

Meeting of the Town Board, Town of Yorktown held on Tuesday, June 20, 2023 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Thomas P. Diana, Supervisor  
Edward A. Lachterman, Councilman  
Sergio Esposito, Councilman  
Luciana Haughwout, Councilwoman  
Mary Capoccia, Councilwoman

Also Present: Diana L. Quast, Town Clerk  
Adam Rodriguez, Town Attorney

### TOWN BOARD MEETING

Supervisor Thomas Diana called the meeting to order.

### EXECUTIVE SESSION

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

### PLEDGE OF ALLEGIANCE

Councilman Esposito led the Pledge of Allegiance.

### MOMENT OF SILENCE

Supervisor Diana asked for a moment of silence to remember the men and women of our Armed Forces, who protect our freedoms every day, as well as the members of our police force, firefighters, and EMS, who also keep us safe on a daily basis. He also asked to remember the occupants of the Titan submersible who cannot be located.

### INTRODUCTIONS

Members of the Town Board introduced themselves, along with Town Clerk Diana Quast, Highway Superintendent David Paganelli, and Town Attorney Adam Rodriguez.

### REPORT FROM THE TOWN SUPERVISOR

Supervisor Diana reported on recent Town events and updates, including the following:

- Thanks to the Police Department for recovering a van that was stolen in Shrub Oak. The van was used to transport a handicapped child. Both the van and child's wheelchair were recovered.
- The Par 3 Golf Course is now open.
- Welcome home to Peter Kallie, a Yorktown resident, who was deployed in Africa with the Fighting 69<sup>th</sup> Regiment. He also welcomed home Yorktown Police Officer Jerry Premuto who also served in Africa.

### REPORTS FROM THE TOWN OFFICIALS

Town Officials reported on recent and upcoming Town events and public service announcements.

Councilman Lachterman announced the next Veterans Advisory Committee, Wednesday, June 21 at 7:00 PM in Room 104 at the AACCCC that will be the last meeting for two months. Video of the latest Senior Advisory Committee is available on the government channel. The next breakfast for the Sons of the American Legion will not be until October. He also mentioned the concert series for this summer.

Councilman Esposito announced the opening of two new businesses in Town, as well as the upcoming Fireman's Carnival and Parade tomorrow.

Councilwoman Haughwout announced the kickoff of the J.C. Hart Library's summer reading program on June 23 at 2:00 PM. She said there is also a community plant swap at the library on June 24.

Councilwoman Capoccia announced there are no Town Board meetings scheduled for June 27 or July 4. The next Town Board meeting will be held on Tuesday, July 11.

Highway Superintendent Paganelli said that Altice is working around Town replacing their cable with fiber optics. They are working tonight through Thursday night and police officers will be posted at the locations. Paving will resume on Monday, June 26.

Town Attorney Rodriguez said that last week there was an article in the newspaper that accused the Town Board of violating the Open Meetings Law and the allegations were premised upon the notion that because Section 105 of the Open Meetings Law only has specific purposes for which Executive Session is proper then the Town Board must be violating the Open Meetings Law when it has conversations with its attorney – himself. He said that the article ignores a different section of the Open Meetings Law – Section 108 – that provides, quite clearly, an exemption from the Open Meetings Law and Executive Session for conversations with counsel. He said that when you invoke the exemption in Section 108, the procedures of Section 105 do not apply. He suggests that the author of the article read Section 108, subsection 3 of the Open Meetings Law before making further allegations.

#### OBSERVANCE OF FLAG DAY

Councilman Lachterman read the following proclamation:

WHEREAS, the American flag represents our nation and values of freedom, equality, justice, and hope; and

WHEREAS, when the American Revolution began in 1775, the colonists did not fight under one unifying flag but under their own flags; and

WHEREAS, on June 14, 1777, the Second Continental Congress passed a resolution stating that “the flag of the United States shall be 13 stripes, alternate red and white,” and that “the Union be 13 stars, white on a blue field, representing a new constellation”; and

WHEREAS, President Woodrow Wilson marked the 100<sup>th</sup> anniversary of the resolution establishing the flag by declaring June 14<sup>th</sup> as Flag day; and

WHEREAS, the American flag has inspired Americans on the battlefield, has provided comfort during times of war and peace; and has stood as a symbol of hope for the millions of people who have come to America seeking better lives; and

NOW, THEREFORE BE IT RESOLVED, that the Town of Yorktown recognizes June 14, 2023 as Flag Day and encourages its residents to proudly display this important symbol throughout the year.

