

Meeting of the Town Board, Town of Yorktown held on April 18, 2017 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  
Maura Weissleder, Deputy Town Clerk  
David Paganelli, Highway Superintendent  
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 Diana, the Town Board moved into Executive Session to discuss contract negotiations. Upon motion made by Councilman Diana, seconded by Councilman Bernard, the Town Board moved out of Executive Session and proceeded with the meeting.

#### PLEDGE OF ALLEGIANCE

One of the Town's local girl scouts led the Pledge of Allegiance.

#### MOMENT OF SILENCE

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

#### SUPERVISOR GRACE'S REPORT TO THE TOWN

Supervisor Grace reminded everyone next Wednesday at 11:00 a.m. a memorial service for the victims of the Holocaust will be held at Town Hall. He said this is not something that is in the historical past, but is in the present as well, as evidenced in the form of genocide that is happening in parts of the world today.

Councilman Edward Lachterman mentioned that it will be televised live.

#### PRESENTATION

Kim Angliss Gage from Refuse and Recycling presented information regarding the Battle of Yorktown. She stated that the roadsides are scattered with unsightly litter and wants to "rally troops in a war against litter." The Battle of Yorktown will be held on Earth Day, April 22 which is being coordinated by the Refuse & Recycling Department. Bags will be given out for volunteers to collect garbage. A total of 21,300 lbs. were picked up last year, as well as tires, washing machines, etc. She stated that many residents assume litter will be picked up by someone else, which is not the case. Please stop by and sign up at the Refuse & Recycling office and register so collection crews can come and pick up the orange bags when volunteers are finished.

Ms. Gage enumerated the collection of trash in the year 2016 and the cost savings that resulted from the collection. She listed the number of trash and recyclable programs that her department has initiated and their successes.

DURING REPORTS FROM THE TOWN COUNCIL, Councilman Diana reminded everyone that this Sunday, April 23, from 10:00 a.m. to 2:00 p.m. there will be second annual car show on Commerce Street at the Underhill Plaza. There will be also be a charitable donation for a disabled individual. If anyone wants to become a member of the Parade Committee they should email Mary Capoccia and notify her of their interest.

PUBLIC HEARING  
TO CONSIDER THE ESTABLISHMENT OF HUNTERBROOK SEWER DISTRICT  
EXTENSION NO. 21

Supervisor Grace convened a public hearing to consider the establishment of the Sewer District Extension in said Town to be known as Hunterbrook Sewer District Extension No. 21, and the improvements proposed therefor, and to consider the petition, map, plan and report filed in relation thereto, and to hear all persons interested in the subject matter thereof concerning the same, and for such other action on the part of said Town Board as may be required by law or shall be proper in the premises.

Project Attorney Al Capellini stated the owner has had this property for 36 years. This is a six-lot subdivision and the applicant is asking for a flexibility request, therefore, it would have a non-public road. There would also be preservation of most of the land – some of which will be used for farming. Eight lots will be sewered to create this extension to the Hunterbrook Sewer District, which goes to the Peekskill Sewer District. If the Town Board approves the application, Mr. Capellini asked that the Board please petition the County Board of Legislatures to annex this property into their jurisdiction. It will not add to taxpayer burden.

Joe Riina from Site Design Consultants, and also the Project Engineer, presented plans for the property. The map showed the location of the sewer and how the sewage from this extension would go to Peekskill – this project will use approximately 2400 gallons per day. This project is moving forward under the flexibility zone. There are 6 proposed building lots (5 one-acre lots). The nearest public sewer is near the Field Home which is approximately 500 feet from the property line. Because of the gradient, the sewage would be pumped up to that sewer. It will eventually require Health Department approval.

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 Bernard, and seconded by Councilman Diana.

PETITION TO REQUEST 1805 JACOB ROAD BE INCORPORATED INTO THE  
PEEKSKILL SANITARY SEWER DISTRICT  
RESOLUTION #135

Upon motion made by Supervisor Grace, and seconded by Councilman Diana,

WHEREAS, the Town of Yorktown Town Board is desirous of including 1 parcel of land adjacent to the existing Hunterbrook Sewer District into the Peekskill Sanitary Sewer District,

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

Featherbed Properties, LLC 1805 Jacob Road, Section 35.16, Block 1, Lot 4

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

CREATION OF HUNTERBROOK SEWER EXTENSION NO. 21  
RESOLUTION #136

The following resolution was offered by Councilman Bernard, who moved its adoption, seconded by Councilman Diana, to-wit:

WHEREAS, after a public hearing duly called and held, the Town Board of the Town of Yorktown now desires to formally establish Hunterbrook Sewer District Extension No. 21;  
NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Yorktown, Westchester County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined as follows:

- a) All the property and property owners within said proposed Hunterbrook Sewer District Extension No. 21 are benefited thereby;
- b) All the property and property owners benefited are included within the limits of said proposed Hunterbrook Sewer District Extension No. 21; and
- c) The establishment of said proposed Hunterbrook Sewer District Extension No. 21 is in the public interest.

