

Meeting of the Town Board, Town of Yorktown held on Tuesday, September 24, 2019 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

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

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

### TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

### EXECUTIVE SESSION

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

Supervisor Gilbert made the following public service announcements:

A blood drive will be held at the Yorktown Heights Fire Department on Thursday, September 26, 2019 from 3:00 P.M. to 7:30 P.M.

The production company, Nite Shift, will be filming a movie on Summit Street from Church Place to Montross Road from Thursday, September 26<sup>th</sup> through Sunday, September 29<sup>th</sup>. Hours of filming will be 6:00 P.M. to 11:00 P.M. and may result in minor inconveniences but there will be an off-duty police officer, paid for by the production company, on location for safety and security concerns.

The Yorktown Consolidated Water District will be flushing fire hydrants in Section 3 and part of Section 7 from October 1<sup>st</sup> through October 31<sup>st</sup> between the hours of 7:30 A.M. to 2:30 P.M. The flushing may cause discoloration of the water. It is not a health hazard, but customers are cautioned to wait to determine if the water is clear before washing clothes because staining may occur. If you do not know what section you are in, you may look up your street on the Yorktown homepage/ Refuse & Recycling to "Find My Section."

This Thursday the John C. Hart Memorial Library in Shrub Oak will host a few of the New York City Rockettes from 3:30 – 4:30 P.M. as part of a promotion for this year's Christmas Show.

### ACCEPT RETIREMENT OF PATRICIA HALLINAN, LIBRARY DIRECTOR OF THE JOHN C. HART MEMORIAL LIBRARY

#### RESOLUTION #360

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

Resolved, that the Town Board accepts the retirement of Patricia Hallinan with thanks for her service to the Town of Yorktown as the Library Director of the John C. Hart Memorial Library.

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

Ms. Hallinan spoke about how it has been a great privilege to work for the Town.

### APPOINT LIBRARY DIRECTOR FOR THE JOHN C. HART MEMORIAL LIBRARY – JENNIFER O'NEILL

#### RESOLUTION #361

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

BE IT RESOLVED, that Jennifer O'Neill is hereby appointed Library Director III, job class code 0217-01, from eligible list No. 66-046 at the John C. Hart Memorial Library, effective September 30, 2019 to be paid a salary of \$105,000.00 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 September 30, 2019.

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

PROMOTION OF JOHN W. WINTER AS SENIOR AUTOMOTIVE MECHANIC – CENTRAL GARAGE DEPARTMENT  
RESOLUTION #362

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

BE IT RESOLVED, that John W. Winter, is hereby promoted to Senior Automotive Mechanic, job class code 0484-02, effective September 30th, 2019 in the Central Garage Department, to be paid from Yorktown CSEA Salary Schedule A, Group 13, Step 5 which is \$75,723.00 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 September 30th, 2019.

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

WESTCHESTER COUNTY PLANNING (EMERGENCY SERVICES) – INSTALLATION OF ANTENNA AT MOHANSIC GOLF COURSE

The following representatives from Westchester County presented themselves before the Town Board: Susan Spear, on behalf of County Executive George Latimer; Tom Raffaelli, Westchester County Department of Information Technology; and Anthony Zano, Westchester County Planning Department. Ms. Spear stated that it is one of the County Executive's top priorities that it be a good neighbor to the municipalities and, in the case, whenever the County is doing any work on its property, they come to the municipality to present information about the work they are doing. Ms. Spear continued by saying they were here this evening because the County is doing an upgrade to the County public safety radio system. The work they are doing is at the Mohansic Golf Course to the existing tower. There will be no changes to the tower, just some changes to the antennas, a microwave dish, some of the coaxial cables, and a 6-foot PAD that will be added, and some changes to the building. None of the changes will be visible from beyond the golf course; everything will be on the tower itself and the height will remain the same. Ms. Spear said that these changes would bring tremendous benefits to the local fire and EMS services because the communication system is being upgraded and the County will provide radios to the Town's first responders at the County's expense. This will provide better coverage, better dispatch, better mutual aid, and new upgraded radios.

Mr. Raffaelli said that currently the radio system has nine tower sites, Mohansic being one of them. The County plans to increase this number to 18 in order to provide coverage for fire and EMS using hand-held radios. The current system only works well with high-power radios in vehicles so they are adding the sites to get more signal and are able to get portable radios to work properly. In order to do this at Mohansic, the County had to put an addition on the building. The existing building that houses the radio equipment is a stone structure that used to be a pump house. There is no room for expansion of the structure; therefore, an extension is required in order to house the new equipment. The façade of the extension will be identical to the existing structure and will use up two parking spaces.