#### OBSERVANCE OF JUNETEENTH DAY

Councilwoman Capoccia read the following proclamation:

WHEREAS, Juneteenth is recognized as the oldest nationally celebrated commemoration of the end of slavery in the United States; and

WHEREAS, President Abraham Lincoln first issued the Emancipation Proclamation effective January 1, 1863, freeing the slaves in the South, however, southern slave owners ignored that order. On June 19<sup>th</sup>, 1865, Union soldiers arrived in Galveston, Texas and enforced the president’s order, freeing the slaves two and a half years after it was first decreed. This day has since come to be known as Juneteenth; and

WHEREAS, Juneteenth has been also titled “Jun-Jun,” “Freedom Day,” “Emancipation Day,” and “Emancipation Celebration;” and

WHEREAS, Juneteenth celebrations have been held to honor African-American freedom while encouraging self-development, education and respect for all cultures; and

NOW, THEREFORE BE IT RESOLVED, that the Town of Yorktown proclaims June 19<sup>th</sup> as Juneteenth Day in recognition of June 19, 1865, the date on which Union Soliders ended slavery in Galveston, Texas; and

FURTHER BE IT RESOLVED, the Town of Yorktown reiterates its stance against all forms of oppression, racism, and bigotry; and

FURTHER BE IT RESOLVED, that the Town of Yorktown supports the continued nationwide celebration of Juneteenth Day to provide an opportunity for the people of the United States to learn more about the past and to better understand the experiences that have shaped this nation; and

FURTHER BE IT RESOLVED, that federal, state, and county governments, as well as local school districts, recognize Juneteenth as a holiday and the Town of Yorktown will similarly be closing town buildings in observance of Juneteenth Day on Monday, June 19<sup>th</sup>.

#### POET LAUREATE

Councilman Esposito read an original poem by John McMullen, Poet Laureate, “Stand Down for America – We are Not a Banana Republic.”

#### OPEN FLOOR FOR PUBLIC COMMENT

The following members of the public spoke:

- Jay Kopstein, resident, said that the job of the poet laureate is not to do a political dissertation before a Town Board. He said that what Councilman Esposito read was a political dissertation.
- Geri Schwalb, resident, agreed with Mr. Kopstein. She said this is not what a poet laureate is about.
- Susan Siegel, resident, wanted to clarify what she felt were incorrect and/or misleading statements made at the June 6 meeting regarding tax abatements. She said that it was said the Town gains revenue by offering the abatement but that we do not lose any revenue. Which is it – gain or loss? She said that it is actually both. We can gain and lose at the same time. She said that we obviously gain when a new building is constructed on undeveloped land or replaces a smaller or outdated building – in both cases the assessed value of the property increases, which means more tax revenue. We lose revenue when the new construction takes advantage of the automatic “as of right” 485(b) abatement and the new building pays less in taxes for ten years when the owner does not pay the full tax bill. She said that her main point is, if the Town Board is going to be transparent and open with the residents, they need to acknowledge both the gain and the loss. She cited that back in 2022 the Town and the school district lost approximately \$310,000 in tax revenue from four properties that had a 485(b) abatement. The Yorktown School District lost the most money and the Town lost roughly \$47,000, which could probably pave approximately a quarter mile of a Town road. Ms. Siegel said there was a second statement from the June 6 meeting that needs correcting, which is that the 485(b) abatement law was a New York State Law and the Yorktown Town Board could not change. She said that this is wrong. The state 485 law, which is enabling legislation, gives the Town the option to adopt the law if it wants to, as long as the Town law incorporates certain basic requirements of the state law. She said that the Yorktown Town Board unanimously adopted the 485(b) law on February 21, 2017 (when two of the current Town Board members were on the Board).

Ms. Siegel responded to Mr. Rodriguez’s comments, as she was the author of the article in the newspaper. She said that Section 108 gives three exemptions to the Open Meetings Law: 1) judicial proceedings (does not apply in this argument); 2) deliberations of political committees or caucuses that also does not apply because the Supervisor is not a member of the Republican or Democratic Parties but a Conservative (the other four members of the Board could meet as a caucus because they are Republicans); and 3) any matter made confidential by State or Federal Law. She asked if the Town Attorney would like to comment on what specific State or Federal Law makes deliberations in Executive Session.

