

Meeting of the Town Board, Town of Yorktown held on April 10, 2018 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

Tardy: 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 Diana, seconded by Councilman Lachterman, the Town Board moved out of Executive Session and proceeded with the meeting.

### LOWE'S PROJECT UPDATE

The following department heads and representatives were present to give the Town Board an update on the Lowe's construction project:

John Landi – Building Inspector  
Ed Mahoney – Assistant Superintendent, Wastewater Treatment Plant  
Ken Rundle – Distribution Superintendent, Water Department  
John Tegeder – Planning Director  
Michael Quinn – Town Engineer

Bob Rosenberg – Breslin Realty  
Nick Panayotou – Project Engineer for Breslin Realty

Mr. Nick Panayotou stated that the stormwater management basin one is complete & drainage has been directed to it and is acting as erosion control during construction and will be part of the permanent elements of the stormwater management system. Earthwork is about 50% complete; the storm drainage system is about 20% complete; the retaining wall is about 30% complete. They expect to start highway work by mid-month and onsite utilities shortly thereafter. The PAD is scheduled to be delivered to Lowe's by mid-July and the store is scheduled to be opened by November/December.

Supervisor Gilbert said that the owner of Wilkens Farm asked him if there would be a traffic problem at the turn-off onto Mohansic Avenue during the time of year when they have many customers during apple picking season. Mr. Rosenberg said that he believed the Department of Transportation work would be completed during mid-September. Mr. Panayotou said he believed they would be starting the work on the west end and proceeding east, ending at Strang Boulevard.

Planning Director John Tegeder stated that the applicant is doing all of the DOT work at their own expense. Councilwoman Roker asked if he is happy with the way things are going, and he said that it appears to be going well and is on schedule.

Supervisor Gilbert said that he has observed that there is not a lot of erosion control practices in place (fencing, etc.). He was told that they are following strict DOT erosion controls that are inspected and reports filed with the Town.

Water Superintendent Ken Rundle stated that water supply would start next month. He is happy with the water loop but is concerned about ownership of the loop (what is town owned and what is privately owned and maintained). Town Attorney said that he is in the process of drawing up an agreement that the town will maintain the loop but be reimbursed for expenses. A site plan will

be attached from the Water Department that shows who will be responsible for what. Ken Rundle presented to the Board the site plan that he drew up that shows what he believes to be the town's responsibilities and the private owner's responsibilities.

Building Inspector John Landi asked that all department heads send over every record they have on this project so that there is a permanent record. John Tegeder said that his department has signed site plans that have all of this in it.

Councilwoman Roker asked if the department heads meet regularly to go over the progress of the project and was told no. Supervisor Gilbert said this should happen.

Town Engineer Michael Quinn stated that everything is in order as far as Engineering is concerned.

Assistant Superintendent Ed Mahoney said he has no concerns at this point but will be doing future inspections.

Councilwoman Roker repeated the need for department heads to meet to and review the status of the project on a regular basis.

Building Inspector John Landi said that plans have come in and will be reviewed on the 25<sup>th</sup> and building permits should be issued shortly thereafter.

#### SEWER PROJECT UPDATE

Mr. Tom Meyers, Bond Counsel, was present. Michael Quinn, Town Engineer, presented a draft resolution to the Board regarding the pump station rehab project. Plans were prepared and bid in November 2016. The project was not awarded; changes were made and the project was rebid last December 2017 and the bid opening was March 2018. There were five bids on general portion of the bid and two on the electrical piece. GHD reviewed and recommended and award to the low bidders. Councilwoman Roker asked Mr. Quinn, if at any point in this process, was bond counsel consulted and was told no.

Mr. Meyers said that the first step for the Town is to call a public hearing to get public input from those districts involved.

Michael Quinn said this would be paid for from the sewer reserve fund. There are approximately 17 pump stations in Yorktown and these three are among the oldest and most in need of rehabilitation.

