



TOWN OF ORANGETOWN TOWN BOARD MEETING

Tuesday September 13, 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

PRESENTATIONS:

◆ 2023 Budget Presentations for Special Districts:

- 7:05 P.M. - 7:10 P.M. / Blauvelt Volunteer Fire District (Mike Conklin / Peter Reynolds)**
- 7:10 P.M. - 7:15 P.M. / Rockland Paramedics (Tim Egan / Mark Cygielman)**
- 7:15 P.M. - 7:20 P.M. / South Orangetown Ambulance Corps (Pete Roimisher)**
- 7:20 P.M. - 7:25 P.M. / Nyack Ambulance Corps (William McDowell)**
- 7:25 P.M. - 7:30 P.M. / Orangeburg Library (Grant Zacharias / Michelle Galle-Looram)**
- 7:30 P.M. - 7:35 P.M. / Tappan Library (Sara Nugent / Vicki Caramante)**
- 7:35 P.M. - 7:40 P.M. / Palisades Library (Maria Gagliardi / Marjorie Galen)**
- 7:40 P.M. - 7:45 P.M. / Blauvelt Library (Laura Grunweg / Sal Pagnani / Mike Andrea)**

DISCUSSION:

- ◆ Orangetown Soccer Complex - OMSC - Non-Payment of Non-Resident Fees**
- ◆ 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. CONTINUATION OF PUBLIC HEARING FROM RTBM OF AUGUST 23, 2022 / 7:10 P.M. / PROPOSED CHANGE TO THE TOWN CODE, CHAPTER 43, ADDING ARTICLE XVIII TO ADDRESS ZONING IN THE HAMLET OF SOUTH NYACK

RESOLVED, that the public hearing is hereby continued.

SUMMARY OF PUBLIC COMMENTS:

4. CLOSE OR CONTINUE PUBLIC HEARING / PROPOSED CHANGE TO THE TOWN CODE, CHAPTER 43, ADDING ARTICLE XVII TO ADDRESS ZONING IN THE HAMLET OF SOUTH NYACK

RESOLVED, that the public hearing is hereby closed or continued to _____.

5. CONSIDERATION OF ADOPTION OF LOCAL LAW NO. ____ OF 2022 AMENDING CHAPTER 43 (ZONING) OF THE ORANGETOWN CODE, AND REPEALING CHAPTER 330 (ZONING LAW) OF THE FORMER VILLAGE OF SOUTH NYACK, RELATING TO THE NEW HAMLET OF SOUTH NYACK

WHEREAS, the Town Board of the Town of Orangetown (“Town” or “Orangetown”) is the duly elected legislative body of the Town, and authorized to adopt Local Laws amending the Code of the Town of Orangetown (“Orangetown Code”), including amendments to the Orangetown Zoning Code embodied in Chapter 43 of the Orangetown Code (“Zoning Code”).

WHEREAS, the Town Board has considered the adoption of amendments to the following provisions of the Zoning Code:

(a). §2.1 (Establishment of Districts) to add a new §2.2.2 to be entitled “South Nyack (SN) Hamlet District;”

(b). §2.2 (Zoning Map) to add new Zoning Districts (SN____) within the new South Nyack Hamlet District;

(c). §3.13 (Tables of General Regulations) to add a new Use and Bulk Table to be entitled “Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations;”

(d). repeal §10.2 (Enforcement), §10.22 (Permits), and §10.223(g) (Applications for a permit within designated critical environmental area) and replace §10.223(g) in its entirety with new Critical Environmental Areas provisions; and

(e). add a new Article XVIII, to be entitled “Hamlet of South Nyack Supplemental Regulations,” to Chapter 43 (Zoning).

WHEREAS, the Town Board has also considered, as part of this proposed Local law, the repeal of the former Village of South Nyack’s Zoning Law (Chapter 330 of the former Village Code), and the repeal of selected former Village of South Nyack Code sections that are applicable to buildings and properties.

WHEREAS, all of the aforesaid proposed amendments and repeals, together, referred to herein as the “proposed Local Law,” which proposed Local Law is appended hereto, made a part hereof and marked as “ATTACHMENT 1.”

WHEREAS, after notice duly given, and there being no other Involved Agency, by Resolution duly adopted the 24th day of May, 2022, the Town Board assumed the role of Lead Agency, pursuant to the State Environmental Quality Review Act (“SEQRA”), for environmental review.

WHEREAS, after reviewing Part 1 entitled “Project and Setting” of the SEQRA Full Environmental Assessment Form (“EAF”) dated 02/22/2022, the EAF Part 2 entitled “Identification of Potential Project Impacts” dated 04/07/2022, and the EAF Part 3 entitled “Evaluation of the Magnitude and Importance of Project Impacts and Determination of Significance” dated 04/07/2022, all of which Parts of the EAF were prepared and recommended, on behalf of the Town Board, by David Gilmour, AICP, Senior Planner of Laberge Group, the Certified Planner retained by the Town Board, the Town Board, acting in its capacity as the SEQRA Lead Agency, hereby adopts the said Part 2 and Part 3, and incorporates them by reference as if fully set forth herein; and the Town Board determines that there will be no potential significant adverse environmental impacts resulting from the Town Board’s adoption of the proposed Local Law, thereby issuing a SEQRA Negative Declaration.

