

Meeting of the Town Board, Town of Yorktown held on Tuesday, January 14, 2020 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Matthew J. Slater, Supervisor
Vishnu V. Patel, Councilman
Thomas P. Diana, Deputy Supervisor
Edward Lachterman, Councilman

Absent: Alice E. Roker, Councilwoman

Also Present: Maura Weissleder, Deputy Town Clerk
Adam Rodriguez, Interim Town Attorney

TOWN BOARD MEETING

Supervisor Matthew Slater called the meeting to order.

EXECUTIVE SESSION

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

DR. MARTIN LUTHER KING JR. ESSAY CONTEST

Supervisor Slater introduced an essay contest the Town will sponsor for Dr. Martin Luther King, Jr. Day. The essay will be targeted to fourth and fifth graders and will focus on Dr. King's vision for the country and how it relates to Yorktown. The essay will be 250 words in length. The winners will be two children from each grade level and the winning essays will be posted in Town Hall, as well as read at a Town Board meeting.

WINERY AT ST. GEORGE

Michael Grace, attorney and John DiChiaro, owner, came before the Board to discuss their plans to erect a sign at The Winery at St. George. A sign was not part of the original site plan and they are now looking to erect one on the patio on the property because it is the only location visible from both east and west. Mr. Grace said the Town Board had received a previous submission of the plans and since the winery is in a transitional zone, the site plan approval lies with the Town Board.

Director of Planning John Tegeder said that an ABACA referral would be a good idea. He also agreed with Mr. Grace's statement of the sign being within the Town Board's control.

Councilman Lachterman asked if there would be lighting on the sign and Mr. DiChiaro said there are no plans yet. Mr. Tegeder said if they decide upon lighting, it should up "uplit" from the ground. Councilman Patel asked if there would be any obstructions from entering and exiting property and Mr. Tegeder responded that according to the plans there would be none.

Mr. Grace said he will try to get on ABACA's agenda as soon as possible. Mr. Tegeder said he will check to see if this is considered an amended site plan (Mr. Grace does not think this qualifies as such). The Town Board issued a referral for the signage and directed Mr. Grace and Mr. DiChiaro to appear at the next meeting of ABACA for their input and then return to the Town Board.

REFERRAL OF THE WINERY AT ST. GEORGE REQUEST FOR SIGNAGE TO APPROPRIATE AGENCIES RESOLUTION #25

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

Resolved, the Town Clerk is authorized to refer to the appropriate agencies the signage application made by The Winery at St. George.

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

BATTERY STORAGE – PROPOSED LOCAL LAW

Director of Planning John Tegeder said the majority of concern regarding the proposed local law was allowing these facilities in residential zones and the visibility of them in neighborhoods. Tier 3 of the law would be for the larger facilities and Mr. Tegeder said the Board could ban them from residential zones altogether or restrict them to a particular size zoned property – 2 acre, 4 acre, etc. The law could also be written to restrict the facilities to a minimum lot size instead of a zone – this would allow in them in residential zones but only on a certain sized lot. You could strengthen the law in terms of four-season screening requirements (to shield the view from neighbors and/or the street). This could prohibit the installations from locations such as steep slopes or hillsides.

Councilman Diana asked how common is the look of the facility currently located at BJ's Wholesale Club? Is this what a Tier 3 installation would look like? Mr. Tegeder said the BJ's facility is a little small and the design of the cabinet is a littler sleeker than the typical Tier 3 installations, which are the size of a shipping container. He said the bigger the unit, the more cost effective they are. Utility installations are available in that area because they benefit the residents in the area. The electricity stored will be used for the residents in the area. If you prohibit the facilities in large areas of town, you may not be benefiting residents in those areas during high usage or brown outs. Mr. Tegeder also mentioned that these facilities have to be in proximity of certain types of power lines.

Councilman Patel asked if there is interference between the commercial owner and the residential owner and Mr. Tegeder said no - excess electricity will always go into the grid, regardless of whether it is a commercial or residential owner.

Mr. Tegeder said he feels that the installations (particularly by homeowners) will be controlled by the utility companies like Con Edison. Right now they are looking for these installations since power supply has been an issue.

Supervisor Slater asked Mr. Tegeder to work with the town attorney on amendments. He will have choices and amendments ready for the next work session.

Councilman Diana said a minimum of 2 acres is a must.

Supervisor Slater stated that there should be screening mandates and language added to the proposed law regarding slopes and parkland.

