

Meeting of the Town Board, Town of Yorktown held on Tuesday, June 18, 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, litigation, and negotiations. Upon motion made by Councilman Patel, seconded by Councilwoman Roker, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Gilbert led the Pledge of Allegiance

MOMENT OF SILENCE

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

SUPERVISOR ILAN GILBERT'S REPORT TO THE TOWN

Supervisor Gilbert said he had the privilege of attending and speaking at the Elk's Flag Day ceremony held at the Yorktown Assisted Living Residence. He said that Flag Day is not simply about honoring a particular design on a piece cloth; it is more about taking time to reflect on our freedoms and the principles of our great nation for which the flag stands. The Elks' ceremony reviewed the history of our flag as our country grew.

Supervisor Gilbert reported that there was a flag retirement event sponsored by the American Legion Post #1009. He said he was impressed with the number of flags turned in at this event held behind the Yorktown Heights Fire House. The time that is taken by our residents to properly dispose of frayed or tattered flags reflects the fact that they respect the flag and for all it represents.

Supervisor Gilbert said that he was happy to report that last Friday there was a very successful Relay for Life; a signature fundraiser for the American Cancer Society's fight against cancer. The funds raised through Relay for Life not only honor survivors and remember loved ones, but also support cancer patients and their families with resources they need.

Supervisor Gilbert reported that he attended the Eagle Scout Ceremony for Austin Edward Fritz and Michael Phillip Ruvo who will present their projects later this evening.

Supervisor Gilbert said that he and Rosemary Panio, Chair of the Senior Advisory Committee, met with County Executive George Latimer and Mae Carpenter, Director of Senior Services and Programs to discuss the needs of the seniors residing in Yorktown and the possible expansion of services for seniors in Yorktown.

Supervisor Gilbert said he was proud to report that his infrastructure initiative is proceeding, as follows:

- Work is almost complete on the new roofs on the Police Department, the Courthouse, and Town Hall. As a result of the repair to the Police Department roof, the leaks in the tunnel between the Police Department and the Courthouse were also corrected.
- The installation of the new air conditioning units at the Police Station was completed.

- The Parks & Recreation Department has substantially completed work at all but three small pocket parks, which they expect to complete once the rain stops (31 parks, 16 playgrounds, 2 pools, and Sparkle Lake)
- Granite Knolls has been open for a number of weeks and the various leagues have taken advantage of these new fields. At the same time, the contractor is nearing final completion of the rest of his punch list work.
- Contractors are currently working on the lower courts at Downing Park on crack repair, resurfacing, and lining. Thereafter, work will commence on the Blackberry Woods courts. After those courts are completed, work will proceed at the Shrub Oak courts that will complete replacement/repair of those courts.
- Our Highway Department has been able to get an early start on paving this season.

Supervisor Gilbert said his office has had several meetings with representatives of various entities in order to review options to reduce inflow of phosphorus into Lake Mohegan. Three different purveyors of systems have been consulted and the Town is awaiting some proposals.

REPORTS FROM THE TOWN COUNCIL

Councilman Diana reported that the Relay for Life event was very well attended. The annual Fireman's Parade will be held on June 26th at 7:00 p.m. and Saturday, June 29th there will be a Mardi Gras Parade beginning at 6:30 p.m.

Councilman Diana said if anyone has a flag that needs to be disposed, they may place it in the receptacle at the American Legion Post #1009 who will then dispose of the flag in a respectful manner on Flag Retirement Day. United for the Troops (Jim Rathschmidt) actually removes the embroidered stars on the blue background of the American flag and sends each one out with every package to the troops. He said this is a touching and a wonderful gesture made to our troops.

Councilman Diana said Todd Orlowski, Superintendent of Parks & Recreation, who has resigned from his position, will be sorely missed.

Councilwoman Roker announced the board meeting scheduled for June 25th has been cancelled due to the upcoming primary. She said that the Democratic and Independence Parties will have a countywide primary. There will also be a primary for the Conservative party for Legislative District 1 (the northern end of Town) and the Green Party will have a primary for Legislative District 4.

Councilman Patel recognized the two Eagle Scouts that were present with their projects.

Councilman Lachterman thanked the fire department, the Sons of the American Legion and Scout Troop 1776 for their participation on Flag Retirement Day.

Councilman Lachterman asked everyone to keep the family of Judge James Reitz in their thoughts, as he recently passed away. He very often helped out with United for the Troops, as well as the Alliance for Safe Kids and their drug initiative.

Councilman Lachterman announced the following upcoming events:

- Friday, June 21st, United for the Troops is having a golf outing at the Centennial Golf Club.
- June 23rd is the Car Show and Big Truck Show at The Grange from 10-4:00 p.m.
- The Lions will hold their annual installation dinner on Friday, June 28th, at Victoria Z's on the Lake.
- June 30th kicks off the Lions Annual Summer Concert Series beginning with singer Jessica Lynn.
- The Yorktown Chamber of Commerce is sponsoring an Auto and First Responders Show on July 21st from 10:00-5:00 p.m. in the K-Mart Shopping Center parking lot. That week there will also be an outdoor movie held by the Town's gazebo. Sponsors are still needed; if interested, please contact Kyle at the Parks & Recreation Department.

ACCEPT RESIGNATION OF TODD ORLOWSKI, SUPERINTENDENT OF PARKS AND RECREATION

RESOLVED, the Town Board accepts with regret the resignation of Todd Orlowski, Superintendent of Parks and Recreation.

POLICE DEPARTMENT PRESENTATION

Chief of Police Robert Noble introduced the first recipient of the semi-annual departmental awards, Officer Angel Garcia. On July 24, 2018, Officer Garcia was responsible for locating a distraught caller who was contemplating suicide. As a direct result of Officer Garcia remaining calm, professional, and being able to establish a rapport over the duration of the call, the caller was located and sent help.

Chief Noble introduced Detective Brian Shanahan and Police Officer James Hannigan as the second and third recipients of departmental awards. On September 6, 2018, the Brian J. Slavin Aquatic Center suffered damage from arson and criminal mischief. Detective Shanahan, assisted by Officer Hannigan, was assigned the follow up investigation. After several months, two suspects were identified through tireless detective work. The suspects were arrested and charged with criminal mischief in the second degree (Class D Felony), arson in the fifth degree (Class A Misdemeanor), criminal trespass (Class B Misdemeanor).

All recipients received certificates commending their actions.

Chief Noble introduced Sergeant Mark Rapisarda who oversees the detective division and all arrest reports. Town Clerk Diana Quast administered the Oath of Office to Sergeant Rapisarda as Administrative Sergeant. Sergeant Rapisarda thanked his family, the Board, and his fellow officers.

Chief Noble introduced Keith Kuttruf who is part of the Building and Maintenance Staff for the Police Department. Keith is being honored for the work he did in transforming a gutted room into a new locker room for the officers. Chief Noble displayed photos of the work, both as a work in progress and the finished product. He saved the Town thousands of dollars while still performing his regular duties. Chief Noble presented Keith with a certificate of recognition from the Yorktown Police Department. Keith Kuttruf thanked the Chief, Lieutenant Gentner, and the police department. Supervisor Gilbert also presented Keith with a certification of Appreciation from the Town Board for his years of dedication and his single-handed completion of this project, thereby saving the Town thousands of dollars.