Section 2. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Michael J. Grace	Voting	Aye
Vishnubhai V. Patel, Councilman	Voting	Aye
Gregory M. Bernard, Councilman	Voting	Aye
Thomas P. Diana, Councilman	Voting	Aye
Edward A. Lachterman, Councilman	Voting	Aye

In addition, at such meeting, the following resolution was offered by Supervisor Grace, who moved its adoption, seconded by Councilman Diana, to-wit:

WHEREAS, said Town Board has adopted a resolution on April 18, 2017 making the findings and determinations required pursuant to Section 194(1) of the Town Law; NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Yorktown, Westchester County, New York, as follows:

Section 1. The establishment of Hunterbrook Sewer District Extension No. 21 in the Town of Yorktown, Westchester County, New York, whose boundaries are set forth in Exhibit A, consisting of a sanitary sewer system to be paid for by the petitioner, is hereby approved.

Section 2. The Town Clerk shall, within ten (10) days after this resolution takes effect, file certified copies of this resolution in the office of the State Department of Audit and Control at Albany, New York and record same in the County Clerk's office.

Section 3. This resolution takes effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Michael J. Grace	Voting	Aye
Vishnubhai V. Patel, Councilman	Voting	Aye
Gregory M. Bernard, Councilman	Voting	Aye
Thomas P. Diana, Councilman	Voting	Aye
Edward A. Lachterman, Councilman	Voting	Aye

The resolution was thereupon declared duly adopted.

RETIREMENT – ANDREW ALIMONTI – HIGHWAY DEPARTMENT  
RESOLUTION #137

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

RESOLVED, the Town Board accepts the retirement of Andrew Alimonti from the Highway Department effective April 28, 2017.

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

ADVERTISE BID FOR STREET AND TRAFFIC SIGNS – HIGHWAY DEPARTMENT  
RESOLUTION #138

Upon motion made by Councilman Bernard, seconded by Councilman Lachterman

NOTICE IS HERE GIVEN that sealed proposals will be received by the Town Clerk, Town of Yorktown, Westchester County, NY until 11:00 A.M. on May 15, 2017 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, N.Y. 10598 for Street & Traffic Signs - Highway Dept. Bid. Specifications may be obtained at the office of the Town Clerk in said Town Hall. SG/TD

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

ADVERTISE BID FOR GRANITE KNOLLS SPORTS COMPLEX PROJECT – PARKS AND  
RECREATION DEPARTMENT  
RESOLUTION#139

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

RESOLVED, that the Town Clerk is authorized to advertise Bid for the Yorktown Parks and Recreation Granite Knolls Sports Complex Site Improvement Project.

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

Councilman Patel asked if there is an estimate of cost for this project. Supervisor Grace said all pertinent information has been available. Supervisor Grace said there is misinformation regarding this project. This is a piece of property purchased by the town as it was going into foreclosure for failure to pay taxes to the tune of about \$900,000. The Town paid about \$2.7 million. Part of the quid pro quo for the purchase was to put active recreational use on the property. The Town had an opportunity, at no cost, to have that recreation use done by Spectra Energy. The parent company of Spectra is on the second leg of their project at Legacy Ballfield which will make the ballfield unavailable until 2018. Once we get the price for Granite Knolls work, Spectra will be building the recreation facilities there.

Councilman Patel asked how the property will be maintained. Supervisor Grace spoke about the lack of fields in town and the poor condition of some of what we do have. It will be artificial turf and low maintenance. There will be two all-purpose fields, a 90 foot baseball diamond, pickle ball courts, a pavilion, a putting green, etc. It will allow tournaments to be held; it will be great for the youth in town and it will be great for the local economy. The benefits far outweigh the cost of the maintenance.

A member of the Yorktown Athletic Club voiced his support of this project and stated the need for the facility in the town. He stated how other towns have showcase fields with taxes just as high as ours. One of the assets this town has is the recreational programs that are offered.

AWARD BID FOR SUMMER CAMP BUSES PROGRAM – YORKTOWN PARKS AND  
RECREATION  
RESOLUTION #139

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

WHEREAS, invitation to bid for the Provision of Buses for the Summer Camp Program for the Yorktown Parks and Recreation Department was duly advertised, and

WHEREAS, said bids were received and opened on March 20, 2017, with the bid amounts for the above-referenced project summarized as follows; NOW, THEREFORE BE IT

**Section I. A. (School Buses for Swimming Program)**

	<b>COMPANY</b>	<b>BID</b>
1	Baumann & Sons Buses, Inc.	\$16,330.00
2	Royal Coach Lines, Inc.	\$16,560.00
3	Hudson Valley Transportation	No Bid
4	Coach Tours	No Bid
5	JTR Transportation Corp	No Bid

**Section I. B (School Buses for Extended Day Program)**

	<b>COMPANY</b>	<b>BID</b>
1	Baumann & Sons Buses, Inc.	\$919.31
2	Royal Coach Lines, Inc.	\$989.00
3	Hudson Valley Transportation	No Bid
4	Coach Tours	No Bid
5	JTR Transportation Corp	No Bid

RESOLVED, that upon recommendation of the Superintendent of Parks and Recreation, Todd Orłowski, the bid for Section I. A. (School Buses for Swimming Program) and Section I. B (School Buses for Extended Day Program) be combined and is hereby awarded to Baumann & Sons Buses, Inc. the lowest responsible bidder.