Mr. Tegeder said he will get a sense of the size required per unit for a better understanding of how much land is needed to do what they need to do.

Councilman Diana asked if these installations will change site plans and Mr. Tegeder said yes, particularly when it comes to Tier 3 and required require site plan approval will put them before the Planning Board.

Councilman Patel asked who will do the final inspection and Mr. Tegeder replied the Building Department and/or Fire Code Inspector.

THE WEYANT

Mr. Kyle DeVito, developer, came before the Board to say nothing is changing with the plan itself; however, they are seeking a change to the wording of the final resolution to include the option to rent or sell the individual units so they may continue to go through the State Attorney General's process for developing a Homeowners Association.

Supervisor Slater asked if they have had interest to buy units and Mr. DeVito said yes, particularly from seniors.

Councilman Lachterman said that this was stressed by the seniors – they would prefer to have ownership when downsizing, as opposed to renting.

Supervisor Slater said this seems to be more of a formality. He said the Planning Board was heavily involved with this project and he would like them to take a look at this first.

Director of Planning John Tegeder said any purchased units would be taxed at the rate of condominiums. He said that, for instance, the DeVito Company may own the majority of the purchased units, sell a certain amount and rent the rest so they retain the majority of ownership in the HOA.

Supervisor Slater said that when a resolution is done, the Town Board should have a copy of the proposed HOA documents so that there is no contradiction to the original resolution. He requested that The Weyant be placed on the next Planning Board meeting agenda.

CENSUS 2020

Mrs. Robyn Steinberg, Planning Department, gave an overview of the upcoming census. The county has created its own Complete Count Committee, and they are coming out in force this year due to the response to the 2010 census – Yorktown had an area of town that was considered one of the highest undercounted areas in the county. Ms. Steinberg discussed the importance of the census to our funding, sales taxation, grant money, state money, etc. The Yorktown Census Committee's role is to educate the public on the census, what kinds of questions will be asked, why it is okay to answer them, etc.

Supervisor Slater stated the area that was undercounted in the last census was on the north side (Jefferson Valley North).

Ms. Steinberg said the Committee will plan public information sessions utilizing the libraries, senior centers, housing developments. She mentioned that this will be the first census the public can respond to online. Their first meeting has been tentatively set for January 29.

Councilman Diana asked if there is any information on becoming a census taker and Ms. Steinberg said that yes, a recruiter will be coming to their first meeting and information will be handed out at that time (she gave a sample handout to the Board).

Ms. Steinberg said residents will get a packet in the mail mid-March with a code to go online, then a reminder, and eventually someone will knock on your door. The census will go through July.

A discussion took place of the various activities and services available to help residents complete the census.

Anyone interested in becoming a member of the committee, should contact Supervisor Slater or Ms. Steinberg.

Director of Planning John Tegeder reminded everyone that CDBG funding is based on this information.

HALLOCKS MILL SEWER EXTENSION PETITION

Michael Quinn, Town Engineer, said the results of the petition have been posted. Three hundred eighteen petitions were sent, 225 responded which is a 70% response. Of the 70%, 88% said yes and 12% said no. The way the New York State Comptroller's Office considers a petition to pass, it is based on assessed value and given that, the Town is well over the 50% required. This was also reviewed with the Town's bond counsel. Two steps need to be done to move things forward: 1) certify the results with Town Clerk for the Town Board meeting; and 2) have a resolution done by the Town Board authorizing the project. Numbers need to be plugged in for this resolution to be done, i.e., the cost of the project and how much we are borrowing. According to his study documents, this will be a \$14.3 million project with a \$10 million preliminary commitment from the Westchester County and NYC DEP. The second part is about how much we are borrowing. We need to meet with the Comptroller regarding how much we want to borrow; she will have to account for this in the tax cap calculation. This is being worked on behind the scenes right now. Mr. Quinn said he hopes to come back to the Board in the near future in order to move the project forward.

Councilman Lachterman asked if the County is aware of the results and our interest in moving forward and Mr. Quinn said yes, he has been working with the County Planning Department. The County sent a representative to some of the Town's informational hearings and he has been working with them.

Mr. Quinn said we really need to get them to work towards getting the IMA to get the \$10 million moving in our direction. He said he would like to see that agreement get done, confirm what our borrowing amount will be and get these numbers into the Town Board resolution. Essentially, it will be a \$10 million grant, and we will borrow \$4.3 million. Once this is done, we can meet with the Environmental Facilities Corporation (EFC) and see what funding they might make available to us. He met with them a year ago and he said he knows they want to help us with the financing part and want to take part in our bonding. We will probably be able to save on some administrative fees and maybe get a better rate by working with them. There may also be the possibility of a grant opportunity (typically a 25% match). They will not consider our application without the Town Board resolutions.