Councilman Lachterman said the Yorktown Police Department was looking to upgrade our emergency services – will this run in conjunction with their plans? Mr. Raffaelli said the current system serves only fire and EMS and not police. The upgraded system will continue to do the same. However, if the County has the capacity and the coverage on the system, a future phase of the project is to invite local municipalities/police departments onto the system. This is not a firm plan because they need to wait until they build the system and see what the coverage and the capacity would be. Police use would put a big load on the system and the frequencies the County

uses are very scarce. So if they have the capacity, then they would entertain local police departments joining the system.

Supervisor Gilbert said that back in April of this year he joined a coalition of Towns and the County to discuss joint efforts, including how costs can be cut to increase wireless communications and assistance to first responders. He said in one of his discussions with Mr. Raffaelli regarding the increase to 18 towers is if we were to move forward with our plans to upgrade our emergency services and build a tower according to the County's specifications and plans, the Town may be able to be compensated by them in order to reduce the number of towers they need to erect. Mr. Raffaelli said the 18 towers will be completed by the end of 2020 and they are looking at additional sites to provide in-building coverage, a far more difficult thing to do than on-street coverage. Ms. Spear asked that the Town reach out to the County before doing any upgrades.

Councilman Patel asked if there was any way the Town could hook into an existing commercial antenna and Mr. Raffaelli said cellular companies build their sites/towers to far different standards than public safety standards. Mr. Raffaelli said the tower is built to public safety standards that are much more stringent than cellular standards. If a cellular company loses a tower, for whatever reason, it is a small portion of their network – they have hundreds of towers. If the County loses a tower in a public safety system, that town does not have radio coverage. The public safety towers cost much more money than a cellular tower.

Mr. Zano, from the County, said if you were to use a private carrier it would not be able to be used in the existing facilities because they exist in parks and this would constitute parkland alienation. He explained that this is a 3-phase project and this is the first step to communicate with the Town.

#### ECONOMIC AND BUSINESS REVITALIZATION COMMITTEE

Mr. George Souls, ERBC, said that one of the recommendations they made to the Board was branding, getting recognition of all that Yorktown has to offer. A Request for Proposals was issued and proposals were received and members of the committee were present to give the details of those proposals.

Mrs. Kathy Quinn said that she, along with Renee Fogarty and Sergio Esposito, served on the subcommittee of the branding initiative and wished to give an update. She said they discovered that many other towns are doing the same thing and by doing so, have improved the spirit of their towns.

Ms. Renee Fogarty said this is about the economic health of the Town, creating a sense of pride and unity among its residents and businesses, promoting the Town's assets, and creating new opportunities. She said that eleven vendors were narrowed down to two and would now like to invite the Board to help in the next phase of the process.

Mr. Sergio Esposito said they were looking for something that was different that would mesh the development side alongside the traditional/farm side of the Town. He said they wanted the vendors to be experienced in town development and solid research approaches. Mr. Esposito he particularly wanted to see a firm that could blend the business community and the local residents. The cost ranged from \$70,000 to \$25,000. The two firms they chose both fall into the \$30,000 range. He said the committee asked these firms what their work product would look like and what the Town will get out of it. Mr. Esposito said he asked if the Town would own the final product and was told yes. There is no physical marketing in either of these proposals; there are suggestions and branding. They would provide a strategic plan that the Town would implement over time. The Town would then decide how long it would take to roll out this plan. This is what the committee looked at as part of their selection criteria. The committee would like the Town Board to meet with the two vendors.

Mrs. Kathy Quinn added that one of the things the committee wanted to make clear in the proposal is that they want this to be a sustainable plan for years to come. They asked tough questions and wanted to see some deliverables. They asked the vendors when worked on branding other towns, what were the measurable outcomes. These two finalists were able to say how they were able to turn things around in the towns they branded. Ms. Quinn said it was very important to the committee that the plan is respectful to the diversity in Yorktown and the two finalists gave them very detailed answers. These two finalists are both full service operations, which means for example, you are given a strategic plan that rolls out a marketing campaign or a social media

campaign. You can take aspects of that plan as it works for you and your budget. These firms have the staff and the expertise to do it all in-house.

Councilwoman Roker said that one of the most important things about developing a town is branding. You want to have a discussion between your business community and your residents. Many ideas may be expressed; it does not have to be just one.

Supervisor Gilbert said he appreciated the committee bringing these firms in to screen. He asked if there were packets from all of the vendors to give to the Board because seeing all of them may enlighten them on all of different aspects of branding that may not be included in the two finalists' packets. It also may enlighten the Board on what they should be looking for and why the committee has come to their conclusions.

