

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
TUESDAY, APRIL 10, 2018**

This Regular Town Board Meeting was opened at 7:30 p.m. Supervisor Day presided and the Town Clerk, called the roll.

Present were: Supervisor Chris Day
Councilman Denis Troy
Councilman Thomas Diviny
Councilman Paul Valentine
Councilman Jerry Bottari

Also present were: Amanda Hyland, Supervisor's Confidential Assistant
Charlotte Madigan, Town Clerk
Joseph Thomassen, 1st Deputy Clerk/Collector
Robert Magrino, Deputy Town Attorney
Teresa Kenny, Deputy Town Attorney
Jeff Bencik, Finance Director
James Dean, Superintendent of Highways
Jane Slavin, Director of OBZPAE
Joseph Moran, Commissioner of DEME
Aric Gorton, Superintendent of Parks, Recreation & Building Maint
Donald Butterworth, Police Captain
James Brown, Police Captain

Pledge of Allegiance to the Flag of the United States of America: Town Board

Summary of Public Comments (RTBM):

Andrew Wiley, Pearl River, said no building permit was issued, no Certificate of Occupancy was issued and no violations were issued for 495 Orangeburg Rd, Pearl River. He spoke about the discrimination he is receiving from many officials of the Town.

Allyson Sullivan, Blauvelt, is discouraged with the progress regarding Aluf; happy with the new FOIL process and asked: How do we protect neighborhoods from companies' devaluing properties. Barbara Delo, Blauvelt, asked how much of the 2003 Comprehensive Plan has come to fruition and if the intersection of W. Orangeburg Rd and Route 303 is going to be reconstructed.

Heather Hurley, Pearl River, wants clarification of the recent air testing at Aluf.

RESOLUTION NO. 212

CLOSE PUBLIC COMMENTS

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

RESOLVED, that the public portion is hereby closed.

Ayes: Councilpersons Valentine, Diviny, Troy, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 213

**APPOINT / PAUL VALENTINE
POLICE OFFICER / PERMANENT**

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

RESOLVED, that upon the recommendation of the Chief of Police, appoint Paul Valentine from Rockland County Civil Service List # (OC) 16097 to the position of Police

RESOLUTION NO. 213 - Continued

Officer/Permanent, effective April 11, 2018, at a salary consistent with the terms of the labor agreement between the Town of Orangetown and Orangetown PBA.

Ayes: Councilpersons Bottari, Troy, Diviny
Supervisor Day
Noes: None
Abstained: Valentine

RESOLUTION NO. 214

APPOINT / MARK MEYERS / POLICE OFFICER / PERMANENT

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

RESOLVED, upon the recommendation of the Chief of police, appoint Mark Meyers from Rockland County Civil Service List # (OC) 16097 to the position of Police Officer/Permanent, effective April 11, 2018, at a salary consistent with the terms of the labor agreement between the Town of Orangetown and Orangetown PBA.

Ayes: Councilpersons Valentine, Troy, Diviny, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 215

APPOINT / LUKE GRANNEY POLICE OFFICER / PERMANENT

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

RESOLVED, upon the recommendation of the Chief of police, appoint Luke Graney from Rockland County Civil Service List # (OC) 16097 to the position of Police Officer/Permanent, effective April 11, 2018, at a salary consistent with the terms of the labor agreement between the Town of Orangetown and Orangetown PBA.

Ayes: Councilpersons Diviny, Bottari, Troy, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 216

APPOINT / JAMES SCACCIA POLICE OFFICER/PERMANENT

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

RESOLVED, upon the recommendation of the Chief of police, appoint James Scaccia from Rockland County Civil Service List # (OC) 16097 to the position of Police Officer/Permanent, effective April 11, 2018, at a salary consistent with the terms of the labor agreement between the Town of Orangetown and Orangetown PBA.

Ayes: Councilpersons Troy, Valentine, Diviny, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 217

APPOINT / ORLANDO CORCHADO POLICE OFFICER / PERMANENT

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

RESOLUTION NO. 217 - Continued

RESOLVED, upon the recommendation of the Chief of police, appoint Orlando Corchado from Rockland County Civil Service List # (OC) 16097 to the position of Police Officer/Permanent, effective April 16, 2018, at a salary consistent with the terms of the labor agreement between the Town of Orangetown and Orangetown PBA.

Ayes: Councilpersons Diviny, Troy, Valentine, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 218

**APPOINT / ANTHONY RAIMONE
POLICE OFFICER / PERMANENT**

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

RESOLVED, upon the recommendation of the Chief of police, appoint Anthony Raimone from Rockland County Civil Service List # (OC) 16097 to the position of Police Officer/Permanent, effective April 16, 2018, at a salary consistent with the terms of the labor agreement between the Town of Orangetown and Orangetown PBA.

Ayes: Councilpersons Bottari, Troy, Diviny, Valentine
Supervisor Day
Noes: None

Charlotte Madigan, Town Clerk, sworn-in these newly appointed Police Officers.

RESOLUTION NO. 219

**OPEN PH / ORANGEBURG COMMONS
SPECIAL PERMIT AMENDMENT
CHILD DAY- CARE CENTER**

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

RESOLVED, that the public portion is hereby opened.

Ayes: Councilpersons Troy, Valentine, Diviny, Bottari
Supervisor Day
Noes: None

The Affidavit of Publication and the Notice of Posting are labeled Exhibit 04-A-18 and made a part of these minutes.

Summary of Public Comments:

Andrew Wiley, Pearl River, is concerned that they are asking for a third change to their Special Permit. This location is dangerous for a Child Day Care Center, so close to CSX train tracks. Neil Lynady, Chief of the Orangeburg Fire Department – Fire Department never received notification of change. Esta Baitler, Sparkill, opposes a Child Day Care Center at this location. She is concerned for the children’s safety and health.

RESOLUTION NO. 220

**CLOSE PH / ORANGEBURG
COMMONS / SPECIAL PERMIT
AMENDMENT / CHILD
DAY-CARE CENTER / ROUTE 303
& PALISADES PARKWAY
(74.15-1-22; 74.15.-1-21./1 – 21./5)**

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

RESOLUTION NO. 220 - Continued

RESOLVED, that the public portion is hereby closed.

Ayes: Councilpersons Valentine, Diviny, Troy, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 221

**ADOPT/SPECIAL PERMIT
AMENDMENT/ ORANGEBURG
COMMONS /CHILD DAY-CARE
CENTER / ROUTE 303 &
PALISADES PARKWAY
(74.15-1-22; 74.15.-1-21./1 – 21./5)**

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

WHEREAS, the Town Board of the Town of Orangetown (the “Town Board”) is the municipal entity, authorized under Chapter 43, § 4.32(O) and (P), and the related tables of General Use and Bulk and Area regulations, of the Town Zoning Ordinance to issue a Special Permit allowing mixed use developments and expansions at certain interchange locations in the Light Industrial (“LI”) zoning district in the Town of Orangetown; and

WHEREAS, by letter application dated December 22, 2017, and Petition dated April 20, 2017, FB Greenbush, LLC and other related entities petitioned the Town Board to amend Town Code, Chapter 43 (Zoning) at § 4.32(O)(iii) to add “Child Day-Care Center” to the list of uses permitted within Mixed Use Developments and Mixed Use Expansions, relating to properties located in the “LI” zoning district in the vicinity of the intersection of State Rte. 303 and the Palisades Interstate Parkway (Exit 5 Interchange), in the Town of Orangetown; and

WHEREAS, on March 20, 2018, the Town Board, by Resolution No. 2018-204 approved a Local Law amending the Town Zoning Law as set forth above to permit “Child Day-Care Center” as a use permitted within the Mixed Use Developments and Mixed Use Expansions as a Special Permit Use, and

WHEREAS, as part of its letter application referenced above, the applicant simultaneously requested that the Board i) amend the existing Special Permit for Mixed-Use Expansion on the property designated as Section 74.15, Block 1, Lot 22 and known as “The Shops Parcel” and ii) amend the existing Special Permit for Mixed Use Development on the property designated as Section 74.15, Block 1, Lot 21./1, 21./2, 21./3, 21./4 and 21./5 and known as “Orangeburg Commons” (the applications for the Child Day Care Center zoning text amendment and the amendment to the Special Permits to allow a Child Day Care Center to be constructed on the Shops Parcel, sometimes collectively the “Project”), and

WHEREAS, the amended Special Permit application with respect to the “Orangeburg Commons” parcel is a modification to the existing parking adjacent to The Shops Parcel to eliminate two approved parking spaces and replace them with a walkway leading to a proposed day-care center on The Shops Parcel, and

WHEREAS, the amended Special Permit application with respect to The Shops Parcel is to change the proposed use of The Shops Parcel from an approximately 18,304 sf multitenant retail and food service building to an approximately 10,088 sf Child Day Care center building with an adjacent outdoor playground of approximately 5,000 sf, both to be located within the footprint of the currently approved building; and

WHEREAS, on or about February 14, 2018, the Town Board circulated among all other involved and interested agencies notice of its intention to assume Lead Agency status for the purpose of the environmental review of the Project; and

RESOLUTION NO. 221 - Continued

WHEREAS, on or about February 14, 2018, the Town Board referred the Project to the Rockland County Department of Planning and Planning Board pursuant to General Municipal Law 239-l, 239-m and 239-n; and

WHEREAS, there being no challenge or objection filed to the Town Board's status as Lead Agency by any other involved agency, on March 20, 2018, the Town Board declared itself Lead Agency for the coordinated environmental review of the Project; and

WHEREAS, the Town Board, acting both in its capacity as Lead Agency under SEQRA and in connection with its authority under the Town Zoning Ordinance to issue and amend Special Permits for mixed use developments, has considered the following plans, reports, comments and other documents:

- 1) Full Environmental Assessment Form, signed by Alfred T. Rossi on behalf of the applicants;
- 2) Traffic Assessment, prepared by Maser Consulting P.C., dated November 14, 2017;
- 3) Fiscal Impact Analysis, dated November 15, 2017, reflecting the estimated increased tax revenues as a result of the proposed Child Day Care use, as well as the limited impact on Town services;
- 4) Plans and Drawings, "The Learning Experience at Orangeburg Commons", dated 11/20/2014, last revised 11/1/2017 (except as otherwise noted), including the following:
 - Overall Site Plan;
 - Concept Plan, dated 3/1/17, last revised 11/1/17;
 - Grading Drainage and Utility Plan; Erosion Control Plan;
 - Landscaping Plan; Lighting Plan;
 - Construction Details;
 - Storm and Sanitary Profiles;
 - Site cap plan and details; and
 - Overall map and survey, prepared by Jay A. Greenwell, PLS, LLC, dated October 23, 2013, last revised November 5, 2014;
 - Proposed Learning Experience elevations, prepared by Murray J. Miller Architecture;
 - Space Plan, prepared by Jarmel Kizel Architects and Engineers, Inc., Livingston New Jersey; and Pylon Signage, prepared by Allied Signage, dated November 20, 2017;
- 5) A letter from the Rockland County Department of Planning dated March 9, 2018 recommending approval.
- 6) A letter from the NYS Department of Transportation dated March 19, 2018.
- 7) A letter from the NYS Department of Environmental Conservation dated March 22, 2018.
- 8) Negative Declaration adopted on March 20, 2018 by Town Board Resolution No. 2018-203 and,

WHEREAS, in making both this and its prior determination, the Town Board has also considered the following additional studies, reports and /or other assessments and reviews relating more generally to conditions in and about the area of the proposed development:

