

Meeting of the Town Board, Town of Yorktown held on Tuesday, September 12, 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
Mary Capoccia, Councilwoman

Tardy: Luciana Haughwout, 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 Councilman Lachterman, seconded by Councilwoman Capoccia, the Town Board moved into Executive Session to discuss litigation. Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Diana led the Pledge of Allegiance.

MOMENT OF SILENCE

Supervisor Diana asked for a moment of silence to remember our first responders: police, fire, ambulance, and EMTs who serve us on a daily basis. He also asked to keep in our thoughts and prayers the members of the military who serve to protect our freedoms both here and overseas and defend our freedoms on a daily basis. He also asked to remember the victims of the September 11th attacks and those who continue to perish from 9-11 related illnesses.

REPORT FROM THE TOWN SUPERVISOR

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

- The September 11th events that were held yesterday – all events were moving and memorable. A memorial monument was unveiled at the Shrub Oak 9-11 Memorial that is dedicated to those who continue to die from 9-11 related illness. It was donated by Liz and Eric DiBartolo.
- The Feast of San Genaro has been postponed until this Thursday due to inclement weather. The parade will take place at 6:00 p.m. on Thursday.
- Kids vs. the Cops ballgame that was a tribute to Harrison Apar – the kids won.
- Drug Awareness Dedication Fence, donated by Salem Fence, was a moving tribute to those lives lost to drug addiction.
- 99th Annual Grange Fair was a success.
- Thanks to Jim Martorano, Jr., Superintendent of Parks & Recreation for all of his work to insure the recent memorials were successful.
- Indian Point Full Volume Siren Test will be held Wednesday, September 13 at 10:00 a.m. for 4 minutes. No action is required by residents.
- Westchester County Household Recycling Days: Sunday, September 17, 2023, 9:00 a.m. to 3:00 p.m. at Charles Point Resource Recovery Facility, 3 John Walsh Boulevard, Peekskill, NY; Saturday, October 14, 2023, 9:00 a.m. to 3:00 p.m. at Sprain Ridge Park, Yonkers, NY; Saturday, November 4, 2023, 9:00 a.m. to 3:00 p.m. at Playland Park, Rye, NY.
- Happy New Year to those celebrating Rosh Hashanah. Rosh Hashanah begins at sundown on Friday, September 15 through Sunday, September 17 at sundown.
- Thank you to the police, volunteer firefighters, and Boy Scouts who attended the Shrub Oak 9-11 Memorial.

LANDSCAPE ENHANCEMENTS AT RAILROAD PARK

Parks & Recreation Superintendent James Martorano, Jr. and Keith Schepart from the Tree Conservation Advisory Commission (TCAC) came before the Town Board to discuss the tree bank fund balance and the identification of areas in Town that could be beautified by replacing some dead and dying trees. Superintendent Martorano said they have identified Railroad Park as an area that

could use some tree enhancements behind and around the old train station.

Mr. Schepart said half of the trees in that area are missing, half are dead, and there is a sanitation issue behind the building. He said that Planning Director John Tegeder and Town Planning Robyn Steinberg suggested replacing what is there with a hedge that could be trimmed by Parks & Recreation once a year. He said they are planning to use four types of plants including rhododendron, lower-growing flowering dogwood. Mr. Schepart said the idea is to use money that is in the tree bank to fund the plantings and the Parks & Recreation crew would provide the labor. He said the cost of the material is approximately \$1,400.00 and an additional \$300 for irrigation.

Superintendent Martorano said Shrub Oak Park will be the next area they are going to look at for enhancements.

Supervisor Diana and the Town Board approved this expense and discussion took place regarding budget transfers.

CROWN CASTLE CELL PHONE TOWER ON DARBY STREET

Laney Hawkins Cain, Crown Castle, came before the Town Board, via Zoom, to propose an amendment to the lease agreement Crown Castle has with the Town for a telecommunications tower they have on Darby Street. Their proposal is to expand their footprint for Dish Wireless who has approached them to co-locate on the tower. Crown Castle would like to expand their footprint by 70 square feet to accommodate Dish Wireless. There is space within the existing compound so no additional space is required. Crown Castle is proposing \$500 per month to the Town that would escalate annually at 2.8% and the escalation would commence on July 1, 2028, which is based on Dish and Crown's license agreement.

Supervisor Diana asked when Dish would co-locate on the tower and Ms. Cain said they are looking at the first quarter of next year. Town Attorney Adam Rodriguez reviewed the project and had no objection to the proposal.

Councilman Esposito said that he would like to know what the escalation date is for the Town's current agreement with Crown because he would like to see the escalation date fall in line with our current agreement and not Dish's since the Town does not have a relationship with them. To clarify things, Supervisor Diana asked when the Town would start receiving the \$500 and Ms. Cain said as soon as Dish starts construction – January 2024. Councilman Esposito explained why he felt the Town's escalation should be based on the Town's current agreement; not when Dish's escalation begins in 2028.

