

Meeting of the Town Board, Town of Yorktown held on November 1, 2016 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Michael J. Grace, Supervisor
Vishnu V. Patel, Councilman
Gregory M. Bernard, Councilman
Thomas P. Diana, Councilman
Edward Lachterman, Councilman

Also Present: Diana L. Quast, Town Clerk
Michael McDermott, Town Attorney

TOWN BOARD MEETING

Supervisor Michael Grace called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Bernard, seconded by Councilman Lachterman, the Town Board moved into Executive Session to discuss the employment of particular persons. Upon motion made by Councilman Patel, seconded by Councilman Diana, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Grace led the salute to the American Flag.

MOMENT OF SILENCE

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

DURING REPORTS FROM THE TOWN SUPERVISOR, Michael Grace, reminded everyone that there would not be a Town Board meeting the following week due to General Election Day, November 8, and urged all to get out and vote.

DURING REPORTS FROM TOWN COUNCIL, Councilman Diana presented veteran recipients of Purple Hearts with “Combat Wounded” Reserved Parking Signs; one to be placed at the YCCC, one to be placed at Town Hall, one at the John C. Hart Memorial Library, and one at the Police Department. Councilman Diana is hoping that local businesses may want to get on board and adopt these signs, as well, as a courtesy that is extended by the people of Yorktown to wounded veterans. The veterans thanked the Town and the Town Board.

Councilman Patel congratulated the Yorktown High School valedictorian, and thanked various civic groups regarding environmental issues.

Councilman Lachterman mentioned a letter from Love Holds Life, a pediatric cancer foundation, thanking the Town for hosting the Feast of San Gennaro Festival and their contribution to the foundation. He also spoke about remarks he received from some of the feast’s vendors in appreciation for the event. Councilman Lachterman also wanted to remind everyone that on November 18th the Yorktown Lions will be holding a fundraising dinner with the American Legion, proceeds to go to service men and women overseas.

Councilman Bernard mentioned that on Sunday, November 13th, is the Veterans Parade in Shrub Oak, followed by a ceremony at the library.

Supervisor Grace mentioned that the budget was presented the previous Friday and that hearings will be held on the 9th and 10th of November. He thanked the Comptroller’s Office for working with him on the budget. Supervisor Grace thanked the Department Heads, as well as all staff, for their hard work. He feels that many improvements have been made without raising taxes.

Councilman Patel asks for the public to attend the budget hearing.

PINESBRIDGE MONUMENT COMMITTEE PRESENTATION

Michael Kahn of the Pinesbridge Monument Committee recapped the effort to bring the monument to fruition. The San Gennaro Feast provided the effort with a very generous donation and wanted to thank two members of the San Gennaro Committee, Tony Grasso and Tom Pomposello, with a citation of appreciation on behalf of the Battle of Pinesbridge Monument Committee and the Yorktown Historical Society.

Mr. Grasso spoke to the fact that the monument is really about our first veterans. He also asked that people consider making a donation to the committee.

Supervisor Grace thanked all those involved.

Mr. Pomposello also thanked those involved who assisted him in planning the festival.

APPOINTMENT – NICHOLAS J. DeVITO, ROAD MAINTENANCE FOREMAN – HIGHWAY DEPARTMENT

RESOLUTION #486

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

BE IT RESOLVED, that Nicholas J. DeVito is hereby promoted to Road Maintenance Foreman, job code # 0435-02 within the Highway Department effective November 7, 2016 to be paid from Yorktown CSEA Salary Grade 14, Step 1 which is \$62,364.00 annually, and 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 November 7, 2016.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

APPOINTMENT – SCOTT MILLS, ROAD MAINTENANCE FOREMAN – HIGHWAY DEPARTMENT

RESOLUTION #487

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

BE IT RESOLVED, that Scott Mills is hereby promoted to Road Maintenance Foreman, job code # 0435-02 within the Highway Department effective November 7, 2016 to be paid from Yorktown CSEA Salary Grade 14, Step 4 which is \$70,361.00 annually, and 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 November 7, 2016.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

Both appointees thanked the Board and Dave Paganelli for the opportunity to work in these new positions.

PUBLIC HEARING - REZONING – MOHEGAN AUTO & TIRE CENTER (A/K/A HILLTOP SERVICE STATION)

Supervisor Michael Grace convened a public hearing to consider the Rezoning Petition request from Mohegan Auto & Tire Center, Inc. in connection with property known on the Yorktown Tax Rolls as Section 15.12, Parcel 2, lot 8, located at 1581 East Main Street, Shrub Oak, NY 10588 seeking a zoning map amendment from R1-20 to Transitional Zone and a Wetland Permit. Affidavits of Posting and Publication were presented by the Town Clerk.

