

Work Session held by the Town Board, Town of Yorktown on September 15, 2010. Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Susan Siegel, Supervisor
Nicholas J. Bianco, Councilman
James J. Martorano, Councilman
Terrence P. Murphy, Councilman
Vishnu V. Patel, Councilman
Diana L. Quast, Deputy Town Clerk

EXECUTIVE SESSION

Upon motion made by Councilman Bianco, seconded by Councilman Martorano, to move into Executive Session to conduct interviews for voluntary boards.

WORK SESSION

Supervisor Susan Siegel called the meeting to order. Town Attorney Jeannette Koster was tardy.

AUXILIARY POLICE

Auxiliary Police Captain Rick Davin and Auxiliary Police Deputy Director Stan Gitner were present to discuss with the Town Board its yearly review. Mr. Diven stated on an annual basis we meet with the Town Board and give an update. He explained that one of their vehicles while at Central Garage at the Highway Department for service was hit by a highway dump truck. The mechanics advised Mr. Diven of the accident. The Police Chief was notified and the appropriate reports were filed. On May 6, 2010, he received an email from the Finance Department for a bill for \$2,500. He sent an email back to the Comptroller stating that he did not feel he should have to pay the \$1,000 deductible and additionally the Insurance Company reimbursed the Town \$1,500. He does not think this should come out of their budget.

Supervisor Siegel explained that as an example, if the Supervisor's vehicle is in an accident and the vehicle is damaged, the repairs come out of the Supervisor's budget line. The insurance reimbursement goes into the Town's General Revenue, Insurance Recovery Line. Not back into the Supervisor's budget line.

Councilman Martorano stated that if the insurance reimbursement has to go into the General Fund why can't we do a budget transfer from the General Fund and put it back into the Vehicle Maintenance Line of the Auxiliary Police.

Supervisor Siegel stated that if we do that it will have to come out of someone else's budget.

Councilman Murphy stated that this is the reason why it takes seven months to get a bill paid.

Mr. Diven explained that if he has to pay for this bill, it will take forty (40) percent of his budget. The Auxiliary Police will not be able to hold its annual awards dinner or purchase radios that were included in their budget.

Supervisor Siegel stated that the Auxiliary Police will have to do without their annual awards dinner in order to pay for the repair to its vehicle.

Mr. Diven stated that how can you do an annual picnic for Town employees but you cannot do an annual awards dinner for volunteers, how come you can pay \$5,000 for bottle water in town buildings and you can't pay the auxiliary's. \$5,000 for cable TV in all the town buildings and you can't pay the auxiliary's. Explain this to me?

Councilman Patel stated that this should have been taken care of. They are volunteers. The Town Board should be able to take this money out of the General Fund and reimburse the department's budget line.

Supervisor Siegel suggested that the Councilmen go through the budget and find out where they want to take this money from. It will have to come from another department's budget.

Councilman Murphy stated that Mr. Diven is in charge of his department and we should let him be a department head. When you get an insurance check for a car accident it should go back into that department's budget.

Councilman Bianco stated that these auxiliary's save us money and we should reimburse their budget line for this expense. The Town Board can order the Comptroller to transfer the funds.

Councilman Bianco stated that we should take it out of the surplus.

Supervisor Siegel stated that you want to pass a resolution to take \$2,500 out of the fund surplus and transfer it into the vehicle maintenance line of the Auxiliary Police.

Councilman Martorano stated yes.

BUDGET TRANSFER
AUXILIARY POLICE
RESOLUTION #406

Councilman Martorano motioned, seconded by Councilman Bianco,

Resolved, that the Town Board directs the Comptroller to transfer \$2,500 from the fund surplus to the Vehicle Maintenance Line of the Auxiliary Police.

Bianco, Martorano, Murphy, Patel Voting Aye
Siegel Abstain
Resolution adopted.

Supervisor Siegel explained that she is abstaining from this vote because this is not a proper budgeting practice. She feels that any other department head would have to find the money somewhere in their budget and do without something else.

