

**TOWN OF ORANGETOWN
WORKSHOP/PUBLIC HEARING
TUESDAY, JULY 11, 2017**

This Workshop Meeting was opened at 8:00 p.m. Supervisor Stewart presided and the Town Clerk called the roll.

Present were: Councilman Thomas Diviny
Councilman Gerald Bottari
Councilman Paul Valentine
Supervisor Andrew Stewart

Absent: Councilman Denis Troy

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, Deputy Town Attorney
Jeff Bencik, Finance Director
James Dean, Superintendent of Highways
Joseph Moran, Commissioner of DEMA
Aric Gorton, Superintendent of Parks, Recreation & Building Maint.

Pledge of Allegiance to the Flag of the United States of America: Mike Mandel

RESOLUTION NO. 368

**OPEN PH/ORANGETOWN SEWER
DISTRICT/INCREASE COST OF THE
IMPROVEMENTS OF THE
FACILITIES**

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

RESOLVED, the public hearing on increasing the cost of the increase and improvement of the facilities of the Orangetown Sewer District is hereby opened.

Ayes: Supervisor Stewart
Councilpersons Valentine, Diviny, Bottari
Noes: None
Absent: Councilman Troy

The Town Clerk presented the Affidavit of Publication and Notice of Posting; copies are labeled Exhibit 07-A-17 and made a part of these minutes.

Summary of Public Comments:
There were no comments from the public.

RESOLUTION NO. 369

**CLOSE PH/ORANGETOWN SEWER
DISTRICT/INCREASE COST OF THE
IMPROVEMENTS OF THE
FACILITIES**

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

RESOLVED, the Public Hearing on increasing the cost of the increase and improvement of the facilities of the Orangetown Sewer District is hereby closed.

Ayes: Councilpersons Diviny, Bottari, Valentine
Supervisor Stewart
Noes: None
Absent: Councilman Troy

RESOLUTION NO. 370

**PUBLIC INTEREST ORDER
ORANGETOWN SEWER DISTRICT
INCREASE COST OF IMPORVEMENTS
TO FACILITIES**

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

WHEREAS, the Town Board of the Town of Orangetown, Rockland County, New York, has duly caused to be prepared a map, plan and report including an estimate of cost, pursuant to Section 202 b of the Town Law, relating to the increase and improvement of the facilities of the Orangetown Sewer District in the Town of Orangetown, Rockland County, New York, consisting of various sewer inflow and infiltration improvements for the Orangetown Sewer District, at a maximum estimated cost of \$2,000,000; and

WHEREAS, at a meeting of said Town Board duly called and held on June 13, 2017, an order was duly adopted by it and entered in the minutes specifying the said Town Board would meet to consider the increased cost of such increase and improvement of the facilities of the Orangetown Sewer District in said Town at a revised maximum estimated cost of \$2,500,000, being an increase of \$500,000 over that previously authorized, and to hear all persons interested in the subject thereof concerning the same at the Town Hall, 26 Orangeburg Road, in Orangeburg, New York, in said Town, on July 11, 2017, at 8:05 P.M., Prevailing Time; and

WHEREAS, said order duly certified by the Town Clerk was duly published and posted as required by law; and

ORDERED, by the Town Board of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearings, it is hereby found and determined that it is in the public interest to make the improvement, to increase and improve the facilities of Orangetown Sewer District in the Town of Orangetown, Rockland County, New York, consisting of various sewer inflow and infiltration improvements for the Orangetown Sewer District, at a revised maximum estimated cost of \$2,500,000.

Section 2. This order shall take effect immediately.

The question of the adoption of the foregoing order was duly put to a vote on roll, which resulted as follows:

- Ayes: Supervisor Stewart
Councilpersons Valentine, Diviny, Bottari
- Noes: None
- Absent: Councilman Troy

The order was thereupon declared duly adopted.