Chief Noble introduced Eagle Scout Michael Ruvo and Sergeant Craig Scatola. Michael is a Yorktown High School senior, member of the National Honor Society, and a member of the Yorktown Track and Field and Cross Country Teams. He is an Eagle Scout with Troop 165 in Yorktown and plans to attend St. John's University in the fall to study Communications. He chose his Eagle Scout Project, the Yorktown Emergency Preparedness Guide, to be able to have a large impact on his community and something everyone can use. It is an easy to read brochure that is available to everyone with valuable information. Sergeant Scatola acted as Michael's mentor during the project, as Yorktown's Emergency Manager. Michael explained the process of rank and the Eagle Scout Project and why he chose this topic. He said he is very proud of his work and is looking forward to college.

Supervisor Gilbert introduced Eagle Scout Austin Fritz, whose Court of Honor the supervisor recently attended. Austin's Eagle Scout Project included clearing land and installing over fifty feet of boardwalk on the Mohansic Trailway. He presented both Austin and Michael with Certificates of Appreciation from the Town Board. Austin spoke about the work he performed on the trail.

Chief Noble thanked the Board for the opportunity to honor good work. He also reminded residents to remove valuables from their cars and lock their cars. There had been a recent incident of thefts and credit card fraud due to car break-ins.

Councilman Diana introduced Jacqueline Baker, an advocate for Sickle Cell Anemia who gave a presentation. Ms. Baker said she is a parent advocate for Sickle Cell Anemia and has two sons who have sickle cell. She explained what sickle cell is and its effects on the body. She announced that June 19th is Sickle Cell Awareness Day which is to bring awareness of the disease

to the public. Ms. Baker said that it is a disease that affects communities all over the world. Her organization tries to provide support to families of those affected. Members of Ms. Baker's organization spoke about Sickle Cell Anemia and the lack of funding it receives, particularly in New York State. There is a bill currently in Albany to petition for more funding. Councilwoman Roker said she would like to see the Yorktown Town Board support this bill. Members and health care professionals also spoke of their personal experiences with the disease.

Councilman Diana read a proclamation that states the Town of Yorktown will be an advocate for their cause. He also presented a proclamation by the Westchester County Board of Legislators supporting the organization.

Supervisor Gilbert mentioned that last year June was named Farm Month in the Town of Yorktown and said how the Town appreciates the farm partners we have and what they mean to the Town – they are the roots of the Town, as we were an agricultural community first. He said that on behalf of the Town, Supervisor Gilbert and the Town Board is honoring Fable Farm and Tom Deacon, its owner. He presented Mr. Deacon with a proclamation from the Town Board. Mr. Deacon said he started the farm five years ago at the old Sundial Farm location on Route 134. He thanked the Board and the public for their support. June 30th will be FarmFest – an event for all.

POET LAUREATE

John McMullen, Poet Laureate, recited an original poem, "Bask in the Sun." He also read a poem by poet Jim Hart, "Motherlode," regarding the news of the death of a son during wartime.

COURTESY OF THE FLOOR

The following members of the public spoke:

Mr. Paul Moskowitz, resident, commented on the upcoming proposed solar law. If someone wishes to put solar panels on their home, they can without a law. The proposed solar law does not mention commercial zones. He said he concluded the proposed law only serves the interests of a corporation located in Colorado that wishes to install a solar farm in a residential area on 29 acres of forest. The 29 acres are on residential-zoned property off Underhill Avenue where the slopes are 15% to 25%; if you take all of those trees away, all of that hillside could come down on Underhill Avenue, not to mention removing the function of the trees themselves. Mr. Moskowitz said that he would not want to take that risk and the Town does not need a solar law. He does not want large-scale solar facilities in residential areas.

Mr. Tony Grasso, resident, said that at a prior Rotary Club Meeting and a meeting of the Chamber of Commerce, both County Executive George Latimer and Supervisor Gilbert promised that he and a member of the Senior Advisory Committee would be invited to attend the meeting with Mae Carpenter, Director of Senior Services and Programs (mentioned in the Supervisor's Report to the Town). Mr. Grasso said that he was not invited to a meeting that was very important to him and finds the excuses unacceptable.

Mrs. Jennie Menton, resident, agrees with Mr. Grasso's statements. She said she, too, was unhappy that she and Tony were not invited to the meeting. Mrs. Menton said they were not even told there was going to be a meeting. She said she could not accept the Supervisor's apology. Mrs. Menton said that she and Mr. Grasso are doing much for senior causes in Yorktown and to be excluded was not acceptable.

Mr. Ed Ciffone, resident and President of the United Taxpayers of Yorktown, showed a photograph of Nick DiTomasso which he carries on Memorial Day to keep him in memory. He was a previous president of the UTY and tried to fight for lower taxes for the residents of Yorktown. Mr. Ciffone discussed the audit report that was recently released. He said the UTY asked the supervisor to make a policy of no more than 15% in the fund balance and to create a citizens financial committee. This was also asked of previous supervisors. Mr. Ciffone spoke of the 37% that was quoted in the current audit report. He said the money should be returned to the residents.

Ms. Grace Caporino, resident, spoke in opposition to the proposed solar law. She said the proposed law has no respect for residential areas. She stated that most people want to live here because of its pastoral setting.

Mr. Kevin Burns, resident, said that he has been involved with United for the Troops for about 12 years. He related a story about the stars and bags of soil that they send to the troops along with the care packages. At first, the soldiers did not know what to do with the soil and then decided that if one of the soldiers died in battle, they would sprinkle the soil on the body so they could say he or she died on American soil.

Ms. Joanne Silik, resident, voiced her objection to rezoning of 19.3 acres from single family to multi-family so that 150 rental units could be built between Hill Boulevard and Lee Boulevard, bordering Route 6. She said the consequences of rezoning would be brutal to the area. She provided a newspaper history of the project and how the number of units increased over time. She said many people in Yorktown are against this rezoning.

Ms. Lisa Marco, resident, also voiced her objection to the rezoning request of DP Yorktown. She is concerned that the taxes will go up because this project will require additional services (police, fire, teachers, EMS, etc.) which will require additional town personnel. Ms. Marco said that this is “taxation without representation.” Ms. Marco said that Yorktown taxpayers will remember the Board’s vote on this issue for years to come. This property is not the site for this project – there is too much traffic and too much population congestion. The consequences of zoning apply to all that has been mentioned and there will be consequences if the Town Board decides to rezone this property.

Mr. Brian Silik, resident, also objected to the rezoning request. His main objection is the traffic issues this development would cause. He said that ultimately, the minimum of cars would be about 200 coming out onto Route 6N, with only one access road in and out of the property. He said traffic lights would be needed on Route 6N, the new access road, Lee Boulevard leading to Bank Road, and possible more.

Ms. Jean Troiano, resident, said the Town’s motto is “Progress with Preservation” and this project is in direct opposition to this. She asked the Board to please think twice about allowing this rezoning to go through since it will be a costly mistake.

