

Meeting of the Town Board, Town of Yorktown held on Tuesday, October 23, 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
Edward Lachterman, Councilman

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

TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

EXECUTIVE SESSION

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

AUTHORIZE THE TOWN COMPTROLLER TO DO BUDGET TRANSFER FOR ROOF REPAIR AT SPILLWAY ROAD – WATER DEPARTMENT
RESOLUTION #376

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

BE IT RESOLVED that the Comptroller is hereby authorized to process the following transfer
From

\$25,000 SW.9000.811 Water – State Retirement

To

\$25,000 SW8320.416 Water – Maintenance Real Property

for roof repair to the buildings located on Spillway Road.

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

AUTHORIZE THE TOWN COMPTROLLER TO DO BUDGET TRANSFER FOR PURCHASE OF TWO TRUCKS – HIGHWAY DEPARTMENT
RESOLUTION #377

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

BE IT RESOLVED that the Comptroller is hereby authorized to process the following transfer

From

\$12,000 D5110.467 Highway - Insurance

To

\$12,000 D5110.201 Highway - Equipment

For the purchase of two trucks.

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

AWARD BID FOR AUTOMOTIVE AND SMALL ENGINE PARTS AND EQUIPMENT/TOOLS – WATER DEPARTMENT
RESOLUTION #378

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

WHEREAS, invitation to bid for the Automotive and Small Engine Parts and Equipment/Tools was duly advertised, and

WHEREAS, said bids were received and opened on October 19, 2018, with the bid amounts summarized as follows:

| | | |
|------------------------------|---|----------------------------|
| Item 1A: | Small Engine Parts (Counter Pick-up): GENUINE STIHL PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 20% |
| Item 1B: | Small Engine Parts (Counter Pick-up): GENUINE REDMAX PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 15% |
| Item 1C: | Small Engine Parts (Counter Pick-up): GENUINE BRIGGS & STRATTON PARTS | |
| | | <u>% Discount off List</u> |
| Rich's Quality Lawnmower | | 15% |
| Item 1D: | Small Engine Parts (Counter Pick-up): GENUINE KOHLER PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 15% |
| Item 1E: | Small Engine Parts (Counter Pick-up): GENUINE HONDA PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 22% |
| Item 1F: | Small Engine Parts (Counter Pick-up): GENUINE SNAPPER PARTS | |
| | | <u>% Discount off List</u> |
| Rich's Quality Lawnmower | | 10% |
| Item 1G: | Small Engine Parts (Counter Pick-up): GENUINE HUSQVARNA SAW PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 17% |
| Item 1H: | Small Engine Parts (Counter Pick-up): GENUINE KAWASAKI PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 17% |
| Item 1I: | Small Engine Parts (Counter Pick-up): GENUINE TECUMSEH PARTS | |
| | | <u>% Discount off List</u> |
| Rich's Quality Lawnmower | | 12% |
| Item 1J: | Small Engine Parts (Counter Pick-up): GENUINE GATES BELTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 20% |
| Item 1K: | Small Engine Parts (Counter Pick-up): GENUINE INTERSTATE BATTERIES | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 20% |
| Item 2A: | Equipment Parts (Counter Pick-up): GENUINE SCAG PARTS | |
| | | <u>% Discount off List</u> |
| Rich's Quality Lawnmower | | 15% |
| Item 2B: | Equipment Parts (Counter Pick-up): GENUINE WALKER PARTS | |
| | | <u>% Discount off List</u> |
| Rich's Quality Lawnmower | | 10% |
| Item 2C: | Equipment Parts (Counter Pick-up): GENUINE TORO PARTS | |
| | | <u>% Discount off List</u> |
| Ossining Lawn Mower Services | | 15% |

