

TOWN BOARD  
GARNERVILLE, NY  
APRIL 8, 2013

The Town Board of the Town of Haverstraw met at a Regular Meeting on Monday, April 8, 2013 at 8:00 p.m. in the Meeting Room of the Town Hall, One Rosman Road, Garnerville, New York.

The meeting was opened with the Pledge of Allegiance.

On Roll Call the following members answered to their names:

Supervisor	Howard T. Phillips, Jr. (Absent)
Councilman	Isidro Cancel
Councilman	Vincent J. Gamboli
Councilman	John J. Gould
Councilman	Hector L. Soto

**ADOPTION OF MINUTES**

**198-13** ADOPTION OF TOWN BOARD MEETING MINUTES OF MARCH 11, 2013, submitted by the Town Clerk on motion by Councilman Cancel, seconded by Councilman Gould, were unanimously adopted.

**PAYMENT OF BILLS**

Councilman Soto offered the following resolution, which was seconded by Councilman Cancel, and on roll call unanimously adopted.

**199-13** RESOLVED, that bills numbered 1,070 through and including 1,195 in the amount of \$386,316.50 be and they are hereby paid; and Highway Vouchers numbered 179 through and including 197 in the amount of \$17,978.60 audited at this meeting, be and they are hereby paid.

**ACCEPTANCE OF REPORTS**

No reports.

**AWARD OF BID NO. 10-2013 – SUPPLY AND DELIVER ONE (1) 381 GALLON DEDICATED TURF SPRAYER**

Councilman Soto offered the following resolution, which was seconded by Councilman Cancel, and on roll call unanimously adopted.

**201-13** RESOLVED, THAT UPON THE RECOMMENDATION OF CALVIN FOWX, GREENS KEEPER AND THE BIDS HAVING BEEN FOUND IN ORDER BY THE TOWN ATTORNEY, THE TOWN BOARD OF THE TOWN OF HAVERSTRAW DOES HEREBY AWARD BID NO. 10-2013 TO SUPPLY AND DELIVER ONE (1) 381 GALLON DEDICATED TURF SPRAYER TO BE USED AT THE TOWN OF HAVERSTRAW GOLF COURSE TO WILFRED MACDONALD, INC. OF HACKENSACK, NEW JERSEY, THE SOLE BIDDER, AT A PRICE OF \$48,499.00.

**AGREEMENT WITH USKGA FOR GOLF COURSE MARKETING PROGRAM**

Councilman Gamboli offered the following resolution, which was seconded by Councilman Gould, and on roll call unanimously adopted.

**202-13** RESOLVED, THAT THE TOWN BOARD OF THE TOWN OF HAVERSTRAW HEREBY AUTHORIZES THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH USKGA (U.S. KOREAN GOLFERS' ASSOCIATION) FOR MARKETING THE PHILIP J. ROTELLA MEMORIAL GOLF COURSE TO THE MEMBERS OF USKGA GOLF ASSOCIATION FOR A TERM OF ONE (1) YEAR AT NO COST.

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**TAX CERTIORARI – NEW YORK STATE OWNED LANDS**

Councilman Gamboli offered the following resolution, which was seconded by Councilman Soto, and on roll call unanimously adopted.

**203-13 RESOLVED, THAT UPON THE RECOMMENDATION OF DAVE ADAMS, TOWN ASSESSOR, THE TOWN BOARD OF THE TOWN OF HAVERSTRAW DOES HEREBY AUTHORIZE JONATHAN NYE, SPECIAL COUNSEL TO EXECUTE THE STIPULATION OF SETTLEMENT REGARDING THE TAX CERTIORARI PROCEEDINGS FILED BY NEW YORK STATE CONCERNING STATE OWNED LANDS CONSISTING OF APPROXIMATELY 197 SEPARATE PARCELS, APPROXIMATELY 8,500 ACRES, ON THE FOLLOWING TERMS AND CONDITIONS. THE 2005 ASSESSMENTS SHALL BE REDUCED TO PRODUCE AN AGGREGATE REFUND ON BEHALF OF THE TOWN OF HAVERSTRAW TO BE PAID IN 10 ANNUAL INSTALLMENTS OF \$49,729.70, WITHOUT INTEREST. THE STATE WILL ALSO WITHDRAW ITS APPEALS FROM THE DISMISSALS OF THE 2006 AND 2007 PROCEEDINGS. PROVIDED THE TOWN PLACES ON THE 2013 ASSESSMENT ROLL AN AGGREGATE VALUE OF ALL STATE-OWNED LANDS WITHIN THE TOWN OF \$190,000,000, THE 2008, 2009, 2010, 2011 AND 2012 PROCEEDINGS WILL BE DISMISSED WITHOUT PAYMENT OF ANY REFUNDS BY ANY PARTY. THE STATE WILL NOT CHALLENGE THE 2013 ASSESSMENTS, WHICH SHALL THEN BE MAINTAINED IN THE FUTURE UNTIL THE NEXT REVALUATION.**

