

Meeting of the Town Board, Town of Yorktown held on Tuesday, February 19, 2019 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

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

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

#### TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

#### EXECUTIVE SESSION

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

#### PLEDGE OF ALLEGIANCE

Supervisor Gilbert led the Pledge of Allegiance.

#### MOMENT OF SILENCE

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

#### REPORT FROM THE SUPERVISOR

Supervisor Gilbert said he met with Senator Harckham to advocate for New York State to compensate Yorktown and similarly situated communities that have State park properties but do not currently receive taxes or other payments for those facilities. Other communities throughout New York State do receive such payments. Senator Harckham said that he has introduced a bill to correct this and it has been referred to the Local Government Committee. It is expected the Committee will vote on it at its next meeting and it will still have to go to the Finance Committee and then to the floor of the Senate for a vote. Supervisor Gilbert is working with Senator Harckham to have the bill also sponsored in the Assembly.

Supervisor Gilbert attended meetings with Town of Cortlandt's Supervisor Linda Pugliese and other supervisors in surrounding communities to discuss common issues facing our towns.

At a recent meeting of the Northern Westchester Joint Water Works, Supervisor Gilbert raised the issue of who is responsible for waterlines that serve both Yorktown and Somers. Up until now, Yorktown has been responsible for the costs of maintaining the lines. The issue was also discussed with the Supervisor of Somers. This was in response to a water main break over the holidays that Yorktown responded to which serves both communities. The Joint Water Works agreed to study the issue and present its findings to its members.

Supervisor Gilbert attended the Arrow of Light ceremony for the first all-girl den of the Cub Scouts of the Boy Scouts of America – Pack 164. He has also continued his conversations and meetings with Enbridge to discuss the progress of their project. It appears that Enbridge will be actively working in Yorktown through at least June of this year.

Supervisor Gilbert attended the Rotary-sponsored Valentine's Day lunch for seniors at the Nutrition Center. He also attended the most recent Senior Advisory Committee meeting who had presentations by a local cardiologist, Police Chief Noble, and Assemblyman Kevin Byrne. He also attended a 100<sup>th</sup> birthday celebration for Yorktown resident George Personick and also attended the Mohegan Fire Department Annual Awards Dinner.

Supervisor Gilbert said he was present at a ceremony at the Albert A. Capellini Community & Cultural Center where a check for \$65,000 was presented by the Field Hall Foundation for the purchase of a senior bus and a food-serving table for use in the Senior Center. He thanked all of the staff that worked with his office in acquiring this grant.

Supervisor Gilbert announced there will be an Indian Point Full Volume Siren Test Wednesday, Feb 20th at 10:30 am in Westchester, Rockland, Putnam and Orange Counties. This sounding is only a test. If there were an emergency at the nuclear power plant, the sirens would be sounded continuously at full volume for 4 minutes, followed by an activation of the Emergency Alert System (EAS) on radio and television stations to broadcast important information and instructions. The sirens are not a signal to evacuate, rather they are intended to alert the public to tune to this or another EAS radio or TV station for important information. The siren sounding is only a test. No action by the public is necessary.

Supervisor Gilbert expressed his thanks to Perry Gusikoff of Yorktown Auto Body for his volunteering to make his facility available to the Yorktown School District and the Baumann Bus Company after Baumann's building suffered a fire. He commended Mr. Gusikoff for making our Town special through his selfless act of helping a neighbor.

DURING REPORTS FROM THE TOWN COUNCIL

Councilman Diana acknowledged that the traffic lights on Route 202 are cycling differently. Breslin/Lowe's said that this will be rectified within 48 hours. They are also going to re-stripe the roadway so that it is clearly delineated for people going east and west on Route 202.

Councilwoman Roker stated that next week Police Officer Jason Swart, Public Safety Officer, will talk about the various issues the Town has on its roadways and how long it will take to address these issues.

Councilman Patel attended the Association of Towns meeting in New York City. He said it was very informative regarding water in New York State, both on a local and county level. He attended a Freedom of Information workshop, and listened to discussions regarding the opioid crisis on a national level.

Councilman Lachterman said he attended a Sons of the American Legion breakfast which benefitted veterans services. There will also be a Saint Patrick's Day corned beef and cabbage lunch on March 17<sup>th</sup>. Councilman Lachterman thanked the Water Department for the work they did on a recent water main break. He reminded everyone that on Sunday, March 3<sup>rd</sup> from 12 noon to 3:00 pm, the Alliance for Safe Kids will have their Save-A-Life Event which is a recognition of mental health issues. This is an event that is for all ages.

APPROVE PROMOTION OF JASON SWART TO DETECTIVE – YORKTOWN POLICE DEPARTMENT

RESOLUTION #56

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

Resolved, that effective February 25, 2019 Police Officer Jason Swart is hereby assigned, at the discretion of the Chief of Police, as Detective in the Yorktown Police Department at an annual salary of \$121,569.00

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

APPOINTMENT OF AARON BOCK TO PLANNING BOARD

RESOLUTION #57

Upon motion made by Supervisor Gilbert, seconded by Councilwoman Roker,

Be It Resolved, that Aaron Bock is appointed as a member of the Planning Board for a five-year term to expire on December 31, 2023.