WHEREAS, following compliance with all public notice requirements as mandated by NYS statute(s) and the Orangetown Code, and distribution of the proposed Local Law to the Town Board as per NYS Municipal Home Rule Law §20(4), a Public Hearing was duly held by the Town Board regarding the proposed Local Law.

WHEREAS, the Orangetown Planning Board, by its memorandum to the Town Board, dated 06/23/2022, following due consideration at its public meeting held on 04/27/2022, offered no comments regarding the proposed Local Law, pursuant to Zoning Code §10.5.

WHEREAS, the Rockland County Department of Planning, pursuant to NYS General Municipal Law (“GML”) §239-I, et seq., reviewed the proposed Local Law and provided a GML review report to the Town Board, dated 05/12/2022, which report recommended sixteen Modifications; regarding which the Town Board hereby overrides the Modifications numbered “6”, “12”, “15” and “16”, for the reasons set forth

in the Memorandum of David Gilmour, AICP, dated 08/15/2022, appended hereto, made a part hereof and marked as "ATTACHMENT 2."

NOW, THEREFORE, BASED ON ALL OF THE INFORMATION BEFORE THE TOWN BOARD, AND THE FINDINGS MADE HEREIN, BE IT RESOLVED, that the Town Board hereby adopts the proposed Local Law in the form and substance as appended hereto, and as may be amended herein.

6. **GATTO LANE: AUTHORIZE ISSUING A NEGATIVE DECLARATION WITH RESPECT TO THE ADOPTION OF A LOCAL LAW RELATING TO A ZONING TEXT AMENDMENT, CHANGING THE ZONING DISTRICT CLASSIFICATION FROM "R40" TO "R15" AND THEN TO "PAC" FOR PROPERTY LOCATED IN THE HAMLET OF PEARL RIVER ON ON THE EAST SIDE OF HIGHLAND AVENUE, NORTH SIDE OF GATTO LANE ON APPLICATION OF TOLL BROTHERS, INC., AND SHOWN ON THE TAX MAP OF THE TOWN OF ORANGETOWN AS SBL 68.07 – 2 – 1.**

WHEREAS, the Town Board of the Town of Orangetown (the "Town Board") is the duly elected legislative body of the Town, authorized to adopt zoning text amendments to the Town's Zoning Law, and an "involved agency" under the State Environmental Quality Review Act ("SEQR") with respect to the adoption of zoning text amendments applicable to property located within the Town of Orangetown; and

WHEREAS, by Petition and accompanying application dated December 21, 2020, Toll Brothers, Inc. as contract purchaser of the property, owned by Gatto Lane, LLC, which property is located in the Hamlet of Pearl River, on the East side of Highland Avenue where it intersects with Gatto Lane, and shown on the Tax Map of the Town of Orangetown as SBL 68.07-2-1, formally petitioned the Town Board to change the zoning classification of the said property from "R40" to "R15" and then from "R15" to Planned Adult Community ("PAC") in accordance with the provisions of Chapter 43, Article IV, Section 4.6 of the Orangetown Town Code, by which the PAC zoning district was created and authorized as a "floating" district; and

WHEREAS, following its filing with, and receipt by, the Town, the Town Board caused to be circulated the said Petition and supporting documents amongst all other involved and/or interested agencies notice of its intention to assume Lead Agency status for the purpose of environmental review of the above referenced action; and

WHEREAS, more than thirty (30) calendar days have passed since the Town declared its intent to be Lead Agency for environmental review, and no other involved agency has expressed a desire or intent to act as Lead Agency, or otherwise has sought to contest the Town Board's authority to act in that capacity with respect to the referenced action, the Town Board has assumed the role of Lead Agency for environmental review; and

WHEREAS, the Town Board, acting in its capacity as Lead Agency for environmental review, having carefully considered all of the potential environmental impacts that might result from the proposed action, has concluded that there will be no significant environmental impacts or effects caused or occasioned by the change in the zoning classification of the subject parcel and its eventual improvement with over 55 Planned Adult Community Housing,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board adopts the findings and conclusions relating to probable environmental impacts contained in the Short Form and Long Form Environmental Assessment Forms, and in the Negative Declaration annexed hereto, and authorizes the Town Supervisor, or her designated agent, to execute the Environmental Assessment Form and to file the Negative Declaration in accordance with the applicable provisions of law; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town Supervisor, or her designated agent, to take such further steps as may be necessary to discharge the Town Board's responsibilities as Lead Agency.

7. **GATTO LANE: RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ORANGETOWN ADOPTING LOCAL LAW NO. ___ OF 2022, RELATING TO A ZONING TEXT AMENDMENT, CHANGING THE ZONING DISTRICT CLASSIFICATION FROM "R40" TO "R15" AND "R15 TO "PAC" FOR PROPERTY LOCATED IN THE HAMLET OF PEARL RIVER ON THE EAST SIDE OF HIGHLAND AVENUE, NORTH SIDE OF GATTO LANE ON APPLICATION OF TOLL BROTHERS, INC., AND SHOWN ON THE TAX MAP OF THE TOWN OF ORANGETOWN AS SBL 68.07 – 2 – 1.**

WHEREAS, the Town Board of the Town of Orangetown (the "Town Board") is the duly elected legislative body of the Town, authorized to adopt zoning text amendments to the Town's Zoning Law; and