**RELEASE OF LETTER OF CREDIT FOR DESIMONE SOTTOVIA**

Councilman Gould offered the following resolution, which was seconded by Councilman Soto, and on roll call unanimously adopted.

**204-13 RESOLVED, THAT BASED UPON THE RECOMMENDATION OF STEVEN SILVERBERG, CONSULTING ATTORNEY FOR PLANNING AND ZONING THE TOWN BOARD OF THE TOWN OF HAVERSTRAW HEREBY RELEASES THE LETTER OF CREDIT IN THE AMOUNT OF \$225,000.00 FOR COMPLETED SITE IMPROVEMENTS AT DESIMONE SOTTOVIA, SUBJECT TO THE NEW OWNER PROVIDING A SUBSTITUTE LETTER OF CREDIT IN A FORM APPROVED BY STEVEN SILVERBERG.**

**RESOLUTION OF THE TOWN OF HAVERSTRAW TOWN BOARD TO AMEND RESOLUTION NO. 165-13 TO APPROVE A LEASE AGREEMENT; APPROVE EXPEDITED LAND USE REVIEW FOR THE FACILITY CONTEMPLATED THEREUNDER; AND ADOPT A SEQRA NEGATIVE DECLARATION RELATED THERETO**

Councilman Gamboli offered the following resolution, which was seconded by Councilman Gould, and on roll call unanimously adopted by the full board.

**205-13 WHEREAS, the Town of Haverstraw (“Town”) is the owner of the property located at 64 West Ramapo Road and designated on the tax map as Section 26.09, Block 5, Lot 46 (“Property”); and**

**WHEREAS, the Town and New York SMSA Limited Partnership d/b/a Verizon Wireless (“Verizon Wireless”) desire to enter into a lease agreement (“Lease”) in the form attached hereto and made a part hereof as Exhibit A, for the purpose of installing a public utility wireless communication facility (“Facility”) consisting of a stealth flagpole antenna structure with related equipment within an approximately 1,200 square foot fenced compound, in order to improve wireless communication service to the Town, including 911 emergency services, and providing collocation opportunities for other public utility wireless communication carriers; and**

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**WHEREAS**, it is recognized under New York State Law that towns are accorded certain “immunity” from local zoning regulations and the leading New York Court of Appeals decision, Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (“Monroe”), establishes the “balancing of the interests” approach for determining whether a project should be accorded immunity from local land use/zoning regulations.

**NOW, THEREFORE**, the Town Board has adopted the following findings:

**FIRST**, the Town has: (a) classified the action of approving the Lease and installation of the Facility in connection therewith as an Unlisted Action pursuant to the State Environmental Quality Review Act (“SEQRA”); (b) declared itself lead agency as there are no other involved agencies; and (c) adopted a Negative Declaration finding that the Facility will have no significant adverse impact on the environment since among other things, the Facility has been strategically designed and located on the heavily vegetated site, the Facility will have no impact on traffic as the proposed use is unmanned requiring infrequent maintenance visits of approximately once a month, the Facility will not produce any adverse environmental effects such as smoke, gas, odor, heat, dust, fumes, or vibrations, and will not generate solid waste, waste water or sewage, and will not require water supply, or waste disposal;

**SECOND**, the demised premises set forth in the Lease is for Town property not presently being utilized by the Town and not anticipated to be needed by the Town over the term of the Lease, and the rental set forth in the Lease is fair market value and the Lease is in the best interests of the Town and its residents; pursuant to Section 64(2) of New York State Town Law, the Town has the authority to enter into the Lease subject to permissive referendum; and

