

December 12, 2011

The regular meeting of the Town Board of the Town of Clifton Park was held in the Town Office Building at 7:00 p.m., Supervisor Barrett presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG

Present: Councilman Paolucci
Councilman Hughes
Councilman Romano
Councilwoman Walowit
Supervisor Barrett
Town Clerk O'Donnell

Also Present: Town Attorney McCarthy
Mark Heggen, Comptroller

ANNOUNCEMENTS AND COMMUNICATIONS

Supervisor Barrett announced the town blood drive is scheduled for December 15th. The Supervisor further announced the Clifton Park Community Chorus, sponsored by the Town, will be presenting their holiday concert on December 18th at Shenendehowa United Methodist Church.

PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

Resolution No. 289 of 2011, a resolution amending the Town of Clifton Park Deferred Compensation Plan per attached Schedule A.

Introduced by Councilman Hughes, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, the New York State Deferred Compensation Board (the "*Board*"), pursuant to Section 5 of the New York State Finance Law ("*Section 5*") and the Regulations of the New York State Deferred Compensation Board (the "*Regulations*"), has promulgated the Plan Document of the Deferred Compensation Plan for Employees of the Town of Clifton Park . (the "*Model Plan*") and offers the Model Plan for adoption by local employers, and

WHEREAS, the Town of Clifton Park, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the Town of Clifton Park, and

WHEREAS, effective August 26, 2011 the Board amended the Model Plan to adopt provisions:

- Reorganizing and updating sections to improve the overall readability and eliminate unnecessary numerical references (annual limits) from the Model Plan document.
- Including employer elections within the plan document including: suspension of deferrals following an unforeseeable emergency withdrawal, automatic distributions from small and inactive accounts, loan design parameters and Roth deferrals and in-plan conversions are permissive. The Model Plan document includes a Schedule A where the employer may indicate the election of one or more of these provisions.
- Clarifying the first date a participant may make deferrals in compliance with Code Section 457(b) and timing requirements for any subsequent changes to deferral rates or allocations between pre-tax and after-tax deferrals.

- Clarifying compensation available for deferral for purposes of calculating contributions and recognizes that employers use various methods in determining the order of deductions taken before a deferral percentage is applied.
- Including provisions related to HEART Act of 2008 regarding treatment of differential pay and qualifying distributions for active military service in compliance with the HEART Act, including suspension of deferrals for six months following distribution.
- Making technical recognition of the waiver of RMDs for 2009.
- Clarifying that a beneficiary form must be received in good order to be considered valid.
- Clarifying that the Model Plan will only accept rollovers from Eligible Retirement Plans comprised of pre-tax amounts and amounts may be rolled in by participants, beneficiaries (other than inherited accounts) and alternate payees. Model Plans may roll account balances out to Eligible Retirement Plans that include post-tax amounts if the receiving plan separately accounts for them.
- Clarifying that a beneficiary of a deceased participant may roll a distribution directly to a Roth IRA, in addition to plan participants.
- Including language allowing for future delivery of participant communications through electronic means, where appropriate.
- Codifying that periodic and lump sum payments must be a minimum of \$100 per payment, unless the Committee selects a different minimum, and sets a maximum annual number of partial distributions.
- Clarifying that the \$50,000 loan limit includes the highest loan value in the last twelve months from the Model Plan and other employer plans. Regarding participants who have defaulted on a Plan loan, subsequent loans would not be allowed until defaulted loan is repaid. Removes requirement that a participant must wait until the term of the original loan expires before applying for a new loan, assuming the defaulted loan is repaid.
- Providing guidance on the handling of the receipt of special proceeds such as SEC settlements payable to former participants.
- Allowing a surviving spouse beneficiary to name a beneficiary on their account.
- Including the 5 year option for non-spousal beneficiaries to receive distributions and makes distribution rules consistent for pre- and post-age 70½ deaths.
- Allowing earlier distributions due to severance of employment as long as a balance of \$500 remains in the account for 45 days after a severance from employment.
- Providing that outstanding loans from another New York State 457(b) plan may be allowed to be transferred or rolled in with a full account transfer.
- Removing the Power of Attorney Language since the acceptance of a power of attorney is governed by State law and not required in the Model Plan document.
- Clarifying the requirement that Committee actions must be taken at a public meeting in accordance with Article 7 of the Public Officers Law.
- Limiting indemnification to Committee Members only.

WHEREAS, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

WHEREAS, upon due deliberation, the Town of Clifton Park has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the Town

of Clifton Park by adopting the amended Model Plan.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Clifton Park hereby amends the Deferred Compensation Plan for Employees of the Town of Clifton Park by adopting the amended Model Plan effective August 26, 2011, including the optional provisions in Schedule A, in the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, the undersigned have executed this Resolution in Saratoga County, New York this 12th day of December, 2011 and directed that it be filed as appropriate.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 290 of 2011, a resolution accepting the low bid of Tom Kubricky Company, Inc. for the Culvert Removal Project at the Dwaas Kill.