WHEREAS, by Petition and accompanying application dated December 21, 2020, Toll Brothers, Inc. as contract purchaser of the property, owned by Gatto Lane, LLC, which property is located in the Hamlet of Pearl River, on the East side of Highland Avenue where it intersects with Gatto Lane, and shown on the Tax Map of the Town of Orangetown as SBL 68.07-2-1, formally petitioned the Town Board to change the zoning classification of the said property from "R40" to "R15" and then from "R15" to Planned Adult Community ("PAC") in accordance with the provisions of Chapter 43, Article IV, Section 4.6 of the Orangetown Town Code, by which the PAC zoning district was created and authorized as a "floating" district; and

WHEREAS, after notice duly given, and no other involved agency having a desire or intention to act as Lead Agency, or otherwise having contested the Town Board's authority to act in that capacity with respect to the referenced action, the Town Board assumed the role of Lead Agency for environmental review; and

WHEREAS, by resolution duly adopted of even date herewith, but prior to the adoption of this resolution, the Town Board, acting in its capacity as Lead Agency for environmental review, concluded that there will be no significant environmental impacts or effects caused or occasioned by the change in the zoning classification of the subject parcel and its eventual improvement with adult or senior residential housing; and

WHEREAS, in addition to the Petition, the Town Board also has considered the following in furtherance of its obligation to evaluate whether the proposed site is both eligible and, in the Town Board's discretion, appropriate for PAC zone designation:

- (1) The application of the Petitioner / Petitioner, including a project description and Concept Site Plan dated 12/21/20, last revised 08/11/2022;

- (2) A Traffic Engineering Evaluation prepared by Michael Galante of Frederick P. Clark Associates dated December 21, 2020;
- (3) A Market Analysis, prepared by ESE Consultants, dated November 24, 2020;
- (4) Housing Plans detailing the types and number of units, including square footage, number of bedrooms and approximate rental costs.
- (5) The Full Environmental Assessment Form for the action, consisting of:
 - Part 1, prepared by the applicant's engineer Ken DeGennaro, PE, dated December 21, 2020, updated as of;
 - Part 2, prepared by by Jane Slavin, Director of the Office of Building Zoning Planning Administration and Enforcement, and by the Town Board as Lead Agency dated August 23, 2022;
 - Part 3, prepared by Jane Slavin and by the Town Board as Lead Agency dated August 23, 2022;
- (6) The comments of the Rockland County Planning Department pursuant to GML § 239, dated May 16, 2022;
- (7) The comments of the Town of Orangetown Planning Board dated September 22, 2021;
- (8) And all other submissions and public comments and submissions on the matter, and,

WHEREAS, following notice duly and properly given, a public hearing was conducted on the Petition, at which the Petitioner provided testimony from consultants and experts regarding various aspects of the senior housing project proposed for the site under consideration, including consultants on traffic, demographics, market absorption and taxes, and

WHEREAS the Town Board has considered both the need for adult housing within the Town as contemplated by the adoption of the PAC zoning classification, and the impact on the Town's stock of land available for OP uses at this time and following the zone change; and

The Town Board hereby making the following Specific Findings Relating to the Instant Petition:

Pursuant to Chapter 43, Subsection 4.6.12, the Town Board makes the following specific Findings of Fact, pertaining to the instant Petition:

Marketability of the Proposed Units

Based on the market studies conducted by the Petitioner, it appears that while there have been several PAC zone changes in the Town, there remains a need for housing stock, meeting the specific needs and concerns of those in the 55 and older active adult age group both within the Town of Orangetown specifically, and within the

County of Rockland general. Many of the previous PAC approved districts have been fully developed and occupied.

There is demand for this specific project that will provide active adult housing for persons in the moderate to higher income or means range. Although adjoining neighbors have expressed concern regarding the development of this land, there have been residents who have expressed interest in the project. The reasonable number of units (36) at this location is consistent with the surrounding area of primarily single family homes, when compared to larger projects throughout the Town. The senior housing units proposed for the site appear to be very marketable.

Potential Saturation Within and About the Geographic Area of the Proposed Zoning Amendment.

Based on the findings set forth above, relating to the number of eligible prospective purchasers throughout the Town and surrounding areas, and the demonstrated need for active adult housing in the relevant market area, the Town Board concludes that the approval of the instant zoning amendment, permitting the construction of up to 36 senior housing units will not saturate the neighborhood in which the site is located.

Suitability of the Site for Senior Housing; Vehicular Access, Transportation, Walking and Traffic Concerns in General.

The proposed residential development will be age restricted and consist of no more than units housed in a community to be managed through a homeowner's association, which will be responsible for maintaining all of the common areas, including designated recreation areas and internal roadways and open space.

As shown on the conceptual site plan provided by Petitioner and presented at the public hearing, the proposed adult community will consist of 36 town home style, 2 story, 2 bedroom units, located on approximately 10 acres, of which the building coverage will be approximately 17%, with the remainder to be open space and recreation.

The project design will meet the off-street parking requirements applicable to the PAC zone, providing a single car garage for each unit, space for a second car for each unit in the driveway, and an additional 10 spaces for overflow.

The location of the site further meets the needs of the senior community in that it is located relatively close to the downtown Pearl River area, and the business corridor along Middletown Road.

The Town Board further finds, based on the traffic study conducted by the Petitioner, as well as the proposed improvement to Gatto Lane by widening same, that the road system in and about the site will accommodate any traffic volume that may be generated by the project proposed for these premises.