**Section I. C (School Buses for Trips 1, 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 19)**

1	Baumann & Sons Buses, Inc.	\$7,903.00
2	Royal Coach Lines, Inc.	\$8,095.00
3	Hudson Valley Transportation	No Bid
4	Coach Tours	No Bid
5	JTR Transportation Corp	No Bid

RESOLVED, that upon recommendation of the Superintendent of Parks and Recreation, Todd Orłowski, the bid for Section I. C (School Buses for 1, 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 19) be and is hereby awarded to Baumann & Sons Buses, Inc. the lowest responsible bidder.

**Section II (Coach Buses for Trips 2, 3, 4, 5, 6, 8, 9)**

	<b>COMPANY</b>	<b>BID</b>
1	Hudson Valley Transportation	\$24,450.00
2	JTR Transportation Corp	\$29,400.00
3	Coach Tours	No Bid
4	Baumann & Sons Buses, Inc.	No Bid
5	Royal Coach Lines, Inc.	No Bid

RESOLVED, that upon recommendation of the Superintendent of Parks and Recreation, Todd Orłowski, the bid for Section II. (Coach Buses for Trips) be and is hereby awarded to Hudson Valley Transportation the lowest responsible bidder.

AND BE IT FURTHER

RESOLVED, the results of sections I.A. and I.B., is hereby awarded to Baumann & Sons Buses, Inc., the results of sections I.C., is hereby awarded to Baumann & Sons Buses, Inc. and Section II, is hereby awarded to Hudson Valley Transportation and will amount to approximately: (please note – trips may change due to scheduling changes/conflicts/weather etc. Additional bids were collected for other trips and will be used if needed)

Section I.A (2 buses) and Section I.B (1 bus) to Baumann & Sons Buses, Inc. = \$17,249.31  
 Section I.C to Baumann & Sons Buses, Inc. = \$7,903.00  
 Section II to Hudson Valley Transportation = \$24,450.00

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

**AWARD BID FOR T-SHIRTS AND UNIFORMS – YORKTOWN PARKS AND RECREATION**

**RESOLUTION#141**

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

WHEREAS, invitation to bid for **T-SHIRT AND UNIFORMS** for use town-wide, was duly advertised, and

WHEREAS said bids were received and opened at 11:00am on the 17th day of April 2017, now therefore be it,

RESOLVED, that upon the recommendation of the Supt. of Parks & Recreation, the bid be and is hereby awarded to the lowest bidder, The Great Armadillo Printing Co., for the items numbered PR-1 through LIB-3 as outlined on the attached summary of bids.

BE IT FURTHER RESOLVED, these items will be ordered on a per item basis.

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

AUTHORIZE COMPTROLLER TO PAYOUT ERIN MANTZ CASH VALUE OF UNUSED TIME – PARKS & RECREATION DEPARTMENT  
RESOLUTION #140

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

BE IT RESOLVED that the Town Board hereby authorizes the Town Comptroller to pay Erin Mantz the cash value of unused time as of her date of separation.

Rate of Pay: \$46.3538 hourly

Vacation	175 hours	x	\$46.3538	=	\$8,111.92
Personal Days	21 hours	x	\$46.3538	=	\$ 973.43
Floating Holidays	14 hours	x	\$46.3538	=	\$ 648.96
			Total		\$9,734.31

BE IT FURTHER RESOLVED that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:

A7020.101 Recreation Salary \$9,734.31

To:

A7020.108 Recreation Lump Sum \$9,734.31

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

APPROVE SPECIAL TOWN BOARD MEETING ON WEDNESDAY, MAY 3, 2017  
RESOLUTION #141

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

RESOLVED, the Town Board of the Town of Yorktown will hold a Special Meeting on Wednesday, May 3, 2017 at 6:30 P.M. at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598. The Town Board will immediately vote to move into Executive Session to discuss contract negotiations.

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

AUTHORIZE BUDGET TRANSFER OF \$67,500.00 – SPECIAL PROJECTS  
RESOLUTION #142

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

RESOLVED that the Town Comptroller is authorized to transfer \$67,500.00 from General Fund – Fund Balance to A8020.479 Planning - Special Projects as per Town Board resolution of August 2, 2016 which was not processed for payment during fiscal year 2016.