Introduced by Councilman Paolucci, who moved its adoption, seconded by Councilman Romano.

WHEREAS, on November 30, 2011 bids were received for the above referenced project, and

WHEREAS, the low bidder for the Base Bid only and the Base Bid and Alternate Bid A combined for the Culvert Removal Project at the Dwaas Kill is Tom Kubricky Company, Inc., from Gansevoort, New York for \$5,238, and

WHEREAS, McDonald Engineering recommends awarding the Bid to Tom Kubricky Company, Inc. based on their qualifications and experience, and

WHEREAS, as per letter from McDonald Engineering dated December 1, 2011, McDonald Engineering has reviewed the price quotes and has recommended to the Town Supervisor that the quote from Tom Kubricky Company, Inc. be accepted; now, therefore, be it

RESOLVED, that the Town Board hereby accepts and awards the above referenced bid in the amount of \$5,238 to Tom Kubricky Company, Inc. to be paid from 2012 Budget A-8160-135 (General Fund-Transfer Station-Engineering).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 291 of 2011 a resolution authorizing the Town Supervisor to sign an agreement with the Saratoga County Sheriff's Department for Specialized Law Enforcement Services.

Introduced by Councilman Paolucci, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, the Town of Clifton Park has found it to be effective and efficient to obtain law enforcement services within the Town through the Saratoga County Sheriff's Department, and

WHEREAS, the Town of Clifton Park wishes to contract for Specialized Law Enforcement Services per the attached agreement; now, therefore, be it

RESOLVED, that the Town Supervisor is hereby authorized to sign a contract with the Saratoga County Sheriff's Department whereby the Sheriff's Department shall provide Specialized Law Enforcement Services within the Town of Clifton Park for a one (1) year period from January 1, 2012 through December 31, 2012, for an amount not to exceed \$216,970, amount to be paid from A-3120-15 (General Fund-Security-Other Contractual).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 292 of 2011, a resolution authorizing the Town Supervisor to sign an agreement with the Saratoga County Sheriff's Department for additional Specialized Law Enforcement Services.

Introduced by Councilman Paolucci, who moved its adoption, seconded by Councilman Romano.

WHEREAS, the Town of Clifton Park has found it to be effective and efficient to obtain law enforcement services within the Town through the Saratoga County Sheriff's Department, and

WHEREAS, the Town of Clifton Park wishes to contract for additional Specialized Law Enforcement Services per the attached agreement; now, therefore, be it

RESOLVED, that the Town Supervisor is hereby authorized to sign a contract with the Saratoga County Sheriff's Department whereby the Sheriff's Department shall provide additional Specialized Law Enforcement Services within the Town of Clifton Park for a one (1) year period from January 1, 2012 through December 31, 2012, for an amount not to exceed \$201,378, to be paid from A-3120-15 (General Fund-Security-Other Contractual).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 293 of 2011, a resolution authorizing the Town Supervisor to sign an agreement along with the Town of Halfmoon for additional police services with the Saratoga County Sheriff's Department.

Introduced by Councilman Hughes, who moved its adoption, seconded by Councilman Paolucci.

WHEREAS, the Town of Clifton Park has an effective relationship with the Town of Halfmoon and has found it to be effective and efficient to obtain law enforcement services within the towns and exit 9 area through the Saratoga County Sheriff's Department, and

WHEREAS, the Town of Clifton Park wishes to contract for additional law enforcement within the two towns, per the attached agreement; now, therefore, be it

RESOLVED, that the Town Supervisor is hereby authorized to sign a contract with the Saratoga County Sheriff's Department whereby the Sheriff's Department shall provide additional law enforcement services for the towns of Clifton Park and Halfmoon for a one (1) year period from January 1, 2012 through December 31, 2012, for an amount not to exceed \$100,689 each, to be paid from A-3120-15 (General Fund-Security-Other Contractual).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 294 of 2011, a resolution honoring Joshua J. Elacqua for attaining the rank of Eagle Scout.

Introduced by Supervisor Barrett, who moved its adoption, seconded by the entire Town Board.