Councilwoman Roker asked if the Town is going to do these three first that will cost over \$2 million dollars and then plan further rehabilitations when there is approximately \$5 million in the reserve fund, should the Town be looking at a bond to fund this rehabilitation. Tom Meyers said that this is, of course, an option and the Town's choice. Michael Quinn said that there are funding opportunities out there, generally through the Environmental Funding Corporation. The Town did apply for a grant/low interest loan last summer that was not approved at that time. A discussion with Tom Meyers ensued regarding the types of possible funding. Mr. Quinn said that they were notified by EFC to see if we wanted to be considered again this year. The problem with this option is how long (3-4 months) it would take for this process versus the problems the Town is encountering while trying to keep these pump stations running. They are old enough that there are no spare parts available, which is why Mr. Quinn feels this is an emergency situation. The rehabilitation would provide new parts, new electric services, access, etc.

Mr. Mike Quinn said there is \$2.3 million available for these 3 pump stations. When it was presented to the public last year in an information meeting, some residents asked if the Town would look into the option of eliminating the Jefferson Park pump station and putting in a diversion pipe to connect to the County sewer system. His department looked into it and pursued both options: bid out and diversion. Recently, Mr. Quinn has been talking to the county about taking the 37 parcels in the Jefferson Park pump station and diverting them via a gravity pipe to the County sewer district. The County said technically they were okay with this but it would require a petition to the County Board of Legislators. When this was studied last summer/fall, 21 parcels were initially identified by GHD that we understood flowed into Jefferson Park. The County referred it out to their departments who asked for more information; it was then discovered that there were 37 parcels. Part of his draft resolution this evening corrects this number.

Supervisor Gilbert asked how would the Town legally handle taking the 37 parcels out of the Hallocks Mill Sewer District? Tom Meyers replied that they would no longer pay the Hallocks Mill Sewer District and it may require a permissive referendum and public hearing. The Town is basically taking them out of the District. Supervisor Gilbert asked who would pay for the diversion pipe and Mike Quinn talked about the sewer fund. When the Jefferson Pump station was first built it was paid for by either the developer or a bonded town project and those who benefitted paid for it over the course of a bond, or sometimes the developer pays for it up front. After the pump station is completed, it is turned over to the Town and the Town owns, operates, and maintains it. When a rehabilitation is needed, the entire district bears the expense through the sewer fund. Because the Jefferson Park station was bid separately, the price for the general and the electrical work was \$490,000. Mr. Quinn said that since he did not go out for bids for the diversion pipe, there would be some engineering and legal costs involved because the Town would need a private easement from an owner who has said that he would offer it to the Town. The estimated cost for that would be \$325,000 versus the \$490,000 so the Town, as a whole, would benefit.

Councilwoman Roker asked if the 37 parcels would have a buy-in cost to the County. Mr. Quinn said yes, a rough estimate would be about \$90,000. It is paid over 10 years. The Assessor would collect the money and transferred to the County.

Mr. Tom Meyers said that an equitable analysis of the parcels would have to be done to determine each owners allocated share and parse that out as part of the project. Councilwoman Roker mentioned that the owners would need to be notified. Mr. Meyers said that existing owners would be paying a little more for any debt still owed on any outstanding bonds.

Councilwoman Roker recommended that Mike Quinn stay in touch with Tom Meyers as to the procedures involved and stated that the Town would still need 51% of the 37 parcels in order for this to proceed.

Mr. Tom Meyers, Bond Counsel said he would put something together for the project from a legal perspective. He will include outstanding debt, Operations and Maintenance costs, and that a permissive referendum may be required, all need to be taken into consideration. Basically, you are letting a group out of the district and the remaining will pay more; those remaining have a right to vote against the project, if they wish. Otherwise they will have to pay for a pump station rehabilitation.

Councilwoman Roker said this is what she wants to see; the numbers and the costs of all options for everyone.

Mr. Michael Quinn, Town Engineer, said his other resolution before the Town Board is a bid extension for EnviroTest who does lab sampling for the Town. The Town Board had no objections for this extension.

Councilwoman Roker asked Town Engineer Quinn about the sewer extension project he is working on. He said that there about 5,200 parcels in the Hallocks Mill Sewer District; 1500 of which cannot connect to the sewer because there is no sewer in front of their homes; sewers have to be within 100 feet of the property. He would like to connect as many of these homes to the sewer as possible. They have a study being done by an outside engineering consultant to obtain technical data and he is now in the process of reviewing a draft report. He said they have focused in on about 670 potential parcels for connection. Supervisor Grace asked what the capacity is for this district and was told by Mr. Quinn the district is now at about 80% capacity. The Town would need to get a DEC permit to get more flow to expand and include the parcels. Right now, the Town would not be able to get the 670. DEC has expressed concern about old pipes.

