

Meeting of the Town Board, Town of Yorktown held on Tuesday, June 12, 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

Absent: Edward Lachterman, Councilman

Also Present: Maura Weissleder, Deputy 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 litigation and negotiations. Upon motion made by Councilman Patel, seconded by Councilwoman Roker, the Town Board moved out of Executive Session and proceeded with the meeting.

WHITE OAK FARM, LLC – PERMIT REQUEST

Bri Hart, owner of White Oak Farm, is making an application for an excavation permit. Michael Quinn, Town Engineer, said that because it is over 200 cubic yards of land disturbance it is a Town Board action. His review of the project is satisfactory and he has drafted up conditions for a resolution. It is a single family home; and the digging of a basement is causing the land disturbance.

Supervisor Gilbert asked if this was simply for an excavation permit and was told that it was by Mr. Hart. A resolution was passed to authorize the permit based on the information in the application.

STORMWATER PERMIT APPROVAL – WHITE OAK FARM, LLC
RESOLUTION #214

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

RESOLVED, the Town Engineer is authorized to issue an MS4 Storm Water Management Permit to Beriah Hart of White Oak Farm LLC for excavation required to construct a single- family residence, driveway, and septic system.

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

Mr. Hart stated that he is the only maple syrup producer in Westchester County and has lost much of his production time and resources due to the loss of electricity due to the several storms this past winter. He thanked the Town Board, as well as Stewart Glass and Ilan Gilbert for their efforts in helping him receive compensation from Con Edison and showed a check he received for over \$10,000 that Con Ed has given him.

PROPOSED LOCAL LAW AMENDING CHAPTER 300 – MULTI-FAMILY DWELLING
UNITS IN COUNTRY COMMERCIAL ZONE DISTRICT

John Tegeder, Director of Planning, said that since this was a first draft, the proposed amendment needed to be referred out. He also said that other departments, such as Building and Engineering, should weigh in on this discussion.

AUTHORIZATION TO REFER OUT PROPOSED AMENDMENT TO CHAPTER 300 –
MULTI-FAMILY DWELLING UNITS IN COUNTRY COMMERCIAL ZONE DISTRICT
RESOLUTION #215

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

RESOLVED, the proposed amendment regarding Multi-Family Dwelling Units in Country Commercial Zone Districts of Chapter 300 of the Town Code of the Town of Yorktown entitled “Zoning” is hereby referred out to the following agencies: Westchester County Planning Board, Yorktown Planning Department, Yorktown Planning Board, Conservation Board, Zoning Board of Approvals, Building Inspector, and Town Engineer.

All comments should be sent to the Town Clerk no later than July 13, 2018.

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

HALLOCKS MILL SEWER DISTRICT UPDATE

Supervisor Gilbert began the discussion by saying that Yorktown and other towns have been charged by New York City to improve efficiency and upgrade equipment in the watershed areas. Yorktown does not utilize the Croton Reservoir but NYC does, therefore the urge to make improvements. There have been past issues regarding diversion and filtration and one of the settlements was that Yorktown join the East of Hudson Group to help homes get off septic and onto sewers. We have had difficulties doing this, particularly in the Hallocks Mill Sewer District.

Michael Quinn, Town Engineer, said the Town has retained GHD Engineering to perform a detailed study of the Hallocks Mill Sewer District. There are roughly 5,200 parcels; 3600 are either connected to the sewer or have the ability to connect. In 2010 the Town looked at how these homes could be sewerred. The 1600 homes were broken into sections grouped together. There are 200 unbuildable lots within those 1600, thereby making it actually 1400 parcels. GHD has done a conceptual cost estimate of the 1400; picking the areas that were felt to be the most cost effective and where the Town can get the most people hooked up for the amount of money the Town has to spend. The wastewater from Hallocks Mill is sent to the Yorktown Wastewater Treatment Center at about a maximum of 1.5 million gallons per day under the Town’s current SPDES permit. The Town is now at 1.1 million gallons per day and has about 400,000 gallon capacity remaining with our current discharge permit. The plant is actually capable of 2.5 million gallons – we would need a DEC permit to increase our amount of wastewater discharge through the plant without doing upgrades; however the DEC is looking for system-wide upgrades. One of the things Mr. Quinn would like to pay more attention to is the infrastructure such as installing manholes with flow meters to see sources of inflow.