Supervisor Slater said the resolutions are contingent upon one thing and that is the County and he then asked Mr. Quinn for their status. Mr. Quinn said now that the Town is ready to move forward, the County has pushed back a little bit. They raised some concerns about the cost for the connections. If you have a gravity sewer, the estimate is \$3,500 to \$5,500. If you have to put in the pump system, the cost jumps up to \$15,000. The County has expressed a concern that this is a significant cost.

Supervisor Slater asked when did the county first express this concern and Mr. Quinn said last summer and we were handling this concern in two ways. The county has excess funds available and they were interested in using some of these funds to help people who need to do major repairs on septic, and were looking to open these funds up to people wanting to connect to a town sewer. This program is still in the discussion stage.

Supervisor Slater said we still do not know how much we will have to borrow at this point in time and the number that was put out for the petition may not be accurate. Mr. Quinn said that if we cannot apply the entire \$10 million to the \$14.3 million project cost, this is correct. He said that a new petition would have to be done if the money changes. Supervisor Slater stated that this would be our third petition in about three years.

Mr. Quinn said that when we originally did the petition we did not know the level of interest and, luckily, everyone has a strong interest (as a 70% funded project).

Supervisor Slater said his concern is that this interest was generated based on the \$10 million coming from the County, which we are being pushed back on.

Councilman Lachterman said it is frustrating because we spoke about this last year and that the County is not going to want to let go of the money.

Supervisor Slater asked Mr. Quinn what are the Town's options. Mr. Quinn said that of the 315 parcels, 100 will need a pump system (approximately one-third) facing a potential \$15,000 cost. The Town could take \$1 million out of the \$10 million and apply it to lowering the cost. Supervisor Slater pointed out that this changes our borrowing and, in turn, changes the petitions. Mr. Quinn said the petition stated that the payback would be \$750 per parcel per year for 30 years.

Councilman Diana asked if residents were aware of which system they would need – a pump system or gravity system? Mr. Quinn said people who were petitioned were aware if they needed a gravity or a pump system. Historically, there is no obligation for a resident to connect once the Town puts the sewers in the street. The County is worried they will contribute to the project and people will not connect to it because of the cost of the pumps.

Supervisor Slater asked where the Town stands with the County on this project right now. He said that he and Mr. Quinn were at the East of Hudson meeting last week where they met with one of their planners who raised the issue with Supervisor Slater. Mr. Quinn said when the \$10 million was initially allocated to the Town, it was allocated by a group of towns under the Northern Westchester Watershed Committee that authorized Yorktown to receive the money. We then worked with the DEP to get their blessing on our project. The project we originally talked to the DEP about was a \$20 million project. The numbers associated with the \$20 million project were overboard and so they ended up putting together the \$14.3 million project. Mr. Quinn said he is meeting with DEP tomorrow to ask them for their re-approval of our current project. The DEP put the funds aside, and then all new players came in to county positions

after the change in administration. The Town was executing an IMA with the prior administration on the prior project (\$20 million). The DEP likes the project and he believes it will be reapproved and then he will go to the County for their approval.

Councilman Lachterman said although he agrees with what the County is saying, he feels the County is being disingenuous about giving the green light and then telling us their concerns about the pumps after the petition process. He said that if this is the case, the \$10 million should be upped to \$11 million if they are that adamant.

Councilman Patel suggested getting in contact with former County Legislator Michael Kaplowitz in his new County position as Deputy Commissioner of the Department of Environmental Facilities.

Mr. Quinn said Yorktown needs to use the money because we are holding up another funding opportunity further funding for other communities in northern Westchester.

Mr. Quinn said all of the documents have been sent to the DEP and thought it would help if he and the supervisor had a meeting with them to walk them through the project. He hopes to get their approval within a week or so. Supervisor Slater said that we can then use the DEP approval as a wedge to get the County to acquiesce on the \$10 million and whatever concerns they have. Mr. Quinn said that if the County wants to give us the \$10 million and the last \$1 million has conditions on it, he would like them to write that out so we can plan accordingly. He said that right now our \$14.3 million is a budgeted cost with many contingencies, so if we have to do a few maneuvers to satisfy the County's concerns, this does not necessarily kill the project – we will just have to review where we stand. Supervisor Slater said that the “maneuvering” has to stay within the \$14.3 million budget because otherwise we would have to do another petition. Mr. Quinn agreed or the Town would have to find another \$1 million.