Councilman Diana asked if the rolling rate we receive has been taken into account regarding the numbers and Mr. Quinn said yes.

Mr. Quinn said that if we are able to make the change, the DEP has given approval of a \$10 million grant for sewer improvement work; not a pump station rehabilitation but to get people into the sewer districts.

Mr. Quinn said that there are other factors to consider that might increase capacity, especially with older systems, and these factors need to be looked at to fix some problems that may free up capacity.

Councilwoman Roker asked if Mr. Quinn has ever considered doing a district-wide rehabilitation study to find out where the oldest pipes are and where service or replacement will be needed. He said the study is called an SSES (sewer system evaluation study). He does see value in having one done because it helps you prioritize where dollars are spent.

Supervisor Gilbert said that it is all well and good to make these plans but fundamentally it is the buy-in by the residents and what it is going to cost them that determines the outcome. There had been talk that we could combine districts together and spread out the cost and wants to know if that is still viable. Mr. Meyers didn't think it was that viable an option after looking at the disparity of the districts and feels that people will not want to pay more.

Councilwoman Roker said that is why the 51% is so important to get before any plans are made. All of the work may be for naught if the residents don't want it.

Mr. Michael Quinn said that they looked at the cost per parcel for the 670 parcels, and he feels the study that is being done is valuable information that will be useful for the Town. Councilwoman Roker stated that you don't want to hide valuable information until the end. She said that the SSES is worthwhile.

Supervisor Gilbert said that in a discussion he had with the Bedford Supervisor he learned that the concept of buying in was easier for that town because they were dealing with businesses that could write off the cost of the buy in. The Bedford Supervisor was also dealing with non-contiguous sewer districts where you can choose to join or not. Tom Meyers said that the Town may encounter this idea; you can move it around a bit. Supervisor Gilbert said that is where Mike Quinn's study would be helpful.

Mr. Mike Quinn restated: There are 1,500 houses unsewered in the Hallocks Mill District. Of that 1,500, they are looking at 670 to bring sewers in front of their house. These homes are not paying anything because they are hooked up. In county sewer districts, people who are not hooked up still pay. There is a tax district assigned to everyone in Hallocks Mill, but we don't collect a tax. Councilwoman Roker asked if it is okay for the people who benefit in the Hallocks Mill District to pay for people who may never come into the district. Tom Meyers said at the time of its formation, the board made a decision that everybody within the district was benefitted by the availability of sewers; their property value increased by this availability.

Mr. Mike Quinn asked what the next steps would be (besides finishing the study) and Supervisor Gilbert said the Town needs to look at the areas that would be feasible to utilize the \$10 million grant and how much a particular project will cost us and whether may want to additionally bond money to enlarge a project. He said we are bound to looking at about 350 parcels even though there are 670. The 670 will put us over our capacity. The Town has to decide if a buy-in is wanted and find out if we have the 51%. Councilwoman Roker said we should probably start with the Jefferson Park Pump Station since draft resolutions have been prepared and asked Tom Meyers how the Town should proceed. He said to call a public hearing, get cost estimates, and decide how it will be paid for – either cash or bonds. A permissive referendum will be required because of those 37 parcels that will be sent to Westchester County. The bid that Mike Quinn held was for the three pump stations; Mike suggested awarding all three and then tell the contractor not to proceed with Jefferson Park project or awarding just two pump stations and omitting Jefferson Park. Councilwoman Roker wanted to look at bonding for the work.

Ms. Susan Siegel, resident, asked for clarification of the \$1,995,000 bid amount – is that for two pump stations or three? She was told two. Would it be \$490,000 less without Jefferson Park? Mike Quinn answered yes. Mike Quinn stated that the sewer staff is adamant that regardless of how it is done, Jefferson Park Pump Station must be done. Would the Board put forth the resolution to do the diversion?

Mr. Ed Mahoney said that the Jefferson Park Pump Station is of great concern and time is critical. Mike Quinn thinks the process should be about another three or four months.

Town Engineer Quinn will work with Tom Meyers, Bond Counsel, in putting together the next steps.