Mr. Joseph Riina, engineer, Site Design Consultants representing Mr. Hamed, the property owner, spoke before the Town Board. The overall parcel is .61 acres, approximately 27,000 square feet and is divided into two parcels: one parcel is currently a transitional zone parcel;

the smaller parcel contains the main building and pumps and is currently zoned R1-20 (single family residential zone). In 2001 the parking area was added which fronts Route 6 and is in the transitional zone. Mr. Hamed wanted to clean up the site and make improvements but was unaware of having to obtain site plan amendment approval. This is the reason for them coming before the Town Board at this time in order to rectify the situation. He is asking to include the R1-20 parcel into the transitional zone. They are requesting the zone change and site plan approval to have used car sales in the rear parking area, add a canopy cover over the gas pumps, new signage, and a monument wall at the corner of Route 6 and Strawberry Road. The main function of the site, a service station and dispensing of gas, is in an R1-20 zone which is not compatible or practical for its use. It would provide a consistency for the site to obtain the zone change. Mr. Hamed stated that the used car sales would be understated with no intention of having banners, large signs, or flags. A majority of his sales are online and through advertisement and understands keeping it “toned down.” Mr. Hamed is proposing a 20 foot by 24 foot single stanchion canopy and will cover the gas pumps. It will be a formed stucco fascia, similar to the building, and matching the color of the building. It will have downward lighting. The two existing original signs will be refurbished. The banners on the building will be replaced with permanent signs. A proposed masonry (brick or stone) monument wall (at the request of ABACA) will be placed at the intersection of Route 6 and Strawberry Road. The sign will be a “Welcome to Shrub Oak” sign, with and LED light. Mr. Riina also spoke about the installation of a picket-style rail type fence and shrubbery to improve the aesthetics of the property. The intersection of East Main Street and Strawberry will have an island planted with shrubbery. Mr. Riina, on behalf of Mr. Hamed, presented the Board with a letter and signatures in support of Mr. Hamed’s project. Councilman Bernard presented a memo from the Town Engineer with compliances he feels need to be made. Mr. Riina also mentioned that they did supply a Wetlands Permit.

Planning Director, John Tegeder, stated that the Planning Department did initially have some comments and has scheduled a site visit in the upcoming week. Supervisor Grace said that the intent will be to adjourn the hearing this evening since there are no final approvals. The Planning Department would like to work a little more closely on this since there seems to be an issue with the signage – there is a lot of signage in that area. He also said that the choice of barberry as the shrubbery is not the best choice – it is an invasive species and slow growing and will not provide a lot of screening. Supervisor Grace said the Town Board will need to see some architectural drawings on the monument sign and the free standing signs. The monument sign will act as a gateway sign to the community so it needs to be done correctly.

Councilman Patel brought up the issue of sidewalks and asked Mr. Tegeder to take a look at the area.

Supervisor Grace stated that he had many letters of support for Mr. Hamed’s plans.

The following members of the public spoke:

Mr. Jim Heller, resident, objected that the applicant did not post the signs in a timely enough manner, although he did mail out his notifications. Mr. Heller stated that the Planning Board said in a memo to the Town Board that they see no justification for this change of zone, further stating that the property calls for more landscaping to maintain the Route 6 green corridor. The Town’s Comprehensive Plans calls for a densely landscaped buffer between any business and Route 6. He wants to know why the Board doesn’t insist on the applicant to restore the thick vegetation that had existed on the property, as well as the 8 foot fence. Mr. Heller feels this application is an attempt to “spot zone” in order to help one individual destroy the beauty of Shrub Oak with a used car lot and will be a detriment to taxpayers.

Mr. Jay Kopstein, resident, stated that he is opposed to the rezoning application. He felt that the applicant removed vegetation and fencing which he wasn’t allowed to do and, after being told to stop, continued to do so. He felt that Mr. Hamed has repeatedly gone against what he was told by the Town not to do, i.e., vegetation and fencing removal, the sale of used cars, the hanging of banners and signage. Mr. Kopstein said that this was all done with complete disregard of the Town Code. He feels that no change should be considered until reparation has been made.

Ms. Juanita Marie, resident, spoke about the traffic that she feels will be generated by the gas station at an intersection that is already a dangerous area. She also mentioned some buildings that were already eyesores in the area and feels that this will not help. Ms. Marie also feels that residents of Shrub Oak are “boxed in” by the traffic situation in the area and mentioned the Stoney Street/pipeline area.

Mr. Ryan Dee, resident, spoke about the fact that the previous owner in that location did the same business the new owner wants to do without the approval process, in an environmentally negative manner. Vehicles were towed and placed behind the fencing and were allowed to leak fluids into the wetlands area. He feels that the applicant has tried to clean up the property and should not be penalized for not knowing what the code stated. He feels that this is a big improvement over what had been there. Since the previous owner also had a dealer’s license, he doesn’t understand what the problem is in letting Mr. Hamed sell used cars. Mr. Dee stated that one of the reasons he opened his business in Peekskill and not Yorktown is because they are more business friendly. Supervisor Grace said he would address the alleged violations of the previous owner.

Mrs. Susan Siegel, resident, stated that the issue of the code violation of the tree cutting Mr. Hamed did on the property is valid according to the site plan, which she presented. She also stated that according to the tree ordinance in effect at the time, he also should have applied for a permit. Mrs. Siegel quoted from the Comprehensive Plan where it talks about maintaining that area as a residential area and maintaining green corridors. She also stated non-conforming uses are tolerated but should not be allowed to expand. The environmental impact statement says that it is compatible with the Comprehensive Plan and consistent with residential uses when it is apparently not. The EIS also states there will be no impact on traffic, however, no traffic study was done. Transitional zone is special treatment and the town code is very specific about what qualifies – this project does not fall under these qualifications. She proceeded to quote from the town code and gave examples as how this project does not qualify for transitional zone and doesn’t even meet certain basic criteria. Mrs. Siegel also asked how can the Town believe an applicant who has made promises in the past which were not kept? How does the Town know that the business will be low key and kept toned down?

Supervisor Grace cautioned Mrs. Siegel regarding the accusation of violations against the applicant when there were no violations brought against him.