Supervisor Gilbert asked how many homes right now can we add in considering the 400,000 gallons per day we have left and Mike Quinn said about 450 homes would put the Town at capacity.

There were 660 parcels identified by GHD’s report at approximately \$50,000 per parcel which is the Town’s cost. Some of the more difficult areas to sewer would cost \$150,000; obviously, there is quite a bit of variation in cost. This is why they decided to focus in on the more cost effective parcels to sewer. Mike Quinn said that, in general, they would like to do gravity sewers, where possible, which would not necessarily require grinder pumps and be less of an expense to the homeowner. Areas where there is less footage to dig down would require the pressurized pumps.

Councilwoman Roker asked how the areas were ranked. Mike Quinn responded that there were several factors; the first was the cost per parcel (approximately \$50,000 - \$70,000). If the Town could service an area in the \$50,000 range, more parcels could get hooked up. Also the areas that had the most DEC wetlands were looked at – 16 acres plus. He said they looked at town wetlands, as well; our thresholds are much smaller. The report also looked at flood plain maps because if you have a septic system in flood plain areas, the septic system would fail. Another factor considered were sloping areas for gravity feeds.

Councilwoman Roker stated that since most people were here tonight to find out if they were getting sewers, she would like to identify the areas targeted first.

Mike Quinn stated the ranking as follows: Birch Street, Sparkle Lake, Sunrise, Ridge Street, Broadview, and Carolina. Mr. Quinn said that the flow from Sunrise will flow from a gravity line to a pump station where a pump will get it to the wastewater treatment plant. This pump station (Crystal Lake) needs to be upgraded. GHD did a facility investigation at the Crystal Lake Pump Station and their estimates call for approximately \$1.5 million in funds to upgrade Crystal Lake in

order to accommodate the additional flow. Supervisor Gilbert said that it is a pump station that would eventually need to be upgraded at some point in the near future. He also suggested that the Town may have the opportunity to use some of the grant money for the upgrade as long as it is connected to this project. Mr. Quinn said that is correct. Mr. Quinn also said at the time the Town made the application for the \$10 million grant allocation, the DEP said that this upgrade could be part of the grant and agreed with this approach.

Councilwoman Roker asked how many pump stations are located in the Hallocks Mill Sewer District and was told there are sixteen town-wide; eight of which are located in Hallocks Mill. She then asked Ed Mahoney, Distribution Superintendent, when the last time the stations were upgraded and was told they were never upgraded. Mr. Mahoney urged the Board to move forward with the plans to upgrade the three stations for which they are ready to award the bids. Jefferson Park Pump Station is in desperate need. He said that investigating gravity feeds is worth pursuing.

Michael Quinn said that another area of priority for GHD was identifying an area of sewer pipes that are restricted flow – there is too much flow going through the pipe that will then back up, come out of either manholes, and in some cases, a resident's basement. If they can remove some of the groundwater that flows into our system, more homes can be added and reduce the potential backup.

Michael Quinn also said he would like to see the Town go back to performing smoke tests on the pipes – putting smoke into the pipes to make sure of the flow and pick up on illegal hook ups. It is something the Town used to do and he would like to see the Town perform these tests again. He said that homeowners would be notified of any testing.

Ray Scofield from GFD said that their schematic design reports will show how the sewers are going to look; how services will get through. He said a lot of the areas identified will have a mix of gravity feed and low pressure pump systems. He said that a sewer is installed with pumps in each home to get the flow to a gravity area. A gravity connection can cost anywhere from \$3,000 to \$5,000 per connection. Grinder pumps that are used in the low pressure systems can cost between \$10,000 to \$17,000 per home. There are multiple ownership opportunities to look into – does the Town buy the pumps or the homeowner?

Supervisor Gilbert said that this project was originally projected to cost \$25 million and then went into the \$30 million area, and is now in the \$40 million range. How can the Town accomplish what it wants to do in the most effective way? He said that the Town has \$10 million and will use it to get some of the homes connected. East of Hudson cannot go to a second round of funding until the first round is spent and that is why they are putting pressure on those towns that have not spent the money.

Councilman Patel asked where the \$10 million can be spent.

