

Meeting of the Town Board, Town of Yorktown held on Tuesday, June 5, 2018 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

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

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

Tardy: Vishnu V. Patel, Councilman

#### TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

#### EXECUTIVE SESSION

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

#### TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

#### 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.

#### DURING REPORT FROM THE SUPERVISOR,

Supervisor Gilbert said that he participated in the Yorktown Small Business Association's conference co-sponsored with Mercy College. He and Alice Roker attended and said that it was an informative "think tank" opportunity. He also participated in the Memorial Day celebrations in both Yorktown and Shrub Oak. He also attended Jefferson Village's Memorial Day ceremony. He mentioned his attendance at the Holocaust Remembrance Ceremony, which he described as a "powerful event." Supervisor Gilbert said he was honored to participate in the final walk-out at the Police Department for Detective Sean Lewis. He mentioned his attendance at Hilltop Hanover Farm Day, and visited the volunteers working on the Mohansic Trail Extension. He attended an event for Support Connection and visited the Copper Beech Middle School in support of the SRO program. Senator Murphy and Assemblyman Byrne were both in attendance.

Supervisor Gilbert also mentioned how he and the Board are working hard to addressing the sewer issue in the Hallocks Mill Sewer District. The majority of the work session on June 12 will be devoted to discussing the issue.

Supervisor Gilbert also recommended that residents check out the various summer programs and events being held at the J. C. Hart Memorial Library.

#### DURING REPORTS FROM THE TOWN COUNCIL

Councilman Diana reminded everyone that Memorial Day is to remember our veterans and fallen heroes. He attended many ceremonies that were somber occasions. The Shrub Oak Memorial holds many names of his family members and friends. He mentioned that these are not occasions for handing out political literature and commented that there was someone who was doing this.

Councilwoman Roker said that the public should visit the Memorial Wall at Shrub Oak – it is an amazing tribute to those who served. The Landmarks Preservation Commission is celebrating National Preservation Month on Sunday between 4:00 and 6:00 p.m. at the home of Dr. Murray Brennan who lives on Broad Street in Yorktown. Dr. Brennan's house was the first post office in Yorktown.

Town Clerk Diana Quast announced a charity golf classic on June 29 at the Mohansic Golf Course sponsored by the Yorktown Rotary.

Councilman Lachterman also commented on the political literature being handed out at the Shrub Oak Memorial Day Ceremony and that it was a shame that it occurred. He also thanked keynote speaker Peter Somogyi and his family for their contribution to the Holocaust Remembrance Ceremony held at Town Hall. He spoke of his family's personal history regarding the Holocaust and talked about how it is important to keep remembering this event and its victims and survivors. He thanked Rabbi Heber and Michael Grace who supported and helped him organize the ceremony. Councilman Lachterman also mentioned that there is a free play called *The Concert Hall Cats* that is running in Peekskill on Friday, June 15 at 7:00 p.m. at the Peekskill Middle School. The original book was written by former Town Attorney Michael McDermott and his family. There is also an antique tractor show and car show at the Grange Fairgrounds on June 24 from 10:00 to 4:00 p.m. Also coming up in July are the Lions Summer Concerts, beginning on July 1 at 6:00 p.m. at the Jack DeVito Memorial Field.

Supervisor Gilbert also mentioned that June 8 is the Relay for Life event.

#### PRESENTATIONS

##### ARBOR DAY POSTER CONTEST

Ann Kutter and Bill Kellner came before the Board to display the winner of the Arbor Day Poster Contest. This year is the 8<sup>th</sup> Annual Arbor Day Ceremony and Poster Contest. Fourth and fifth graders participated concentrating on this year's theme: Trees and Medicine. She thanked those teachers who helped the children to participate. She introduced the winners and displayed their posters.

##### YORKTOWN TEEN CENTER

Adriana Boudreau, president of the Yorktown Teen Center, introduced her staff and some of the teens who attend the center, as well as their 2018 scholarship winner in order to thank the Board for all of their support and providing the space for the teens. The Yorktown Teen Center provides a safe and social space for teens to get together. She also thanked Patty DeMarsh, Office Manager of the YCCC, and Margaret Gspurning, Facilities & Human Resources. Members of the staff, as well as some of the teens, spoke to the audience of how much the center means to them.

Councilwoman Roker thanked the volunteers who devote their time to the center. Councilman Patel, Councilman Diana, and Councilman Lachterman expressed their thanks and gratitude for what they do.

##### FLUORIDATION UPDATE

Town Engineer Michael Quinn and Distribution Superintendent Ken Rundle came before the Board to give an update on the Town's fluoride project. The Town was selected for a grant award from the Health Department. The amount is \$901,000; this was a grant the Town applied for back in October 2017. In 2016 the Town applied for a grant to do a study and was awarded about \$20,000 to do the study and an engineering report was prepared which was used as a basis for the application for construction. This \$900,000 will cover the full cost of the project. There are two sources of water that feed Yorktown; one that has the ability to add fluoride and the second source had the ability but the equipment was malfunctioning and failing and that was turned off about 5 years ago. One of the difficult aspects of the award is that the Health Department wants us to spend the money within 12 months, which is an extremely aggressive schedule because design needs to be done, approvals obtained from the Health Department, and construction. Michael Quinn said the project should take 15-18 months, and he is hoping that if we can show progress on the project, the Health Department may give them a slight increase in the schedule. He would like to get started on RFPs immediately to get an engineering consultant that can prepare the construction documents for approval. Approvals are anticipated for early 2019, then the bid process followed by 7-9 months of construction, and fully operational by the end of 2019.

