

Regular Meeting held by the Town Board, Town of Yorktown on April 15, 2008 at the John C. Hart Memorial Library, 1130 East Main Street, Shrub Oak, New York 10588.

Present: Donald S. Peters, Supervisor  
Matthew Metz, Councilman  
James Martorano, Councilman  
Nicholas Bianco, Councilman  
Louis Campisi, Councilman  
Alice E. Roker, Town Clerk

#### TOWN BOARD MEETING

Supervisor Donald S. Peters called the meeting to order. Town Attorney John Buckley was also present.

#### PLEDGE OF ALLEGIANCE

Supervisor Peters led the salute to the flag.

#### MOMENT OF SILENCE

A moment of silence was observed in honor of our men and women serving in the Armed Forces.

DURING HIS REPORT TO THE TOWN, SUPERVISOR DONALD S. PETERS spoke about several events that took place over the weekend. He attended the dedication of a tree in Downing Park in memory of Harry Newsom, the uncle of one of the members of the Taconic Road Runners Club. He also attended an Eagle Scout Ceremony for

#### DURING REPORTS FROM TOWN COUNCIL

Councilman Matthew Metz thanked the community for their support of the youngsters in the Destination Imagination competition. The students sponsored a car wash to defray some of traveling expenses.

Councilman Louis Campisi reported that Millpond Road will be closed from midnight until 6:00AM on Thursday. The Water Department will be replacing water valves. There was a fire on Turkey Mountain today. Eight acres of forest were burned. The members of the Town Board expresses their appreciation to fire fighters from Katonah, Bedford, Millwood, Somers, Mohegan Lake, Peekskill, Continental Village, Croton On Hudson for helping us. The Westchester County's Department of Emergency Services was able to drop buckets of water on the fire, and the New York City Department of Environmental Protection Police for help. Councilman Campisi also thanked the members of Yorktown Volunteer Ambulance Corp and the Mohegan Volunteer Corps for their help.

Councilman Bianco thanked the Yorktown Police Department for making three arrests in connection with the desecration of the Yorktown Jewish Center. He also spoke about the bomb scare at Yorktown High School.

#### PRESENTATION

##### SIERRA CLUB /GREEN YORKTOWN

Mr. George Klein, a representative of the Sierra Club stated that they are the oldest and largest environmental grassroots organization. He congratulated the Yorktown Town Board for signing the U. S. Mayor's Climate Protection Agreement to reduce global warming pollution and presented them with a Certificate of Appreciation.

Patricia Peckham, a representative of Green Yorktown also congratulated the Town Board for taking a leadership role in the world's effort to reduce global warming. Mrs. Peckham pointed to the town appointing a tree conservation committee and beginning work on a tree ordinance. She spoke of the town's anti idling vehicle policy and a recent decision to purchase SMART Cars. Mrs. Peckham stated that the Town's decision to participate in the Wind Energy Program and to place solar panels on some of its building in the future also points to Yorktown's commitment to reduce global warming. The membership in Green Yorktown totals more than sixty people and we continue to provide information to the public through free forums.

Supervisor Peters stated that earlier today State Senator Vincent Leibell called him and told him that Yorktown would soon receive a \$90,000 grant towards the installation of solar panels at the Town Hall.

DURING COURTESY OF THE FLOOR, the following residents addressed the members of the Town Board:

Mr. Joseph Falcone, the Chairman of the Yorktown Recreation Commission picked up four recycling awards from Westchester County Executive Andy Spano on behalf of the Town of Yorktown.

Mr. Nick DiTomasso, asked if the Highway Superintendent would begin addressing the pot holes in the street. Mr. DiTomasso commended the Sierra Club and the Town of Yorktown on its anti-global warming initiative. But, what about the federal government, shouldn't they be issuing a statement of condemnation with regard to the fact that China has the worst record when it comes to global warming?

Mr. Vishnu Patel also congratulated the Board for receiving awards on recycling. He said everyone should make every effort to become a volunteer. He suggested people join the Town on Saturday for the Battle of Yorktown, our campaign to get rid of roadside litter.