Mr. Scofield said that the money may be used for work done from the house to the line. But if the Town has its equipment on private property, issues of liability and access will also need to be addressed. Mr. Scofield said GHD's report identifies issues now the Town needs to decide how they want to proceed in order to take this into the design phase and which areas to bring along in the process.

Councilwoman Roker asked about the Sparkle Lake area. Mr. Scofield said that Sparkle Lake is all low pressure grinder pump system – it reduces the amount of infiltration that gets into the line but there is a higher capital cost associated with the grinder pumps.

Supervisor Gilbert said that if we were to choose a project in the area of \$15-25 million range, then we would have bond counsel here because that would ultimately be the alternative to fill in the gap of the cost. Bonding is not free; it costs each and every one of us.

Councilman Diana asked approximately how much per year could be done with the \$10M? Will it be used up in one year?

Mr. Scofield said that it could be used up in one year. But the longer the wait, prices go up (PVC pipe, steel pipe, labor, etc.).

Councilwoman Roker asked what Mr. Scofield recommended for the Town's pump stations. Mr. Scofield said that as part of the project he was presenting, Crystal Lake Pump Station was considered. It would need to be upgraded to accommodate the new flow for the parcels. East of Hudson money cannot be used for rehab on existing stations but may be used specifically on the Crystal Lake Pump Station as part of the larger sewer project..

Sharon Robinson, former Town Engineer, did a report on pump stations in 2007. They were ranked in terms of equipment replacement and they needed help at that time.

Councilman Patel asked is there is a time factor to consider. Mr. Scofield said there is a time limit. They are working with the Town Engineer on a SEQRA process that will be coming forward soon. Resolutions should be forthcoming for the Board to declare itself lead agency on the project.

Supervisor Gilbert said all of the players (Town Engineer, consultants, bond counsel) need to be brought together. The Town is limited to a 1% cap – and the Town cannot bond \$30 million; the Town needs to come up with a number they are all comfortable with and the Town has a significant problem that needs to be addressed.

Councilwoman Roker said that we have to petition the homeowners to see if they want sewers; the Town cannot mandate the sewers. Bond Counsel Tom Meyers was introduced. He stated that Councilwoman Roker was correct because the Town is basically creating a subset of the district with new sewer users. Councilwoman Roker asked if anything like a survey was done.

Michael Quinn said an information letter was sent last summer stating that the Town was undertaking a study, looking at funding, etc. The letter included a postcard to gauge public interest. In order to petition people, you need the financial numbers and in order to put the financial numbers together, you need a plan. The \$10 million will be given to the Town prior to any work being done. In order to get the \$10 million we need to execute an Intermunicipal Agreement (IMA) with Westchester County and complete the SEQRA process. The Town will need to push the county to get the IMA. In order to get them to do the IMA we had to agree to the term sheet, which is what we submitted for our \$10 million allocation. The Town's term sheet listed Birch St., Sparkle Lake, and Sunrise as our initial areas of study as they were the three areas that were identified as the most cost effective areas to sewer. The previous administration wanted a larger area to be studied and that is how GHD was brought in to study the six areas he spoke about earlier. This was done with the idea that there would be other opportunities for funding. The project the Town submitted to East of Hudson Watershed Corporation was for the three areas and an \$18M project surrounding those three areas. We are essentially putting forth a larger project than what we are prepared to do. Supervisor Gilbert said that this gives us the opportunity to explore phases in the process. Other funding projects also want engineering reports and SEQRA reports. East of Hudson only wants to fund projects that are ready to go. Question: Should the Town petition when the cost is high right now or wait to see what other funding may become available to do a larger project and bring the cost down? The postcard response was in the 60% range of response with Sunrise most in favor of sewers.

Councilwoman Roker asked if he has been able to break down by area the approximate specific costs each area would be and Mr. Quinn answered yes. She also asked what the cost would be for a homeowner in the Sunrise area. Mr. Quinn said that with no funding available, he would not be able to quote a number. Right now, the costs would be higher than the funding. GHD did not have the numbers either.

Michael Quinn said the 26 parcels in the Sunrise district would be in the \$50-55,000 per parcel range to put sewers in the ground divided by 30 years would equal about \$1800 per year per parcel for 30 years without interest factored in; this is just the cost for the Town to bring the sewer to the property line. This does not take into account the \$10 million. He also said that there is a lot of interest from surrounding towns to spend money that the DEC put aside many years ago. The Town has a solid project and Westchester County is interested in it. Other towns do not have the ability to spend their allocation. Yorktown can benefit from this.