Ken Rundle said we get our water from two plants: the NWJWW plant on Route 6 and the plant on Route 35. Fluoride, by nature, is corrosive and damaged the equipment at the Route 6 plant. They still inject fluoride at the Amawalk Plant (Route 35) and, therefore, not everyone in Town is getting the same level of fluoride. Fluoride has been halted at both of the plants until the situation can be straightened out. Supervisor Gilbert interjected that the Town is bound by Town Code to provide fluoride in the water. Michael Quinn confirmed this – Section 280 of the code says that

the Town will fluoridate the drinking water. Originally this was done on Catherine Street, but Michael Quinn said that after working the NWJWW and talking with the Town of Cortlandt who is doing a new interconnection off Crompond Road, they decided to partner with them because it is a better location. Ultimately, this location will be run by the NWJWW but it will be located in the Town of Cortlandt and be a Yorktown facility. Agreements will need to be worked out with the Town Attorney. Supervisor Gilbert mentioned the possibility of intermunicipal grants. Michael Quinn said that in 2017 a second grant was applied for that was for money to work on joint projects with other municipalities but the Town did not receive that grant.

Councilwoman Roker asked Mr. Quinn how much he thought the entire project would cost. He told her it would not cost more than the grant.

Councilman Patel asked how much the maintenance would cost. NWJWW will be using their existing staff so the Town would not be paying for labor. The only cost should be for the fluoride.

#### DURING COURTESY OF THE FLOOR

The following members of the public spoke:

Gil Kaufman, resident, spoke as a member of the Senior Advisory Committee and asked about the cameras for the safety of those using the YCCC. He was told that the cameras are on order. He also spoke as a veteran and wanted to thank the American Legion and VFW for the Memorial Day parade; however, as the parade commenced, he noticed a politician handing out information. He felt this was a lack of respect and an abomination.

Paul Moskowitz, resident, spoke as a member of the Huntersville Association, to let people know that on June 9 and 10, from 1:00 to 4:00 p.m., the Huntersville Association in conjunction with the Yorktown Community Church is sponsoring an art exhibit at the church. Paintings will be for sale and proceeds will go to the church.

Ann Kutter, resident, spoke on behalf of her neighbors on Old Crompond Road, to request help in getting Breslin Realty Corp. to keep their promises to them and the Town regarding the Lowe's Development sewer plan. In 2014, as part of the Costco Development proposal, Breslin committed to provide sewer connections to their homes since the sewer line for the Costco project was going to run right past their homes on Old Crompond Road. Ms. Kutter provided the Board with documentation of sewer applications for Hunterbrook Sewer District No. 20 and a map showing sewer connections to existing dwellings prepared by the project engineers. The Town Board approved the creation of Hunterbrook No. 20 in April of 2015, noting in the SEQRA findings statement that the project sponsor was to make the connections to their homes and decommission the septic systems. Breslin Realty has argued that because of the Crompond Terraces development proposal, it does not make sense to construct the promised connections. In 2016 the Town Board approved a rezoning of these same properties in anticipation of a multi-use residential-commercial project proposed for the area called Crompond Terraces. At that time, most of the homeowners were under contract for sale of the properties to the developer behind the project. The contracts, however, went into default and there have been no new legal agreements regarding their properties and any projects then or now envisioned. She and her neighbors were willing to work with Breslin. Their attorney, Al Capellini, approached them about allowing Breslin out of their commitment regarding the sewers. The language Mr. Capellini used stated that if the homeowners were under contract to sell their property for development, Breslin would be relieved of its responsibility to install individual connections. For whatever reason, that version of the petition was never used and no copy was kept. In anticipation of sewer work beginning soon, they reached out to Breslin this past April to get specifics on what the process would be to make the connections, only to find out that there are no spurs or laterals in the plans for the north side of Crompond Road. Any connections the homeowners would do on their own would require ripping up the street and breaking into the pipe since there are no connection points in the current plan. The homeowners agreed to the sewer petition on the promise of these connections. They have been approved for the Peekskill Sanitary Sewer District since the County approved the expansion as noted in the Lowe's approval resolution 16-22 of the Yorktown Planning Board, accruing 10 year capital and both town and county taxes for the privilege. Ms. Kutter stated that it is also important to note that the septic systems involved, most of which are at least 20 years old, drain into the Hunterbrook – classified as an important trout-spawning stream which then flows into the Croton Reservoir, a major source of drinking water. Decommissioning these septic systems was considered one of the environmental benefits of the Costco project. In May, the Breslin representative has indicated that

they are willing to work with the homeowners going forward to try to find a solution to their problem; however, they do not feel they have any obligation to living up to the promise of sewer connections. Breslin has said that the new sewer plans that are currently being submitted to the County for approval include spurs for the sewers, but Ms. Kutter and her neighbors have not yet seen the plans. She has been told by the County representatives that the Town of Yorktown is the project sponsor of the sewer lines, not Breslin, and that the Town is the proper authority for resolution of their problem. Ms. Kutter said that she is requesting help in preventing a developer from walking away from their responsibilities in this matter.