Mr. Ed Ciffone, resident, began to read from a newspaper article which Supervisor Grace objected to. He asked that Mr. Ciffone please speak to the land use application and not character assassinations. Mr. Ciffone stated that he is very much against spot zoning and this application. He also asked if the canopy would be safe and structurally sound.

Supervisor Grace stated he was tired of accusations and discussions regarding alleged violations by this applicant. The Town Board has gathered to hear a rezoning application, not accusations or character assassinations.

Mr. Ciffone continued to address the reasons why he is against this application.

Mr. Scala, resident, spoke about how there are gas stations in the same area doing the same thing that the applicant wants to do, so it deserves the Board’s consideration and he supports it.

Mr. Dan Strauss, resident, stated that this project was all wrong from the beginning. As far as he is concerned, the applicant did things that were not appropriate and the Town Board was upset by that and could have squashed things if they had wanted. Mr. Strauss said that three times the Town Board asked Mr. Hamed to address a swale situation and yet there has been no addressing this issue. Mr. Strauss feels that the applicant should not be given what he is asking for given his past dealings with the Board on this project.

Mr. Sciarra, contractor for the project, spoke to the fact that Mr. Hamed just wanted to make his gas station more visible by cutting down trees on his property. The Building Department never gave them a violation and doesn’t know what everyone is talking about. He said that they would have taken the violation when Mr. Dubovsky went out to inspect. He also spoke

to the character of Mr. Hamed and how he is trying to do the right thing – the business already exists and he is just attempting to improve it.

Ms. Geri Schwalb, resident, asked if this was an existing business and was told that, yes, it was. She asked if it was legal to sell used cars there since that is what seems to be happening. Supervisor Grace mentioned that it was a gray area since it would be difficult to prosecute such a case. She asked if the zones of the adjoining areas were reviewed.

Mrs. Siegel quoted from the minutes of April 17, 2001, item no. 11, “there shall be no commercial sale of vehicles from the site” and said this is not a gray area.

Ms. Janice Turner, resident, agreed with the previous speakers who do not want the business. She asked the Board to respect the speakers who do not disagree with them, particularly the women, and the people who have spent a tremendous amount of time doing research on the issue.

Mr. Robert Puff, resident, stated that aesthetically the property is a much more welcoming business than what had been there. He feels that this is a business that is striving to thrive in a time when small businesses are being pushed out and that he should be welcomed and residents of Shrub Oak should give him their patronage. Mr. Puff stated that we need to base decisions on 2016-17 situations and not from decades ago since business is changing.

Mr. Anthony Grasso, resident, said that he has a problem with the barberry bushes and that they should be changed to evergreens. He also feels the Town Board needs to respect that places like Shrub Oak are gateways to individual little neighborhoods and is opposed to used car lots. He thinks the gas station or a convenience store is fine but a used car lot is not and urges the Board to listen to those who have spoken.

Mr. Hamed, the applicant, first thanked the Board for their patience. He said that he originally purchased the property with the intent to create a modern business. He said that the tree cutting which everyone was having an issue with, began with him looking down the swale area and seeing broken headlights, garbage, fast food containers, etc. and wanting to clean it up. He replaced the gas tanks with state-of-the-art tanks that are environmentally safe. Mr. Hamed said he doesn't really understand how much of a difference selling used cars is from servicing cars – cars will always be present.

Supervisor Grace stated that he did not intend to be rude but will not tolerate inappropriate prosecution and exact punitive measures on allegations or character. He stated that his is why there is due process in laws and separation of powers. The swale is actually Department of Transportation property and not the applicant's responsibility even though he did clean it up. He stated that he imagined that when the transitional zone was done for Hilltop Gas Station and the wreckage yard is when the prohibition of the sale of used cars was added. But transition zoning itself, per se, doesn't prohibit used cars sales. Councilman Bernard mentioned that we just passed a local law that we can review site plans so that we don't have to take someone at their word that they are conforming to a site plan without having to apply for an amendment. He stated that to say we “shouldn't do this because he did that” doesn't make sense. The site should be developed – this isn't the final plan and certain things can still be changed. The Town wants to work with the applicant, which he has done. Councilman Bernard mentioned that the tendency is for people against a project to be the speakers at meetings, but there were many people who were in favor of developing this property. Councilman Diana said that he was concerned, as well, that this project be done to maintain the integrity of the main street of Shrub Oak, as it is a very quaint area. The implication that the Board doesn't listen to the residents about what they want is disturbing. He addressed some of the complaints from the previous speakers, and agreed with some. However, he feels the applicant has come full circle, made the requested changes, and now it's time to get this much needed business started. He also mentioned that the owner has also stopped a major gasoline spill on the property and into the swale that has cost him a lot of money.

All those present having been given the opportunity to be heard and there being no further discussion. Upon motion by Supervisor Grace, seconded by Councilman Bernard and carried, the hearing was adjourned.

Supervisor Grace stated that comments for the next four public hearings regarding the Affordable Housing law will be taken at the same time.