The money that DEC put aside for these projects was given to Westchester County who has been collecting interest on it. Yorktown may be able to tap into the remaining money so this fund can be spent and the group can go for round 2 of funding. The County urges homeowners to connect to sewers and this may mean some incentive to help people. Mr. Quinn believes we are well suited

to try to put together a project but funding needs to be lined up so it can be presented to the residents.

Tom Meyers, bond counsel, said that given the lapse in time when the district was created and the fact that those who have received sewer service have been paying for their collection system and waste disposal for the treatment plant, a decision now to say that these people, after so many years, their system and their collection system is somehow a benefit to those who have already paid and maybe paid off their collection system is not challenge worthy in a court as fair and equitable.

Councilman Diana restated a previous statement that the Town may be able to tap into money that other towns have not been able to use because we have definite plans. Michael Quinn said that Yorktown also has a wastewater treatment plant that other towns do not have. This works in our favor.

Councilwoman Roker asked if it is realistic to now go out to those areas to canvass the homeowners? We need to get a cost per parcel in order to canvass. She asked Mr. Meyers to confirm that the Town does need a petition.

Tom Meyers said, using Sunrise as an example, what does it cost to provide sewers to that area, the number of parcels, then the bond, the amortization schedule of the bond, take the debt service, the operation and maintenance, etc. Then come up with a priority system (the Board's discretion) of how many of these you are going to have. Once the Town has done that, then you would have to figure out how to divvy up the \$10 million. Councilwoman Roker said this will be a big consideration as to who will get a portion of the \$10 million and who will not. Supervisor Gilbert said he is of the opinion that the Town should factor in the \$10 million right now in order to reduce the costs for the homeowners and hope to be able to count on a Phase 2 of funding.

Sharon Robinson and Dan Ciarcia, former town engineers, came before the Board. Mr. Ciarcia said a map plan needs to be created which would entail the information the Board is looking for. You have to go out to the public and let them know what they will pay. How much headspace do you have on the tax cap? How much are you willing to bond? Then that amount is added to the \$10 million? You cannot assume everyone wants to buy in and you may end up gerrymandering sections. They will still be paying off the bonds for the plant upgrades, the O&M, etc., and this all goes into what the residents will pay. These areas have been prioritized based on costs but you do not really know what the cost will be and assume the majority wants in. Sharon Robinson said you have to find an equitable way to distribute the cost, e.g., have everybody who wants sewers pay up to X amount and then divvy up the \$10 million. She said that figuring out an algorithm to spend the \$10 million is the hardest part.

Mr. Scofield, GHD, said there is no easy solution. You end up having to pick something and then try to solve the variables to get to the details.

Michael Quinn said that we should first continue to work with GHD to get this work done (further funding opportunities); second, continue with the SEQRA process; third, work on the IMA with Westchester County (can't deviate too much because this is the project we proposed); and fourth, work with bond counsel and comptroller to explore bonding. If we could get more funds, this is a more attractive project.

Supervisor Gilbert said that we need to see what we can get done with the \$10 million or risk losing it. He asked if this would delay getting the numbers to the homeowners.

Councilwoman Roker said in order for Mr. Quinn to do any work, the Town could give the homeowners X dollars towards the cost of construction and proceed with the project. The Town should come up with a number and say this is what everyone is going to get. Realistically, we cannot submit 6 sections because we don't have the proper SPEDES permit.

Michael Quinn said that he does not believe the County expects us to do all areas in one project. We expanded our project to make it a bigger study area so we could do multiple phases.

Councilman Diana asked about multiple grant opportunities that may be available. Mr. Quinn said there is NYS project that provides grants but we have to be ready to go, so the engineering report

needs to be completed as well as the SEQRA process. There is a maximum award of \$5 million with a 75% match.

Supervisor Gilbert said that this all sounds great but it is a situation of “a bird in hand.” The Town needs to go with what they know they have – the \$10 million.

Michael Quinn agreed but he said that in order to get the money and move forward, we have to hire design consultants to produce the detailed bid documents. In order to do that, we would have to use Town funds because we don’t have the \$10 million.