- Item 2D: Equipment Parts (Counter Pick-up): GENUINE SHINDAIWA PARTS
% Discount off List
Ossining Lawn Mower Services 15%
- Item 2E: Equipment Parts (Counter Pick-up): GENUINE ECHO PARTS
% Discount off List
Ossining Lawn Mower Services 15%
- Item 2F: Equipment Parts (Counter Pick-up): GENUINE EXMARK PARTS
% Discount off List
Ossining Lawn Mower Services 20%
- Item 2G: Equipment Parts (Counter Pick-up): GENUINE RYAN PARTS
% Discount off List
Ossining Lawn Mower Services 20%
- Item 2H: Equipment Parts (Counter Pick-up): GENUINE WACKER PARTS
% Discount off List
Rich's Quality Lawnmower 10%
- Item 3A: Spark Plugs (Counter Pick-up): CHAMPION
% Discount off List
Ossining Lawn Mower Services 25%
- Item 3B: Spark Plugs (Counter Pick-up): NGK
% Discount off List
Ossining Lawn Mower Services 25%
- Item 3C: Spark Plugs (Counter Pick-up): NIPPEN DENSO
% Discount off List
Ossining Lawn Mower Services 20%
- Item 4A: .095 Square Weed Wacker String (Counter Pick-up): Stihl 3 lb. Roll
Price
Ossining Lawn Mower Services \$29.00
- Item 4B: .095 Square Weed Wacker String (Counter Pick-up): Stihl 5 lb. Roll
Price
Ossining Lawn Mower Services \$46.00
- Item 5: ICS Saw Parts (Delivered OR Counter Pick-up): % Discount off List
10%

RESOLVED, that upon the recommendation of the Water Distribution Superintendent, Ken Rundle, the bid for the Automotive and Small Engine Parts and Equipment/Tools is hereby awarded to the lowest responsible bidder, as listed above.

BE IT FURTHER RESOLVED, said bid shall remain in effect for one (1) year from the date of bid award with the option to renew this contract for three (3) additional one (1) year periods.

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

JOINT MEETING OF TOWN BOARD, PLANNING BOARD, CONSERVATION BOARD
AND TREE CONSERVATION ADVISORY COMMISSION TO DISCUSS THE PROPOSED
TREE LAW AND PROPOSED SOLAR ENERGY LAW.

In attendance:

Planning Board - Richard Fon, John Kincart, William LaScala, Robert Garrigan
Conservation Board - Phyllis Bock, Diane Dreier, J. Patrick Francois, Robert Puff,
Peter Alduino
Tree Conservation Advisory Commission – William Kellner, Dale Saltzman

Supervisor Gilbert explained the different format for this evening and that it is not a session for public comment. Public comment will be received during future public hearings for both proposed laws.

Councilman Diana asked to make a public service announcement before the discussion began regarding a Hurricane Michael Relief Trailer that is accepting donations for victims of the recent hurricane. The trailer has information regarding suggested items for donation. The trailer will be there from 9:00 am to 6:00 pm until it is filled.

PROPOSED TREE LAW

Supervisor Gilbert thanked all of those who have been involved in the process of the proposed laws and is grateful the Town has so many knowledgeable assets to draw on. He thanked the volunteers of Yorktown citizenry, as well as those volunteers who sit on our Boards, Commissions, and Advisory Committees.

Ms. Linda Miller, Advocates for a Better Yorktown (ABY), and a proponent and consultant on the proposed tree law spoke first. She stated that in 2010 Yorktown had its first tree law that was repealed in 2016. Now the ABY would like to see a tree law stronger than the 2016 law and a law that corrects some of the inadequacies of the 2010 law. She said that large parts of Draft 2 were taken from the 2016 (written by the town attorney at the time). Ms. Miller said that it is important for the Town to state what they feel is important and what they intend to do. Definitions needed to be added and changed and this section of Draft 2 was expanded. One major difference in the proposed law is that the draft recognizes woodlands as more than just a collection of trees, but as complete, functional ecological systems. The components of woodlands – understory, shrubs, soil – is a whole entire system.

Another difference between the laws is that mitigation measures are stronger than in 2016. Mitigation is tailored toward the functions of trees. At the same time, they tried to build in flexibility in the draft so it is not required to replace trees one to one. Mitigation options exist for different scenarios. Mitigation is required for non-administrative permits and the approving authority will set what the mitigation will be.

Administrative permits are being reintroduced primarily for the homeowner and the Town Engineer would be the approving authority. A homeowner's activity may not have as much impact as a developer, so they would not be held to the same conditions.

Another difference between this draft and the 2016 law is that town-owned property is included as subject to permits. In certain places, some advisory committees will be referred to on some applications.

The definitions and regulations were reworked with what is allowed in woodland areas.

Ms. Miller listed the agencies that commented on the Draft 2 referral.

Another difference between the proposed Draft and the 2016 law is the idea of specimen trees. There was a disagreement regarding the protection of trees of a certain size. The Tree Commission and Conservation Board seem to agree with the protection of a specimen tree, but at the same time there is some reluctance to issue a permit to cut down one tree.