Ms. Heidi Bornemann, representing the Yorktown Grange #862, came to promote their car show on Sunday, starting at 10:00 a.m., registration begins at 8:00 a.m. and lunch will be available. Big Truck Day will also be held the same day. These events are fundraisers for the Grange. Heidi also spoke about the Grange and how it is the oldest fraternal organization in Westchester County, celebrating their 121st year. Several groups use their buildings and grounds, such as Positive Sobriety, SPARC, Tractor Club, 4H Clubs, Girl and Boy Scout Troops, etc. The money raised helps to maintain their property.

Mr. Mel Tanzman, resident and member of the County’s Housing Opportunities Commission, said he and many others would like to see the housing set-aside law reconsidered. If the Town does not move this along, money that was promised to the Town (\$40,000 for a senior van) will not be given to the Town unless there is a model ordinance. This will also cause us to lose future grant opportunities. Mr. Tanzman said that aside from the potential loss of funding, the Board needs to consider that this is the right thing to do.

Mr. Marc Lieberman, resident, mentioned that this Saturday there will be a meeting at the Pinesbridge Monument for artists to sketch the monument. It begins at 10:30 a.m., break for lunch at 1:00 p.m., and there will be a judging of the sketches afterwards.

Mr. Howard Frank, resident, asked about the proposed solar law. He said he has been studying solar power for a long time. He said he had filed a FOIL request with the Building Department and was told they do not keep records on solar panels. He is reinstating his FOIL request with the Town Clerk to obtain information on the latest four solar panel installations in the area so he can make a comparison of what they have on the roofs.

Mr. Jay Kopstein, resident, said he has heard this evening for the Board to lower taxes and increase spending – he said it cannot be done. He then asked how many acres were rezoned to build Jefferson Village. Regarding affordable housing, Mr. Kopstein said he had asked to find out how many housing units are currently listed as affordable in the Town; how many are receiving some type of subsidy – he never received a response. He said he would rather lose the

\$40,000 in grant money referred to by Mr. Tanzman at this point in time than to make more affordable housing in Yorktown until there is a current inventory of how many units already exist.

Ms. Susan Siegel, resident of Jefferson Village, wanted to correct a previous comment that the majority of Jefferson Village residents are against the proposed rezoning application. She said she attended two meetings regarding the project and there was no way that the majority voiced their opposition. She said there was a lot of misinformation about the project at the meetings.

Mr. Dan Strauss, resident, said that when there is a rezoning application, there should be a public informational meeting because he feels that it is made public only when the Board is ready to make a decision. This way residents can make their feeling known, thereby helping the Board to make a decision. He also suggested that Courtesy of the Floor should be extended to five minutes per speaker.

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

Councilwoman Roker responded to Mr. Strauss' comments by saying it was a great idea. She said there is nothing to preclude the Board from asking the applicant to have a public informational meeting.

Councilman Diana responded to Mr. Kopstein's and Mr. Tanzman's comments about losing the grant money and other repercussions of not having an affordable housing ordinance. He would like to see this in writing before the Town Board has a knee-jerk reaction to affordable housing set-asides. Supervisor Gilbert said he does not know if the model ordinance requires set-asides.

Planning Director John Tegeder said the model ordinance is just that – a model. It does not require that it be adopted by a municipality as is; municipalities can made modifications. However, he suggests that if the Board is considering getting rid of set-asides or reducing the number of set-asides, the Board work with the county to make sure that it is acceptable. Councilwoman Roker asked him if he can look at how many affordable housing units the Town has. He said that they can do a rough number but there is a risk of mixing “apples & oranges” since the county does not count certain types of housing that the Town may consider affordable.

Mr. Ken Belfer, Community Housing, said he wanted to clarify that the model ordinance is a set-aside ordinance, which communities are encouraged to adopt or modify and adopt. Supervisor Gilbert said that if the Town were to consider reducing the set-aside to 5% from the 10%, until we spoke to the county attorneys we would not know if that would be acceptable to the county. Mr. Belfer said this is probably correct.

Councilman Patel asked if there could be more affordable rental units and could set-asides be used for these types of housing. Mr. Belfer said the model ordinance applies to developments over a certain size and applies to both ownership and rentals.

Supervisor Gilbert asked if set-asides for seniors had ever been explored. Mr. Belfer said the Housing Board did explore various set-asides but it gets a little complicated in terms of housing discrimination and age discrimination. John Tegeder suggested it is possible that when you have a senior zone, the housing law may apply to that with its own set-asides.

Councilwoman Roker said she would like to go back to a former Board's Affordable Housing Ordinance for review (1998). She feels that this ordinance defines affordable housing perfectly. Mr. Belfer said this ordinance was written with many categories of local preferences and, with current laws, it would run into many legal issues.

Supervisor Gilbert addressed Mr. Ciffone's comments by saying, once again, the auditor's report is just a snapshot in time in terms of where we were as of December 31, 2018. The fund balance figure is a moving target that can change from day to day. It did not take into account monies that were spent after December 31. The Town has already spent \$1.2 million on roofs and infrastructure and funds have been allocated for the Mohegan Avenue retaining wall. It is not as simple as it would appear.

Supervisor Gilbert said he was sorry that Mr. & Mrs. Grasso are not able to accept his apology and would like to meet with them to review the meeting with the County Executive. He said he would also try to set up an additional meeting with the County Executive and the Mr. & Mrs. Grasso, if that is what they wish.

Supervisor Gilbert acknowledged the strong feelings about the rezoning application but the Town Board will not make any decision until they have more complete information.

Councilman Lachterman said that there are plenty of commercial flat roofs that can be used for solar panels. He is concerned about the vistas that will change due to solar farms.

Councilwoman Roker said one of the things that we have to do as a Town is develop signs and a map for the local farms to send to people so that they know what exists here. Heidi Bornemann said the County does have a map called the Farm Trail and she appreciates the acknowledgement by the Town Board of the local farms.

PUBLIC HEARING FOR WETLAND/TREE PERMIT APPLICATION RECEIVED BY CON EDISON FOR THE REMOVAL OF “DANGER TREES”

Supervisor Ilan Gilbert convened a public hearing to consider the Wetlands/Tree Permit Application received by Con Edison for the removal of “danger trees” threatening 345 kV transmission infrastructure for properties known on the Tax Map of the Town of Yorktown as: Section 16.12, Block 1, Lots 15, 30, & 31; Section 70.14, Block 1, Lot 6; Section 48.18, Block 1, Lot 2; Section 37.05, Block 1, Lots 30 & 34.

Mr. Gabe Horton, transmission forester with Con Edison, explained they have four locations where they have identified hazard trees that interfere with overhead transmission facilities that can lead to failure creating to an outage. The intent behind presenting a larger project is to handle all of this work within the regulated wetlands in one year, which saves time and is more efficient. They have spoken with the DEP to work on their property and have received their support, as well as the support of the Westchester Land Trust. He has also worked with Yorktown’s Town Engineering Department who supports the permits, in addition to the Conservation Board and the Tree Conservation Committee.

Supervisor Gilbert asked if these are trees in their right of way and Mr. Horton said, no, these are trees outside of the right of way. He said they have the majority of homeowner permissions and their idea is to obtain the permit from the Board and then obtain any outstanding permissions within the yearlong scope of the work. He said approximately 90% of homeowners have given their permission.