RESOLUTION NO. 371

**AUTHORIZE ISSUANCE/SERIAL
BONDS (ADDITIONAL \$500,000)
ORANGETOWN SEWER DISTRICT
INCREASE COST OF IMPROVEMENTS
TO FACILITIES.**

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

WHEREAS, pursuant to the provisions heretofore duly had and taken in accordance with the provisions of Section 202 b of the Town Law, and more particularly an Order dated of even date herewith, said Town Board has determined it to be in the public interest to improve the facilities of the Orangetown Sewer District, in the Town of Orangetown, Rockland County, New York, at a revised maximum estimated cost of \$2,500,000; and

RESOLUTION NO. 371 – Continued

WHEREAS, it is now desired to provide additional funding for such capital project over the \$2,000,000 previously authorized; NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of the increase and improvement of the Orangetown Sewer District in the Town of Orangetown, Rockland County, New York, consisting of various sewer inflow and infiltration improvements for the Orangetown Sewer District, at a revised maximum estimated cost of \$2,500,000, there are hereby authorized to be issued an additional \$500,000 serial bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the plan for the financing of such specific object or purpose is as follows:

- 1) By the issuance of \$2,000,000 serial bonds previously authorized pursuant to a bond resolution dated November 18, 2014; and
- 2) By the issuance of \$500,000 serial bonds authorized to be issued therefor pursuant to this bond resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law, calculated from the date of the first bond anticipation note issued therefor. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Orangetown, Rockland County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not paid from other sources, there shall be annually assessed upon all the taxable real property within said Orangetown Sewer District in the manner provided by law an amount sufficient to pay the principal and interest on said bonds as the same become due, but if not paid from such source, all the taxable real property in said Town shall be subject to the levy of ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same shall become due.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the Town of Orangetown, Rockland County, New York, by the manual or facsimile signature of the Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the Town Clerk.

Section 7. The Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the class of objects or purposes described in Section 1 hereof, or a portion thereof, by a bond or note issue of said Town in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 8. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for

sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of said Town, including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 9. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution 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
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 12. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Ayes: Councilpersons Bottari, Diviny, Valentine
Supervisor Stewart
Noes: None
Absent: Councilman Troy

The resolution was thereupon declared duly adopted.

RESOLUTION NO. 372

**CONTINUE PH / SKAE-COLUMCILLE
HARDSHIP EXEMPTION
TELECOMMUNICATIONS FACILITIES**

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

RESOLVED, the public hearing, continued from June 20, 2017 to this date, relating to an application by Columcille LLC, as owner of property located at 337 Blaisdell Rd., Orangeburg, New York (Tax Map Designation: 76.08-1-3) for a hardship exemption from the provisions of Local Law No. 4 of 2017, implementing a temporary moratorium on the construction or installation of new, or the expansion of existing, telecommunications facilities and structures within the unincorporated Town, pursuant to § 6 thereof, is hereby opened.

RESOLUTION NO. 372 – Continued

Ayes: Supervisor Stewart
Councilpersons Diviny, Valentine, Bottari
Noes: None
Absent: Councilman Troy

The Town Clerk presented the Affidavit of Publication and Notice of Posting; copies are labeled Exhibit 07-B-17 and made a part of these minutes.

Summary of Public Comments:
There were no comments from the public.

RESOLUTION NO. 373

**CLOSE PH / SKAE-COLUMCILLE
HARDSHIP EXEMPTION
TELECOMMUNICATIONS
FACILITIES**

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

RESOLVED, the public hearing on the application by Columcille LLC, as owner of property located at 337 Blaisdell Rd., Orangeburg, New York (Tax Map Designation: 76.08-1-3) for a hardship exemption from the provisions of Local Law No. 4 of 2017, is hereby closed.

Ayes: Councilpersons Diviny, Bottari, Valentine
Supervisor Stewart
Noes: None
Absent: Councilman Troy

RESOLUTION NO. 374

**SEQRA FINDING & DETERMINATION
SKAE-COLUMCILLE/HARDSHIP
EXEMPTION TELECOMMUNICATIONS
FACILITIES**

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

WHEREAS, by Local Law No. 4 of 2017, the Town implemented a temporary moratorium on the construction or installation of new, or the expansion of existing, telecommunications facilities and structures within the unincorporated Town; and

WHEREAS, pursuant to § 6 of Local Law No. 4, any applicant for a permit or other land use board approval required for the construction or installation adversely affected by the temporary moratorium who would suffer an unnecessary hardship by reason of the strict enforcement of this local law is authorized to apply to the Town Board, in writing, for relief therefrom; and

