

Meeting of the Town Board, Town of Yorktown held on June 20, 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
Michael McDermott, Town Attorney

TOWN BOARD MEETING

Supervisor Michael Grace called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Supervisor Grace, seconded by Councilman Lachterman, the Town Board moved into Executive Session to discuss contract negotiations. Upon motion made by Councilman Diana, seconded by Councilman Patel, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Grace 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.

REPORT FROM THE TOWN SUPERVISOR

Supervisor Grace thanked everyone for supporting Community Day, especially: Washington Prime Partners, owners of the Jefferson Valley Mall and host of the event; the board members of Yorktown Organizations United; and Tricy Cushner, Alliance for Safe Kids.

Supervisor Grace also issued a congratulatory note to Dr. Napolitano who is retiring after 11 years of service as Superintendent of the Yorktown Schools.

This week is also the Fireman's Parade which kicks off the Fireman's Carnival.

REPORT FROM THE TOWN COUNCIL

Councilman Diana mentioned that Yorktown Against Heroin has dedicated a drug-detection canine, Ditto, to the Town of Yorktown's efforts against heroin and drug abuse. Ditto will be back in Yorktown with her handler, Police Officer Tom Buyer, on August 10th. The Town will now have a drug detection canine to help stop drugs from getting to people. Councilman Diana reminded everyone that schools are closing/closed, so please drive carefully.

Councilman Bernard congratulated the Yorktown boys' lacrosse team who received their 40th sectional title. The girls' lacrosse team and the teams at Lakeland/Panas are also doing a terrific job; the Town is lucky to have such great sports programs and players.

Councilman Patel congratulated all of the Yorktown and Lakeland High School graduates, as well as the Yorktown student volunteers and interns.

Councilman Lachterman mentioned that on Sunday the car show at the Yorktown Grange will be starting at 8:00 for those with cars to show, 10:00 for viewing. There will also be a big truck show that is more hands-on for children. The Lions Summer Concert series starts this weekend at the Jack DeVito Memorial Field.

PROCLAMATION

Supervisor Michael Grace introduced Polly Peace, the 30-year Director of The Country Childrens Center and presented her with a proclamation and certificate in recognition of

her directorship over the center and in celebration of its 50th anniversary this year. The Yorktown community thanks Ms. Peace and The Country Childrens Center for their contribution to Yorktown and the surrounding communities. Councilman Bernard presented a proclamation from Senator Terrence Murphy. Ms. Peace stated that the center takes children from infancy through middle school age. She appreciates the recognition that this is important work and hopes the relationship continues.

The Proclamation reads as follows:

WHEREAS, The Country Childrens Center was founded in Katonah 50 years ago to serve the child care needs of local families as women entered the workforce in large numbers and organized, quality child care was scarce in our area, and

WHEREAS, since its fledging start caring for pre-school children in church locations in the Bedford area, CCC grew over its first twenty years to serve 70 pre-school youngsters with the help and support of local pastors and a group of dedicated local women; and

WHEREAS, with the hiring of Polly Peace as its Executive Director 30 years ago, the Country Childrens Center entered a new era of growth and expansion , and

WHEREAS, with the support of local corporations, including IBM and PepsiCo, Ms. Peace worked to fulfill a vision of caring for children in free-standing child care sites in former private homes in northern Westchester, starting with its first, The Farm, on Route 35 in Katonah, in 1991: and

WHEREAS, Country Childrens Center continued its partnership with local corporations; opening a second child care site in Katonah; another in Bedford Hills; and two more in Yorktown Heights; and

WHEREAS, the first Yorktown Heights facility was opened in partnership with IBM, which wanted to establish a dedicated onsite child care center for employees at the T.J. Watson Research Center in Yorktown Heights in 2001; and

WHEREAS, demand for services was so strong that CCC opened a second Yorktown Heights center in 2001; and

WHEREAS, The Country Childrens Center is now the leader in providing the highest quality affordable child care in our area, serving 500 children both at its five sites and at before and after school programs for the Katonah-Lewisboro; Bedford Central; and Yorktown School Districts; and

WHEREAS, the children cared for by CCC range in age from infancy to middle school age and it runs an array of special programs , including an Inclusion Nursery School in cooperation with Westchester ARC; encourages diversity, offers scholarships; and

WHEREAS, northern Westchester is extremely fortunate to have child care facilities of this quality available to the community,

NOW THEREFORE BE IT RESOLVED that the Town Board of Yorktown in the County of Westchester in the State of New York, recognizes the most excellent services provided by the Country Childrens Center and offers its thanks on behalf of our community.

Councilman Patel briefly spoke about West Point Military Academy students who are children of veterans. He has followed students' progress at the Academy for fifteen years and today was the last day of middle school at the Academy and congratulated them.

PRESENTATION OF THE AUDITOR'S REPORT

Allan Kassay from PKF O'Connor Davies presented the annual audit report for 2016:

- Primary focus was on balances of financial statements taken as a whole
- A General Fund Balance retrospective was done for the years 2013 to 2016:

<u>Year</u>	<u>Balance</u>
2013	\$8,111,000
2014	\$8,320,000
2015	\$9,934,000
2016	\$13,726,000

Unassigned balance (the money the Town can use free and clear for any purposes): 2013 was \$4,897,000; 2016 was \$10,720,000. 118% increase over 4 years.