Councilman Lachterman raised the issue of why the alternate member of the Planning Board was not brought into the position. Councilwoman Roker suggested to Councilman Lachterman that he seek to add this to the code if he wishes to change how the board does appointments to volunteer boards.

Supervisor Gilbert said he was confident that Mr. Bock will serve well in this position. Councilman Diana said he felt a pecking order was not being followed.

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

POET LAUREATE - John McMullen read an original essay in honor of Black History Month regarding segregation in the military.

DURING COURTESY OF THE FLOOR

The following members of the public spoke:

Mrs. Maura Gregory, resident, spoke in response to the February 2, 2019 comments on the Reproductive Healthcare Act. She questions whether Town Hall is the place for this discussion since no action can be taken by the Town Board on the RHA. Ms. Gregory stated that the board room is becoming a place for political platforms and if the Town Board is going to entertain this issue, then all issues of importance to the residents should be discussed and resolutions voted upon.

Ms. Regina Reilly, resident, is not in favor the RHA and wants a resolution passed.

Ms. Celeste Theis, a representative for Choice Matters, presented the Board with a fact sheet about the RHA, of which she is in favor.

Mr. Tom Gmuer, resident, stated that there is a lack of transparency regarding the RHA. The process of this law was very troubling to him, and he said there should have been more time and information on this bill.

Ms. Marueen Hurson, resident, read an article she wrote regarding the philosophical correlation between the thought process and the beginning of life.

Mr. Kevin Murphy, resident, stated that the Town Board is the first line of representation for residents to be able to express their views. If a resident disagrees with a law that is passed, they have the right to voice their opinion.

Ms. Joyce Parin, resident asked the Town Board of the possibility for a new location for a free library box where people can donate and borrow books without having to go to the J.C. Hart memorial Library in Shrub Oak. The Town Board said they would look into it.

Ms. Rosalind Klibin Weis, resident, read a letter she wrote to the editor of the Yorktown News. Ms. Klibin Weis does not believe the RHA is an issue for the Town Board.

Mrs. Sherry Hughes, resident, also does not understand why the RHA is before a local board.

Mr. Michael Grace, resident, debated the New York State definition of a person vs. fetus. The RHA does allow for the termination of a life that was once determined to be a person worthy of governmental protection and would like a resolution passed by the Town Board voicing its opposition.

Ms. Barbara Gunther, resident, voiced her opposition of the RHA and stated that it is a responsibility and a choice to have children. She believes the Board should pass a resolution. She is against the legalization of marijuana and believes it to be a gateway drug.

Mr. John Mark, resident, is against the RHA believes it is part of a larger issue in the country – rising socialism (citing Russia and Germany as early proponents of abortion. He believes that legalized suicide and euthanasia are next on a socialist agenda in this country.

Mr. William Grace, resident, said that people should be thinking of this issue in a more philosophical manner and thinks the Board should take a position on this. He spoke that this is a form of violence that will only beget more violence.

Mr. Mike San Marco, resident, spoke about an article in the Yorktown News written by the co-chair of Democratic Party. He said it was a smear, and full of innuendo and rumors against former supervisor, Michael Grace. He said this is a reason why good people do not come forward to run for public service. Mr. San Marco also mentioned a lack of progress in the improvement of the downtown business district.

Ms. Maria Litrenta, resident and co-coordinator Respect for Life group of St. Patrick's Church spoke of the fear of an unplanned pregnancy and how her organization had resources to help these women. Catholic Charities is one of the biggest organizations who helps mothers.

Mr. Jim Pugliese, resident and vice president of the Yorktown Athletic Club, asked about the status of Legacy Field being closed past June since Enbridge will still be working through June, as well as the status of Granite Knolls. Mr. Pugliese thanked the Board for the time they put in on these issues.

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

Supervisor Gilbert responded to Mr. Pugliese and told him he probably should not count on anything until after June.

Councilman Lachterman stated that the Board feels there is a purpose for medical marijuana. He spoke about medical testing not always being correct – false-positives do exist (this is relative to prenatal testing). Councilman Lachterman said his problem with what the state has done is the redefinition of life.

Councilman Diana agreed with Councilman Lachterman. We can let our elected representatives know how we feel and to say this is not what we want in Yorktown – whether it is the issue of abortion or marijuana. He went on to explain his position of the problems associated with legalizing marijuana and that he Board will work locally on zoning out dispensaries.

Councilman Patel talked about how the RHA is outside of the Town Board's jurisdiction and is an individual decision. People come to this country to be able to make their own choices.