Larry Killian, resident, wanted to thank Dave Paganelli for putting in a storm drain on Bunny Court. He also wanted to thank Paul Hollopeter and Nick DeVito who did a great job. He said he was disappointed that the tennis courts were not refurbished last year and understands that it was not put into the current budget. Mr. Killian said that he would appreciate it if this was considered an emergency situation.

Dan Strauss, resident, stated that Yorktown is not a dog waste facility, the Jack DeVito Memorial Veterans Field is not a dog park – the Town already has a dog park. The people who drive through Yorktown should not be throwing garbage out of their windows. He also stated that he does not believe the Highway Garage needs to be moved and that it has no bearing on moving Parks & Recreation. No one has said that Parks & Recreation wants to move. He suggested the existing backyard of the Highway Garage be covered if the vehicles need to be protected and build a wash station at Greenwood Street. People on Greenwood Street should not have to put up with trucks going up and down their street all day. He made several suggestions regarding how to improve the Highway Department and solve the parking problem for businesses in that area.

Andres Perez, a former member of the Yorktown Teen Center, spoke about the Teen Center and how helpful it was to him growing up. He talked about the value of what it provides to the youth of the community. He related a story regarding basketball coach Billy Arnold and how he gives back to communities in Westchester and that it all began at the Yorktown Teen Center. The Center provides a place for teens to explore possibilities for the future. He thanked the Town Board for their support.

Susan Siegel, resident, spoke about the resolution on the agenda that ends the litigation with the sober home. However, Ms. Siegel stated that this does not end the issue. She wanted to know what the Board would do when a second sober home wishes to open in Yorktown. This resolution could establish the precedent that future sober homes will be considered families and, therefore, will not be subject to any Town land use regulations. The Town Board has an obligation to regulate land use issues regarding the operation of businesses in what were once single-family houses. The Town does it for boarding houses, daycare facilities, office use, and restaurants – so why not regulate sober homes? The Town cannot regulate how a sober home is staffed or what services are offered; that can only be done by the State. The US Supreme Court has ruled that a municipality can regulate land use issues that preserve the character of single-family neighborhoods. Ms. Siegel strongly urged the Board to re-examine our zoning code and how we treat this issue. She presented copies of documents that she worked on when she was on the Town Board and the sober home first became an issue. Ms. Siegel related some of these documents to the Board.

Howard Frank, resident, thanked Ms. Siegel for her information. He talked about the pump station rehabilitation project and encouraged the Board to examine the costs that are involved and doubts the number that has been quoted. Mr. Frank made suggestions as to how the Jefferson Valley Pump Station could be kept viable and running. An evaluation of the future flow/needs should be done before the decision to remove the Jefferson Valley Pump Station is made.

Tony Grasso, resident, spoke to the Board about the Highway Garage project. It is a needed project and if it is not done, grant money will be lost. There is more than enough money to build the new garage. In the last few years, the Town has spent more than \$2 million dollars for new trucks and equipment and we have no place to put them that will keep them protected from the elements. The site can be cleaned up and the Town can then get rid of the vehicles parked on the tennis courts and then they can be repaired. There would be space there to build the senior center that can be floated by bonds.

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

CONVENE PUBLIC HEARING TO CONSIDER THE WETLAND PERMIT APPLICATION RECEIVED FROM THE MOHEGAN LAKE IMPROVEMENT DISTRICT TO MAINTAIN AND IMPROVE THE LAKE

Supervisor Gilbert convened a public hearing to consider the Wetland Permit Application received from the Mohegan Lake Improvement District for work to be done at Mohegan Lake. The request is to perform the following work: to maintain and improve the lake environment for the homes, 7 beaches, and Town parkland. Such work may include fish stocking, aeration, weed harvesting, garbage cleanup, maintenance of aeration sheds/equipment, maintenance of areas to access the lake, removal of invasive species, and chemical treatments to control harmful algal blooms and the toxins they produce.

Ken Belfer, President of the Mohegan Lake Improvement District (as well as other members of the district), gave a presentation of the district and how they receive their funding and what their role is in improving the quality of the lake, as a whole. Their budget is approximately \$88,000 per year. He described the work they do at the lake: litter cleanup, water testing, weed harvesting, maintain aeration system, invasive species removal, fish stocking, and chemical treatments for blue-green algae and phosphorous. Mr. Belfer read excerpts of a letter that he sent to Governor Cuomo regarding the battle against blue-green algae in Mohegan Lake. He wrote about a new and seemingly effective treatment called nutrient inactivation uses aluminum sulfate. He requested that Lake Mohegan be used as a test site for the use of aluminum sulfate. His letter was followed up by letters of support from Senator Murphy and County Executive George Latimer. Mr. Belfer is cautiously optimistic that Lake Mohegan will be chosen.