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

AUTHORIZE BUDGET TRANSFER OF \$14,000.00 – TABLETS FOR PLANNING BOARD  
RESOLUTION #143

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

RESOLVED that the Town Comptroller is authorized to transfer \$14,000.00 from General Fund – Contingency A1990.499 to A8020.201 Planning – Equipment for the purchase of six (6) computer tablets to be used by the Planning Board.

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

PILOT AGREEMENT WITH SHRUB OAK INTERNATIONAL SCHOOL

This resolution was pulled and will be visited at the next Town work session.

AUTHORIZE WETLAND BOND RELEASE FOR GLASSBURY COURT #WP-E-063-05  
RESOLUTION #144

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

WHEREAS:

1. Glassbury Court at Hunterbrook, LLC as applicant, posted Letter of Credit #SB-912656-2000 in the amount of \$25,000 to serve as the five year Wetland Bond for Wetland & Excavation Permit #WP-E-063-05, for the Glassbury Court at Hunterbrook Ridge Site Plan located on Catherine Street.
2. The bonding company recently requested the release of the bond as the site was completed several years ago.
3. The Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released,

NOW, THEREFORE BE IT RESOLVED, that the above referenced bond be released to Glassbury Court at Hunterbrook, LLC, 570 Taxter Road, 6<sup>th</sup> Floor, Elmsford, NY 10523.

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

PUBLIC HEARING TO CONSIDER REPEALING IN ITS ENTIRETY CHAPTER 178  
“FRESHWATER WETLANDS” AND REPLACE WITH A NEW CHAPTER 178

Supervisor Grace convened a public hearing to consider repealing in its entirety Chapter 178 of the Code of the Town of Yorktown entitled “FRESHWATER WETLANDS” and replacing with a new Chapter 178 entitled “FRESHWATER WETLANDS PROTECTION ORDINANCE.”

Supervisor Grace recapped the change to the ordinance: revisiting of the infrastructure has been something the Town Board has been doing for a couple of years. A lot of the regulations have been in place for decades and have not been reviewed. They are now being reviewed for their effectiveness. Supervisor Grace stated that the proposed changes are not weakening the law. One of the major discussions regarding the Wetlands Ordinance was how to evaluate a wetland – if one of the main intents is to protect the wetlands, you have to define the functions of a wetland first. Setting the amount of buffer footage was a number originally pulled out of thin air – the buffer should be set as a variable to the wetlands function. He stated that the easier, lazier way is to say “define it, protect it and that’s it.” The functions need to be defined so that the wetland can be properly protected. The Town of Yorktown has a broader definition than most other towns. This new law includes a required functional analysis by anyone seeking a permit under the law – this is a greater protection than what currently exists. The changes in the new law have been in the works for a number of years. Most of the language that is in the proposed law was done under consultation with Bruce Barber, the Town’s former Environmental Consultant. Supervisor Grace said that there will probably be some more drafts of the laws – which will require more noticing of future public hearings, unless there are not substantive textual changes. The Town Board is trying to strike a balance between protecting the functionality of a wetland and allowing homeowners to utilize their property. Supervisor Grace spoke of the drainage

application process. The Town is in the watershed area and the Department of Environmental Protection requires all projects to have a Stormwater Pollution Protection Plan (SWPPP) application. Every plan of development requires a SWPPP, sometimes much more than what is actually required. The Town Board is not seeking to fill in wetlands; and is not creating drainage problems with this proposed ordinance. Supervisor Grace ended with three points: First, the reported size of the wetland that would come under the regulation will be 1/10<sup>th</sup> of an acre. Second, a SWPPP will still be required and third, an applicant will have to provide for a functional analysis for any proposed development.

Town Attorney Michael McDermott said that it is important for the public to understand the process of changing local laws. He was charged with the task to modernize and update laws. He has been working on this for a year and a half. Other towns were looked at to see their process. Town Attorney Michael McDermott has worked with Planning Director John Tegeder, Town Planner Robyn Steinberg, Town Engineer Michael Quinn, and the Town Board; each made comments which were incorporated into the proposed law. Once a redline draft is reviewed, often it is seen differently and usually produces a new draft. These laws have been published on the town website for residents to view.

Supervisor Grace stated that the town is not exempt from the ordinance.

Councilman Patel stated that you cannot define function within 1000, 5000 square feet, etc. You cannot compare a mitigation plan from one acre to another. A scientific point of view needs to be obtained. The Town Board is not using the word “functionality” properly. The Town has different kinds of properties, including watershed property, and each have different regulations; all homes are different. He stated that the Town personnel are not experts in determining functionality.

Supervisor Grace stated that the analysis of function is an additional requirement that is not in the current law. Councilman Patel’s objection to having it in the law isn’t clear since having functionality as a requirement only gives more information in order to protect the wetland in question.