AUTHORIZE GENERAL FUND TRANSFER FOR ROOF REPAIRS TO TOWN BUILDINGS  
RESOLUTION #58

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

RESOLVED, the Town Comptroller is hereby authorized to transfer \$1,063,207 from the General Fund Fund Balance to the Town Buildings Capital Project for roof repairs to the Yorktown Police Department, the Yorktown Justice Court, and Yorktown Town Hall.

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

APPOINT INTERMEDIATE CLERK TO THE MUSEUM - HELEN LYNCH  
RESOLUTION #59

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

BE IT RESOLVED, that Helen M. Lynch is hereby appointed to Intermediate Clerk – PT, job code #0187-02 within the Museum, is to be paid \$15.00 per hour, working 17 hours per week and shall be eligible for sick leave, personal leave, holidays, bereavement leave, and vacation pro-rated in accordance with the CSEA agreement.

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

PROMOTION TO MAINTENANCE MECHANIC (MASON) - CHRISTOPHER MORAN  
RESOLUTION #60

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

BE IT RESOLVED, that Christopher Moran is hereby promoted to Maintenance Mechanic (Mason), job code #0466-02 within the Building Maintenance Department effective February 25, 2019 to be paid from Yorktown CSEA Salary Grade 11, A, Step 1 which is \$57,692.00 annually, and be it

FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 months nor more than 52 weeks, commencing on the first date of appointment on February 25, 2019.

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

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME AS OF  
RETIREMENT DATE – EILEEN SPADAFINO  
RESOLUTION #61

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

BE IT RESOLVED that the Town Board hereby authorizes the Town Comptroller to pay Eileen Spadafino the cash value of unused time as of retirement date:

Rate of Pay:	\$35.1182		
Sick Time	725.50 hours x 50% = 362.75		
	362.75 hours x \$35.1182	=	\$12,739.13
Vacation	147.00 hours x \$35.1182	=	\$ 5,162.38
Personal Days	21.00 hours x \$35.1182	=	\$ 737.48
Floating Holiday	14.00 hours x \$35.1182	=	\$ 491.65
Longevity			
	\$1,300 / 261 days = \$4.98 per day		
	7/2/18 to 2/1/19 = 155 days		
	155 days x 4.98	=	\$ 771.90
		Total	\$19,902.54

BE IT FURTHER RESOLVED, that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:		
A909.8	Fund Reserve for Employee Accrued Benefits	\$12,739.13
A3120.101	Police Salary – Non-Uniform	\$ 6,391.51
A3120.106	Police Longevity	\$ 771.90
To:		
A3120.108	Police Lump Sum Payments	\$19,902.54

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

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME AS OF  
RETIREMENT DATE – BRADLEY SHEPPARD  
RESOLUTION #62

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

BE IT RESOLVED, that the Town Board hereby authorizes the Town Comptroller to pay Bradley Sheppard the cash value of unused time as of his retirement date:

Rate of Pay:	\$40.3367
Sick Time	1024.42 hours x 50% = 512.21

	512.21 hours x \$40.3367	=	\$20,660.86
Vacation	165.00 hours x \$40.3367	=	\$ 6,655.56
Personal Days	7.5 hours x \$40.3367	=	\$ 302.53
Floating Holiday	15.00 hours x \$40.3367	=	\$ 605.05
Longevity			
	\$1,600 / 261 days = \$6.13 per day		
	11/30/18 to 01/30/19 = 44 days		
	44 days x \$6.13	=	\$ 269.72
	<b>Total</b>		<b>\$28,493.72</b>

BE IT FURTHER RESOLVED, that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:		
D909.8	Highway Fund Reserve for Employee Accrued Benefits Salary	\$20,660.86
D5140.101	Highway Salary	\$ 7,563.14
D5140.106	Highway Longevity	\$ 269.72
To:		
D5140.108	Highway Lump Sum Payments	\$28,493.72

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

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME AS OF RETIREMENT DATE – GEORGE DAVIS  
RESOLUTION #63

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

BE IT RESOLVED, that the Town Board hereby authorizes the Town Comptroller to pay George Davis the cash value of unused time as of his retirement date:

Rate of Pay:	\$58.2227		
Vacation	200.00 hours x \$58.2227	=	\$11,644.54
Personal Days	8.00 hours x \$58.2227	=	\$ 465.78
Comp Time	11.79 hours x \$58.2227	=	\$ 686.45
Holiday Pay	14.08 hours x \$58.2227	=	\$ 819.78
Veterans Days	16.00 hours x \$58.2227	=	\$ 931.56
Longevity			
	\$2,175 / 261 days = \$8.33 per day		
	9/18/18 to 01/30/19 = 101 days		
	101 days x \$8.33	=	\$ 841.33
	<b>Total</b>		<b>\$15,389.44</b>

BE IT FURTHER RESOLVED, that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:	
A3120.102	Salary – Uniform \$15,389.44
To:	
A3120.108	Police Lump Sum Payments \$15,389.44

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

AUTHORIZE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER – REFUSE AND RECYCLING DEPARTMENT  
RESOLUTION #64

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

BE IT RESOLVED, that the Comptroller is hereby authorized to process the following budget transfer to process payment to Westchester County Refuse for December Tipping Fees:

From:  
SR.8130.425    Outside Contractor    \$11,316.61  
To:  
SR8160.450    Dumping Fees                    \$11,316.61

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

AUTHORIZE COMPTROLLER TO TRANSFER \$28,061.00 FROM THE LIBRARY FUND BALANCE TO LIBRARY MAINTENANCE LINE  
RESOLUTION #65

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

RESOLVED, that the Town Comptroller is authorized to transfer \$ 28,061.00 from the Library Fund Balance to Library Maintenance (L.7410.416) for the installation of a metal wall panel system and additional waterproofing.