Mr. Esposito said that many of the proposals had unique ideas; however, the two finalists presented incredibly well. Councilwoman Roker said both of the finalists are very good companies. Mr. Esposito said a separate budget line would have to be provided in order to implement their ideas.

Councilman Lachterman asked questions regarding the budget and the definition of "advertising campaign." Mr. Esposito said what is included in the plan are mockups, logo designs, etc. For example, if they recommended doing a commercial, the shooting of the commercial, the airtime, etc., would not be included in the price. He said they asked the finalists for cost examples of work done in similar town. Ms. Quinn said the vendors would come up with a plan that the Town agreed upon and they would present proposals of budgets depending on what the Town wants to do.

A discussion followed about continued funding to the plan in order to be able to follow through with implementation.

Ms. Fogarty said she would like to be able to have the two vendors come to the October 22<sup>nd</sup> work session for the Town Board to interview them and discuss their proposals.

Councilman Lachterman asked if the ERBC had any idea of how much it would cost annually to keep up their plans. Ms. Esposito said that their hourly rates were approximately \$100 to \$150. As far as what they would do on a yearly basis, it depends on what the Town chooses to do. Councilman Lachterman asked for a breakdown of the percentage of money that is agency fee to what they are pumping into the actual advertising. Ms. Quinn said this is very much custom tailored and would be appropriate to ask at their next meeting. She said that the cost would also depend on the agreed upon strategic plan. Councilman Lachterman asked that more information be obtained regarding the cost to the Town, both for the strategic plan and the costs for implementation.

Councilwoman Roker asked the ERBC to keep Planning Director in the loop of this process. She also thanked the ERBC for their work.

The ERBC will come back to the Board with the vendors at the October 22<sup>nd</sup> work session.

Supervisor Gilbert mentioned other resources that could be used to help defray the costs.

#### RAILROAD STATION RENOVATION

Planning Director John Tegeder said the railroad station renovation should start in October. There was a small issue on the bid; the base bid was \$414,367.00 and the next item on the bid was the performance bond and the material & labor payment bond that was slated to be part of the base bid and was erroneously left out. This amount is \$12,431.00 and is an absolute necessity. He said it will be a protected site. The public will see new paint, new windows, there is going to be a new chimney built, slate roof, new copper gutters. He said this renovation will bring the station back to its former glory. The Landmarks Preservation Committee either has issued or will soon issue the Certificate of Appropriateness for the building.

Councilman Diana asked how much the grant was that is being applied to this project and Mr. Tegeder told him it was just under \$300,000. The Town will pay first and then be reimbursed. It is a 20% minimum match but the Town is matching more than that.

Mr. Tegeder said that the Yorktown Historical Society has held this building in its heart for many, many years and did much to keep it from deteriorating. He said the work should be done in about four months' time.

#### GARBAGE CONTRACT RENEWAL

Supervisor Gilbert said that there is a potential resolution on the agenda authorizing him to exercise an option to extend the contract with AAA Carting for the collection and disposal of residential refuse and recyclable materials for one year. The Town has a two-year contract with AAA Carting with three one-year renewals. The Town needs to exercise this option within thirty days of termination of the contract year. This was raised at the last meeting and Councilman Diana had concerns regarding complaints he has heard regarding AAA Carting's service, particularly early morning pick-ups, and route changes. Kim Angliss-Gage from the Refuse and Recycling Department said that recyclable pick-ups in the Mohegan area changed and per the contract, AAA Carting did send notices to affected residents. Councilman Diana pointed out the complaints were also about 4:30 A.M. pick-ups. Pat, a representative from AAA Carting said his workers do not start work that early in the morning; they usually come in about 4:45-5:00 A.M. He said that Ms. Angliss-Gage promptly informs them of any complaints that come in.

Councilwoman Roker said the biggest complaint she has heard and knows about personally is how the recycle bins are handled. They are at cost to the resident and are thrown around instead of being placed back to their original spot. Pat said they are constantly reminding the workers to put them back properly and apologized for any damage done.

Supervisor Gilbert reminded the representative said many of AAA Carting's workers have worked under other carting companies in Yorktown and should be familiar with the routes.

Councilman Lachterman said he noticed a time change on his route but did not receive a notice. Pat said there are some situations that can vary the time; one of which are the dump lines, which have been incredibly long. He said times can change but days should not. Day changes require a notice to the resident, time changes do not.

#### BATTERY STORAGE FACILITIES

Councilwoman Roker asked Planning Director John Tegeder if there was any part of the code that specifically addresses this issue and he said no.