Councilman Patel asked if Con Edison would consider planting trees in another area to replace the ones taken down. Mr. Horton replied that most of these trees are in rural, forested areas that have an extensive amount of existing regeneration and saplings and pull timber that will continue to grow and may be a potential problem in the future. These are all located in the wetlands, so anything they would plant would have to be site specific and that really narrows down the option of viable species of trees to replant. Based on the density and the distribution across the entire town, Mr. Hogan believes that the minimal visual impact at this time does not warrant replanting. In order to replant, they would have to disturb the wetlands that he believes is contrary to the objective of regulating the wetlands. Mr. Hogan said these trees are in decline, dying, or dead and will fall at some point. He displayed the locations where they are proposing to remove danger trees.

Supervisor Gilbert asked about potential mitigation and referred to the Town’s tree nursery. Town Engineer Michael Quinn said that mitigation is not typically asked for with these types of permits. Councilman Diana mentioned that Con Edison already gives the Town saplings for Arbor Day.

Mr. Quinn said this is really about Con Edison being a good corporate citizen and his department has no objection to issuing the permits.

The following members of the public spoke:

Mr. Howard Frank, resident, said the power lines located in Yorktown are critical to this entire area. He suggested that mitigation could include solar panels for town buildings.

Supervisor Gilbert read memos from the Conservation Board, Engineering Department, Planning Board, and DEP – all with no objections.

Mr. Jay Kopstein, resident, spoke in favor of the permit.

Mr. Chris Peterson, Con Edison, said they can provide re-plantings if the Town wishes.

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

WETLAND/TREE PERMIT FOR CON EDISON FOR THE REMOVAL OF “DANGER TREES”

RESOLUTION #241

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

Whereas,

1. The Applicant, Consolidated Edison, submitted an application for a Wetlands & Tree Removal permit for the removal of approximately thirty (30) trees.
2. The Approval Authority for this application is the Town Board as the work will be performed within wetlands and 100-foot buffer areas of a New York State-designated wetland.
3. All required application fees have been paid.
4. In support of their application, Con Edison had a certified arborist review the trees slated for removal in the field and confirmed they are not healthy and in need of removal to safeguard electrical transmission lines.
5. A Public Hearing regarding this application was opened and closed on 6/18/19. The Board reviewed technical review memos from the Conservation Board and the Town Engineer. The Board reviewed and discussed the Draft permit conditions as prepared by the Town Engineer.

Now Therefore Be It Resolved, that

1. The Town Board declares itself Lead Agency for this Unlisted Action, 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 Town Engineer shall issue the permit in accordance with the terms of this resolution and with the draft conditions as listed in the Town Engineer’s memo dated 5/22/19.

Description of Permitted Activity:

Removal of trees in multiple locations which threaten Con Edison transmission infrastructure. Subject trees will be cut to grade. No stump removal and no land disturbance proposed or allowed. Work to be completed by Lewis Tree Service.

Note #1: The work will be done within the Town and State regulated wetlands.

Note #2: The guidelines contained in the NYSDEC Standards and Specifications for Erosion & Sediment Control, latest edition, shall be followed.

Submitted Plans:

Tax parcel maps have been marked to indicate locations of proposed trees to be cut.

Conditions of Permit:

1. The entire scope of work is referenced above; no additional land disturbance of any kind shall be permitted without the issuance of a new permit by the approval authority. No further changes to the existing site topography shall be permitted.
2. The applicant or a representative must contact the Engineering Department (914) 962-5722 x220 24 hours in advance of the work occurring.
3. Any localized areas of disturbance are to be filled, raked smooth, seeded and mulched within 24 hours of activity unless otherwise approved by the Town Engineer and Environmental Inspector.
4. Road in front of property should be kept broom clean at all times.

PUBLIC HEARING FOR WETLAND PERMIT FOR APPLICATION RECEIVED BY PAUL AND DANIELLE KILKENNY, 39 SOMERSTON ROAD, FOR THE PURPOSE OF THE INSTALLATION OF AN ABOVE-GROUND SWIMMING POOL

Supervisor Ian Gilbert convened a public hearing to consider the Wetlands Permit Application received by Paul and Danielle Kilkenny for property located at 39 Somerston Road, also known on the Tax Map of the Town of Yorktown as Section 17.11, Block 1, Lot 31 for the purpose of the installation of an above-ground swimming pool.

Mr. Michael Quinn said the Kilkennys would like to put an above-ground pool in their backyard. The majority of their yard is grass but there is a NYS designated wetland in the rear of their property. The structure would be within the 100-foot boundary of the wetland and would need DEC approval. The wetlands that were flagged are within 50 feet of the wetland which now makes this application a Town Board action. He said there are no actual plans since this is just an above-ground pool. They have obtained the DEC permit.

Supervisor Gilbert read the memo from the Conservation Board and their request for a plan to show how the backwash and winter water draw down will be treated. Mr. Quinn said that this came up in a previous application of the Kilkennys and does not seem to apply to this application. Mr. Quinn does not have any objection to the application.

There were no comments from the public.

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

APPROVE WETLAND PERMIT FOR PAUL AND DANIELLE KILKENNY, 39 SOMERSTON ROAD
RESOLUTION #242

Upon motion made by Councilman Lachterman, seconded by Councilman Diana

Whereas,

1. The Applicants, Danielle and Paul Kilkenny, submitted an application for a Wetlands permit for construction of aboveground swimming pool.
2. The Approval Authority for this application is the Town Board as the work will be performed within the 100-foot buffer of a New York State-designated wetland.
3. All required application fees have been paid.
4. A Public Hearing regarding this application was opened and closed on 6/18/19. The Board reviewed technical review memos from the Conservation Board and the Town Engineer.
5. No members of the public spoke on this application.

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 Town Engineer shall issue the permit in accordance with the terms of this resolution and with the conditions below.
4. The following conditions are included as part of the Action: All draft conditions as listed in the Town Engineer's memo dated 5/20/19.

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

1. A Yorktown Building Permit must be obtained from the Building Department.
2. The property has multiple wetlands area; Applicant shall mark the area boundary in field and prevent any construction activity or storage in this area (use orange construction fence if necessary).
3. As required by the NYSDEC Standards and Specifications for Erosion & Sediment Control, a silt fence shall be installed around the proposed land disturbance.

4. 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.

Conditions that must be met during construction:

1. The entire scope of work is shown on the plans referenced above; 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. No tree removal is required or allowed.
2. The guidelines contained in the NYSDEC Standards and Specifications for Erosion & Sediment Control, latest edition, shall be followed. At the end of each work day, soil stockpiles shall be covered. If not worked on for more than seven (7) days, stockpiles shall be seeded/mulched with a silt fence around the perimeter.
3. Road in front of property must be kept broom clean at all times.
4. Excess material shall be removed from the site and a copy of the waste manifest shall be provided to the Engineering Department to confirm the disposal location. If any excess soil material is proposed to remain on site, Applicant shall notify the Town Engineer, who will review and approve prior to the work occurring.

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 who will then inspect site and advise if further stabilization is required.