- Dan Strauss, resident, said that the proposed Underhill Farm development has basically been marketed as a “senior friendly” housing project – the ability for seniors to downsize from their homes. He said that he looked at the Environmental Assessment Form (EAF) for the project. He said that on May 26, 2022 the Underhill Farm fiscal analysis listed senior apartments one bedroom (10), two bedrooms (10), downhill senior townhouses – 3 bedroom (22), senior condos – 1 bedroom (2), 2 bedrooms (30). The total number of units equal 148. Mr. Strauss then read from the May 8, 2023 fiscal and socioeconomic study, which showed different amounts of senior housing and said that in one year 42 senior units were lost, with the total

still remaining at 148. He said something is amiss. He said it is misleading that this is a “senior friendly” project.

- Sarah Wilson, resident, said that when she drives around Town there are flags that are tattered and ragged and not properly illuminated. She said that this is very disrespectful and encouraged people to respect the flag and display it in the right way.
- Ken Belfer, resident, announced that the lake wide aeration system on Lake Mohegan was begun today and thanked all the Town Board officials who had a hand in helping this come to fruition.
- Scott Markman, Cordial Road resident, spoke about the potential road that is being proposed on Town property next to his home on Cordial Road. He spoke about the increase in traffic this would cause and the safety issues involved. Mr. Markman said this would decrease the quality of life for residents in this area. He questioned the effects of the construction regarding water runoff, wildlife, etc. He also mentioned a decrease in the property value of his home.

Upon motion made by Councilman Lachterman, seconded by Councilman Esposito, the Open Floor for Public Comment was closed.

Councilman Esposito said if the gains outweigh the losses in a positive way, he is in favor of a project. He said Ms. Siegel only mentioned the losses, not the gains. He said that people needed to follow their own advice of weighing both sides.

Councilman Lachterman said that Ms. Siegel failed to mention, regarding 485(b), the taxes that are discounted at 50% are new and additional taxes that are over and beyond what had been paid. He said that the small discount offers the builder the chance to gain a little traction in an attempt to renovate a property. He said that Ms. Siegel is looking at a glass half empty and the Board is looking at a glass half-full. As Yorktown gets better and the buildings become improved, the Town will gain more businesses.

Superintendent Paganelli, responding to Ms. Wilson, said he personally put up the flags on East Main Street but cannot put proper lighting on them. Residents should call him if there are any flags on Town property that are not in good condition; he will remove them immediately.

CONVENE PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 300 OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED “ZONING,” SECTION 13(F) BY AMENDING AND REPLACING IT IN ITS ENTIRETY

Supervisor Thomas Diana convened a public hearing to consider amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning,” Section 13(F) by amending and replacing it in its entirety with the following language:

Walls and fences. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence or wall, provided that in any residence district no fence shall exceed 4.5 feet in height in the front yard or 6.5 feet in height in any side or rear yard. However, fence support posts whose width, measured at the fence face, comprises no more than 10% of the total linear footage of the fence may exceed the aforementioned maximums by no more than one foot. The height of a fence shall be the vertical distance from grade to the highest part of the fence. Where the grade is uneven from one side of the fence to the other, the fence shall be measured from the side with the lowest grade. For all fences and walls installed after the effective date of this amendment, the decorative side shall face away from the owner's property.

No members of the public spoke.

All those present having been given the opportunity to be heard and there being no further discussion, the hearing was closed. Upon motion made by Councilman Lachterman, seconded by Councilman Esposito, and carried.

Supervisor Diana said that is proposed amendment lets everyone know what they can and cannot do regarding putting up fences in Town.

ADOPT OF LOCAL LAW NO. 4 OF 2023 AMENDING CHAPTER 300 OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED “ZONING,” SECTION 13(F) BY AMENDING AND REPLACING IT IN ITS ENTIRETY  
RESOLUTION #318

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

Whereas, a public hearing was held on the 20<sup>th</sup> day of June 2023 pursuant to notice duly published as required by law amending Chapter 300 of the Code of the Town of Yorktown entitled “Zoning,” Section 13(f) by amending and replacing it in its entirety; now, therefore, be it

Resolved, that Local Law No. 4 of 2023 be and is hereby adopted.

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Local Law 4 of 2023 was thereupon duly adopted.

CONVENE PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 15 ENTITLED “BUILDING CONSTRUCTION ADMINISTRATION” BY DELETING SECTION 15-4(B)(10) IN ITS ENTIRETY AND RENAMING SECTIONS 15-4(B)(11) AND 15-4(B)(12)

Supervisor Thomas Diana convened a public hearing to consider amending Chapter 15 of the Code of the Town of Yorktown entitled “Building Construction Administration,” by deleting Section 15-4(B)(10) in its entirety and renaming Sections 15-4(B)(11) and 15-4(B)(12) as sections 15-4(B)(10) and 15-4(B)(11), respectively and accordingly.