Supervisor Gilbert said he was wondering if a removal of a specimen tree would require an administrative permit and Ms. Miller said that it was required in the 2010 law.

Ms. Miller also stated that there also is some controversy surrounding buffers. One of the important functions of trees is buffering sound and visual around property lines. The 2010 law had an "absolutely baroque" system of buffers that was totally removed in 2016. Draft 2 requires a 5-foot buffer for property less than one acre since those houses are closer together and the function of tree buffering is more important. She believes the Tree Commission favors a different system of buffering. She concluded her summary of the comparisons between the law and the draft.

Mr. John Tegeder, Director of Planning, began by saying that pursuant to the comments from Ms. Miller, he does not see where for a homeowner that Draft 2 is particularly easier or the standards

for approval lessened. He cited in the Draft where it speaks to the administrative permits being handled by the Town Engineer regarding mitigation and land conversion. Land conversion by definition is 1,000 square feet. The Draft states any application for a land conversion or for the removal of 30% or more of woodland, the Town Engineer *shall* require the applicant to submit a mitigation plan – this does not lessen the standards for the approval or standards for mitigation. It is still 30%; it is still land conversion of 1,000 square feet. He detailed how this would relate to types of woodland mitigation. The wording is problematic in the enforcement and interpretation of the Draft. The wording leaves too much room for interpretation.

Supervisor Gilbert said that the ultimate goal for the Town Board is to come up with a law that is easy to understand.

Mr. Tegeder stated that once something is left open interpretation, it become open for argument it can be manipulated unfairly to different groups. If you have one person doing the administration, they can be manipulating those grey areas so that it may be unfair to different applicants. He believes this should be eliminated.

Councilwoman Roker said that back in 2010, Bill Kellner – Tree Commission, reduced sections of the law down to a one-page flow chart that helped the applicant to decide if they needed to come in for a permit. Mr. Kellner said that something similar (a decision tree) could be put together for the proposed law.

Mr. Tegeder said the mitigation section of the Draft starts with one-to-one mitigation as it relates to DBH (diameter at breast height). For example, a 30-inch tree could require up to 140 trees of 2.5-inch diameter to satisfy the DBH. On a large commercial project, it becomes difficult to imagine how to mitigate that many trees on one piece of property. However, the concept while easy to understand mathematically, is then switched to mitigating mostly the function of what these woodlands do, the planting of these trees does not mitigate that function.

Councilwoman Roker asked Mr. Tegeder what the Boards are now doing that works. He replied that they are doing offsite mitigation, deer fencing, invasive species removal, etc. – none of which are really in the old or the new law that was clear. As Boards, they try to find real, supportable, and achievable types of mitigation.

Mr. Tegeder questioned the 30% removal of woodland and asked what math was used to determine the 30%. Was it the area of the woodland, the area of the property, or was it using 30% of the DBH that is being lost? He stated that this also speaks to where the risk if run of being unfair to the applicant.

Councilman Patel said that flexibility needs to be addressed and is the law to be a more liberal one? Mr. Tegeder said that one-to-one mitigation make a little more sense when addressing wetlands because you are talking about per square foot which is sometimes achievable; sometimes not. But this does not necessarily work for tree removal/replacement due to the differences in sizes, different maturities, etc.

Mr. Richard Fon, Chairman of the Planning Board, thanked the Board for having them to this meeting. He said that it is important for this law to be fleshed out. He suggested creating a committee to work solely on this law. Mr. Fon said the law will only be as good as its enforcement. He suggested that the Town hire arborists to be able to do this. Mr. Fon said that the Planning Board is concerned about the small, individual property owners regarding the proposed law.

Mr. Bill Kellner, Tree Conservation Advisory Commission, reiterated what Mr. Fon said and addressed the following issues:

- His Commission is disheartened at the removal of the specimen tree section in Draft 2. They were unanimous in approving the provision for specimen trees in the 2010 law, and they would like to see it added back in to the Draft. Most towns have specimen tree provisions. A specimen tree is designated by size (Yorktown's is currently 24 inches). Keith Schepart, member of TCAC and arborist spoke: Beyond the biological benefits of a particular sized tree are the aesthetics of an area. He likened the specimen trees to the "senior citizens" of an area. They also provide a gene pool for future trees. Bigger trees

add character to a town. Mr. Schepart concluded by saying you cannot have a tree ordinance without a specimen tree provision.