Supervisor Grace explained that there was a proposed local law to repeal Chapter 102 now presently in place in the Town of Yorktown; a mandatory or inclusionary zoning law that mandated in order for a developer to exercise his “as of right” development plans he would have to offer one of a minimum of eight units as affordable housing (an “exactment”). There were additional exactments from the developer, as the number units increased. We were not the first community to adopt this law; this was a model ordinance that had been proposed by HUD. Supervisor Grace stated taking this exactment from the developer is illegal. The only time we can take a fee in lieu of the “set-aside” concerns is for recreational space. Supervisor Grace wants to repeal this since he feels it is an illegal exactment. He stated that HUD was not able to show him where this is a legal practice. After reviewing the changes with HUD and listening to the public, the Town Board has redrafted a new law to allow for density bonuses for below market rate housing units. As a result, there are three different laws that are being proposed and the fourth one is the repeal of the old section 102.

Town Attorney Michael McDermott said that it was important to note that the original action between the HUD and Westchester County, the Town of Yorktown was not one of the targeted communities in connection with the model ordinance that was enacted by the Town. The Town was not required to do that; it was done upon request. Any appeal of the model ordinance would not be in violation of any court order between the county and HUD.

Supervisor Grace said the proposed changes have been broken down to a zoning portion which deals with the calculation of the density bonus (Chapter 300, Article XXXI). Supervisor Grace thanked Ken Belfer for his comments (including environmental impacts as part of the consideration of density bonuses; study the impact on the value of existing homes).

The enactment of new Article X entitled “Yorktown Community Housing Board” has been taken out of the Zoning Chapter because it actually has to do with the administration of the Affordable Housing Program within the Town of Yorktown (including the powers of the Board, how the Board would be constituted).

The repeal of Chapter 102 and enactment of Chapter 102 is about how the below market rate housing is calculated in terms of mean income and setting the prices or rents of the below market rate housing units that may be created under density bonus (Chapter 300) and how they are administered (Article X).

Supervisor Grace stated that these needed to be separated out into separate laws.

PUBLIC HEARING TO REPEAL IN ITS ENTIRETY CHAPTER 102 ENTITLED “AFFORDABLE HOUSING”, TO REPEAL AND ENACT A NEW CHAPTER 102, TO REPEAL CHAPTER 300-39 OF THE TOWN CODE ENTITLED “AFFORDABLE HOUSING” AND ENACT A NEW CHAPTER 300 ARTICLE XXXI, TO ENACT A NEW ARTICLE X ENTITLED “YORKTOWN COMMUNITY HOUSING BOARD” OF CHAPTER 10 OF THE TOWN CODE

Supervisor Michael Grace reconvened the following public hearings with regards to Affordable Housing. To consider repealing Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING.” To repeal in its entirety Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 102 of the Code of the Town of Yorktown entitled “BELOW MARKET HOUSING INCENTIVES.”

To consider repealing Chapter 300-39 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING” and enact a new Chapter 300 Article XXX1 of the Code of the Town of Yorktown entitled “INCLUSION OF ADDITIONAL HOUSING UNITS.” And to enact a new Article X entitled “YORKTOWN COMMUNITY HOUSING BOARD” of Chapter 10 of the Code of the Town of Yorktown. Affidavits of Posting and Publication were presented by the Town Clerk.

Supervisor Grace discussed suggestions made by Ken Belfer, Yorktown Community Housing Board. These issues included but were not limited to: the Housing Board should consist of 7 members, but the Supervisor feels that is not realistic and that a quorum of three is appropriate. The Community Housing Board is advisory; it cannot contractually bind the Town. Another issue was inclusion of multi-family homes, and the inclusion of utilities.

John Tegeder, Director of Planning, addressed the two part system of density bonus. The first part is optional: the developer could opt to offer 10% of what he would get on a market rate property in terms of number of units. Example: a 20 acre piece of property in a 10 acre zone would allow a developer to build 20 units; he could offer 10% of those units as affordable or 2 units. The developer would not lose 2 market rate units in lieu of those. The developer would be allowed 22 units. In order to do that, flexibility standards or clustering would have to be authorized under another part of the code. The second part of the density bonus system is if a developer opts to provide more than 10% below market rate units. The formula would then kick up to 1.5 market rate units, density bonus, for each below market rate unit that he offers. In the same example, if the developer took one of the 22 units, multiplied by 1.5, it would be rounded to 2, now equaling 3 units. He would get 22 market rate units and 3 below market rate units totally 25 units. The example holds that flexibility and/or clustering authorization would still apply.

Supervisor Grace stated that the application would come to the Town Board and referred to the Planning Board for approval and site plan. Mr. Tegeder said it could also be the other way around, with a developer submitting an application to Planning.

Town Attorney Michael McDermott spoke about Article X where the Boards are kept in the Town Code. The Community Housing Board which is for the annual review and implementation of the administration portion of the affordable housing provisions which would be the new Chapter 102. It sets up a mechanism for a way of making sure that the implementation is accurate, complete, and thorough and there would be a reporting requirement to the Town Board, as well.

Mr. Ken Belfer, Chair of the Yorktown Community Housing Board, wanted to clarify that there were actually four public hearings open at this time, since the repeal of Chapter 102 is a reconvene and the repeal and enactment is a separate public hearing. He started with responses to issues raised: first was the repeal of Chapter 102 – their position is that there is not a legality issue regarding Chapter 102 and that it should continue as it is. Yorktown was one of the settlement communities mentioned in the HUD action with Westchester County. The original density bonus law had a number of different standards that they asked be considered when making decisions and would like to see the new Chapter 102 include some of these standards.

Multi-family housing is used to create affordable housing across the country; accessible apartments are a bonus to many homeowners in keeping the home more affordable. This is one of the reasons that the new chapter should include the language “multi-family housing.” Many of the provisions apply to rental or ownership. When a developer creates units, he is creating multi-family housing – whether it is rental or for purchase. Mr. Belfer stated that the absence of that wording implies in a couple of places that the law doesn’t apply to those situations.

