

Meeting of the Town Board, Town of Yorktown held on Tuesday, July 23, 2019 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Ilan D. Gilbert, Supervisor
 Alice E. Roker, Deputy Supervisor
 Vishnu V. Patel, Councilman
 Thomas P. Diana, Councilman
 Edward Lachterman, Councilman

Also Present: Diana L. Quast, Town Clerk
 Richard S. Abbate, Town Attorney

TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Patel, seconded by Councilwoman Roker, the Town Board moved into Executive Session to discuss personnel issues. Upon motion made by Supervisor Gilbert, seconded by Councilwoman Roker, the Town Board moved out of Executive Session and proceeded with the meeting.

WATER REPAIRS ON STATE ROADS

Highway Superintendent David Paganelli stated he no longer wants to deal with repairs on state roads. He said they are not our Town's roads and the state is now requesting that the repair to the Greenwood Street and Route 35 sections be fixed in the aftermath of last year's water main break. Mr. Paganelli would like to go out to bid for this work and include in the bid on-call services for these types of repairs. Councilman Diana asked if the state has any mechanism in place to do the repairs and the Town could reimburse the cost. Mr. Paganelli said no, the state either does them themselves or goes out to bid. He also feels there is a liability issue to the Town doing the repair. New York State wants their roads to be built to their specifications and Mr. Paganelli said that the Town is not equipped to do this.

Supervisor Gilbert said that he is negotiating with NWJWW to see if Somers is jointly responsible.

Mr. Paganelli said the bid can be piggy backed onto by another town. He stated that it could come out of the contingency budget this year.

Councilman Lachterman asked how much overtime was spend on the main break and was told by Mr. Paganelli that overtime plus materials came to roughly \$12,000-\$15,000. Councilman Lachterman asked how much it would be to bid the work out but Mr. Paganelli did not know and assumed it would be more. He noted that this road has been repaired twice already.

Water Department Superintendent Ken Rundle said that the state is requiring a tremendous undertaking by the Town. Councilwoman Roker asked how much it would cost to repair the road to state standards and Mr. Paganelli said a rough guess would be \$75,000. Supervisor Gilbert asked if there is any way to negotiate this with the Department of Transportation and Mr. Paganelli said possibly; however both he and Mr. Rundle agree that the state requirements are beyond their scope of experience. Mr. Rundle said that in 2019-2011 a Route 35 transmission broke and the state came in and did the repairs – they are no longer doing this.

Mr. Paganelli stated that this road has to be repaired soon. He said this is a unique bid since it is a blend of time and material.

Councilman Diana suggested getting records from the NWJWW to see why these breaks happened and Mr. Rundle said age is the primary factor.

Mr. Paganelli and Mr. Rundle received permission from the Board to draft a bid.

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH THE NEW YORK ACADEMY OF MEDICINE FOR YORKTOWN SENIOR ADVISORY COMMITTEE
RESOLUTION #295

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

It Is Hereby Resolved that the Town Board authorizes the Supervisor to sign an agreement with The New York Academy of Medicine for the Yorktown Senior Advisory Committee to host one focus group. The agreement shall commence on August 1, 2019 and end on September 30, 2019. The payment for hosting the focus group will be \$500.00.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH MONUMEDIC FOR INTERN EDUCATION PROGRAM
RESOLUTION #296

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

It Is Hereby Resolved that the Town Board authorizes the Supervisor to sign an agreement with MonuMedic, Inc for an intern education program in the amount of \$350.00.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE GRANT APPLICATION UNDER NYS DEC NON-AGRICULTURAL NONPOINT SOURCE PLANNING PROGRAM
RESOLUTION #297

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

It Is Hereby Resolved, that the Town Board authorizes the Town and the Town Supervisor to submit a grant application under the NYS DEC Non-Agricultural Nonpoint Source Planning Program for the purpose to undertake a Green Infrastructure Stormwater Feasibility Study and BMP Designs for Mohegan Lake. This grant is in the amount of \$30,000.00 and requires a Ten (10%) Percent Match from the Town in the amount of \$3,000.00.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE GRANT APPLICATION UNDER NYSDOS LOCAL WATERFRONT REVITALIZATION PROGRAM
RESOLUTION #298