WHEREAS, Joshua J. Elacqua, of Boy Scout Troop 45, has attained the rank of Eagle Scout, and

WHEREAS, for his Eagle Scout Project, Joshua took on the task of restoring the historic Moe Cemetery in his hometown of Clifton Park, New York, and

WHEREAS, Joshua's project included:

- Removing all dead trees within the fenced area and clearing a path from the bike path to the three Moe Family gravestones
- Covering the cleared path way with wood chips and using trees cleared from within the fenced area to outline the newly created path
- Creating an opening in the fence surrounding the area and purchasing and installing approximately 30' of 3' high wrought iron fence around the gravestones
- Purchasing and installing two (2) 8" by 8" signs to display the wording inscribed on the faded gravestones and installing a historical marker which contains information about the Moe Family
- Purchasing a bench to place next to the newly created path in Moe Cemetery; now, therefore be it

RESOLVED, that the Clifton Park Town Board recognizes and honors Joshua J. Elacqua of Boy Scout Troop 45 for having attained the rank of Eagle Scout.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 295 of 2011, a resolution honoring Justin Andrews Russell for attaining the rank of Eagle Scout.

Introduced by Supervisor Barrett, who moved its adoption, seconded by the entire Town Board.

WHEREAS, Justin Andrews Russell, 948 Main Street, Jonesville, of Boy Scout Troop 45 has attained the rank of Eagle Scout, and

WHEREAS, for his Eagle Scout Project, Justin created knot-tying instructional materials for local firefighters and other first responders, and

WHEREAS, Justin was inspired to create the instructional materials for his Eagle Scout project because he is a volunteer firefighter with the Jonesville Volunteer Fire Department, and

WHEREAS, Justin's project involved the construction of five knot-tying boards and the creation of a knot-tying instructional video, and

WHEREAS, Justin oversaw the construction of the knot-tying instructional boards and then wrote and directed an instructional video that has been distributed to Clifton Park's first responders via DVD to accompany the knot-tying boards, and

WHEREAS, Justin's project will provide a long-lasting resource for local firefighters and emergency response personnel; now, therefore, be it

RESOLVED, that the Clifton Park Town Board recognizes and honors Justin Andrews Russell for attaining the rank of Eagle Scout.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 296 of 2011, a resolution and Declaration of Official Intent regarding JP Morgan Chase financing for Highway purchases.

Introduced by Councilwoman Walowit, who moved its adoption, seconded by Councilman Romano.

Lessee: TOWN OF CLIFTON PARK

Principal Amount Expected To Be Financed: \$399,294.56

WHEREAS, the above Lessee is a political subdivision of the State in which Lessee is located (the "State") and is duly organized and existing pursuant to the constitution and laws of the State, and

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee, and

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more lease-purchase agreements ("Equipment Leases") in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property generally

described below (“Property”) and to be described more specifically in the Equipment Leases is appropriate and necessary to the functions and operations of the Lessee.

Brief Description Of Property: See Attached Schedule A-I

WHEREAS, JPMorgan Chase Bank, N.A. (“Lessor”) is expected to act as the lessor under the Equipment Leases, and

WHEREAS, the Lessee may pay certain capital expenditures in connection with the Property prior to its receipt of proceeds of the Equipment Leases (Lease Purchase Proceeds”) for such expenditures and such expenditures are not expected to exceed the Principal Amount, and

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds,

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

SECTION 1. The Town Supervisor (an “Authorized Representative”) acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Equipment Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. The Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Equipment Leases are hereby authorized.

SECTION 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Equipment Leases on behalf of the Lessee.

SECTION 3. The aggregate original principal amount of the Equipment Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Equipment Leases and the Equipment Leases shall contain such options to purchase by the Lessee as set forth therein.

SECTION 4. The Lessee’s obligations under the Equipment Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Equipment Lease and the Lessee’s obligations under the Equipment Leases shall not constitute a general obligations of the Lessee or indebtedness under the Constitution or laws of the State.

SECTION 5. The Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee’s official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

SECTION 6. As to each Equipment Lease, Lessee hereby designates each Equipment Lease as a qualified tax-exempt obligation” for the purposes of and within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (“Code”) and

Lessee reasonably anticipates that the total amount of Section 265 Tax-Exempt Obligations to be issued during the current calendar year by Lessee, or by an entity controlled by Lessee or by another entity the proceeds of which are loaned to or allocated to Lessee for purposes of Section 265(b) of the Code will not exceed \$10,000,000. "Section 265 Tax-Exempt Obligations" are obligations the interest on which is excludable from gross income of the owners thereof under Section 103 of the Code, except for private activity bonds other than qualified 501(c)(3) bonds, both as defined in Section 141 of the Code.

SECTION 7. This Resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this 12th day of December, 2011.

The undersigned Secretary/Clerk of the above-named Lessee hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Lessee, that the foregoing resolutions were duly adopted by said Governing Body of the Lessee at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Jim Baisley, Barkwood Lane, stated the policing in Clifton Park is one of the best things that has happened, noting the three professional organizations the cover Clifton Park - NY State Police, Saratoga County Sheriff's Department and Town Security.

MOTION by Councilman Paolucci, seconded by Councilman Hughes, to adjourn the meeting to the next regular meeting or any other meeting necessary for the conduct of Town business.

Motion carried at 7:28 p.m.

Patricia O'Donnell
Town Clerk