

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
TUESDAY, NOVEMBER 22, 2011**

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 Thomas Diviny
Absent: Councilman Michael Maturo

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney
Teresa Kenny, First Deputy Town Attorney (arrived at 7:50 pm)
AnnMarie Hahr, Executive Assistant to the Supervisor
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Joseph Moran, Commissioner of DEME
Robert Simon, Receiver of Taxes
John Giardiello, Director of OBZPAE,
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Charlotte Madigan led the Pledge of Allegiance to the Flag.

Summary of Public Comments:

Anne Byrne, Pearl River, and President of the Nanuet School Board, is against imposing a fee to the school districts for the collection of school taxes.

Esta Baitler, Consumer Advocate for Camp Venture, thanked the outgoing Town Board members and AnnMarie Hahr for their help and patience.

Bryan Burrell, Rockland County School Board Association, fears the fee for collecting school taxes will be seen as part of the school bill and nothing more than new revenue for the Town. He requested justification for the fee.

Habib Hasan, Pearl River, commended Supervisor Whalen on his leadership. He spoke about the school districts paying a fee for the collection of school taxes.

Victoria Caramante, Tappan, believes going over the 2% tax cap would be disingenuous to taxpayers. She also said charging the school tax fee would be the start of many new fees.

RESOLUTION NO. 633

CLOSE PUBLIC COMMENTS

Councilman Diviny 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 Diviny, Low-Hogan, Troy
Supervisor Whalen
Noes: None
Absent: Councilperson Maturo

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RESOLUTION NO. 634

**ACCEPT PERFORMANCE BOND
GERALD & BONNIE WALSH (64.20-1-3)
253 TOWNLINE RD/W NYACK**

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

WHEREAS, pursuant to Town Board Resolution 2011-149 the Town Board accepted a Performance Bond from Gerald and Bonnie Walsh, related to the Walsh Subdivision for property located at 253 Townline Road, West Nyack, New York, (Tax Lot 64.20 Block 1 Lot 3) and

Resolution No. 634 - Continued

WHEREAS, pursuant to the aforesaid Resolution, the Town received and accepted the sum of \$46,380.00 to ensure the construction and completion of certain public improvements within the subdivision, which funds were posted by Gerald and Bonnie Walsh and

WHEREAS, the Planning Board at its meeting of September 14, 2011 authorized the replacement of said bond with a replacement bond from Paul Rowley, the new and current owner of the aforesaid property, and

WHEREAS Paul Rowley has submitted a Performance Bond dated August 18, 2011 from Vigilant Insurance Company obligating Paul Rowley and Vigilant Insurance Company to be responsible for the completion of public improvements pursuant to the Performance Bond which has been approved by the Town Attorney's Office,

NOW THEREFORE IT IS HEREBY RESOLVED THAT, the Town hereby formally accepts, receives and files a Performance Bond from Paul Rowley and Vigilant Insurance Company with respect to the Walsh Subdivision, 253 Townline Road West Nyack, NY (Tax Lot 64.20 Block 1 Lot 3), which Performance Bond requires completion of certain public improvements no later than May 11, 2012, and which Bond is subject to all previous Planning Board decisions and conditions and which Bond shall remain in full force and effect until release by appropriate Town Board resolution, and

BE IT FURTHER RESOLVED THAT, the previously posted bond by Gerald and Bonnie Walsh and the collateral of \$46,380.00 which was posted in connection therewith, shall be released and discharged pursuant to the previous Town Board Resolutions concerning same and upon adoption of this resolution accepting the replacement Performance Bond by Paul Rowley and Vigilant Insurance Company.

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

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RESOLUTION NO. 635**RENEW STORMWATER II
EDUCATION PROGRAM
AGREEMENT/CORNELL**

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

RESOLVED, that the Superintendent of Highways, as the Town's representative, is hereby authorized to renew the 2011 Stormwater II Education Program Agreement with Cornell University Cooperative Extension of Rockland County at a cost of \$6,800.00, to be charged to Account No. A5010/50457.

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

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RESOLUTION NO. 636**APPOINT/MARY ANSELMI
PRINCIPAL CLERK/POLICE**

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

Resolution No. 636 - Continued

RESOLVED, that employee, Mary Anselmi, is hereby appointed to the position of Principal Clerk, in the Police Department, with a mandatory probationary period of six months, grade 10, step 4, annual salary \$54,451.00, effective November 23, 2011.