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

AUTHORIZE SUPERVISOR TO SIGN A NYS DIVISION OF CRIMINAL JUSTICE CONTRACT AWARD/PROJECT NO. LG18-1658-D00 TO UPDATE PRIMARY VENDOR CONTACT  
RESOLUTION #66

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

RESOLVED, that the Town Supervisor is authorized to sign the forms entitled Update Vendor Default Address and Update or Replace the Primary Vendor Contact with regard to Award Contract/Project No. LG18-1658-D00, and NYS Division of Criminal Justice PO No. T103669.

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

AUTHORIZE THE YORKTOWN JUSTICE COURT TO SPEND \$5,000 TOWARDS PURCHASE OF 75" DISPLAY UNIT WITH HEAVY PORTABLE CART  
RESOLUTION #67

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

RESOLVED, that the Town Board of the Town of Yorktown hereby authorizes the Yorktown Justice Court to spend Five Thousand (\$5,000.00) Dollars towards the purchase of a 75" display unit with heavy duty portable cart, related equipment expenses and installation and configuration expenses to support the Youth Court Program within the Town of Yorktown Justice Court. When all appropriate fiscal cost reports, receipts and forms are completed and approved, this amount will be reimbursed through the Grant Award Information Sheet, Award Contract/Project No. LG18-1658-D00, and NYS Division of Criminal Justice PO No. T103669.

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

AUTHORIZE COMPTROLLER TO PAY NOR-WEST REGIONAL SPECIAL SERVICES PROGRAM IN THE AMOUNT OF \$38,232.00  
RESOLUTION #68

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

WHEREAS, the services provided are a collective program of special recreational services for developmentally disabled individuals to be known as the NOR-WEST REGIONAL SPECIAL SERVICES PROGRAM,

RESOLVED, the Town Board authorizes the Town Comptroller to pay NOR-WEST REGIONAL SPECIAL SERVICES for 2019 services provided using the Recreation and Parks Department 2019 budget line item A7020.049 for special programs in the amount of \$38,232.00.

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

AUTHORIZE SUPERVISOR TO SIGN AN INTERMUNICIPAL AGREEMENT WITH THE COUNTY OF WESTCHESTER FOR ORGANIC YARD WASTE  
RESOLUTION #69

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

IT IS HEREBY RESOLVED that the Town Authorizes the Supervisor to sign an Intermunicipal Agreement with the County of Westchester for the Organic Yard Waste Transfer Program. The term of the Agreement shall commence on April 1, 2018 and terminate on March 31, 2023. In consideration of the services provided by the County, the Municipality shall pay the County \$17.35 per ton for the period from April 1, 2018 through December 31, 2018. Effective January 1<sup>st</sup> of each year, the Municipality shall pay the County at a rate subject to annual adjustments pursuant to the contract.

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

APPROVE GARBAGE LICENSE FOR OAK RIDGE HAULING, LLC TO SERVICE COMMERCIAL PROPERTIES IN THE TOWN OF YORKTOWN FOR THE YEAR 2019  
RESOLUTION #70

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

RESOLVED, that Oak Ridge Hauling, LLC be and is hereby granted renewal of their Garbage License to service commercial properties in the Town of Yorktown for the year 2019.

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

APPROVE ACCEPTANCE OF BOND FOR FIELDSTONE SUBDIVISION – STRAWBERRY ROAD / FIELDSTONE SUBDIVISION (AKA: LAKE MOHEGAN MANSION) - CATUCCI - STRAWBERRY ROAD  
RESOLUTION #71

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

WHEREAS:

1. Lake Mohegan Mansion, LLC, as applicant, provided the Town with NGM Insurance Company Bond #S319965 in the amount of \$387,226.00, to serve as the Performance Bond for Site Work at the Fieldstone Subdivision site located on Strawberry Road, and
2. Lake Mohegan Mansion, LLC, as applicant, provided the Town with NGM Insurance Company Bond #S319967 in the amount of \$5,000.00, to serve as the Wetland Bond for permit #WP-FSWPPP-085-13, and
3. Lake Mohegan Mansion, LLC, as applicant, provided the Town with NGM Insurance Company Bond #S31966 in the amount of \$20,000.00, to serve as the Erosion Control Bond for permit #WP-FSWPPP-085-13, and
4. Lake Mohegan Mansion, LLC, as applicant, provided the Town with check #000362 in the amount of \$30,978.00, to serve as the required 8% Inspection Fee, and
5. The documentation submitted by the Applicant was referred to the Town Attorney and Town Comptroller for review and acceptance as to form.