- Mr. Kellner reiterated the need for fair and full enforcement of the law.
- The ABY proposal would reinstate the applicability to Town-owned property which the TCAC is in agreement.
- The TCAC sees the importance of the woodland concept but also understands Mr. Tegeder's comments about it needing more explanation/definition – he feel this is not straightforward enough. Regarding the section of the Draft (page 12) about DBH and mitigation – the approving authority may require more than one-to-one replacement; onsite replacement may not work.

Mr. Dale Saltzman, Tree Conservation Advisory Commission, stated that mitigation is what the Town has been currently living with. When he sees the large trees that were taken down on the Lowe's property, he questions where the proper mitigation is. He said that all of the Town's forest management plans need invasive removal. In lieu of one-to-one planting, we need to look at how we can mitigate in other areas. He believes that this Draft has very involved thinking but to balance this for the homeowner is difficult.

Mrs. Phyllis Bock, Conservation Board, stated that the Conservation Board were split: three were for allowing the 2016 law to stand and three were for making a new tree ordinance stronger. She referred to the Conservation Boards comments to the 2016 law: the 2010 law was crafted to consider the benefit of individual trees and the entirety of the forested landscape of Yorktown. Their comments acknowledged that there were some issues with the 2010 law but it was comprehensive and substantive in seeking to consider the forested entire landscape and not merely individual trees in homeowners' backyards. They felt that the 2016 law gutted the original intent of the 2010 law and replaced it with a much weaker law that did not "preserve, protect, conserve and regulate the forest, woodlands, and trees and benefits derived therefrom." She stated that the Draft must protect the entire forest and one that will be workable and useful to the Town.

Mr. J. Patrick Francois, Conservation Board, stated that mitigation is always on their minds as Board members and said that incursion into a wetland should be mitigated with something to replace that function. He said he noticed places that could use mitigation, not necessarily one-to-one, but possibly include surfaces that are more pervious in nature. He suggested that a committee could be created to locate "mitigatable" surfaces. Bill Kellner stated that this is in the law.

Mr. Peter Alduino, Conservation Board, commented on specimen trees and how they add to the visual impact of an area. He cited the removal of specimen trees from the Murphy property that were recently removed and how it negatively changed the landscape. He questioned Mr. Tegeder's math on the one-to-one replacement number he spoke of earlier – Mr. Alduino said they would not be requiring a homeowner to plant that many saplings in order to take down one tree.

Mr. Robert Puff, Conservation Board, thanked the Board for holding the meeting. He wished the meeting had been sooner. It is a delicate balancing act between enjoying the Town and the rights of the homeowner. His fear is how, as we try to develop this law, we may get too caught up in the details. He questioned what has changed in the last few years that has made the 2016 law ineffective. It seems that the Board is in agreement that the language in the Draft is too restrictive for the homeowner. Mitigation may become too burdensome for the homeowner. Mr. Puff does not feel that the current law is obsolete. He spoke about how his generation is moving into multi-family housing, as is evidenced by projects that are currently being proposed in the Town. We have to think about what the town will look like generations from now. Mitigation should complement the other laws that exist and this Draft does not take this into account. Mr. Puff cited a NYC DEP comment – do we define what is needed when mitigating – what size tree, what species, is the species available? He said that possibly one thing that should be looked at more closely are storm trees and their removal. As far as the Murphy project is concerned, Mr. Puff said that more time is needed for mitigation to take place.

Councilman Lachterman said that the Town Board has heard from many people regarding the Murphy project and he happened to have their mitigation and landscaping plan with him. They are planting 83 trees, 206 shrubs and bushes, and 650 other plantings. Of the 83 trees, 35 of them are between 3" and 4" caliper. He said a construction zone cannot be pointed out as the problem because that is no progress. Just because you cannot see mitigation, does not mean that it is not taking place.

Supervisor Gilbert stated that it is important to hammer out the best law that the Board can. We must preserve with progress. To choose one over the other is a problem.

Ms. Diane Dreier, Conservation Board, stated that she felt the 2010 Tree Ordinance was very complicated. In 2016, it was stripped and simplified. The 2016 law needs to be reinforced with positive elements. Ms. Dreier supported Mr. Fon's suggestion of the formation of a committee to work on the law.