Town Attorney Richard Abbate said there are currently two applications now to build battery storage facilities. Mr. Tegeder said there is one application before the Planning Board and one before the Zoning Board. The one before the Zoning Board is applying under a special permit for Public Utility Substations and that is how it is being processed. Supervisor Gilbert asked if they are a public utility and Mr. Tegeder said they claim to be. It is a privately owned company and not a "public utility" as we know it but it does provide electricity to public utility lines. The other application before the Planning Board (near BJ's) is being processed as an accessory use incidental to the main use because they have done solar panels, a Tesla charging station and they are offering this battery storage which will release electricity to the grid but anticipate that much of that electricity will be used by their own facilities, such as the Tesla superchargers. This can be considered, in some ways, as incidental use.

Councilwoman Roker said her concern is that we are just trying to "make it fit" without knowing enough about these companies. Mr. Tegeder said this is new technology that he, the Planning Board, and the Town Board do not fully understand. The application before the Planning Board (the one near BJ's) is the application that the Planning Board is using to learn about in greater detail how they work, how the installation will work, and what the safety requirements are. Mr. Tegeder said if you ask the applicant, they will tell you the facility houses self-contained units that have a cooling system to keep the lithium batteries at a certain temperature so, therefore, you would not have a safety risk. He said his response to this would be if the system fails, what will be the parameters under which our emergency services will handle that situation. Mr. Tegeder said that is the point they are at with the applicant now. They are also looking at the exact parameters of the usage to make a determination. Battery storage for electrical grid purposes is not explicit in our Town Code as a use.

Councilman Patel explained the dangers of lithium if it is exposed to moisture and the chemical reactions, although the science behind lithium batteries has become more reliable.

Mr. Tegeder said they do have cooling systems and fire suppression systems built into the cabinets that house the batteries. He said one of the systems releases a chemical that turns immediately into a gas so that it does not interact as a liquid and cause a failure of the battery. Explosion information is unknown at this point and this is what they are asking: if there is a failure such as that how do our emergency services handle it on a particular site, how close do they have to get, what site amenities do you need to install to get the emergency services there?

Councilwoman Roker said that although she appreciates Mr. Tegeder coming to the Board to explain these facilities, she would rather ask these companies about their track record and what they are doing.

Mr. Tegeder said the equipment the applicant is proposing to install at the BJ's site is Tesla equipment. The applicant did quote out of so many gigawatt hours that batteries they have produced and have been online have had zero negative failures. This includes all of Tesla's cars and the battery systems they have produced so far.

Stewart Glass, Assistant to the Supervisor, said that the model law for this also has provisions whereby the entities will have to have the ability to call in their own resources to fight any problems at the location, including fire. These properties are exempt under Real Property Tax Law Section 487, though you can enter into a pilot. Most of the value in the property is considered personal property. They have either put these systems on a pad set into a cabinet or into a Butler building. Mr. Glass said he also reached out to fire personnel, speaking with the Coordinator for Battalion 17, John Lemke, who said he was not familiar with this and referred Mr. Glass to AAA Emergency Supply who he will be speaking to. He also spoke to the County's Director of Energy Conservation and Sustainability who also said these facilities are new to him, as well. He said the model ordinance that he and Town Attorney Richard Abbate goes into great detail and was forwarded to the Planning Board and the ZBA.

Councilman Diana said it is more important to provide the equipment and training to the Town's emergency services to fight and suppress these kinds of fires than these companies providing their own resources to do so. We do not know what their response times will be.

Councilwoman Roker said it is important for the Board to look at the model law so that they do not have continually try to make it fit. Supervisor Gilbert agreed and also agreed that the applicants need to appear before the Town Board.

Mr. Glass said the Town has three groups that are interested in Town property who are all willing to come in and meet with the Town Board.

Councilwoman Roker said the Board should be looking into implementing the code. She said it does not make her feel good to know there are other boards out there trying to make it fit.

Supervisor Gilbert made an announcement that Saturday, September 28<sup>th</sup> at FDR Park from 9:00 A.M. to 3:00 P.M. the County will be hosting a household chemical clean-up day. Ms. Angliss-Gage gave the particulars of the event and what will be accepted.

#### QUALITY OF LIFE COMMITTEE

Supervisor Gilbert said this was discussed several months ago about how this committee has not been utilized, as well as his questioning the makeup of the committee only having one town resident as a member in the old law. Supervisor Gilbert asked Town Attorney Richard Abbate to draft a potential new law. Mr. Abbate said that, at the Supervisor's suggestion, the new law would increase the members from five to seven: Town Code Enforcement Officer, a representative of the Yorktown Police Department, and five residents of the Town (if possible, the residents should be from the different areas of the Town).