NOW THEREFORE BE IT RESOLVED, that the monies required prior to issuance of the Town permits, i.e. payment of non-refundable Engineering Department inspection fees and delivery of the required project performance bond have been satisfied and that the Town Comptroller is authorized to accept the above referenced project bonds and fee.

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

APPROVE RELEASE OF BOND FOR 517 GIORDANO DRIVE IN THE AMOUNT OF \$500 – VASILE  
RESOLUTION #72

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

WHEREAS:

1. Leonardo & Lisa Vasile as applicant posted check #4456 in the amount of \$500 which was deposited to the T33 account on February 28, 2018, to serve as the Performance Bond for construction of a patio at 517 Giordano Drive.
2. Leonardo & Lisa Vasile have requested the bond be released as the site is now complete.
3. The Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released.

NOW, THEREFORE BE IT RESOLVED, the above referenced \$500 bond be and is hereby released to Leonardo & Lisa Vasile, 517 Giordano Drive, Yorktown Heights, NY 10598.

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

REAL PROPERTY ACQUISITION FOR HILL BOULEVARD BRIDGE REPLACEMENT PROJECT  
RESOLUTION #73

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

WHEREAS,

1. The Town of Yorktown is proposing to remove and replace the Hill Boulevard Bridge (BIN 2265539) located in the Town of Yorktown, Westchester County, NY; and
2. The proposed project is a Locally Administered Federal Aid Transportation Project administered by the Town of Yorktown; and
3. As a federally funded project, the project is subject to the provisions of 23 U.S.C.A. §128, which requires, among other things, that prior to the acquisition of real property rights, a public hearing be held, or the opportunity for such be afforded, at which public hearing there is considered factors similar to those enumerated in subdivision (B) of Eminent Domain Procedure Law §204.
4. The proposed project is being progressed by the Town of Yorktown, through the Highway and Engineering Departments, with oversight by the NYSDOT Region 8, in accordance with the requirements of the NYSDOT “Procedures for Locally Administered Federal Aid Projects” manual and other applicable NYSDOT documents; and
5. The Hill Boulevard over Tributary to Barger Brook Project will replace the deteriorated two span CMP culvert with a precast, single span, three-sided concrete frame that spans at least bank-full width of a tributary to Barger Creek; and
6. The Project will improve the structural rating of the bridge, improve its hydraulic capacity, reduce maintenance costs, and extend the life expectancy of the structure; and
7. The proposed project is located at the approximately 250 ± feet south of the intersection of Hill Boulevard and US Route 6 within the Town of Yorktown, Westchester County, New York; and
8. The Town of Yorktown approved the Design Approval Memo for the proposed project in June 11, 2017; and
9. The NYS DOT Region 8 completed a review of the Final Design Report on July 5, 2017, and provided notice to the Town of Yorktown to proceed to detailed design; and
10. The preferred alternative as described in the Final Design Report was approved by the Town of Yorktown on June 11, 2017 and by the NYSDOT on July 5, 2017; and
11. The proposed public project is being progressed as a National Environmental Policy Act (NEPA) Class II action in accordance with 23 CFR 771.117 (c); and
12. The Town of Yorktown is designated as the lead agency for purposes of the New York State Environmental Quality Review Act (hereinafter “SEQR”); and

13. The Town of Yorktown classified the proposed Project as a Type II Action as defined in NYCRR Part 617; and
14. The Town of Yorktown has considered the general effect of the proposed project on the residents of the locality in which the proposed project is to be undertaken; and
15. The Project is subject to compliance with the New York State Eminent Domain Procedure Law (EDPL); and
16. EDPL Article 2 requires the Town of Yorktown to conduct a public hearing to inform the public and to review the public use to be served by the proposed project and the impact on the environment and residents of the locality where the proposed project will be constructed unless such project is exempt from the EDPL Article 2 hearing requirements in accordance with EDPL §206; and
17. EDPL §206 (A) provides that the Town will be exempt from compliance the provisions of Article 2 when pursuant to other state, federal, or local law or regulation it considers and submits factors similar to those enumerated in Article 2, subdivision (B) of section 204, to a state, federal, or local government agency, board, or commission before proceeding with the acquisition and obtains a license, a permit, a certificate of public convenience of necessity, or other similar approval from such agency, board, or commission; and
18. In order to progress to the project through design and acquisition phases, it is necessary for the Town to obtain from the New York State Department of Transportation and FHWA approval that the Town has satisfied the requirements of the NYSDOT “Procedures for Locally Administered Federal Aid Projects” manual and other applicable NYSDOT documents;
19. EDPL §206 (C) provides that the Town will be exempt from compliance with the hearing and determination and findings requirements of EDPL Article 2 when, “pursuant to other law or regulation it undergoes or conducts or offers to conduct prior to an acquisition one or more public hearings upon notice to the public and owners of property to be acquired, and provided further that factors similar to those enumerated in subdivision (B) of section two hundred four herein may be considered at such public hearings”; and
20. In accordance with the requirements of the NYSDOT, the Town of Yorktown conducted a public informational meeting on October 17, 2017, to present information regarding the proposed Project, including the use, benefit and purpose of the project, the approximate location of the project and the reasons for selecting the location, and the general effect of the project on the environment and residents of the locality, and to obtain comments from individuals, groups, officials, and local agencies; and
21. EDPL §206 (D) provides that the Town will be exempt from compliance with the hearing and determination and findings requirements of EDPL Article 2 “when in the opinion of the condemnor the acquisition is de minimis in nature so that the public interest will not be prejudiced by the construction of the project or because of an emergency situation the public interest will be endangered by any delay caused by the public hearing requirement in this article”; and
22. It is anticipated that it will be necessary for the Town of Yorktown to acquire real property right of way interests from one (1) landowner in order to accomplish the Project; and
23. The Project and the nature and extent of such acquisitions of real property rights is such that the public interest will not be prejudiced by the construction of the project;