NEW YORK STATE DEPARTMENT OF TRANSPORTATION BRIDGE NY PROJECTS  
HILL BLVD BRIDGE REPLACEMENT AND VETERANS ROAD CULVERT  
REPLACEMENT

Town Engineer Michael Quinn said the Town is continuing to work on two projects that are being funded by the Department of Transportation. Hill Boulevard Bridge Replacement: It is a \$2.6 million project with 95% state funding, leaving a cost of about \$130,000 for the Town to pay. We hired a consultant, Charles Sells/WSP, to do a design report that will be submitted to New York State, after that the Town would obtain approvals and then get plans and specifications ready to go out to bid. The Town needs to have the bid documents ready by the end of the year with the project ready to start in the spring of 2019. This is a requirement of the funding. A draft design report was submitted to the State, we reviewed their comments, and we are now ready to submit the final report. The original project cost was \$2.6 million dollars submitted in the grant application; after reviewing everything, the cost is now about \$2.2 million dollars. However, we will still pay 5% of the project cost.

The Veterans Road Culvert Replacement project is 100% funded by NY State. The Grant amount was \$820,000 (design, construction, construction oversight). After following the above-mentioned procedures, the final cost is actually \$867,000; \$47,000 over the anticipated budget. Mr. Quinn said although these are two separate projects, he would like to see them bid together so there would be better contractor pricing. Mr. Quinn said he is confident that this overage will be reduced but it needs to be quoted as the cost right now.

Town Engineer Mike Quinn said there will be a full road closure and presented a road detour plan. Hill Boulevard should be relatively easy; Veterans Road is more problematic. He would like to schedule a meeting in May to bring the Highway Department, Police Department and other interested parties so that the consultant can present a detour plan.

Supervisor Gilbert summarized by saying he acknowledged the change in the cost of the culvert project and understands the need for these projects.

HIGHWAY DEPARTMENT- PURCHASE OF TRUCKS

David Paganelli, Highway Superintendent, came before the Board to discuss the need to purchase three large trucks, since they are down by that amount, for a total of \$624,000. He has a good fund balance plus \$125,000 coming in November from Spectra. Trucks are 6 to 7 months out, so he would like to take the money from fund balance to pay for the trucks; no down payment is needed. The trucks are the SD118 Freightliners - big six-wheelers that hold 12 tons of salt. The trucks being replaced are about 21 years old and were doing double duty this year on account of the numerous storms. Councilman Lachterman asked if, given the amount of storms, is there any help coming from the State. Dave said that the Town is receiving 71,000 in severe winter relief that he needs to find out where it can be applied. He may not need the money from Spectra to help fund the truck purchases. Dave said he would come to the meeting next week with a resolution to purchase the trucks.

Mr. Dave Paganelli also came to discuss the 5,000 acres of open space in Yorktown and the fact that there is no one to maintain this amount of land. This has become an issue given the 1,000 trees that came down during the storms, many of which were on Town property. His problem with this is that he cannot even go onto town land to do any work without a Town Board resolution directing him to do so and then get reimbursed dollar for dollar for the amount spent (this is per conversations he has had with the attorney who represents the Highway Association). If not, it puts his work into the category of a "gift of public funds" which is an issue that puts him in a bad situation. Moving forward, there will have to be some budgeting to account for this type of work.

Councilwoman Roker asked if the Town has ever considered bringing in a forestry company and Dave said no. She suggested that the Town may need to bring in a forestry company to talk to them about our issues.

## GRANITE KNOLLS UPDATE

Members of the Parks & Recreation Commission, Joe Riina – Lead Engineer, Todd Orłowski – Superintendent of Parks & Recreation, came before the Board to give an update on the Granite Knolls Sports and Recreational Facility. Joe Riina explained that the project was designed to be done in phases, with some phases overlapping. Phase I was the construction of the entry road up to a particular point (shown on a map) and a stormwater basin (temporarily a sediment trap). The road is cut in, the drainage is in, slopes are cut in, the stormwater basin's general shape is in place, the water main has been put in from the top of the road to just short of tying into the main on Stony Street. That will be happening in the next couple of weeks. The concrete curbs will be poured tomorrow. Light post bases and lighting along the entry road are in place. Stone retaining wall at entrance are complete. Mr. Riina said that they are 80% or more complete in Phase I. He discussed what will come next that involves more lighting and parking area work. The next phase includes more work on the stormwater basin. Their own inspections plus DEP inspections take place virtually daily. The next phase will be work on the baseball fields. Dugout construction will take place within the next couple of weeks. Work will be done in preparation for the laying of the turf. Installation of the concession building, maintenance building, rehabilitation of the handball court, installation of the pickleball courts, basketball courts, etc. will be at the tail end of the phase. The original estimated completion date was mid-May, but the contractor has lost at least 3 weeks due to the weather.