Mr. Diven gave the Town Board his budget request for next year. He stated that the Auxiliary Police are now requiring new recruits to have an annual physical exam, psychological testing, drug testing and background checks which will cost approximately \$800 per candidate.

The Town Board thanked Auxiliary Police Captain Rick Davin for all his work.

CONTRACT WITH LYNSTAAR ENGINEERING
ACTING TOWN ENGINEER SHARON ROBINSON

Acting Town Engineer Sharon Robinson was present to discuss her contract with the Town of Yorktown. Supervisor Siegel explained that the reason we need a contract with LynStaar is because the NYS Auditors feel a formal contract is needed. The contract is the same as the current resolution in place.

AUTHORIZE SUPERVISOR TO SIGN
CONTRACT WITH LYNSTAAR ENGINEERING
RESOLUTION #407

Councilman Martorano motioned, seconded by Councilman Bianco,

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign a Contractual Agreement with LynStaar Engineering, P.C. to serve until December 31, 2011, at the pleasure of the Town Board, to provide professional engineering consulting services for the Town of Yorktown, at the hourly rates set forth in Schedule B of the proposal of LynStaar Engineering, P.C., dated August 31, 2010.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted

GREENWOOD AND MILL STREET BRIDGES

Acting Town Engineer Sharon Robinson explained that every six months the New York State DOT inspects bridges. They have yellow flagged two bridges. Greenwood Street and Hill Boulevard which need to have work done on them. She said it would be cheaper to do it in-house. However, in speaking with Highway Superintendent Eric DiBartolo he does not have the manpower or expertise to do the work.

Supervisor Siegel asked if WSP Sells thinks that the Town's Highway Department has the ability to do the work.

Town Engineer Sharon Robinson answered from their perspective yes because they have worked with the Highway Department before.

Supervisor Siegel stated that if we did it with inside staff Greenwood Street would cost \$20,000, if it is an outside company it would be doubled at \$44,000. Hill Boulevard would be \$22,000 as apposed to \$60,000, if outside company is used.

Acting Town Engineer Sharon Robinson stated that she anticipates this being a four (4) week project.

Acting Town Engineer Sharon Robinson stated that the Yorktown Water Pollution Treatment Plant has received another award.

The Town Board thanked Acting Town Engineer Sharon Robinson for all her hard work.

PROPOSED TREE PRESERVATION LAW

Ann Kutter, Co-Chair, Conservation Board and William Kellner, Chair, Tree Conservation Advisory Commission were present to discuss with the Town Board the Proposed Tree Preservation Law. Ms. Kutter explained that she took the questions and comments that were made during the public hearing and drafted a document that responds to all of the issues raised. A copy is on file in the Town Clerk's office for public review.

GRANITE KNOLLS ACQUISITION

Supervisor Siegel proposed a different way to acquire the Granite Knolls property. She explained that it would be the same deal with the seller to purchase the property for \$2.7 million. The 125 acre parcel on the east side would be dedicated as parkland. However, the 75 acre parcel on the west side could be split up. 15 acres could be made into 4 acre lots which the town could sell off and use the proceeds for improvements to recreational facilities. If the lots do not sell, this property could still be dedicated parkland at a later date. The second option is to sell off the entire 75 acres to a developer and as a condition of the sale the developer would construct ball fields for the town. The proceeds from the sale would be set aside for recreational improvements but part of the money would have to be used to pay a share of the bond debt.

Councilman Martorano stated that the Open Space Fund is dedicated to preserving land in perpetuity. The Town Board voted 3-2 to purchase this property using the Open Space Fund. He further stated this proposal is not why the Open Space Fund was created. One shot deals like this falsely inflates the budget.

Councilman Bianco stated that he has been against this from the start. The town is facing tough times but open space saves tax dollars. Selling off 15 lots will cause an additional \$500,000 in added services. The people voted in 2005 on a referendum to have an Open Space Fund. He feels that using the money in this fashion would be a violation of public trust. He also clarified some confusion that open space can be used for active and passive parkland. He stated that Legacy fields need to be done and should be the first priority. He feels that this Town Board should reject this proposal or put it up for referendum and let the people decide.