Supervisor Diana spoke about the review of cell tower contracts and how the Town must keep track of them.

Councilman Esposito again said that he would like to know the escalation date for the Town's current contract with Crown Castle; irrespective of Dish Wireless. Mr. Rodriguez said he thought the 2.8% escalation fee was "light" and could be up for negotiation.

Town Engineer Dan Ciarcia joined the discussion and was asked if he needed anything from Crown Castle for the project and Mr. Ciarcia said the Town would need to be able to maintain clearance for the water tank and he would need to see a site plan.

Supervisor Diana said this would request would be tabled until the Town Board receives more information regarding the current lease and escalation schedule.

TACONIC BRIDGE SIGN REPLACEMENTS

Susan Siegel, Yorktown Trailtown Committee, came before the Town Board to discuss the next step of the Taconic Bridge Sign Replacement project that included a \$6,500 grant to replace the outdated signs. She presented the board with a "creative detail" that lays out in more detail exactly what will be on both of the sides of the bridge – the east side will explain the history of the Taconic Parkway and why and how the bridge got built and the sign on the west side will talk about the trails. Pictures of the bridge under construction were displayed on video. Ms. Siegel said there are three proposed signs – one will be an outline of the Taconic Parkway; a much simpler illustration that what is there now. She asked the Town Board for a resolution to authorize the Trailtown Committee to obtain quotes and hire a designer to make up the signs. Ms. Siegel said she had spoken to the Town Comptroller and they will seek quotes under the \$15,000 threshold and enter into a professional services agreement.

VETERANS MEMORIAL

John Tegeder, Director of Planning came before the Town Board to discuss the Vietnam Memorial at Patriot Park. It will be a singular monument devoted exclusively to the men and women who served in the Vietnam War, as well as those who lost their lives. Pictures of the location of the monument were displayed on video. It will be placed between the first two monuments, the War on Global Terror monument done last year and the Korean and Vietnam monument that was done in 1968. He discussed the shape, texture, and finish of the new monument will mimic those surrounding it but with a different type of stone. Mr. Tegeder said the plan is to remove the bronze plaque on the current Korean and Vietnam monument and replace it somewhere in Patriot Park in another spot, in order to preserve the history and efforts of the past.

Councilman Lachterman spoke of his interaction with Vietnam Veterans through the Sons of the American Legion and the great disrespect they suffered upon their return and how important this monument is to give them the recognition they deserve.

ATV LAW

Supervisor Diana spoke of how the proposed legislative amendment will give the police department more “teeth” but also places the onus on owners of the ATVs – especially in light of recent incidents that have happened in Town. Supervisor Diana asked Town Attorney Adam Rodriguez to comment on the proposed amendment.

Mr. Rodriguez said he had spoken to Mr. and Mrs. Daniels and reviewed their proposed changes, as well as Parks & Recreation in order to digest all of the suggestions and come up with a comprehensive amendment that will address all concerns. He is planning to meet with Parks & Recreation and the police department within the next few days. Mr. Rodriguez said that on a high level, the amendment would increase penalties so that there are further disincentives from the recent conduct. It would also address “registered” vs. “unregistered,” “state law” vs. “local law” and try to harmonize these and expand the reach of the Town’s legislation to catch things that it does not currently catch. He said he is looking at ways to increase the Town’s ability to enforce the law.

Supervisor Diana said this is a work in progress but is a very serious work in progress. He said that it is becoming more evident that people are using Town parks for their personal ATV courses, which the Town will not tolerate. He said that this is the first step, along with signage.

Councilman Esposito said this is an activity that runs deep with residents who own ATVs and it is unfortunate that a few people chose to take advantage of it and cause such problems. Councilman Lachterman said that those who participate in the activity must understand the rules and the safety precautions that must be taken. He spoke about how some areas have courses just for ATVs and dirt bike riding.

Supervisor Diana said people will have to held accountable for their actions.

Supervisor Diana displayed photos of the new memorial stone at the Shrub Oak September 11th Memorial.

AUTHORIZE THE COMPTROLLER TO PROCESS A BUDGET TRANSFER FOR CONTRACTUAL INSTRUCTORS
RESOLUTION #430

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

Resolved, the Comptroller is authorized to process the following budget transfer:

From	
A.1002 General Fund – Fund Balance	\$12,000.00
To	
A.7610.0425 Adult Programs – Contractual Instructors	\$12,000

for the Fall and Winter Contracts for Adult Recreation Programs.

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

AUTHORIZE THE COMPTROLLER TO PAY PATRICIA CAPORALE THE CASH VALUE OF UNUSED AS OF RETIREMENT AND TRANSFER FUNDS FOR SAME RESOLUTION #431

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

Resolved that the Town Board hereby authorizes the Town Comptroller to pay Patricia Caporale the cash value of unused time as of her date of retirement.