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

It Is Hereby Resolved, that the Town Board authorizes the Town and the Town Supervisor to submit a grant application under the NYSDOS Local Waterfront Revitalization Program for the purpose to undertake a Green Infrastructure Stormwater Feasibility Study and BMP Designs for Mohegan Lake. This grant is in the amount of \$55,125.00 and requires a Twenty-five (25%) Percent Match from the Town in the amount of \$18,375.00.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE GRANT APPLICATION FOR ENVIRONMENTAL PROTECTION FUND PARKS PRESERVATION AND HERITAGE GRANT, THE LOCAL WATERFRONT REVITALIZATION PROGRAM AND THE RECREATIONAL TRAILS PROGRAM – ACTIVE AND PASSIVE RECREATIONAL PARK – ROCK HILL PARK
RESOLUTION #299

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

It Is Hereby Resolved, that the Town Board authorizes the Town and the Town Supervisor and the Yorktown Parks and Recreation Commission to submit a grant application under the Environmental Protection Fund Parks Preservation and Heritage Grant, the Local Waterfront

Revitalization Program, and the Recreational Trails Program for the purpose of implementing a project to make an active and passive recreational park at Rock Hill Park/Holland Sporting Club. This grant is in the amount of \$1,000,000.00 and requires a Twenty-five (25%) percent match from the Town.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE GRANT APPLICATION FOR ENVIRONMENTAL PROTECTION FUND PARKS PRESERVATION AND HERITAGE GRANT, THE LOCAL WATERFRONT REVITALIZATION PROGRAM AND THE RECREATIONAL TRAILS PROGRAM – TOT LOT AND SPRAY PARK- SPARKLE LAKE PARK
RESOLUTION #300

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

It Is Hereby Resolved, that the Town Board Authorizes the Town and the Town Supervisor and the Yorktown Parks and Recreation Commission to submit a grant application under the Environmental Protection Fund Parks Preservation and Heritage Grant, the Local Waterfront Revitalization Program, and the Recreational Trails Program for the purpose of implementing a project to make a Tot Lot and Spray Park at Sparkle Lake Park. This grant is in the amount of \$200,000.00 and requires a Twenty-five (25%) percent match from the Town.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME FOR ROSE VANCA
RESOLUTION #301

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

Be It Resolved, that the Town Board hereby authorizes the Town Comptroller to pay Rose Vanca the cash value of unused time as of her retirement date.

Rate of Pay: \$35.3670

Sick	756.00 hours	@	50%	=	378.00 hours
	378.00 hours	x	\$35.3670	=	\$13,368.72
Vacation	150.00 hours	x	\$35.3670	=	\$ 5,305.05
Holiday Pay	48.60 hours	x	\$35.3670	=	\$ 1,718.82
Compensatory Time	2.25hours	x	\$35.3670	=	\$ 79.57
			Total		\$20,472.16

Be It Further Resolved, that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:		
A909.8	General Fund Reserve for Employee Accrued Benefits	\$13,368.72
A3120.101	Police Civilian Salary	\$ 7,103.44

To:		
A3120.108	Police Lump Sum Payments	\$20,472.16

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME FOR TODD ORLOWSKI
RESOLUTION #302

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

Be It Resolved, that the Town Board hereby authorizes the Town Comptroller to pay Todd Orłowski the cash value of unused time as of his date of resignation.

Rate of Pay: \$56.4565
Vacation: 228.50 hours x \$56.4565 = \$12,900.31

Total \$12,900.31

Be It Further Resolved, that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at resignation as follows:

From:
A7020.101 Recreation Salary \$12,900.31

To:
A7020.108 Recreation Lump Sum Payments \$12,900.31

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME FOR PATRICK VAN DEN BERGH
RESOLUTION #303

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

Be It Resolved, that the Town Board hereby authorizes the Town Comptroller to pay Patrick Van Den Bergh the cash value of unused time as of his date of resignation.