Mr. Edward Killeen, a resident of New Road welcomed the Town Board to Shrub Oak. He thanked the Board for moving to different parts of our community during the year. This brings out the closeness in the community.

Mr. Howard Chan stated that he is deeply troubled by what he calls an unfair burden that has been placed on the Town of Yorktown by Opengate. We have more than our share of group homes. Taxes generated by these properties must now be paid by the citizens of Yorktown instead of the property owner. Mr. Chan also questioned Opengate's decision to purchase luxury homes. He wondered if this was the proper way to spend taxpayer's money.

ADVERTISE BID  
SUNCREST, OVERLOOK AND GOMER STREET SEWER DISTRICT  
CAPITAL IMPROVEMENT PROJECT #08-2  
RESOLUTION #169

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

Sealed proposals will be received by the Town Clerk of the Town of Yorktown, Westchester County, New York, at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, until 10:00 A.M., on Monday, May 19, 2008, for the Suncrest, Overlook and Gomer Sewer Districts, Capital Improvement Project #08-2.

Plans, Specifications and standard proposals for the work proposed may be obtained at the office of the Town Clerk at said Town Hall, upon cash or certified check in the amount of FIFTY DOLLARS (\$50.00). Said fee will not be refunded and will be used to defray costs of printing plans and specifications.

All bids must be accompanied by a Certified check payable to the Town of Yorktown in

an amount not less than ten percent (10%) of the total bid, or an executed Consent of Surety.

The bidder assumes the risk of any delay in the mail or in the handling of mail by the employees of the Town of Yorktown. Whether sent by mail or means of personal delivery, the bidder assumes the responsibility for having bids in on the time and the place specified above.

The Town of Yorktown reserves the right to waive any informalities in the bids, to reject any or all bids and reserves the right to accept that bid which it deems most favorable to the interests of the Town of Yorktown. No bidder may withdraw his bid within thirty (30) days after the actual date of the opening thereof.

If mailed, sealed proposals must be addressed in care of the Town Clerk at the above address.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

ADVERTISE BID  
USED BULLMAG ROLLER/USED D38E7 DOZER  
RESOLUTION #170

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

NOTICE IS HERE GIVEN that sealed proposals will be received by the Town Clerk, Town of Yorktown, Westchester County, NY until 10:00 A.M. on May 12<sup>th</sup>, 2008 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, N.Y. 10598 for a Used Bullmag Roller and a Used D28E7 Dozer for the Town of Yorktown.

Specifications may be obtained at the office of the Town Clerk in said Town Hall.

The Bidder assumes the risk of any delay in the mail or in the handling of the mail by the employees of the Town of Yorktown. Whether sent by mail or means of personal delivery, the Bidder assumes the responsibility for having the bids in at the time and the place specified above. All bids are to be returned to the Town Clerk, 363 Underhill Avenue, Yorktown Heights, NY 10598, marked: **“Bid: Used Bullmag Roller and Used D28E7 Dozer.”**

The Superintendent of Highways reserves the right to reject any and all bids and to accept that bid which is deemed most favorable to the interests of the Town of Yorktown.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

ADVERTISE BID  
COMPUTER HARDWARE  
RESOLUTION #171

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

NOTICE IS HEREBY GIVEN, that sealed proposals will be received by the Town Clerk, Town of Yorktown, in the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, until 10:00 AM on the 5<sup>th</sup> day of May, 2008 for the purchase of computer hardware for the Town of Yorktown.

The plans are available at the office of the Town Clerk in the Yorktown Town Hall where copies thereof may be obtained by qualified bidders.

The bidder assumes the risk of any delay in the mail, or in the handling of mail by the employees of the Town of Yorktown. Whether sent by mail or means of personal delivery, the bidder assumes the responsibility for having the bids in on the time and the

place specified above.