PUBLIC HEARING FOR WETLAND/TREE PERMIT APPLICATION RECEIVED BY VICTOR CONTE FOR PROPERTY LOCATED AT 1550 JOURNEYS END ROAD FOR THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE, DRIVEWAY, AND SEPTIC SYSTEM

Supervisor Ilan Gilbert convened a public hearing to consider the Stormwater Management/Tree Permit Application received by Victor Conte, Conte Homes, Inc. for property located at 1550 Journeys End Road, Croton-on-Hudson, NY, also known on the Tax Map of the Town of Yorktown as Section 69.06, Block 1, Lot 10 for the purpose of construction of a single family residence, driveway, and septic system.

Mr. Joe Riina, Site Design Consultants and project engineer for the property, said that Mr. Conte lives on Journeys End Road and owns 9 vacant acres there. There is a wetland area and small watercourse on the property and it is lightly wooded. It is zoned R1-200. The property and proposal meets all zoning requirements. Mr. Riina showed plans for the site, which is for construction of a single-family residence, driveway, and septic system. A front yard setback variance was requested to bring the house forward in order to give more rear yard to the house, making it comfortably far enough from the wetland buffer. Mr. Conte has obtained Department of Health approval for the septic system. Mr. Riina answered questions from the Board regarding the topography of the property to the Board's satisfaction. Storm water will be collected and will have vegetative level spreaders. Mr. Riina said this is the best plan for the property.

Supervisor Gilbert read a memo from DEP regarding review of the sub-surface sewage treatment system that has been done.

Mr. Quinn said his department has no objection to the issuing of the permit.

The following members of the public spoke:

Ms. Susan Siegel, resident, commented on the tree permit application. She said there are several

issues on this application and its compliance to the current tree law. The code says that the location of the trees to be cut should be marked on the site plan. She also wanted to know why this application was not referred to the Tree Conservation Committee. She stated that the current tree law says mitigation may be required – why is there not a mitigation plan for the 30 trees Mr. Conte is proposing to cut down. Ms. Siegel asked to Board to please respect the provisions in the law.

Mr. Riina said the Board needs to consider the expense to survey 30 trees by an arborist and surveyor. The trees need to come down in order to build this home. The property owner (Mr. Conte) has minimized the amount of disturbance to make it comfortable for a future homeowner to live on the property. They are not disturbing areas close to the road. The amount of disturbance is about two-thirds of an acre. Mr. Conte has tagged all of the trees that have to come down. Mr. Riina said that, in all due respect to the tree law, will that be allowed to stand in the way of an as-of-right development – this will just cost more money and make it more difficult for the developer.

Councilman Diana stated that he agrees with Mr. Riina. Councilwoman Roker said she also agreed with Mr. Riina and that this will be something that should be reviewed in the new tree law. She said that people from the business world (like Mr. Riina) should review the law so the Board can get their perspective.

Ms. Siegel said the marking of the trees on the site plan has been in the law since the first tree law in 2010. When town boards are looking at plans to give comments, they are looking at everything and trees are part of the site plan.

Mr. Quinn said when they get an application they go to the site and the trees that are marked for removal. He reviewed the conditions of the permit. He did not believe tree mitigation was needed.

Ms. Linda Miller, resident, said the Town Board is the approving authority for this and has the option to require mitigation. She said the Board first needs to know what they are mitigating for. Without seeing the trees shown on a site plan, it is hard to determine what needs to be mitigated. Ms. Miller said more information is needed to make an informed decision.

Ms. Siegel said the issue of mitigation seems always to be planting more trees. The applicant can also pay money into the tree fund that could be used for many projects.

Supervisor Gilbert referred to comments made by Councilman Diana and Councilwoman Roker earlier and said he thinks it might be different if this a development project affecting all 9 acres but this is to build as-of-right one house. He feels it is not necessary to require a mitigation plan.

Mr. Jay Kopstein asked how onerous do we want this to be for a property owner who wants to build on his/her property. Supervisor Gilbert and the Board agreed.

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

WETLAND/TREE PERMIT FOR VICTOR CONTE FOR PROPERTY LOCATED AT 1550 JOURNEYS END ROAD
RESOLUTION #243

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

Whereas,

1. The Applicant, Victor Conte – Conte Homes, submitted an application to the Engineering Department for a Tree & MS4 Storm Water Management permit for construction of a single-family residence along with associated site and driveway improvements.
2. The Approval Authority for this permit application is the Town Board as the proposed work will involve a land disturbance in excess of 200 cubic yards.
3. The application fee of \$1,500 was paid by the Applicant.
4. The Applicant submitted engineering plans prepared by Site Design Consultants, Dated & Revised 5-1719, 7 sheets.

Now, Therefore Be It Resolved, that

1. 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.
2. The Town Engineer shall issue the permit in accordance with the terms of this resolution and with the conditions below.

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

1. A Performance Bond shall be established in the amount of \$500 with the Engineering Department. The bond will be released when the Town Engineer has confirmed that at least 80% of the disturbed areas have been permanently stabilized (vegetative growth), all temporary control measures such as silt fencing removed, all post-construction controls 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. The Performance Bond is taken for a period of no more than twelve (12) months, unless an extension is granted in writing by the Town Engineer prior to the permit expiration date. If the stabilization and re-vegetation has not been completed during this period, the Town will declare the bond in default and monies shall be forfeited to the Town.
3. A Yorktown Building Permit must be obtained from the Building Department. All approvals from the Westchester County Health Department must be obtained for the subsurface sewage disposal system.
4. As required by the NYSDEC Standards and Specifications for Erosion & Sediment Control, a silt fence shall be installed around the proposed land disturbance area.
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.
6. Applicant shall mark the subsurface sewage disposal system boundary (proposed & future reserve area) in field and protect with an orange construction fence. No material storage, vehicle movements or construction activity shall be allowed to occur in this area.
7. 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.

Conditions that must be met during construction:

1. The entire scope of work is shown on the engineering plans referenced above; 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 Standards and Specifications for Erosion & Sediment Control, latest edition, shall be followed. At the end of each work day, soil stockpiles shall be covered. If not worked on for more than seven (7) days, stockpiles shall be seeded/mulched with a silt fence around the perimeter.
3. Only those trees specifically shown on the plans may be removed, a new permit shall be obtained from Engineering should the removal of any other trees be required.
4. No soil storage outside the limit of disturbance line is permitted. Road in front of property must be kept broom clean at all times.
5. Excess material shall be removed from the site and a copy of the waste manifest shall be provided to the Engineering Department to confirm the disposal location. If any excess soil material is proposed to remain on site, Applicant shall notify the Town Engineer, who will review and approve in writing prior to the work occurring.
6. The applicant or their representative shall notify the Engineering Department prior to the backfill of any underground stormwater management practices. The engineering inspector will confirm the required improvements have been satisfactorily completed. Applicant will be notified of concurrence or if any work is not acceptable.

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. A final site survey showing as-built conditions shall be provided to the Engineering Department, provide a printed copy and in pdf format.
3. When area is re-vegetated, stabilized and erosion control removed (silt fence), notify the Engineering Department who will then inspect site and advise if further stabilization is required.