Councilwoman Roker asked Mr. Meyers if they could use Town (General Fund) monies to do anything with the sewer district. Mr. Meyers stated that no, the Town could not use General Fund monies, but Sewer District money is another matter.

Councilwoman Roker asked Mr. Quinn if the Town Board were to say that they would give everyone \$5000, would he have the staff to produce the map plan and report and be able to go out to at least two of the first three areas. Mr. Quinn replied that he would need some outside professional services to that.

Sharon Robinson reminded the Board that once they figure out the cost per household and have informational hearings, the state comptroller approval process is not simple or brief. They really want more than the stated 51% of residents to want sewers – it is closer to wanting all of the residents to be included.

Tom Meyers reviewed the steps: The Town Board could do a Town Board motion or petition. Then the Town would need to obtain the map plan and report, petition, public hearing, state comptroller threshold amount, the design of the sewers – this would all take about 6-8 months. State comptroller is looking for undue burden on the property owner. It does not take much for the State to pull the plug if a person(s) call to complain that they do not want sewers.

Dan Ciarcia added that historically and what seems to work is to have a map plan and report for what you want to do, especially if you are doing this by petition. In the past, the Town had a notary on site of the public hearing to notarize signatures on the formal petition to see if they would exceed the 51%.

A member of the public stated that compensation should be thought of as a percentage, not a dollar amount.

Howard Frank, resident, said he was surprised to hear there were only 26 homes on Sunrise Street. Why can’t the Town tap into the sewer manhole that the State put in at the group home on Broad Street?

Susan Siegel, resident, said she used to live in Hallocks Mill Sewer District and was part of the last sewer extension district that was built in the district. The Town Board, based on years of discussion with neighbors, decided on the critical areas and came up with a map plan with the costs. People changed their minds and the Town had to reconfigure the district and eventually had to go to a public referendum vote. It was a noncontiguous district. Regarding this project: if you come up with a map and plan for the top 3 districts and develop the cost estimate, take the \$10 million and subtract that from the total cost, and then you have your bonding cost. Go to the people with the costs. The survey letter that went out was useless because it didn’t have the costs. Then you can go to your 4, 5, & 6th groups and see the interest in those groups. You can adjust the costs, if need be. As long as you have a rational cost basis, people will usually understand that these are estimates. Ms. Siegel urged the Board to come up with a cost decision; especially how to treat a low-pressure system because that will be of a significant cost. She asked the Board to please involve the homeowners – they will go out and speak for you; they know their neighbors. She also suggested that a committee be formed who will then save the board countless hours.

Ed Ciffone, resident, asked what other costs would there be to hook up to the sewer (added to the quoted \$1800/year).

Michael Quinn said the parcels (and reminded the Board that the \$1,800 does not include interest) have a unit charge of \$574/household on the tax bill. These numbers do not include the individual hook up charge.

Supervisor Gilbert said no one on the board has any intention of breaking the tax cap, but it is something that could be taken into consideration.

Michael Quinn said he needs some direction from the Board and suggested a discussion at a subsequent meeting.

Supervisor Gilbert said that Councilman Lachterman is not present but will have an opportunity to watch this meeting and become informed.

Michael Quinn said that if the Town did not apply the \$10 million in funding, it would cost \$55,000 per parcel divided by a year payback equal to \$1800/per household per year without interest. Without funding, there is not a project to move forward; the funding is a key element. It is very expensive to put sewers in the ground. The costs include a 20% contingency. We will do whatever we can to keep costs down.

Michael Quinn moved the discussion onto the rehabilitation of the pump stations – we have never rehabbed these stations and we chose the worst 3 to rehabilitate. This project has been bid twice. Some residents asked about eliminating the Jefferson Park Pump Station. The resolution was for 3 stations; the board resolution ended up being for 2 stations (not Jefferson Park Pump Station). We opened bids on March 6th; the bidder is required to hold their offer for 60 days which brings us to early May. He contacted the low bidder who said he would hold his price for an additional 30 days, which is now up. The bidder is considering withdrawing their bid. The bidder currently has authorization for two awards, but with the issue of diversion he needs direction as to how to move this bid forward.