The Town Board reserves the right to reject any or all bids and to accept that bid which it deems most favorable to the interest of the Town of Yorktown.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

ACCEPTANCE OF BOND

MOREIRA – WETLANDS PERMIT #074-04

RESOLUTION #172

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, Antonio & Maria Moreira, as applicant, provided the Town with NGM Insurance Company License or Permit Bond #S-265475, in the amount of \$5,000.00, to serve as the Wetland Bond for Planning Board Wetland Permit #074-04, for their property located on Alden Road, and

WHEREAS, Antonio & Maria Moreira, as applicant, provided the Town with NGM Insurance Company Maintenance Bond #S-262809, in the amount of \$1,000.00, to serve as the Maintenance Bond for Planning Board Wetland Permit #074-04, and

WHEREAS, Antonio & Maria Moreira, as applicant, provided the Town with NGM Insurance Company Erosion Control Bond #S-265474, in the amount of \$1,000.00, to serve as Erosion Control Bond for Planning Board Wetland Permit #074-04, NOW, THEREFORE BE IT

RESOLVED, that the above referenced bonds are hereby accepted to serve as the required bonds for Planning Board Wetland Permit #WP-074-04.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

RELEASE EROSION CONTROL BOND

LEONARCZYK – WP-030-03

RESOLUTION #173

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, Norman Leonarczyk, as applicant, heretofore filed an Erosion Control Bond in the sum of \$300.00, which was deposited into the T33 account on August 22, 2003, to serve as the Erosion Control Bond for Wetland Permit #WP-030-03, for work performed at his Juniper Drive residence, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for erosion control may be released, NOW THEREFORE BE IT

RESOLVED, that the above-described Erosion Control Bond in the amount of \$300.00 be and is hereby released to Mr. Norman Leonarczyk, 145 Juniper Drive, Yorktown Heights, NY 10598.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

RELEASE EROSION CONTROL BOND

SOLLA – WP-024-06

RESOLUTION #174

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, A.S.J. Landscaping, Inc., as applicant, heretofore filed an Erosion Control Bond in the sum of \$500.00, which was deposited into the T33 account on May 18, 2006, to serve as the Erosion Control Bond for Wetland Permit #WP-024-06, for work performed at the Gomer Street residence, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$500.00 for erosion control may be released, NOW THEREFORE BE IT

RESOLVED, that the above-described Erosion Control Bond in the amount of \$500.00 be and is hereby released to A.S.J. Landscaping, Inc., P.O. Box 2549, Briarcliff Manor, NY 10510.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

RELEASE OF ESCROW DEPOSIT  
STREET OPENING PERMIT #07-005 - LAKELAND STREET  
RESOLUTION #175

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, a representative of the Highway Department has made an inspection of the following site and found the work to be completed satisfactorily.

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the release of the following Escrow Deposit:

<u>Type of Permit</u>	<u>Permit #</u>	<u>Amount</u>	<u>Location</u>	<u>Refund to</u>
Street Opening	07-005	\$2,000	Lakeland St.	Village Traditions Baldwin Place, NY

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

APPROVE SURVEY OF PROPERTY  
BERNSTEIN HOUSE  
RESOLUTION #176

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

RESOLVED, that the Town Board authorizes the Supervisor to sign an agreement with J. Henry Carpenter for a survey of 3147 Old Yorktown Road, a/k/a 26.07-1-30 and 26.07-1-22 on the tax map.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

INTERMUNICIPAL AGREEMENT (IMA)  
ACCESS TO WESTCHESTER COUNTY LAND AND LEGAL RECORDS  
RESOLUTION #177

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, the County Clerk of Westchester County requires the Town of Yorktown Assessor's Office to enter into a no fee license for the privilege of remote access to the County Clerk's records and

WHEREAS, the Town Assessor's Office requires such access to properly perform its function, now therefore be it

RESOLVED, that the Town Board authorized the Supervisor to enter into a Memorandum of Understanding with the County of Westchester to become a licensee of the County Clerk's remote access record retrieval system.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

APPOINTMENT – SENIOR ACCOUNT CLERK  
DAWN IRVING – ENGINEERING DEPARTMENT  
RESOLUTION #178

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

BE IT RESOLVED, that Dawn Irving is hereby appointed Senior Account Clerk effective March 31, 2008, from Eligible List No. 71-162 to be paid from Yorktown CSEA Salary Schedule A1, Group 11 Step 2 which is \$56,778 annually.