WHEREAS, the applicant owner of property located at 337 Blaisdell Rd., Orangeburg, New York (Tax Map Designation: 76.08-1-3) has made such application, asserting, among other things, that its application for site development plan approval for the construction of a “self-supporting mast”, with attached “Yagi”, receiver only, type structure, approximately 75 feet in height has been pending before the Town Planning Board since December 2016, and, following public hearing and review by various outside agencies, was nearly ripe for determination but for the adoption of the temporary moratorium; and

WHEREAS, the determination embodied in Local Law No. 4 of 2017, implementing the temporary moratorium was determined to be a Type II action under SEQRA, with no further review required; and

WHEREAS, in the judgment of the Board, an application for hardship relief from the moratorium, simply allowing an application to proceed, but otherwise making no determination on the merits of the underlying application, too would constitute a Type II action under SEQRA; and

RESOLUTION NO. 374 - Continued

WHEREAS, even if the request for hardship relief were to constitute an unlisted, and not a Type II, action, the Board, upon taking a hard look at the effects of such action, effectively authorizing the Planning Board to continue to process the pending application, without otherwise making any determination with respect thereto, the Board, if required to have made a determination under SEQRA, would have made a determination of non-significance and issued a Negative Declaration; and

WHEREAS, the application for a hardship exemption having been forwarded to the Rockland County Department of Planning for review, pursuant to § 6B of Local Law No. 4; and the County having responded thereto by letter dated July 11, 2017; and

WHEREAS, a public hearing on the application having been held, upon due and proper notice; and

WHEREAS, the Board has considered the merits of the application for a hardship exemption in the matter now before it, including the time and expense expended by the applicant before the temporary moratorium was implemented,

NOW, THEREFORE, BE IT RESOLVED, the request for exemption is granted with the express caveat and understanding that the exemption granted hereby by the Town Board shall in no manner be binding upon any land use board that might later be permitted or required to consider the application as a result of the exemption, it being expressly understood that the level of review undertaken by the Town Board is not intended to be of the same magnitude or detail as that required during the approval process.

In reaching such determination, the Board expressly finds as follows:

- 1) **Unnecessary Hardship.** The failure to grant an exemption will cause the applicant unnecessary hardship which, on balance, is substantially greater than the harm to the general public if the exemption is granted. The application was well past the preliminary stage when the moratorium was adopted. As such, the applicant had expended significant time and money on its preparation and prosecution before the Planning Board. There is no other application of which this Board is aware in a similar circumstance.
- 2) **Granting Relief From the Moratorium Will Not Have Any Adverse Effect on the Town's Goals** Granting the within applicant a hardship exemption will not have an adverse effect on the Town's goals in enacting the moratorium, nor will there be any potential adverse environmental or other effects that might result if the requested permit issued or other approval is granted. In this regard, the application before this Board is to allow the process to continue forward; the Board makes no determination regarding the merits of the underlying action.

The moratorium, when adopted, was intended to temporarily halt the proliferation of antennas and other telecommunications structures, most of which were not envisioned when the Town adopted its existing regulations. The purpose was to allow the Town to fully absorb and evaluate the new and rapidly changing technologies and to determine how best to address same in harmony with the Town's legitimate zoning and planning concerns. It was not intended to restrict single standalone, receiving only antennas, such as this, that have been in existence for 80+ years, provided the location and other attributes of the structure otherwise satisfy the planning concerns of the Planning Board.

- 3) **There will be no Evident Conflict with the existing Character of the Neighborhood.** Subject to further siting and other review by the Planning Board, given the location of the proposed structure, it does not appear that, if approved, the structure will conflict with the existing character of the community as a whole, or the immediate neighborhood in particular, and otherwise will not result in any unreasonable impact on the surrounding and nearby properties. That said, this Board defers final decision on that issue to Planning Board.

RESOLUTION NO. 374 - Continued

County Comments and Conditions

In reaching its determination, the Town Board has further considered the review comments of the Rockland County Department of Planning submitted by letter dated July 11, 2017, pursuant to General Municipal Law § 239 l & m and § 6B of Local Law No. 4 of 2017. The Town Board has considered the County’s single comment, conditions and/or concerns and addresses same in the following manner:

With respect to **County Comment 1**, which requires a review by the County Highway Department, and the procurement of any required highway permit, **the Board specifically overrides such comment/condition.**

Although the Board understands the appropriateness of Highway Department review and permitting, as necessary, such review is more properly a matter to be addressed on the substantive application, rather than on question whether the applicant should be permitted to prosecute the application in the face of the temporary moratorium. In fact, given that the application was already in its later stages, at the time the moratorium took effect, County Highway review already been solicited and received, and will be incorporated into the Planning Board’s determination, at such time as a determination is made.