**THIRD**, the Town has analyzed the factors under Monroe and determined that the Facility should be exempt from the Town of Haverstraw land use/zoning regulations since, among other things, (a) the Facility will protect and promote the public interest by providing the community with wireless communication services for protecting public health, safety, and welfare, including the provision of enhanced 911 services and other essential services for responding to accidents, natural disasters and other dangers, (b) imposing local land use/zoning regulations on the proposed Facility would have the effect of unreasonably delaying an essential public need for immediate and effective emergency response and reliable wireless communications, (c) the Facility will be located within the municipal borders of the Town and therefore there is no encroaching entity, and (d) the proposed location of the Facility at the Property is ideal in order to minimize impacts to the greatest extent feasible as the Facility has been strategically designed as a flagpole, which flagpole will conceal the antennas and fly an American Flag promoting the patriotic values of the Town, and the Facility will be screened by existing mature vegetation at the Property, such that there are no feasible alternate locations for the Facility. Moreover, by controlling the location of the Facility on municipal property, the Town can ensure that there is adequate infrastructure in place for the location of wireless communication antennas, while controlling the proliferation of new towers.

**NOW THEREFORE BE IT:**

**RESOLVED**, that subject to permissive referendum, the Lease between the Town and Verizon Wireless is approved and the Supervisor is authorized to execute same;

**RESOLVED**, that based upon the foregoing balancing of interests, it is not in the public interest to subject the Facility to local land use/zoning regulations and hence the Facility will be permitted by building permit with review of the plans by the Town Engineer; and

**RESOLVED**, that the Negative Declaration prepared in connection with the Lease is hereby adopted.

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**AWARD OF BID NO. 8-2013 FOR CHEMICALS AND FERTILIZER FOR THE PHILIP  
J. ROTELLA MEMORIAL GOLF COURSE**

Councilman Soto offered the following resolution, which was seconded by Councilman Gould, and on roll call unanimously adopted.

**206-13 RESOLVED, THAT THE TOWN BOARD OF THE TOWN OF HAVERSTRAW HEREBY AMENDS RESOLUTION 188-13 TO PROVIDE SEDGE HAMMER, WHICH WILL BE SUPPLIED BY JOHN DEERE LANDSCAPES AT A COST OF \$712.00 PER/CS, THE NEXT LOW BIDDER SINCE THE TERRE CO. CANNOT SUPPLY THE PRODUCT AND SUBMITTED A BID FOR PROSEDEGE INSTEAD OF SEDGE HAMMER.**

**ESTABLISH CAPITAL PROJECT – FOR TEMPORARY/EMERGENCY  
PROTECTIVE MEASURES (CATEGORY B-FEMA) AT BOWLINE POINT PARK  
SHORELINE**

Councilman Gamboli offered the following resolution, which was seconded by Councilman Gould, and on roll call unanimously adopted.

**207-13 RESOLVED, THAT THE TOWN BOARD HEREBY ESTABLISHES A CAPITAL PROJECT FOR TEMPORARY/EMERGENCY PROTECTIVE MEASURES (CATEGORY B-FEMA) AT BOWLINE POINT PARK SHORELINE IN THE AMOUNT OF \$100,000.00, WHICH WILL BE FUNDED THROUGH FEMA REIMBURSEMENT.**

**AUTHORIZATION TO PURCHASE MEDIUM STONE FILLING UNDER NEW YORK  
STATE CONTRACT**

Councilman Soto offered the following resolution, which was seconded by Councilman Gamboli, and on roll call unanimously adopted.

**208-13 RESOLVED, THAT BASED UPON THE RECOMMENDATION OF MICHAEL COTIER, PARK DIRECTOR, THE TOWN BOARD OF THE TOWN OF HAVERSTRAW HEREBY AUTHORIZES THE PURCHASE OF MEDIUM STONE FILLING FOR THE BOWLINE POINT PARK SHORELINE FROM TILCON NEW YORK, UNDER NEW YORK STATE CONTRACT#12-065 AT A COST OF \$37.50 PER TON, UP TO 2,000 TONS.**

**SCHEDULE PUBLIC HEARING – TO CONSIDER THE ISSUANCE OF SPECIAL  
PERMITS TO UNITED WATER NEW YORK, INC.**

Councilman Gould offered the following resolution, which was seconded by Councilman Gamboli, and on roll call unanimously adopted.