- Town of Orangetown Comprehensive Plan, adopted by the Town Board on May 12, 2003, and, in particular, Sections III-3 and V-I relative to the intersection area embraced by the proposed action;
- The Town's existing Route 303 Overlay Zoning District zoning provisions;
- The Route 303 Sustainable Development Study, dated December 2002, prepared by Wilbur Smith Associates, for the Town of Orangetown, the New York State Department of Transportation, the County of Rockland, the New York Metropolitan Transportation Council; and
- PIPC Corridor Management Plan; and,

RESOLUTION NO. 221 - Continued

WHEREAS, a duly noticed public hearing session was conducted before the Town Board on April 10, 2018 in connection with the Applicant's Amended Special Permit Applications, at which public comment was received and considered by the Board.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to Chapter 43 of the Zoning Ordinance, including § 4.32(O) and (P) and the related tables of General Use and Bulk and Area regulations in the Zoning Ordinance, the Town Board hereby issues Amended Special Permits allowing modification of the previously issued Special Permits as follows: (i) The existing Special Permit for Mixed-Use Expansion on the property designated as Section 74.15, Block 1, Lot 22 and known as "The Shops Parcel" is hereby amended to permit a Child Day Care Center on the "Shops Parcel" pursuant to Chapter 43, §4.32(O)(iii)(j) and §4.32(P)(iv) consisting of an approximately 10,088 sf Child Day Care center building with an adjacent outdoor playground of approximately 5,000 sf, both to be located within the footprint of the currently approved building, and related improvements as shown on the above-referenced Concept Plan; and (ii) The existing Special Permit for Mixed Use Development on the property designated as Section 74.15, Block 1, Lot 21./1, 21./2, 21./3, 21./4 and 21./5 and known as "Orangeburg Commons, which was granted pursuant to Chapter 43, §4.32(O), is hereby amended to permit the elimination of two approved parking spaces and replace them with a walkway leading to a proposed day-care center on the "Shops" parcel as shown on the above-referenced Concept Plan (the approved modifications sometimes collectively referred to as the "Amended Project");

I. Findings and Conditions

(1) The within Amended Special Permits are granted for the integrated development of the Property with the types of uses, and generally in the manner, shown on the Applicant's Concept Plan, dated March 1, 2017, last revision, November 1, 2017, and Overall Site Plan, dated November 20, 2014, last revision November 1, 2017 (hereinbefore referenced). The Town Board adopts the said Plans as the "Amended Concept Plan" for purposes of the issuance of these Amended Special Permits, subject to the caveat hereinbefore set forth that the Town Board's use of the proposed Amended Concept Plan, prepared pursuant to § 4.32(O) and (P) as the basis for the Amended Special Permit Applications, unless otherwise expressly stated, is not intended to, nor shall it be construed as, approving the site specific details of the development that appear thereon other than the specified uses, the sizes, locations and configurations of the buildings, the points of access on Stevens Way and Greenbush Road, the size and location of buffers, the size of the pylon sign structure and the location of the stormwater basin along the Property's frontage on Route 303.

Notwithstanding this caveat, the Town Board recognizes that the Amended Concept Plan is based upon and incorporates many of the elements of the Final Site Plan approved by the Planning Board. Nothing in this Resolution is intended to invalidate or annul the Planning Board's prior approval of such elements unless specifically set forth herein, with the further understanding that, to the extent, the Planning Board, in the exercise of its site plan responsibilities, is required to modify one or more of those previously approved elements by reason of the nature and/or extent of changes approved by these Amended Special Permits, it may make such modifications or changes as required.

(2) Any change in the uses proposed for the site, now or in the future, shall require that the Applicant or any successor in title or interest to the Applicant return to the Town Board at which time the Town shall determine whether the new use or uses is consistent with the single, integrated plan of the development approved by the issuance of these Amended Special Permits.

(3) Any approved Amended Site Plan for the Amended Project shall include the vegetated and landscaped buffers adjacent to and along the property of the Palisades Interstate Park Commission ("PIPC") at the distances shown on the Amended Concept Plan, which areas shall be maintained by the Applicant or any successor in title or interest to the Applicant to ensure the least possible visibility of the development from the Palisades Interstate Parkway.

There shall be no removal of any tree, bush or other growth in or any disturbance to the PIPC buffer except as otherwise approved by the Town Planning Board. A restrictive covenant shall be filed and recorded against the Property reciting this requirement.

RESOLUTION NO. 221 - Continued

(4) Any approved Amended Site Plan shall continue to comply with the requirements of §§ 4.32(O) (vi), 4.23(c), and 13.10(B)(4) of the Town Zoning Ordinance, and any related variances with respect to signage.

(5) If required by the Planning Board, as part of the required Site Plan review and approval for the project, the Applicant or any successor in title or interest thereto shall address the comments set forth in the letter from the NYSDOT (Jason Brenner, E.I.T.) dated March 19, 2018 to the satisfaction of the Planning Board.

(7) The Applicant or any successor in title or interest thereto shall comply with all previous issued approvals with respect to the properties that are the subject of these Amended Special Permits.

(8) This Amended Special Permit is further conditioned on the grant of Amended Site Plan Approval by the Town Planning Board.

II. Additional Findings Made Pursuant to § 4.31 of the Town Zoning Ordinance

Pursuant to § 4.32(O)(xi) of the Town Zoning Ordinance, on the basis of the information set forth in the Amended Special Permit Application and the analyses, reviews and reports of the Town’s in-house and outside consulting professionals, the Town Board makes the following additional Findings under § 4.31 of the Town Zoning Ordinance:

(1) The Amended Project will continue to be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.

(2) The Amended Project will not cause undue traffic congestion or cause a traffic hazard.

(3) The Amended Project will not create, at any point of determination set forth in §§ 4.16, 4.17 or 4.18, any more dangerous and objectionable elements referred to in § 4.11 (fire, explosive, radioactive, noise, vibration, smoke, dust, odor or other form of air pollution, electrical or other disturbance, glare, liquid or solid refuse or waste, condition conducive to the breeding of rodents, insects or other substance, condition or element adversely affecting the surrounding area) than is characteristic of the uses expressly permitted as of right in the LI district.

(4) The Amended Project will not adversely affect the character of, or property values in, the area.

(5) The Amended Project will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.

(6) The Amended Project will continue to comply with all other regulations applicable to the uses allowed and approved hereby.

Ayes: Councilpersons Diviny, Troy, Valentine
Supervisor Day

Noes: Councilman Bottari

RESOLUTION NO. 222

**CONTINUE PH / PROPOSED
LOCAL LAW / CHAPTER 43,
ZONING / REGULATIONS OF
DEVICES IN PUBLIC
RIGHT-OF-WAYS & EASEMENTS**

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

RESOLVED, that the public hearing regarding a proposed local law amending Town Code Chapter 43, entitled Zoning - Regulations of Devices in Public Right-of- Ways and Easements is hereby continued to May 15, 2018 at 8:15 pm.

Ayes: Councilpersons Diviny, Bottari, Valentine, Troy
Supervisor Day

Noes: None

Chapter Zoning
Article . Other Regulations
§ .Regulation of Devices in Public Right-of-Ways and Easements

I. GENERAL PROVISIONS

A. Legislative purpose and intent.

(1) The Town Board of the Town of Orangetown, New York (the "Town") finds that uses in the public right-of-ways, easements, and other non-private property areas (collectively the "Areas") impacting upon the traveling and residential public within the Town must be lawfully regulated to protect the public health, safety, and welfare of all residents as well as those traveling and otherwise using the Areas.

(2) The Town also finds that there have been unregulated and unmonitored non-temporary non-utility third-party devices ("Non-Utility Devices") being attached to utility poles owned by utility entities as defined by the New York State Transportation Corporation Law and located in such Areas ("Utility Poles" and "Utility Entities").

(3) The Town also finds that certain Utility Entities have instituted their own process by which they have permitted various Non-Utility Devices on Utility Poles in Areas throughout their area of operations and have applied these processes in a manner that has not been consultative with local municipalities and mayor may not have already have occurred in areas within the Town itself.

(4) The Town Board also finds that Utility Entities have permitted and/or continue to permit the placement of various Non-Utility Devices, inclusive of private security cameras, in Areas throughout the TOWN, and that such private security cameras present issues dealing with potential unlawful surveillance as well as the invasion of any right or expectation of privacy to individuals traveling in or about the Areas and that regulation of such security cameras and related Non-Utility Devices is essential to secure the public health, safety, comfort, and welfare of the Town's inhabitants.

(5) The Town also finds that certain utility devices are attached to Utility Poles by Utility Entities are used to provide important and necessary public for the transmission of electrical or other currents services (collectively "Utility Devices"), which, if not protected by a covering, could present a public health, safety, or welfare concern to those who may come in contact with such wires or other devices and therefore the regulation of such wires or other devices used for Utility Devices must be distinguished from any wires or devices being utilized only for Non-Utility Devices purposes.

(6) This Regulation is additionally intended to be certain that all uses of the public spaces owned or controlled by the Town are properly assessed and documented at all times under the Real Property Tax Law of the State of New York.

(7) This Regulation is intended also to protect public safety, enhance and protect the physical appearance of the community by avoiding excess unregulated objects in the public space, and promote consistence in the installation of any Devices as set forth herein .

B. Definitions. For the purpose of this Section, the following definitions shall apply.

ASSESSOR:

This refers to the Town's Office of Assessor pursuant to Chapter 3 of the Town Code and who is in charge of determining the fair market value of all utility and other similar easements, right-of-ways or other property interests in the Town that are subject to taxation pursuant to the Real Property Tax Law of New York State.

CODE ENFORCEMENT OFFICER:

This refers to the Town's Office of Building, Zoning and Planning Administration and Enforcement pursuant to Chapter 6A of the Town Code and any Code Enforcement Officer, Building Inspector or any Assistant Code Enforcement Officer or Assistant Building Inspector having jurisdiction over the enforcement of any Zoning Codes, Building Codes or other Codes in the Town.

Regulation of Devices in Public Right-of-Ways and Easements

EASEMENT:

An easement is a incorporeal interest in real property.

INSTALLER:

This refers to any individual, entity, company, corporation or others who are hired, volunteer or otherwise are involved with the installation and maintenance of any Non-Utility Devices as defined herein. Said installer shall be appropriately licensed by the County of Rockland Department of Consumer Affairs so that all appropriate insurance and other protections for the public are in place and duly filed with the Town Clerk before any installation, maintenance, and/or other work can be done herein. All such documents with regard to the installer shall be attached to any application for a prior Permit herein.

NON-UTILITY DEVICES:

A permanent non-utility device is anything, object or other physical apparatus to affix to or between a pole or poles, structure or other places, by any nails, clips, fasteners, wire, string or other such object, including but not limited to, lechis, plastic strips, metal, wooden or other material that is used and/or intended to be used for more than 31 consecutive days. This definition excluded cameras.

NON-UTILITY DEVICE - SECURITY CAMERA:

Any equipment affixed in any manner to a Utility Pole Of Utility Device that is used or intended to be used to observe, record, transmit or otherwise monitor the activities of anyone within public right-of-ways Of public easement areas in which any member of the public can be recorded, photographed or otherwise have any image captured which equipment has not been authorized and approved by the Police Department for the Town of Orangetown for law enforcement security purposes.

PERSON:

"Person" means any individual, corporation, partnership, limited liability corporation, joint venture, profit or not-far-profit entity or other person, firm, owner, leasee, agent or employee whether corporate or otherwise

PERMIT HOLDER:

Permit holder shall include the person or entity making the application, the person or entity to whom the permit is granted and also the owner of the right-of-way or easement or other right or interest within to which any Non-Utility Devices as defined herein is or is proposed to be attached.

RIGHT-OF-WAY:

Any recorded or non-recorded instrument, document or other tangible compilation of data that purports to provide certain rights to utilize any public areas within the streets, highways, side-walks or other similar areas where the public or others may travel upon or utilize at any time, including but not limited to, public and private utility easements.

