

Meeting of the Town Board, Town of Yorktown held on Tuesday, March 12, 2019 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present:       Ilan D. Gilbert, Supervisor  
              Vishnu V. Patel, Councilman  
              Thomas P. Diana, Councilman  
              Edward Lachterman, Councilman

Absent:        Alice E. Roker, Deputy Supervisor

Also Present: Diana L. Quast, Town Clerk  
              Richard Abbate, Town Attorney

#### TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

#### EXECUTIVE SESSION

Upon motion made by Councilman Patel, seconded by Councilman Lachterman, the Town Board moved into Executive Session to discuss individual personnel issues, litigation, and negotiations. Upon motion made by Councilman Lachterman, seconded by Councilman Patel, the Town Board moved out of Executive Session and proceeded with the meeting.

Supervisor Gilbert announced the upcoming Yorktown Small Business Association events: YSMA Fifth Anniversary at The Winery on April 4, 2019 from 5:00-8:00 p.m. and a symposium at Mercy College on May 29, 2019 from 8:00 a.m.-12:00 p.m.

Councilman Lachterman announced the Sons of the American Legion is sponsoring a corned beef luncheon to be held on St. Patrick's Day, March 17, 2019 from 12:00-3:00 p.m. at the American Legion Hall, Post #1009, on Veterans Road. The cost is \$17 per adult, \$12 for veterans, \$10 per child (7-17), under 7 is free. Proceeds will benefit veterans' services. Councilman Diana said reservations are required.

#### JEFFERSON VILLAGE DRAINAGE ISSUES

Mr. Charlie O'Neill, President of Jefferson Owners Corporation, came before the Board to discuss the problem of storm water coming into Jefferson Village and the debris it brings through. He would like to see some kind of filter system installed to stop the debris from coming onto the property and causing problems. Highway Superintendent Dave Paganelli said the Hill Boulevard Culvert project will begin in about six months, which requires the condemnation of a sliver of land. Mr. O'Neill said that if they do not catch it on their property it eventually ends up in streams and ponds in other locations. It is also blocking the Village's storm sewers and culverts.

Highway Superintendent Dave Paganelli said there are numerous point sources (approximately 6 to 8) that funnel into that particular culvert onto the Village property. He suggested that they put a 4-inch grid onto the edge of the inlet pipes and then they would be able to go out monthly and check to see any accumulation of debris there that would ultimately find its way into the pond.

Town Engineer Michael Quinn said there is other technology available, such as retro-fits for the Town's catch basins. Highway Superintendent Paganelli said the Town has 5,800 catch basins and cleaning each of them when they filled up would be too labor intensive and would require too much man-power and time. He feels that a quick and simple fix is needed. Mr. Quinn's suggestion would be appropriate for the future. Different sized grids could also be looked into to see which would be more effective.

Mr. O'Neill said that this has been a problem for years; also due in part to garbage pickup – what does not fit into the trucks falls out and is left on the road.

Supervisor Gilbert also mentioned the excessive rainfall and flooding the Town has experienced this year.

Highway Superintendent Paganelli said he would get together with Mr. O'Neill on Friday to go over the source points in Jefferson Village and talk about installing grids. Supervisor Gilbert said the grids will be on Town structures and will be the Town's cost.

## 675 & 685 SAW MILL RIVER ROAD – REQUEST FOR ZONE CHANGE

Applicant was not present and discussion will be scheduled for a future agenda.

### PROPOSED SOLAR LAW

Town Attorney Richard Abbate and Planning Director John Tegeder came before the Board to discuss a draft of the proposed Solar Law. Mr. Abbate presented the first draft and stated that it is really for large production solar farms that would require a special use permit and go before the Planning Board. Conditions regarding the number of panels and setbacks are addressed in the draft. Residential rooftop applications would fall under this and be regulated by the Building Department for permits, possible review by other boards as well (ABACA). The law really addresses large-scale installations, both roof and ground. Supervisor Gilbert addressed the section “Abandonment and Decommissioning” and asked who would bear this burden and Planning Director John Tegeder said that decommissioning is in the law to force the owner, once they leave, to not abandon the facility and to decommission it. There are laws that require bonds; this draft does not include the bond requirement.