A member of the Sierra Club/Lower Hudson Valley spoke to the importance of wetlands to the environment. He explained how wetlands work and their function in a watershed area; how they help habitat protection and even consumer protection.

Mr. Mark Lieberman, resident related a personal story regarding how a similar change in a law caused flooding.

Mr. Ilan Gilbert, resident, respectfully disagreed with the board regarding the new law. As a former 12+ year member of the Conservation Board, he pointed out some of the changes that have been made in this proposed law that he sees as problematic. The legislative intent has been removed from the statute. The new law takes the findings of fact rather than the legislative intent and makes that into the legislative intent. Legislative intent that was omitted talked about the intent of the chapter to incorporate wetlands protection in the Town’s land development regulations. The Town Board included the importance of wetlands but omitted why the Town wants to protect wetlands. Supervisor Grace stated that this can be easily reincorporated into the new law. Mr. Gilbert said that the size of the wetland definition for functional analysis purpose is subjective. The Conservation Board did try to do a functional analysis even though they were guided by the statute. Supervisor Grace asked him what would be the appropriate size and that maybe there could be a compromise. Mr. Gilbert said the new statute may significantly diminish the role of the Conservation Board. He mentioned that there are some good points, like the application of GPS that have been incorporated. He said a balance needs to be achieved, as long as the foremost goal is to protect the environment for future generations. There is a significant omission of the provision 178.23 that talked about a more stringent statute in the town that the more stringent would apply even with subsequent changes to the law.

Supervisor Grace stated the size of the wetland in the ordinance is going from 1,000 to 4,000 square feet. If you are really doing a functional analysis, the size of the wetland doesn’t matter. Mr. Gilbert replied that, as written, a 2,000 square foot wetland may not be protected.

Mr. Tim Glass, resident, stated that this Town Board has rolled back legislation that has been in force for decades in a negative way; he brought up the tree law which provides less protection. The Board says it is only attempting to streamline a cumbersome process but feels the real truth benefits only certain people. Mr. Glass stated that where he lives wetlands are abundant; most are small, probably less than 2,000 square feet. They do their job of soaking up storm water and servicing as habitats. Is the Town now going to declare that these are no longer wetlands? Mr. Glass said that the truth is it doesn't matter what size it is or its functionality or what it is called; it still serves the same purpose. He said that the proposed law is ambiguous and contradicts itself. He quoted discrepancies in the law as well as comments from the county that point to the flaws in the new legislation. The new legislation dismisses wetlands smaller than a certain size and does so without any scientific justification. Other neighboring municipalities have no specified size for regulated wetland areas. Where is there a documentation of residents complaining to change the law in the first place? The board claims it is prioritizing quality over quantity – but how will the Town decide what is high or low functioning if an analysis is not done? The proposed law makes a functional assessment optional when an engineering permit is required and the Town Board or the Planning Board are only required to do a functional assessment at the end of the approval process when they are reviewing a mitigation plan. By then the plan may have already factored in disturbance of the wetlands and wetlands buffer. Mr. Glass stated that this is not streamlining; this is being irresponsible and shortsighted. Right now, the current law says not only does a wetland need to be only 1,000 square feet in order to be regulated, it also must meet at least one of three specific criteria: soil, hydrology, or vegetation. This clause assures us that even young and not fully developed wetlands will be allowed to thrive. By disturbing wetlands, we are removing a natural process of protecting infrastructure and will eventually be spending more tax dollars in repairs of the infrastructure.

Mr. Paul Moskowitz, resident, president of Hunterbrook Homeowner Association, presented a photograph of a wetland near his home that is 3000 square feet. Under the new law this may not be protected. If someone decides to fill this in, Hunterbrook Road could become flooded, deteriorate. He pointed out a discrepancy between what the ordinance states as an acre vs. what the Planning Board states as an acre.

Ms. Linda Miller, resident, stated that consideration of wetlands functions have not been incorporated into the law in any useful scientifically valid way. The new law relies heavily on the subjective judgement of the person doing the analysis. The Town is opening the possibility of different wetlands being evaluated by different standards and making comparisons very difficult. Ms. Miller's remarks echoed the remarks of Mr. Glass regarding that the Town Board may require the assessment – it is not a requirement. The law says these boards are required to consider the functions of the wetlands but not required to have the assessment. Mitigation measures are supposed to compensate for wetlands destroyed and should try to replace the function of the wetlands destroyed. Here is where the functional value assessment is required. Unfortunately, the new law has cut out most of the mitigation plan requirements. Without long term monitoring, you won't know if mitigation and the definition of functionality is working.

Supervisor Grace asked if the functional analysis is of value and where should it be placed in the process?