STREET:

The term "Street" as used herein also includes a highway, road, avenue, roadbeds, lane or alley which the public have a right to use in whole or in part. The term "pavement" includes a macadam, asphalt, brick, concrete or other similarly improved roadbed, and is only applied to the portion of the street between the sidewalks or established curb lines.

UTILITY COMPANY:

This refers to any public or private utility company or other entity that has obtained any rights-of-way or easements to construct, erect or otherwise place utility and/or Utility Devices along any right-of-ways or easement areas within streets or roads of the Town. This shall also refer to any entity that has received a Permit or franchise pursuant to Town Law Section 4-406 and utility entities as defined by the New York State Transportation Corporation Law.

UTILITY POLE:

This refers to utility poles owned by Utility Companies as defined by the New York State Transportation Corporation Law and located in public streets, easements and/or right of ways.

UTILITY DEVICES:

Any material or compilation or flexible or rigid materials that is utilized to actually carry electrical current no matter what voltage and such definition of wire shall also include any

Regulation of Devices in Public Right-of-Ways and Easements

Protective outer covering that is utilized in connection with such activity. The word "wire" shall also include any devices used to attach the wire or otherwise convert to the existing wire or wires in the Area and as used and/or installed by a Utility Company.

II. REGULATION OF NON-UTILITY DEVICES -- SECURITY CAMERAS

herein

This Section applies exclusively to Non-Utility Devices - Security Cameras as defined

No Non-Utility Devices - Security Camera shall be erected, maintained, installed or otherwise placed or kept in place on any Utility Pole or in any public right-of-way and easement areas unless said placement and maintenance is at the written direction of the Town of Orangetown Police Department for public security purposes. Without such written direction from the Town of Orangetown Police Department, anyone who installed, places, maintains or otherwise causes such security camera to be so placed shall be guilty of a misdemeanor subject to imprisonment or up to one year and a fine of not more than \$50,000.

III. REGULATION OF NON-UTILITY DEVICES AND UTILITY DEVICES

herein.

This Section applies exclusively to Non-Utility Devices and Utility Devices as defined

No Non-Utility Devices and Utility Devices as defined herein shall be installed, maintained, placed, or otherwise continue to exist except as set forth herein:

A. Permit required for Non-Utility Devices.

(1) Except as provided herein, it shall be unlawful for any person to install, erect, move, alter, redesign, enlarge or reconstruct any Non-Utility Devices or cause to be erected, moved, altered, redesigned, enlarged, relocated or reconstructed any Non-Utility Devices without first having obtained a permit from the Building Department to do so. Any such Non-Utility Devices that are to be erected or placed on a pole, building, structure or other location by any person shall be required to have a permit approved by the Town Code Enforcement Officer before any such activity can be commenced. If proposed in connection with a Site Plan Application, such Non-Utility Devices shall also be reviewed and approved by the Planning Board under the applicable criteria.

B. Permit application for Non-Utility Devices.

(1) An Application for a Non-Utility Device shall be made on a form provided by the Town which application shall include at least the following information:

(a) The name, physical and e-mail address and telephone number and all other contact information of applicant.

(b) The location of the pole, building, structure or other location to which or upon which such Non-Utility Devices are to be placed, erected or otherwise attached.

(c) A color photo of the areas where any such Non-Utility Devices are to be erected or attached.

(d) All dimensions of any such Non-Utility Devices, and details of its Devices and hanging or method of securing to any place.

(e) Method of illumination, if any.

(f) Any markings, including symbols, letters, materials and colors of such Non-Utility Devices.

(g) Any visual or other message, text, copy or content on or of such Non-Utility Devices.

Regulation of Devices in Public Right-of-Ways and Easements

- (h) Written consent and/or a copy of any agreement made with the owner of the property or property interest upon which such Non-Utility Devices are to be erected.
- (i) Any and all documents by which the owner of the property and property interest referenced herein claims a right to occupy space in areas owned or controlled by the Town.
- (i) The names, address and other information of any Utility Company that allows, licenses, permits or otherwise consents to the placement of any such Non-Utility Devices in its claimed right-of-way prior to the filing of an application herein.
- (k) The name, address and all contact information of the Installer as defined herein.
- (1) Any other such information as the Building Department or reviewing Board may require to ensure compliance with this Regulation.
- (2) The fees for such application are set forth in Chapter of this Code. C. Filing of Non-Utility Device Permit Application with Assessor.

Upon the filing of an application for Non-Utility Devices permit under this Section with the Town, contemporaneous with said application being filed, an applicant for such Non-Utility Devices permit must also simultaneously file copies of the application with the Town Assessor, the Town Clerk and the Supervisor for the Town. In addition to the contents of the application set forth previously herein, the application shall also contain all documents that confirm the right to have such Non-Utility Devices established or erected in over or under areas owned or controlled by the Town or such other Areas as claimed by the applicant. Said documentation shall also include the identification of any rights that are claimed by the applicant or any owner of the property or property interests upon which, such Non-Utility Devices are to be erected to place such Non-Utility Devices in any street or other Areas. Said application shall also include a fair market value determination of the existing rights of the owner of the property or property interest upon which such Non-Utility Devices is to erect and the fair market value of the rights of the Non-Utility Devices permit application if granted. The application shall also include any prior challenges that the owner of the property or property interest upon which such Non-Utility Devices are to be erected previously filed against any Tax Assessor having jurisdiction to review the fair market value of the rights of the OV\11cr of the property or property interest upon which the Non-Utility Devices are to be erected.

D. Non-Utility Device Permit procedure.

- (1) Upon the filing of a completed application, the Code Enforcement Officer shall examine the plans, specifications or other information submitted, as well as the Area or Areas where the Non-Utility Devices are to be erected or as the case may exist. If such Non-Utility Devices are in compliance with all the requirements contained in this Regulation, the Code Enforcement Officer shall; within 15 days after completion or his or her review of the permit application, either (a) advise the applicant in writing of any incomplete parts of the application; (b) issue a permit for the erection of the Non-Utility Devices or; (c) deny the application. (The issuance of a permit shall not excuse the applicant from conforming to the other laws, rules and regulations of the municipality.) If the placement of said Non-Utility Devices so authorized pursuant to this regulation has not completed within three (3) months from the date of issuance, the permit shall become null and void.
- (2) Appeal from permit decision. In accordance with New York Town Law § 7-712-a(4), an appeal to the Town Zoning Board of Appeals may be taken by any person aggrieved by the Code Enforcement Officer's decision to approve or deny a permit within thirty (30) days from the date of any decision.

E. General Installation Regulations for Non-Utility Devices and Utility Devices.

- (1) Installation guidelines. The following guidelines are to be followed with regard to any installation of a Non-Utility Devices and Utility Devices pursuant to this Regulation:

Regulation of Devices in Public Right-of-Ways and Easements

(a) Any Non-Utility Devices must be installed entirely within the right-of way or other Area and outside of any such Town right of-way or any other right-of-way unless a written consent for use by such applicant is on file with the Town Clerk.

(b) Any such Non-Utility Devices must be located as close as permitted by law, rule or regulation to any other existing wire in the immediate location of such wire.

(c) Any Non-Utility Devices must be of translucent material and/or be the same color as the pole to which it is attached so that such Non-Utility Devices is not visible to the public.

(d) Any Utility Devices shall be painted or otherwise made to be distinguishable in appearance from that of the Utility Pole or other structure upon which the Utility Devices are placed.

(e) Prior to installation of any Non-Utility Devices, a Utility Company mark-out is required with the applicant in the permit application having documented to the Town the 811 call to have this done as well as the results of that call.

(f) No such Non-Utility Device or extension thereof may be attached or fastened to any tree, bush or plant or other vegetation.

(g) No such Non-Utility Device can cross over or under or on a Town roadway or Town right-of-way.

(h) All Non-Utility Devices attached to any Utility Pole must receive written permission from Utility Company or other entity or person from which permission is given and said permission must be attached to any permit application and thereafter submit written proof of continuing permission to Code Enforcement Officer annually by January 15 of each year after which permit is issued.

(2) Installer guidelines. The installer shall follow all guidelines set forth above and shall also follow any such other directions or requirements of the Code Enforcement Officer for the Town.

F. Maintenance for Non-Utility Devices.

(1) The permit holder is responsible at all times to maintain their Devices in a neat and orderly condition, in good working order at all times, and in such manner to prevent any deterioration in the physical appearance or safety of such Devices that could impact on of persons or places nearby such Devices.

(2) Any such unsafe, unsightly, damaged, or deteriorated Non-Utility Devices, that in danger of falling, shall be put in order or removed with fifteen (15) days as required in any written notice by the Code Enforcement Officer to the permit holder. [f safety conditions so require in special circumstances, then and in that event upon notice to the permit holder immediate compliance is required for the repair or removal of same. If compliance is not achieved within the time period specified in such notice, such Devices shall be repaired or removed by the Town and the costs shall be levied and collected against the permit holder in the same manner and under the same penalties as enforcement of any Town Law, rule or regulation.

(3) All Non-Utility Devices shall maintain all clearances from electrical conductors in accordance with the New York State Public Service Commission's Orders and Regulations as well as the National Electrical Code and from all communications equipment or lines located within the Town. Any such Non-Utility Devices and any supporting structures shall maintain appropriate clearance and must not interfere with any surface or underground facilities and conduits for water, sewage, gas, electricity or communications equipment or lines.

G. Abandoned Non-Utility Devices.

(1) Except as provided in this Regulation, any such Non-Utility Devices that does not meet the standards herein for a period of 30 days or more shall be deemed to have been abandoned. Such

Regulation of Devices in Public Right-of-Ways and Easements

abandoned Non-Utility Devices are prohibited and shall be removed immediately by the permit holder and/or Utility Company.

(2) Upon notification by the Town to the permit holder and/or Utility Company of any such abandoned Non-Utility Devices, said permit holder and/or Utility Company shall have 30 days to remove such abandoned Devices. Upon failure to remove the Non-Utility Devices within this time period, the Town may remove the Non-Utility Devices upon the expense of the permit holder and Utility Company. The cost of such removal paid by the Town shall be levied and collected in the same manner and under the same penalties as any other Town Law, rule or regulation assessment of a public improvement.

H. Existing Non-Utility Devices and Nonconforming Non-Utility Devices and/or Utility Devices

(1) Any such Non-Utility Devices not in compliance with any provision of this Regulation upon its effective date shall be deemed nonconforming.

(2) Any such nonconforming Non-Utility Devices shall be reported to the Town Code Enforcement Officer by submission of a permit application in conformance with the requirements of this Regulation and demonstrating the date of installation within ninety (90) days of the date of enactment of this Regulation. If not in compliance within ninety (90) days from the enactment of this regulation, the Non-Utility Devices shall be removed forthwith by the Town and the expense of the same shall be paid by the nonconforming Non-Utility Device and Utility Company.

1. Other Requirements.

(1) Any Permit Holder or Utility Company shall restore and repair any and all damage that may occur in connection with the installation, maintenance or removal of any Non-Utility Devices and/or Utility Devices.

(2) The Permit Holder or Utility Company shall indemnify and hold harmless the Town, its Officials, employees, agents, and others from any claims for personal injury or property damage arising from (or allegedly arising from) or in connection with such installation, use, maintenance, or removal of any Non-Utility Devices and/or Utility Devices.

(3) The Permit Holder and the Utility Company shall provide a Certificate of Insurance evidencing liability insurance in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregated listing the Town, its Officials, employees and agents as additional insureds prior to the issuance of a permit for any Non-Utility Device. Such insurance shall be maintained and each and every Certificate of Insurance shall be on file with the Town Clerk at all times that a Non-Utility Device remains in place.