- General Fund Budget to Actual Summary: 2016 total revenues in original budget were \$25,016,000; final budget remained the same. The actual total revenues in the General Fund came in at \$27,285,000 which generated a positive budgetary variance of 2.3 million dollars
- Expenditures: the original budget was \$27,146,000; final budget was \$27,124,000 and the actual results came in at \$24,682,000 which generated a positive budgetary variance of 2.4 million dollars.
- Excess deficiencies of revenues over expenditures
- Summary of General Fund Revenues
- General fund budget expenditures – a review of the positive budgetary variance of expenditures.

Supervisor Grace stated that this year is the year of infrastructure for the Town. The Town has weathered some very difficult economic times, as well as the state-mandated tax cap. He mentioned the grant money that has been very successful in getting grant money into the Town which will now help cover costs for significant projects: two major culvert repairs; Highway Garage relocation, 5 times the amount of road paving – cutting the schedule almost in half, streetscaping infrastructure, etc. There are also plans for a stand-alone senior center at Downing Park. Supervisor Grace said he was very proud of the Department Heads and Board Members who have worked to put the Town's budget in the shape it is in.

Taxes have been decreased two years in a row. The Board contemplated reducing them again which helps increase the fund balance but under the state tax law, you can now no longer roll over the levy from one year into the next year. If you decrease the tax levy, the basis for the next levy is decreased as well for the next year. Supervisor Grace also stated with when a town stays within the tax cap, property owners receive a refund of, in some cases, a few hundred dollars. The Board kept the cap flat so that property owners can be eligible for those refunds.

Councilman Patel stated that it can be said that taxes have not gone up, but spending has - 17% in the last year and a half. Spending money on some areas, like adding employees, has been done by postponing other projects. He would like to see \$1 million taken from the fund balance to fix the numerous potholes in the town. Councilman Patel said that he has received numerous complaints from residents regarding this.

Supervisor Grace stated that a road paving program that is going to reduce the cycle of repaving almost in half is going to be presented to the Board by the Highway Superintendent in two weeks. Almost \$2,158,000 will be allocated to the program. The Town is very methodical about how to pave roads, materials to use, locations, etc.

Councilman Patel said that 1.5 inch base is not enough just to make the paving go farther; it should be 2 inches of base. Supervisor Grace stated that there are different methods used depending on the condition of the road, traffic, average speed on the road, etc. Councilman Patel explained why 2 inches of base is better for the roads. Superintendent Paganelli refuted the councilman's statements, particularly regarding statements about the budget. Superintendent Paganelli stated his decision making capability should not be questioned without understanding the research that has been done regarding the best way to pave our roads.

PUBLIC HEARING TOMPKINS GARAGE, INC. REQUEST FOR AMENDED SPECIAL USE PERMIT TO REPLACE AND RESTORE GASOLINE PUMP ISLAND AND NEW CANOPY

Supervisor Grace convened a public hearing to consider the application received from Tompkins Garage, Inc. for an Amended Special Use Permit for property located at 1440 Croton Lake Road to restore the gasoline pump island and install a canopy in the pre-existing location. New underground fuel storage tanks will be installed in the approximate original location. Affidavits of Posting and Publication were presented by the Town Clerk.

Al Capellini, attorney for the applicant, defined the project as removal of a tank, replacement of a 6' by 8' canopy which was ineffective with a new 8' x 15' canopy which will cover one side of one aisle for gas dispensing at the station. Joe Riina, project engineer, came before the Board to show the extent of the improvements being made; in essence, a restoration and canopy replacement. Mr. Riina said they will be replacing pumps in the identical location. The old fuel tanks will be replaced with a new larger capacity tanks and they are completely up to date with an alarm system and completely up to code. Councilman Bernard asked about the lighting and Mr. Riina said he can provide more information regarding the intensity of the lights that will be used. Right now the lighting is very low key. Councilman Bernard stated that the State and the Department of Environmental Protection regulate the tanks. Mr. Capellini stated that they will now be going to the DEP and the Department of Transportation (the garage is located on a state road).

Terry Malman, Hunterbrook Road, spoke in support of the Tompkins Garage project. She stated that they are a vanishing breed of small businesses and spoke of how the garage has stayed open in order to help neighbors in times of bad weather.

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

PUBLIC HEARING - FARAWAY FARMS - WETLAND PERMIT APPLICATION FOR POND DREDGING PROJECT- 1305 BAPTIST CHURCH ROAD

Supervisor Grace convened a public hearing to consider the Wetland Permit Application for the dredging of a pond located at Faraway Farms, 1305 Baptist Church Road to perform the following activity: an existing pond located on the property is to be dredged and restored to its original depth. Sedimentation from upstream is being deposited into the pond; therefore, to prevent further sedimentation, a sedimentation forebay will be installed. All excavated material will remain onsite, spread, graded, seeded and mulched. Affidavits of Posting and Publication were presented by the Town Clerk.