Compatibility of a Planned Adult Community Project With the Surrounding Environment.

The proposed senior housing community is an appropriate use for the premises sought to be re-zoned. The site is located in a predominantly single family neighborhood, which the proposed units will also be single family, limited to 2

bedrooms. The Town Board finds, consistent with its Town-wide Comprehensive Plan, that the contemplated planned adult housing use is consistent with the uses otherwise existing and permitted in the area, and is otherwise compatible with the existing development in the area.

The Petitioner, in accordance with the requirements of the Chapter 43, Article IV, Section 4.6 has presented to the Town Board a Concept Site Plan, prepared by Brooker Engineering The Concept Plan shows a community of 36 single family town homes. The Concept Plan further shows amenities as previously noted, with an overall design and architectural layout which preserves a significant amount of undisturbed open space, supplementing that open space with additional landscaping so as to mitigate any adverse visual impact from the surrounding view points. The plan will be subject to site plan approval by the Planning Board.

Maximum Unit Count

By reason of the proposed layout, the Town Board further establishes 36 town home style units as the maximum number of units permitted on the site, which units shall consist of no more than two bedrooms.

The Town Board further finds that the Conceptual site plan and description reflects a suitable mix of open space and senior housing development as contemplated under Chapter 43, Article IV, Section 4.6 of the Town Code.

Other Findings and Conditions

Recreation Contribution

The Petitioner, as part of its proposal, has further offered to make a contribution toward the recreation needs of the Town in the sum \$_____ to be paid following the grant of final site development plan approval by the Town Planning Board for the PAC development and before the signing of the site plan by the Clerk to the Planning Board.

It is further understood, in regard to the recreation contribution offered by the Petitioner, as hereinbefore set forth, that the said recreation fee shall not be due and owing unless the Town Planning Board as part of its site plan approval shall waive the money-in-lieu of land requirement upon a finding that the recreation contribution agreed to be paid as a condition of this zone change, coupled with other on -site recreation lands and amenities provided, exceeds the amount that otherwise would have been due and owing under existing Town land use regulations.

Site Development Plan and Other Required Municipal Approvals

The adoption of this resolution granting the requested zoning amendment from OP to PAC based upon the conceptual site plan and related materials is not intended to, nor shall it be interpreted to, circumvent or usurp the authority of the Planning Board or of any other land use board having authority over site specific details. Pursuant to §4.612 (D), the Town Board reserves the right to review any proposed site development plan before preliminary approval by the Planning Board to determine whether, in the judgment of the Town Board, the proposed

plan does not substantially deviate from the final concept plan that was reviewed and approved herein.

Age Limitations Under the PAC Designation

As required by § 4.65, occupancy of the units to be developed on the site as a result of this zoning amendment, at the time of initial conveyance, and thereafter, shall be restricted to persons fifty-five (55) years of age or older, or couples, one of whom is 55 years of age or older. Persons less than 21 years of age shall not be permanent residents under any circumstances, other than as set forth in § 4.65(A).

The Petitioner, prior to the issuance of any building permits, shall file with the Rockland County Clerk, in a form both recordable and acceptable to the Town Attorney, a covenant, which shall run with land and bind all Owners and occupants, restricting the sale, re-sale, rental and occupancy of the units within the PAC development as set forth in this resolution.

Rockland County Planning Department Conditions

The Town Board has received, and has considered, the General Municipal Law § 239 L & M review submitted by the Rockland County Department of Planning dated May 16, 2022, which recommended “disapproval” of the project, as well as other comments and conditions as set forth therein.

For the reasons set forth below, and as set forth in the letter from the applicant’s engineer, Kenneth DeGennaro, P.E., Brooker Engineer dated June 1, 2022, the Town Board hereby OVERRIDES the Rockland County GML “disapproval”, by a super majority vote of the Board, as set forth below:

County Comment 1, indicates in sum and substance, that the site is bounded by R-22, R-15 and R-40 zones in Orangetown, as well as R-35 outside of the Town, and indicates zoning should be changed no further from R-40 than to R-22 to “better conform to all of the surrounding districts, OR allow the R-15 zoning with a guarantee of a maximum of 15 building lots.

The Town Board has taken this comment in to consideration and finds that, there are a significant number of surrounding properties that are zoned R-15, and the PAC includes measures for transitioning between different uses through the use of buffer zones, as indicated on the conceptual site plan. Although there will be more units under a PAC, all of the PAC units are two bedrooms, and the location of the units will be physically further from neighboring properties than if the property were developed under R-15, and less intensive land disturbance will result under the PAC concept plan.

County Comment 2, indicates the fact that the existing R -40 zoning that is in place, and the condition of the land as being undeveloped, make this site not an intended candidate for PAC. This comment ignores the fact that a very large area immediately to the east of the site is zoned R-15, which under the Town Code, is a zone that is eligible for PAC zoning. Although not abutting a major highway, the site is located a short drive from Route 304, and a bit further, to Middletown Road in Pearl River, and the NYS Thruway entrance in Chestnut Ridge, as are all of the other residential properties in that neighborhood. Had this been zoned R -15 previously, in accordance

with the other properties abutting it as mentioned above, there would be no issue related to whether the site was an “intended candidate” for PAC zoning.