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

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT EMPIRE CONSULTING FOR SERVICES REGARDING DRUG AND ALCOHOL TESTING SERVICES
RESOLUTION #244

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

Be It Resolved, that the Town Supervisor is hereby authorized to sign an Agreement between the Town of Yorktown and Empire Consulting for services in compliance with the Federal Department of Transportation regulations regarding drug and alcohol testing services in accordance with the fee schedule on file with the Town Clerk. The Agreement shall be effective from June 15, 2019 until June 14, 2024.

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

BUDGET TRANSFER FOR FINAL PAYMENT TO WARREN SCULPTURE STUDIO FOR PINESBRIDGE MONUMENT
RESOLUTION #245

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

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

From:	
General Fund – Fund Balance	\$50,000.00
To:	
Special Projects – Pinesbridge Monument (A.8020.479.3)	\$50,000.00

for balance due/final payment to Warren Sculpture Studio for the sculpture, delivery and installation of the Pinesbridge Monument.

Gilbert, Roker, Diana, Lachterman Voting Aye
Patel Voting Nay
Resolution Adopted.

AUTHORIZE TOWN COMPTROLLER TO ISSUE CHECK FOR RIGHT-OF-WAY ACQUISITION FOR THE BRIDGE REPLACEMENT - HILL BOULEVARD OVER TRIBUTARY TO BARGER BROOK IN THE TOWN OF YORKTOWN
RESOLUTION #246

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

Now, Therefore Be It Resolved, the Comptroller is hereby authorized to issue a check as follows: \$2,000 to Westchester County charged to the Hill Boulevard Culvert Capital Project for right-of-way land acquisitions necessary to proceed with the bridge replacement.

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

PERFORMANCE BOND RELEASE FOR PROPERTY LOCATED AT 1695 BALDWIN ROAD, YORKTOWN HEIGHTS, NY 10598
RESOLUTION #247

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

Whereas,

1. Frederic & Franca Fusco as applicants, posted check #407 in the amount of \$500 which was deposited to the T33 account on July 20, 2018, to serve as the Performance Bond for drainage work at the Baldwin Road residence.
2. Frederic & Franca Fusco have requested the bond be released as the site is now complete.
3. The Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released.

Now, Therefore Be It Resolved, the above referenced \$500 bond be and is hereby released to Mr. and Mrs. Frederic Fusco, 1695 Baldwin Road, Yorktown Heights, NY 10598.

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

AUTHORIZE THE SUPERVISOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH GHD CONSULTING ENGINEERS TO PREPARE A SPILL PREVENTION REPORT
RESOLUTION #248

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

Whereas,

1. GHD Consulting Engineers previously prepared a Spill Prevention Report for the Yorktown Wastewater Treatment Plant in 2011. As per New York State regulations for Chemical Bulk Storage, the Town is required to submit an updated spill prevention report with its 2019 chemical tank registration.
2. There are five (5) chemical tanks in use at the treatment plant: 2 tanks sized @ 4,700 gallons for ferric chloride and 3 tanks sized @ 1,500 gallons for sodium hydroxide.
3. As part of the update to the spill prevention report, the Consultant will inspect the tanks and perform a tightness test to ensure the tanks are performing as designed.
4. The work will be performed using available funds, however we need the Comptroller to make the following budget transfer: \$2,500 from YS.8130.460.4 Digester Cleaning to YS.8130.490 Professional Services.

Now, Therefore Be It Resolved, the Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with GHD Consulting Engineers for the scope of work as described in the preceding section for the Not-to-Exceed Amount of \$2,500. Additionally, the Town Comptroller is authorized to transfer \$2,500 from YS.8130.460.4 Digester Cleaning to YS.8130.490 Professional Services.

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

AUTHORIZE SUPERVISOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH INGERSOLL RAND COMPANY TO PERFORM PREVENTATIVE MAINTENANCE AND DIAGNOSTICS ON THE COMPRESSORS AT THE YORKTOWN WASTEWATER TREATMENT PLAN
RESOLUTION #249

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

Whereas,

1. The Ingersoll Rand Company previously had an agreement with the Town to perform preventative maintenance and diagnostics on the compressors at the Yorktown Wastewater Treatment Plant. These compressors are located in the Microfiltration Building and were installed as part of the NYCDEP facility upgrade.
2. These services are intended to ensure this critical equipment system is maintained and serviced by an authorized representative of the manufacturer. As part of the O&M agreement with NYCDEP, the cost is 100% payable by the NYCDEP.
3. As in the prior agreement, Ingersoll Rand Company will perform 4 site visits per year and the agreement will be in effect for five (5) years. The cost will be as follows: Year 1: \$8,264.16; Year 2: \$8,512.55; Year 3: \$8,767.92; Year 4: \$9,030.96; Year 5: \$9,301.89.
4. The work will be performed using available funds from Cost Code YS.8130.418.2 Equipment Maintenance NYCDEP.

Now, Therefore Be It Resolved, the Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with Ingersoll Rand Company for the scope of work and cost as described in the preceding section.

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

AUTHORIZE SUPERVISOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH TIGHE & BOND FOR A STRUCTURAL EVALUATION TO BE PERFORMED AT THE YORKTOWN WASTEWATER TREATMENT PLANT
RESOLUTION #250

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

Whereas,

1. A representative of the Westchester County Health Department performed a regulatory inspection of the Yorktown Wastewater Treatment Plant on 3/27/19, see attached Inspection Report findings.
2. All of the listed items in the inspection report are being followed up by the Town Engineer and Asst. Plant Superintendent. Two of the items will require assistance outside of our in-house capability:
 - a. The first bullet stated, *“Deteriorating concrete was observed in numerous locations including...the outer concrete wall to both secondary clarifier structures, walls of the west secondary clarifier. The concrete must be inspected by a professional engineer with a report submitted to this Department by July 31, 2019”*
 - b. The second bullet stated, *“there is rust evident of the weirs of the secondary clarifier, loose grout or sealing material was observed on east and west clarifier weirs.”*
3. The Town Engineer and Asst. Plant Superintendent are requesting the services of an engineering consultant to perform soundings of the concrete walls and identify if there are any structural issues that need to be addressed at the secondary clarifiers (first bullet). The consultant will also perform mill thickness readings of steel to determine if any remedial work of the weirs is necessary at the secondary clarifiers.

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

AWARD BID FOR STREET LIGHT MAINTENANCE – HIGHWAY DEPARTMENT
RESOLUTION #251

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

Whereas, invitation to bid for the Street Light Maintenance for the Town of Yorktown was duly advertised, and

Whereas, said bids were received and opened on June 17, 2019, with the bid amounts for the above-referenced project summarized as follows:

Hanover Electric	
Hourly Rate:	
Regular	\$105.00
Overtime	\$150.00
Sunday/Holiday	\$210.00

The NY-CONN Corporation	
Hourly Rate:	
Regular	\$150.00
Overtime	\$225.00
Sunday/Holidays	\$300.00

Verde Electric Maintenance Corp.	
Hourly Rate:	
Regular	\$275.00
Overtime	\$344.00
Sunday/Holidays	\$386.00

Resolved, that upon the recommendation of the Highway Superintendent Dave Paganelli, the bid for Street Light Maintenance be and is hereby awarded to Hanover Electric, 1803 Commerce Street, Yorktown Heights, NY 10598.