(4) In the event any Permit Holder becomes liable to the Town for any fees, expenses, and/or penalties under this Regulation and fails to remit full and complete payment of said fees, expenses, and/or penalties within 30 days, the owner of the Utility Pole shall be held liable to the Town for any and all amounts remaining due plus 9% interest annum on said amount. By permitting, facilitating, and/or licensing Non-Utility Devices to be installed within the Areas, the owner of the Utility Pole waives all appeals and agrees to be strictly liable for any amounts due to the Town pursuant to this Provision and Regulation.

J. Code Enforcement Officer.

(1) The provisions of this Regulation shall be administered and enforced by the Code Enforcement Officer who shall have the power to undertake any Non-Utility Devices and/or Utility Devices inspections.

(2) No Non-Utility Devices permit shall be approved by the Code Enforcement Officer except in full compliance with the provisions of this Regulation.

Regulation of Devices in Public Right-of-Ways and Easements

K. Appeals.

(1) In accordance with New York State Town Law § 7-712-a, any order, requirement, decision, interpretation, or determination of the Code Enforcement Officer may be appealed within thirty (30) days of the date of the determination by filing an appeal with the Zoning Board of Appeals by any person aggrieved, or by an Officer, Department, Board or Bureau of the Town.

(2) Upon filing an appeal, the Zoning Board of Appeals may grant a variance from the terms of this Regulation, following the procedure set forth in Town Law.

(3) Any person aggrieved by a decision of the Zoning Board of Appeals may have that decision reviewed by the Supreme Court of the State of New York in the manner and within the time provided by law.

L. Penalties for Offenses.

(1) In the event of a breach of any of the provisions of this Regulation, the Code Enforcement Officer shall notify the permit holder and Utility Company in writing to remove, repair, or otherwise bring the Non-Utility Devices and/or Utility Devices into conformance within 30 days of the date of such notice. Upon failure to comply with any such notice within the prescribed time, the Code Enforcement Officer shall remove or cause the removal, repair, or conformance of Non-Utility Devices and/or Utility Devices at the expense of the permit holder and Utility Company. All costs and expenses shall become a lien upon the premises upon which the wire is or was located and shall be levied and collected in the same manner and under the same penalties as any other Town Law, rule or regulation.

(2) Any person who violates any of the provisions of this Regulation or who fails to comply with any order or regulation made herein, or who erects, moves, or alters any Non-Utility Devices and/or Utility Devices in violation of any statement or plans submitted by the applicant and approved under provisions of this Regulation, shall be guilty of a violation as the same is defined in the Penal Law and shall be fined \$1,500 for each and every violation and also be subject to imprisonment of a term of not more than ten (10) days. Each day that such violation is permitted to exist shall constitute a separate violation. If any Non-Utility Devices and/or Utility Devices is erected, altered, or moved in violation of the provisions of this Regulation, any Town Official may, in addition to other remedies, take appropriate other actions to prevent such unlawful condition from continuing to exist.

(3) All costs and expenses incurred by the town in causing the removal or repair of any Non-Utility Devices and/or Utility Devices as specified in this section and the enforcement of this Regulation, including but not limited to reasonable attorneys' fees, shall be collected from the permit holder and Utility Company. Payment shall be made in not less than five days after transmittal to the permit holder and the Utility Company of a written demand for payment. Upon failure to make such payment, such costs and expenses shall be assessed against said permit holder and the Utility Company and shall be paid and collected as part of the Town tax next due and payable. In addition, the town may commence any other action or proceeding to collect such costs and expenses. With all said reasonable attorney's fees incurred by the Town being paid by the Permit Holder and the Utility Company.

PERFORMANCE STANDARDS PUBLIC HEARING –

Dennis Michaels, Deputy Town Attorney, said the Public Hearing regarding a Local Law amending the Town Code Chapter 6, §6-5 Building Construction Administration; Chapter 43, §4.11, §4.12 and §4.13 Performance Standards and §10.222, §10.323, §10.334 AND §10.335 Administration and Enforcement did not need to be reopened because it was held opened and is being continued.

PRESENTATION: Correspondence received (Exhibit 04-B-18)

- (1). March 5, 2018, letter from Douglas J. Schuetz, Acting Commissioner of Planning, of the Rockland County Department of Planning, as per NYS General Municipal law §239-m, et seq.;

PERFORMANCE STANDARDS PUBLIC HEARING

(2). February 28, 2018, memo from the Orangetown Planning Board.

Summary of Public Comments:

Allyson Sullivan, Blauvelt, is glad that the Town Board is strengthening these Codes but asked what can be done under the current Code.

Andrew Wiley, Pearl River, concerned about the applicant’s expense of engineers. He would like all engineers to meet together.

**PROPOSED LOCAL LAW AMENDING THE TOWN CODE
CHAPTER 6, BUILDING CONSTRUCTION ADMINISTRATION, §6-5; AND
CHAPTER 43, ZONING, ARTICLE IV, §4.1, PERFORMANCE STANDARDS, AND
§4.11, §4.12 AND §4.13, AND ARTICLE X, ADMINISTRATION & ENFORCEMENT,
§10.222, §10.323, §10.334 AND §10.335.**

Be it enacted by the Town Board of the Town of Orangetown as follows: Section 1: Purpose: The Town Board (“Board”) of the Town of Orangetown, New York (“Town”) hereby finds that there is a critical and compelling need, in the public interests as set forth herein, to protect the health, safety and welfare of its residents to ensure that properties do not emit or cause to be emitted dangerous or objectionable levels of smoke, particulate matter, and odor. The objective of this local law is to clarify Chapter 43 (Zoning) § 4.163, § 4.164, and § 4.182 of the Code of the Town of Orangetown (“Orangetown Code”), relating to emissions, and to make related enforcement, procedural and administrative changes, including changes to Chapter 6 (Building Construction Administration).

Section 2: Chapter 6 (Building Construction Administration), § 6-5, of the Orangetown Code shall be amended, and, as amended shall read as follows:

§ 6-5 Duties and powers of the Building Inspector.

* * *

B. The Building Inspector shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof, and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of insuring compliance with laws, ordinances and regulations governing building construction.

C. The Building Inspector shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations. The Building Inspector shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from Building Inspectors, or other employees, of the Building Department Town of Orangetown’s (hereinafter referred to as “Orangetown”) Office of Building, Zoning and Planning Administration and Enforcement (hereinafter referred to as “OBZPAE”), or from generally recognized and authoritative reputable service and inspection bureaus, provided the same are certified prepared and signed by a qualified professional responsible official thereof.

D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable statutes, codes, laws, ordinances or regulations covering relating to building construction, he the Building Inspector may require the performance of tests in the field, or on-site of private property subject of a building permit application, by experienced, qualified professional(s) persons, or by accredited and authoritative reputable testing laboratories, or service bureaus or agencies.

E. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable statutes, codes, laws, ordinances or regulations relating to the use, maintenance or occupancy of land or buildings, including, but not limited to, assuring compliance with the Performance Standards set forth in §4.1 of Chapter 43 (Zoning Code) of the Orangetown Code, and/or to assure compliance with the conditions of any applicable Orangetown land use board approval decisions, the Building Inspector may inspect, investigate and/or conduct tests, on-site of

PERFORMANCE STANDARDS

private property subject of a building permit application, which may include, with regard to the Performance Standards, inspecting, investigating and/or conducting tests while all mechanical equipment, machinery, installations and systems, that are appurtenant to the use that is subject to the Performance Standards, are in full operation. For purposes of said inspections, investigations and/or tests, the Building Inspector may engage, employ or retain the services of the Orangetown Department of Environmental Management and Engineering (hereinafter referred to as “DEME”), and/or expert consultants, to the extent, type and/or degree that the Building Inspector, DEME, and/or the expert consultants, deems necessary.

(i). If, as a result of the Building Inspector’s said inspection, investigation and/or testing, relating to an alleged violation of, or non-compliance with, the Performance Standards (Zoning Code §4.1) on the part of any nonresidential use subject to the Performance Standards (hereinafter referred to as “industrial user”), the Building Inspector has reasonable grounds to believe that a violation, or non-compliance, exists, the Building Inspector shall notify the Zoning Board of Appeals of the occurrence or existence of such possible violation, or non-compliance, in accordance with Zoning Code §10.335.

(ii). If, after public hearing on due notice, in accordance with Zoning Code §4.13, the Zoning Board of Appeals finds that a violation, or non-compliance, occurred or exists, and revokes and rescinds its Performance Standards (Zoning Code §4.1) approval decision, then the Building Inspector may revoke and rescind any Building Permit and/or Certificate of Occupancy that had been issued based upon such approval decision.

Section 3: Chapter 43 (Zoning) §4.1 Performance Standards shall be amended, and, as amended shall read as follows:

§ 4.1. Performance standards.

All references herein contained to certain standards which indicate a publisher and date are hereby deemed to mean the latest revised edition of such standard. Where a federal, state, county or local agency promulgates standards which are inconsistent with, or different from, those herein enumerated, the more restrictive standards shall control. Unless otherwise stated, all citations to statutory sections (“§”) are from Chapter 43, the Zoning Code, of the Code of the Town of Orangetown (hereinafter referred to as “Orangetown” and “Zoning Code”).

4.11. Applicable to all nonresidential uses. No land or building shall be used or occupied for a nonresidential use in any manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; a condition conducive to the breeding of rodents or insects or other substance, condition or element, all referred to herein as “dangerous or objectionable elements,” in a manner or amount as to adversely affect the surrounding area. However, any nonresidential use, except those expressly prohibited by this code in §4.4, may be undertaken, and maintained, if it conforms to the district regulations, and the regulations of §4.1, performance standards, limiting dangerous and objectionable elements at the point of determination of their existence as provided in this section §4.1.

4.12. Performance standards procedure. Only those uses specified in the Zoning Code Use Table, Columns 2, 3 and 4, as are subject to the performance standards procedure of §10.334, §4.12, are subject to performance standards procedure requiring the Orangetown Zoning Board of Appeals’ (hereinafter referred to as “ZBA”) approval as specified in §10.334 in obtaining a building permit or certificate of occupancy, or both (hereinafter referred to as “industrial user”), unless the Building Inspector has reasonable grounds to believe that any other proposed use, including any building or use accessory to a use subject to performance standards procedure, is likely to violate performance standards, in which event the applicant industrial user shall comply with the procedure in §10.334 in obtaining a building permit or certificate of occupancy, unless the ZBA Board of Appeals finds that compliance therewith is unnecessary.

4.13. Initial, and continued, enforcement provisions. Whether or not compliance with performance standards procedure in §10.334, in obtaining a building permit or certificate of occupancy, is required for any particular use,

PERFORMANCE STANDARDS

(a). Initial, and continued, compliance with performance standards is required of every new nonresidential use, or change in such use, including, but not limited to, §10.231(c), in all Zoning Districts, as provided in §10.335, for all nonresidential uses that are subject to §4.1. Pursuant, but not necessarily limited, to §4.13, §10.334(c) and §10.335, initial, and continued, compliance with the performance standards (§4.1) is required, and all building permits and certificates of occupancy, issued for a use subject to §4.1, is conditioned, and contingent, upon the industrial user conforming to the performance standards, and the industrial user's paying of the fees, to the Town of Orangetown, for services of Orangetown's own expert consultants deemed reasonable and necessary by Orangetown's Department of Environmental Management and Engineering (hereinafter referred to as "DEME"), Orangetown's Office of Building, Zoning and Planning Administration and Enforcement (hereinafter referred to as "OBZPAE"), and/or the ZBA, for said consultants' inspections, investigations, research, studies, tests, advice and/or reports relating to determining compliance with the industrial user's conformance to the performance standards (§4.1).