Mr. Belfer said they applied for two permits and received the first one from NYS DEC to use copper sulfate to deal with the symptoms of blue-green algae. The second permit is for use of cutrine ultra that is also a product that uses less copper and a longer-lasting effect – they are hoping to have this permit in the next couple of weeks. They tentatively have their first treatment scheduled for this coming Friday, which is why it was important to have the public hearing this evening. The lake is already showing signs of the blue-green algae. Only one chemical is used at a time, and they must follow certain protocol when using it.

Howard Frank, resident, said reminded the Board that the previous administration said that the weed harvester the Mohegan Lake Improvement District purchased is also to be shared with the Parks & Recreation Department for Sparkle Lake.

Caroline Hotaling, resident of Mohegan Lake, spoke in support of the wetlands permit.

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.

APPROVAL FOR WETLANDS PERMIT FOR THE MOHEGAN LAKE IMPROVEMENT DISTRICT TO MAINTAIN AND IMPROVE THE LAKE  
RESOLUTION #188

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

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

1. 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.
2. Meeting shall be attended by a MLID field representative and the Contractor who will be performing the work. Topics to be covered: Scope of work review, environmental safety procedures, work schedule, site access and material storage location, working hours, list of contacts, and erosion control measures if applicable.

Conditions that must be met during construction:

1. The entire scope of work is shown on the plans and sketches submitted in support of this application; no additional activity of any kind shall be permitted without the issuance of a

new permit by the appropriate approval authority. No changes to the existing site topography shall be permitted and no trees shall be cut.

2. Where applicable the guidelines contained in the NYSDEC Manual of Erosion & Sediment Control, latest edition, shall be followed. No disturbance to Mohegan Lake is proposed or allowed in order to perform the work of this permit.
3. All work and contractor staging shall be limited to Mohegan Lake unless written approval from the Town (or private property owner) is obtained. Town roadways shall be kept broom clean at all times.

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.

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

CONVENE PUBLIC HEARING TO CONSIDER THE WETLAND PERMIT APPLICATION RECEIVED FROM CON EDISON FOR WORK TO BE DONE ALONG GOMER STREET BETWEEN HOMESTEAD ROAD AND GRANITE SPRINGS ROAD TO REPLACE AND UPGRADE STEEL GAS MAIN

Supervisor Gilbert convened a public hearing to consider the Wetland Permit Application received from Con Edison for work to be done along Gomer Street between Homestead Road and Granite Springs Road. The proposed work is to replace and upgrade an 8-inch pressure steel gas main with a 16-inch high pressure steel gas and 8-inch polyethylene gas main. Limited work is also planned for local side street. Related ancillary equipment installation will also be included.

Javier Franco, a representative from Con Edison, came before the Board to give a brief description of the project and its purpose. They are replacing an 8-inch gas main along Gomer Street that dates back to 1965 with a new 16-inch main. This is make the area more reliable for their services.

Michael Quinn, Town Engineer, explained their purpose for a wetland permit. Con Edison will need to do work within 100 feet of a wetland. All of the work proposed is within paved surface, so there really is no impact to a wetland. His department has no objections, and he has prepared a draft condition resolution.

Supervisor Gilbert read the referral comments from the Conservation Board who stated they had no objection to the project or the issuance of the permit.

Albina Sampieri, Gomer Street resident, stated that this project has gone on for over a year and has severely impacts the traffic in the area. She said she would like more communication from Con Edison so they know what the traffic patterns will be. Mr. Franco said that the whole project is one mile long but they are working on 200 feet at a time and restoring (backfilling) as they go along. Mr. Quinn said that an information sheet does go out to residents and took addresses for those residents who have not received anything.

Councilwoman Roker said that one of the points they made with Con Edison with this project is that the Board and the residents be kept informed. She asked Mr. Quinn if they have done so and was told that not all communications have come through as promised. Mr. Franco said that he will make sure there is better communication, specifically with the Town representative assigned to the project (Building Department).

Councilman Lachterman said that the work that is being done in his neighborhood is actually the opposite experience. He said that his neighborhood is being kept very well informed.

Councilman Diana suggested enrollment in the Nixel system.

More discussion ensued regarding better communications between Con Edison and the residents. Councilwoman Roker said that this is what they did not want to happen since last year's project had so many issues and complaints. The Supervisor's Office will be in touch with Con Edison.

Howard Frank, resident, said that there is an ongoing safety problem with the regulator and venting station on Granite Springs Road and Curry Street. Councilwoman Roker said that this is an issue that the Supervisor's assistant will handle with Con Edison.

Dan Strauss, resident, said that the work seems to shift from lane to lane and sometimes the road gets closed and then opened. The work is not static; it changes.

Jacob Steinman, owner of deli on Gomer Street, also requested more information. He is concerned about his business when the work gets down to his end of the street.

Councilman Lachterman assured Mr. Steinman that he will not have to close his business during the work.

Barry Malawer, Farmwalk Road resident, feels there is a possibility that Con Edison may want to use Farmwalk Road as a detour and wants consideration given the traffic problems this may create. Mr. Malawer said there has already been a fatality on Farmwalk and does not want to see it happen again.

Councilman Diana said that an informational meeting should be scheduled between Con Edison and the residents.