Councilman Diana said when he first came up with the idea of the Quality of Life Committee, the original intent was to be more open ended so that we could have every member of whatever organization affected (speeding, fires, etc.) at least you would have code enforcement present and to have one resident there as a sounding board. However, he feels more resident membership would be welcome, but does not necessarily think five is needed. Supervisor Gilbert said his intent to introduce five residents would be to have different areas of Town represented who have a different take on what their quality of life is.

Councilman Diana said they had a difficult time getting residents to apply for membership. Mr. Abbate read from the proposed new law, “The committee will identify community issues and concerns and develop potential strategies, proposals, plans, and solutions in an advisory capacity only and periodically present such to the Town Board for consideration.”

Supervisor Gilbert said he has a person who is interested in joining the committee. He suggests the law be amended to allow for additional town input.

A public hearing will need to be set in order to amend the law.

AUTHORIZE TOWN CLERK TO ADVERTISE BID FOR THE PURCHASE OF WATER MAINTENANCE MATERIALS FOR THE WATER DEPARTMENT  
RESOLUTION #363

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

RESOLVED, the Town Clerk is hereby authorized to advertise a bid for the purchase of Water Maintenance Materials for the Water Department.

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

AUTHORIZE COMPTROLLER TO TRANSFER \$12,431.00 FROM CAPITAL CONTINGENCY A1990.499.1 TO THE RAILROAD REHABILITATION CAPITAL PROJECT JJ7110.0200  
RESOLUTION #364

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

WHEREAS, the Town Board of the Town of Yorktown on July 2, 2019 awarded Clemco Construction & Restoration, Inc. the bid for restoration of the Yorktown Heights Railroad Station Building in Railroad Park; and

WHEREAS, said contract was awarded for a maximum amount of \$476,386.00; and

WHEREAS, the amount covering the Performance Bond and Labor and Materials Payment Bond included in the bid, which was \$12,431.00, should have been included in this maximum amount; and

THEREFORE BE IT RESOLVED, the Town of Yorktown hereby authorizes a maximum amount of \$488,817.00 for this contract; and

BE IT FURTHER RESOLVED, that the Comptroller is authorized to transfer \$12,431.00 from Capital Contingency A1990.499.1 to the Railroad Rehabilitation Capital Project JJ7110.0200.

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

AUTHORIZE THE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER TO FUND PAYMENT FOR A SCHEDULED LOSS OF USE PAYMENT/NOTICE OF DECISION  
RESOLUTION #365

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

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:

YS.1002	Sewer Fund Balance	\$70,794.34
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To:

MC.1930.402	Worker’s Comp Indemnity Payments	\$70,794.34
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Gilbert, Roker, Patel, Diana, Lachterman Voting Aye  
Resolution adopted.

APPROVE REDUCED RATES FOR SPARC, INC., TO USE VARIOUS ROOMS AT THE ALBERT A. CAPELLINI COMMUNITY AND CULTURAL CENTER  
RESOLUTION #366

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

Be It Resolved, that based on a request from SPARC Inc., to use various rooms at the Albert A. Capellini Community & Cultural Center to provide social and recreational programming to teens and young adults with developmental disabilities, the Town Board hereby reduces the room rent fees from \$1,896.00 to \$440.00 for 60 hours of room use beginning on October 11, 2019 through December 20, 2019 as indicated in the schedule below. The requested reduced fee is based on a charge of \$22 per session for 20 sessions (2 sessions per date). October 11, 18, and 25, 2019, November 1, 8, 15, and 22, 2019, December 6, 13, and 20, 2019.

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

AUTHORIZE SUPERVISOR TO SIGN AN INDEMNIFICATION AGREEMENT WITH YORKTOWN CHAMBER OF COMMERCE FOR THE LANDMARKS PRESERVATION COMMISSION TO USE DISPLAY BOOTH AT STREET FAIR  
RESOLUTION #367

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

RESOLVED, that the Supervisor is authorized to sign an Indemnification Agreement with the Yorktown Chamber of Commerce for a display booth to be used by the Yorktown Landmarks Preservation Commission at the 2019 Yorktown Festival and Street Fair to take place on October 13, 2019. There are no fees associated with this Agreement.

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

AUTHORIZE TOWN SUPERVISOR TO SIGN THE CONSENT FOR THE YORKTOWN CHAMBER OF COMMERCE TO APPLY FOR A TEMPORARY BEER/WINE PERMIT WITH THE NEW YORK STATE LIQUOR AUTHORITY FOR THE 2019 YORKTOWN FESTIVAL AND STREET FAIR  
RESOLUTION #368

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the Consent for the Yorktown Chamber of Commerce to apply for a Temporary Beer/Wine Permit with the New York State Liquor Authority for the 2019 Yorktown Festival and Street Fair to take place on October 13, 2019. There are no fees associated with this Consent.