(b). The industrial user's initial, and continued, compliance with the performance standards (§4.1) shall include the following:

(i). Inspections, investigations and/or testing, on the industrial user's site, while all mechanical equipment, machinery, installations and systems, that are appurtenant to the use that is subject to the performance standards (§4.1), are in full operation, by OBZPAE, DEME, and/or the Orangetown-retained expert consultants, to the extent, type and/or degree that OBZPAE, DEME, and/or the Orangetown-retained expert consultants, deem necessary.

(ii). The industrial user's full, and complete, compliance with any and all laws, statutes, rules and regulations of the NYS Department of Environmental Conservation and federal Environmental Protection Agency, that also regulate the use that is subject to the performance standards (§4.1).

(iii). OBZPAE, DEME, and/or the Orangetown-retained expert consultants, shall investigate any alleged violation of, or non-compliance with, the performance standards (§4.1) by the industrial user, as per §4.13(b)(i); and, if there are reasonable grounds to believe that a violation, or non-compliance, exists, OBZPAE, DEME, and/or the Orangetown-retained expert consultant(s), shall notify the ZBA, in writing, of the occurrence, or existence, of a probable violation, or non-compliance, thereof. Upon receiving such notification, the ZBA may further investigate the alleged violation or non-compliance, if the ZBA deems it necessary in its discretion; and, for such further investigation, the ZBA may utilize, or retain, the services of OBZPAE, DEME, and/or the Orangetown-retained expert consultants. Thereafter, after holding a Public Hearing on due notice, including notice to the industrial user (except for posting of signs at the industrial user's subject site, which signs shall not be required), the fees for which Public Hearing shall be paid for by the industrial user, if the ZBA finds that a violation, or non-compliance, occurred or exists, the ZBA may revoke and rescind its performance standards (§4.1) approval decision, and any building permit and/or certificate of occupancy that has been issued, based upon such approval decision, shall also be deemed revoked and rescinded; which shall be in addition to any other legal remedies that the Town of Orangetown may pursue, including, but not necessarily limited to, prosecution of violations in the Orangetown Justice Court pursuant to §10.2 and/or §10.6, and/or commencement of a civil action or proceeding in the NYS Supreme Court, pursuant to NYS Town Law §135(1) and/or §268(2).

* * *

4.163. Smoke. There shall be no emission and/or discharge into the atmosphere at any point from any chimney, stack, vent or otherwise, of visible black, gray or white smoke other than that caused by steam, of a shade darker than No. 1 on the Ringelmann Smoke Chart as published by the United States Bureau of Mines (Power's Micro-Ringelmann Chart, McGraw Hill Publishing Company, 1954, may be used), except that visible gray smoke of a shade not darker than No. 2 on said chart may be emitted for not more than four minutes in any 30 minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity., or exhibiting greater than 20 percent opacity (6-minute average) per EPA Method 9.

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Exceedance during two consecutive days requires the opacity producer to conduct EPA Method 9 analysis within two business days of occurrence – or evaluate Continuous Opacity Monitoring System(s) (COMS) during the same period. - and Aa facility-responsible person must notify the Town within one business day of receiving the assessment results, as well as provide any other credible evidence. The Town will evaluate compliance and determine further action.

4.164.(a) Fly ash, dust, fumes, vapors, gases and other forms of air pollution derived from combustion. There shall be no emission and/or discharge which can any cause damage to the health, to of humans or other animals, or vegetation, buildings or structures, or other forms of property, or which can cause any excessive soiling. of any point and in no event any emission from any chimney or otherwise of any solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at any point. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500° F. and 50% excess air.

Emissions related to combustion must comply with the standards and regulations set forth in the New York State Department of Environmental Conservation’s 6 NYCRR Subpart 227-1, Stationary Combustion Installations, as amended and/or supplemented from time to time, as applicable.

4.164.(b) Ash, dust, fumes, vapors, gases and other forms of air pollution not derived from combustion. There shall be no emission and/or discharge which can cause any damage or injury to the health of humans and other animals, or vegetation, buildings or structures or other forms of property, or which can cause excessive soiling.

Emissions of air contaminants to the outdoor atmosphere from any process emission source or emission point are restricted in accordance with the New York State Department of Environmental Conservation’s 6 NYCRR Subpart 212, Process Operations, as amended and/or supplemented from time to time, as applicable.

* * *

4.181. Noise. At the specified points of measurement, The the sound-pressure level of noise radiated continuously from a facility at nighttime shall not exceed the values given in Table I in any octave band of frequency., in order to provide an environment free from noise that affects people’s well-being and use, enjoyment and value of property, or that interferes with the repose of life, or would unreasonably or unnecessarily interfere with public health, safety, and welfare.

In the event of noise complaints arising from residents, commercial, or other Town inhabitants, the The sound-pressure level shall be measured with a sound-level meter and an octave band analyzer that conforms to specifications published by the equipment manufacturers, and such standards as published by the American National Standards Institute (ANSI), the American Society for Testing and Material, or other contemporary standards-establishing organization accepted in the United States. by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, New York, and American Standard Specification for an Octave- Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used.)

Unless otherwise resolved with the Town, the owner or operator of the location/source of such elevated, complaint-producing noise, shall prepare and provide a Noise Monitoring Plan to the Town within 10-business days of written notice by the Town, and such Plan shall be implemented within 10-business days of Plan approval by the Town, and the written report of such monitoring shall be provided to the Town within 10-business days following completion of noise monitoring. Failure to meet noise compliance will result in cessation of the offending noise source until compliance is met. The Noise Monitoring Plan will employ “A-weighting” unless another weighting scale is more appropriate, and shall address:

- i) The number and location of monitoring sites;
- ii) The timing and frequency of surveys;

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iii) Methods and standards to be followed. This will include methods used to identify and remove measurement results for time periods affected by sound associated with any temporary events or activities (such as noise from non-related construction or other activities), and during periods where wind speeds exceed 5 m/s or the rainfall rate exceeds 6 mm/hour; and iv) Timeframes for monitoring and reporting to the Town in the event they are otherwise than stated in this Performance Standard.

TABLE I

Maximum permissible sound-pressure levels at specified points of measurement for noise radiated continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m.

Frequency Band	Cycles per second	Sound Pressure Level	Decibels
'A-weighted' scale (dBA) *			
Re. 0.002 dyne/cm.2			
20-75	69		
75-150	54		
150-300	47		
300-600	41		
600-1200	37		
1200-2400	34		
2400-4800	31		
4800-10,000	28		

* 'A-weighted' scale (dBA) is the filtering of sound measurement to account for the perceived loudness of noise not necessarily correlating with sound levels. Sound level meters set to A-weighting minimize low-frequency noise similar to the human ear, Sound intensity is measured in units of decibels, dB.

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table II below shall be added to or subtracted from each of the decibel levels given above in Table I.

TABLE II

Type of Operation of Character of Noise Correction in Decibels

Daytime operation only Plus 5

Noise source operates less than 20% of any one hour Plus 5*

Noise source operates less than 5% of any one-hour period Plus 10* Noise source operates less than 1% of any one-hour period Plus 15*

Noise of impulsive character (hammering, etc.) Minus 5

Noise of periodic character (hum, screech, etc.) Minus 5

* Apply one of these corrections only.

4.182. Odors. No emission of odorous gases or other odorous matter in such quantities as to be offensive at the specified points of measurement. Any process which may involving the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive odors, Table III (Odor Thresholds) in Chapter 5, Air Pollution Abatement Manual, Copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C.

No person, entity or process will emit, or cause or allow to be emitted, There shall be no emission and/or discharge of objectionable odors or other matter present in the ambient air that, by itself or in combination with other odors, gases or vapors is offensive, foul, unpleasant or repulsive to olfactory reception, beyond the property borders of the emitting source.

Odor(s) will be deemed objectionable when documented assessment by the Town shows evidence that the odor likely could, or does, cause injury, detriment, nuisance or annoyance to persons or to the public, based on observations of the odor's nature, intensity, duration, location, and level of complaint.

Upon documented assessment by the Town of the existence of an objectionable odor the Town will notify the odor producing facility and direct that an Odor Control Plan acceptable to the Town be submitted that outlines the operational cause of the violation, chemistry of the offending odor(s),

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literature evidence of odor thresholds and impacts, methods proposed to mitigate the problem, and the schedule by which the Plan will be implemented and completed.

To enforce this Performance Standard, objectionable odors will be considered detected and a violation of this Section 4.182 when either:

(i) A Town inspector/code enforcement officer detects an objectionable odor; or

(ii) The Town receives initially five (5) or more complaints from individuals, households or businesses within seven (7) days, or fifteen (15) or more complaints within a 30-day period. The Town's odor complaint records will include:

a) Name, address, email and phone number of complainant. b) Time and date of call.

c) Description of nuisance odor.

d) Estimated location or source of complaint.

e) If possible, prevailing wind or weather conditions observed

f) If OBZPAE or DEME finds noncompliance, as per above (first bullet), then there shall be deemed noncompliance; and

(iii) One (1) volume of the odorous air has been diluted with up to five (5) volumes of odor-free air and the odor is still perceptible, as measured by the Town through the use of reliable olfactometer field instruments, devices, or methods; and Section 4: Chapter 43 (Zoning) § 10.2 Enforcement shall be amended, and, as amended shall read as follows:

* * *

10.222. Permits granted only in conformance with regulations.

A. No permit shall be issued unless the proposed construction of and use is are in full conformity with all the provisions of this this Zoning Code, and all other applicable land use and/or building statutes, codes, laws, ordinances or regulations. Any permit issued in violation of the provisions of this Zoning Code shall be null and void, and of no effect, without the necessity of any proceedings for revocation or nullification thereof, and any work undertaken, or use established, pursuant to any such permit shall be unlawful.

B. After the effective date of this this Zoning Code, division of any parcel of land shall conform to all the applicable bulk regulations, except as permitted under §5.21 of this Code.

C. The Inspector may revoke a permit theretofore issued, and approved, in the following instances:

(ai) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans, drawings, plat or specifications on which the permit was based;

(bii) Where he finds that the permit was issued in error, and should not have been issued in accordance with the applicable law(s);

(ciii) Where he finds that the work performed under the permit is not being prosecuted conducted in accordance with the provisions of the application, plans, drawings, plat or specifications; or

(div) Where the person to whom a permit has been issued fails or refuses to comply with a stop order issued by the Inspector.;

(v) Where he finds that the conditions of any applicable Orangetown land use board approval decisions have not been complied with.

D. Whenever the Inspector has reasonable grounds to believe that work on any land, building or structure is being prosecuted conducted in violation of the provisions of the any applicable land use and/or building statutes, codes, laws, ordinances or regulations, or not in conformity with the provisions of an application, plans, drawings, plat or specifications, or the conditions of any applicable Orangetown land use board approval decisions, on the basis of which a permit was issued, or in an unsafe and dangerous manner, he the Inspector shall notify the owner of the property, or the owner's agent, or the person performing the work, to suspend all work, and any such persons shall forthwith stop such work, and suspend all building activities, until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed, and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building

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under construction and sending a copy of the same by certified mail U.S. Postal Service First Class Mail.

E. If, after holding a Public Hearing on due notice, in accordance with Zoning Code §4.13, the Orangetown Zoning Board of Appeals finds that a violation of, or non-compliance with, the Performance Standards (Zoning Code §4.1) occurred or exists, and revokes and rescinds its Performance Standards approval decision, then the Building Inspector may revoke and rescind any Building Permit and/or Certificate of Occupancy that had been issued based upon such approval decision, in accordance with Zoning Code §4.13(b)(iii).