Supervisor Gilbert said the 2010 law was too onerous, which was why it was revised in 2016. The 2016 law has been determined not to be strong enough and a balance needs to be struck.

Mr. Puff recommended a date be set to review the 2016 law to see if it is working. He also suggested that the law have a "sunset" provision built in so that in however many years down the road, the law be reviewed to see how it is working.

Councilwoman Roker said the wetlands law was revised numerous times. A lot has changed over the years. Mrs. Bock cited the many storms we have experienced in recent years. These changes contribute to a review of the law.

Mr. William LaScala, Planning Board, said that this Draft was written with an agenda which is erroneous to the homeowner. People move here to enjoy their property and why can we not eliminate the law (i.e., requirements) for the small homeowner of less than one acre? It may also be a burden on the commercial developer – it stifles demographics. He asked what a specimen tree is, because a specimen tree is not necessarily of value to the homeowner but a burden. The proposed law is a burden on the homeowner because his neighbor can object to his plans. A neighbor should not be able to dictate what a homeowner wants to do on his/her property.

Mr. John Kincart, Planning Board, said that it is important to note that many members of the Planning Board have also served on the Conservation Board. One of the items the first Draft talked about was how removing trees would diminish the value of an area or the view of a neighbor; he cautioned that this is a slippery slope from which the Town should stay away. Who would determine this? He likes the idea of specimen tree preservation especially if it is located in a place where many can enjoy it. Mr. Kincart said he would like to see some wording in the law that promotes the value of trees (suggested a pamphlet given out when someone comes in for a permit). He said that if you cannot enforce the law, it becomes useless. He held up a Yorktown map which showed the amount of watershed, town, county and state-owned property comprising of at least one-third of the Town, if not more. Invasive species on these properties is terrible and this is what should be controlled and maintained. We have thousands of acres that need to be addressed. Councilwoman Roker asked Mr. Kincart if he would consider this a mitigation purpose and he said absolutely. Mr. Kincart said we should not be worrying about mitigating the small lots that exist in Town and look at the larger spaces. We do not want to restrict personal property rights. We should be making things function the way they should be functioning.

Mr. Rob Garrigan, Planning Board, said he agrees that there is an undue burden being placed on the property owner. He believes that the 2016 law is perfectly fine – do we know if it has not worked since then? What is wrong with the current law and what has gone awry?

Councilman Diana said that we cannot forget the past March storms and the number of trees that came down. Many of those trees were our neighbors' dead, dying or poorly maintained trees. We all know the cost of taking those trees down.

Ms. Bock first referred Mr. Kincart to a state group that helps with invasive species (PRISM). Councilwoman Roker asked Phyllis Bock, who has been around since the last law, if she has seen what may not be working. She then said that when the 2016 was written, they were concerned that so much was taken out of the 2010 law to make the 2016 law weaker. She would like to see a stronger law that brings back some of the intent of the 2010 law.

She said she did not see much mitigation and asked about the Lowe's mitigation plan; she does not remember seeing a planting plan for them. Councilwoman Roker asked if the Conservation Board signed off on any of their plans. Ms. Bock said they would have to go back to look. Mr. Tegeder said Lowe's will be planting upwards of about 400 trees. Ms. Bock said that the frequency of storms lately requires something to hold the soil in place and that would be trees.

Supervisor Gilbert said we have to maintain a balance between progress and preservation. Saying no to everything causes a loss of credibility. We cannot lose our credibility – we need to take into account individual homeowner rights. We need to hold developers accountable with mitigation, regardless of what type it is and a balance needs to be maintained.

Mr. LaScala said that in reviewing the draft, it addressed only live trees. It should also address dead trees. He cited an instance of asking a property owner to take down one dead tree, being refused, and the same property owner eventually lost at least 7 white pines because he refused to remove the one dead one. Something like this should be enforced.

Mr. Kellner said that the 2010 law and the proposed Draft distinguishes between administrative (for smaller homeowners) and non-administrative permits (for larger developments). The 2016 law makes no such distinction. That is why he felt it was important for that to be part of the proposed Draft.

Mr. Fon said that everyone on these boards and state and county agencies looked at the Lowe's project – it took 3 years to gather comments. Everyone had an opportunity to look at the plans. Mitigation involves more than just trees; he cited storm water management.