Rate of Pay: \$17.1814
Floating Holidays 12.00 hours x \$17.1814 = \$206.18

Total \$206.18

Be It Further Resolved, that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at resignation as follows:

From:
A6772.101 Nutrition Salary \$206.18

To:
A6772.108 Nutrition Lump Sum Payments \$206.18

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER - HIGHWAY PAVING
RESOLUTION #304

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

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

From:
Highway – Fund Balance

To:
Highway – Paving (D5112.210)

for up to a maximum of \$50,000 to cover additional paving expenses that may be incurred during the 2019 paving of Town roadways.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE SITE STABILIZATION WORK AT JEFFERSON PARK PUMP STATION
RESOLUTION #305

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

WHEREAS,

1. While construction work for the Pump Station Upgrade Project was progressing at the Jefferson Park PS, an old underground fuel tank was uncovered. The Town issued a purchase order to World Management Services for removal of the tank in the amount of \$6,180. See Attachment #1.
2. World Management Services started work associated with the tank removal on 5/29/19. During the work it was discovered this was a leaking underground fuel tank, which was reported to NYSDEC as required by state regulations.
3. The following additional work tasks were performed by World Management Services on 5/30/19 & 6/5/19 to stabilize the site: (1) excavate contaminated soil to determine extent of leakage, (2) stockpile on the site, (3) vacuum excavation of contaminated water, (4) install a monitoring well, (5) install temporary backfill and (6) took soil samples for waste characterization. The approximate value of this work was \$13,000. See Attachment #2.
4. The Town Engineer requests the Board declare the stabilization work noted above as "Emergency Work" as defined by the Town procurement policy.
5. The estimated additional cost to complete the remediation at Jefferson Park PS is \$19,000 as per Attachment #3. In accordance with the Town procurement policy, the Engineering Department will obtain a minimum of three (3) written vendor quotes before issuing a purchase order for this work.
6. For the leaking underground fuel tank uncovered at the Jefferson Valley PS, the estimated cost to remove the contaminated soil at is \$13,570 as per Attachment #4. Since the work of both projects (Jefferson Park PS & Jefferson Valley PS) will exceed the \$35,000 threshold where the Town procurement policy requires sealed bids, the Engineering Department will begin preparation of project specifications. After the documents have been prepared and reviewed with the various Town departments, the Town Engineer will request Town Board approval to advertise for bids.
7. Note: The Department is continuing to work with the Town Attorney to see if any of the tank removal and remediation expenses are covered under the Town insurance policy.

RESOLVED, the Town Board authorizes the site stabilization work performed at the Jefferson Park PS on 5/30/19 and 6/5/19 to be an Emergency Repair, with the work performed by World Management Services as defined above.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

AUTHORIZE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER
FROM SEWER FUND
RESOLUTION #306

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

WHEREAS:

1. During the storm events of March 2018, the emergency generator at the Yorktown Heights Water Pollution Control Facility that serves the Microfiltration Building failed. The Town Engineer and Assistant Plant Superintendent have been working with representatives of the NYCDEP on various repair and replacement options. In a written communication dated 9/19/18 the NYCDEP directed the Town to proceed with repair of the damaged unit.
2. The repair work by Cummins stated in May 2019 and required ordering of additional parts, which delayed the project completion. Work was complete as of 6/30, approximately one month past the scheduled completion date. As a result of the delay, the Town maintained a rental generator on the site for back-up power.
3. All costs associated with the rental generator and repair of the emergency generator are billable to NYCDEP under our O&M agreement and reimbursable at 100 percent of our cost.
4. The Department intends to work with the generator manufacturer to perform work and will need the following budget transfer to issue a purchase order:
 - Transfer \$15,000 from the Sewer Reserve Fund into YS.8130.460.3 Maintenance & Repair NYCDEP

RESOLVED, the Town Comptroller is authorized to transfer \$15,000 from Sewer Fund- Fund Balance to YS.8130.460.3 Maintenance & Repair NYCDEP for the purpose of paying for emergency generator repair/rental costs as a result of the storms and resulting power outages that occurred during the week of 3/1/18.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

PROPOSED TREE LAW

Supervisor Gilbert said that it was obvious that the Town received a lot of public input on both the proposed tree and woodland conservation law and the proposed solar law. He said it was also obvious that there were significant changes needed, enough that a new law will need to be drafted and a public hearing to be held based on the new draft.