Town Attorney Rodriguez said that this law is related to the above local law and removes the exemptions of fences and makes clear that a permit must be obtained.

No members of the public spoke.

All those present having been given the opportunity to be heard and there being no further discussion, the hearing was closed. Upon motion made by Councilman Esposito, seconded by Councilwoman Capoccia, and carried.

ADOPT LOCAL LAW NO. 5 OF 2023 AMENDING CHAPTER 15 ENTITLED “BUILDING CONSTRUCTION ADMINISTRATION” BY DELETING SECTION 15-4(B)(10) IN ITS ENTIRETY AND RENAMING SECTIONS 15-4(B)(11) AND 15-4(B)(12)  
RESOLUTION #319

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

Whereas, a public hearing was held on the 20<sup>th</sup> day of June 2023 pursuant to notice duly published as required by law amending Chapter 15 of the Code of the Town of Yorktown entitled “Building Construction Administration” by deleting in its entirety and renaming Sections 15-4(B)(11) and 15-4(B)(12) as sections 15-4(B)(10) and 15-4(B)(11), respectively and accordingly; now, therefore, be it

Resolved, that Local Law No. 5 of 2023 be and is hereby adopted.

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Local Law 5 of 2023 was thereupon duly adopted.

CONVENE PUBLIC HEARING TO CONSIDER THE APPLICATION RECEIVED FROM MJM LAND DEVELOPMENT CORP FOR PROPERTY LOCATED AT 3232 GOMER STREET TO AUTHORIZE THE PLANNING BOARD TO PROCESS A SUBDIVISION UTILIZING FLEXIBILITY STANDARDS

Supervisor Thomas Diana convened a public hearing to consider the application received from MJM Land Development Corp for property located at 3232 Gomer Street, Yorktown, NY, a 12.5-acre site, also known as Section 17.18, Block 2, Lot 2 on the Tax Map of the Town of Yorktown to authorize the Planning Board to process a subdivision utilizing Flexibility Standards.

Joe Riina, project engineer for MJM Land Development, gave a description of the project and its current conditions. He said there are two wetland areas on the site. The property is zoned R120 that allows for residential subdivision for half acre lots and that the size of the property provides 13 lots – 6 off Gomer Street and 7 off Cordial Road. (Plans displayed on video.) Access would be by a proposed town road. He said that he is before the Town Board this evening at the request of the Planning Board for flexibility approval per the planning board. This would give the Planning Board tools to modify or “massage” the Town Code regarding bulk requirements, as well as to create a less impactful development or a “smart” development. Mr. Riina then displayed the flexibility plan that

is being proposed on the screen. He said that this is just an idea of what types of modifications could be made to reduce the impact of the project on the property on the wetlands, the buffer area, and adjoining properties. In the concept plan shown, they shortened the cul-de-sacs on both sides, and pulled everything away from the buffer zones. This does not diminish the development in the sense that it is not going to create small, tiny lots. The lots are only slightly smaller than what is allowed. He pointed out the wetland areas and the buffer area on a map. He discussed the surface flow and said that everything would go toward the wetlands and into culverts and into the Town drainage system. They are not adding to the amount and are adhering to town standards. Mr. Riina said the developer is willing to hold back more stormwater than is necessary and there are many different options available to do so.

Superintendent Paganelli asked if they can access both of the wetland sections from Gomer Street because his department just put 1000 feet of drainage in the area to keep homes from flooding and Mr. Riina said they would not be using Gomer Street. Superintendent Paganelli asked if the project would have access to both the wetland areas from Gomer Street and Mr. Riina said not without crossing a wetland. He said he saw where the Town's discharge point is and the project is above that. Mr. Riina said they are going into the buffer but not the wetlands and that the water would eventually be put into the town drainage system on London Road.

Mr. Riina said a comprehensive Stormwater Management Plan would be done for the project and submitted to the Town Board. He said his client has not only agreed to meet the standard but to go beyond to ensure there would be no offsite flooding on anyone's property.

Councilwoman Haughwout asked what kind of drainage systems would be used and Mr. Riina discussed the options (infiltrator system; bio retention basin, etc.) available to them.

Councilman Esposito restated that the applicant would not add more flow but would go above beyond what is required in order to try to reduce water flow. Mr. Riina said they would meeting New York State requirement and then go beyond them.