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

AUTHORIZE SUPERVISOR TO EXERCISE THE OPTION TO EXTEND THE CONTRACT WITH AAA CARTING, INC., FOR THE "COLLECTION AND DISPOSAL OF RESIDENTIAL REFUSE & RECYCLABLE MATERIALS," FOR A ONE YEAR PERIOD FROM JANUARY 1 TO DECEMBER 31, 2020  
RESOLUTION #369

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

RESOLVED, that the Town Board Authorizes the Supervisor to exercise the option to extend the contract with AAA Carting, Inc., for the "Collection and Disposal of Residential Refuse & Recyclable Materials," for a one year period from January 1 to December 31, 2020. The one (1) year extension shall be for the same terms and conditions as are contained in the Contract at the time said option is exercised.

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

AUTHORIZE SUPERVISOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH STELLAR SERVICES FOR SANITARY SEWER MAPPING IN THE TOWN'S GIS RESOLUTION #370

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

WHEREAS,

1. Under a prior professional service agreement, the Town updated all of its GIS mapping files for water, sewer and storm piping into a geodatabase. This was a necessary first step in bringing all of our old data sets into current file format and allowing staff to work with the GIS database using the current version of ESRI software.
2. Engineering and Sewer Department staff have been working with the GIS file database and identified the following issues with sanitary sewer infrastructure: (1) the sewer mapping attributes were previously maintained on paper maps only (not electronically); (2) many land development projects that included construction of Town-owned sewer infrastructure were not entered into the GIS database.
3. The Town Engineer is requesting the services of Stellar Services, Inc. to perform the following scope of work: (1) Digitize the Town's sewer maps that are currently paper-based, approximately 110 sheets; (2) Update the Town's enterprise geodatabase to capture all recent system changes into GIS and (3) Provide GIS training and support to Yorktown staff.
4. The professional engineering services to be provided by Stellar Services, Inc. will be in the not-to-exceed amount of \$14,450.00.
5. In the professional opinion of the Town Engineer, Stellar Services, Inc. provided a fair and reasonable proposal for professional services. We note the project executive in charge of the prior Yorktown GIS project, James Hall, is now performing a similar role with Stellar Services.
6. This work will be done using available funds in the 2019 sewer budget, under Budget Code YS.8130.421.1 Computer Support/Software. We are requesting a budget transfer from YS.8130.101 Salaries in the amount of \$11,200.00 to help cover the cost of this agreement.

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with Stellar Services, Inc., for the scope of work as described in the preceding section for the not-to-exceed amount of \$14,450.00.

BE IT FURTHER RESOLVED, the Town Comptroller is authorized to make the following budget transfer: \$11,200.00 from Cost Code YS.8130.101 Salaries into YS.8130.421.1 Computer Support/Software.

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

AUTHORIZE SUPERVISOR TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH TIGHE & BOND FOR WASTEWATER TREATMENT PLANT - ASSISTANCE WITH FLOW VARIANCE RESOLUTION #371

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

WHEREAS,

1. Over the past several months the Town has experienced much higher than normal flows within the Hallocks Mill Sewer District and Yorktown Heights Wastewater Treatment Plant. In April 2019 the Town received a communication from NYSDEC indicating that the wastewater flow into the facility was more than 95 percent of the permitted flow and the Town was directed to prepare a Flow Management Plan.
2. On 9/10/19 the Town had a follow-up phone conference with officials from the NYSDEC and NYCDEP regarding this issue. In lieu of preparing a Flow Management Plan it was agreed that the Town could request a flow variance that would allow an increase from the current SPDES permit limit of 1.5 mgd to 2.5 mgd.
3. In order to apply for a flow variance, the Town needs to develop a work plan that will identify all steps the Town is undertaking in support of our application, i.e. an infiltration inflow study. [We will also note the numerous tasks undertaken over the past two years to improve operations and maintenance of the collection system, including video inspection, heavy cleaning, more frequent flushing and smoke testing of the pipelines where problems have occurred.]