County Comment 3, relates to density and indicates the Town Board must consider the cumulative and regional impacts of permitting such development and that the PAC zoning is out of character with the surrounding neighborhood. Again, this ignores the fact that a significant portion of the surrounding neighborhood is already zoned R-15, which this site will now be changed to be the same as the existing neighborhood, and that R-15 permits PAC zoning. The Town Board finds that the increase in density is offset by the clustered development, thus limiting its impact on surrounding properties. In addition, the nature of PAC housing results in less impact on schools and traffic in terms of busing and trips related thereto. The 36 two bedroom units, which is less density than what would be permitted by the PAC bulk requirements for a project of this size, will have a minimal impact on density and development as far as county and regional concerns may be impacted.

County Comment 4, indicates the site is identified in the Town Comprehensive Plan dated May, 2003 as a potential “open space” and that the Town and owner should wait until an updated Comprehensive Plan, currently under consideration, is completed. Notwithstanding the foregoing, the Town is not the owner of the land, and has significant open and recreational space throughout the Town. In addition, while identified as “Proposed Transitory Open Space”, such does not preclude consideration of the zone change to R-15 and PAC. The planner who is assisting the Town in updating its Comprehensive Plan, recommends in its submission dated April 25, 2022 that this site (and others) be zoned to conform with the immediately adjacent zoning district to increase consistency in the regulations. Changing the zoning on this site to R-15, which is the same as the adjacent R-15 properties referenced above, is consistent with this recommendation. The PAC regulations permit PAC zoning in R-15 based upon the density regulations of that district.

County Comment 5, indicates the plan would require certain bulk variances and approving such a plan would set an undesirable precedent. The latest revised concept plan issued subsequent to this comment, has reduced the number of proposed units to 36, two bedroom units only. There are no bulk variances required under this conceptual plan thus the comment is no longer applicable.

County Comment 6, indicates the Town must evaluate certain items as set forth in the Town Code and that some such items are not part of the submission. The conceptual plan includes open space and recreation facilities, schematic water, sanitary sewer and drainage facilities, as well as the layout of the road and emergency access area. The petition does include a market analysis dated 11/24/2020. The additional requirements section of the Code does not require a specific lighting or landscape plan. The Town Board finds the concept plan under consideration provides information sufficient for it to make a determination on the zone change, and the Planning Board will address certain site specific requirements. The concept plan must return to the Town Board before the Planning Board grants any preliminary site plan approval, to ensure the site plan substantially conforms to the concept plan that is being approved as part of the zone change.

County Comment 7, indicates that the concept plan does not include specific references to proposed recreation areas. The revised concept plan has addressed this comment and exhibit passive recreation areas, and a pickleball court, which

exceed the PAC requirements of 250 sf per unit. In addition, the applicant has agreed to make a payment to the Town for contribution to the Town's recreation fund.

NOW, BASED ON ALL OF THE INFORMATION BEFORE THE BOARD, AND THE FINDINGS HEREINAFTER MADE, BE IT RESOLVED , that the Town Board hereby adopts Local Law No. __, amending the Town's zoning map and zoning law to change the zoning classification from R40 to R15, and R15 to PAC of that certain property located in the Hamlet of Pearl River, on the East side of Highland Avenue where it intersects with Gatto Lane, and shown on the Tax Map of the Town of Orangetown as SBL 68.07-2 -1 and more fully described and set forth on Schedule "A" annexed to and made a part of this Resolution.

The aforesaid resolution was moved by _____, seconded by _____, and (adopted / rejected) by a vote of ___ Ayes ___ Nays and ___ Abstentions, as follows:

	Aye	Nay	Abstain
Councilman Bottari	___	___	___
Councilman Diviny	___	___	___
Councilman Donahue	___	___	___
Councilman Valentine	___	___	___
Supervisor Kenny	___	___	___

8. APPROVE FIFTH AMENDMENT TO PCS SITE AGREEMENT WITH AT&T/NEW CINGULAR WIRELESS PCS, LLC FOR NEW / REPLACEMENT ANTENNAE AND EQUIPMENT AT HIGHWAY DEPARTMENT WIRELESS / CELL TOWER, 119 ROUTE 303, ORANGEBURG

RESOLVED, that the Town Board hereby: (i) approves the "Fifth Amendment to Lease Agreement" (of 08/27/1993) between the Town of Orangetown and New Cingular Wireless PCS, LLC (now known as AT&T), so as to install additional antennas, associated cables and other communications instruments, and to permit the wireless communications carrier to add, modify and/or replace equipment in order to be in compliance with any current or future Federal, State or Local mandated application, including, but not limited to, emergency 911 communication services, at the Town Hall wireless communications/cell tower sited at 26 W. Orangeburg Road, Orangeburg, which Fifth Amendment to Lease Agreement provides for an additional \$300.00 rent per month to be added to the current monthly rent, subject to further rental amount adjustments as provided in the 08/27/1993 Lease Agreement; and (ii) authorizes the Supervisor to execute the Fifth Amendment to Lease Agreement.

9. DONATE TO THE PEARL RIVER CHAMBER OF COMMERCE / PEARL RIVER WELCOME SIGN / CORNER OF 55 W CENTRAL AVENUE AND ROUTE 304, PEARL RIVER

RESOLVED, the Town Board hereby donates to the cost of a Pearl River Welcome Sign, to be located at the corner of 55 W Central Avenue and Route 304, Pearl River in the amount of \$5,770.00 to be paid out of the Pearl River Parking District Fund, in honor of Pearl River's 150th Anniversary.