Superintendent Paganelli said that you would have to cross the wetlands if they were not to come in off Cordial. He asked if there was another way to access the property and Mr. Riina said that a paper road exists that was set aside when Ponderosa Estates was built. Superintendent Paganelli said that you would have to go over Gomer if you do not use Cordial. He said that his department did a month of work on that site and he would not approve that entrance for a roadway, let alone approve it for a driveway. Mr. Riina replied that, as Superintendent Paganelli knows, they are sloping away from Cordial, not towards it. Superintendent Paganelli said the road is extremely narrow in that area (a series of "s" turns) and said it seems extremely dangerous. Mr. Riina questioned whether the addition of six homes would affect traffic that much. He said that originally they presented a plan going across the wetlands with one access coming in from Gomer and another plan with access coming from the paper road off London but this is the direction they were asked to go in by the Planning Board in order to stay out of the wetlands. Superintendent Paganelli said Gomer is primary road, London is secondary, and Cordial is a tertiary road. He said that if they have an alternative in coming off London, why would you not take it? Superintendent Paganelli said it is a double yellow lined road to begin with. Mr. Riina said it is the Planning Board's decision and he followed the direction he was given.

Mr. Riina displayed a map of the roads involved (including a paper road). A discussion took place regarding the pros and cons of different locations for the road. Superintendent Paganelli said he would be more comfortable with access and egress from a double yellow lined road (London Road). Councilman Esposito spoke about options involving the wetlands. He asked if the project could proceed without the flexibility standards and Mr. Riina said yes, they would proceed with the "as of right" plans that were originally presented.

Councilman Lachterman asked Director of Planning John Tegeder if they could come in off Cordial "as of right," and Mr. Tegeder said yes. Mr. Tegeder said they want the project to try to stay out of the wetlands as much as possible; every project that comes into Town has to do their best to avoid wetland impacts as much as possible; it is part of the wetlands regulations.

Councilman Esposito said that if the only entrance were Gomer, there would be wetland disturbance. If you use the paper road option, you are also going to disturb the wetland. If they do the entrance off Cordial, they would only transverse the buffer. Mr. Tegeder said this was correct. Councilman

Esposito asked if there was a site plan showing entrance only off Gomer and Mr. Tegeder said he believed there was such a site plan, as well as one for London, and the two that have been seen this evening. Councilman Esposito asked if the flexibility standards could be used in any of the three or four scenarios that were mentioned and Mr. Tegeder said this was correct. Mr. Tegeder said this is the reason the applicant is before the Town Board this evening – it has sensitivity to it and they feel that flexibility would give them the ability to manage the impacts to the wetlands, wetlands buffers, habitat, water in terms of drainage, etc. in a better and efficient way. Councilman Esposito said that approving the flexibility standards does not necessarily approve the Cordial access. Mr. Tegeder said it does not lock it into any particular plan. He said that it does lock in the Planning Board’s ability to modify the setbacks, lot size, road width, etc.

Superintendent Paganelli said that he thinks many people think that the term “flexibility” means the Town Board bends over backwards to help contractors put in additional units and he want to make sure that people understand what “flexibility standards” means. Mr. Tegeder said that we are helping to bend over backwards for the environment and to make the best, most efficient development that is possible and under the stringent regulations of the zoning code, you cannot always accomplish that. He said that having that “flexibility” in applying those standards is helpful. It is similar to a zoning variance.

Superintendent Paganelli asked if the paper road had been signed over to the Town and Mr. Tegeder said it is a private road and had not been considered as access to the property because it is private and the Town has no right to it.

Supervisor Diana read comments from various boards resulting from the referral of this matter, as well as from residents, that are part of the record.

The following members of the public spoke:

- David Liebman, resident, asked why the builder approached the neighbors on Cordial to the left and right of the access road to buy their property if there was enough room to build the road, as it is. Mr. Liebman said both of the neighbors refused. He asked how is it fair to send huge trucks down Cordial Road, which is only 21 feet in width. Many of these trucks are between 10-12 feet wide. He said there must be some sort of standard that says you cannot send this much traffic down the road. Each of these new houses would have many more than two cars – more like an average of four cars per household, not to mention visitors’ vehicles. He said that it is upsetting to hear Mr. Riina say it is “only” six houses. He asked if the Town had to allow this much traffic on this road, which is not wide enough to handle regular cars. Mr. Liebman said that the Town documents recommended this. Councilwoman Haughwout said this hearing is to give flexibility standards to this project, not approval of the project. Mr. Liebman asked if it was the Board’s job to bend over backwards to help the builders. Councilwoman Haughwout disputed this – she said they bend over backwards to benefit the town, not the developers. Councilman Lachterman said this could be done as an “as of right” build – the owner of the property has the right to develop it. Mr. Liebman said he is disputing using Cordial Road as the access road, not the development. He agreed that the developer has the right to make this road smaller. Mr. Tegeder said that the dimensions of the road can be changed but standards would still have to be met. Councilwoman Haughwout asked if Cordial Road, as it currently exists, allow access to the site and Mr. Tegeder said yes. Mr. Liebman said if the road does not meet standards now, how this could be correct. He said that it is the Town Board’s job to protect the residents. He said it is ridiculous to expect all of the equipment and material to be brought in on trucks on Cordial Road. He said there is a tremendous stormwater and flooding issue in this area – backyards will be flooded. Mr. Liebman also raised the safety issues involved and said the neighborhood would be ruined. He said he appreciated the opportunity to discuss what is troubling him and his neighbors.
- Tom Pihota, Cordial Road, said that years ago there was only one way in and one way out on Cordial. Now there are many roads that have access and there are school buses, landscaper trucks, UPS and Amazon trucks, etc. that travel the road. He spoke about the traffic conditions that currently exist and speeding that occurs, as well as the ability to safely stop. He also mentioned the danger of having the trucks that would be used during the construction of this development. He said that London Road is a double yellow lined road that would be a better option. He said that the decision to use Cordial road is a life-changing decision for the residents
- Tom Galello, Cordial Road, agreed with the above speakers. He said there are definite safety

issues in using this road, as the traffic is already a problem. It is too narrow a road to handle future traffic problems, let alone what they currently experience.

- Joe Molinari, Gomer Street, asked if an Environmental Impact Assessment had been performed for the project. Mr. Tegeder said there has been no Environmental Assessment done yet but the form has been completed and the plan will be forthcoming. Mr. Molinari asked if the land adjacent to the two-car garage located there been tested for contaminants such as gasoline and oil? He spoke about leakage of machinery that occurred there. He gave the board a satellite photo of the area and pointed out the two-car garage where the equipment was stored. He said that the soil might be contaminated. He also mentioned the pesticides that were used when the area was farmland, and he urged soil testing in the area. He also spoke about the traffic issues and increased chances of accidents due to more cars on a small road, as well as the stormwater runoff from the houses that face Gomer Street.
- Tim Canniff, Cordial Road, said that he has a son who is confined to a wheelchair and said that they have a hard enough time managing as the parents of a handicapped child, and the fact that this road is an option for a development just puts his child and every child on that road at risk. He said that his child should be able to use his wheelchair freely and not be put in jeopardy because of increased traffic. If the flexibility is approved tonight, they are being given the opportunity to put in the road they want, not necessarily the road the Town would want.
- Susan Siegel, resident, thanked the Town Board for changing its plan to authorize the use of flexibility standards by resolution instead of acknowledging that, as per Town Code, it needed to hold a public hearing before authorizing flexibility. She said there are two conflicting sections of the zoning code that add to the confusion as to the determination of flexibility and the requirement of a public hearing versus by resolution. Ms. Siegel said Section 300-22 is called Flexibility but there is also Article 25 what has multiple sections called "Clustering and Flexibility Standards." Section 300-22 requires only by resolution and Article 25 requires a public hearing. She also said that 300-22 allows buildings up to six stories and the Town Board may want to take a look at this section to correct the issue about flexibility (public hearing or not) and the six stories.
- Don O'Connor, Ponderosa Estates, said that he lives next to the retention pond. Water is going to be a problem if this development goes through. The water will feed into the retention pond and cause flooding in the area. This is a problem that needs to be addressed.
- Julia Grosberg, Adela Court, resident said the plan for 13 homes on ½ acre lots will cause a deforestation of the area and will create more wetlands. The hundreds of trees that will be torn down will no longer be there to retain water. She asked if the Department of Environmental Protection or the Department of Environmental Conservation had been called in to analyze the effects.
- Diane Rumsey, Cordial Road, asked Superintendent Paganelli what size is a normal road. She that they all know Cordial is 21 feet wide. Under flexibility standards, the developer may be able to build another 21-foot road. Why would you give the new owners of these homes the same issues they have on Cordial Road? Has a traffic study been done? Why would you put another small road coming off another small road?
- Nicole Sand, Cordial Road, said she lives where Cordial meets Ravencrest and said her backyard is a 1.25 acre lot and much is a marshy pit already. She said she gets runoff from Gomer and the first six houses of this project are going to be higher than her home and her neighbors' homes and they would get runoff from them. How is this runoff going to be addressed.
- Kyra Malaspina, Cordial Road, spoke of growing up on Cordial and how narrow the road is. She said many people park on the side of the road and it is difficult to make turns. She spoke of the children who play on the street and did not want to see that taken away from them. She also said wildlife would be at risk, due to habitat destruction. She also questioned the runoff of the snow during the winter.
- Grace Siciliano, Gomer Street, suggested that the developer be approached about making the location of the 6 houses into open space for the residents of the other 7 houses. This would solve the Cordial Road problem and protect the wildlife. She suggested open space be made into a recreational area for the neighborhood. The parcel of land on the east side near Gomer is much higher and all of the runoff goes towards Gomer Street to the west – all of her runoff goes into her neighbors land. There is also a stream that runs behind the houses on the west side – and houses there all of runoff issues.
- Kathy Bond, Cordial Road, said her grandson plays on her road with the other children and she cannot imagine what it would be like with all of the trucks that would result with the