Councilwoman Roker said she wanted to take the law and the concerns of the public and break it down to what needed to be changed. She asked Director of Planning John Tegeder to explain.

Mr. Tegeder said they would be adding a policy statement about trees that are diseased or dead should be removed so that disease would not be spread. Half-acre property or less would not be subject to the law.

The current proposal's provision of trees on a 15% slope would be better handled under Sediment Control and Erosion Law.

The current definition of woodlands will be better defined, as well as defining their ecological, environmental benefits, not just aesthetics. Woodland protection also needs to be better defined.

Mr. Tegeder said that clarifying mitigation and how that would be handled (i.e., its importance, flexibility, etc.) will also be better defined.

Appeal process would be explained more completely.

They will consider removing the supersession of law clause. Supervisor Gilbert stated that he does not believe the law will be lessened by excluding it.

Mr. Tegeder also discussed education for the public on the new tree law and its intent and how it works. Councilwoman Roker raised the issue of how much money the Tree Conservation Advisory Committee will need to carry this out. Supervisor Gilbert also mentioned that whoever the approval authority is, they will need to justify why full mitigation may not be needed.

Councilman Diana stated he wanted a compromise to one acre. Supervisor Gilbert said if a particular lot size is exempt, the buffer is still required. Mr. Tegeder said most half-acre lots do not deal with significant tree removal. He cited a study that was done showing that no matter what size the lot, outdoor living area is one-half to three-quarters of an acre. This law will have less of an impact on half-acre lots unless it involves the buffer zone.

Councilwoman Roker referred to tree removal on a 15% slope and wondered at what point would soil erosion kick in. Mr. Tegeder said at 5,000 square feet but very rarely would a single tree meet the 5,000 square feet. He asked the Board if they wanted to bring the threshold down for a single tree on a 15% slope and Councilwoman Roker said her concern is that this is for only one tree – how detrimental could it be for the removal of just one tree. This issue can be covered under the Sediment & Erosion Control law and the Board agreed.

Mr. Tegeder talked about the function of a woodland – as it stands in the draft law right now, it is more of a definition of a woodland but not its function in the environment. Councilwoman Roker asked if woodlands function like wetlands and Mr. Tegeder said no, but he does not have enough information yet on their function. He said you have to be careful not to group wetlands and woodlands in the same category because it will greatly hamper development.

Councilman Patel said that water drainage is the key to disturbing woodlands.

Ms. Susan Siegel, resident, was asked to approach the Board. Ms. Siegel said woodlands have critical functions in the environment and said that Ms. Miller from the ABY (Advocates for a Better Yorktown) can provide the Board with the scientific literature.

Supervisor Gilbert asked Town Attorney Richard Abbate to formulate in legalese, but also plainly, that under mitigation there should be a presumption of mitigation which could be rebutted and delineate a number of factors if you deviate from that mitigation - too onerous, the quality of the mitigation, etc. This should also include addressing the quality of the mitigation – will it serve a purpose, etc.

Councilman Patel stated that the public should be educated about this law and he also questioned enforcement of the law.

Supervisor Gilbert said the ratio under the current law depends on the size of the lot (a sliding scale); 10 trees may be cut on half-acre lots, 20 trees for a larger lot, etc. This was considered unfair and the 10 trees per calendar in the new proposed law helps to establish fairness. Mr. Tegeder said he felt the 10 trees and a 5,000 square foot woodland limit establishes fairness and a base limit for the law.

Councilwoman Roker asked if the Planning Board had a problem with the 10-tree limit and Mr. Tegeder said no. He said that larger developments will almost always go beyond the threshold and mitigation would then take place.

Councilman Diana asked about the buffer limits (trees with 8-inch diameter and above that allow for 2-tree removal). He said that the era of clear cutting in Yorktown is coming to an end because the only real space to be developed is commercially; housing developments will be few.