Mr. Paul Moskowitz, Open Space Committee, raised the issue of buffers. For 15 years the committee has been evaluating pieces of land for acquisition by the Town or other agencies. A piece of property has to meet many criteria for a property to be considered. One of the criteria, which is subjective, is the look and feel of the open space and one thing that adds to this is the presence of trees. This is also an important aesthetic for the major crossroads and gateways to the town. He used the Murphy property construction as an example. A line of trees existed between structures and does not know why they were removed – they could have been preserved. That line of trees was a buffer between Route 118 and whatever they are going to build there. This kind of buffer is also what needs to be preserved – it improves the visual aspect of the town and draws people here.

Councilwoman Roker asked Bill Kellner if the Tree Conservation Advisory Committee received a referral for the Murphy project. Mr. Kellner stated that, to the best of his recollection, they did not receive a referral.

Mrs. Bock said the Conservation Board did not receive one either. Mr. Kellner said the current law says “may” refer; the current proposed Draft says “shall” refer. Supervisor Gilbert stated that during his 12 years on the Conservation Board, a project like Murphy's definitely would have been referred to the Conservation Board.

Mr. Moskowitz said that on the permit for that project, where it asks which trees are to be removed, it just stated TBD – maybe there was a more updated permit but there was no specification. The current proposed Draft calls for a listing of those protected trees (8 inches in diameter or larger).

PROPOSED SOLAR ENERGY LAW

Supervisor Gilbert stated that this proposed law has implications and ramification for the tree law.

Mr. John Tegeder, Director of Planning, said the Town has, in the last year or so, fielded a number of inquiries from developers of solar farms for a number of pieces of properties (owners involved). One of them, in particular, is doing a lot of research and due diligence in preparation of the proposed law. Solar farms and arrays come with a whole host of issues that have to paid attention to so a law was drafted requiring a permit for such uses on individual properties (rooftops – energy produced is sold back to the grid) and commercial properties.

Rooftop panels can reduce your energy costs and an administrative permit by building department similar to renovation permit would be required. The proposed law also allows for larger scale solar farms that sell electricity, which is allowed in both residential and commercial zones. He feels they would be more palatable in residential zones; he feels it would not add to the visual aspect of commercial areas. The proposed law would allow a commercial building to put up panels as an accessory to a main use in commercial zones. In residential areas it would be a main use.

The proposed law includes a special permit that provides for screening regarding visual impact, provides for setbacks, etc. The law was drawn from other laws in New York State, such as Orange County, which has several of these projects under construction. There is one project in Clarkstown, where they are trying to get a site visit for the Planning Board. He stressed that this is a raw draft and is seeking suggestions. The property that is currently being looked at is about 22 acres that at one time was considered for a housing development. At that time, many trees were removed. This project is limited to much less than the 22 acres.

Supervisor Gilbert said the issue he sees going hand in hand with the tree law is how many trees may be taken down for these farms but feels that Mr. Tegeder addressed this when he said that tree cutting may be less than what is allowed for the development of homes. He also said that part of the law is the decommissioning of the farm when in 20-25 years the technology is not there or is no longer profitable; this type of uses does not necessarily remove all the trees or the environmental attributes of a piece of property and put it prevents it from being the typical urban sprawl that can go on for many years beyond the 20-25 years the farm is in use. It does seem to forestall some of the typical negative impacts of housing sprawl.

Supervisor Gilbert said that bonding for decommissioning would need to be considered and the larger solar projects would require mitigation for any tree removal.

Mr. Richard Fon, Planning Board, said that this is very new to the Board and would like to do a site visit (which Mr. Tegeder is working on). There is really nothing around here to compare it to. Councilwoman Roker asked if his board reviewed the site plan for the Yeshiva solar panels. Mr. Fon stated yes, but this current applicant is proposing a much larger project with different components. He suggested that perhaps all the boards should do a site visit.

Ms. Kathy Haake, Clean Energy Collective (applicant), said that a recent intergovernmental panel on climate change stated that something more needs to be done that is more than just preservation of trees. Their hope is that they would like to see solar panels as part of our everyday existence. She understands that mitigation is part of the process. One of the benefits of having their proposed project right next to the school is that it would present an educational experience for the students and that this is a future power plant. As far as impervious cover – the solar panels go in on a post; the only other impervious cover is the electrical panel. Clean Energy will manage the storm water and will provide a storm water management plan. The carbon that is eliminated by using solar panels reduces more carbon than the absorption of the trees that they replace. Decommissioning plan will be used and Clean Energy would remove the panels and the property would then be available for new use.