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

APPOINTMENT – WATER SERVICE WORKER  
CATHLEEN ROMANYCH – WATER DEPARTMENT  
RESOLUTION #179

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

BE IT RESOLVED, that Cathleen Romanych of Mahopac, New York is hereby appointed Water Service worker in the Yorktown Water Department from Eligible List No. 62-815 effective April 21, 2008 to be paid from Yorktown CSEA Salary Schedule A, Group 10, Step 1 which is \$46,321 annually.

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

SUPERIOR OFFICERS ASSOCIATION  
AGREEMENT – TOWN OF YORKTOWN  
RESOLUTION #180

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

BE IT RESOLVED, that the Town Board hereby approves the Memorandum of Agreement between the Town of Yorktown and the Town of Yorktown Superior Officers Association covering the period January 1, 2007 through December 31, 2007 and authorizes the expenditure of funds consistent therewith; and

BE IT FURTHER RESOLVED, that the Town Supervisor is authorized to execute a collective bargaining agreement covering the period from January 1, 2007 through December 31, 2007 that is consistent with the terms of the Memorandum of Agreement.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

REFUND DUPLICATE TAX PAYMENT  
RESOLUTION #181

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, records of the Receiver of Taxes indicate that the following duplicate tax payment was made:

<u>Year and Tax</u>	<u>S-P-L</u>	<u>Account #</u>	<u>Refund</u>
2007 Sch 22	26.12-1-7	1545000	\$ 324.17
2007 Sch 21	16.12-1-32.-94	2119000	\$ 860.61
2007 Sch 22	37.17-1-49	4240500	\$3,087.94
2007 Sch 22	37.17-1-42	4243500	\$3,877.59
2007 Sch 22	37.17-1-2	4205500	\$3,129.51
2007 Sch 21	17.13-2-2.-166	2155000	\$1,494.74

BE IT RESOLVED, that the Supervisor is hereby authorized to refund the above noted amount.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

APPOINTMENT – TOWN ATTORNEY/DEPUTY TOWN ATTORNEY  
RESOLUTION #182

Upon motion made by Councilman Martorano, seconded by Councilman Bianco,

RESOLVED, that John W. Buckley is hereby appointed to the office of Town Attorney effective April 15, 2008 at an annual salary of \$95,000, and be it

FURTHER RESOLVED, that Jeanette Koster is hereby appointed to the Office of Deputy Town Attorney.

Martorano, Bianco, Voting Aye  
Peters, Metz and Campisi Voting Nay  
Resolution defeated

APPOINTMENT – TOWN ATTORNEY  
JOHN BUCKLEY  
RESOLUTION #183

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

RESOLVED, that John W. Buckley is hereby appointed to the office of Town Attorney effective April 15, 2008 at an annual salary of \$95,000, and be it

FURTHER RESOLVED, that the terms of Mr. Buckley's employment shall include the following:

The Town Attorney shall be a full-time employee of the Town.

The Town Attorney shall devote his full time and professional attention to his employment by the Town and shall not be permitted to engage in the outside practice of law, except for members of his immediate family, so long as he is serving as Town Attorney.

The term of Mr. Buckley's appointment as Town Attorney shall be at the pleasure of the Town Board.

It shall not be a requirement of appointment that the Town Attorney reside in the

Town of Yorktown.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

APPOINTMENT – CERTIORARI COUNSEL  
WORMSER, KIELY, GALEF AND JACOBS  
RESOLUTION #184

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, the Town Board finds that the law firm of Wormser Kiely Galef and Jacobs of 399 Knollwood Road, White Plains, New York is well qualified to serve as Tax Certiorari Counsel to the Town now therefore be it

RESOLVED, that the Town Board hereby retains Wormser Kiely Galef and Jacobs as Tax Certiorari Counsel at the following rates:

A. \$1,700 per month which includes all

APPOINTMENT – CERTIORARI COUNSEL  
WORMSER, KIELY, GALEF AND JACOBS  
RESOLUTION #185

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, the Town Board finds that the law firm of Wormser Kiely Galef and Jacobs of 399 Knollwood Road, White Plains, New York is well qualified to serve as Tax Certiorari Counsel to the Town now therefore be it

RESOLVED, that the Town Board hereby retains Wormser Kiely Galef and Jacobs as Tax Certiorari Counsel at the following rates:

A. \$1,700 per month which includes all work required of Tax Certiorari Counsel excluding trial work and

B. Non-covered work, including trial preparation and trials themselves shall be billed at the Wormser Kiely Galef and Jacobs municipal rate of \$240.00 per hour, now be it

FURTHER RESOLVED that the effective retention date of Wormser Kiely Galef and Jacobs as Tax Certiorari Counsel is April 15, 2008.