Section 5: Chapter 43 (Zoning) § 10.3 Board of Appeals shall be amended, and, as amended shall read as follows:

* * *

10.323. Findings and conclusions. After such public hearings, the Orangetown Zoning Board of Appeals (hereinafter referred to as "ZBA") shall make written findings of fact and conclusions concerning the subject matter of such hearing, including the reasons for the grant or denial of the relief sought. As to any proposed use, such findings of fact and conclusions shall be made concerning such use, as described and represented by the applicant. In addition, the ZBA Board of Appeals shall, in appropriate cases, impose additional conditions and safeguards in granting a special permit or variance, or in approving an application requesting approval of conformance to the performance standards (Zoning Code §4.1), in harmony with the general purpose and intent of the Zoning Code, and to ensure that such use is established and maintained in conformity with the special findings, and the additional requirements and conditions, upon which such permit, variance(s) or approval of conformance to performance standards (Zoning Code §4.1), is granted.

* * *

10.334. Permit for a use subject to performance standards procedure.

(a) Application. An application for a permit for a use subject to performance standards procedure shall be submitted to the Inspector in quadruplicate on a form prescribed by the Zoning Board of Appeals (hereinafter referred to as "ZBA"), which shall include, but not be limited to, a Resume of Operations, on a form prescribed by the ZBA, which shall be prepared, and signed, by a person who is qualified to answer the questions and submit documentation on behalf of the applicant; and shall be referred by the Inspector to the ZBA Board of Appeals. The ZBA may reject the Resume of Operations if the ZBA determines that it has not been prepared, and signed, by a qualified person, regarding which the ZBA may engage or retain expert consultants to advise the ZBA with respect to the qualifications of the preparer/signatory, the fees of which consultants shall be paid by the applicant. The applicant shall also submit in duplicate a plan of the proposed construction or development, including a description of the proposed machinery, operations, and products and specifications for the mechanism and techniques to be used in restricting the emission of dangerous and objectionable elements referred to in §4.1, in accordance with rules prescribed by the ZBA Board specifying the type of information required in such plans and specifications, and an affidavit by the applicant acknowledging his understanding of the applicable performance standards and agreement to conform with same at all times. No applicant will be required to reveal any secret processes, and any information submitted will be treated as confidential, if requested by the applicant. The fee for such application shall include the anticipated estimated costs of the special the ZBA's expert consultants' reports required to process it, described in Subsection (b) below.

(b) Report by expert consultants. The Board of Appeals, if there is the ZBA has any reasonable doubt as to the likelihood of conformance to the performance standards, the ZBA shall refer the application, for investigation and report, to one or more expert consultants selected by the ZBA Town Board as qualified to advise as to whether a proposed use will conform to the applicable performance standards specified in §4.1, in accordance with §4.13. The applicant shall be informed of the estimated costs for such investigation and report before such referral is made. Such consultant or consultants shall make such report within 30 days after his or their receipt of such application. A copy of such report shall be promptly furnished to the applicant.

(c) Decision of the Board of Appeals. At the next regular meeting of the ZBA Board of Appeals, but in no event more than 30 62 days after the ZBA Board has received the aforesaid expert consultants' report(s) and after the closing of the Public Hearing, or within such further period as agreed to by the applicant and ZBA, the ZBA Board shall decide whether the proposed use will conform to the applicable performance standards and, on such basis, shall authorize or refuse to

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authorize the issuance of a permit or certificate of occupancy or require a modification of the proposed plan of construction. Such decision of the ZBA Board shall be in written the form of a written report, which shall be immediately filed in the office of the Orangetown Town Clerk and shall be a public record. Any permit or certificate of occupancy issued by the Inspector shall be conditioned on, among other things, the applicant’s completed buildings, structures, and installations, machinery, equipment and appurtenances, in operation, conforming to the applicable performance standards, and the applicant’s paying the fees for services of the expert consultant, or consultants, deemed reasonable and necessary by the ZBA Board of Appeals for advice as to whether or not the applicant’s completed buildings, structures, and installations, machinery, equipment and appurtenances will, in operation, conform to the applicable performance standards.

10.335. Continued enforcement.

A. The Inspector shall investigate any alleged violation of, or non-compliance with, the performance standards (Zoning Code §4.1) on the part of any nonresidential use subject to the performance standards (hereinafter referred to as “industrial user”); and, if there are reasonable grounds to believe that a violation, or non-compliance, exists, he the Inspector shall notify the ZBA Board of Appeals of the occurrence or existence of a probable such possible violation or non-compliance thereof. The ZBA Board shall investigate the alleged violation, or non-compliance, in accordance with Zoning Code §4.13, and for such investigation may employ engage or retain qualified experts. If, after public hearing on due notice, in accordance with Zoning Code §4.13, the ZBA Board of Appeals finds that a violation, or non-compliance, occurred or exists, a copy of said findings shall be forwarded to the Inspector; and, in addition thereto, the ZBA may revoke and rescind its performance standards (Zoning Code §4.1) approval decision, and any building permit and/or certificate of occupancy that has been issued, based upon such approval decision, shall also be deemed revoked and rescinded Town Board. The services of any qualified experts, employed retained or engaged by the Town ZBA to investigate and report regarding an alleged advise in establishing a violation of, or non-compliance with, the performance standards, in accordance with Zoning Code §4.13, shall be paid for by the industrial user violator, if a violation, or non-compliance, is proved found by the ZBA, and otherwise by the Town. No new certificate of occupancy shall be issued, as provided in §10-236, unless such charges have been paid to the Town.

B. (i). Each and every year, beginning on a date that is between eleven and twelve months after the issuance of a certificate of occupancy that was issued pursuant to Zoning Code §4.1, every industrial user shall submit an affidavit to the Inspector, sworn to and signed, under oath, by a qualified professional, attesting that the operations, processes and methods, and the completed buildings, structures, installations, machinery, equipment and appurtenances, that were approved by the ZBA as part of a performance standards application, have not been altered, modified or changed, in any manner whatsoever, other than routine maintenance. If the Inspector determines that the said affidavit has not been executed by a qualified professional, the Inspector may reject the affidavit, or may engage or retain expert consultants to advise the Inspector with respect to the qualifications of the signatory, the fees of which consultants shall be paid by the industrial user.

(ii). If the operations, processes or methods, or the completed buildings, structures, installations, machinery, equipment or appurtenances, that were approved by the ZBA as part of a performance standards application, have been altered, modified or changed, in any manner whatsoever, other than routine maintenance, then the industrial user shall submit, to the Inspector, a new Resume of Operations, in form and substance as described in §10.334(a); and, in addition, the industrial user shall apply for performance standards approval, as per Zoning Code §4.1, if determined to be necessary by the Inspector. In making such determination, the Inspector may engage or retain expert consultants to advise the Inspector with respect to such alterations, modifications or changes, the fees of which consultants shall be paid by the industrial user.

Section 6: This local law shall become effective immediately upon filing with the Secretary of State.

RESOLUTION NO. 223

CONTINUE PH/ AMENDING TOWN CODE §6-5 CHAPTER 6, BUILDING CONSTRUCTION ADMINISTRATION; ZONING CODE (CHAPTER 43) §4.11, §4.12 AND §4.13 (PERFORMANCE STANDARDS, & §10.222, §10.323, §10.334 AND §10.335 ADMINISTRATION AND ENFORCEMENT

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

RESOLUTION NO. 223 - Continued

RESOLVED, that the Public Hearing, to consider the adoption of a Local Law amending the Code of the Town of Orangetown, Chapter 6, entitled Building Construction Administration, §6-5; and Chapter 43, entitled Zoning, Article IV, §4.1, entitled Performance Standards, and §4.11, §4.12 and §4.13 thereof, and Article X, entitled Administration and Enforcement, §10.222, §10.323, §10.334 and §10.335; was held open at the February 6, 2018, meeting of the Town Board, continued to this evening and adjourned to May 8, 2018, 8:15 pm.

Ayes: Councilpersons Valentine, Diviny, Troy, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 224

OPEN PH / PROPOSED CHANGE TO TOWN CODE / CHAPTER 43 / NEW ARTICLE, X-A, "PLANNING BOARD" CLARIFICATION ON MEMBERSHIP, DUTIES AND TRAINING

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

RESOLVED, that the public portion is hereby opened.

Ayes: Councilpersons Valentine, Troy, Diviny, Bottari
Supervisor Day
Noes: None

The Affidavit of Publication; the Notice of Posting and Rockland County Department of Planning comments are labeled Exhibit 04-C-18 and made a part of these minutes.

Summary of Public Comments:
There were no public comments.

RESOLUTION NO. 225

CLOSE PH / PROPOSED CHANGE TO TOWN CODE / CHAPTER 43 / NEW ARTICLE, X-A, "PLANNING BOARD" CLARIFICATION ON MEMBERSHIP, DUTIES AND TRAINING

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

RESOLVED, that the public portion of the hearing is hereby or closed.

Ayes: Councilpersons Valentine, Bottari, Troy, Diviny
Supervisor Day
Noes: None

RESOLUTION NO. 226

LEAD AGENCY/SEQRA DECLARATION / ROCKLAND COUNTY OVERRIDE COMMENT / CHAPTER 43 /ARTICLE, X-A, PLANNING BOARD / CLARIFICATION ON MEMEBERSHIP DUTIES AND TRAINING

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

WHEREAS, as part of the GML and SEQRA review of the proposed amendment to the Town Code, amending Chapter 43 by adding an new article entitled "Planning Board" as Article X-a, the Town Board circulated the proposed local law to the Rockland County Planning Department for its review and consideration and

RESOLUTION NO. 226 - Continued

WHEREAS, the Rockland County Department of Planning submitted a letter to the Town Board dated April 3, 2018, which letter is incorporated by reference herein (Exhibit 04-D-18) and which recommended two modifications to the proposed local law, and

NOW THEREFORE, be it Resolved that the Town Board, on this basis, having determined, as Lead Agency, that no significant environmental impacts would occur as a result of this change such that issuance of a Negative Declaration is appropriate, hereby incorporates the first modification recommended by the Rockland County Department of Planning by citing the specific subsections of Town Law §271-a through d, and

BE IT FURTHER RESOLVED that the Town Board hereby overrides comment number 2 of the Rockland County Department of Planning letter which recommended that the law include the requirement that Planning Board members must attend the Rockland Municipal Planning Federation’s Certification Courses and “Update of Case Law”. The reason for the override is that the proposed law specifically references the training requirements as set forth in NY Town Law 271-a through d, which provides for several options for training providers and formats, that any such training must be approved by the Town Board, that the Town Board recognizes the expertise and training opportunities offered by the Rockland Municipal Planning Federation and encourages all land use board members to so attend, but making such a requirement could pose a hardship if a Planning Board member is unable to attend when the Rockland Municipal Planning Federation offers its courses.

Ayes: Councilpersons Diviny, Bottari, Troy, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 227

**ADOPT LOCAL LAW 3, 2018
CHAPTER 43 / NEW ARTICLE,
ARTICLE X-A / CLARIFICATIONS
FOR MEMBERSHIP, AND DUTIES
AND TRAINING FOR TOWN
PLANNING BOARD**

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

RESOLVED, the Town Board hereby adopts Local Law 3, 2018.

Ayes: Councilpersons Bottari, Troy, Diviny, Valentine
Supervisor Day
Noes: None

**LOCAL LAW NO. 3, 2018
CHAPTER 43 / NEW ARTICLE X-A
PROVIDING FOR CLARIFICATIONS FOR MEMBERSHIP AND DUTIES FOR
TOWN PLANNING BOARD PURSUANT TO TOWN LAW §271**

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

Section 1. Chapter 43, of the Code of the Town of Orangetown is amended by adding a new Article, to read as follows:

ARTICLE X-A Planning Board
§10A-1 Organization and Membership

A. The Planning Board, having been established by the Town Board on or about September 19, 1948, and as further empowered pursuant to Chapter 21 of the Town Code, is hereby empowered to continue to act in its current form in accordance with Town Law §271, pursuant to which this Article is hereby adopted.