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

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RESOLUTION NO. 637**AWARD BID/CHEMICALS AND FERTILIZERS**

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

WHEREAS, the Superintendent of Parks & Recreation duly advertised for sealed bids for Chemicals and Fertilizers for Blue Hill Golf Course, Broadacres Golf Course and the Parks Department, which were received and publicly opened on November 8, 2011. (A copy of the publication and bid summary are labeled Exhibit 11-F-11 and made a part of these minutes.) Now, Therefore, Be It

RESOLVED, that this bid be award to the lowest qualified bidders as follows:

- Fert-L-Soil, Scotch Plains, NJ –Item 13 & 18 totaling \$4,952.00
- Agrium Advanced Tech, North Brunswick, NJ – Items 2,5,8,26,27 totaling \$25,272.00
- Harrell's Inc., Lakeland, FL – Items 1,16,20,25 totaling \$13,905.00
- Terre Co., Clifton, NJ – Items 3,15,17,19,21 totaling \$26,778.85
- Metro Turf, New Paltz, NY – Items 4,7,9,11,12,14,22 totaling \$32,312.10
- Turf Products, Mountain Lakes, NJ – Items 10,23,24 totaling \$28,402.80

The following accounts are to be charged as follows: E7250.449, \$98,349.97 – Blue Hill, ER7251.449, \$26,266.53 – Broadacres, A7110.449, \$7,006.25 – Parks.

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

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RESOLUTION NO. 638**ACCEPT MINUTES**

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

RESOLVED, that the October 25, 2011 Regular Town Board Meeting, Audit Meeting and Executive Session minutes; and November 1, 2011 Police Commission and Executive Session minutes are hereby accepted.

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

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RESOLUTION NO. 639**RECEIVE/FILE/DOCUMENTS
TOWN CLERK'S OFFICE**

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

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

1. The following Fire Districts 2012 Proposed and Adopted budgets:
 - Pearl River Fire District
 - Orangeburg Fire District
 - Tappan Fire District
 - Nyack Joint Fire District
 - Central Nyack Fire District
 - Sparkill-Palisades Fire District (proposed only)
2. Adler Consulting Agreement, dated October 24, 2011, for review of Orangeburg Commons' traffic study.

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

Noes: None

Absent: Councilperson Maturo

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RESOLUTION NO. 640**AWARD BID/CURB AND SIDEWALK
CONSTRUCTION/REPLACEMENT
REPAIR/HIGHWAY/BELLIAVISTA**

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

WHEREAS, the Superintendent of Highways duly advertised for sealed bids for Curb and Sidewalk Construction, Replacement and Repairs which were received and publicly opened on September 15, 2011. (A copy of the publication and bid summary are labeled Exhibit 11-G-11 and made a part of these minutes.)

WHEREFORE, the lowest actual bidder was Advanced Excavating and Construction, Inc.;

WHEREFORE, Advanced Excavating and Construction, Inc. has not previously performed work of this nature before;

WHEREFORE, in order to ensure that the company was capable of adequately and timely performing the work required, we forwarded a questionnaire inquiring about the company's ability to complete the project;

WHEREFORE, Advanced Excavating and Construction has not in a timely manner responded to the questionnaire;

WHEREFORE, the Highway Department recommends that the next lowest bidder, Bellavista Construction, be considered the lowest responsible bidder and the contract awarded to Bellavista Construction;

BE IT HEREBY RESOLVED that the Town Board find that Bellavista Construction be considered the lowest responsible bidder.

BE IT FURTHER RESOLVED that Bellavista Construction be hereby awarded the Curb and Sidewalk Construction, Repair and Replacement Contract.

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

Noes: None

Absent: Councilperson Maturo

RESOLUTION NO. 641**RESOLUTION AUTHORIZING THE RECEIVER OF TAXES TO COLLECT SCHOOL DISTRICT TAXES AT A CHARGE**

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

WHEREAS, N.Y.S. Town Law § 37(1) authorizes the Town Board to impose a fee of up to one per centum (1%) of the amount of all school taxes assessed and levied as compensation for the services rendered by the Receiver to the various school districts relating to the collection of district taxes; and

WHEREAS, historically, the Town has waived such fee, fully absorbing the administrative and other costs associated with the collection of school district taxes in the Town budget; and

WHEREAS, in the course of its budget review process, the Town Board has determined that the Town can no longer afford to absorb the costs associated with the collection of school taxes;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes and directs the Town Receiver of Taxes and Assessments, commencing with the next school district tax collection cycle, to receive school district taxes for thirty days after the first day specified in the notice for the payment of such taxes at a charge of one-eighth (.0125) of one per centum of the amount of such taxes, and following the expiration of such thirty-day period, to collect same at a charge of five per centum (5%).