Ms. Kathy Haake, from Clean Energy Collective and who has been to past Town Board work sessions, approached the Board and was asked by Supervisor Gilbert about her experience with other municipalities regarding decommissioning. Ms. Haake said that in almost every situation, her company puts up a bond for decommissioning. She said that it is a standard procedure and other solar companies are used to it, as well. Supervisor Gilbert asked if this requirement was only part of a contract or part of a town code. Ms. Haake said it is both. Mr. Abbate said this draft is then not sufficient in this regard and will be redrafted to include a bond requirement. Councilman Lachterman suggested adding some firm definitions regarding the decommissioning process.

Supervisor Gilbert asked if this draft contains any mention of how this would work with the Town’s Tree Law. Mr. Tegeder said that this draft would be subject to the Tree Law and does not need to be unless the Board wished to reference it in the Solar Law. Supervisor Gilbert said he would like to see some language added as to property owners’ obligations and/or the solar companies’ obligations specifically regarding decommissioning and was told this is incorporated in the draft. Superintendent Paganelli asked if the decommissioning section was specific, since many times these things are ambiguous in codes. Mr. Tegeder said the law states the requirement for a decommissioning plan that would be very specific.

Supervisor Gilbert said a redraft will be needed which Mr. Abbate said he would do right away and then come back for another work session. According to Town Clerk Diana Quast, a 30-day referral of the final draft would be required before a public hearing could be held.

Ms. Haake said they are considering applying for a tree-cutting permit on property in Yorktown they are preparing for an installation, since they have an obligation to the property owner to move things along. John Tegeder said he would have to look at the current law; the question would be the SEQRA implications in terms of segmentation. It may not get to that, but then you could review the application based on its own merits and make a decision depending on what they want to do. The property is located on Underhill Avenue near the Taconic Parkway – 650 Underhill Avenue.

### PROPOSED TREE LAW

Planning Director John Tegeder, Ms. Linda Miller and Mr. Bill Kellner from the Tree Committee, came before the Board to discuss the progress of the proposed Tree Law. Supervisor Gilbert said he was curious as to how the committee that was put together at a past joint meeting worked with each other. Mr. Tegeder said that, although there were very divergent opinions, they worked very well.

Mr. Tegeder stated that he hoped to summarize how the law will work and not get bogged down in specific sentences/passages of the law. He believes they still have to fine-tune a lot of that but hopes to present the “bones” of how the law would work.

Supervisor Gilbert said there were three things to balance: environmental protection, property owners’ rights, and, as a government, not stepping on our own toes in terms of regulations and permits so that we do not have conflict between statutes and regulations.

Councilman Patel asked if permitting requirements and regulations have been totally integrated into the new draft and Mr. Tegeder replied yes.

Mr. Tegeder proceeded to explain the new threshold of tree removal under the new law regarding the following categories as opposed to the first draft and current law: # of trees to be removed that

will require a permit (more than 10); protected tree dbh (diameter at breast height – 8 dbh), protected woodland (minimum area of 10,000 square feet), land conversion (minimum area of 1,000 square feet), site plan trees (separate tree permit not required), wetland trees (separate tree permit not required), specimen trees dbh (24 dbh), 15% slop restrictions (1 tree), small lot 5 foot buffer zones (removal of 2 protected trees in a calendar year). Mr. Tegeder said that he believed that they have achieved protection of woodlands without it being onerous and without as much regulation and fee structure. The two biggest stipulations that are addressed in the list which provide the most protection are the number of trees to be removed without permit, and the protected woodland stipulation. The other stipulations also provide protection. A discussion of the proposed threshold of tree removal ensued amongst the Board members and those presenting.

Mr. Tegeder then discussed the approving authorities involved in the process of land use permits and land disturbance regarding tree removal. In terms of mitigation, Mr. Tegeder said that this proposed law is designed as a “menu” of choices – tree replacement (onsite or offsite), understory shrub replacement or enhancement, invasive species removal, deer fencing installation to help regenerate areas of the forest that need it, tree or shrub planting along streams, and any other measures that go along with a forest management plan. A payment to the tree fund still remains in the law. Ms. Miller mentioned that there is language in the proposed draft that this is not an all-inclusive list because they want the law to remain responsive to changes in technology and new thinking.