Councilman Diana asked for the new completion date and Mr. Riina said the contractor is projecting within the first two weeks of June. One of the things that needs to be addressed is the purchase of the athletic field lighting because that will also cause a delay until they are installed.

Members of the Parks and Recreation Commissioner stated that the company they are looking at has committed to the lights for the baseball field being delivered no later than three weeks, possibly in two weeks. The remainder of the lights for the all-purpose field would be an additional 3 weeks, possibly 2 weeks for a total of 4 to 6 weeks.

Councilwoman Roker asked if there was a resolution ready for tonight to help alleviate the time lag. Todd Orłowski said he was going to propose to put forth a resolution to transfer the remaining funds for the project. Todd said that originally as he went through the numbers, he realized that they were going to be significantly over budget on this item by a substantial amount (\$600,000). They worked very diligently to do research and stay on contract, and they now have found a very innovative and unique design system for the stadium lighting, as well as now being able to light up the pavilion and the pickleball courts due to additional fixtures the company is throwing in. They are now looking at being over budget by about \$152,000. The lighting includes a 25-year warranty. This will be one of the finest facilities in the state. Town Comptroller Pat Caporale said she would like to put a resolution on the agenda for next week and would like to take the rest of the money that is allocated for the project so she can cover the cost of the lighting and the turf. She recited the monies she was authorized to transfer to date.

## TREE LAW

A discussion took place regarding amending the current tree law. Linda Miller stated that they had given the Town Board their suggestions of changes to the tree law. They showed the 2016 law and why the change is needed. The last time they were at the Board they looked at policy changes and this revision shows the details and why they are needed. The 2016 law's purpose is generic as to why trees need to be protected. This is more detailed. The 2016 law relates to cutting of trees. The proposed revision stresses preservation of trees. It speaks to what the Town thinks is important.

Supervisor Gilbert stated that the 2016 tree law removed the entire section of legislative intent.

Ms. Linda Miller stated that this has been considerably beefed up and lengthened and is more specific to Yorktown. Specifically, she pointed out on Page 2, #5 – the need for a town-wide forest management plan. The findings and facts section addresses trees regarding climate change, as well as the contribution of the trees to the quality of life within the Town. These are things that she feels are what this law is supposed to be about. Many definitions were left out of the 2016 law that were in the 2010 law which makes it difficult to administer the law, if you are not on the same page as to what you are trying to protect. Specifically, adding the definition of "Agricultural Activity" (although it was tacked onto the 2016 law and the definition of "Applicant" – an

important change is to add that the Town itself should follow the tree law (this had been part of the 2010 law and was removed in the 2016 law).

Supervisor Gilbert said to Ms. Miller that he understood that she wanted to present the Board with a general plan of their suggestions and was also asking for the Town's direction as to how it would like them to proceed. Therefore, he would like to see this referred out to the Town's department heads and the Town Attorney.

Mr. Bill Kellner spoke as Chairman of the Tree Conservation Commission – Ms. Miller represents a citizen-led effort that he, as well as the board, appreciates. His board has not yet done work on the changes to the law and would like to be part of the referral. He has discussed this with Linda's group and agrees with some of their suggestions and disagrees with others.

Councilman Diana stated the damage that falling dead and rotting trees did to properties and utilities during the recent storms needs to be taken into consideration when amending the law (i.e., areas should be cleared, trees kept back from the road). Ms. Miller agreed and stated that this draft takes that into account (definition of "hazardous conditions" and the section that addresses "permits not required," etc.). Supervisor Gilbert said that the language contradicts itself insofar as there is language allowing the removal of a dead tree when determined by an arborist and then the standard allowance of the removal. Do all removals require an arborist? This needs to be clarified. Bill Kellner felt there was too much loose language. Councilman Lachterman said the Board needs to be careful not to pit neighbor against neighbor.

