

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
TUESDAY, NOVEMBER 9, 2010**

This Town Board Meeting was opened at 7:30 p.m. Supervisor Whalen presided and the Town Clerk called the Roll. Present were:

Councilman Denis Troy
Councilwoman Nancy Low-Hogan
Councilman Michael Maturo
Councilman Thomas Diviny

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, First Deputy Town Attorney
AnnMarie Hahr, Executive Assistant to the Supervisor
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Scott Burton, Director of Environmental Management & Engineering
Mike Manzare, Building Inspector
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Esta Baitler led the Pledge of Allegiance to the Flag.

James Dean, Superintendent of Highways, announced the leaf pick-up program began last Monday and will continue for the next eight weeks. He said placing leaves on the road pavement is against the law and it is being encouraged not to put the leaves on the pavement. A new computer software program to estimate leaf pick-up in your neighborhood is available on our website.

Summary of Public Comments (RTBM):

Annmarie Uhl, Sparkill, expressed her dissatisfaction with the Youth Recreation committee and lack of transparency in the Parks' & Recreation budget. The committee should be recommending long-term maintenance and improvements of the recreation facilities.

Eileen Larkin, Palisades, asked if the overall 2011 budget has been approved and if the Town Board members' increase in salary was deleted. She spoke about fines for people who place leaves in the roadway.

Bill Hahn, President of Orangeburg Library, argued the need for an increase in the libraries' budgets. He believes the Orangeburg Library really needs the 3% increase and each library should submit their budgets separately.

Andrew Wiley, Pearl River, said the Assessor is using a Town vehicle to work for Piermont and Piermont is benefitting from Town taxpayers money. He expressed his concerns regarding parking for the Mews at Pearl River.

RESOLUTION NO. 661

CLOSE PUBLIC COMMENTS

Councilman Troy offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously adopted:

RESOLVED, that the public portion is hereby closed.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 662

**AUTHORIZE/SUPERVISOR
AGREEMENT 2007 LETPP HOMELAND
SECURITY GRANT**

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

Resolution No. 662 - Continued

RESOLVED, that upon the recommendation of the Town Attorney's Office and the Chief of Police, the Town Supervisor is hereby authorized to sign the Agreement with the County of Rockland for the purchase of a response vehicle as outlined in the 2007 LETPP HOMELAND SECURITY GRANT, wherein the Town will be reimbursed \$19,675.00 for such vehicle.

Ayes: Councilpersons Diviny, Maturo, Troy, Low-Hogan
Supervisor Whalen
Noes: None

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RESOLUTION NO. 663**APPOINT/LABORER/DEME
JOHN ROBINSON**

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

RESOLVED, that John Robinson (Groundswoker, Dept. of Parks and Recreation) is hereby appointed to the position of laborer in the Department of Environmental Management and Engineering, grade 9—8, annual salary \$60,804. (no change in salary or grade), effective November 15, 2010.

Ayes: Councilpersons Maturo, Diviny, Troy, Low-Hogan
Supervisor Whalen
Noes: None

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RESOLUTION NO. 664**APPROVE CONTRACT/TOWN
ASSETS ON-SITE VALUATION
ASSETWORKS APPRAISAL**

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

RESOLVED, that a contract with AssetWorks Appraisal, in the amount of \$9,800, for on-site valuation of Town fixed assets, to be charged to Account #A1622.457, is hereby approved.

Ayes: Councilpersons Maturo, Troy, Low-Hogan, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 665**ACCEPT MINUTES**

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

RESOLVED, that September 28, 2010 Regular Town Board, Audit Meeting, and Executive Session minutes; the October 5, 2010 Police Commission Meeting and Executive Session minutes; the October 12, 2010 Regular Town Board, Audit Meeting, and Executive Session minutes are hereby accepted.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 666**EASEMENT AGREEMENT/ELLEN
PALUCK/213 RIVER RD/GRANDVIEW**

Councilman Diviny offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously adopted:

Resolution No. 666 - Continued

RESOLVED, that the Easement Agreement between the Town and Ellen Paluck for property located at 213 River Rd, Grandview-on-Hudson, NY (71.62-1-13) is received and filed in the Town Clerk's Office.

Ayes: Councilpersons Diviny, Low-Hogan, Troy, Maturo
Supervisor Whalen
Noes: None

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RESOLUTION NO. 667**AWARD RFP/CONSTRUCTION
MANAGEMENT SERVICES/GOLF
COURSE CLUBHOUSE**

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

RESOLVED that, following receipt, review and evaluation of the responses to the Town's Request for Proposals for Construction Management Services in connection with the proposed renovations to the Blue Hill Golf Course Pro Shop and Club house, the Town Board hereby awards the Construction Management Contract to Holt Construction Corp Inc, of Pearl River, New York ("Holt"), for the lump sum, not to exceed price of \$142,500.00, said price inclusive of all pre-construction and construction phase management services;

AND BE IT FURTHER RESOLVED, upon further consideration, and based in part upon the recommendation of Holt, the said project shall be bid in accordance with the "Wicks Law" and not under a Project Labor Agreement.