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 CON EDISON'S WORK TO BE DONE ALONG GOMER STREET BETWEEN HOMESTEAD ROAD AND GRANITE SPRINGS ROAD TO REPLACE AND UPGRADE STEEL GAS MAIN  
RESOLUTION #189

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

Plans Submitted: Con Edison Ticket #WG17009612-P1, -P2, -P3, -P4, -P5, -P6; dated 6/12/17

Description of Work: Installation of 16-inch diameter high pressure gas main installation along Gomer Street, from London Road to Granite Springs Road. Includes small sections of connecting gas pipe installation on Farmwalk Road, Sterling Terrace, Birch Street, Barway Drive and Alden Road.

Note: No work is allowed or proposed to be performed in wetland areas. All construction activity to be performed within paved surfaces, some of which falls within 100-foot wetland buffer areas, a regulated activity within the Town of Yorktown.

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

1. Con Edison shall obtain all other required regulatory permits for the proposed work activity and shall file the Notice of Intent (NOI) with the NYSDEC as may be required.
2. All erosion and sediment control measures such as silt fence, inlet/catch basin protection and orange construction fencing shall be installed in accordance with the approved plans.
3. Prior to the start of work, a pre-construction meeting shall be held at the site with officials from the Town, along with supervisory personnel from Con Edison and a representative of the Contractor. The purpose of the meeting will be to review the work activities to be performed within the wetland buffer area, the anticipated construction schedule and all conditions of this permit. A List of Project Contacts with emergency phone numbers shall be developed and distributed to all parties. The Applicant or a designated representative must contact the Engineering Department (914) 962-5722 x220 to arrange this meeting.

Conditions that must be met during construction:

1. The entire scope of work is shown on the engineering plans and sketches submitted in support of this application; 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 trees shall be cut.
2. Where applicable the guidelines contained in the NYSDEC Manual of Erosion & Sediment Control, latest edition, shall be followed. No land disturbance is proposed or allowed in order to perform the work of this permit.
3. All work to be performed on paved surfaces and within the Town right-of-way. No material storage, contractor laydown, vehicle parking or any construction staging is allowed in wetland buffer areas.

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 and there has been no disturbance to the wetlands or wetland buffer areas. Applicant will be notified of concurrence or if any work is not acceptable.

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

Richard Abbate, Interim Town Attorney, came before the Board and the public to talk about the settlement of the lawsuits brought against the Town by Release Recovery and their principals with regard to the sober living residence located at 482 Underhill Avenue. He gave a brief history of the lawsuit and mentioned one of the conditions in the approving resolution was that if there was a change in ownership of the property or operator of the sober living residence, the special use permit would be considered null and void. Thereafter, the property was sold and transferred on May 11, 2017. The Town Board passed a resolution on July 18, 2017 that revoked the special use permit. Because of the revocation, the new operators/owners commenced two separate actions against the Town. The first was a lawsuit commenced in July 2017 in Federal Court in the United States District Court, Southern District of New York, where the new operators were seeking monetary damages, punitive damages, attorney fees, and injunctive relief for alleged intentional discrimination against the residents of the sober living residence in violation of the Federal Fair Housing Act and the Americans With Disabilities Act. This action was discontinued without prejudice fairly quickly but that means that they have the right to refile this action and recommence it at any time. There was a second lawsuit commenced in August 2017 in the US Supreme Court in Westchester County challenging the revocation of the special use permit by the Town Board. The operators of the sober living residence said that they did not violate the terms of the permit in that they claimed one of the prior owners was staying involved in the new operation of the sober home. They further claimed that even if the prior owner was not involved, their use of the sober living residence is permitted use as of right and no special use permit is required.

The term “sober living residence” has been broadly used and there is no definitive definition of what it is. It is generally used to describe a place where someone who has just come out of a recovery center and need a place to live that is structured around his/her recovery. Since sober living residences provide no medical or psychiatric care, they remain almost entirely unregulated on the federal, state, and local levels. This is the case with the sober living residence on Underhill Avenue – there are no services being offered so the Town cannot impose any laws regarding the operations of the residence. Those who suffer from alcoholism and/or substance abuse are a protected class under ADA and you cannot create discriminatory policies regarding people suffering from these afflictions.

Mr. Abbate then reviewed what a special use permit covers and sober living residences are not listed as needing a special use permit. The Board can only consider operations in connection with special use that would cause objectionable conditions for neighboring properties such as excessive noise, vibration, light, fumes, parking, etc. The common thread under the zoning law is how a property would affect the neighborhood in terms of physicality. The Town cannot regulate the conditions of how a business operates. The Town can regulate items that are subject only to the zoning code. They cannot regulate the operations of a business in regards to staffing, insurance, how it operates, etc. Accordingly, if a condition is imposed by the Town that is not based on the Town’s underlying zoning code, the Town has no authority to impose the condition. Mr. Abate

gave examples of what the Town could regulate under the zoning code, using a restaurant as a business requiring a special use permit for outside seating, number of tables, noise and odors, etc. However, the Town cannot regulate how many waiters they can have, or if they should be male or female wait staff, how much experience they have, etc. This is an issue that has been well litigated in New York State.