Tom Meyers said there are 37 properties that are serviced by one of the pump stations. As an alternative, instead of rebuilding this pump station, another line would be created that would connect to a county line. Town law requires they remain in the district so now the Town is stuck with a transmission line that would be paid for somehow and the homeowner would still have to be paying sewer charges in the district they're in currently (and the discharge costs for the flow into the county). There is very limited ability after you have formed the district to start cutting back areas. Supervisor Gilbert asked Mr. Meyers to explain why you cannot opt out of a district and Mr. Meyers said there is no process by which a group or community can say they are not part of the district (there is no Town procedure). The only way to petition to get out of the district is if the homeowner never got sewer service and there was debt in the district. They already receive sewers and once you are in the district, you are in. They are part of the debt taken out when the district was created and sewers installed. There is no legal way to do this without exposing these people to double costs. It would take a special act of the State Legislature to do this.

Ed Mahoney, Wastewater Treatment Plant Assistant Superintendent, said Jefferson Park Pump Station is the one station he cannot fix anymore; they do not make parts for it anymore. Councilwoman Roker stated she is ready to rebuild at this point.

Michael Quinn is proposing to take the funds from the sewer reserves.

Town Comptroller Pat Caporale said that she will prepare a resolution to start a capital project next week (\$2.1 million).

Michael Quinn said he will do the resolution to do the three stations.

Supervisor Gilbert said that he is reluctant to move to vote since Councilman Lachterman is absent and Councilman Diana said that since we are under a time constraint, and the threat of a pulled bid and rebid, we should move forward.

AWARD BID FOR PUMP STATION UPGRADE PROGRAM: WALDEN WOODS, JEFFERSON VALLEY, AND JEFFERSON PARK PUMP STATIONS
RESOLUTION #216

Upon motion made by Supervisor Gilbert, seconded by Councilman Patel,

Whereas, the Town Board passed a resolution on May 22, 2018 awarding the bid for the Pump Station Upgrade Program: Walden Woods and Jefferson Valley Pump Stations, which excluded the reconstruction of the Jefferson Park Pump Station, and

WHEREAS, the Town Board wants to now include the Schedule E. Additive Alternatives: the reconstruction of the Jefferson Park Pump Station: General Construction in the amount of \$445,000 and Electrical Construction in the amount of \$41,974, now

THEREFORE BE IT RESOLVED, the inclusion of this work will not change the lowest bidders for the General Construction: Kings Capital in the amount of \$1,995,000, and Acorn Electrical for the Electrical Construction in the amount of \$350,000 for a total bid amount of \$2,345,000.

BE IT FURTHER RESOLVED, the contract is to commence upon the Town's issuance of a Notice of Award and the contract completion date shall be 365 calendar days from the Notice of Award date.

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

Ed Mahoney came before the Board to discuss the generator failure at the wastewater plant and has a request for proposals for a new generator. Some of the cost will fall under the DEP O&M and he feels they will have enough money to offset this. The Town is currently renting which is very costly. Some of the cost will involve a study if we need the same size generator. He plans to interconnect the two generators at the plant.

AUTHORIZE TOWN CLERK TO ADVERTISE FOR REQUEST FOR PROPOSALS FOR GENERATOR AT THE WASTEWATER TREATMENT PLANT.

RESOLUTION #217

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

RESOLVED, the Town Clerk is hereby authorized to advertise for Request for Proposals for a generator at the Yorktown Wastewater Treatment Plant.

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

Councilman Patel asked how much the generator would cost. Mr. Mahoney estimated the cost to be about \$300,000. The DEP is fully aware of the situation. Michael Quinn said the DEP pays us a certain percentage of his budget for operating our facility. The DEP said they have a separate budget for capital improvement that we may be able to tap into. The Town would have to spend the money first and then be reimbursed.

Councilman Diana said we also have to think about the Water Department and Highway Department generators.

Ed Mahoney said he needs to have a study done in order to put a check valve in a microfilter pump. There is a backfeed in the original design of the pump that needs a check valve. We also may be able to tap into DEP money for reimbursement. The cost is \$4900 and money is in the budget.

AUTHORIZATION FOR SUPERVISOR TO SIGN PROFESSIONAL SERVICE AGREEMENT FOR CHECK VALVE IN A MICROFILTER PUMP

RESOLUTION #218

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

WHEREAS,

1. The Yorktown Heights Water Pollution Control Facility utilizes membrane microfiltration for treatment of wastewater. The microfiltration equipment systems are installed downstream of the sandfilters and upstream of the UV disinfection system. The microfiltration system includes a wet well, four (4) microfiltration feed pumps, strainers, and six (6) microfilters.