Councilman Murphy stated that these are tough economic times and we need to think out of the box. He feels it is a beautiful piece of property but there is a tremendous amount of improvements needed to our parks. We need to work together and figure out what is best. He stated that he supports both the ideas of Supervisor Siegel and Councilman Bianco. I want to keep the option open.

Councilman Patel stated that he supports open space.

Supervisor Siegel addressed some of the comments that were made. She stated that she does not feel this proposal would have a great impact on the school districts. It was stated that some of this work could be done with town staff and we could save \$325,000. Some of this work cannot be done by town staff and we will still need to spend money for other items needed such as security cameras.

Joseph Falcone, Chair of the Parks & Recreation Commission, stated that on behalf of the Recreation Commission, we have decided to reserve comment until it is declared parkland. He agrees with the Land Trust and feels it should be purchased as open space. He stated that we have nobody to maintain the fields now, so how can we take on more fields. He is in favor of leasing property to the clubs and let them maintain the fields. Mr. Falcone said we should have foreclosed on this property and saved the taxpayers 2.7 million dollars.

Supervisor Siegel stated that the property has not paid taxes since 2005 and owes approximately \$800,000 in back taxes. The former Town Board negotiated this deal to buy the property.

Councilman Bianco stated that the back taxes will be paid back once the sale takes place.

Mr. Robert Giordano stated that if the town could have foreclosed on this property they should have. He stated that there are developers out there that make deals with towns and will provide open space, recreation fields or affordable housing in their development plans.

Mrs. Barbara Wilkins stated that when she was a councilwoman should was proud of the work that she did. She feels this proposal is a violation of the public trust. She stated that she disagrees with the cost of services. For every dollar of taxes that we get from land .35 cents goes to services, if it is open space. \$1.50 goes to services, if it is developed land. She is appalled that this would even be considered.

Mr. John Schroeder, President of the Yorktown Land Trust, stated that the Yorktown Land Trust worked very hard with a lot of other groups to get two Open Space Referendums passed and they passed overwhelmingly. He feels that this type of deal puts the Land Trust in a bad light for future negotiations. He feels that this is wrong and we should not be using a dedicated fund as seed money for the increase in development because development does not pay for itself.

Mr. Paul Moskowitz addressed the audience. He made an apology to the people of the Town of Yorktown not to the three people he heard are in favor of this proposal. He has spoken on many occasions about open space and worked to get both referendums passed. He feels that this will be an illegal transfer of funds by taking money from the Open Space Fund and transferring it to the General Fund to use for other things and not open space. I am very sorry to the residents because this is not what this dedicated fund was supposed to be used for.

Ms. Patricia Mulligan stated that this proposal is disingenuous, dishonest and a breach of the public trust, nothing short of that. She noted to Councilman Terrence Murphy that you stated earlier that we are in difficult economic times. We have been in a recession for many years now, people have been suffering long term, they have lost their jobs and at risk of losing their homes. Tough economic times is nothing new to us or any other municipality in this State or Country, so to raid an open space fund that people voted to commit their tax dollars to because you think a \$150,000 shot in the arm right now would help us, it doesn't help us. The taxpayers who elected the previous board would not have agreed with your decision now to assert their intention and substitute your judgment. This is not your household budget. This is the budget of the people of the Town of Yorktown.

Mrs. Mulligan stated that you talked about the cost of finishing Legacy Fields. I have two children, my son played soccer on those fields as well as my daughter. I want to see Yorktown improved and our quality of life improved just like you do Councilman Murphy. We all want the same thing for our children. However, this Board voted when you were elected to unravel consolidation in Yorktown. We had the Director of Labor Operations who was fully committed to making Legacy Fields happen at no additional cost to the Town of Yorktown. So, you reap what you sew and to now cite that as an example as to why we need to raise this money is disingenuous.

Mrs. Mulligan further stated that I have heard Supervisor Siegel say on many occasions that the use of money from the general fund to lower our tax rate this year was not a good decision by the prior Town Board, I disagree as a taxpayer. But you are now basically doing the very same thing that you have criticized the prior Board for doing so if that is not disingenuous and hypocritical, I don't know what is. Everyone on this Town Board needs to think about what the people of Yorktown voted for because this is not about you and it is not about any of you substituting your judgment for the will of the people.