Leda Blumburg, applicant and owner of Faraway Farms, spoke about how her family farm wants to restore the pond to its original condition. Andy Cheung, project engineer, said that the north end of the pond has a lot of sediment and is completely silted in. He has come up with a design that will restore the pond and create a sedimentation forebay that will catch sediment to improve water quality and prevent further sedimentation. One hundred forty yards will be dredged and placed alongside the pond to become part of the environment. There is no change to the size of the pond. A sedimentation tank will do the pumping and an access road will be created for the work trucks. The pond will not be completed until the new vegetation will take root (grass). As the stream runs north to south there will be spill pools that will help reduce sediment to the pond.

Dr. Carl Hoegler, resident, asked when the 140 yards of the soil is placed onto a mound, is it at a high elevation in the surrounding area. Mr. Cheung stated that the highest elevation of the fill mounds will be about 2.5-3 feet. The same slope will be maintained. Once the material is graded, it will be seeded and mulched to prevent runoff into the pond.

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

Bernard, seconded by Councilman Diana and carried. Decision on this application was voted on later in meeting.

CONSIDER AMENDING CHAPTER 270-4 OF THE CODE ENTITLED “TREES”

Supervisor Grace convened a public hearing to consider amending Section 270-4 of the Code of the Town of Yorktown entitled “TREES: Activities Where a Permit is Required” and to delete Section 270-5H of the Code of the Town of Yorktown entitled “TREES: Permits Not Required.” Affidavits of Posting and Publication were presented by the Town Clerk.

Supervisor Grace stated that this amendment is essentially making the town subject to its own ordinance. Town Attorney Michael McDermott stated that Section 270-4 will now include in the preamble the provision “property privately or publically” owned. Section 270-5H, which had exempted town-owned property, will now be repealed.

Supervisor Grace mentioned the Granite Knolls project as an example of the Town holding its own “feet to the fire” regarding the reforestation and tree management plan on that property which will be much more onerous than if the Town had just followed the standard plan and regulations now in place. He hopes that the reforestation and tree management plan at Granite Knolls will become an excellent example of how the new tree ordinance’s mitigation and reclamation process will work and that it will be a practical and tangible result.

Marcia Stone, resident, approves of the change in the code and feels it strengthens the code. Ms. Stone explained how important the trees are in terms of the life of a family, a community, the ecology. She feels more needs to be done to the law and that the ordinance needs to be revisited.

Sheila Schraier, resident, commented on the sign near Town Hall that reads “Tree City USA, Arbor Day Foundation, 6 Years.” She feels this was ignored by the new tree ordinance and wondered if we even still qualify. The ordinance needs to be brought back to the original version. Ms. Schraier stated the town has been busily working on anti-environmental issues. She stated that one board member said the Town had enough open space, so no funds would be spent purchasing any more – funds the residents voted to use for open space.

Maura Gregory, resident, spoke as to why the new tree law needs to be revised and strengthened beyond this one amendment. She listed the following areas of concern and change:

- The new law needs to cover more trees; changing the tree diameter for removal puts many more trees in danger.
- The law focuses almost exclusively on individual trees and how many can be removed while ignoring woodlands, which in some cases are more critical than individual trees. The old law protected woodlands when 30% or more would be disturbed for whatever reason. The new law should require some form of mitigation in the same circumstance.
- The new law has a weaker requirement of tree removal on slopes; it allows up to 9 trees to be removed without any oversight. This presents potential safety hazards.
- The concept of buffer zones and the number of trees that can be removed in the zone needs to be readdressed. Trees in buffer zones help with privacy, act as sound barriers, and help control climate. They add to property values. The old ordinance may have been too strict regarding buffers but the new ordinance goes to the other extreme.
- Mitigation needs to be addressed.
- The role of the two environmental advisory bodies, the Conservation Board and the Tree Conversation Committee needs to be addressed.

This is an excellent amendment to the current law, but it won’t be able to do what it needs to do because the law itself is too weak.

Tim Glass, resident, said the most troubling area of the new law is in the area of mitigation. The intent of mitigation is to restore and enhance with no negative impact on green space. The new law makes weak attempts to address this issue, even though the Town Board said a big improvement was made in this area. The new law is very nonspecific and does little to help; there are only 5 sentences in the new law which addresses mitigation. Mr. Glass proceeded to read the 5 sentences and pointed out that there is too much use of the word may which implies optional. There is also a lack of a fee schedule related to compensatory tree fund contributions. The old law demanded mitigation at a ratio of 1 to 1 or greater tree replacement. The current law makes no such demand. There is also inconsistency with how young and old trees are measured (caliper measuring, or 12 inches above ground, versus DBH – diameter at breast height or 4.5 feet above the ground). We cut down trees at DBH level but replace with caliper-measured trees. We must first acknowledge that all young trees may not survive, which is why a 1:1 ratio is needed. Calipers of new trees should be raised to 3 inches and bonds should be required to insure adequate restoration. The 2010 law definitively stated that all non-administrative permits (meaning developers) would be subject to the 30% threshold that triggers a mitigation plan. These mitigation plans need to be reviewed by the Conservation Board and the Tree Conservation Advisory Council – these groups exist for the sole purpose of protecting our forests, so why aren't we seeking their expertise? The current law states no preference for onsite or offsite mitigation – our priority must always be to restore the green space where the trees were taken. We should always strive for onsite mitigation. If we don't, it makes it easier for a developer to have less regard for the space they are disturbing since they can just plant trees somewhere else.