Rate of Pay	78.8462 hourly		
Vacation	385.00 hours	x	\$78.8462 = \$30,355.79
	1,400.00 Sick hours @ 50% = 700.00 hours		
	700.00 hours	x \$78.8462	= \$55,192.34
Longevity	02/17/23-08/25/23 – 136 days		
	\$1,750.00 / 260 days = \$6.7308 per day		
	136 days x \$6.7308 per day =		\$ 915.38
Total			\$86,463.51

Be it further resolved that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:		
A1002.8	General Fund Balance Accrued Employee Benefits	\$72,692.33
A1315.101	Comptroller Salary	\$12,855.80
A1315.106	Comptroller Longevity	\$ 915.38
To:		
T.905.1	Medical/Dental/Vision Trust	\$55,192.34
A1315.108	Comptroller Lump Sum	\$31,271.17

AWARD BID FOR PAVEMENT MARKING RESOLUTION #432

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

WHEREAS, invitation to bid for the Pavement Marking Bid for the Town of Yorktown was duly advertised, and

WHEREAS, said bids were received and opened on August 31st 2023, with the bid amounts for the above-referenced project summarized as follows:

	<u>Ref. Double Yellow Lines</u>	<u>Ref. Single White Lines</u>
K5 Corporation	\$3900.00 per mile	\$2200.00 per mile
O.H. Striping Inc.	\$2745.00 per mile	\$1690.00 per mile
Safety Marking LLC	\$3645.00 per mile	\$1940.00 per mile
Sealcoat USA Inc.	\$3200.00 per mile	\$1600.00 per mile

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Pavement Marking Bid for the Town of Yorktown be and is hereby awarded to the most responsible bidder; Sealcoat USA Inc, 79 Pembroke Drive, Yonkers, NY 10710

BE IT FURTHER RESOLVED, the contract is to begin on September 1, 2023 and terminate on August 31, 2024. The Town shall have the option to extend this contract at the same price for (2) consecutive one-year terms: 2024/2025, 2025/2026.

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

ACCEPT THE RESIGNATION OF MARK ALEXANDER EFFECTIVE SEPTEMBER 16, 2023 RESOLUTION #433

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

Be it resolved, that the Town Board of the Town of Yorktown hereby accepts the resignation of Mark Alexander, effective September 16, 2023.

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

AWARD BID FOR THE PREVENTATIVE MAINTENANCE & ON-CALL SERVICES OF EMERGENCY GENERATORS

RESOLUTION #434

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

Whereas, invitation to bid for the Preventative Maintenance & On-Call Services of Emergency Generators - Bid #23-8 was duly advertised, and

Whereas, said bids were received and opened on September 5, 2023 with the bid amounts for the above-referenced project summarized as follows:

<u>NAME OF BIDDER</u>	<u>AMOUNT OF BID</u>
Effortless Power, Inc.	\$22,512.50
Gentech, Ltd.	\$36,025.00
Peak Power Systems, Inc.	\$41,628.60
National Standby	\$42,810.00
Northeast Generator	\$54,103.20

RESOLVED, that the bid for the Preventative Maintenance & On-Call Services of Emergency Generators, bid #23-8 be awarded to Effortless Power, Inc., at a total bid price of \$22,512.50.

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

AUTHORIZE LETTER OF AGREEMENT WITH DIAMOND MCCARTHY, LLP FOR A TAX CERTIORARI PROCEEDING

RESOLUTION #435

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

BE IT RESOLVED, the Supervisor is authorized to execute a Letter of Agreement with Diamond McCarthy, LLP for legal services in the amount not to exceed \$15,000 for the purpose of legal services due to a tax certiorari proceeding.

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

Town Attorney Adam Rodriguez explained that this is a tax certiorari proceeding wrapped up into a federal bankruptcy proceeding for the Jefferson Valley Mall and Washington Prime.

APPROVAL OF TACONIC BRIDGE REPLACEMENT SIGN CREATIVE BRIEF AND AUTHORIZE TOWN COMPTROLLER TO SOLICIT QUOTES

RESOLUTION #436

Upon motion made by Councilwoman Capoccia, seconded by Councilman Lachterman,

Resolved, that the next step in the Hudson Valley Greenway grant for the replacement of signs in two kiosks on the bridge over the Taconic State Parkway; and

Be It Resolved, the Town Board approves the Taconic Bridge Replacement Sign Creative Brief drafted by the Yorktown Trail Town Committee as the basis for the design of the signs; and

Be It Further Resolved, the Town Board authorizes the Town Comptroller to solicit quotes from graphic designers under the terms of the Professional Services Agreement section of the Town's procurement policy.

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

ADJOURNMENT

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

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