The reason the Housing Board opposes the repeal of old Chapter 102 and enactment of a new Chapter 102 because it should be mandatory. Having a mandatory ball-park 10% set aside means that any development of any size would have to include affordable housing. He wanted to thank the Town Board for not just repealing Chapter 102 but their thoughtfulness in proposing and drafting a new chapter. Mr. Belfer asks that the Town Board not vote tonight but to take time to go over some of the more technical details he feels need to be addressed.

Section 102-2 Comment: There is no minimum or maximum size of development. The original was 8 units or more, so potentially now a 3 unit subdivision could become a 7 unit subdivision. In Some of the definitions in Section 102-4 regarding aggregate income, health plan benefits, taxable tuition assistance, etc. need to be revisited and probably pulled out. Percentages of AMI – for rental housing, most programs that deal with rental housing being

affordable (below market rate units) are typically being done for people at 60% of the area's median income or less. If you go up to 80% AMI you are going up to market rate rents; 60% is usually the maximum and he suggests that the Town use that. It is more complicated for home ownership. Mr. Belfer stated that you always want to have a group of people eligible to rent the affordable unit. If you restrict it to just the top of the dollar maximum of 80% AMI, you're looking at people who may not be interested in renting because they may qualify for a mortgage. The right balance needs to be found. The Housing Board came up with 30% of 75% AMI. Supervisor Grace asked if the numbers in the new ordinance are so far out of line that they can't be worked with and possibly revised later on. Mr. Belfer said he believed some of the numbers are. Supervisor Grace said, in summary, the Housing Board would like the qualifying buyer to have more AMI and the price to have less AMI. Supervisor Grace said he would like to get this ordinance on the books and work with the numbers later.

Section 102-5 Comment: Mr. Belfer suggested that Certificates of Occupancy for the market rate units should be issued at the same time as the below market rate units. The developer cannot then walk away after the above market units are completed and sold and the affordable units are incomplete. Supervisor Grace said care needs to be taken with this suggestion because the problem could be that unless the developer gets the market rate units sold, a he may not be able to finance the below market rate units. Punitive measures create higher risk for the developer. Mr. Belfer feels that developers may be able to take advantage of incentives Yorktown offers and not make good on the affordable units available to the town.

Section 102-6 Comment: Mr. Belfer suggested using AMI adjusted for family size; Supervisor Grace feels that is an appropriate modification to make and asked the Town Attorney to take note of the proposed change.

Section 102-8 Comment: Make sure the band of eligibility for the homeownership units.

Section 102-9 Comment: Perpetuating affordability – at the previous hearing it was mentioned that people became trapped and weren't able to realize the “American Dream” because the deed restrictions are perpetual. The Housing Board recommends using 50 years for both rental units and owned units.

Mr. Belfer also was in favor of hiring a consultant to do many of the certification and verification checks for applicants.

Mr. Melvin Tanzman, resident, stated he has no vested interest but in having a community where a diverse population can work and live. He is opposed to the repeal and replacement of Chapter 102 and believes the set aside is not illegal. He believes the new Chapter 102 will give fewer opportunities to those needing affordable housing such as seniors, people with disabilities, etc. Mr. Tanzman stated that he believes the job of the board is to represent the interests of the residents of Yorktown, not the developers. He wanted to know if any developers have complained or threatened a lawsuit.

Ms. Cheryl Diowski, resident, stated that we are not ready to have a vote on anything at this point. She mentioned two points that she was the most uncomfortable with in that it seems the Town Board is saying we'll take the whole responsibility on ourselves to pave the way for what an applicant wants to do. She also feels that some of the language is so open it leaves room for the Board to do what they wish depending upon what the applicant wants. She stated that we should be proud of what we have accomplished in terms of affordable housing.

Bill Steiber, resident, stated that he applied to be a member of the Community Housing Board 11 months ago and maybe that is the problem in getting members - the process is too lengthy. He also mentioned what he termed “the horrible diatribe” spoken by Supervisor Grace earlier in the evening regarding the previous public hearing. He stated the tone by the board was deplorable and that they are diminished by such behavior. He felt that Mrs. Siegel was owed an apology. He stated that restraint is essential.

Mr. Jay Kopstein, resident, stated he is in favor in the repeal but opposed to the new sections.

Ms. Gaspeyer, stated that she is in favor of maintaining the diversity that the current affordable housing law supports. She stated that the current wording of the new law is too open in allowing the developer making proposals that will end up giving them more market value units than originally proposed which affects density. The language “reduction of other code requirements” is too vague and is aimed at giving developers the advantage and not taking into consideration the concerns of the residents.

Mrs. Maura Gregory, member of the Yorktown Community Housing Board and resident, wanted to support all of the comments made by Ken Belfer. She is against the repeal of Chapter 102 and appreciates the fact the board has done a lot of work trying to find a replacement law. However, she stated that the new law is not sufficient and needs a good deal more work. The reference to “health plan benefits” should be removed, “taxable tuition” should not be considered. She stated that this law actually gets rid of the opportunity for affordable housing being built.

Mr. Ed Ciffone, resident, stated he is against the repeal of Chapter 102. He feels that with the current law gives an opportunity to all people. The repeal has nothing to do with the county - Yorktown has plenty of units under the county law. However, he doesn't want the repeal of Chapter 102.