Ayes: Councilpersons Maturo, Troy, Low-Hogan, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 668**SCHEDULE PUBLIC HEARING AMEND
CODE/CHAPTER 39 PROHIBIT TRAFFIC
TURNS/PEARL RIVER**

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

RESOLVED, that a public hearing is scheduled for December 14, 2010 at 8:30 p.m. to consider amending Town Code, Chapter 39, relating to prohibiting left turns from West Washington Avenue (Eastbound) onto North Magnolia Street and North Serven Street during the hours of 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m.

Ayes: Councilpersons Troy, Maturo, Low-Hogan, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 669**APPROVE/REVOCABLE LICENSE
AGREEMENT/ORANGE AND
ROCKLAND**

Councilwoman Low-Hogan offered the following resolution, which was seconded by Councilman Troy and was unanimously adopted:

RESOLVED, in furtherance of the work to be undertaken by Orange & Rockland Utilities, Inc. ("O & R"), pursuant to the Special Permit previously granted by Town Board Resolution No. 365 of 2010, the Town Board hereby grants to O & R a Revocable License, in the form annexed

Resolution No. 669 - Continued

hereto and made a part hereof, to undertake preliminary site work on Town owned lands that are the subject of pending municipal home rule legislation.

Ayes: Councilpersons Troy, Maturo, Low-Hogan, Diviny
Supervisor Whalen
Noes: None

REVOCABLE LICENSE TO ENTER UPON TOWN OWNED LANDS TO PERFORM PRELIMINARY SITE WORK, INCLUDING CLEARING AND THE RELOCATION OF AN EXISTING POLE

WHEREAS, in accordance with the provisions of Chapter 43 of the Town Zoning Law, Table of General Use Regulations for the R-80 zoning district at Col. 3, Town Board No. 5 (expressly made applicable to the R-22 zoning district), ORANGE & ROCKLAND UTILITIES (“O & R”) filed an application with the Town Board of the TOWN OF ORANGETOWN (the “Town”) for a Special Permit, permitting the installation and construction of “H-Frame” and related power transmission structures, partially on O & R owned lands (and/or on lands on which O & R has an easement) and partially on adjacent Town owned lands, so that O & R might transition overhead lines to underground lines to its Corporate Drive substation; and

WHEREAS, by Resolutions 365 and 408 of 2010, the Town Board granted the required Special Permit, subject to the enactment of special state legislation authorizing the alienation of a portion of said lands presently designated as “park” lands, and approved the submission of municipal home rule legislation in connection with the related conveyance of an easement on the said Town owned lands; and

WHEREAS, it appears likely that the special state legislation, introduced late in the legislative session and already approved by the Assembly, eventually, will be adopted; and

WHEREAS, O & R already has received approvals, including site development plan approval, from the Town’s land use boards, as required; and

WHEREAS, in order to ensure that the power needs of one of the Town’s larger commercial taxpayers, Verizon, can be satisfied, in the future, O & R wishes to proceed with preliminary site work, including land clearing, site and drainage work and the relocation of one existing transmission pole/tower, in advance of the actual conveyance of an easement by the Town; and

WHEREAS, the Town wishes to facilitate O & R in the installation of its proposed structures, thereby mitigating continuing concerns that Verizon might choose to relocate out of the Town if its power needs cannot be timely met;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The Town, as owner of the Town lands that are the subject of now pending special state legislation (“Town Lands”), hereby grants to O & R a Revocable License, permitting and authorizing O & R, and its employees, agents, consultants and others acting at its direction and on its behalf, to enter upon the said Town Lands for the purpose of undertaking preliminary site work associated with the installation of H-frame transition and related structures and facilities, including land clearing, site and drainage work and the relocation of an existing transmission pole as shown on the approved site development plan.

2. Such preliminary site work may be undertaken, subject to the following express conditions:

(a) Any work performed by O & R shall be at its sole risk, meaning that, in the event special state legislation authorizing the grant of an easement to O & R on, over and under the referenced Town Lands shall not be adopted, and an easement thereon shall not be conveyed, O & R, upon written notice from the Town, shall immediately restore the said Town Lands to substantially the same condition that existed before any such work was undertaken, including the

O & R Revocable License - Continued

replacement of any trees and other plantings that it may remove as part of the work conducted under this license;

(b) O & R further agrees, to the fullest extent permitted by law, to defend, indemnify and hold the Town, its officers, employees and invitees harmless from any damage, liability or cost (including reasonable attorneys' fees and cost of defense) to the extent caused by the negligent acts, errors or omissions of O & R, its officers, employees or agents in the performance of O & R's work hereunder, which indemnification shall include and extend to the actions of any subcontractors or outside consultant utilized by O & R;