Councilwoman Roker said that the best thing to do at this point is to have the groups work with the Town Attorney to come up with a better version of the law.

Mr. Paul Moskowitz said that the point of the revision is not to overburden individual homeowners but to preserve large wood lots, especially when they are developed. This revision would allow them to work with developers in preserving wooded lots, especially the contiguous areas that are important to animal life and flood control.

Mr. Bill Kellner said that it would be helpful for the people who enforce the law that the determining thresholds be very clear. The applicant should have a good sense from the law if a permit is needed.

Councilwoman Roker feels that this is a large and a important referral (include DEP and DEC).

Ms. Linda Miller asked if the Board was okay with the suggestion of both an administrative and a non-administrative permit and was told yes. Bill Kellner said that previously there was no distinction between an individual homeowner and a large developer, like Lowe's.

#### WETLAND PERMIT APPLICATION FOR MOHEGAN LAKE IMPROVEMENT DISTRICT

Mr. Ken Belfer stated that he is representing the Mohegan Lake Improvement District and is before the Town Board for a wetland permit. They have had a permit before for general maintenance and he discussed the kind of work they would like to do under this current request and the work would be very similar to what they have done in the past. This will include some chemical treatments to the blue-green algae in the lake in order to clean it up. Their last permit expired in December 2017 and they are now back for a renewal.

Town Engineer Michael Quinn said that the application lacks a professional entity to oversee the work to ensure there are no mishaps. Mr. Belfer said that they have volunteers that have tremendous expertise and are capable of the work. All of the requested activities under this permit will have a lot of technical expertise behind them and in some cases, be overseen by state agencies like DEC.

Councilwoman Roker stated that the Mohegan Lake Improvement District has always been responsible in their overseeing of the lake and does not see the need for any professional entity. Supervisor Gilbert also agreed – their prior permits were overseen by the Town's environmental consultant who never had an issue.

Mr. Belfer said the County Health Department does water testing and monitoring of the beaches. The Mohegan Lake Improvement District also does their own water testing, as well as testing before and after chemical treatments. The chemical is in liquid form and is sprayed on the water, away from the wetlands. Only 50% of the lake at a time can be treated, primarily in deep water. Ideally, they like to chemically treat the water in June. They are concerned about the wetlands permit process not holding this up, along with the DEC permit.

This will go out for referral and comments due in a month.

Councilwoman Roker asked that when they talk about what the application is for at the public hearing, the District review what they have been doing for the last ten years to combat the blue-green algae. Mr. Belfer agreed. There was also a discussion regarding a plan to reduce the phosphorous going into the lake.

Councilwoman Roker asked if Mr. Belfer would share his information with the Sparkle Lake Community who is also battling invasive species issues in their lake. He agreed.

#### YORKTOWN COMMUNITY HOUSING BOARD – LOCAL AFFORDABLE HOUSING SET-ASIDE LAW

Mr. Ken Belfer and Ms. Maura Gregory, members of the Community Housing Board, stated that in order to keep current with inclusionary zoning and set-aside laws, he spoke with Rose Noonan and Norma Drummond, both with the County. He learned that approximately 30 municipalities in Westchester County have set-aside laws. Most of these laws start at developments of 10 units or more, typical percent is 10 and that these units be set aside for a certain amount of time or in perpetuity. So many municipalities now have these laws that developers are getting used to it and are not challenging the law. It is becoming a normal cost of business. He also said that due to the economy, the amount of new developments had dropped so set-asides have not been an issue. Now that the economy is doing better, the issue of set-asides should be looked at by the Town. He is concerned that there should be set-asides in Yorktown and that this could be a missed opportunity for the Town to be a diverse community. Mr. Belfer said that Chapter 102 as it was written before it was repealed should be re-proposed and enforced but would raise the 8-plus unit development to 10-plus unit development. This would apply to single-family homes and multi-family (the past Chapter 102 stated 8 units =10% set-aside; over 30 units=15% set-aside). His new version states that the town would keep the 15% set-asides for multi-family. His goal for this meeting was to introduce the re-adopting of Chapter 102 with the change in the threshold. This would also apply to rental units, as well.