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

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RESOLUTION NO. 642**AUTHORIZE/ADDITIONAL/OUTSIDE CONTRACTORS ASSIST TREE AND BRUSH REMOVAL**

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

WHEREAS, a significant storm event has resulted in damage to trees, brush and bushes throughout the Town requiring the removal of same prior to the Town's annual roadside collection of leaves; and

WHEREAS, given the magnitude of the removal, the Town Highway Department does not have the manpower or equipment necessary to provide for the timely removal and disposal of the trees and brush in addition to the annual roadside leaf collection, and

WHEREAS, the Town has previously solicited, received and made selections from bids submitted from private contractors for periodic work, on a per diem basis, to perform such services;

WHEREAS, the Town had retained the services of four (4) private contractors to assist with the removal of trees and brush.

WHEREAS, the quantity of trees and brush removed to date has amounted to 16,300 cubic yards with a projected 15,000 cubic yards has yet to be removed.

Resolution No. 642 - Continued

NOW, THEREFORE, BE IT RESOLVED, that the Superintendent of Highways retained the services of up to four (4) private contractors having adequate equipment and manpower to assist in the removal of trees and brush at a cost not to exceed \$5,000 per day, per contractor and a total cost not to exceed \$81,000.

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

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RESOLUTION NO. 643

**AWARD BID/SEWER SYSTEM
MAINTENANCE PROJECT NO. 2011-1
IN NYACK/NATIONAL WATER MAIN
CLEANING COMPANY**

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

WHEREAS, the Commissioner of Environmental Management & Engineering duly advertised for sealed bids for Sewer System Maintenance Project No. 2011-1 in Nyack, which were received and publicly opened on July 13, 2011. (A copy of the publication and bid summary are labeled Exhibit 11-H-11 and made a part of these minutes.) Now, Therefore, Be It

RESOLVED, that upon the recommendation of the Department of Environmental Management & Engineering, award the bid for the Sewer System Maintenance Project No. 2011-11 in Nyack, for television inspection, cleaning, testing, grouting and related services to National Water Main Cleaning Company, the lowest qualified bidder, in the amount of \$148,271.50.

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

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RESOLUTION NO. 644

**SCHEDULE PUBLIC HEARING
DATE/AMENDING CHAPTER 27
ROAD EXCAVATIONS/DRIVEWAYS
HEAVY HAULING**

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

RESOLVED, that a Public Hearing is scheduled for December 13, 2011 at 8:00 p.m. regarding a proposed Local Law amending Chapter 27 relating to fees for road excavations, driveways and heavy hauling.

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

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RESOLUTION NO. 645

**DEME/AMEND RESOLUTION NO. 481
CONSULTANT/KENECK SKIBINSKI**

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

Resolution No. 645 - Continued

RESOLVED, that upon the recommendation of the Commissioner of DEME and the Director of Finance Resolution No. 481/2011 is hereby amended, increasing the contract amount with Keneck Skibinski, for consultant work at DEME from \$38,000 to an amount not to exceed \$60,000.

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

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RESOLUTION NO. 646

**SCHEDULE PUBLIC HEARING
DATE/AMENDING CHAPTER 30
SEWERS RULES AND REGULATIONS
RESPONSIBILITY/STREET LATERAL
CONNECTIONS**

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

RESOLVED, that the recommendation of the Commissioner of DEME and the Town Attorney, a Public Hearing is scheduled for December 13, 2011 at 8:05 p.m. regarding a proposed Local Law amending Chapter 30, Sewers Rules and Regulations, responsibility for the maintenance of street lateral connections.

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

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RESOLUTION NO. 647**ENTERED AUDIT**

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

RESOLVED, that the Town Board entered the Audit Meeting at 8:15 p.m.

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

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RESOLUTION NO. 648**PAY VOUCHERS**

Councilman Troy offered the following resolution, which was seconded by Councilman Diviny 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, and Special Parking Funds in the amount of \$665,866.71.

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

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RESOLUTION NO. 649

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 8:20 p.m.

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

Resolution Nos. 650 and 651 see Executive Session.

RESOLUTION NO. 652

ADJOURNMENT/MEMORY

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

RESOLVED, that the Town Board adjourned, in memory of Thomas Sedlack, Piermont, at 8:35 p.m.

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

Charlotte Madigan, Town Clerk