Mitigation isn't tricky; it's common sense: clean up after yourself and try to leave things as good as or better than how you found them. This is what we try to teach our children. If the Town would practice this in our own management of our trees and woodlands, the future benefits would be enormous.

Elise Graham, resident, spoke as an artist and her strong connection to surrounding landscapes. Preservation of the aesthetic beauty of the natural environment is why she is present. Ms. Graham said that Yorktown is fortunate to have two very important environmental bodies, the Conservation Board and the Tree Conservation Advisory Commission, which are comprised of dedicated and knowledgeable volunteers who spend much time reviewing development plans and permit applications. Their review of these plans has a positive effect on the natural environment of Yorktown because they care about the natural environment of Yorktown. The current tree law does not make adequate use of these advisory boards and their expertise. A permit application may or may not be referred to these boards; thus, it is not required. We seek the advice of experts all the time; why not in these instances? These advisory boards should be reviewing all mitigation plans and an environmental consultant should be retained. Tree fund monies should be reinstated and the money from that could be used to retain a consultant.

Paul Moskowitz, resident, congratulated the Board for reconsidering one section of the tree law; however he wished to mention the section that gives the town board appeal authority. If a developer is unhappy with the decision of the Planning Board, he or she can carry the case over to the Town Board who would now have final authority. This authority should be left to the Planning Board who has the expertise to deal with site plans. Mr. Moskowitz asked that the Town Board please reconsider this section of the law.

Andrea Jeffries, resident, spoke about how trees from a neighbor's house were clear-cut from the property. She made a call to the Town and was told a truck would be out there to inspect. No truck arrived and the company continued to clear every single tree without a permit. Ms. Jeffries asked why no one came out to inspect. The Town Board asked her questions regarding her address and said that someone would be out to inspect. Ms. Jeffries said that this will have a huge impact regarding drainage in her neighborhood. Ms. Jeffries suggested that the Town Board send a note to residents in with their tax or water bill suggesting they sign up for notices of when Town Board meetings/hearings are held.

Karl Hoegler, resident, stated that this is about a town modification of an existing tree law so he will not argue about what was. He said that this amendment is hollow because the permit process is defective. Dr. Hoegler said that when a modification to a law gets announced, what is it be modified from and to should be published. You cannot understand the new modification if you don't know what the old was. Dr. Hoegler feels that the only way the new law will be changed, is if there is a change in the administrative body of the board. He stated that during the two meetings held for the tree law, there were at least 35 people who voiced their objections and not one who supported it. Dr. Hoegler asked who the Board is representing. Are they representing themselves or other interests? Supervisor Grace interjected that he took great exception to this statement because he felt it was uncalled for. Dr. Hoegler again asked who the Supervisor was representing. Supervisor Grace said he represented the Town of Yorktown. Dr. Hoegler asked who are these people who are presenting your (the Supervisor's) favor? Town Attorney Michael McDermott stated that comments made at public hearings are not permitted to be insulting or accusatory of any Board Member in any way. Mr. McDermott stated that if Dr. Hoegler is accusing the Supervisor or the Board of getting favors in exchange for something, he would not permit a continuation of the public hearing. Dr. Hoegler said he would retract the statement. He said that he has never heard the other side of the argument – those in favor of the current law.

Amy Hirsch, resident, stated that she hoped the amendment would be discussed further. She made a presentation of the financial benefit of trees. Ms. Hirsch presented USDA numbers that outlined those benefits. We need to rethink the way we look at trees; they can be bank accounts that earn interest. The greatest benefits are energy savings and higher property values. Shoppers reports more and longer shopping in areas where the streets are tree lined.

Judith Stavans, resident, read a statement on behalf of Dr. Linda Miller who could not attend. Dr. Miller supports the proposed amendment. While this strengthens the law by bringing many more trees under its protection, the 2016 law still focuses on individual trees and does not recognize the functions and value of forests as valuable ecological communities. This is an inherent weakness in the law. For example, the wetlands law does not just protect the wetlands plants or the water or the soil but the entire ecologically functioning wetlands community. The tree law should not just protect the trees as leaves, trunks, and branches but also how the trees interact with other vegetation to make a dynamic ecological community. Dr. Miller urges the Town Board to strengthen the current tree law. Ms. Stavans stated that she is very happy to see the Town Board move in the right direction in terms of strengthening the current law.

Sherry Hughes, resident, stated that somewhere along the line there has been a loss of confidence in the process. She stated that the advice of experts must be sought out and listened to; not necessary taken but considered. The Town Board is the final arbiter but cannot make a decision until the advice of experts is taken into consideration. After their recommendations, then the Town Board shall make a decision – one that is intelligent and intellectual. Then when people differ with you, it has been a transparent process and is public information. Doing it in a vacuum takes away credibility and this law reflects that.

Ilan Gilbert, resident and former member of the Conservation Board and former Town judge, asked that the Board hold off on the vote and work to amend the new, weaker law in a comprehensive manner. The best of the old and the new law should be combined into one new law. Open discourse should be promoted and there is no place for character assassination in the process. Mr. Gilbert also said that as a former member of the Conservation Board, the new law should have the Conservation Board's review be part of the process. He also stated that enforcement is a component in any law.

Jay Kopstein, resident, is in favor of strengthening the law. There were two kinds of statements this evening: politically motivated and neutral. Discretion always needs to be used when making decisions.