NOW, THEREFORE BE IT RESOLVED, the Yorktown Town Board has considered all relevant information pertaining to the proposed Project and has determined the project development process implemented by the Town satisfies the requirements of Article 2 of the EDPL, and the proposed project qualifies for exemption from hearing and determination and findings requirements of EDPL Article 2 pursuant to EDPL Section 206 (A), (C) and (D); and it is

FURTHER RESOLVED, the Town Board hereby authorizes and directs the Town Supervisor to take such steps and perform such acts as are necessary for the Town of Yorktown to acquire the real property for the right-of-way acquisition for the Hill Boulevard of Tributary to Barger Creek Project, including acquisition by the right of eminent domain in accordance with the provisions of the New York State Eminent Domain Procedure Law.

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

AUTHORIZE FUNDING FOR HILL BOULEVARD BRIDGE REPLACEMENT PROJECT  
RESOLUTION #74

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

WHEREAS, a project for the Replacement of Hill Boulevard over Tributary to Barger Brook (BIN 2265539) in the Town of Yorktown, Westchester County, PIN. 8761.66 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 95% Federal funds and 5% non-federal funds; and

WHEREAS, the Town of Yorktown will design, let and construct the Project: and

WHEREAS, the Town of Yorktown desires to advance the Project by making a commitment of 100% of the costs of the work for the Project or portions thereof.

NOW, THEREFORE, the Yorktown Town Board, duly convened, does hereby

RESOLVE, that the Yorktown Town Board hereby approves the above-subject Project; and it is hereby further

RESOLVED, that the Yorktown Town Board hereby authorizes the Town of Yorktown to pay 100% of the cost of construction work for the Project or portions thereof, with the understanding that qualified costs may be eligible for federal-aid, state-aid, or reimbursement from Bridge NY funds; and it is further

RESOLVED, that the sum of \$2,401,000 has been appropriated from available Town funds and will be made available to cover the cost of participation in the above phase(s) of the Project and it is further

RESOLVED, that the Yorktown Town Board hereby agrees that the Town of Yorktown shall be responsible for all costs of the Project which exceed the amount of federal-aid, state-aid, or NY Bridge funding awarded to the Town of Yorktown and it is further

RESOLVED, that in the event the Project costs not covered by federal-aid, state-aid, or NY Bridge funding exceed the amount appropriated above, the Town Board of Yorktown shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Supervisor thereof; and it is further

RESOLVED, that the Town of Yorktown hereby agrees that construction of the Project shall begin no later than eighteen (18) months after award plus extensions granted to NYSDOT and the construction phase of the Project shall be completed within thirty-six (36) months; and it is further

RESOLVED, that the Supervisor of the Town of Yorktown be and is hereby authorized to execute on behalf of the Town of Yorktown all necessary agreements, certifications or reimbursement requests for federal-aid and/or state-aid with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Town of Yorktown's funding of Project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

RESOLVED, that in addition to the Supervisor the following municipal titles: Town Attorney, Town Engineer and/or Town Comptroller are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution is filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

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

AUTHORIZE SUPERVISOR TO SIGN AN AMENDED PROFESSIONAL SERVICES AGREEMENT WITH WSP FOR THE HILL BLVD REPLACEMENT BRIDGE REPLACEMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$18,591.00  
RESOLUTION #75

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

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town Supervisor to sign Amendment No. 2 with WSP in the amount not to exceed \$18,591 as an expenditure of capital project HD Hill Blvd Bridge Replacement for legal research and opinion to confirm ownership of the Jefferson Village parcel and complete legal documentation necessary for acquisition of parcel through eminent domain.