**209-13 RESOLVED, THAT THE TOWN BOARD OF THE TOWN OF HAVERSTRAW DOES HEREBY SCHEDULE A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF SPECIAL PERMITS TO UNITED WATER NEW YORK, INC. FOR 710 BEACH ROAD IN HAVERSTRAW, NEW YORK TO: 1. ALLOW THE USE OF A PUBLIC UTILITY SUBSTATION AND 2. REDUCE THE WIDTH OF THE BUFFER REQUIREMENTS FOR THE INTAKE FACILITY, AND BE IT FURTHER**

**RESOLVED, THAT THE TOWN BOARD HEREBY REFERS THE APPLICATIONS FOR THE SPECIAL PERMITS TO THE PLANNING BOARD FOR THEIR REVIEW AND RECOMMENDATIONS. SAID PUBLIC HEARING WILL BE HELD ON MONDAY, APRIL 22, 2013 AT 7:00 P.M. AT THE TOWN HALL, ONE ROSMAN ROAD, GARNERVILLE, NEW YORK, AND BE IT FURTHER**

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**RESOLVED, THAT THE TOWN CLERK SHALL PUBLISH SAID NOTICE AND ALL PERSONS ARE INVITED TO ATTEND AND WILL BE HEARD BY THE BOARD.**

**ADJOURNMENT OF REGULAR TOWN BOARD MEETING**

**210-13** A motion was made by Councilman Gamboli, seconded by Councilman Cancel to adjourn the Regular Town Board Meeting.

**CONVENE TO A JOINT SESSION OF THE TOWN BOARD AND POLICE COMMISSION**

**211-13** A motion was made by Commissioner Soto, seconded by Commissioner Gould to convene as Police Commission and Town Board.

POLICE COMMISSION/TOWN BOARD  
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The Town Board of the Town of Haverstraw met jointly as Police Commission and Town Board of the Town of Haverstraw on Monday, April 8, 2013 at 8:15 p.m. in the Meeting Room of the Town Hall, One Rosman Road, Garnerville, New York.

On Roll Call the following members answered to their names:

Chairman	Howard T. Phillips, Jr. (Absent)
Commissioner	Isidro Cancel
Commissioner	Vincent J. Gamboli
Commissioner	John J. Gould
Commissioner	Hector L. Soto

**TERMINATION OF GML 207-C BENEFITS FOR EMPLOYEE#001808**

**The following resolution was approved by the full Town Board members and Police Commission.**

**212-13** **WHEREAS**, a hearing was requested pursuant to the Town of Haverstraw Police Department Line of Duty Injury Procedure relating to Employee No. 001808; and

**WHEREAS**, hearings were held before Howard C. Edelman, the independent hearing officer selected to hear the matter; and

**WHEREAS**, the hearing officer heard testimony and took evidence on the question(s) before him, has rendered a decision and forwarded a complete copy of the record, together with his findings of fact and recommendations to the Town Board for its consideration; and

**WHEREAS**, the Town Board has reviewed the record together with the findings of fact and recommendations of the hearing officer;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of Haverstraw, sitting as the Police Commission, hereby adopts the findings of fact and recommendations of the hearing officer in his decision dated March 25, 2013; and

**BE IT FURTHER RESOLVED** that the Chief of Police is hereby directed to notify Employee No.001808 of this determination and take all actions consistent with this determination relative to the employment status of said employee including, but not limited to, the termination of benefits pursuant to General Municipal Law Section 207-c.

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**ADJOURNMENT OF THE POLICE COMMISSION/TOWN BOARD MEETING**

**213-13** On motion by Commissioner Gould, seconded by Commissioner Cancel, unanimously adopted, the Police Commission Meeting was adjourned.

**214-13** **RECONVENED TO REGULAR TOWN BOARD MEETING**

On motion by Councilman Gamboli, seconded by Councilman Soto the Regular Town Board Meeting was reconvened.

**PUBLIC PARTICIPATION**

None.

**ADJOURNMENT**

**215-13** Supervisor Howard T. Phillips, Jr. stated that he would like to close tonight's meeting in memory of Margaret Cobb, Richard Coyne, Kristienne Coulter, Brian Pondi, Rosemary Rizzo, Rose M. Senatore, Alexander L. Wyllie, Frederick Ferris and Michael A. Finnerty, who recently passed away. The Town Board members further extended their condolences and sympathy to the families. Thereafter, a motion was made by Councilman Soto, seconded by Councilman Gould, unanimously adopted, the Town Board Meeting was adjourned.

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**KAREN L. BULLEY**  
Town Clerk