building of this project. Ms. Bond said she loves to watch the animals in her backyard and this project is a threat to the wildlife. She said that the cutting of the trees for the project will create a drainage nightmare, as well as eliminating the habitat.

- Lorraine Birnett, Kip Court, agreed with the residents of Cordial Road regarding the traffic situation and the size of the road. She spoke of the destruction of the wetlands. Ms. Birnett echoed the sentiments and issues as the other residents (stormwater runoff, traffic, etc.). She said the trees are the only things keeping the water table in check. Ms. Birnett also agreed with the idea suggested earlier of creating a recreational area.
- Dan Strauss, resident, said is there not any property in town where the Town Board can say “no, you can’t build this?” He said this has nothing to do with flexibility. How does that work? Councilman Esposito said that with flexibility the lots could be made smaller to keep them out of the wetland and buffer zone, for example. Mr. Strauss said this does not change the fact that the Town Board is giving the builder the right to build. He asked why would you disturb the wetlands and the environment that everyone enjoys just to give the developer what they want. Councilwoman Haughwout said the Town cannot tell a property owner that they cannot build. She said that if they use flexibility to protect the wetlands, that is one thing but if they use flexibility to make a road smaller, that is another type of discussion that must be had.
- Geri Schwalb, resident, asked if it was correct to say that “as of right” does not give the builder the right to build in a wetland and was told yes. Councilman Lachterman said that the law allows an owner to go to the Zoning Board of Appeals and request a zoning variance to enter a wetland area. He said that when you buy property, you have rights.
- Peter Italiano, Ponderosa Estates, asked if there had been a proposal a while back to develop this property and was denied. Councilman Lachterman said he was not aware of this but would check with Planning.

Supervisor Diana asked Mr. Riina and Mr. Tegeder to respond to some of the issues that had been raised. Mr. Riina said this is only one of four public hearings that this project has to go through. He asked that the Town Board close the public hearing and reminded everyone that this is a public hearing to approve the use of flexibility standards only, not approval of the project. Councilman Lachterman asked if a traffic study had been done and Mr. Riina said that they are not that far into the process yet for a traffic study. Mr. Tegeder said Barton and Loguidice would be doing a study for stormwater runoff on the property. Councilman Diana asked Superintendent Paganelli if he had any idea on traffic accidents on Cordial and Superintendent Paganelli said he would do his due diligence regarding Highway Law and what would be allowed. Fire access is also an issue on the road.

Further discussion took place regarding the required width of a road, as well as the possibilities of what the flexibility standards could change about the project.

Councilwoman Haughwout said that she would like to take a deeper look into the possibility of taking Cordial Road out of the plan.

Superintendent Paganelli said that there is a permissive wetlands ordinance. He said that all of Yorktown is wetlands and if there were no permissive wetlands ordinance, nothing would be built in Yorktown.

Councilman Lachterman asked Mr. Tegeder about the “as of right” plan. Mr. Tegeder said that the “as of right” plan can come in from Cordial, Gomer, or the right of way off London. He said that, conventionally, you would have to follow the zoning regulations, which would be minimum width lots, the impact on the wetlands, tree removal, etc.

Jay Kopstein, resident, addressed Councilman Lachterman and said there is a house that is being built on Hallocks Mill Road and was supposed to have traffic control – there was nothing. He cited problems with the Weyant property development closing Hamblyn Road without permission and road cut the road without permission. He said that saying we will have traffic control is one thing, getting it done is something else.

Councilman Esposito said that the proposed road off Cordial could be 21 feet and Mr. Riina said he does not know right now what it could be. He said, under flexibility, it could be as narrow as 20 feet or the requirement of 24 feet. He said that in the past roads have been narrowed to reduce the amount of runoff.

Dan Strauss, resident, said that assuming the Town Board grants flexibility, the Planning Board would determine where the road would be and what width it would be. Councilman Esposito said this is correct.