Ms. Valerie Danielle, on behalf of HUD, stated that she is happy to see that the Board has worked to provide a new Chapter 102. HUD agrees with the Community Housing Board's comments and would like to see the hearing kept open in order to work on the new law. Ms. Danielle wanted to clear up what she feels were misstatements: the model ordinance was not created by HUD (made by the monitor) and was not made without any thought to state law; the opposite is true. She believes that Chapter 102 was not illegal, and HUD did offer to refer Supervisor Grace and the Board to the State Attorney General's Office who could clarify this point, but the offer was declined.

Mrs. Susan Siegel, resident, said that she has a problem with the mandatory requirements and the substitute bonus that is open-ended and tosses out the current zoning and is a de facto rezoning. She stated that using “flexibility and/or clustering” is just another way of changing zoning without being clear to residents what is actually happening. There are no limits on location, no cap on the increase in the density. Other communities had caps. She supports that the three applications that are currently in the “pipeline” (Lexington Avenue, Crompond Terrace, and Orchard View) which have pursued their applications with the understanding they will have to provide a certain amount of affordable units and had no objections to it - these applications should be grandfathered in to the old Chapter 102. No court has said that our old Chapter 102 is unconstitutional or illegal. If the property is already rezoned and the developer is already getting a density bonus, then under the new law the developer is not able to get another bonus. Ms. Siegel proposed a compromise that combines a density bonus but keeps the 10 percent mandate for over 7 units. You would keep the mandated amount and adjust that number if the Board wanted to, and then anything that is rezoned would be where the bonus comes in. She feels this would combine what residents wanted to see based on previous public hearings and also provides the added incentive that the Board wants. She would also like to see that when the new law is written, a new hearing be advertised. You can't just adjourn this hearing when the law is being significant changed without having a new public hearing.

Ms. Janice Turner, resident, said that she doesn't agree with the repeal of the law. As a Lenape citizen, she spoke to the Board about the characteristics of the Lenape: they were considered a kind and generous people, friendly and hospitable. The Lenape worked as a community and loved their neighbors. Neighbors were treated equally and fairly. Ms. Turner said that this is the exact opposite of what happens with this local government. She stated that the U.S. Constitution is based on Native American government. Ms. Turner said that in this economy, particularly, the current affordable housing law should not be repealed. She asks that the Board and all listening consider what she said. Ms. Turner stated that she is very affected by the Town Seal that hangs in the boardroom and how current behavior is such the opposite of what the Town Seal stands for.

Mr. Vincent Scotto, resident, stated he is confused by the repeal and wanted to know if the repeal will benefit the senior citizens who are having a hard time paying taxes and staying in

the area. He wanted to know if they meet the income requirements, will they be able to take advantage of this housing. Supervisor Grace said that there is no easy answer; the Board has heard a lot of discussion providing housing for the old, young, informed, etc. Supervisor Grace said that in all honesty, he doesn't feel that any of the proposed changes will assist any of these groups. Affordable housing asks that you make a certain amount of income - enough money so that a bank will lend them the money to buy a unit but not make enough money to make you ineligible for the program. Basically, this becomes a "ribbon-cutting" legislation to make people feel that something is being done. Supervisor Grace said that in order to help the seniors, young families, the disabled, etc., citizens need to go to the State Legislature to demand tax relief, lower property taxes, change the prevailing wage rate, etc. because this is the real reason people can't afford homes. Supervisor Grace stated that the cause of affordable housing - to give good, clean, affordable housing to those who need it - is worthwhile and necessary but it cannot be done the way that HUD and housing boards want to do it.

Mr. Ken Belfer re-approached the Town Board. He does not accept the argument that the Town should do nothing because enough cannot be done. He wanted to return to address the omission of utilities; it is impractical to try to administer that kind of program. The additional density bonus is really what is attractive and effective about what the new law proposes. Mr. Belfer stated that he is proud of what Yorktown has done in the past relative to affordable housing for seniors, people with disabilities, etc. and the rezoning actions that took place to allow this to happen.

Mr. Dan Strauss, resident, agrees with Mr. Belfer in that Yorktown has a lot of affordable housing but understands the new law has to do with new developments. He doesn't understand why it is so complicated - why isn't the 10% enough or acceptable to the developer? Ten percent seems to be the "norm" and doesn't understand why it has to change.

All those present having been given the opportunity to be heard and there being no further discussion. Upon motion by Supervisor Grace, seconded by Councilman Lachterman and carried, the hearings were adjourned with the exception of the proposed local law to consider repealing Chapter 102 of the Code of the Town of Yorktown entitled "AFFORDABLE HOUSING." Which was closed. Upon motion made by Supervisor Grace, seconded by Councilman Bernard.

LOCAL LAW # 22 OF 2016 REPEAL CHAPTER 102 OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED "AFFORDABLE HOUSING"
RESOLUTION #488

Upon motion made by Supervisor Grace, seconded by Councilman Bernard,

WHEREAS, a public hearing was held on the 3rd day of May 2016, adjourned and reconvened on the 1st day of November 2016, pursuant to notice duly published as required by law to repeal Chapter 102 of the Code of the Town of Yorktown entitled "AFFORDABLE HOUSING".

RESOLVED, that Local Law #22/2016, be and is hereby adopted.