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

AWARD BID FOR ASPHALT CONCRETE LAID-IN-PLACE – HIGHWAY DEPARTMENT
RESOLUTION #252

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

Whereas, invitation to bid for the Asphaltic Concrete Laid-in-Place for the Town of Yorktown was duly advertised, and

Whereas, said bids were received and opened on June 6, 2019, with the bid amounts for the above-referenced project summarized on the attached sheet.

Resolved, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Laid-in-Place be and is hereby awarded to Kect Construction Corp, PO Box 201, Patterson, NY 12563, Inc., the lowest responsive bidder.

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

AUTHORIZE REFUND OF OVERPAYMENT FOR JEFFERSON VILLAGE CONDO 9
RESOLUTION #253

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

Whereas, an overpayment of \$1,063.52 was made by Account #208459-0 and a credit balance of same is currently open.

Now Therefore Be It Resolved, upon the recommendation of Cliff Kummer, NWJWW, a refund in the amount of \$1,063.52 is hereby refunded to Account #208459-0.

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

ADVERTISE PUBLIC HEARING FOR SECTION 8 2020-2024 HOUSING CHOICE
VOUCHER PROGRAM'S FIVE YEAR AGENCY PLAN AND REVISIONS TO ITS
ADMINISTRATIVE PLAN
RESOLUTION #254

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

Notice Is Hereby Given, the Town of Yorktown will hold a public hearing to allow comment on the 2020-2024 Housing Choice Voucher Program's Five Year Agency Plan and revisions to its administrative plan.

A copy of the proposed revisions is on file in the Office of the Town Clerk as well as the Yorktown Section 8 Office where it may be inspected during regular business hours. It may also be seen on the Town's website at www.yorktownny.org.

The public hearing has been placed on the agenda and will be held during the regular scheduled Town Board Meeting on July 16, 2019, in the Town Board Room, Yorktown Town Hall, located at 363 Underhill Avenue, Yorktown Heights, NY 10598. Directions can be found on the Town's website at www.yorktownny.org.

The Town of Yorktown is committed to equal housing opportunity. The Yorktown Section 8 housing voucher program does not discriminate on the basis of race, color, national origin, religion, creed, disability, familial status, sex, marital status, age, military status, sexual orientation, citizenship or alienage status, or against victims of domestic violence, sexual abuse or stalking.

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

APPOINTMENT OF VICTOR E. CONTRERAS BERMEO AS LABORER IN BUILDING
MAINTENANCE
RESOLUTION #255

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

Be It Resolved, that Victor E. Contreras Bermeo of New Windsor, NY, is hereby appointed Laborer, job class code 0425-05, within the Building Maintenance Department, to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$44,154.00 annually;

Be It Further Resolved, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on July 1st, 2019.

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

REQUEST FOR GML SECTION 207-C FOR POLICE OFFICER MICHAEL KAHN
RESOLUTION #256

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

Whereas, Police Officer Michael Kahn was injured in the performance of his duties on August 19th, 2017 and

Whereas, Officer Kahn requested in writing that he be granted General Municipal Law ("GML") Section 207-c status for missed work related to his injuries;

Now Therefore, Be It Resolved, that the Town Board hereby grants Officer Kahn's request for GML Section 207-c status for days of missed work as per the annexed Employee Benefits Report, medical treatment related to his injuries and continuing until further notice, and authorizes the Town Supervisor to advise Officer Kahn thereof.

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

WORK SESSION

PROPOSED CHANGES TO THE TREE LAW

Councilwoman Roker asked John Tegeder if these proposed changes were a product of the committee meetings regarding the changes to the tree and solar laws. He replied yes. She asked Mr. Tegeder to talk about the changes. He said it has been rewritten to eliminate ambiguity, conflict within the law, and easier to administer and easier to enforce. Many of the thresholds are identical or similar (ex., 10 tree threshold). Definitions were worked on, i.e., how a woodland factors in to the new law. Thresholds were modified to be consistent with other laws and they also used the storm water law to affect some protection for woodlands in a way so that you are not double permitting and remove some of the more onerous aspects of the law. He said the average homeowner will not need a permit every time they wish to cut down a tree. Mr. Tegeder said they added some mitigation for the loss of protected woodland (10,000+ square feet). As far as administrative permit issuance is concerned, there is not much of a change.

Councilwoman Roker asked about Ms. Siegel's comment about the types of mitigation available. Mr. Tegeder said that a person is not "handcuffed" to doing only one type of mitigation; there is more a menu of choices. Definitions one-to-one replacement mitigation has been made easier to understand. The requirement for mitigation has had thresholds applied and is now required for disturbance in a protected woodland as a mandatory requirement. Linda Miller said that mitigation is also required for a land conversion, which is removing a protected woodland of a certain sized threshold and replacing it with something where the woodland cannot ever regenerate itself. Monetary values were placed on some of the mitigation choices, although combinations of mitigations can be done for the same project.

Supervisor Gilbert said he was not comfortable with Article III, Section 5 that reads "all ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed." He said he is not sure he wants to include repealing sections of law that have not been contemplated yet.

Ms. Susan Siegel said Chapter 270-19 addresses a supersession clause. She asked the Town Attorney what the difference is between a supersession clause and a repeal clause and was told the repeal clause is only sent to the state as part of the enactment. The supersession clause says if this is in conflict with any other law, the tree law prevails, but you could also modify things to deal with other laws. Section 19 addresses the flexibility when you have to balance wetlands with solar and solar with trees and storm water, etc. Councilwoman Roker said we know that laws like this will have an effect somewhere else in the code. Town Attorney Richard Abbate said this clause appears in all enacted town ordinances.

Town Attorney Richard Abbate said one more thing that needs to be addressed is whether or not the Board wishes to charge a fee. Councilwoman Roker and Supervisor Gilbert did not believe fees needed to be charged. Councilman Diana agreed, as did Councilman Lachterman. They believed that much of the work is already done by various departments and is included in their fees. It was determined not to refer to fees in this chapter of the town code. Section 270-14 refers to fees, which as John Tegeder pointed out, refers to the Master Fee Schedule. Mr. Abbate said that the public will not know, according to the proposed law, what the fees are. It was decided that the section should read "at no cost."

PROPOSED CHANGES TO CHAPTER 248, STORMWATER MANAGEMENT, EROSION & SEDIMENT CONTROL

Mr. John Tegeder said this is an area where the Town gains some protection for 5,000 square feet of protected woodland and you do it within a permit you would already have to get if you are disturbing 5,000 square feet, which is the threshold of this law. The "meat and potatoes" of this proposed law is Section 4, which says "additional conditions are required and shall be attached to the stormwater management, erosion, and sediment control permit if an area of at least 5,000 square feet and less than 10,000 square feet is disturbed within a protected woodland." It points you to the mitigation "menu" that is in the proposed tree law.

Councilwoman Roker said how does a property owner know what a protected woodland is? Linda Miller said it is defined in the law by size and by vegetation structure. A property owner would find out if it is a protected woodland the same way would have to know a protected wetland – you would have to have someone who knows what to look for come out and inspect. In the case of a homeowner, it would likely be someone from the Engineering Department or, if

the Town had one, an environmental consultant. Mr. Tegeder said if you have tree canopy that is connected and the landscape underneath is not managed (essentially looks like woods) that would be considered a protected woodland. A wetland can exist by virtue of the soils only and only a wetland scientist is going to dig up and know if it is a wetland. A woodland is much easier to identify.