LOCAL LAW NO. 3, 2018

B. The Planning Board shall consist of seven members. Each member shall be appointed by resolution of the Town Board to serve a seven year term. All current appointments and terms shall remain in full force and effect. If a vacancy on the Planning Board shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term. The members of the Planning Board shall receive such compensation as shall be fixed by resolution of the Town Board.

§10A-2 Chairperson

The Town Board shall designate by resolution the Chairperson from among the Planning Board's membership. The term of office for the Chairperson shall be for one year. The Planning Board shall on its own motion select the Vice Chairperson from its membership at its first meeting of the new year, or as soon thereafter as possible.

§10A-3 Alternate Member

A. There shall be one alternate Planning Board member position for purposes of substituting for a member in the event that such member is unable to participate because of a conflict of interest or absence. The alternate member of the Planning Board shall be appointed by resolution of the Town Board. Such alternate member shall serve for a term of one year.

B. The Chairperson of the Planning Board may designate the alternate member to substitute for a member when such member is unable to participate because of a conflict of interest or when a regular member shall otherwise be unable or unavailable to review, hear and determine an application or matter before the Board, provided, however, that no such alternate member shall be eligible to serve as Chairperson of such Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.

C. All provisions of this section relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to an alternate member.

§10A-4 Training and Attendance

The training and attendance requirements as set forth in Town Law §271-7-a through 7-d shall be applicable to all Planning Board members. In addition, the following attendance requirements shall be applicable:

A. Members of the Planning Board shall be required to attend 75% of all regularly scheduled meetings and special meetings that are conducted in each calendar year.

B. In the event that a member does not attend 75% of all the regularly scheduled meetings and special meetings set forth in Subsection A hereinabove, the Town Board shall have the full discretion and authority to decide whether or not to remove a member from the Planning Board. The Town Board shall consider whatever factors it believes to be relevant in making this determination, including the reasons for the absences, but the Town Board shall not be required to accept any excuse or reason for nonattendance, as it sees fit. The Town Board shall not be required to hold a public hearing prior to taking any action to remove a member.

10A-5 Powers and Duties Procedure

A. The Planning Board is empowered to:

1. Review subdivision plat applications pursuant to Chapter 21 of the Town Code.
2. Review site development plan applications pursuant to Chapter 21A of the Town Code.
3. Review conditional use and special permit applications pursuant to Chapter 43, Article VII of the Town Code.
4. Review proposed amendments to the Town Zoning Code upon referral from the Town Board.
5. Make investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the Town upon referral from the Town Board.
6. Provide for review of informal applications and/or consultations upon referral from the Office of Building, Zoning, Planning, Administration and Enforcement.

LOCAL LAW NO. 3, 2018

- 7. Take any such other action as may be authorized by the Zoning Law, Town Code, or New York State Town Law and all other provisions of state and local law.
- B. The Planning Board shall determine its own rules of procedure and conduct consistent with applicable provisions of the Town Law of the State of New York, this Zoning Law, the Town Code and other applicable provisions of state and local law.
- C. Any person making an application for relief to the Planning Board who, by agreement with the Planning Board or by unilateral action, waives or otherwise extends any period of time established by law for action of any kind by the Planning Board shall also be deemed to waive any claim relating to the expiration of such period of time and shall be estopped from asserting a claim against the Town, its boards, officers, agents, consultants or employees, and the Town, its boards, officers, agents, consultants and employees may raise such waiver as an absolute defense or counterclaim in any such action or proceeding.

§10A-6 Appeal

Any person aggrieved by any decision or determination of the Planning Board may appeal pursuant to Article 78 of the New York Civil Practice Law and Rules. Said appeal must be instituted within 30 days of the filing of the decision with the Office of the Town Clerk.

Section 2. Severability Clause

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid parts.

Section 3. Effective Date.

This Local Law shall become effective immediately upon being filed with the Secretary of State.

RESOLUTION NO. 228

**OPEN PH/ BOND \$2,327,000
ISSUANCE FOR INCREASE AND
IMPROVEMENT OF SEWER
FACILITIES**

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

RESOLVED, that the public portion of this public hearing is opened.

Ayes: Councilpersons Troy, Bottari, Diviny, Valentine
Supervisor Day
Noes: None

The Affidavit of Publication and the Notice of Posting are labeled Exhibit 04-E-18 and made a part of these minutes.

Summary of Public Comments:

Andrew Wiley, Pearl River, the pattern with Bond uses are very broad. The Resolution should be more specific.

RESOLUTION NO. 229

**CLOSE PH / BOND \$2,327,000
ISSUANCE INCREASE AND
IMPROVEMENT OF SEWER
FACILITIES**

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

RESOLVED, that the public portion of this hearing is hereby closed.

Ayes: Councilpersons Valentine, Diviny, Troy, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 230

BOND \$2,327,000 ISSUANCE FOR INCREASE AND IMPROVEMENT OF SEWER FACILITIES

Councilman Troy offered the following resolution, which was seconded by Councilman Bottari and on a roll call was unanimously adopted:

WHEREAS, the Town Board of the Town of Orangetown, Rockland County, New York, has 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 the construction of various sewer system improvements and acquisition of vehicles, at a maximum estimated cost of \$2,327,000; and

WHEREAS, after a public hearing thereon the Town Board approved the project and authorized financing thereof:

WHEREAS, it is now desired to call a public hearing on the question of the increase and improvement of the facilities of the Orangetown Sewer District, in the matter described above, and to hear all persons interested in the subject thereof, concerning the same, in accordance with the provisions of Section 202 b of the Town Law;

NOW, THEREFORE, IT IS HEREBY ORDERED, by the Town Board of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. A public hearing will be held at the Town Hall, in Orangeburg, New York, in said Town, on March 13, 2018, at 8:15 P.M., Prevailing Time, on the question of the increase and improvement of the Orangetown Sewer District, in the Town of Orangetown, Rockland County, New York, in the manner described in the preambles hereof, and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law.

Section 2. The Town Clerk is hereby authorized and directed to cause a copy of the Notice of Public Hearing hereinafter provided to be published once in the official newspaper, and also to cause a copy thereof to be posted on the sign board of the Town, such publication and posting to be made not less than ten, nor more than twenty, days before the date designated for the hearing.

Section 3. The notice of public hearing shall be in substantially the form attached hereto as Exhibit A and hereby made a part hereof.

Section 4. This Order shall take effect immediately.

Ayes: Councilpersons Troy, Bottari, Diviny, Valentine
Supervisor Day

Noes: None

RESOLUTION NO. 231

BOND \$2,327,000 SERIAL INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE SEWER DISTRICT

Councilman Bottari offered the following resolution, which was seconded by Councilman Troy and on a roll call 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 March 13, 2018, said Town Board has determined it to be in the public interest to increase and improve the facilities of the Orangetown Sewer District in the Town of Orangetown, Rockland County, New York, at a maximum estimated cost of \$2,327,000; and

RESOLUTION NO. 231 - Continued

WHEREAS, it is now desired to provide funding for such capital project;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. For the object or purpose of paying the cost of the increase and improvement of the facilities of Orangetown Sewer District in the Town of Orangetown, Rockland County, New York, consisting of the construction of various sewer system improvements and acquisition of vehicles for the Orangetown Sewer District, there are hereby authorized to be issued \$2,327,000 serial bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of (i) the aforesaid sewer system improvements (being a class of objects or purposes) is \$2,220,000, and (ii) the aforesaid vehicles (being a class of objects or purposes) is \$107,000, and that the plan for the financing thereof is by the issuance of \$2,327,000 serial bonds of said Town authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid sewer system improvements is forty years and the vehicles is fifteen years, pursuant to subdivisions 4 and 28, respectively, of paragraph a of Section 11.00 of the Local Finance Law. 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 bonds as the same respectively become due and payable. 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. 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 he or she shall deem best for the interests of the Town.

Section 7. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor.

Section 8. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of the Local Finance Law.

RESOLUTION NO. 231 - Continued

Section 9. The Supervisor is hereby further authorized, at his sole discretion, to execute a project finance 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 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, together with a notice of the Town Clerk in substantially the form provided in Section 81 of the Local Finance Law.

Ayes: Councilpersons Bottari, Troy, Diviny, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 232

**BOND \$545,564 / IT IMPROVEMENTS
POLICE DEPT EQUIPMENT
GREENBUSH FACILITY FLOOR**

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

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Town of Orangetown, Rockland County, New York, as follows:

Section 1. The following are hereby authorized in and for the Town of Orangetown, Rockland County, New York:

- a) The purchase of vehicles, at a maximum estimated cost of \$363,000, being a class of objects or purposes having a period of probable usefulness of three years pursuant to subdivision 77 of paragraph a of Section 11.00 of the Local Finance Law;
- b) IT improvements, at a maximum estimated cost of \$99,500, being a class of objects or purpose having a period of probable usefulness of five years pursuant to subdivision 32 of paragraph a of Section 11.00 of the Local Finance Law;
- c) The purchase of equipment for the Police Department, at a maximum estimated cost of \$33,064, being a class of objects or purposes having a period of probable usefulness of five years pursuant to subdivision 32 of paragraph a of Section 11.00 of the Local Finance Law; and
- d) Replace floor at Greenbush Facility, at a maximum estimated cost of \$50,000, being a specific object or purpose having a period of probable usefulness of five years pursuant to subdivision 35 of paragraph a of Section 11.00 of the Local Finance Law.

RESOLUTION NO. 232 – Continued

Section 2. The total maximum estimated cost of the aforesaid objects or purposes is \$545,564, and the plan for the financing thereof is by the issuance of \$545,564 bonds of said Town hereby authorized to be issued therefor pursuant to the Local Finance Law, to be allocated in accordance with the maximum estimated costs set forth in Section 1 hereof.

Section 3. It is hereby further determined that the maximum maturity of the bonds herein authorized will not exceed five years.

Section 4 The faith and credit of said Town of Orangetown, Rockland County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds 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 bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. 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 6. 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 7 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 8. 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 9 This resolution, which takes effect immediately, shall be published in summary form in the official newspaper designated for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Ayes: Councilpersons Diviny, Valentine, Troy, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 233

**CERTIFICATE OF SEWER
REGISTRATION 2018**

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

RESOLUTION NO. 233 – Continued

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 2018 Sewer Work is approved to:

TAL Services, 176 Erie Street W, Blauvelt, NY 10913

Ayes: Councilpersons Diviny, Troy, Valentine, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 234

**TAX CERTIORARI SETTLEMENT
ALAN ROSENFELD**

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

RESOLVED, that upon the recommendation of the Assessor, approve and authorize Dennis D. Michaels, Deputy Town Attorney, to sign settlement documents regarding the tax certiorari proceeding Alan Rosenfeld v. Orangetown, Town of, Tax Map designation 77.11-2-96./3 (93 Route 303, Tappan) for the tax assessment year 2017 for a total refund by the County of \$0, a total refund by the Town of \$0 and a total refund by the South Orangetown School District of \$1,753. 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 Town (and Rockland County Finance Dept.).

Ayes: Councilpersons Troy, Diviny, Valentine, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 235

**APPOINT RICHARD A. OLIVER
DEPUTY INSPECTOR/OBZPAE**

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

RESOLVED, that upon the recommendation of the Director of OBZPAE, the Town Board hereby affirms and acknowledges the appointment of Richard A. Oliver to the position of Deputy Building Inspector, permanent, Grade 19, Step 8/13, from RC EL#17078, at a salary of \$110,804.00, effective April 10, 2018.