4. The Town also has to develop a compliance plan that will address how we will meet the new discharge limit for Phosphorus (which will decrease from the current limit of 0.2 mg/L down to 0.1 mg/L) and how we can handle the temperature action limit of 70 degrees (which the Town exceeds in the summer months).
5. The Town Engineer is requesting the services of an engineering consultant to assist in developing the work plan and compliance plan.
6. The scope of work will be as follows: (1) review performance data from the treatment plant to assist the Town in developing a compliance plan; (2) assist the Town with a plan to meet the phosphorus and temperature limits in the new SPDES permit; and (3) attend meetings with representatives of NYSDEC; and (4) prepare a technical memorandum summarizing how the Town can achieve SPDES permit compliance once a flow variance is issued.
7. The professional engineering services to be provided by Tighe & Bond will be in the not-to-exceed amount of \$14,300.00.
8. In the professional opinion of the Town Engineer, Tighe & Bond provided a fair and reasonable proposal for professional services. We note the firm has previously performed work for the Town and have professionals with extensive experience working on smaller treatment plants like the Town-owned facility.
9. This work will be assigned to Budget Code YS.1440.490 Professional Services and will require a transfer from the Sewer Fund- Fund Balance in the amount of \$14,300.00.

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with Tighe & Bond for the scope of work as described in the preceding section for the Not-to-Exceed Amount of \$14,300.00 and the Town Comptroller is authorized to transfer \$14,300.00 from Sewer Fund- Fund Balance into Cost Code YS.1440.490 Professional Services.

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

AUTHORIZE SEWER PETITION FOR A COUNTY-OWNED PARCEL TO BE ADDED TO THE PEEKSKILL SANITARY SEWER DISTRICT - LOCATION: 3840 CROMPOND ROAD RESOLUTION #372

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

WHEREAS:

1. The Town received a request from the Westchester County Department of Environmental Facilities to connect a County-owned parcel located at 3840 Crompond Road to Town sewer. The County operates a maintenance garage at the subject site. The only wastewater generated is from floor drains and a bathroom in the building, which is currently served by a subsurface sewage disposal system, i.e. septic system. The current system is very old and in failing condition.
2. According to the Engineering report prepared for the County, there will be a maximum sewer use of 400 gallons per day from this site. Although the Hunterbrook PS is currently operating close to full capacity, this amount of wastewater flow is minimal and will not have any impact on current pump station operation.
3. The Town sewer in this area runs along the south side of Route 202/Crompond Road and is a low-pressure sewer pipe, meaning all connections to the sewer main line must be via pumped systems. Wastewater flow from the Route 202/Crompond Road area is conveyed to the Hunterbrook Pump Station, where it is then pumped via a force main to County trunk lines and treated at the County-owned Peekskill Wastewater Treatment Plant.
4. All costs and expenses associated with the construction of the new low-pressure sewer line shall be at the sole responsibility of the County. This includes the need for micro-tunneling to bring the sewer line under Route 202/Crompond Road as will be required for a NYSDOT road crossing.
5. In support of their application to the Town, the County submitted the following documents:
  - A sewer map showing the proposed parcel being added to the Town sewer district. See Attachment #1.
  - A petition for the proposed addition of the subject parcel to the Peekskill Sanitary Sewer District and to the Hunterbrook Sewer District. See Attachment #2.
  - A draft Intermunicipal Agreement (IMA) to allow for the Town to collect the equivalent amount of sewer taxes as the County would be tax-exempt otherwise. See Attachment #3.
6. The Town Engineer has reviewed the submitted documentation and discussed with the Town

Attorney and Assessor. We recommend the Board allow inclusion of this parcel into the Peekskill Sanitary Sewer District, subject to the terms and conditions as stated in the IMA.

NOW, THEREFORE BE IT RESOLVED, that the Town Board does hereby request that the County of Westchester incorporate the land listed below into the Peekskill Sanitary Sewer District.

County of Westchester                      3840 Crompond Road                      25.20-1-11

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

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT WITH H2M ARCHITECTS AND ENGINEERS TO CONDUCT THE ANNUAL INSPECTION OF THE FRENCH HILL 3.0MG GROUND STAGE TANK  
RESOLUTION #373

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

IT IS HEREBY RESOLVED that the Town Board authorizes the Supervisor to sign an Agreement with H2M Architects and Engineers to conduct the annual inspection of the French Hill 3.0MG ground stage tank. The inspection is to be completed within three weeks after receipt of the signed agreement and the cost for the services is \$2,500.00.