Ms. Linda Miller responded that a different kind of method that depends less on the subjective opinion of the person doing the analysis would be preferable. An analysis of the area's wetlands should be used to compare the wetland in question. There should also be a change from the word "may" to "shall." Supervisor Grace said he felt that this may have been an oversight in the law. He asked Ms. Miller to provide him with some of the information to which she was referring.

A Town resident, asked if town-owned lands are covered by the new law. She quoted from the new law which seems to exempt town-owned property. Who is doing the monitoring that is mentioned in the law? She feels the new law is confusing and somewhat contradictory. Wetlands owned by the Town are as deserving of protection as those that are privately owned. The permitting process is the responsible way to keep all residents and the Town aware of what is being done in the Town by all parties seeking to disturb wetlands.

Supervisor Grace stated that all town actions will be covered by the law. He stated that if it is not explicit now, it will be.

Ms. Marsha Stone, resident of Shrub Oak Park began by speaking of the flooding in the Shrub Oak Park area. The assumption is that the proposed law will be stronger than the current law. The proposed law is weaker. She commented on three aspects of the new law (size, function, process) and echoed the sentiments and comments of previous speakers. The proposed law will protect fewer wetlands – those that are less than 4356 feet – and pose potential new flooding issues. Covering fewer wetlands means a weaker law. The current law has always protected vernal pools – this is nothing new – if it was not expressly stated. The Town can amend the current law to include vernal pools; it doesn't need an entirely new law. The new law only codifies what is already being done, even though it is not stated in the current law. Functional assessment is already being done. The assessment needs to be done at the beginning of the process, not the end. Will lower functioning wetlands be considered less important? Less burdensome actually weakens the law – it allows homeowners to do more on their property that may be detrimental to neighbors. Less burdensome to one homeowner becomes more burdensome to another.

Mr. Jay Elkin, resident, asked why is 1,000 square feet any less functional than 4,000? From a scientific point of view, it has not been explained - why is this so? Supervisor Grace stated that this is a proposed statute – they can easily go back to 1,000 square feet on a revised ordinance. Supervisor Grace also agreed that the analysis should be at the beginning of the process. Supervisor Grace at this point guaranteed that the present law would not pass. This hearing gives the board the chance to hear what the residents have to say.

Mrs. Jenny Sunshine – resident – wanted to remind everyone how beautiful the area of Yorktown is and how much the environment has to offer. It is also important for our children to understand the value of the environment and its protection.

Dr. Carl Hoegler, resident, stated that the New York State Legislature recently passed a budget that set aside 2.5 billion for a clean water infrastructure. Gov. Cuomo said it would protect and preserve the water resources. The proposed provisions in the new will set us back in the Town. We will be paying more money to seek protection of wetlands which have an economic function. The new law will reduce regulation of wetlands and redefine wetlands and eliminate the permit process. He pointed out contradictions that he feels are in the new law. The new law will increase water runoff because residents may wish to cut down trees in the wetland buffer to expand their land. The Town is removing a natural safeguard and taxpayers will have to pay for the replacement. Dr. Hoegler felt the existing law has a lot of benefits, though it is not perfect. The wetland buffer should be increased to 150' because water will be spread a greater distance and lessen the chance of flooding. He stated that if you plant more trees in the buffer, those trees will harbor miniature ecosystems which will process the water. Bacteria have a beneficial role in the ecosystem by detoxifying pollutants. He stated that the Supervisor has asked for functional analysis and thinks that is a wonderful idea. Functional analyses are very expensive; are the taxpayers willing to pay for this? Qualitative analysis has value; but to do an authentic analysis is cost prohibitive, in his opinion. Dr. Hoegler stated that although people should be able to do what they wish with their property, there are limits that should not affect the common good of all. He pointed out that the Town Board represents all residents, not just those who voted for them. He appreciates the spirit of the public hearing and the sharing of information.

Ms. Phyllis Bock and Ms. Diane Drier, Co-Chairs, Conservation Board stated that the Conservation Board's primary function is to protect the Town's natural resources and feel the new law reduces this. They are concerned with the size of what the new law sets as wetlands of concern and feels it minimizes the current law.

Mr. Dan Shapiro, resident, is concerned about maintaining and/or increasing the value of his property. He stated that what makes Yorktown desirable is the natural beauty of its environment. The wetlands are a critical part of this. The passage of the proposed law would be a major blow to what is desirable.

Mr. Mel Tanzman, resident, addressed the comment received from the Soil and Water Commission which echoes the concerns of what has been heard this evening. The letter questions what training the town engineer will have in order to enforce the law. Limits should be placed on the town engineer's authority regarding applications. What science determines the .1 acre – the district manager of the county is not aware of any studies that determine this size. The County pointed out that this would allow a piecemeal destruction of the area's wetlands.

Ms. Amy Hirsch, resident, stated that she feels that this legislation is not progress. Please do not make a decision based on just complaints and asked the Town Board to protect future generations. They have been charged with this responsibility and asked that they take all people into consideration. Ms. Hirsch asked that all people need to treat each other kindly and with respect since we all love this town.