The question of the adoption of the foregoing Local Law was duly put to a vote on rollcall, which resulted as follows:

Supervisor Michael Grace	Voting	Aye
Councilman Vishnu Patel	Voting	Nay
Councilman Gregory Bernard	Voting	Aye
Councilman Thomas Diana	Voting	Aye
Councilman Edward Lachterman	Voting	Aye

Local Law #22 of 2016 is hereby duly adopted.

APPROVE BUDGET TRANSFER – WATER DEPARTMENT
RESOLUTION #489

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

RESOLVED, as per the request of Kenneth Rundle, Distribution Superintendent – Water Department, that the Town Comptroller is hereby authorized to transfer the following:

\$290,000.00 from SW8310.495 Service by Others to SW8340.490.2
Professional Services – NWJWW

To properly document payments made to the Northern Westchester Water Works for service to be rendered by the Water Works to the Town of Yorktown.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

APPROVE CERTIORARI PROCEEDING FOR TAX PARCEL 37.15-1-34, ACCOUNT
NO. 3776050 OWNED BY RGW GROUP, LLC
RESOLUTION #490

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

WHEREAS, tax certiorari proceedings were instituted challenging the assessment for parcel known as Section 37.15 Block 1 Lot 34, 1974 Maple Hill Street, on the Tax Map of the Town of Yorktown, now therefore be it

RESOLVED, that the tax certiorari proceedings affecting tax parcel 37.15-1-34 Account Number 3776050, owned by RGW Group, LLC for assessment roll years 2010, 2011, 2012, 2013, 2014, 2015 and 2016 are settled as set forth in the proposed stipulation as follows:

Roll Reduction Year	Assessed Value	
	From	To
2010	95,000	78,228 16,772
2011	95,000	83,145 11,855
2012	95,000	88,060 6,940
2013	95,000	92,513 2,487
2014	95,000	88,670 6,330
2015	95,000	91,800 3,200
2016	95,000	86,000 9,000

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

APPROVE REFUND FOR DUPLICATE WATER BILL PAYMENT FOR ACCOUNT
#44-03770012
RESOLUTION #491

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

RESOLVED, that upon the recommendation of Cliff Kummer, Northern Westchester Joint Water Works, a duplicate water bill payment be and is hereby refunded to Account #44-03770012 in the amount of \$28.08.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

APPROVE BID EXTENSION FOR BI-ANNUAL PARKS AND RECREATION
BROCHURE
RESOLUTION #492

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

RESOLVED, that the Town Board approves the extension of the Yorktown Department of Parks and Recreation Bi-Annual Brochure Bid which was awarded to Graphic Image, Inc., 561 Boston Post Road, Milford, CT 06460, per the terms of the contract for one additional year: January 1, 2017 through December 31, 2017.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH CARFAX POLICE CRASH ASSISTANCE PROGRAM

RESOLUTION #493

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board authorizes the Supervisor to execute an agreement with CARFAX Police Crash Assistance Program.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH ADMIT COMPUTER SERVICES, INC.

RESOLUTION #494

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board authorizes the Supervisor to execute an agreement with Admit Computer Services, Inc. d/b/a Impact to convert the existing Sungard/HTE RMS that is being used by the Yorktown Police Department to the new system which would be hosted and maintained by Impact.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN A PROPOSAL WITH SULLIVAN DATA TO PROVIDE FUJITSU FI-7160 SCANNERS FOR THE LASERFICHE PROJECT

RESOLUTION #495

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

WHEREAS the Town obtained quotes from Sullivan Data Management which are lower than the Contract awarded by the County of Fairfax, Va for the purchase of Fujitsu FI-7160 scanners summarized below:

Fujitsu FI-7160 scanner (quantity 11):
County of Fairfax, Virginia Contract #4400003732 \$11,712.25
Sullivan Data \$10,138.48

Fujitsu FI-7160 Three Year Warranty (quantity 11):
County of Fairfax, Virginia Contract #4400003732 \$ 2,020.37
Sullivan Data \$ 1,860.54

THEREFORE BE IT RESOLVED, that the Town Board authorizes the Supervisor to sign proposal in the amount of \$11,999.02 with Sullivan Data to provide scanners for the Town wide Laserfishe project.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN A PROPOSAL WITH SULLIVAN DATA TO PROVIDE FUJITSU FI-7260 SCANNERS FOR THE LASERFICHE PROJECT

RESOLUTION #496

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

WHEREAS the Town obtained quotes from Sullivan Data Management which are lower than the Contract awarded by the County of Fairfax, VA for the purchase of Fujitsu FI-7260 scanners summarized below

Fujitsu FI-7260 scanner (quantity 2):

County of Farifax, Virginia Contract #4400003732 \$ 3,192.00
Sullivan Data \$ 2,642.26

Fujitsu FI-7260 Three Year Warranty (quantity 2):
County of Farifax, Virginia Contract #4400003732 \$ 367.34
Sullivan Data \$ 338.28

THEREFORE BE IT RESOLVED, that the Town Board authorizes the Supervisor to sign proposal in the amount of \$2,980.54 with Sullivan Data to provide scanners for the Town wide Laserfishe project.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN A PROPOSAL WITH SULLIVAN DATA TO PROVIDE FUJITSU FI-7460 SCANNERS FOR THE LASERFICHE PROJECT
RESOLUTION #497

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

WHEREAS the Town obtained quotes from Sullivan Data Management which are lower than the Contract awarded by the County of Fairfax, Va for the purchase of Fujitsu FI-7460 scanners summarized below:

Fujitsu FI-7460 scanner (quantity 3):
County of Fairfax, Virginia Contract #4400003732 \$11,397.75
Sullivan Data \$ 9,282.06

Fujitsu FI-7460 Three Year Warranty (quantity 3):
County of Fairfax, Virginia Contract #4400003732 \$ 6,720.00
Sullivan Data \$ 5,715.06

THEREFORE BE IT RESOLVED, that the Town Board authorizes the Supervisor to sign proposal in the amount of \$14,997.12 with Sullivan Data to provide scanners for the Town wide Laserfishe project.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN PROPOSAL WITH PRECISION BUILT FENCE TO FURNISH AND INSTALL PERIMETER FENCE AROUND DETENTION POND AT RAILROAD PARK
RESOLUTION #498

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

WHEREAS, the Engineering Department obtained quotes to furnish and install a split rail fence around a detention pond that was recently completed as a stormwater retrofit project by the East of Hudson Watershed Corporation, and

The Town of Yorktown will be reimbursed 100 percent by the East of Hudson Watershed Corporation for all costs expended to perform this work, and

The scope of work will be to furnish and install approximately 1,100 linear feet of split rail fencing, cedar posts and 3-rails with 1-inch x 1-inch black mesh for added safety protection. The work includes installation of two (2) 4-foot high by 8-foot wide access gates. All work to be done with prevailing wage rates, and

Quotes were received from three (3) firms:

- a. \$28,000 from Precision Built Fence, Peekskill, NY
- b. \$37,225 from Yaboo Fence, West Nyack, NY
- c. \$42,415 from Salem Fence, Baldwin Place, NY

NOW, THEREFORE BE IT RESOLVED, that the Town Board authorizes the Supervisor to sign proposal in the amount of \$28,000 with Precision Built Fence, Peekskill, NY to furnish and install a Perimeter Fence around the detention pond at Railroad Avenue Park.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

APPROVE ADDITIONAL TOWN BOARD MEETING FOR NOVEMBER 14, 2016
RESOLUTION #499

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

RESOLVED, the Town Board of the Town of Yorktown will hold a Town Board Meeting on Monday, November 14, 2016 at 6:00 p.m. The meeting will be held at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, 10598. The Town Board will immediately vote to go into Executive Session to conduct interviews and discuss personnel.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

RESCIND APPOINTMENT OF RICHARD RUBENSTEIN FROM THE BOARD OF ETHICS
RESOLUTION #500

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

WHEREAS, Local Law 3 of 2010 as codified in Town Code § 45-9 established a newly constituted Town of Yorktown Board of Ethics;

WHEREAS, Town Code §45-9 established one, two and three year terms of service for the members of the Board of Ethics;

WHEREAS, Town Code §45-9 limited the service each member of the Board of Ethics to two consecutive terms;

WHEREAS, on May 4, 2010 the Town Board appointed Richard Rubenstein to the first statutory term as a member of the Board of Ethics to expire on December 31, 2012;

WHEREAS, on December 18, 2012 the Town Board reappointed Mr. Rubenstein to a second consecutive statutory term as a member of the Board of Ethics to expire on December 31, 2015;

WHEREAS, on May 17, 2016 the Town Board appointed Mr. Rubenstein to a third consecutive statutory term as a member of the Board of Ethics to expire on December 31, 2019;

WHEREAS, the appointment of Mr. Rubenstein to a third consecutive term as a member of the Board of Ethics was *ultra vires* to the Town of Yorktown Ethics Code;

WHEREAS, to be fully compliant with the Town of Yorktown Ethics Code, the appointment of Mr. Rubenstein must be immediately rescinded;

NOW BE IT RESOLVED, the Town Board hereby immediately rescinds the May 17, 2016 appointment of Richard Rubenstein as a member of the Town of Yorktown Board of Ethics.

Grace, Patel, Bernard, Diana, Lachterman Voting Aye
Resolution adopted.

Supervisor Grace announced that there is a vacancy on the Ethics Board.

The Town Board accepted the Monthly report from the Receiver of Taxes for September and October 2016.

DURING COURTESY OF THE FLOOR, the following people spoke:

Mr. Ed Ciffone stated that he would like to be considered for the opening on the Ethics Board. He then proceeded to talk about Sparkle Lake Dam and what he stated is a dangerous situation about a pit that is covered with weeds that is near the walking path. November 22nd work session - UTY wants to talk about the relocation of the Highway Garage. Mr. Fon said it has to be done in one piece which the Board is now saying something different. He asked the Town Board to speak to Mr. Fon.

Ms. Susan Siegel asks that the Town Board to consider revising the provision regarding the disallowance of two consecutive terms on the Ethics Board. This doesn't happen on other boards and allows for growth of expertise when someone does not have term limits.

Supervisor Grace said that they would have to examine the reasons why this provision was put in place before they would decide to change it.

Mr. Dan Strauss wanted to thank the Board for initiating the cleanup at the Roma Building, particularly Councilman Diana and the Town Attorney, Michael McDermott. However, he was bothered when the Board said they were in partnership with the management company in order to get the work done. His interaction with the management company was not positive and he doesn't have much faith in them. Mr. Strauss also mentioned bales of hay that have been at the site that he feels are contaminated. Councilman Diana stated that the bales are there for a reason to act as a filter. Mr. Strauss asked about the status of the dumpster law. Supervisor Grace said that it will be brought up again.

ADJOURN

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

DIANA L. QUAST, RMC
Town Clerk
Town of Yorktown