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

AUTHORIZE SUPERVISOR TO ENTER INTO A SETTLEMENT AGREEMENT REGARDING YORKTOWN GARDEN SUPPLY AND G.A.H. BUILDING CORP.  
RESOLUTION #374

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

WHEREAS, an Action in New York Supreme Court Westchester County, under Index # 58595/2019, has been commenced by the Plaintiff/Petitioners, GEORGE HIRSCH, FRANCINE HIRSCH, GEORGE HIRSCH and FRANCINE HIRSCH d/b/a YORKTOWN GARDEN SUPPLY and G.A.H. BUILDING CORP, as against the Defendant/Respondent the Town of Yorktown,

WHEREAS, the Town of Yorktown had commenced a Code Violation proceeding against the Petitioners/Plaintiff for “enlarging, increasing and extending a non-conforming use business to occupy a greater amount of land in violation of Section 200 subdivision 171 of the Town Code of the Town of Yorktown,

WHEREAS, the Plaintiff/Petitioners have brought this proceeding seeking a Preliminary Junction pursuant to CPLR sections 6301 and 6311 enjoining and restraining the Defendants/Respondents from continuing the aforementioned Code Violation Proceeding,

WHEREAS, the Town Board has reviewed all of the facts and circumstances of the aforementioned actions, and a determination being made that it is in the best interest of the Town of Yorktown to settle this matter and avoid prolonged costly litigation,

WHEREAS, the Town Board has negotiated a proposed settlement agreement with Plaintiff/Petitioners, that provides as follows:

(a) Plaintiff/Petitioners will install a 2' 6" foot fence (or higher, in accordance with the Yorktown Code) in the front yard of the Two family Residence on the premises, so as to cause a separation/barrier between the driveway of Yorktown Garden Supply and the area where, currently, a play set is located in front of said Residence. Said fence shall be set back 10'-15'feet off the existing driveway and also placed in front of the existing bushes to the walkway;

(b) Plaintiff/Petitioners will install a 6 foot fence along the North Side of the premises (if facing the premises from Gomer Street, the north side is to your right) starting 123 feet from Gomer Street to the North West Corner of the existing yard. Said fence shall be maintained by Plaintiff/Petitioners and any subsequent purchaser of the premises. Said Fence shall be installed

by December 1, 2019. For the west boundary, if there is to be no proposed screening, there should be a note that the sloped area should be left in a natural state and no trees removed unless dead, dying, diseased or pose a threat to life and property. On the South side of the premises (if facing the property from Gomer Street, to the left side of the premises) starting 61 feet from Gomer Street to the South West Corner of the existing yard, Hirsch will place on top of the concrete block a 4 foot fence, and any part not on the block shall be 6 foot. Said fence shall be maintained by Plaintiff/Petitioners and any subsequent purchaser of the premises. Said Fence shall be installed by December 1, 2019.

(c) Yorktown Garden Supply Vehicles are allowed to be parked overnight at the premises. If a Yorktown Garden Supply Truck is inoperable and/or under repair, it is understood that Plaintiff/Petitioners may reasonably substitute truck(s) from its other companies (i.e. Michael's Paving), relatives or rental company until such time that the repairs are made to make said Yorktown Garden Supply truck(s) operable; Hirsch shall use reasonable due diligence to get its truck(s) repaired and operable under said circumstance. Plaintiff/Petitioners may allow family member(s) to park its vehicles overnight, not to exceed two - three trucks and two trailers, and the Tenants of the Two family Residence may park their vehicles on the premises. Additionally, it is understood that 5 times a year a Tractor-trailer truck comes from Canada, and said truck may park at the premises overnight, in order to unload during business hours in the morning, however said truck will not "idle" its motor overnight (no proof that this has been done in the past).

(d) The parties will file a joint Stipulation of Discontinuance (with prejudice) in the Supreme Court action as they have reached a full and final settlement of said action. In the Town Court action/proceeding (Information dated November 27, 2018) before the Yorktown Justice Court, said proceeding shall be dismissed and sealed, all upon receipt of So-Ordered Copy of this Agreement.

(e) A "Site Plan" (drawn to scale with layout of materials/supplies, storage bins, buildings, drives, and parking areas, including fencing dimensions and proposed screening on North and South sides as set forth herein) for the premises is to be completed by January 30, 2020", and shall be made a part of the So-Ordered Agreement, and shall be placed on file with the Town of Yorktown as the agreed upon Site Plan for the premises, and all parties are bound by said Site Plan as part of the So-Ordered Agreement. The terms of this Agreement and the Site Plan shall be interpreted together. Hours of Operation shall be placed on the Plan. Fencing shall be maintained in reasonable condition or replaced if rotted.

IT IS HEREBY RESOLVED, the Supervisor is authorized to execute and sign a Stipulation of Settlement with the aforementioned Petitioners/Plaintiffs.

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

ADJOURN MEETING

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

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DIANA L. QUAIST, TOWN CLERK  
TOWN OF YORKTOWN  
CERTIFIED MUNICIPAL CLERK