Ayes: Councilpersons Valentine, Bottari, Troy, Diviny
Supervisor Day
Noes: None

RESOLUTION NO. 236

**PERMISSION GRANTED / HIGHWAY
SCHOOL / 2018 CORNELL LOCAL
ROADS PROGRAM**

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

RESOLVED, that permission is hereby granted for JIM DILLON, STEPHEN F. MUNNO, ANTHONY LIMANDRI & JIM DEAN of the Town of Orangetown Highway Department to attend the 2018 Association of Towns Annual Highway School, Ithaca, NY, from June 4 - 6, 2018, at a cost of \$ 1,619.00.

Ayes: Councilpersons Diviny, Troy, Valentine, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 237

AID / 2018 CRAFT FAIR / FLEA MARKET / PEARL RIVER

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

RESOLVED, upon the recommendation from the Superintendent of Highways, that the Town Board hereby authorizes the Town of Orangetown Highway & Parks Departments to lend assistance which includes the use of trash barrels from the Highway Dept., and (1) handicap, (2) regular port-o- johns from the Parks Department, for the Pearl River Central Avenue Craft Fair/Flea Market to be held on Sunday, July 15, 2018, from 10 am to 4 pm.

Ayes: Councilpersons Troy, Diviny, Valentine, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 238

**APPOINT BRIAN EDWARDS
GROUNDWORKER / PARKS &
RECREATION DEPT.**

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

RESOLVED, that the Town hereby appoints Brian Edwards to the position of Groundswoker, Grade 9, Parks at an annual salary of \$54,227.00, effective April 16, 2018.

Ayes: Councilpersons Troy, Diviny, Valentine, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 239

**APPOINT MATTHEW KANE
MAINTENANCE MECHANIC
(ELECTRICIAN) / DEME**

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

RESOLVED, that upon recommendation of the Commissioner of DEME, the Town Board hereby appoints Matthew Kane to the position of Maintenance Mechanic (Electrician) CSEA Grade 17 Step 2 at a salary of \$79,860.00 (probationary). This position is funded in the 2018 budget. This action results in a net increase of \$3,525.00. This appointment is conditional upon CSEA acknowledgement and acceptance and would be effective April 16, 2018.

Ayes: Councilpersons Troy, Diviny, Valentine, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 240

**APPOINT MATTHEW LENIHAN
COMPUTER NETWORK
SPECIALIST / PERMANENT**

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

RESOLVED, that the Town hereby appoints MATTHEW LENIHAN to the position of Computer Network Specialist, permanent, from RC EL #17082, effective April 10, 2018, no change in salary.

Ayes: Councilpersons Diviny, Valentine, Troy, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 241

**ACCEPT PETITION/ ZONE
CHANGE REQUEST / DIRECT
CIRCULATION PROPOSED
LOCAL LAW, AMENDING TOWN
ZONING MAP / 70 HICKORY
HILL, TAPPAN 77.09-1-25**

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

WHEREAS, the owner of premises located at 70 Hickory Hill Road, in the hamlet of Tappan, being located in the “R-40” (Low Density Residential) zoning district, has petitioned the Town Board to change the zoning classification of the property to that of “R-15” (Medium Density Residential), a zoning district that directly abuts the property; and

WHEREAS, upon preliminary review, the Town Board is favorably disposed to such a change, because the existing zone of R-40 has not been shown on the official map of the Town since the zoning district was established in 1991 and many of the surrounding properties have received variances and/or otherwise been treated as existing in the “R-15” zoning district; and

WHEREAS, the Town Board wishes to proceed with its consideration of the proposed action, toward which end it wishes to commence the environmental review process, as well as review by other interested agencies; and

WHEREAS, upon review of the Petition, and a Short Environmental Assessment Form prepared at the Town Board’s request by the Office of Building, Zoning, Planning and Administration and Enforcement, and related documents and filings, the Board makes the following preliminary determinations:

1. The proposed action is one subject to review under the State Environmental Quality Review Act (“SEQRA”);
2. The proposed action as an “Unlisted” action; and
3. The following are involved or interested or involved agencies in the review process:

Orangetown Planning Board;
Rockland County Department of Planning;
Rockland County Highway Department

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby declares its intention to serve as Lead Agency for the purpose of environmental review under SEQRA, and directs that a Lead Agency Coordination Letter with relevant documents be circulated to and among the various above referenced agencies; and

BE IT FURTHER RESOLVED, that the circulation to the Rockland County Department of Planning further be for the purpose of review pursuant to General Municipal Law §§ 239- 1 & m; and

BE IT FURTHER RESOLVED, that, pursuant to Town Code Chapter 43, § 10.5, the Town Board hereby refers the said Petition and a proposed Local Law, amending the Town Zoning Map, to the Town Planning Board, inviting its input regarding, among other things, the implications of such an amendment, and requesting a response within 30-days.

Ayes: Councilpersons Troy, Valentine, Diviny, Bottari
Supervisor Day

Noes: None

RESOLUTION NO. 242

**ACCEPT PETITION / ZONE CHANGE
REQUEST/SEQRA DECLARATION
DIRECT CIRCULATION OF PROPOSED
LOCAL LAW, AMENDING TOWN
ZONING MAP / TOWN PLAZA II
500 ROUTE 303 / 74.07-1-6**

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

WHEREAS, the owner of premises located at 500 Route 303, in the hamlet of Orangeburg, tax lot 74.07-1-6 being located in both the “CC” (Retail- Commerce) and “LI” (Light Industrial) zoning districts, has petitioned the Town Board to change the zoning classification of the entire property to that of “CC” (Retail-Commerce), a zoning district that already includes and directly abuts the property; and

WHEREAS, upon preliminary review, the Town Board is favorably disposed to such a change, because the zoning boundary line runs through the property, which is a single tax parcel consisting of 2.5 acres of land, and the parcel has been primarily used in accordance with the regulations of the “CC” zoning district; and

WHEREAS, the Town Board wishes to proceed with its consideration of the proposed action, toward which end it wishes to commence the environmental review process, as well as review by other interested agencies; and

WHEREAS, upon review of the Petition, and a Short Environmental Assessment Form prepared at the Town Board’s request by the Office of Building, Zoning, Planning and Administration and Enforcement, and related documents and filings, the Board makes the following preliminary determinations:

1. The proposed action is one subject to review under the State Environmental Quality Review Act (“SEQRA”);
2. The proposed action as an “Unlisted” action; and
3. The following are involved or interested or involved agencies in the review process:
 - Orangetown Planning Board;
 - Rockland County Department of Planning;
 - Rockland County Highway Department

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby declares its intention to serve as Lead Agency for the purpose of environmental review under SEQRA, and directs that a Lead Agency Coordination Letter with relevant documents be circulated to and among the various above referenced agencies; and

BE IT FURTHER RESOLVED, that the circulation to the Rockland County Department of Planning further be for the purpose of review pursuant to General Municipal Law §§ 239-1 & m; and

BE IT FURTHER RESOLVED, that pursuant to Town Code Chapter 43, § 10.5, the Town Board hereby refers the said Petition and a proposed Local Law, amending the Town Zoning Map, to the Town Planning Board, inviting its input regarding, among other things, the implications of such an amendment, and requesting a response within 30-days.

Ayes: Councilpersons Valentine, Bottari, Troy, Diviny
Supervisor Day

Noes: None

RESOLUTION NO. 243

SET PUBLIC HEARING / GALWAY BAY CONTRACTING / ZONE CHANGE/ "CS" TO A "PAC" DISTRICT / 12-16 N MAIN ST, PEARL RIVER 68.16-6-67

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

RESOLVED, that the Town Board hereby sets the date for a public hearing at the RTBM of May 24, 2018 at 8:05 P.M. for the Proposed Zoning Text Amendment / "CS" TO A "PAC" District / Galway Bay Contracting, Inc.

Ayes: Councilpersons Bottari, Troy, Diviny, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 244

PERMISSION GRANTED / P.O. JOHNSON / NJ EMERGENCY PREPAREDNESS CONFERENCE

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

RESOLVED, that upon the recommendation of the Chief of Police, permission is hereby granted to PO Harold Johnson II to attend the New Jersey Emergency Preparedness Conference in Atlantic City, NJ from Monday, April 30, to Friday, May 4, 2018 at cost of \$766.00 to be charged to OEM budget line A.3645.457.

Ayes: Councilpersons Diviny, Bottari, Troy, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 245

RESIGNATION / RETIREMENT POLICE OFFICER STEPHEN P. FITZGERALD

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

RESOLVED, that upon the recommendation of the Chief of Police, the Town accepts, with regret, the resignation/retirement of Police Officer Stephen P. Fitzgerald, effective April 10, 2018.

Ayes: Councilpersons Diviny, Bottari, Troy, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 246

EXTEND, INDEFINITELY, TOWN BOARD RESOLUTION NO. 773 OF 12/10/2007, GRANTING THE COLD WAR VETERANS REAL PROPERTY TAX EXEMPTION, AS PER NYS REAL PROPERTY TAX LAW §458-b

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

RESOLVED, that the Cold War Veterans real property tax exemption, pursuant to NYS Real Property Tax Law §458-b, previously granted by the Town Board by its Resolution No. 773 of 12/10/2007, is hereby extended, indefinitely, i.e., without a ten-year maximum exemption period; which property tax exemption shall be granted for qualifying residential real property to the extent of fifteen percent (15%) of the assessed value of such property, provided however, that such exemption shall not exceed twelve thousand dollars (\$12,000.00) or the

RESOLUTION NO. 246 - Continued

product of twelve thousand dollars (\$12,000.00) multiplied by the latest state equalization rate for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

Ayes: Supervisor Day
Councilpersons Valentine, Troy, Diviny, Bottari
Noes: None

RESOLUTION NO. 247

PAY VOUCHERS

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

RESOLVED, upon the recommendation of the Finance Director, the Finance Office is hereby authorized to pay vouchers for three (3) warrants for a total of \$1,801,758.55.

Ayes: Councilpersons Diviny, Troy, Valentine, Bottari
Supervisor Day
Noes: None

RESOLUTION NO. 248

**ENTER EXECUTIVE SESSION
PERSONNEL MATTERS/DEME**

In attendance, at this Executive Session, were Supervisor Day, Councilpersons Troy, Diviny, Valentine and Bottari, Robert Magrino, Teresa Kenny, and Joseph Moran.

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

RESOLVED, at 9:41 p.m. the Town Board entered Executive Session to discuss particular Personnel matters. Supervisor Day said no further votes will be taken.

Ayes: Councilpersons Diviny, Bottari, Troy, Valentine
Supervisor Day
Noes: None

RESOLUTION NO. 249

ADJOURNED/MEMORY

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

RESOLVED, at p.m., the Town Board adjourned in memory of Jerry Donnellan, Rockland County Veterans Service Agency Director and Founder of Vietnam Veterans of America Chapter 333; Beverly Hackett, Blauvelt; Jayne Johnston, mother of employee Matt Johnston; Robert Knight, Rockland County Historian and Editor for the Rockland County Times; Maria Mackay, former Orangetown's Historian; Helen Murphy, Orangeburg; Jeremiah Murphy, Blauvelt; Susan (Sue) Reilly, W. Nyack; Kevin Ryff, former NYPD Officer, retired from Harbor Unit; Gordon Taylor, Pearl River; and Luise Weischowsky, Blauvelt.

Ayes: Councilpersons Diviny, Bottari, Troy, Valentine
Supervisor Day
Noes: None

Charlotte Madigan, Town Clerk