Councilman Lachterman asked how the amount to go to the tree fund is formulated and how much deer fencing would be required. Mr. Tegeder said the deer fencing is subjective through the review process. He stated that the tree bank fund is \$100 for every protected tree removed and \$300 for every 5,000 square feet of protected woodland. He discussed penalties and restoration for those trees cut down without Town knowledge. Ms. Miller said that permits required meet the goals of the law. She said that an important part of this is an education piece so that people will understand how they can do what they wish as well as understand what the Town is trying to do for protection of the trees and woodlands.

Highway Superintendent Paganelli asked if there was a provision for the 5,000 acres of open space in Town. Mr. Tegeder said there is a section that specifically speaks to forest management plans for the Town. Bill Kellner explained that the Town does not have a town-wide forest management plan but had received grants for three of its parks: Sylvan Glen, Granite Knolls, and Turkey Mountain. He explained that if you have a plan and the plan calls for certain types of tree removals in the plan, they are exempt from permitting requirements. The plan must be filed with the Town.

Supervisor Gilbert asked for the draft to be put into local law format. Mr. Tegeder said that they still have to refine the language so that it says what they want it to say.

PROMOTE MICHAEL R. GRASSO, DEPUTY TOWN SUPERINTENDENT OF HIGHWAYS/ROAD MAINTENANCE FOREMAN  
RESOLUTION #97

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Michael R. Grasso, is hereby promoted as a Deputy Town Superintendent of Highways/Road Maintenance Foreman, job class code 0355-03/0435-02, effective March 18th, 2019 in the Highway Department, to be paid from Yorktown CSEA Salary Schedule A, Group 17, Step 1 which is \$77,777.00 annually,

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on March 18th, 2019.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPOINT MICHAEL STIGELL AS LABORER, HIGHWAY DEPARTMENT  
RESOLUTION #98

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Michael Stigell, of Yorktown Heights, NY, is hereby appointed Laborer, job class code 0425-05, within the Highway Department, to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$44,154.00 annually;

BE IT RESOLVED, contingent upon successful completion of a drug test and reference checks that Michael Stigell will report to work at the Highway Department on April 1<sup>st</sup>, 2019 and this date will be used as the first date of appointment;

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on April 1<sup>st</sup>, 2019.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

PROMOTE TED A. DEVLIN TO GENERAL FOREMAN, HIGHWAY DEPARTMENT  
RESOLUTION #99

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Ted A. Devlin, is hereby promoted as a General Foreman, job class code 0420-02, effective March 18th, 2019 in the Highway Department, to be paid from Yorktown CSEA Salary Schedule A, Group 16, Step 4 which is \$84,369.00 annually,

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on March 18th, 2019.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPOINT ROBERT ALFANO AS LABORER, PARKS & RECREATION DEPARTMENT  
RESOLUTION #100

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Robert Alfano, of Yorktown Heights, NY, is hereby appointed Laborer, job class code 0425-05, within the Parks & Recreation Department, to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$44,154.00 annually;

BE IT RESOLVED, contingent upon successful completion of a drug test and reference checks that Robert Alfano will report to work at the Parks & Recreation Department on March 25th, 2019 and this date will be used as the first date of appointment;

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on March 25th, 2019.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

REAPPOINT WILLIAM KELLNER AS A MEMBER OF THE TREE CONSERVATION  
ADVISORY COMMISSION AND AS CHAIR  
RESOLUTION #101

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that William Kellner is reappointed as a member of the Tree Conservation Advisory Commission for a three-year term to expire on October 31, 2021. William Kellner is also appointed as the Chair.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

REAPPOINT KEITH SCHEPART AS A MEMBER OF THE TREE CONSERVATION  
ADVISORY COMMISSION  
RESOLUTION #102

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Keith Schepart is reappointed as a member of the Tree Conservation Advisory Commission for a three-year term to expire on October 31, 2021.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPOINT LAWRENCE W. KLEIN, P.E. AS A MEMBER OF THE TREE CONSERVATION  
ADVISORY COMMISSION  
RESOLUTION #103