It was determined that Town Attorney Richard Abbate will draft a new law to present to the Board.

The following resolution was introduced and discussed regarding a grant whereby the Town would be required to make a 50% match of \$44,925 to create a conceptual plan for rebuilding the Zino Barn at Railroad Park. A discussion took place regarding past dealings and plans with the past barn manager for the project and the Breslin Company.

AUTHORIZE A GRANT APPLICATION TO EMPIRE STATE DEVELOPMENT
RESOLUTION #307

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

It Is Hereby Resolved, that the Town board authorizes the Town and the Town Supervisor to submit a grant application under the Empire State Development Strategic Planning and Feasibility Assessment Grant. This grant, with study, is in the amount of \$89,850 and requires a Fifty (50%) percent match from the Town (\$44,925). The purpose of the grant is to create a conceptual plan, costs, and schedule for rebuilding the Zino Barn as a multipurpose center in Railroad Park.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye.
Resolution adopted.

PROPOSED SOLAR LAW

Councilwoman Roker stated that this proposed law has also become the Town's quest to look at other jurisdictions and how they apply a solar law.

Town Attorney Richard Abbate said that New Rochelle, Cortlandt Manor, and Ossining have various versions of what we have drafted. Ossining has a three-tier system: roof mounted solar systems, minimum lot size in all zones, and large zones. In terms of residential areas, Ossining has a ten-acre minimum, as does Cortlandt. Cortlandt allows in both residential and commercial, as does Ossining. Cortlandt has a setback of 100 feet.

Supervisor Gilbert said that if you are going to have solar in residential, screening has to be clearly defined and effective. He said the key question is if we want this in a residential zone. John Tegeder asked if it makes sense to allow the large arrays in commercial zones. Commercial ventures should not be in a residential zone.

Councilwoman Roker asked if she owned 30 acres, why could she not have a large solar array on her the property. Mr. Tegeder said much of the previous commentary determined that a commercial venture should not be a land use in a residential zone. There was a suggestion to create a floating zone, which is interesting, but you have to be careful when you are evaluating a property on that basis, you are saying that it can be rezoned and it will support commercial uses inherently and that this is something that can be placed there. When decommissioning happens, the landowner is now faced with a reduction in value going back to a residential zone or another type of commercial use being proposed that may not be acceptable.

Councilman Diana said that we have yet to see where details or visuals regarding where stormwater runoff is going to go when a solar farm is erected. Councilman Diana said he is not in favor of ground mounted solar; he feels in belongs on rooftops.

Mr. Tegeder stated that solar panels on the ground are on a structure so most of the ground is available for runoff. It will change the drain-off pattern for the property and they will have to go through a site plan to address it. The production of electricity in this country is a utility and those utility companies are allowed to build in residential areas. Solar in residential zones is necessary in many areas.

Councilwoman Roker said that at some point the Town needs to recognize that they need to do something regarding renewable energy. There are several working farms in Yorktown and allowing this would help them maintain their properties.

Supervisor Gilbert asked Mr. Tegeder to arrange a site visit to a large solar farm installation and then discuss it afterwards.

Councilman Lachterman mentioned the need for proper and adequate screening on the site plan.

Mr. Abbate said it seems like the major objection from the many comments received is the visual impact. The Planning Board can consider the visual impact from the road view. Councilwoman Roker said she visited the Yeshiva property to see their solar array. You cannot see it from the road, only when you pull on to the property, and does not find this objectionable.

Supervisor Gilbert closed the meeting in memory of former Town Supervisor Nancy Elliott who passed away on July 11, 2019. Flags were flown at half-staff in her honor.

Councilwoman Roker spoke about when she came to the Town in 1990 she had no government experience. Nancy Elliott was very generous to her and became a friend. Councilwoman Roker said Supervisor Elliott did so much for Yorktown and she will be missed.

Councilman Patel spoke of his interactions with Supervisor Elliott, particularly at the Yorktown Museum, and that she will be missed.

Supervisor Gilbert said that Nancy Elliott served six terms and was a Councilwoman before that, as well as having sat on the Planning Board.

ADJOURN MEETING

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

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