Mr. Rich Campanaro stated that we have tremendous concern with the purchase of Granite Knolls. If we could have taken it through foreclosure we should have. He is concerned with the safety of the children playing football on Apar Field. He feels it is a disgrace. We pay a heavy tax burden in this town. I will say that when Eric DiBartolo was running parks, I would be able to call Eric and say there is a problem and it was done. We don't have that availability anymore. We could not even get a few shovels of clay placed on the pitcher's mound at Apar Field for the safety of children playing. That is a disgrace. Young families don't want to move here, they don't want to pay the taxes and get fairly nothing in return. Having green space is fantastic but we need fields in this town, safe places for our children to play. We have so much open space, let's work together to get a safe place for these children to play.

Mr. Walter Daniels, Co-Chair Open Space Committee stated that we are not in favor of this proposal. Maybe we should work on having a dedicated fund for active recreation.

Mr. Thomas Anderson, Deputy Executer of Westchester Land Trust stated that he feels that this proposal would be a breach of the agreement between them and the Town when the deal was negotiated. He noted that this could affect the relationship between the Town of Yorktown and the Westchester Land Trust in future negotiations for open space.

Mr. Joseph Visconte stated that it cost six million dollars to construct Legacy Fields, there is a person in the audience who wants to build two fields for free and nobody is working with him. I think you need to weigh your options and look at what you are missing here. There are opportunities in Yorktown for business and we should use that to our advantage. Smart, sensible development will help you.

Mr. Scott Weary asked if there was \$800,000 in back taxes owed on this property, why was there an offer to buy it for 2.7 million dollars.

Councilman Bianco stated that the back taxes will be paid back to the Town when the purchase of the property takes place.

Supervisor Siegel stated that this property could have been foreclosed on in 2008 or 2009. I don't know why it was not done, the prior Town Board decided to purchase the property.

Councilman Murphy stated that he feels that we need to keep all our options open. If we have the opportunity of getting some fields which are desperately needed and a possibility of just keeping it open. I have to keep that in mind. We have to think outside of the box.

Ms. Patricia Peckham stated that many people have talked to her recently and share the same concern. In 2000 and 2005, the voters of the Town of Yorktown overwhelmingly voted to dedicate money to open space. Granite Knolls has been voted on to be purchased. The Yorktown Land Trust and Westchester County Land Trust worked to acquire this purchase as open space. She spoke against the proposal put forth by the Supervisor.

Mr. John Schroeder stated that the Granite Knolls property was the number 1 priority for acquisition by the Open Space Committee. He gave a brief timeline with regards to the negotiations to purchase the property. He spoke against the proposal that Supervisor Siegel has put forth.

Mr. Rothschild, Attorney and Executor of the Granite Knolls Estate stated that the last taxes were paid in 2006. We made a deal and should have closed a year ago. A foreclosure procedure will take years. There was a small oil leak that was taken care of. He feels it is a good deal and let's get it done.

Councilman Bianco stated that Supervisor Siegel has been obstructing this deal from day one. We are going to lose the trust of the people. He urged the Town Board to think about this vote. This property can be parkland and a possible lease with the sports clubs can help with getting fields done.

Councilman Martorano stated that the Town does need fields but we made a commitment to purchase this property as open space. He feels that we have a morale and legal obligation to fulfill the mandate voted on by the public. This proposal is a violation of public trust.

Mr. CJ Diven asked if any part of the 2.7 million is subsidized by anyone other than the Yorktown taxpayer.

Supervisor Siegel answered no.

Mr. CJ Diven asked if the title for the property will pass to the Land Trust or the Town.

Councilman Bianco stated it will pass to the Town.

Councilman Murphy stated that this was a great discussion, there has been a lot put forward and he asked Mr. Rothschild if he could wait a couple days for a decision.

Supervisor Siegel stated that a vote is needed tonight.