(c) O & R agrees that its activities under this License will be performed in a lawful, prudent and safe manner, in accordance with all federal, state or local laws or regulations as may apply, and will not unreasonably interfere with the normal activities of the Town;

(d) Prior to entering upon the Town Lands, O & R shall provide to the Town proof of insurance from each of its independent contractors and sub-contractors covering the work and services that they, their employees, agents and servants may perform under this License, which shall include, but not be limited to:

- (i) General Liability Insurance in a minimal amount of One Million Dollars (\$1,000,000.00) combined single limit with Two Million Dollars (\$2,000,000.00) excess of One Million Dollars (\$1,000,000.00);
- (ii) Workers' Compensation and Disability Insurance in the required statutory amounts.

Such insurance shall name the TOWN OF ORANGETOWN as an "additional named insured" thereon (not simply as a certificate holder), and shall further provide that such policies of insurance shall not be cancelled or discontinued except on twenty (20) days written notice to the TOWN. Proof of such insurance in a form acceptable to the Town shall be delivered to the Town before any services or other activities under this License shall commence.

With respect to O & R, the Town is advised that O & R, a public utility, is self-insured. As such, it need not provide proof of general liability insurance, with the express understanding that its liability, both as to third parties and as to the Town, directly and as indemnitee, shall be without limit. Proof of worker's compensation and disability coverage shall be provided as required by law.

All insurance required hereunder shall be maintained throughout the duration of this license.

3. O & R, at its sole cost and expense, shall obtain and maintain, throughout the term of this License, any and all permits that may be required in connection with the work that it performs;

4. O & R shall give forty-eight (48) hours prior written notice to the Town Building Inspector of the date on which it first intends to conduct any tree clearing or other work hereunder;

In addition, O & R shall provide written notice to all property owners within 250 feet of the perimeter of the lands on which such work is to be undertaken no less than 48 hours prior to the commencement of any such work.

5. This Revocable License may be cancelled by the Town on ten (10) days written notice to O & R, upon the happening of which the O & R shall remove or cause to be removed any and all equipment, and to restore the Town Lands as otherwise required hereunder.

6. The grant of this Revocable License was approved by Town Board Resolution No. 669 of 2010, duly adopted on November 9, 2010.

O & R Revocable License - Continued

TOWN OF ORANGETOWN

By: _____
Paul Whalen, Supervisor

Date

ORANGE & ROCKLAND UTILITIES

By: _____

Date

Acknowledgements

STATE OF NEW YORK

ss.

COUNTY OF ROCKLAND

On the ___ day of _____, 2010 before me, the undersigned, a notary public in and for the State, appeared PAUL WHALEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW YORK

ss.

COUNTY OF ROCKLAND

On the ___ day of _____, 2010, before me, the undersigned, a notary public in and for the State, appeared _____ and _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

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RESOLUTION NO. 670

APPROVE/2011 OPERATING BUDGET FOR SPECIAL DISTRICTS

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

RESOLVED, that 2011 Operating Budgets for Special Districts are hereby approved.

Ayes: Councilpersons Troy, Diviny, Low-Hogan, Maturo
Supervisor Whalen

Noes: None

RESOLUTION NO. 671**ENTERED AUDIT**

Councilman Maturo offered the following resolution, which was seconded by Supervisor Whalen and was unanimously adopted:

RESOLVED, that the Town Board entered the Audit Meeting at 8:45 p.m.

Aye: Councilpersons Maturo, Troy, Low-Hogan, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 672**PAY VOUCHERS**

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

RESOLVED, that the Finance Office is hereby authorized to pay vouchers for the General Fund, Town Outside Village, Blue Hill, Broadacres, Highway, Sewer, Capital Projects, Risk Retention, Special Election and Parking Funds for a total amount of \$1,041,440.86.

Ayes: Councilpersons Maturo, Troy, Low-Hogan, Diviny
Supervisor Whalen
Noes: None

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RESOLUTION NO. 673**ENTER EXECUTIVE SESSION**

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

RESOLVED, that the Town Board entered Executive Session at 8:55 p.m.

Ayes: Councilpersons Troy, Diviny, Low-Hogan, Maturo
Supervisor Whalen
Noes: None

Resolution Nos. 674 and 675 see Executive Session.

RESOLUTION NO. 676**ADJOURNMENT**

Councilman Troy offered the following resolution, which was seconded by Councilwoman Low-Hogan and was unanimously adopted:

RESOLVED, that the Town Board adjourned at 9:43 p.m.

Ayes: Councilpersons Troy, Low-Hogan, Maturo, Diviny
Supervisor Whalen
Noes: None

Charlotte Madigan, Town Clerk