Councilman Patel asked about the efficiency of the solar cell.

Mr. John Miller, Clean Energy Collective, said that the solar panel itself is about 19% efficient. The power from the panels goes to an inverter, which is about 98% efficient. Each component has its own efficiency.

Supervisor Gilbert asked Mr. Tegeder about the tax ramifications.

Mr. Tegeder said they are exempt from regular property taxes. They must do a PILOT to get this exemption. What is notable is that the financial impact to the town is very low. The applicant will require very little services and will train the local fire department. They install a pollinator mix that is friendly to bees and insects.

Supervisor Gilbert asked if the Town could be able to benefit from the offtake the group receives and was told yes, that can be discussed.

Councilwoman Roker asked where the lion's share of their projects are being done. Mr. Miller said that Massachusetts has many projects. Local law adoptions move these projects forward and, therefore, increases the number of projects.

Supervisor Gilbert remarked that he sees a benefit of these projects in that it is a passive use of the land.

Mr. Tegeder asked Mr. Miller if it makes a sound and he said that the inverter makes a slight hum, similar to a transformer. His company uses fixed tilt panels. The designs are done to the wind standards of the region. The top height of the panels will be between 9 to 12 feet high and they will be about 2–2.5 feet off the ground.

Supervisor Gilbert asked Mr. Tegeder if this would be under the auspices of the Building or the Engineering Department. Mr. Tegeder said that the solar panel would most likely be considered a structure by the Building Department and would only look at this after the approving approves the project.

Mr. Miller said that the major electrical equipment will be inside the fence and other structures would be 40-60 feet into the site.

Mr. Saltzman expressed his pleasure at even having this conversation at the Town Board.

Mr. Bill Kellner stated that the Tree Conservation Advisory Commission is in favor of the proposed law. He would like to see the new tree law state that whatever tree law is in effect at the time, it says that Chapter 270 of the code be followed. Mitigation should also be in the law and tree removal permits are needed. As far as decommissioning the solar farm; the current law says to reestablish what was there before; however the Town may want to ask for mitigation in another area such as re-establishing a grassland area, or planting a brown area. Mr. Kellner would like the Town to have flexibility regarding mitigation. He wanted to know if portable solar arrays that can be bought and set up on your property would be covered by the new law.

Mr. Brian Carroll, resident, told the Board that the investment tax credit of 30% dollar for dollar reduction is sunsetting at the end of 2018 and will then reduce thereafter. If the law is going to be effective in this regard, it should be done sooner rather than later. Several towns in Westchester have done something called “Solarize” which is a program that holds workshops that focus on the legality of allowing solar development in a community. Some towns have had long-term commitments to buy renewable sources from a solar array and thinks it is worth looking into. Solar panels are real in New York State. The second largest manufacturing plant, Tesla Automotive, is in Buffalo, NY. They are going to make solar panels and solar roof tiles. It is in our own state and it is in our interest to make it happen here, as well.

Mr. LaScala said that while he applauds the homeowner who wants to erect solar panels, he questions the monetary motivation for the solar farm. Tax grants cost taxpayers. Carbon credits are purchased by the parent companies of these farms and can then be used for purposes not environmentally friendly. The solar companies themselves state that reduced energy bills are not guaranteed.

Mr. Miller said that his company does not sell carbon credits – the state retains them. In effect, they give back the money to build the panels.

Supervisor Gilbert said the Board is not here tonight to debate nor are they concerned how their money is made. The purpose tonight is to gather information so that a law can be drafted and public hearings scheduled.

Mr. J. Patrick Francois, Conservation Board, said that these arrays have a life span of about 25 years and then the company will be responsible for removing them. Would this be bonded? The Town should look for open space that is not buildable that would be suitable for these arrays.

Councilman Lachterman said the technology for this is evolving. As the effectiveness increases, are there plans with a project like this to change out the old and install the new?

Mr. Miller said they will not be able to make the project bigger later on because they are bound by what the utility companies allow them to do. The panels have a 30-year warranty – between years 12 and 17 they will probably replace the inverters (which may be more efficient at that time). At the end of the term of the project (25 years as dictated by the utility companies) or if there is a reason they cannot produce power, that is when decommissioning comes into play.

Supervisor Gilbert thanked everyone for their comments and for providing information. He said the Town Board would meet again at a work session for further discussion.

ADJOURN

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

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