David Liebman, resident, said that they do not want flagmen, police, traffic control, etc.; they do not want this road and are begging the Board not to do this to residents. He asked the Town Board to help them. Councilman Esposito reminded Mr. Liebman that this public hearing was for flexibility standards and the benefits of applying them to this project.

Tom Pihota, resident, said the comment made by Councilman Esposito made earlier that the construction would only take about a year was frightening to hear. Mr. Pihota said this was an aggressive statement. Councilman Esposito said that he also spoke about the other options available for the road.

Supervisor Diana thanked all of the residents for their comments and their passion regarding this project. He said that the Town Board takes all of the comments to heart but there are things that the Planning Board and Zoning Board have to take into consideration.

All those present having been given the opportunity to be heard and there being no further discussion, the hearing was closed. Upon motion made by Councilman Lachterman, seconded by Councilwoman Haughwout, and carried.

Supervisor Diana said that written comments will be received until July 7, 2023.

AGREEMENT WITH FIFTH ASSET, INC., DB/A DEBTBOOK, FOR LEASE MANAGEMENT & ANALYSIS SERVICES  
RESOLUTION #320

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

RESOLVED, the Supervisor is authorized to enter into an agreement with Fifth Asset, Inc., d/b/a DebtBook, for lease management and analysis services, in an amount not to exceed \$7,200.

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Resolution adopted.

APPOINTMENT OF GINA BRESCIA TO CHAUFFEUR WITHIN THE NUTRITION/SENIOR SERVICES DEPARTMENT  
RESOLUTION #321

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

Be It Resolved, that Gina Brescia of Putnam Valley, NY, is hereby appointed Chauffeur, job class code 0458-02, within the Nutrition/Senior Services Department, effective June 26, 2023 to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$ 38,039.00 annually; and

Be It Resolved, contingent upon successful completion of a drug test; and

Be It Resolved, that Gina Brescia will report to work at the Nutrition/Senior Services Department on June 26, 2023, and this date will be used as the first date of appointment; and

Be It 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 June 26, 2023.

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Resolution adopted.

AUTHORIZE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER FOR THE HIGHWAY DEPARTMENT  
RESOLUTION #322

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

Be It Resolved, that the Town Board authorizes the following budget transfer to fund a Workers' Compensation Notice of Decision – Large Loss Notification:

From: D.1002 Highway - Fund Balance \$62,500.00  
To: MC.1930.402 Workers' Comp Indemnity Payments \$62,500.00

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Resolution adopted.

APPROVE UPDATED SCHEDULE B RESTRICTIVE COVENANTS LANGUAGE TO BE ATTACHED TO DEEDS UPON THE RESALE OF AFFORDABLE HOUSING UNITS RESOLUTION #323

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

WHEREAS, the Yorktown Community Housing Board has reviewed the language in the deeds of the existing affordable housing units in Yorktown's affordable homeownership program and found that the restrictive covenant language in the deeds should be updated; and

WHEREAS, the Community Housing Board has drafted an updated form of Schedule B restrictive covenants and recommended that this standardized form of restrictive covenants be appended to the deeds when any of Yorktown's existing affordable housing units are resold and the Town of Yorktown opts to exercise its right of first refusal and assign that right to an affordable housing applicant; and

WHEREAS, the Community Housing Board has recommended the adoption of a new set of restrictive covenants that clarifies existing language and that includes a new formula for calculating resale prices and specifies inclusion of major approved capital improvements, and

NOW THEREFORE, BE IT RESOLVED, that the newly revised Schedule B with updated restrictive covenants shall be used henceforth as an attachment to the deeds upon the resale of Yorktown affordable housing units; and

BE IT FURTHER RESOLVED that the updated restrictive covenants shall not apply retroactively, but shall apply on resale after the date of adoption of this resolution to the new owners of Yorktown affordable housing units.

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Resolution adopted.

A discussion took place regarding the pricing for the following bid project.

BID AWARD FOR THE COURTHOUSE PLAZA PROJECT RESOLUTION #324

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

Resolved, that the Court House Plaza Bid base bid, capital project 23-10, is awarded to the low bidder Con-Tech Construction Technology, Inc. for a bid price of \$582,630.

Diana, Lachterman, Esposito, Haughwout, Capoccia Voting Aye  
Resolution adopted.

ADJOURN

Upon motion made by Councilman Esposito, seconded by Councilwoman Haughwout, the Town Board meeting was adjourned.

DIANA L. QUAST, TOWN CLERK  
MASTER MUNICIPAL CLERK  
TOWN OF YORKTOWN