Mr. Abbate then explained what a “family” is defined as in the Town Code. He explained that the operation of the sober living residence at 482 Underhill is functioning according to the Town’s definition and makes this resident an “as of right” use.

Mr. Abbate explained that the settlement will give the Town general releases which will put an end to the Article 78 action and prevent the refile of the federal action. Supervisor Gilbert asked what potential damages the Town could have incurred and was told potentially in the hundreds of thousands of dollars, as well as attorney’s fees. There is no monetary compensation being paid out with this settlement. The Town has to acknowledge the sober living residence is a permitted “as of right use” as a single-family residential use and therefore does not require a special use permit. The Town does have the right to advocate for regulations on the county, state, and federal levels.

Councilman Diana asked what avenues the residents in the area have if they there is a problem with the sober living residence. Mr. Abbate said the same avenues any neighbor would have with a neighbor.

Dan Strauss, resident, asked why a special use permit was granted in the first place. Mr. Abbate said, without speaking for a prior Town Board, there was probably so much opposition at the time the special use permit was agreed to in order to be able to open the sober living home.

AUTHORIZE SUPERVISOR TO EXECUTE AND SIGN A STIPULATION OF SETTLEMENT AGREEMENT WITH SOBER LIVING RESIDENCE  
RESOLUTION #190

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

WHEREAS, an Article 78 Action in New York Supreme Court Westchester County, under Index #2502-2017, has been commenced by the Petitioners, Thomas McCrossan, Mark McGoldrick, Release Recovery, LLC, Doah Property LLC, Justin Gurland, Matthew Rinklin and Zachary Clark, in August of 2017, as against the Respondent the Town of Yorktown, and

WHEREAS, this Article 78 proceeding challenged a determination of the Yorktown Town Board revoking a certain Special Use Permit granted to Petitioners to operate a Sober Living Residence at 482 Underhill Avenue Yorktown Heights, New York, and

WHEREAS, an action was commenced in the United State District Court Southern District of New York, under Case number 17-CV-05537, Plaintiffs Release Recovery, LLC and DOAH Property LLC in July 2017, as against the Defendant, the Town of Yorktown, and

WHEREAS, this action in the United States District Court was seeking monetary damages and for injunctive relief for alleged intentional discrimination in violation of the Federal Fair Housing Act and the American Disabilities Act; and this action having been discontinued without prejudice, and

WHEREAS, the Plaintiffs have the right to commence this action again in the United States District Court, and

WHEREAS, the Town Board has reviewed all of the facts and circumstances of the aforementioned actions, and a determination being made that the Town Board cannot regulate the operation of the aforementioned use of the premises as a sober living residence, and

WHEREAS, the Town Board has made determination that it is in the best interest of the Town of Yorktown to settle this matter and avoid prolonged costly litigation, and

WHEREAS, the Town Board has negotiated a proposed settlement agreement with Petitioners, that provides as follows:

1. The Petitioners to issue General Releases to the Town of Yorktown on both the aforementioned Article 78 and the Federal Action for violations of the American Disabilities Act and the Fair Housing Act;
2. That the Town of Yorktown will pay no monetary compensation to the Petitioners;
3. That the Town will acknowledge that the Sober Living Residence is a permitted use as of right as a single family residential use, and therefore it is not necessary to issue or modify any special use permit;
4. That the Town board declines to reissue a Special Use Permit because the Sober Living Residence is a legal use as a single-family residence under the present Town of Yorktown Town Code;
5. That the Town Board shall not seek to regulate details of the operations of the Sober Living Residence, however, the Town Board shall continue to seek and press Federal and State authorities to enact viable legislation to regulate Sober Living Residences; and
6. The Petitioners have agreed that their Sober Living Residence is subject to all future Federal and State Laws.

NOW, THEREFORE BE IT HEREBY RESOLVED, that the Supervisor is authorized to execute and sign a Stipulation of Settlement with the aforementioned Petitioners.

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

APPOINTMENT – WATER MAINTENANCE WORKER – GRADE II  
RESOLUTION #191

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

BE IT RESOLVED that Thomas Lagatella is hereby appointed provisional Water Maintenance Worker – Grade II, Job Class Code 0621-01, in the Water Department, effective June 11, 2018 to be paid from Yorktown CSEA Salary Schedule A, Group 10, Step 2, which is \$54,912.00 annually.

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

APPOINT TOWN SUPERVISOR AS MARRIAGE OFFICER  
RESOLUTION #192

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

WHEREAS, Chapter 49 of the Laws of 1988 added a new Section 11-c to the New York Domestic Relations Law, empowering the governing body of any Village, Town or City to appoint one or more Marriage Officers and fix their compensation; and

WHEREAS, the Town Board of the Town of Yorktown, a duly constituted Town of the Suburban Class, deems it necessary and proper to create the position of Marriage Officer, possessing statutory authority to solemnize marriages within the Town;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of such Section 11-c of the Domestic Relations Law, Ilan D. Gilbert, Town Supervisor, is hereby appointed a Marriage Officer of the Town of Yorktown, and be it

FURTHER RESOLVED, that said Town Supervisor shall be paid \$75 as compensation for solemnizing marriages within the Town, which compensation shall be in addition to the compensation received as Town Supervisor, and be it

FURTHER RESOLVED, that this appointment shall take effect on June 5, 2018, and shall continue for a term ending on December 31, 2019.