Ms. Miller pointed out the size of a protected woodland is 10,000 square feet but can extend over several properties, the same as a wetland. They are not determined by property lines. She said there is a similar kind of issue in the wetland law – if you need a wetland permit, you do not need a tree permit.

Mr. Tegeder said this is the first time the Town will have a good definition of a protected woodland. Ms. Miller said the 2016 law stated in its intent that the intent was to protect woodland and that was the last time woodland was mentioned in the entire law.

Supervisor Gilbert said there is no permitting fee; this is a question of a permit, not a prohibition of what you would like to do. Mr. Tegeder said this is a legalization of the removal of trees which may give your neighbor a headache and gives an opportunity for neighbors to get together to solve a potential issue.

Councilwoman Roker asked what a specimen tree is and was told it is a dbh of 24 inches. Ms. Miller said the Tree Conservation Committee is very much in favor of a specimen tree provision. They were willing to go to the 24 inches and it is not feasible to talk about species of trees. Mr. Tegeder said the other provision to pay attention to is the one tree on a 15% slope, which remains but for the Town Board's consideration.

PROPOSED CHANGES TO CHAPTER 178, FRESHWATER WETLANDS

Mr. Tegeder said the current wetland law allows three trees to be taken down within an acre; beyond that you need a permit. Wetland law requires mitigation. The current wetland mitigation may not address some of the environmental positive things that a protected woodland brings without being able to do those mitigation factors or menu that is in the tree law. When you are removing trees within a wetland (which you do not need a permit for), the proposed change points you to the mitigation section in the tree law so you can avail yourself and hopefully do some of that mitigation as part of the required mitigation under the wetland permit.

Mr. Tegeder said that what you have to think about is whether the wetland law and all of the mitigation done for that is actually needs additional mitigation. The Town has exercised wetland mitigation very seriously – he questions whether the additional mitigation is needed. Referring to additional types of mitigation is good in order to give choices, but does it add value to the permitting process?

Ms. Miller said she can conceive of situations where you have woodlands in the wetland buffer that is carrying out certain functions that are not necessarily related to the functions of the wetland. If you eliminate that woodland, you are eliminating functions but you are not mitigating for it because the wetland law only addresses mitigation for wetland functions, not woodland function. Mr. Tegeder said that this may be considered an unnecessary layer. Ms. Miller said she is somewhat satisfied by the fact that one of the amendments to the wetland law specifically says that the goals and intent of the tree law have to be considered when granting the permit and mitigation. You have to pay attention to the goals and intent of the tree law. In order for this to work there has to be an absolute recognition for the approval authorities to get their minds around the idea that they are not just protecting wetlands and paying attention to sedimentation and erosion control – they have to look at what the goals and intents and functions of the woodlands are.

Mr. Tegeder said that although he completely understands Ms. Miller's position on this, they do not exactly see eye to eye. The wetland law provides a lot of protection for everything in the wetlands and the wetlands buffer. It may not be explicitly talking about the functions of the woodlands that may be in the buffer but it is certainly protecting them and when you remove them, you have to do mitigation.

Councilwoman Roker said part of why the Town Board is doing all of this is to protect the environment. She agrees with Mr. Tegeder regarding keeping the law less onerous. If the law is too onerous, it gets ignored and unenforced.

Councilwoman Roker asked if there was anything in the law they do not need. The Board and Mr. Tegeder reviewed sections that may need to be modified. Ms. Miller said is the Board okay with not requiring a tree permit for the disturbance of a woodland in a wetland? Mr. Tegeder said you do not want to cause a person to get two permits for the same work. Mr. Tegeder asked if a protected woodland that is already protected by virtue of being in a wetland buffer needs additional protection? Ms. Miller said the proposed law says you do not need additional protection, but you need mitigation.

There was a further discussion of the situations where permits would be required that would help eliminate layers of permit that would still provide protection.

PROPOSED CHANGES TO THE SOLAR LAW

Mr. John Tegeder said this proposed law allows solar in commercial zones as accessory uses or structures: on the roof, in the parking lot, etc. It does not allow it as a single use on a vacant piece of commercial land. This is why the law allows it in residential zones and is being used in other municipalities. Mr. Abbate said it would be allowed on a minimum 2-acre lot. Mr. Tegeder said that it should only be done so a neighbor cannot see it – the law requires effective screening. The impact that is at play here is the visual impact, other than the removal of the tree canopy. Other uses of these types of properties include housing developments and subdivisions. These also decimate the landscape of the property. However, solar farms are less permanent than subdivisions and so, therefore, you will have the opportunity when the solar farm is decommissioned to regenerate the site. The solar farms are quiet, does not produce pollution, it is clean energy - it produces electricity that has a smaller carbon footprint than the trees that would be removed.

Supervisor Gilbert said a solar farm developer had emailed him (Board copied) and said the developer believes that it is proper to do this type of development on land and would like to cooperate with the Town and be “excellent corporate neighbors.” He would like to have the opportunity to discuss the benefits the Town might be interested in receiving, such as PILOT payments that may ultimately benefit the Town of over \$1 million over the course of the lease. The developer said that they would also be willing to make a substantial payment to the tree fund for the trees they would need to remove. Councilwoman Roker said some would consider this buying the Town’s cooperation and should not consider this. Supervisor Gilbert said that he wanted everyone to know that this was received and it happens with all sorts of developments. Supervisor Gilbert stated that the Town received benefits from the Lowe’s development.

Councilwoman Roker said that just as the wetlands law is a permitting law, not a prohibiting law; she does not think you should throw the “baby out with the bathwater” in that it would be obvious not all residential properties would be allowed to have solar farms. Councilman Lachterman said that some sites will need to be protected (i.e., the hiking at Turkey Mountain).

Councilwoman Roker said she agrees with Mr. Tegeder that there are so many benefits that can be derived from this versus having a group of residential homes built. Mr. Tegeder said that if the Town decides not to have solar farms in residential zoning, and then a law needs to be done that regulates accessory uses, accessory structures in commercial zones, and accessory uses in residential zones to the extent that it is needed. This eliminates solar farms, however, he does not agree with this although this is what the Planning Board recommended.

Mr. Abbate said there are many situations where a property owner could have a solar farm where it is appropriately screened where nobody knows it exists. It gives the owner of the land the opportunity to make some money off that land, pay their taxes, etc. He said we have an opportunity, while it is tax exempt for 15 years, to put a PILOT program in place and make some money for the Town.

Mr. Tegeder said the Board could increase the size of the minimum allowable lot, as well.

Mr. Abbate said that a PILOT law will also need to be done in conjunction with the Solar law otherwise the Town will not be able to get tax revenue.

A representative from a solar farm company came and talked about where they have solar farms in residential areas – all three in Orange County, two of which are in residential zoning. The solar farms are on approximately 18-20 acre lots of which they are using approximately 12 acres. They do support and believe that the Planning Board is the appropriate approving authority for solar farms. Councilwoman Roker suggested a video showing what their farms look like and how they appear to the public.

ADJOURN MEETING

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

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