Councilman Lachterman stated that the idea that this has become more accepted by the developers does not negate the legality of set-asides. The past discussion that changed the law, said that representatives from HUD were not definitive about an answer as to its legality. Mr. Belfer said he thought they were clear that it was legal. Councilman Lachterman felt that HUD would not commit to saying that it meets every criteria. Mr. Belfer said that no court has ever said that it was illegal. A California Supreme Court case was presented as evidence of the legality of set-asides.

Councilwoman Roker said that she understands why this issue is being raised now and would like to see Judy Reardon, a former Housing Board Member, be consulted on this.

Supervisor Gilbert stated that he has been in favor of set-asides for years but is not sure if legally the Town can do it. He said that the rationale behind affordable housing stemmed from housing being available for children who want to stay in the Town but cannot afford it, housing available for volunteers – firefighters, EMTs, etc. who work in the Town. Councilwoman Roker said that is where she believed the illegality comes into play – preferences cannot be allowed. Maura Gregory stated that the position of the Housing Board is that there is no illegality to set-asides.

Councilman Lachterman said there is a lot to be said for the fact that developers even want to build up the apartment stock for our seniors and young residents. He is worried that when you get to certain projects, developers would walk away from projects because of the set-asides.

Mr. John Tegeder, Director of Planning, said that when you eliminate those set-asides, you are eliminating affordable housing and adding more expensive units and are exiling the others that would be much more affordable. He believes eliminating these affordable housing units is based on reasons of fear and said that this is a very difficult and complex issue. We should be trying to



provide affordable housing, but to him, it is not about the pricing but the product. A conversation needs to include this aspect. He is not necessarily opposed to set-asides, but it is not going to be a panacea for affordable housing.

Councilman Diana asked how many affordable housing units are there in Yorktown. John Tegeder said that it is in the hundreds. He said that if you care about affordable housing, it is about promoting the product. There is a lot of fear that surrounds them.

Mr. Mel Tanzman, member of the County Board of Affordable Housing, said that the model zoning law that the county wrote was reviewed by HUD includes set-asides. There is no question that set-asides are legal. It was an unfounded opinion when the law was repealed. If the Town adopted set-asides in an affordable housing law, they would be in total compliance with what the county settled with HUD and approved by the courts.

Supervisor Gilbert suggested that the Town Attorney review the law.

Mr. Tony Grasso, resident, said that set-asides represent a “taking.” Supervisor Gilbert suggested reviewing the Supreme Court decision.

Mr. Ken Belfer said that zoning decisions have a big impact on affordability and that is why, when they went from 36 rental units to 22 townhouse units (which are probably double or triple the size of the rental units), it was much more acceptable to the neighbors to have a lower density development. However, by virtue of guiding the developer in that direction, the Town was making a decision to drive up the price. He believes this is the point John Tegeder was trying to make.

Mr. Jay Kopstein, resident, asked that when this goes to public hearing, the tax implications to the Town be addressed. Expenses do not go down on these units, but taxes on the affordable units will be less, so who absorbs the difference. He is in favor of preferences to volunteers, veterans, etc., although he recognizes that is illegal.

Mr. Ken Belfer said that there is state law that governs how deed restricted affordable housing gets assessed. This is particularly for home ownership because the resale price is limited. The assessment would be less.

Supervisor Gilbert asked how is the recipient of affordable housing determined and was told it is by lottery. Mel Tanzman gave an example of how the units are marketed to contiguous counties.

Mr. Jay Kopstein asked how many applications were from Yorktown residents for the Kear Street housing project. John Tegeder said that you generally pull from close to your local neighborhood. Most of the people who come are from a much smaller radius than contiguous counties.

Councilman Lachterman said that comp sales are taken into account when reselling the affordable units.

Mr. Dan Strauss, resident, said set-asides have nothing to do with seniors or young residents since it is a lottery.

Mr. John Tegeder said the lotteries are a requirement of HUD and the County and that is why the lottery encompasses other areas. There are projects by private developers who, through state grants, provide affordable housing stock that do not rely on lotteries.

Supervisor Gilbert said that there is still a threshold question that the Town Attorney needs to look into. Councilwoman Roker said she would like to see other municipalities' models.