Councilman Diana stated how frustrating this is to come up at the “eleventh hour.” He said that we have a consensus of people who say they want this and understand the financial requirements.

Councilman Lachterman suggested that maybe a separate grant could be applied for to account for the \$1 million to offset the purchase of pump system.

Supervisor Slater stated that he wants to see the \$14.3 million project cost stay intact to avoid a new petition.

Mr. Quinn said he is working on an RFP for an engineer to move forward with the project.

Supervisor Slater said the resolution to certify the results of the petition next Tuesday and the following Tuesday Mr. Quinn will provide a new update.

PAR 3 GOLF COURSE

Parks and Recreation Superintendent Jim Martorano and Parks and Recreation Commissioner Joe Falcone came before the Board to give an update on Par 3 Golf Course at Valley Fields. Mr. Martorano said that this will be a state of the art facility; it will be handicapped accessible and open to all ages. He said that Arnold Palmer Designs is coming in February to finish what has already been started. The stripping plans have begun and they are moving onto the grading and drainage plans for the course. Mr. Martorano said that the first hole will be the first ready hole and will be ready as of June 1 and will be more of a driving range. The building and facility will also open June 1. The full course will need to rest through the summer and will not be open until the fall. Mitigation of 100 trees will be planted and Mr. Martorano presented the Board with the plans for where each tree will be planted.

Councilman Diana said he is glad to see the update and the planting of trees because of the upset it caused among residents. He said the building looks great and is sure it will be another premiere sports facility in Yorktown.

Commissioner Joe Falcone said that in order to maintain a golf course you need to have the right people and those who are working on this are top notch.

Superintendent Martorano said he is so happy to have this golf course come back because many people have memories of the original course. More information and discussion took place about the facility and services available.

LEGALITY OF APPOINTMENTS

Adam Rodriguez, interim Town Attorney, was tasked with this topic at the last Town Board meeting. He requested to enter executive session.

EXECUTIVE SESSION

Upon motion made by Councilman Lachterman, seconded by Councilman Patel, the Town Board moved into Executive Session to discuss the legality of an appointment of a particular individual. Upon motion made by Councilman Lachterman, seconded the Councilman Patel, the Town Board moved out of Executive Session and proceeded with the meeting.

Supervisor Slater said that it is the Interim Town Attorney Adam Rodriguez's opinion that the appointment of Diana Quast to the Parks and Recreation Commission is invalid because officials and boards may not make appointments for vacancies that occur past their terms of office. He asked Mr. Rodriguez to provide explanation to that effect.

Mr. Rodriguez restated the above and said it was meant to prevent lame duck type scenarios from binding their successors without the authority to do so. He said that in Mrs. Quast's case the vacancy arose on January 1, 2020 but the terms of office of former Supervisor Gilbert ended on December 31, 2019.

Councilman Lachterman said he has an issue with elected officials being on boards and commissions and that one or two other appointments may be affected by this situation. This gives us an opportunity to discuss the issue of elected officials sitting on boards.

Supervisor Slater said these are two separate issues: proper appointment vs. elected officials sitting on boards. No action will be taken tonight since Councilwoman Roker is absent and she wishes to be a part of this conversation. This gives the Board an opportunity to look at all charters of commissions and update them.

Councilman Lachterman said there is a third issue: the duties of some of our commissions and boards are not outlined sufficiently. There is an amount of ambiguity as to the responsibilities of the members.

Supervisor Slater said he is not opposed to establishing a review committee to look into all of these issues. It should be looked at holistically since all of the boards play a pivotal role in local government. Supervisor Slater asked the Clerk's office for a list of reappointment and expirations set to expire on December 31, 2019.

APPROVE CONFERENCE ATTENDANCE – NEW YORK STATE ASSOCIATION OF TOWNS NEWLY ELECTED OFFICIALS ANNUAL CONFERENCE AND TRAINING MEETING

RESOLUTION #26

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

Be It Resolved that Supervisor Matthew J. Slater has permission to attend the 2020 New York State Newly Elected Officials Association Annual Conference and Training Meeting to be held in Albany from January 15-17, 2020.

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

ADJOURN MEETING

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

MAURA WEISSLEDER, DEPUTYTOWN CLERK
TOWN OF YORKTOWN