition to the Supervisor, the following municipal titles: Highway Superintendent, Commissioner of DEME, Director of Finance, are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and

BE IT FURTHER RESOLVED, this resolution shall take effect immediately.

PARKS AND RECREATION

18. CREATE POSITION / SENIOR RECREATION SUPERVISOR / PARKS & RECREATION

RESOLVED, that upon the recommendation of the Rockland County Personnel Department and the Labor Management Committee, create the position of Senior Recreation Supervisor (Grade 16) in the Department of Parks, Recreation & Building Maintenance. This is for the purpose of posting the position.

19. APPOINT CHRISTINE SMYTH-BONARDI / CLERK / PROBATIONARY / EFFECTIVE NOVEMBER 07, 2022 / PARKS AND RECREATION

RESOLVED, upon the recommendation of the Superintendent of Parks and Recreation, appoint Christine Smyth-Bonardi to the position of Clerk, probationary, from List #19137 (OC) Grade 2, Step 1, at a starting salary of \$37,689, effective November 7, 2022.

20. ACCEPT WITH REGRET / RETIREMENT / MIKE DALY / SENIOR GROUNDWORKER PARKS, RECREATION & BUILDING MAINTENANCE

RESOLVED, that upon the recommendation of the Superintendent of Parks, Recreation & Building Maintenance, accept with regret, the retirement of Mike Daly, Senior Groundworker, after 35 years of service to the Town.

21. ACCEPT WITH REGRET / RETIREMENT / MARK ALBERT / SENIOR RECREATION LEADER / PARKS RECREATION & BUILDING MAINTENANCE / EFFECTIVE OCTOBER 21, 2022

RESOLVED, that upon the recommendation of the Superintendent of Parks, Recreation & Building Maintenance, accept with regret, the retirement of Mark Albert, Senior Recreation Leader after 30 years of service to the Town, effective October 21, 2022.

LEND ASSISTANCE

22. APPROVE / LEND ASSISTANCE / 2022 NYACK HALLOWEEN PARADE / SATURDAY, OCTOBER 29, 2022

RESOLVED, upon the completion of all the necessary paperwork, the Superintendent of Highways has hereby forwarded for approval by the Town Board the use of barricades, a message board, and one plow truck for an enhanced security perimeter and traffic control for the Nyack Halloween Parade on Saturday, October 29, 2022 from 4pm to 7pm.

RESOLVED, upon the completion of all necessary paperwork, the Superintendent of Parks & Recreation has forwarded for approval by the Town Board use of the Showmobile at a rental cost of \$500.00 by the Nyack Chamber of Commerce for their Halloween Parade, Saturday, October 29, 2022, with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured.

FINANCE

23. APPROVE / 2022 ADDITIONAL BANKING DEPOSITORY / NYCLASS PROGRAM

WHEREAS, New York General Municipal Law, Article 5-G, Section 119-o (“Section 119-o”) empowers municipal corporations [defined in Article 5-G, Section 119-n to include school districts, boards of cooperative educational services, counties, cities, town and villages, and districts] to enter into, amend, cancel and terminate agreements for the performance among themselves (or one for the other) of their respective functions, powers and duties on a cooperative or contract basis;

WHEREAS, the Town of Orangetown wishes to invest portions of its available investment funds in cooperation with other corporations and/or districts pursuant to the NYCLASS Municipal Cooperation Agreement Amended and Restated as of March 28, 2019;

WHEREAS, the Town of Orangetown wishes to assure the safety and liquidity needs of their funds;

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows: that Jeffrey Bencik, Finance Director of the Town of Orangetown is hereby authorized to participate in the NYCLASS program under the terms of the NYCLASS Municipal Agreement Amended and Restated as of March 28, 2019.

AUDIT

24. 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 two (2) warrants (attached) for a total of **\$1,841,157.28**.

EXECUTIVE SESSION

25. ENTER EXECUTIVE SESSION

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

ADJOURNMENTS

26. RE-ENTER RTBM / ADJOURNED / MEMORY

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