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Lawrence W. Klein, P.E. is appointed as a member of the Tree Conservation Advisory Commission for a three-year term to expire on October 31, 2021.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE SUPERVISOR TO EXECUTE A DEED AND ALL RELATED TRANSFER  
DOCUMENTS FOR THE PURCHASE OF TOWN PROPERTY ON ILLINGTON ROAD TO  
MARCIA SAUNDERS  
RESOLUTION #104

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

WHEREAS, pursuant to Article 11, Title 3 of the Real Property Tax Law on March 15, 2004 title to the parcel bearing Tax Map designation: Sec. 1802, Parcel 3, Lot 2 was transferred to the Town of Yorktown from Robert Killeen ("Parcel") constituting 5.73\_ acres; and

WHEREAS, in 2005 the Town changed the Tax Map designation of the Parcel to Town of Yorktown Tax Rolls Section 69.08 Block 1 Lot 11;

WHEREAS, by Town Board Resolution 210 on May 19, 2009, the parcel was formally dedicated as public parkland;

WHEREAS, Marcia Saunders, a Town resident, wishes to purchase the parcel as is to maintain it in its current condition with no plans for development. Public access to the pre-existing cemetery situated on the parcel will remain in Town ownership and access to the cemetery will remain in perpetuity.

WHEREAS, the Town Board passed a resolution date May 22, 2018, requesting the alienation of the aforementioned real property;

WHEREAS, a Bill to alienate the aforementioned real property was passed by the Senate on June 12, 2018 and by the Assembly on June 19, 2018 and signed by the Governor on August 17, 2018,

BE IT RESOLVED THAT, the Town Board authorized the Supervisor to execute a deed and all related transfer documents to transfer the aforementioned property to Marcia Saunders for the amount of Ten Thousand Dollars. The Deed is to have a restriction that the property may never be built on or further developed, and that public access to the cemetery located on the real property will remain in perpetuity.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE THE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET  
TRANSFER  
RESOLUTION #105

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that the Town Board authorizes the following budget transfer:

From:  
A1990.499 Contingency \$10,000.00  
To:  
A1440.490 Engineering – Professional Services \$10,000.00

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE THE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER

RESOLUTION #106

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that the Town Board authorizes the following budget transfer to fund payment for a scheduled loss of use payment / Notice of Decision.

From:

SR.1002 Refuse & Recycling Fund Balance \$28,556.01

To:

SR.1930.402 Worker's Comp Indemnity Payments \$28,556.01

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPROVE ANIMAL CONTROL OFFICER KRISTIN MACEY TO ATTEND A TRAINING SEMINAR

RESOLUTION #107

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that the Town Board authorizes Kristin Macey to attend a 2 day training seminar in Albany on May 14<sup>th</sup> and May 15<sup>th</sup>. The cost of the overnight stay and training will be \$210.00.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPROVE RELEASE OF PERFORMANCE BOND FOR 402 CORDING ROAD–RICK GANG  
RESOLUTION #108

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

WHEREAS,

1. Rick Gang as applicant posted check #188 in the amount of \$250 which was deposited to the T33 account on January 18, 2018, to serve as the Performance Bond for construction of an addition.
2. Rick Gang has requested the bond be released, as the site is now complete.
3. The Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released.

NOW, THEREFORE BE IT RESOLVED, the above referenced \$250 bond be and is hereby released to Mr. Rick Gang, 402 Cording Road, Yorktown Heights, NY 10598.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPROVE FRED COOK, INC., FOR TOWN-WIDE PROGRAM TO PERFORM TV INSPECTION OF SEWER PIPELINES AND AUTHORIZE BUDGET TRANSFER  
RESOLUTION #109

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

WHEREAS,

1. The Town sewer infrastructure is approaching 50 years old in many locations and a program of regular inspections is needed to assess current pipeline conditions and to identify areas that will need rehabilitation or replacement in future years. In addition, as a public-owned treatment works with a SPDES permit, the Town has in place a Capacity, Management, Operation and Maintenance Plan (CMOM) that obligates us to regularly assess the sewer piping system and to prioritize short term and long term repair/replacement projects.
2. The Town started the inspection program in 2017 along Hill and Lee Boulevard and continued in 2018 along Somerston Road and Sheila Court. Through these efforts, the Sewer Department has not encountered any sewage blockages or overflows in these areas. We plan to continue our

inspection program at Saw Mill River Rd, Midland Drive and Allen Drive to address any deficiencies.