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

AUTHORIZE COMPTROLLER TO ISSUE CHECKS FOR RIGHT-OF-WAY LAND ACQUISITIONS FOR VETERANS ROAD CULVERT REPLACEMENT  
RESOLUTION #76

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

NOW, THEREFORE BE IT RESOLVED, the Comptroller is hereby authorized to issue checks as follows:

\$5,700 to Yorktown Indoor Tennis Club Inc  
\$2,100 to Grace Goldberg, Yorktown Heights Land, LLC

Charged to the Veterans Road Culvert Capital Project for right-of-way land acquisitions necessary to proceed with the culvert replacement.

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

AUTHORIZE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER - TEMPORARY GENERATOR RENTAL FOR WASTEWATER TREATMENT FACILITY  
RESOLUTION #77

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

RESOLVED, that the Comptroller is hereby authorized to transfer \$75,000.00 from the Sewer Department (YS) Fund Balance to Sewer Department Rental Equipment (YS.8130.414) for a four (4) month rental of a temporary emergency generator to power the Waste Water Treatment facility.

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

Councilman Lachterman stated that, in reference to Mr. San Marco's comment about the attacks in the newspaper, he feels it is uncalled for and believes the Board feels the same way. He wanted to make sure that there is a distinction between differences of opinion versus lying. Councilwoman Roker said lying means if you accuse someone of something they did not do. Councilman Lachterman said that lying is misstating information you know to be true.

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

WORK SESSION  
SERITAGE JEFFERSON VALLEY MALL – WATER LINE

Mr. Michael Grace, attorney for Seritage, came before the Board to discuss the Town taking over the water loop system at the mall. Supervisor Gilbert asked what has been done in terms of maintenance over the last 40 years and Mr. Grace replied that he will look into the maintenance issue. Supervisor Gilbert said the Health Department told him the loop is out of compliance. Mr. Grace said there are many reasons why the Town should take it over. He said that he needs a Letter

of Intent from the Board to take over the loop and a timeline as to when it will happen. Town Attorney Richard Abbate said the Health Department gave some options: take the loop over, cutting it, abandon the loop and do dead-end runs, or a maintenance agreement. Mr. Abbate will draft a maintenance agreement. Mr. Grace said his client has been paying taxes on this loop and this should be taken into consideration. Mr. Abbate said the loop is privately owned and will continue to be so under a maintenance agreement and the client will continue to pay taxes on it.

Mr. Grace said this is valuable water the Town is paying for and should be part of the Board's responsibility as part of Town's infrastructure. The loop serves more than one lot and serves not only the mall property and it is also a redundancy for all of the neighborhoods that connect to that main both east and west of the mall. Therefore, it serves a public function as well as a private function.

Councilwoman Roker asked why the loop wasn't owned by the Town when it was first constructed and Mr. Grace said he did not know.

Supervisor Gilbert said that from Mr. Grace's perspective and the Board's perspective, they can come to an agreement as to what to do with the loop. He felt they were working in the right direction by looking at a maintenance agreement, working out easements, etc. Mr. Grace said that he feels if the Town does not take over the loop that there could be loss of potential projects at the mall.

Councilwoman Roker said she would like to have Kenny Rundle, Distribution Superintendent – Water Department, brought in on these conversations.

A comparison was made between Lowe's new loop system and the mall. Supervisor Gilbert said they had no problem with a maintenance agreement on Lowe's because it is a brand new system. The mall's system is 40 years old.

Councilman Patel asked Town Engineer Michael Quinn how much it would cost to replace the system. Mr. Quinn said a couple of hundred dollars per foot and there are thousands of feet. Mr. Quinn said anywhere from \$500,000 to \$1 million. Mr. Quinn said there is no benefit to the water district by that loop – it solely benefits the mall property and that is why they offered the option to have the two backflow preventers at the two feeds so that whatever happened inside the site is fine – we do not need the feed through there for our water customers. Mr. Grace said that the Town may one day. Mr. Quinn said there would have to be connections between the two feeds.

#### BRENNAN – SAW MILL RIVER ROAD – #WP-FSWPPP-069-18

Town Engineer Michael Quinn said this project originally came before the Board in 2017 when the owner wanted to dredge the pond and permits were issued. There is also a dam on the property at one end. The property is in a watershed area. The project is in two parts; dredging being the first part which has been completed. The second part it is to make improvements on the dam. It is a privately owned and registered dam under the jurisdiction of the DEC.

Councilman Patel asked how much water volume is in the pond. Project engineer Peter Scott said that there is an active river on the property and has a watershed of seven square miles feeding it. While it only holds about two million gallons of water, the watershed area is so big that it is a conduit versus an area containing water. It was built during the Revolutionary War and became part of a mill operation called Hallocks Mill Brook. It is a Class A dam, low hazard that is in need of repair under a DEC repair requirement. It is failing due to dislodged rocks. They have all of the DEC permits. They were going to build a dam downstream, which was approved by the DEC, but the homeowner wants to retain the historic nature of the dam face. The amended plan is to divert the water to a temporary channel, build the dam, and then upgrade it to meet numerous DEC safety requirements. Upstream will be a large concrete structure, mostly submerged. A public hearing and SEQRA is required. The previously dredged material was used as fill on the site and any material excavated will remain on site. Notice will be given to the police, fire, and engineering department when the concrete pour will begin.