Susan Siegel, resident, spoke on behalf of a new group in town called Yorktown Together. Residents want a stronger, more effective tree law and the only way to

accomplish this is to review the current law. Mrs. Siegel asked that the Town Board hold off a decision on this amendment and go back to review the new law and make all the fixes in one hearing. There are other provisions that would benefit from cleaning up. Mrs. Siegel listed some examples of these changes; some are simply textual, some more complex. Homeowners are being treated the same as large developers – there should be different application requirements for developers. The mitigation section is woefully inadequate. We should be taking advantage of the expertise of those who are here in town and are willing to volunteer their time. Mrs. Siegel submitted a petition with over 100 signatures asking the Town Board to go back to the drawing board and work with members of the community to revise the law. Mrs. Siegel read a letter from the Bedford Audubon Society in support of a revision to the 2016 tree ordinance.

All those present having been given the opportunity to be heard and there being no further discussion, the public hearing was closed. Upon motion made by Councilman Bernard, seconded by Councilman Diana and carried. The Town Board reserved decision on this public hearing.

Supervisor Grace stated again how he took exception to the previous comments. He stated that many people come in at the eleventh hour and hear something and instead of getting involved in constructive criticism, make ad hominem attacks on himself and members of the Board. This is no way to start conversations. The tree ordinance was put on the table for review along with all ordinances so that they could be reviewed. This is their obligation as a Board to make sure the ordinances are up to date. This was part of a comprehensive review that included all ordinances. Supervisor Grace said there are misstatements of facts; the Board sat down with numerous agencies before adopting the current law. The Board had more empirical experience with how the law operated and were trying to make it more effective. The law was no longer accomplishing what it was supposed to do. The Board sat down with many experts and talked at length and had many drafts (at least five). The law was being used not as a protection for the trees but as a gouging tool for neighbor to go after neighbor. This law was not done “willy-nilly;” it has been at least a year and a half of work to revise it. Town Attorney Michael McDermott also mentioned how much work and thought has gone into the revamping of this ordinance.

Supervisor Grace stated that the old law did not provide an analysis of the functionality of a wetlands and this was a major flaw of the law. When a person intrudes upon a wetland or a tree, it is usually an unavoidable loss. It is part of a project someone wants to do. The loss is based upon the exercise of property rights, which everybody has. The community doesn't own everyone trees, the property owner does. The function of something that is going to be lost should be known before we allow the intrusion. The law did not include this functional analysis. All the Town Board did was start a process to make the laws better because the current ones were flawed. Supervisor Grace stated that the notion that this is ill motivated angers him because of the hard work that he and the Board does for the Town.

AMEND RESOLUTION #535 OF 2014 REGARDING BJ'S WHOLESALE CLUB, INC. CANOPY SIGNAGE GASOLINE FILLING STATION RESOLUTION #231

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

WHEREAS, on December 19, 2014 the Town Board passed Resolution #535 of 2014 granting a Special Use permit to BJ's Wholesale Club Inc. to operate a gasoline filling station; and

WHEREAS, on April 12, 2016 the Town Board passed Resolution #185 of 2016 amending Resolution #535 of 2014 in the following manner: line 2b of the thirtieth Whereas clause is amended to state: “Two (2) of the three (3) proposed signs are 50.24 s.f., thereby exceeding the maximum permitted area of 30 s.f. each.” Additional, line 2c of the thirtieth Whereas clause is amended to state: “The total aggregate canopy signage is 124.83 s.f. (50.24 + 50.24 +24.35) while 60 s.f. is permitted.”

NOW, THEREFORE, BE IT RESOLVED, Resolution #535 of 2014 is further amended in the following manner: line 2c of the thirtieth Whereas clause is amended to state: “The total aggregate canopy signage is 147 s.f. (24.23 + 24.23 + 24.23 + 29.25 + 29.25 + 8.0 + 8.0) while 60 s.f. is permitted.”

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

James Polinski, Signs Ink, stated that on the original application something was missed in terms of signage: over the diesel pumps there are signs that says “diesel.” They are coming before the board to have these signs added.

John Tegeder, Planning Director, believed the signs would be a good idea from a safety aspect. He also stated that the 124 square feet on the actual canopy signage is actually going to be 5 square feet larger than the original site plan stated. He feels both requests are reasonable.

FARAWAY FARMS - WETLAND PERMIT FOR POND DREDGING PROJECT-
1305 BAPTIST CHURCH ROAD
RESOLUTION #232
WHEREAS:

1. The Applicant submitted an application for a Wetlands and a Storm Water Pollution Prevention Plan permit for dredging of a pond. Dredged material to be spread on the area surrounding the pond.
2. A Public Hearing was held regarding this application on 6/20/17.
3. The Approval Authority for this permit application is the Town Board.
4. All required application fees have been paid.
5. The Applicant submitted plans for the subject property, entitled: Pond Rehabilitation & Modification, prepared by AC Engineering, 4 sheets, dated April 2016 (Revision 2, dated 4/27/17).