Ms. Rhonda McGill, resident, stated that Yorktown is a beautiful place and people have moved here because of this. Under the new law, they could conceivably fill in their 2000 square feet of wetlands she has on her property and could completely flood their road. Ms. McGill asked that the law not be passed.

A representative from Riverkeeper said the Town Board should be proud of the residents who have appeared this evening and voiced knowledgeable and passionate opinions regarding this law. They submitted a letter in opposition of the law. There is no scientific basis to raise the threshold of protected wetlands. The old law allows the Town Board to look at a project and decide what is best – why give that power away? Why is the Town deleting purpose of the law? It should be to protect wetlands and allow wetlands to increase; thereby increasing their benefits.

Mr. Steven Filler, resident, asked that the Town Board consider the direction as to where the Town is going. Is the Town responsive to its citizens? He said that in the past he has heard discussion regarding environment vs. economy and how they are incompatible. Both have to be considered because both are vital. He talked about reports regarding the extinction of species by the end of this century and how we need to think globally and act locally. He has been working in the last several weeks regarding a petition that over 1,000 have signed; 230-250 people are from Yorktown. Mr. Filler stated that there is no intent stated in new law.

Mrs. Susan Siegel, resident, stated that although the Supervisor stated that he was present for the writing of the 1981 wetlands law, it was not the first wetlands law - there was one in the 1970's which she had worked on. Ms. Siegel said, in general, she agreed that the town engineer should be the approving authority regarding certain permits that have a limited impact on wetlands. She does not agree with the lack of notification to neighbors that is in the proposed new law. She cited an example of a neighbor wanting to build a swimming pool that extends into the buffer zone, he has to come to the Town Board for permission. As the permit-issuing authority, the Town Board must hold a public hearing which means abutting property owners would be notified of the neighbor's plan and would have time to formulate questions before the hearing; especially how the plan would impact their property, i.e., runoff. Under the new law, the Town Engineer would be responsible for issuing the permit but there is no notification required. Neighbors would not be informed until they see the bulldozer. The new law also doubles the amount of wetlands that can be disturbed on a property without notification to the abutting property owners. Mrs. Siegel thanked the Supervisor for listening to comments and creating a new draft. She presented some contextual and procedural issues within the new law.

Ms. Arlene Lawrence, resident, stated that she agreed with the previous speakers regarding the size of what is allowed to be disturbed. She wanted to comment on the size issue as it relates to the definition of wetland buffers. The current law defines the buffer as at least 100 feet from the wetlands; the new law eliminates the words "at least" which takes away the flexibility the Town gives itself to protect the wetlands. The size of the wetland buffer needs to be kept flexible in order to give it protection.

Mr. Walter Daniels, Chair of the Open Space Committee, stated that earlier in the evening the Supervisor addressed their issue of the Town having to comply with the new law regarding Town-owned property, as he quoted from the Committee's comments regarding the new law.

Mrs. Jane Daniels, resident, stated that she is a developer, but one of trails, not homes or businesses. She is a member of the Yorktown Trail Board. Her issues that she was going to present regarding the new law appeared to have been addressed earlier by Supervisor Grace and she complimented the supervisor for taking a step back and taking into consideration what the residents have to say. She mentioned a bridge that is being built regarding a trail connection to FDR Park.

Mrs. Maura Gregory, resident, supported some of the comments that had already been made. She made comments regarding the new legislation's requirement of three attributes that need to be present before a piece of property could be considered a wetland – soil, hydrology, vegetation – versus the current law that says only one attribute needs to be present. You won't have all of the attributes because each of them can develop at different rates; therefore the potential new wetland will not be protected – the purpose of protection is defeated. Ms. Gregory mentioned how the town said the law was so well vetted but apparently not since the Supervisor has now said the new legislation will not pass. Ms. Gregory said the important lesson is that the people should be heard from much earlier in the process. Get input earlier and listen to the residents and the experts.

Mr. Paul Coteus, resident, stated he has been studying wetlands for the last year as a way to avoid the bad effects of global warming and how wetlands are the best way to sequester carbon. He said that as we start to feel the effects of carbon dioxide in the atmosphere, we should realize how effective wetlands are in drawing out and trapping carbon dioxide because of being anaerobic. Wetlands are valuable because they become carbon sinks that trap the pollution. We should be concerned with creating more wetlands, not reducing the amount of them.

Supervisor Grace said that no one is saying that wetlands are not important and have no value. He believes the functionality is missing from the old law and is critical piece of a new law.

Mrs. Sheila Schraier, resident, spoke of the bucolic nature of the town and is disheartened by anti-environmental actions of the Town Board. Trees are the lungs, wetlands the filter. She feels the Town Board has ignored the town motto and she doesn't understand their version of progress. Ms. Schraier feels that the Town Board doesn't listen to residents and that votes are predetermined.