Mr. Rothschild stated no, he needed an answer tonight.

Supervisor Siegel motioned the following resolution:

Resolved, that the Town Board agrees to proceed with the purchase of the 125 acre parcel located on the east side of Stony Street know as Granite Knolls property for approximately 1.82 million dollars to be financed from the Open Space Bond Fund, and

Be It Further Resolved, that the Town Board agrees to proceed with the purchase of approximately 60 acres of the property located on the west side of Stony Street, and

Be it Further Resolved, that the town will undertake a survey of the 75 acre parcel and identify 15 acres to be donated to the Town separately by the current owner, that once the Town takes title to the 15 acre parcel it consider different options for the future use of the property, including but not limited to selling the parcel and setting aside the proceeds from the sale for financing the improvements to the town's recreational facilities or dedicating all or a portion of the parcel as parkland.

There was no second to the motion made.

MOSS PROPERTY

Town Attorney Koster explained that Mr. Moss made an agreement with the prior Town Board to purchase land located at 563 Underhill Avenue for \$50,000. The Town Board recently voted to cancel this transaction since it had not been fully executed.

Supervisor Siegel stated that she spoke with Water Distribution Superintendent David Rambo about this property and he felt there was no need to purchase it for the Water Department.

Town Attorney Koster stated that she was directed by the Town Board to return Mr. Moss's check and she did that.

Mr. Moss stated that he never received any notice that the Town of Yorktown was considering canceling the transaction. He did not know of any encumbrances holding up the transaction, if I had received any notification, I would have discussed this with the town right away. The entire issue of a lien on the property has been cleared up. The Water Department at the time this deal was made wanted a buffer around the Town's water tank. He noted that he was under the impression that all the details were worked out. He was never called or contacted of any changes in the agreement.

Town Attorney Koster stated that the deal has been cancelled in her opinion.

Mr. Moss asked the Town Board to reconsider and stick to the original agreement.

Supervisor Siegel stated that the negotiations of a real estate deal should be done in closed session.

TWO AT&T CELL TOWER LEASE RENEWAL

Town Attorney Koster discussed two AT&T cell tower lease renewals with the Town Board.

SALE OF URBAN RENEWAL PROPERTY

Town Attorney Koster stated that in 1997 the Town had a successful bidder on a piece of Urban Renewal property. She explained that in order for the Town to sell this property they will have to reconvene the Urban Renewal Agency. The Town Board agreed to do this and sell the property for \$8,100.

PROCUREMENT POLICY

Supervisor Siegel explained that there were some inconsistencies with the current procurement policy and she would like the Town Board to review a new draft of the Procurement Policy. The Town Board agreed to place this on the next Town Board agenda.

STREET FESTIVAL BANNER

Supervisor Siegel stated that there is no need for action on this issue.

TOWN BOARD AGENDA

SEPTEMBER 21, 2010

The Town Board discussed the September 21, 2010 Town Board meeting agenda which will be held at 363 Underhill Avenue, Yorktown Heights, New York 10598 beginning at 7:30 P.M.

ATTEND CONFERENCE

POLICE CHIEF DANIEL MCMAHON

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

RESOLUTION #408

Upon motion made by Councilman Martorano, seconded by Councilman Murphy,

RESOLVED, that Chief Daniel McMahon of the Yorktown Police Department granted approval to attend the International Association of Chiefs of Police Law Enforcement Training Conference to be held in Orlando Florida October 23 through October 27, 2010 on town time.

FURTHER RESOLVED, the town will pay the registration fee of \$450.00 and Chief McMahon will be responsible for paying all expenses associated with his attendance at the conference.

Martorano, Murphy, Patel Voting Aye
Siegel, Bianco Voting Nay
Resolution adopted.

EXECUTIVE SESSION

Councilman Bianco motioned, seconded by Councilman Martorano, to move into Executive Session for the purpose of discussing the employment of particular individuals and litigation.

ADJOURN

Councilman Bianco moved, seconded by Councilman Martorano, to adjourn the Town Board meeting.

Diana L. Quast
Deputy Town Clerk
Town of Yorktown