NOW THEREFORE BE IT RESOLVED THAT:

1. The Town Board declares itself Lead Agency, as defined in 6NYCRR Part 617.2(u), for the coordinated review of said Actions under SEQRA.
2. The Action is approved by the Town Board subject to compliance with the Town Code and adherence to the plan documents submitted in support of the application.
3. The following conditions are included as part of the Action: All comments listed in the Town Engineer’s memo dated 5/31/17 and copied below hereto shall be addressed to the satisfaction of the Town Engineer prior to issuance of any permits.
 - a. The Applicant provided documentation that no permits from the NYSDEC or NYCDEP are required.
 - b. The work of this project will disturb a land area of approximately .75 acres, which is under the 1-acre threshold established by the NYSDEC and therefore development of a full SWPPP is not required. Note: in order to keep this project below the 1-acre threshold, the Stormwater Permit will allow dredging of up to 385 cubic yards of material.
 - c. The plans call for dredged material to be spread on the area surrounding the pond. This work shall be done under the oversight of the design professional to ensure the land application is in the defined area and in compliance with the other contract requirements.
 - d. The erosion and sediment control plan and details call for a dewatering pump and frack tank assembly. The design professional shall provide technical details and manufacturer’s literature on the proposed system components prior to issuance of the permit so the Engineering Department can confirm the required sizing has been met.

- e. The project documents shall state that a twice-weekly inspection will be performed to verify compliance in regards to erosion and sediment control. Inspections shall also be done following any storm events that are 1-inch rainfall or greater. Copies of inspection reports shall be prepared by a licensed professional and/or the certified soil erosion inspector sent to the Engineering Department for our records.

Conditions that must be met prior to the commencement of work:

1. An Erosion Control Bond shall be established in the amount of \$750 with the Engineering Department. The bond will be released when the Town Engineer has confirmed that a minimum of 80% of the disturbed areas have been permanently stabilized (vegetative growth), all temporary control measures such as silt fencing have been removed, all post-construction controls have been satisfactorily installed and maintained and all conditions of this permit have been met. The Town shall have the right to use the funds if the applicant, upon receiving due notice from the Town, fails to correct deficiencies related to the conditions of this permit.
2. A Town of Yorktown Building Permit must be obtained from the Building Department.
3. A pre-construction meeting must be held at the site. The applicant or a representative must contact the Engineering Department (914) 962-5722 x220 to arrange this meeting. All erosion controls and limits of disturbance lines (such as silt fence and orange construction fencing) are to be installed in accordance with the approved plan prior to this inspection.
4. If fill is to be imported to the site, soil samples must be taken and tested at the Applicant's expense by a certified soil testing laboratory, to ensure there are no contaminants present in the imported soil prior to bringing the fill on site. Copies shall be furnished to the Engineering Department prior to the commencement of work.
5. The property lines must be staked out by a licensed land surveyor prior to construction to ensure the proposed work occurs entirely within the Applicant's property.

Conditions that must be met during construction:

1. The entire scope of work is shown on the engineering plans referenced in the approval resolution; no additional land disturbing activity of any kind shall be permitted without the issuance of a new permit by the appropriate approval authority. No further changes to the existing site topography shall be permitted and no protected trees shall be cut.
2. The guidelines contained in the NYSDEC Manual of Erosion & Sediment Control, latest edition, shall be followed. At the end of each work day, soil stockpiles shall be covered or seeded/mulched with a silt fence around the perimeter. Any disturbed areas that are not worked on for greater than 7 days shall be seeded and mulched.
3. All required operations and maintenance activities for the temporary dewatering system shall be supervised by the design professional. The frack tank shall be inspected weekly to confirm if any cleaning is required; a written inspection log shall be maintained on site.

When the Project Work is Complete:

1. The applicant or his representative shall fill out and submit a Construction Completion Certificate to the Town Engineer. The Engineering Department will then perform a final inspection to confirm the required improvements have been satisfactorily completed. Applicant will be notified of concurrence or if any work is not acceptable.
2. When area is re-vegetated, stabilized and erosion control removed (silt fence), notify the Engineering Department (ext. 220 for bond release) who will then inspect site and authorize bond release or further stabilization is required.

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

APPROVE CONFERENCE ATTENDANCE – SOLE ASSESSOR KIM PENNER
RESOLUTION #233

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

Whereas, sufficient funds exist in the Assessor Training line to cover the cost of expenses, including lodging and seminar, now,

Therefore Be It Resolved, Sole Assessor Kim Penner is granted permission to attend the 2017 Cornell Seminar on Appraising to be held at Cornell University, Ithaca, NY from July 16, 2017 through July 21, 2017.

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

APPROVE TAX CERTIORARI PROCEEDINGS AFFECTING TAX PARCEL 48.07-
1-8, 13 AND 14
RESOLUTION #234

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

WHEREAS, tax certiorari proceedings were instituted challenging the assessment for parcel known as Section 48.07 Block 1 Lot 8, 13 and 14, 1761 Front St., 1736 Front St. and 224 Moseman Rd., on the Tax Map of the Town of Yorktown, now therefore be it

RESOLVED, that the tax certiorari proceedings affecting tax parcel 48.07-1-8, 13 and 14 Account Numbers 4460500, 4470000 and 4470500, owned by Gerald Messuri and Gerald and Rita S. Messuri for assessment roll years 2010, 2011, 2012, 2013, 2014 and 2016 are settled as set forth in the proposed stipulation as follows:

Section 48.07 Block 1 Lot 8

<u>Roll Year</u>	<u>Assessed Value From</u>	<u>Assessed Value To</u>	<u>Reduction</u>
2010	45,000	39,840	5,160
2011	45,000	41,440	3,560
2012	45,000	39,900	5,100
2013	45,000	41,550	3,450
2014	45,000	37,650	7,350
2015	45,000	38,400	6,600
2016	45,000	36,900	8,100

Section 48.07 Block 1 Lot 13

<u>Roll Year</u>	<u>Assessed Value From</u>	<u>Assessed Value To</u>	<u>Reduction</u>
2010	17,000	10,707	6,293
2011	17,000	11,137	5,863
2012	17,000	11,438	5,562
2013	17,000	11,911	5,089
2014	17,000	10,542	6,458
2015	17,000	10,752	6,248
2016	17,000	10,332	6,668

Section 48.07 Block 1 Lot 14

<u>Roll Year</u>	<u>Assessed Value From</u>	<u>Assessed Value To</u>	<u>Reduction</u>
2010	2,000	996	1,004
2011	2,000	1,036	964
2012	2,000	1,064	936
2013	2,000	1,108	892
2014	2,000	1,004	996
2015	2,000	1,024	976

2016 2,000 984 1,016

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

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH BIG WAVE EVENT
FOR OUTDOOR MOVIE ON JULY 13, 2017
RESOLUTION #235

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

Resolved, that the Town Supervisor is authorized to sign the agreement between the Town of Yorktown and the Big Wave Event for the screening of the movie on July 13, 2017.

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

AUTHORIZE TOWN TO SUBMIT A GRANT APPLICATION UNDER THE WATER
INFRASTRUCTURE IMPROVEMENT ACT, AUTHORIZE EXPENDITURES TO
FUND THE BALANCE OF THE PROJECT AND AUTHORIZE THE TOWN
SUPERVISOR TO ACT AS THE AUTHORIZED REPRESENTATIVE FOR THE
APPLICATION
RESOLUTION #236

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

WHEREAS:

- A. The State of New York recently passed the Clean Water Infrastructure Act of 2017, which allocated funds for projects that improve municipally-owned wastewater treatment works for clean water infrastructure projects. The Town is in the process of applying for funding for the Pump Station Upgrade Project, which will improve the Walden Woods and Jefferson Valley wastewater pumping stations.
- B. There is a separate \$30 million allocation for Intermunicipal Water Infrastructure Grants (IMG) and the Town has identified a project, Drinking Water Fluoridation of the Catskill Aqueduct Water Supply that could be combined with a Town of Cortlandt project to provide a new interconnection to the Northern Joint Waterworks Supply. Both Towns would save significant construction costs by performing the two projects at the same location, at Maple Row & Croton Avenue in the Town of Cortlandt.
- C. The project meets all the eligibility requirements of IMG grant program.
- D. The application requires submission of an engineering report and environmental review documentation, both of which were previously completed by the Town of Cortlandt. Funding, if received, will cover 60 percent of all eligible project costs, with the Town expected to fund the remaining 40 percent of the project cost.
- E. Program guidelines require the Town to pass a resolution authorizing submission of an application and further stating that: (1) the Town authorizes expenditures to fund the remaining portion of costs not covered by the award; and (2) the Town authorizes the Town Supervisor to act as Authorized Representative for this application.

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town to submit this grant application under the Water Infrastructure Improvement Act, the Town authorizes expenditures to fund the balance of the project (remaining costs not covered by the award) and authorizes the Town Supervisor to act as the Authorized Representative for the application.

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

DURING COURTESY OF THE FLOOR, the following people spoke:

Dan Strauss, resident, read an article from the paper regarding the Shrub Oak International School and cited a headline that read “Attorney Questions Motives of Critical Residents.” He said that attorneys come before the various Boards thinking that they know everything in terms of trying to promote different things in the Town. He said that the attorney in this article had a lot of nerve questioning the resident. Mr. Strauss then addressed Councilman Diana regarding his acting as representative of the neighbors of the school at the last meeting. Mr. Strauss said Mr. Diana went before the Planning Board to ask that they please listen to the neighbors’ concerns. Mr. Strauss said that he doesn’t think that residents understand what goes on between Planning Board, Town Board, Zoning Board, etc. Mr. Strauss quoted the amount of residents that don’t want the Lexington Avenue project, the Weyant project, etc. He feels the Board should take back the rezoning decision on the Lexington Avenue project.

Susan Siegel asked Town Engineer Michael Quinn for further explanation of the grant application dealing with the fluoride. Is the Town looking at a new location since it is now being done in conjunction with the Town of Cortlandt? How much planning was done on another site already? Will we be able to move ahead with Cortlandt since they are farther ahead in the process? She also mentioned that the Town Board scheduled a meeting for the Granite Knolls Sports and Recreational Facility for July 11 which is a work session (non-televised). Will the meeting be televised since this is a major project and issue for residents? Mrs. Siegel also wanted to clarify that the Yorktown Together group is not “her group” and she is not involved in any committees for them. Yorktown Together approached her as a resource person with the tree law, given her expertise.