3. The project will include the following scope of work: (1) perform up to 3,000 linear feet of light cleaning in sewer pipelines; (2) perform up to 3,000 linear feet of heavy cleaning in sewer pipelines; and (3) perform up to 6,000 linear feet of television video inspection. Also includes a report that summarizes the conditions found and any follow-up work that needs to be done.
4. Since the nature of pipeline cleaning will not be known until the actual work begins, i.e. whether light cleaning will be enough to clear debris and sediment for the camera to pass through (or if heavy cleaning and root cutting will be needed), the project was bid with unit prices.
5. The Town has been very satisfied with the services provided by Fred Cook Inc. and the firm has agreed to hold their pricing for a new agreement. All terms and conditions of the original agreement will remain the same.
6. The prices bid by Fred Cook Inc. were as follows: (1) Light cleaning 3,000 linear feet @ \$1.00 per linear foot; (2) Heavy cleaning including root cutting 3,000 linear feet @ \$1.00 per linear foot; (3) Video inspection, DVD and final report 6,000 linear feet @ \$1.25 per linear foot.
7. The Department will use available funds for the purchase, however we need the Comptroller to make the following 2019 budget transfers:
  - a. \$19,500 from YS8130.460 Maintenance Repair Plant to YS8130.459 Infiltration & Inflow Control. [Note: \$13,500 is required for this agreement and \$6,000 is required for the prior agreement with Fred Cook Inc.]

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town Comptroller to make the budget transfer as noted above and the Town Supervisor to sign a Professional Services Agreement with Fred Cook Inc., for the scope of work as described in preceding section in the not-to-exceed amount of \$13,500.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

DECLARE INTENT TO BE LEAD AGENCY FOR DRINKING WATER FLUORIDATION  
PROJECT SEQRA DETERMINATION-TYPE II ACTION  
RESOLUTION #110

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

WHEREAS,

1. This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act (SEQRA) of the Environmental Conservation Law.
2. The Town of Yorktown desires to comply with SEQRA regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations") with respect to the Proposed Action;
3. Proposed Action: The Town is working on a project to install chemical feed equipment and chemical storage for the purposes of fluoridating the drinking water supply to the Yorktown Consolidated Water District. The new equipment and storage systems will be located within an existing Town structure located on Catherine Street, within property limits owned by the New York City Department of Environmental Protection (NYCDEP). The use and operation of the structure on NYCDEP-owned lands are covered under a land-use permit previously granted to the Town of Yorktown;
4. Under SEQRA regulations, a Type II Action may be declared where "(2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part";
5. The Project is not subject to further review under SEQRA since this is a "Type II Action" under 6 NYCRR § 617.5(c)(25).

NOW, THEREFORE, BE IT, RESOLVED that the Town Board of the Town of Yorktown declares that the Project constitutes a "Type II Action" under 6 NYCRR § 617.5(c)(25) and that no further action under the SEQR Act and the Regulations is required; and BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Gilbert, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

EXECUTIVE SESSION (Closed Session)

Upon motion made by Councilman Lachterman, seconded by Councilman Diana, the Town Board moved into Executive Session to discuss litigation, and negotiations. Upon motion made by Councilman Lachterman, seconded by Councilman Diana, the Town Board moved out of Executive Session and the meeting was adjourned.

ADJOURN MEETING

Upon motion made by Councilman Diana, seconded by Councilman Lachterman, the Town Board meeting was adjourned.

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DIANA L. QUAST  
TOWN CLERK  
TOWN OF YORKTOWN  
CERTIFIED MUNICIPAL CLERK