10. **AUTHORIZE REQUEST FOR PROPOSALS (RFP) FOR A PARKING STUDY / HAMLET OF SOUTH NYACK**

WHEREAS, as a result of the dissolution of the Village of South Nyack, the Town Board finds it is necessary to address issues related to parking regulations to be implemented in the hamlet of South Nyack, so as to be consistent with current Town regulations, recognizing the hamlet may have conditions warranting further review before implementation of any such regulations by the Town,

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby authorizes the Town Clerk to issue, to the general public a Request for Proposals for the purpose of receiving proposals from qualified Engineering, Architectural and/or Planning firms having the necessary experience for the preparation of a Parking Study for the hamlet of South Nyack; with Proposals to be received as set forth more fully in the Request for Proposals.

11. **AUTHORIZE / MUTUAL CANCELLATION OF THE CONTRACT OF SALE WITH DURSO TRUCKING SERVICES, INC. / 65 BROOKSIDE AVENUE, SOUTH NYACK**

WHEREAS, pursuant to New York General Municipal (“GML”) Law Article 17-A and a dissolution plan adopted by the Village of South Nyack (“the Village”) dated July 30, 2021, the Village of South Nyack officially dissolved as of March 31, 2022; and,

WHEREAS, the Village also entered into a contract dated January 11, 2022 to sell the property at 65 Brookside Avenue S., South Nyack, New York 10960 (S/B/L 66.53-3-6.1 and 66.53-3-6.2), known as the South Nyack Department of Public Works property (“South Nyack DPW Property”), to Durso Trucking Services Inc. for the sum of \$1,651,000.00; and,

WHEREAS, the Town entered into an Assignment and Assumption Agreement with the former Village of South Nyack to accept a quit claim deed of title for such property and assuming the rights and obligations of the Village under the terms of the contract of sale, and

WHEREAS, the Town Board has reviewed the contract and terms of sale and has determined that it is not in the best interests of the Town, including the residents of the former Village, to proceed with the sale of the aforesaid property under the contract terms as they currently exist, and

WHEREAS, the purchaser has agreed to a mutual cancellation of the contract of sale, with no further rights or obligations of the parties with respect thereto, including a return to the purchaser of its down payment pursuant to the contract of sale,

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby authorizes the contract of sale with Durso Trucking Services, Inc. as purchaser, for the sale of 65 Brookside Avenue, South Nyack, New York, to be cancelled, with consent of the purchaser, with the parties having no further rights or obligations with respect thereto and,

BE IT FURTHER RESOLVED, that the Town Supervisor and Town Attorney are authorized to take such action and execute any and all documents necessary to implement the purposes of this resolution, and

BE IT FURTHER RESOLVED, the terms and conditions of the Assignment and Assumption Agreement shall otherwise remain in full force and effect.

12. ESTABLISH FEE FOR PARKING SPACES AT BROOKSIDE AVENUE PARKING LOT / SOUTH NYACK

WHEREAS, upon dissolution of the Village of South Nyack, the Town of Orangetown has become the owner of the former Village property located on Brookside Avenue, which has been used as a public parking area for noncommercial vehicles owned or used by residents of the Village of South Nyack, and

WHEREAS, the former Village issued permits pursuant to Chapter 220 of the Village of South Nyack Code, which permits ran from October 1, 2021 to September 30, 2022, and

WHEREAS, pursuant to New York General Municipal Law §789, Chapter 220 of the Village of South Nyack Code remains in effect at this time, as if adopted by the Town Board, and

WHEREAS, Section 220-2 of the South Nyack Code provides that the fee to be paid for parking shall be established by resolution of the Board,

NOW THEREFORE BE IT RESOLVED, that the Town Board establishes the fee for parking spaces at Brookside Avenue parking lot as _____ per year, to be administered by the Town Clerk, and that persons who currently hold a permit shall be granted an opportunity to renew said permit for a period of one year, and to the extent any permits remain available, shall be offered on a first come, first serve basis.

13. ACCEPT DRAFT COMPREHENSIVE PLAN / SET PUBLIC HEARING ON OCTOBER 25, 2022 AT 7:05 PM. TO CONSIDER ADOPTING THE ORANGETOWN COMPREHENSIVE PLAN

WHEREAS, the Town of Orangetown Comprehensive Plan Committee (CPC) has worked with AKRF, Inc. and MUD Workshop in the development of a draft Comprehensive Plan for the Town of Orangetown; and

WHEREAS, the CPC has held a series of public workshops and a public hearing pursuant to New York State Town Law § 272-a(6); and

WHEREAS, the CPC believes that the draft Comprehensive Plan reflects the range of views presented by members of the public and offers implementable recommendations for the future of the Town of Orangetown; and

WHEREAS, the CPC hereby forwards the draft Comprehensive Plan to the Town Board and recommends that the Town Board circulate the plan to the Rockland County Department of Planning and the Town of Orangetown Planning Board; and

WHEREAS, the CPC recommends that the Town Board consider and adopt the draft Comprehensive Plan,

NOW THEREFORE BE IT RESOLVED, the Town Board accepts the draft Comprehensive Plan and refers the draft Comprehensive Plan to the Rockland County Planning Department and the Town of Orangetown Planning Board, and

BE IT FURTHER RESOLVED that, there being no other Involved Agency under the State Environmental Quality Review Act ("SEQRA"), the Town Board hereby Declares itself to be the Lead Agency under SEQRA for environmental review, and

BE IT FURTHER RESOLVED, the Town Board will hold a Public Hearing at 7:05 pm at the Town Board meeting of October 25, 2022 to consider adopting the Orangetown Comprehensive Plan, and

BE IT FURTHER RESOLVED, that pursuant to Town Law 272 -A.6(c), the copies of the draft Comprehensive Plan will be available for public review at the office of the Town Clerk and on the Town's website.