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

AUTHORIZED TOWN CLERK TO TRANSMIT A HOME RULE REQUEST FORM FOR THE  
ILLINGTON ROAD ALIENATION  
RESOLUTION #193

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

WHEREAS, pursuant to Article 11, Title 3 of the Real Property Tax Law on March 15, 2004 title to the parcel bearing Tax Map designation: Sec. 1802, Parcel 3, Lot 2 was transferred to the Town of Yorktown from Robert Killeen (“Parcel”) constituting 5.73 acres; and

WHEREAS, in 2005 the Town changed the Tax Map designation of the Parcel to Town of Yorktown Tax Rolls Section 69.08 Block 1 Lot 11;

WHEREAS, by Town Board Resolution 210 on May 19, 2009, the parcel was formally dedicated as public parkland;

WHEREAS, Diana Saunders, a Town resident, wishes to purchase the parcel as is to maintain it in its current condition with no plans for development. Public access to the pre-existing cemetery situated on the parcel will remain in Town ownership and access to the cemetery will remain in perpetuity.

WHEREAS, the Town Board has reviewed a long-form Environmental Assessment Form (EAF) relative to the proposed alienation; and

WHEREAS, the proposed alienation has been determined to be an Unlisted action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Board declares Lead Agency for this action; and

WHEREAS, the Town Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions and finds no significant adverse environmental impacts associated with the proposed alienation.

BE IT RESOLVED THAT, the Town Board approves the proposed action of alienation; and

BE IT FURTHER RESOLVED THAT, the Town Board formally requests the enactment of a parkland alienation bill required by the New York State Legislature, and

NOW, THEREFORE, Be It Resolved, that the Town Board of the Town of Yorktown hereby issues this Home Rule request, effective as of June 5, 2018 in support and passage of Assembly Bill 10453A and Senate Bill 7118A,

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized to transmit a home rule request form and a copy of this resolution to the Home Rule Counsel of the New York State Senate and Assembly.

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

AUTHORIZE TOWN CLERK TO ADVERTISE BID FOR THE INSTALLATION OF THE PAVILION AND ADAPTIVE DUGOUTS AT GRANITE KNOLLS SPORTS COMPLEX  
RESOLUTION #194

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

RESOLVED, that the Town Clerk is authorized to advertise bid for the Installation of the pavilion and adaptive dugouts at Granite Knolls.

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

AUTHORIZE TOWN CLERK TO ADVERTISE BID FOR THE RESURFACING AND RECONSTRUCTION OF THE TOWN TENNIS COURTS  
RESOLUTION #195

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



WHEREAS,

1. Hiltania Alba as applicant for a land development project, posted check #176 in the amount of \$250 to serve as the Erosion Control Bond which was deposited to the T33 account on May 4, 2017.
2. Hiltania Alba as applicant has requested monies be released as the project work 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, that the above referenced monies totaling \$250 be and is hereby released to Hiltania Alba, 2609 Broad Street, Yorktown Heights, NY 10598.

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

EXTEND BID FOR THE ASPHALTIC CONCRETE LAID IN-PLACE – HIGHWAY DEPARTMENT

RESOLUTION #200

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

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 22, 2015,

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Concrete Laid In-Place for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Clove Excavators, Inc., 212 Van Wagner Road, Poughkeepsie, NY 12603.

BE IT FURTHER RESOLVED, the dates of the extension will be August 1, 2018 to July 31, 2019.

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

EXTEND BID FOR PAVEMENT MARKINGS – HIGHWAY DEPARTMENT

RESOLUTION #201

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

WHEREAS, invitation to bid for the Pavement Markings for the Town of Yorktown was duly advertised, and

WHEREAS, said bids were received and opened on April 27, 2017,

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Pavement Markings for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Accent Stripe, Inc., 3275 N. Benzing Road, Orchard Park, NY.

BE IT FURTHER RESOLVED, the dates of the extension will be August 1, 2018 to July 31, 2019.

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

EXTEND BID FOR STREET LIGHT MAINTENANCE AND REPAIR SERVICES – HIGHWAY DEPARTMENT

RESOLUTION #202

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

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

WHEREAS, said bids were received and opened on July 18, 2016,

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Street Light Maintenance and Repair Services for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Hanover Electric, 1803 Commerce Street, Yorktown Heights, NY 10598.

BE IT FURTHER RESOLVED, the dates of the extension will be August 15, 2018 to August 14, 2019.

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

EXTEND BID FOR STREET AND TRAFFIC SIGNS – HIGHWAY DEPARTMENT  
RESOLUTION #203

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

WHEREAS, invitation to bid for the Street & Traffic Signs for the Town of Yorktown was duly advertised, and

WHEREAS, said bids were received and opened on May 15, 2017,

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Street & Traffic Signs for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Traffic Lane Closures, LLC, 1214 Rt. 52, Carmel, NY 10512.

BE IT FURTHER RESOLVED, the dates of the extension will be August 1, 2018 to July 31, 2019.