FURTHER RESOLVED that either the Town or Wormser Kiely Galef and Jacobs may terminate the Retention Agreement which will memorialize this Resolution upon thirty days written notice to the other party.

Peters, Martorano, Bianco, Campisi, Metz Voting Aye  
Resolution adopted

APPOINTMENT – SPECIAL COUNSEL  
WORMSER, KIELY, GALEF AND JACOBS  
RESOLUTION #186

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, the Town Board finds that the law firm of Wormser Kiely Galef and Jacobs of 399 Knollwood Road, White Plains, New York is well qualified to serve as Special Counsel to the Town now therefore be it

RESOLVED, that the Town Board hereby retains Wormser Kiely Galef and Jacobs

as Special Counsel to the Town in the following matters and at the following rates:

- a) Coverage at Zoning Board of Appeals and Planning Board monthly public meetings at the rate of \$2,250 per month (\$27,000 per annum). The per annum charge shall include two hours of consulting time per month to the Town Attorney as requested and
- b) Board Meeting preparation work will be billed at the Wormser Kiely Galef and Jacobs municipal rate of \$240 per hour and
- c) Any litigation performed will be billed at the Wormser Kiely Galef and Jacobs municipal rate of \$240.00 per hour and
- d) Coverage at Town Board Meetings, as requested, will be billed at a flat rate of \$600 per meeting and
- e) Any work performed which is billable as a “charge back” to a developer or applicant with a matter before the Town of Yorktown will be billed at Wormser Kiely Galef and Jacobs non-municipal rates.

FURTHER RESOLVED, that the effective retention date of Wormser Kiely Galef and Jacobs as Special Counsel is April 15, 2008.

FURTHER RESOLVED that either the Town or Wormser Kiely Galef and Jacobs may terminate the Retention Agreement which will memorialize this Resolution upon thirty days written to the other party.

Peters, Martorano, Campisi, Metz Voting Aye  
Bianco Voting Nay  
Resolution adopted

Councilman Bianco stated that he voted nay for this appointment because he felt that it was better to have an in-house legal team. He believes you get better results from an attorney who is an employee rather than one who is on retainer. He agreed that the result of the move will be a savings totaling \$120,000, but he says we have no idea what the total will be as a result of the \$240 per hour for legal preparation.

Supervisor Peters stated that the appointment will result in a more efficient way of doing business and will save money.

Councilman Martorano stated that he is confident that this legal team will provide the Town with excellent representation.

Councilman Metz and Campisi both stated that they believe a team of 30 lawyers all proficient in a different aspect of law is better than having another employee.

DURING COURTESY OF THE FLOOR, the following residents addressed the Town Board:

Mr. Vishnu Patel congratulated John Buckley for being named Town Attorney and he spoke about the Battle of Yorktown, our annual program to fight roadside litter that takes place on Saturday.

Mr. Howard Chan continued his discussion concerning group homes. He provided the Town Board with a real estate listing of the property on Evergreen Street which is on the market for \$875,000. He also provided the Town Board with last year's tax filing by Opengate.

Mr. Nicholas DiTomasso also spoke about the group home situation.

Mr. Ray Arnold spoke on a number of issues including questions about the Mohegan Business District, questions about the Legacy Ballfield, questions about the Town Board's Sustainable Development Meeting, questions about the length of the meetings and their contents.

ADJOURN

Upon motion made by Councilman Bianco, seconded by Councilman Martorano, the Town Board meeting was adjourned.

Alice E. Roker  
Town Clerk  
Town of Yorktown