#### CON EDISON – REQUEST FOR A STREET OPENING, WETLANDS, MS4 PERMITS FOR GAS MAIN REPLACEMENT

Michael Quinn, Town Engineer, stated that Con Edison submitted an application for work that they are doing this year. The Town Code also requires a Town Board issued Street Opening Permit and the application is now ready and it comes with a \$500 application fee.

Councilwoman Roker asked why does it go to the Engineering Department and not the Building Department. Mr. Dave Paganelli, Highway Superintendent, said that the local law that gave Town

Board approval for this infrastructure project stated that it goes to the Building Inspector, also acceptable to the Highway Superintendent. Mr. Paganelli said that he asked for assistance in the drafting of the permit from the Town Engineer and someone has to oversee the project. Councilwoman Roker stated that it should be overseen by the Building Inspector, not the Town Engineer. Dave Paganelli said that in this particular case, he should have some jurisdiction over this.

Mr. Paganelli wanted to know if we will segment this project. Councilwoman Roker was in favor of segmenting the project. Con Edison stated that they are about 1,200 feet from the wetlands and Mr. Paganelli said they are not working in the wetlands.

The first project Con Edison is doing is replacing a major supply main down Gomer Street. They will be able to supply a diversified supply to a larger amount of people and increasing reliability. They are also replacing pipes down Hanover Street. They are picking up where they left off last year at London Road. They need to begin as soon as possible. Dave Paganelli said the earlier they start, the earlier they finish and then his department can get the road fixed. Mr. Quinn and John Landi can provide oversight from the engineering and building perspective, all under the decision by the Town Board. Dave Paganelli discussed the repair and repaving of the roads – it was not optimal last year and changes should be made to the process.

Councilwoman Roker said that the people affected need to know what is going on. An informational meeting should be held so that people will understand that what happened last year will not happen again.

Supervisor Gilbert said that the cost of oversight will need to be discussed. It is very important for the town to get curb-to-curb remediation.

Councilwoman Roker asked Mr. Quinn how much would it cost for an inspector to be onsite? He said that they are working on an estimate of cost based on about 2 hours a day of oversight. Numbers were discussed and Supervisor Gilbert said he thought it might have been about \$26,000.

Mr. Dave Paganelli suggested that if the Con Edison representatives come to a public hearing, they should be prepared to give the public the entire scope of the project.

It was questioned if a wetland permit was needed and it was determined that they are within the 100 feet but no work is being done there. Councilwoman Roker said they would need a public hearing for the wetland permit after a referral has been done.

#### RESOLUTION TO HAVE NEW YORK STATE PAY TAXES ON STATE-OWNED PARKLAND WITHIN THE TOWN OF YORKTOWN

This issue was adjourned until the next meeting.

#### REVIEW AMENDED SPECIAL USE PERMIT APPLICATION RECEIVED FROM LEWIS ROANE, REPRESENTING PINNACLE BRANDED, LLC CONVENIENCE STORE GASOLINE STATION – 3451 CROMPOND ROAD

The applicant stated that he met with the Planning Board and the Architectural Review Board. There is an issue with the signage. John Tegeder stated that it was their determination that a lot more information was needed. Councilwoman Roker said that the current design of the sign is better than what is currently there. Fencing also needs to be addressed; the applicant said that whatever the Board would like erected, they will do. John Tegeder said that engineering drawings will have to be part of the package and ABACA will have to approve fencing. There is an area that is derelict and has to be cleaned up. John Tegeder said the plan started out as an all convenience store and has morphed into a garage, which changes the plans. Councilwoman Roker said the applicant needs to answer the question of the Town's advisory boards. The applicant needs to complete revisions to plans to come back to the Board for review.

#### REQUEST FROM RELAY FOR LIFE TO WAIVE FEES

The waiver of the fees will be in resolution form for the next Town Board meeting.

EXECUTIVE SESSION

Upon motion made by Councilman Lachterman, seconded by Councilwoman Diana, the Town Board moved into Executive Session to discuss litigation and legal issues. Upon motion made by Councilwoman Roker, seconded by Councilman Patel, the Town Board meeting was adjourned.

ADJOURN

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

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DIANA L. QUAST, RMC  
TOWN CLERK  
TOWN OF YORKTOWN