Ms. Carol Harrington, resident, spoke of the positives of living in Yorktown. She asks that the Town Board maintain the forward thinking of the present wetlands law, specifically 1,000 square feet or larger. We may not be able to change the laws protecting our national parks or carbon emissions, but we can preserve the character of Yorktown and protect its environment.

Ms. Janet Harcomb, resident, was an elected official in a neighboring community and understands the process the Town Board has to go through. She said that it is hard to remember in a board setting that what you are doing affects future generations and future generations. She stated that the Town Board has to remember that this is not just an elected moment for their term, but an elected moment for their legacy to the Town. Everyone agrees that the wetlands are important but the Town Board is practicing a weak sustainability model which deals with replacement, technological advancements, and economic reasons for policy making. Strong models have to do with protection and unknown benefits of the future. The problem with valuing the wetlands is that there are many unknown values which you cannot place a value on. We need clean water. The Town Board has to be very, very careful in how they place a value on something for which we don't know all the facts. We don't know what the functions are of wetlands more than we do and the Board should not be in a hurry to place a value or functionality on them.

Councilman Patel equated this concern with that of an iceberg – only 10% is known; the majority is not yet known. He stated how important clean water is to our society.

Mr. Rob May, resident, voiced concerns about wetlands affected by the Atlantic Bridge Pipeline. If there is a new law it should focus in on the wetlands that are affected by the pipeline and be treated separately.

Mr. Paul Moskowitz, resident, stated that one-third of the town is covered by wetlands and any changes to the wetlands law will have an important environmental impact on the rest of the town. The Town should follow the State Environmental Quality Review Act by starting with a scoping session and follow that with an environmental impact statement.

Mrs. Rebecca Berlin, resident, stated that the approving authority should not be able to waive parts of the application. The Conservation Board should be included in the decision making process. Other provisions that are in the current law have been left out of the proposed legislation include animal grazing and installment of pipes. The new law should include all of

the provisions of the old law. The goal of the new law should be to increase wetlands in Yorktown. Before a new law is passed an environmental impact statement should be done, where professional opinions are required. Ms. Berlin enumerated the many species that may be affected by the new ordinance. The destruction of wetlands will destroy migratory patterns of many creatures and will ultimately lead to their demise. Ms. Berlin is concerned that the new ordinance will make it easier for Spectra Energy to reach their goal of the installation of the pipeline without concern of the environment. She stated a case of Spectra illegally destroying a wetland in the Peekskill/Blue Mountain District while searching for a lost drill bit and faced no legal repercussions.

Mr. Michael Beeks, resident, has wetlands on property. Are wetlands considered in totality – are shared wetlands considered as one wetland? This may work for one person’s property but not for the other. We should be working with state, county, and other community resources to develop a comprehensive plan to protect this valuable resource.

Mr. Dan Strauss, resident, wondered where all of the residents tonight were when the tree law went into effect? Trees and wetlands go together. Leave the current law alone.

Mr. Ken Belfer, Mohegan Lake, stated that he did a side-by-side comparison of the old law and the new law and there are many differences. He felt these differences should have been made available to the public because it is a difficult task. He feels that some of the changes may strengthen the protection of wetlands and also make it more streamlined for a homeowner. He appreciated the amount of work that went into the creation of the new law. The original law said that whenever this law is inconsistent with any other law in the Town of Yorktown, the more stringent law will prevail; he cited the stricter law in Chapter 300.00, Article 27 for Mohegan Lake.

Mrs. Susan Siegel, resident, stated that since it is clear that this law will be revised, she urges that the Town Board bring back the environmental consultant that used to be employed by the Town. The town does not have anyone who has the expertise of an environmental consultant.

Supervisor Grace said he and the Board appreciated all of the input. He said that sometimes there is miscommunication regarding making changes to laws. He gave the example about the Tax Exemption 485(b) law. Councilman Lachterman noted that with regards to the 485 (b) law that was passed, it was a 5-0 vote; not a 4-1 vote which was previously stated. Supervisor Grace stated that there are a lot of things the Board will take into consideration. He reviewed NYS DEC comments regarding the new law. He repeated that functionality is important to the new law. There are other interests that exist that do come to the Board – the goal is to come up with something that everyone can agree upon. Supervisor Grace said the Town Board will work to make a better more functional law.

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 Supervisor Grace, seconded by Councilman Diana.

Grace, Patel, Bernard, Diana, Lachterman Voting Nay  
Resolution not adopted.

Councilman Patel thanked all who came to the public hearing.

#### COURTESY OF THE FLOOR

There were no speakers for Courtesy of the Floor

Upon motion made by Councilman Bernard, seconded by Councilman Lachterman, Courtesy of the Floor was closed.

#### ADJOURN

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

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Diana L. Quast, RMC, Town Clerk  
Town of Yorktown