Councilman Bernard said that when she spoke earlier she represented herself as Yorktown Together and was using the word “we” to describe such representation. Supervisor Grace said that Mrs. Siegel was taking exception to a misstatement of fact. Councilman Patel stated that mutual respect on all sides is called for.

Tony Grasso, resident, complimented the Board and the Department Heads on the results of the audit and feels that what they wish to accomplish is called for. An eye needs to be kept on the budget, but progress on town projects should move forward.

Supervisor Grace stated that, yes, the town is in great financial shape and said that sometimes the public doesn’t understand how much running the operations of the town and keeping it fiscally healthy is difficult and stressful. He said that trying to move the town ahead, at times, becomes accusatory with implied innuendos against the board and himself. Supervisor Grace cited an instance of the Shrub Oak International School and misinformation that was disseminated by residents who may have had political agendas.

Supervisor Grace mentioned that Mrs. Siegel could speak offline to the Town Engineer regarding the grant application for fluoride. He also stated that he wasn’t sure if the July 11th public hearing for Granite Knolls would be televised.

Maria Lucas, Friends Road, came to ask the Board for help regarding the drainage work her neighbor did that has caused flooding on her property for almost two years. Her neighbor did this work with no permits, no plans, no Certificates of Occupancy, etc. When she did work on her property to alleviate the problem, she obtained the required permits, plans, architects, etc. and has now received a notice of violation that said a building permit was required if the design was to drain storm water into the earth. She said that wasn’t her purpose at the time but ironically that is exactly what her neighbor down-gradient did and he was never issued a notice of violation. Mrs. Lucas asked why enforcement seemed selective and not on the down-gradient neighbor who is causing her flooding.

Supervisor Grace said he has spent many occasions going to her property and has spoken to her contractor, Joe Massalero, and has asked her to have her attorney call him. He and Highway Superintendent Dave Paganelli have visited the site and said there is a problem with a second property downstream from her that cuts across and easement. The Town would need to get permission from her neighbors to cut across their property.

Supervisor Grace said he has called both Mrs. Lucas and her attorney and no one has returned his calls. He said the offer is still open to assist but needs to speak with her attorney. Mrs. Lucas said her problem is a town problem, not an attorney problem. She does not have an attorney for this issue. She had one for the civil action against the neighbor for the flooding damage done to her property. Mrs. Lucas wants to know why her neighbor has not been given a notice of violation, as she was given. If the Town would issue the neighbor the violation, he would be forced to correct his mistakes, the natural swale would be put back, and all of the water would flow down through her yard instead of her home and continue through the neighbor's 74 feet of grass and into the Town's catch basin which it had been doing for years. She said all she is asking is for the Town and the neighbor follow their own code. Mrs. Lucas said she does not want this done at the taxpayers' expense.

Town Attorney Michael McDermott said that he will take a close look at the problem.

Supervisor Grace said they are trying to help in a practical way.

Councilman Bernard stated that the violation may not necessarily make the neighbor redo all of the drainage and put back the natural swale.

Supervisor Grace said that it is an issue for the Town because their pipe goes through the property into the Town's drainage system. The back drainage swale can be worked out but he needs to speak with the attorney. He mentioned that the neighbor's attorney seemed agreeable to resolving this issue when the Town spoke with him. Supervisor Grace said that an attorney-to-attorney conversation needs to take place. Relief from the town is still a possibility. The Town Justice Court cannot force the neighbor to provide relief; relief can only be given in the Supreme Court.

Emmanuel Decaudin wanted to speak about the group Yorktown Together and statements that were made regarding the tree law. He asked that the Board not focus on personal attacks or politically motivated statements, but on the substantive nature of the arguments. It is easy to overlook these arguments and take the easy route focusing on personal attacks and innuendo. Mr. Decaudin said he understands that it must be frustrating for the Supervisor and the Board to listen to these attacks and accusations; however, he stated that unlike the people speaking, the Supervisor and the Board have been elected to represent everyone in the Town. If you have a group of people speaking in favor of something who made the effort to come and appear and the people who support the Board's position fail to show up, he thinks it is valid to state that no one is sure whose point of view the Board is supporting. He does not appreciate the Board taking the opportunity to vent their frustration at the body of residents who were present, although he did appreciate the supervisor's apology. Mr. Decaudin stated that the people we elect are held to a higher standard and even if we cannot always maintain civility, he wishes that the members of the board would.

Supervisor Grace said that if the night's previous discourse was done as well as what Mr. Decaudin had just articulated, he would have no problem. The idea that the tree law is being amended "willy-nilly" is what upsets him. The Board is willing to work on amending the laws to consider all opinions. Councilman Bernard stated that the Board has a right to examine the laws and decide if they need to be changed in order to stay current. Supervisor Grace stated that public comment was responded to and taken into consideration in order to amend this law but that didn't seem good enough and became a venue for personal attacks.

Mr. Decaudin said that there are valid reasons to change the law and conversations should take place with attention paid to the substantive arguments.

Councilman Lachterman said to not confuse expertise with passion. Even one of the creators of the original tree law stated that the new law was better than the original because the original was too arbitrary. This was worked on for at least a year and a half; a very long and involved process.

A resident thanked the Board for putting Yorktown first and for still believing in democracy even though at times it is a difficult process.

ADJOURN

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

Diana L. Quast, RMC Town Clerk
Town of Yorktown