2. Plant operations staff have indicated that during certain pump cycles, a backfeed condition develops, which keeps the system from operating as originally designed. From discussions with engineers from Environmental Design & Research, it is believed that a check valve would prevent the backfeed from occurring. However it is recommended that an engineering evaluation be undertaken to confirm the installation of a check valve will not cause other adverse impacts in the system.
3. The scope of work will be as follows: (1) conduct a site visit to review current field conditions; (2) attend a meeting with plant staff to discuss the current system operation and review options for valve selection; (3) prepare a technical memorandum summarizing the current operating conditions that lead to a backfeed condition and provide a recommendation for check-valve installation (manufacturer, size and location).
4. Ed Mahoney, assistant superintendent of the treatment plant, requested the ability to work with the engineering team at Environmental Design & Research as their staff has deep knowledge of the Yorktown facility. (Note: the Town has not previously retained the services of Environmental Design & Research, however, we have worked with their professional staff at their previous employer GHD.)
5. All policies and procedures of the Town procurement policy were followed in obtaining a proposal from Environmental Design & Research. Their price was for a lump sum of \$4,900. In the professional opinion of the Town Engineer, Environmental Design & Research submitted a fair and reasonable proposal for professional services.
6. The Department will use available funds for the purchase under cost code A.1440.490.1 Professional Services/NYCDEP. Note: these charges are billable to NYCDEP under our O&M agreement.

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with Environmental Design & Research, D.P.C. for the scope of work as described in the preceding section for the Not-to-Exceed Amount of \$4,900.

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

PROPOSED LOCAL LAW AMENDING CHAPTER 270, ENTITLED “TREES”

Supervisor Gilbert said he has reviewed the current, prior, and the proposed law as well as researching existing laws in surrounding communities. He suggested that the Town of Cortlandt’s law that was passed in 2008 should be looked at as a resource as the Town moves forward with the amendment. He said that it looked like possibly Yorktown’s 2016 law here was taken from this law and pared down.

Paul Moskowitz, Advocates for a Better Yorktown (ABY), stated that, in general, they are favorably disposed to what the tree commission has to say.

Bill Kellner, Tree Conservation Advisory Commission, said what the ABY has done represents an improvement over the current law. When the Town Board revised the Tree Law in 2016, the original proposal had no provision for specimen trees that require a special permit, even if it is only for one tree. The original tree law had this provision but it “sun-set.” They recommended that a specimen tree permit be allowed – the ABY would like to see it go to a specimen tree of 18 inches (although he would like 24 inches) and Mr. Kellner’s board also recommends 18 inches for a specimen tree, although it does increase the number of permits at a smaller size.

Councilwoman Roker said she has a concern with this for the individual homeowner. She feels that there has to be a balancing act between homeowner rights and conservation. Mr. Kellner said one way to deal with that is to make the threshold larger (the 24 inches). Other town ordinances range from 18 to 36 inches.

Linda Miller, member of the ABY, said the idea of a specimen tree is that it is an old and valuable tree and may have some cultural or historical significance. She would like to see provisions to explore the cultural and historical significance but realizes this would be cumbersome. To reduce the complication, most towns use size as the determining factor. If a homeowner has more than one specimen tree (rare), they could apply for more than one permit.

Jay Kopstein, resident, said he sent a list of comments to the Board and did not receive an acknowledgement. He understands Ms. Miller's point, but it is not just a permit – you also have to get neighbor's permission. He stated that it is not a significant deterioration of a property to take down one tree.

Susan Siegel, resident, said ABY's recommendations are food for thought. Neighbors have to be notified for other actions on their property. What if the tree removal causes runoff on your property? It is proper to let the neighbor know before the work begins. She said that by having the notification, the engineer may also know about the runoff and see potential problems. Ms. Siegel suggested shortening the period of time for neighbor comment – make it 10 days instead of 20.

Councilwoman Roker stated that she did not think taking down one tree is comparable to a wetlands permit. A certain number of trees to be cut would require neighbor notification.

Supervisor Gilbert said the Cortlandt ordinance's definition of a specimen tree has nothing to do with the diameter of the tree; it is more of a cultural and historical significance.