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

EXTEND BID FOR TRAFFIC LIGHT MAINTENANCE AND REPAIR SERVICES –  
HIGHWAY DEPARTMENT  
RESOLUTION #204

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

WHEREAS, invitation to bid for the Traffic Light Maintenance and Repair Services for the Town of Yorktown was duly advertised, and

WHEREAS, said bids were received and opened on August 8, 2016,

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Traffic Light Maintenance and Repair for the Town of Yorktown be and is hereby extended for one year, per the terms of the Bid to Verde Electric, 69 Edison Ave., Mt. Vernon, NY 10550.

BE IT FURTHER RESOLVED, the dates of the extension will be August 15, 2018 to August 14, 2019.

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

AUTHORIZE REFUND OF OVERPAYMENT OF WATER BILL ACCOUNT #44-03790007  
RESOLUTION #205

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

RESOLVED, that upon the recommendation of Cliff Kummer, NWJWW, in the amount of \$348.13 be refunded to Account No. 44-03790007 due to an overpayment of a water bill.

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

AUTHORIZE REFUND OF OVERPAYMENT OF WATER BILL ACCOUNT #43-10290373  
RESOLUTION #206

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

RESOLVED, that upon the recommendation of Cliff Kummer, NWJWW, in the amount of \$364.24 be refunded to Account No. 43-10290373 due to an overpayment of a water bill.

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

REQUEST TO WAIVE BUILDING PERMIT FEES FOR ALL BUILDING CONSTRUCTION  
AT THE GRANITE KNOLLS SPORTS COMPLEX  
RESOLUTION #207

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

RESOLVED, that the Town Board waives the Building Permit fees for any and all construction of buildings at the Granite Knolls Sports Complex.

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

AUTHORIZE SITE DESIGN CONCEPTS TO DRAFT SEWER EASEMENT SITE PLAN FOR  
GRANITE KNOLLS SPORTS COMPLEX THROUGH SHRUB OAK INTERNATIONAL  
SCHOOL PROPERTY  
RESOLUTION #208

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

RESOLVED, that Joseph Riina, Site Design Concepts, is authorized to draft a proposed sewer easement site plan for Granite Knolls Sports Complex through the Shrub Oak International School property, in an amount not to exceed \$1,500.

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

APPOINT THOMAS NADORASKI DETECTIVE IN THE YORKTOWN POLICE  
DEPARTMENT  
RESOLUTION #209

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

RESOLVED, that effective June 5, 2018, Police Officer Thomas Nadoraski is hereby assigned, at the discretion of the Chief of Police, as Detective in the Yorktown Police Department at an annual salary of 118,956.00.

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

AUTHORIZE COMPTROLLER TO PAY THE TUITION/BOOK COSTS OF POLICE  
OFFICER JOHN E. DOHERTY  
RESOLUTION #210

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

WHEREAS, the Yorktown Police Department would like to reimburse P.O. John E. Doherty for courses he is taking towards his Master's Degree in Public Administration,

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Yorktown authorizes the Town Comptroller to pay the Summer 2018 tuition/book costs for Police Officer John E. Doherty upon the satisfactory completion of said courses, in the amount of \$1,077.49.

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

AUTHORIZE TOWN COMPTROLLER TO PAY ANNUAL STIPEND TO P.O. CAMPION FOR K9 CARE  
RESOLUTION #211

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

WHEREAS, the Town Supervisor is authorized to sign the Stipulation to Amend Article III, Section 5 of the Collective Bargaining Agreement between the Town of Yorktown and the Town of Yorktown Police Benevolent Association, Inc. to increase the compensation schedule for P.O. Campion of the Canine Unit to the annual stipend of \$3,832.50 for caring and maintaining of K9 Spar during his off-duty time.

The effective date for this stipend was March 21, 2018. The pro-rated stipend to be paid to P.O. Campion at the time of the second holiday pay payment shall be \$3,024.00.

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

AUTHORIZE REFUNDS OF DUPLICATE TAX PAYMENTS  
RESOLUTION #212

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

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund the attached duplicate tax payments.

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

ENDORSE TEATOWN LAKE RESERVATION APPLYING FOR NYS ENVIRONMENTAL PROTECTION FUND GRANT  
RESOLUTION #213

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

WHEREAS, Teatown Lake Reservation is applying to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for a grant under the Environmental Protection Fund for a park project to be located at 1595 Spring Valley Road in Ossining, NY, a site located within the territorial jurisdiction of the Yorktown Town Board; and

WHEREAS, as a requirement under the rules of this program, said not-for-profit corporation must obtain the “approval/endorsement of the governing body of the municipality in which the project will be located”;

NOW, THEREFORE, Be It Resolved, that the Yorktown Town Board hereby does approve and endorse the application of Teatown Lake Reservation for a grant under the Environmental Protection Fund for a park project known as the *Regional Science Education Center* and located within this community.

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

The Town Board accepted the following Monthly Reports:

Receiver of Taxes – March, April and May 2018

Comptroller – Expense and Revenue Reports May 2018

ADJOURN

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

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DIANA L. QUAST, RMC, CMC  
TOWN CLERK  
TOWN OF YORKTOWN