TOWN ATTORNEY

14. **APPROVE / AUTHORIZE TOWN ATTORNEY TO SIGN SETTLEMENT DOCUMENTS / TAX CERTIORARI PROCEEDING ARAN BANSHEE LLC V. ORANGETOWN, ET AL. (68.20-2-74)**

RESOLVED, upon the recommendation of the Assessor, approve and authorize Dennis D. Michaels, Deputy Town Attorney, to sign settlement documents regarding the tax certiorari proceeding Aran Banshee LLC v. The Assessor, etc. et al., tax map designation 68.20-2-74 (50 Franklin Ave, Pearl River), for the tax assessment year 2021 for a total refund by the County of \$569, a total refund by the Town of \$1,698, and a total refund by the School District of \$5,867. Interest on the Town's liability as a result of assessment decrease or refund is waived if payment is made within sixty (60) days after a copy of the order based upon the settlement is served on the Rockland County Finance Department.

15. **APPROVAL OF 2022 CERTIFICATE OF SEWER REGISTRATION**

RESOLVED, that upon the recommendation of the Town Attorney and the Commissioner of the Department of Environmental Management and Engineering, a Certificate of Registration for 2022 Sewer Work is approved to:

- ◆ Pro Cut Landscaping, 11 Pineview Road, West Nyack, NY 10994

POLICE

16. **APPROVE FIRST AMENDMENT TO THE 02/16/2022 SCHOOL RESOURCE OFFICER (SRO) AGREEMENT (TB RESOLUTION #2022-86) WITH NYACK SCHOOL DISTRICT FOR NYACK MIDDLE SCHOOL**

WHEREAS, the Nyack Union Free School District (NSD) had requested that the Town Police Department assign a School Resource Officer (SRO) to the Nyack Middle School, which is located in South Nyack; and

WHEREAS, NSD has agreed that, as a condition of such assignment, to reimburse to the Town a portion of the cost to the Town for the services of such assignment, which has been formalized and effectuated by way of Town Board Resolution #2022-86, and an executed Agreement for the School Resource Officer Program entered into by the parties on 02/16/2022 ("02/16/2022 Agreement"); and

WHEREAS, the Town and NSD are desirous of amending the 02/16/2022 Agreement, which will be embodied in a First Amendment to the 02/16/2022 Agreement for the School Resource Officer Program ("First Amendment to the 02/16/2022 Agreement"), which First Amendment to the 02/16/2022 Agreement the parties are authorized to enter into, pursuant to NYS General Municipal Law §119-o.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes the Town to enter into, with NSD, the First Amendment to the 02/16/2022 Agreement, which has been prepared, reviewed and approved by the Town Attorney's Office, whereby the Town continues (as so amended) to agree to assign an SRO to the NSD for the 2022/23 and 2023/24 school years, under the terms and conditions as set forth in the First Amendment to the 02/16/2022 Agreement and in the 02/16/2022 Agreement, and the NSD shall reimburse the Town in accordance with the terms of the First Amendment to the 02/16/2022 Agreement for each year that an SRO is assigned to the NSD; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Supervisor (or her designee) to execute the First Amendment to the 02/16/2022 Agreement, on behalf of the Town, under the terms and conditions as set forth therein; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Chief of Police to execute the First Amendment to the 02/16/2022 Agreement, on behalf of the Town Police Department, and to administer same on behalf of the Town and the Town Police Department.

17. **ACCEPT / PERSONAL PROTECTIVE EQUIPMENT DONATION / AMAZON WAREHOUSE FACILITY, BLAUVELT**

RESOLVED, that the Town Board accepts, with gratitude, a donation of Personal Protective Equipment from the Amazon Warehouse facility in Blauvelt to the Town of Orangetown, items and quantities to be determined by the Office of Emergency Management, for the purpose of contributing to the PPE stockpile for the Town of Orangetown and first response agencies therein, in accordance with the Town of Orangetown Health Emergency Plan.

OBZPAE / FIRE

18. APPROVE/ PURCHASE OF FOUR VEHICLES / OBZPAE & FIRE

WHEREAS, OBZPAE/FIRE has one inspector vehicle that is currently not usable and three additional vehicles that are near replacement; and

WHEREAS, Jane Slavin, Director, OBZPAE met with Frank Peneno, Automotive Maintenance Supervisor, to evaluate the status and maintenance costs of OBZPAE/FIRE vehicles number 401, model year 2005; vehicle number 406, model year 2003; vehicle number 410, model year 2007; and vehicle number 411, model year 2005 and determine a course of action for repair or replacement; and

NOW THEREFORE BE IT RESOLVED, that upon review of maintenance records and age of vehicles, the Town Board approves the request of the Director of OBZPAE to immediately purchase a new vehicle for replacement of vehicles #401 & #406 at \$37,033.25 each and vehicles #410 & #411 at \$38,788.25 each plus light kits during 2022, to be paid out of fund balance account # B.17 Town Outside Village.