Bill Kellner said most town ordinances do use diameter. In terms of notification – his board feels that the difference lies in administrative vs. non-administrative permit. Notification makes the workability of this more cumbersome.

Bill Kellner said his commission agrees with the ABY on the following: its legislative intent; ABY's expansion of the definition section; and the ordinance should apply to town-owned properties. Supervisor Gilbert stated that the Cortlandt ordinance exempts town-owned properties.

Bill Kellner said that the ABY proposal reinstates the definition of a woodland. A resident would need a permit to remove more than 30% of a woodland (when you have a defined woodland). It is hard to determine when this would kick in because it is hard to determine. Would the Board need the Planning Department and Engineering Department? If this goes back into the law, it will be need to be clarified.

Linda Miller said she did a lot of research on the defining of a woodland. The actual methodology should not be written into the law because it is changing very quickly; it should be put it into a town-wide forest management plan and/or best management practices. When a town is trying to make up these guidelines, a professional forester should be consulted.

Councilwoman Roker suggested referring this to the BOCES forestry department.

John Tegeder, Director of Planning, asked what part of the process is the Board in and are we in a time frame because he has not finished reviewing the proposed amendment. He stated that this proposal is packed with administrative processes. Mr. Tegeder said there is a lot of work being called for; this proposed law is almost as deep as his section of the law, certainly as deep as the wetlands law. He also said that you do not want too much definition of a woodlands and recommends taking out the interpretation because people are not qualified to make this determination on their own.

Supervisor Gilbert said a lot of work went into this proposed amendment but there is a lot of verbiage.

Susan Siegel said that a lot of work went into this, but agreed there is a lot of verbiage.

John Tegeder stated that when there is a lot of verbiage you run the risk of having a lot of conflicts and gave an example of how this presents conflicts between two sections of the law. There are many nuances that trip up people who are trying to apply the law. This proposal needs to be more precise. He has reservations about the mitigation section and the 30% requirement (the problem of where to plant saplings on a property that is being commercially developed for the specific size of the property does not leave room). This proposal needs to be read very closely as to how it actually works, especially with a group of people – it cannot be read once and notes taken. He asked if this law should regulate trees in wetlands if those trees are already regulated in the wetlands law. Planning's Chapter 195 and State Quality Review Act has been trying to balance conservation and respect for trees and he asked if there really is the need for another layer of law to complicate the process.

Councilwoman Roker said that this is why it is important to get department head input. She cited the Agricultural District law – does this now create another level of law that may not be needed and suggested that the proposal also be referred to agricultural groups on county level, as well as local farms.

Councilman Diana cited the “tree bank” and said this may not be a productive step because a developer may feel this is another “tax” they have to pay.

Jay Kopstein, resident, said that an administrative permit to take down one tree is very onerous. Mr. Kopstein said notification can create many problems and proceeded to list examples. He asked if a forestry plan would be overseen by the Tree Commission and if so, are they Town employees who would have to be insured by the Town.

Linda Miller asked the Board what it liked about the Cortlandt law and Supervisor Gilbert replied that there was less verbiage and less repetitiveness. There also had not been any significant challenges to it.

Linda Miller said that different trees have different functions and that is why there are different restrictions on trees based on function (trees on slopes, trees in wetlands, etc.). If those situations are covered in different laws, that’s great. The whole idea was to protect function.

John Tegeder said the Cortlandt law and the Yorktown law responded to incidences of clear cutting. Protection of trees is more important for individual homeowners; commercial cutting of trees is covered under other areas of law.

Susan Siegel asked the board to share their comments to the ABY proposal.

Councilwoman Roker responded that she is concerned because this has not been sent for an outside referral. If the Board has comments they should send them back to ABY. Right now she is not prepared to say this is something she supports.

Councilman Diana said Yorktown has significantly more trees than decades earlier. The storm was taking out many trees on homeowners’ properties and the homeowners should be able to do what they need to do in order to protect their property and their neighbor’s.

Councilwoman Roker said she thinks the Board can do better than the existing law. If the Town already has a way to deal with trees in the Land Use Chapter of the law, why build in another layer. She is more concerned about the individual homeowner’s rights.

ADJOURN

Upon motion made by Councilman Diana, seconded by Councilman Patel, the meeting was adjourned.

DIANA L. QUAST, RMC, CMC
TOWN CLERK