To the extent County Comment 1 may be read to require Highway Department review of the within application for a hardship exemption, solely allowing the Planning Board to complete its review and to make a determination on the substantive application, the Town Board determines same to be unnecessary and expressly overrides such condition.

On the Override, motion by Supervisor Stewart, seconded by Councilman Diviny,

Roll Call:

- Ayes: Supervisor Stewart
Councilpersons Diviny, Valentine, Bottari
- Noes: None
- Absent: Councilman Troy

The aforesaid resolution, granting the hardship exemption was adopted by a vote of:

- Ayes: Councilpersons Diviny, Bottari, Valentine
Supervisor Stewart
- Noes: None
- Absent: Councilman Troy

RESOLUTION NO. 375

FILING OF 2017 EQUALIZATION RATE APPEAL/NYS OFFICE OF REAL PROPERTY TAX SERVICES

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

WHEREAS, Orangetown residents of the Nanuet and Nyack school districts face an extraordinary and unfair tax increase, while Clarkstown residents of these split school districts face a tax cut, a disparity estimated at 13% by the Nanuet School District, due the process by which the NYS Office of Real Property and Tax Services (NYS ORPTS) has calculated the equalization ratio between the two towns; and

WHEREAS, Orangetown, working with the school districts, Assemblywoman Ellen Jaffee, and others, has provided data to the NYS ORPTS resulting in a modest reduction of this unfair situation, but a large discrepancy remains, which neither the school districts nor the NYS ORPTS has been able to resolve, and

WHEREAS, NYS law provides a formal appeal process by which the aggrieved party may seek review of the final equalization rate as established by ORPTS; therefore be it

RESOLUTION NO. 375 – Continued

RESOLVED, the Town Board authorizes the Supervisor to execute a formal complaint to the NYS ORPTS, and execute any related documents, contesting the final equalization rate, as established, in order to obtain further mitigation of the unfair effects of the skewed equalization ratio; and be it further

RESOLVED, the Town Board calls upon NYS representatives and NYS ORPTS agency staff to amend the Real Property Tax Law to: limit Draconian shifts in equalization from one year to the next; to allow the NYS ORPTS to modify equalization rates on appeal even when the modifications do not amount to a 5% change (the current threshold for successful appeals); to combine adjacent towns in a single county where split school districts exist for the purposes of calculating trends in real property valuation; and to take other such measures as appropriate to prevent unfair skewing of the tax burden such as is occurring between the Orangetown and Clarkstown segments of the split school districts serving Nanuet and Nyack.

Ayes: Supervisor Stewart
Councilpersons Diviny, Valentine, Bottari
Noes: None
Absent: Councilman Troy

RESOLUTION NO. 376

WORKSHOP AGENDA ITEMS

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

RESOLVED, the Town Board discussed and reviewed Agenda items, 9 thru 33.

Ayes: Supervisor Stewart
Councilpersons Bottari, Diviny, Valentine
Noes: None
Absent: Councilman Troy

RESOLUTION NO. 377

**ENTER EXECUTIVE SESSION
CSEA LABOR CONTRACT**

In attendance, at this Executive Session, were Supervisor Stewart, Councilpersons Diviny, Valentine and Bottari, John Edwards, and Teresa Kenny.

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

RESOLVED, at 8:50 p.m. the Town Board entered Executive Session for CSEA labor contract negotiations. Supervisor Stewart said no further votes will be taken.

Ayes: Supervisor Stewart
Councilpersons Bottari, Diviny, Valentine
Noes: None
Absent: Councilman Troy

RESOLUTION NO. 378

**RE-ENTERED WORKSHOP
ADJOURNED**

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

RESOLVED, at 9:20 p.m. the Town Board re-entered the Workshop and adjourned in memory of Robert McBride, Pearl River.

Ayes: Supervisor Stewart
Councilpersons Bottari, Diviny, Valentine
Noes: None
Absent: Councilman Troy

Charlotte Madigan, Town Clerk