INFORMATION TECHNOLOGY

19. ACCEPT WITH REGRET, THE RESIGNATION OF ANTHONY BEVELACQUA / DIRECTOR OF AUTOMATED SYSTEMS / IT DEPARTMENT EFFECTIVE SEPTEMBER 9, 2022

RESOLVED, that the Supervisor and the Town Board accepts with regret, the resignation of Anthony Bevelacqua, Director of Automated Systems, from IT Department, effective September 9, 2022.

LEND ASSISTANCE

20. APPROVE / COMBINE AGENDA ITEMS #21 TO 26

RESOLVED, the Town Board hereby combines and approves agenda items #21 to 26.

21. APPROVE/ LEND ASSISTANCE / 2022 ANNUAL HALLOWEEN PARADE ORANGEBURG FIRE DEPARTMENT/ MONDAY OCTOBER 31, 2022

RESOLVED, upon the recommendation from the Superintendent of Highways & Chief of Police, that the Town Board hereby authorizes these departments to lend assistance which includes barricades & trash barrels from the Highway Department and Auxiliary Police from OPD, for the OFD annual Halloween parade to be held on Monday, October 31, 2022, from 6:00 pm – 9:00 pm.

22. APPROVE / LEND ASSISTANCE / 2022 ORANGEBURG FIRE DEPARTMENT HOLIDAY PARADE / SATURDAY, DECEMBER 10, 2022

RESOLVED, upon the recommendation from the Superintendent of Highways & Chief of Police, that the Town Board hereby authorizes these departments to lend assistance which includes the use of barricades & trash bins from the Highway Dept., and auxiliary police from OPD, for the OFD annual holiday parade to be held on Saturday, December 10, 2022 (rain date: Sunday, December 11, 2022), on various roads in the hamlet of Orangeburg, from 6 pm – 9 pm.

23. APPROVE/ LEND ASSISTANCE / 2022 PEARL RIVER DAY FESTIVAL / CENTRAL AVENUE, PEARL RIVER

RESOLVED, upon the recommendation from the Superintendent of Highways & Chief of Police, that the Town Board hereby authorizes these departments to lend assistance which includes the use of trash cans, barricades, electronic message board & detour signs and the distribution of green waste bags & recycling bins to residents from the Highway Department; a police detail provided by OPD, and a Highway Department event perimeter for the annual Pearl River Day Festival to be held on Saturday, October 15, 2022, from 7 am to 10 pm.

24. APPROVE / LEND ASSISTANCE / 2022 COLOR RUN / PEARL RIVER MIDDLE SCHOOL

RESOLVED, upon the recommendation from the Superintendent of Highways, that the Town Board hereby authorizes that, the Highway Department lends assistance, which includes the use of barricades & cones, for the PRMS Color Run, to be held on Saturday, September 17, 2022.

25. APPROVE/ LEND ASSISTANCE / NOBLE NINTH, INC. / TRAUBENFEST / SUNDAY, OCTOBER 2ND, 2022

RESOLVED, that upon the recommendation from the Superintendent of Highways and the Chief of Police, that the Town Board hereby authorizes these departments to lend assistance which includes the use of barricades, barrels, and sidewalk barrier on road edge from the Highway Department and auxiliary police detail from the Police Department for The Noble Ninth Inc. "Traubenfest ", Sunday, October 2, 2022.

26. APPROVE / LEND AID / 2022 NYPD VS FDNY GAELIC FOOTBALL MATCH / SATURDAY, SEPTEMBER 17TH

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 Rockland GAA for their NYPD vs FDNY Gaelic Football Match, Saturday, September 17th, 2022, with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured.

TOWN CLERK

27. ACCEPT / RECEIVE / FILE DOCUMENTS/TOWN CLERK'S OFFICE

RESOLVED that the following documents are accepted, received and filed in the Town Clerk's Office:

1. Town Board Meeting minutes: July 12th & August 23, 2022 Police Commission; July 12th & 26th and August 23, 2022 Regular Town Board Meetings, and July 26th and August 23, 2022 Special Town Board Meeting.

Agreement & Contracts

2. School Resource Officer – S. Orangetown Schools
3. 2022 CANDLE

AUDIT

28. 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 **\$2,563,346.22**.

EXECUTIVE SESSION

29. 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

30. RE-ENTER RTBM / ADJOURNED / MEMORY

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

- ❖ **Dorothy Anne (Dottie) Dean**, *Resident of Pearl River and wife of James J. Dean, Superintendent of Highways*
- ❖ **Guy DeVincenzo**, *Formerly of Tappan, and Former Deputy Commissioner of DEME*
- ❖ **Marion Galvin**, *Longtime Resident of Pearl River*
- ❖ **Edgar Perez**, *Assistant Swim Coach, Tappan Zee High School*
- ❖ **Gerald C. Walsh**, *Resident of Pearl River and Former Town Councilman*
- ❖ **James Ward**, *Resident of Pearl River and Son-In-Law of James J. Dean, Superintendent of Highways*