Mr. Quinn said a wetland and storm water permit are required locally. He stated that the plans have been reviewed and the application is complete. The public hearing was set for March 19<sup>th</sup>. This project will also require a referral.

REFERRAL FOR WETLANDS/SWPPP PERMITS – BRENNAN/2200 SAW MILL RIVER ROAD

RESOLUTION #78

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

RESOLVED, the Town Clerk is authorized to refer out the Wetland/Stormwater Pollution Prevention Plan application received from Peder Scott Engineering, P.E., on behalf of Murray Brennan, 2200 Saw Mill River Road, Yorktown Heights, NY 10598 to the agencies listed below. The request is to replace the existing stone dam, excavate a diverting channel and relocate material to a disposal site; repair upstream dam; and to restore the site with closure of diverting the channel and the paving of road; and

NOW, THEREFORE BE IT FURTHER RESOLVED, the Town Board declares its intent to act as Lead Agency and would like your comments and/or recommendations by Wednesday, March 13, 2019.

Agencies: U.S. Army Corps of Engineers  
New York City Department of Environmental Protection  
New York State Department of Environmental Conservation, Region III  
New York State Department of Transportation  
Town of Somers  
Westchester County Planning Board/Department  
Conservation Board  
Highway Department  
Planning Department/Board  
Town Attorney  
Town Engineer  
Tree Conservation Advisory Commission

BE IT FURTHER RESOLVED, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY on the 19<sup>th</sup> day of March, 2019 at 7:30 o'clock PM, or as soon thereafter as the same can be heard to consider the aforementioned Wetland/Stormwater Pollution Prevention Plan application.

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

PROPOSED LEGISLATION REGARDING MARIJUANA

Councilwoman Roker asked if the Town Board knows what the bill actually says. Councilman Lachterman said that supposedly there is no set bill yet. He said that he believes we need to give the Town Attorney time to look at it, as well as review what the Chief of Police presented to the Board.

Town Attorney Richard Abbate said he looked at the code the Chief presented and the Town would not be allowed to contradict or supersede State law.

Supervisor Gilbert said that there is an opt-out plan for municipalities with over 100,000 population that would not apply to Yorktown.

Mr. Abbate said there is an opt-out available for towns and it would have to be done by referendum, and be put on the ballot by petition, but it is tied to the sale of alcohol. If you opt out of marijuana, you would be opting out of the sale of alcohol.

A discussion took place of having the State put a clause in the new law allowing for an opt-out for towns. The ramifications of this were discussed in relation to the sale of alcohol.

Councilman Diana said we can still zone out the dispensaries selling recreational marijuana. Mr. Abbate said you cannot zone them out if you are just against the sale of recreational marijuana. The Board would have to be convinced that the nature or character of a community would be negatively impacted by the presence of dispensaries. This could be challenged by residents. Councilwoman Roker said there should be an opt-out contingent upon the sale of liquor. Councilman Lachterman said the Board should just send a resolution saying Yorktown does not want this and are opposed to the legalization of marijuana.

Mr. Abbate said if you really want an opt-out done relatively easily, do it by resolution and not referendum. Mr. Abbate will put something together.

## REPRODUCTIVE HEALTHCARE ACT

Councilman Lachterman began by saying he has a problem with our legislators deciding on the definition of life. This is a step towards the dehumanizing of life and its redefinition. He made comparisons to the Socialist Party and Nazi Party.

Councilman Patel asked about test tube life and life begun outside the womb.

Councilman Lachterman said there are so many “ifs” that muddy the water of the real issue. He said that we should look at what the politicians in Albany have done to redefine life. He believes this removes the rights of the child. Councilman Lachterman also questioned the constitutionality of the law.

Councilwoman Roker stood at the podium to address the Board. She said when you start talking about removing rights, look at her. There are many people who look like her who have had their rights removed. She read the law and the letter that Mr. Grace wrote is subjective. She said he quoted scriptures. Councilwoman Roker said she lives her life through scripture; particularly the Letter from Paul to the Philippians: “I can do all things through Christ who strengthens me.” She also paraphrased Matthew by saying “I can’t judge someone unless I want to be judged.” Councilwoman Roker said she respects everyone who came to talk to the Board about this issue. When she ran for the office of councilperson, she did not put out the same information that she would have if she were running for state office or Congress. She believes she does not have the right to send a letter to Albany saying that this is the way the community feels. She does not believe she is qualified to do that - when she was given this job, the community did not ask her what her opinion on abortion was. If she had, then she would have known how the community felt.

Councilman Lachterman asked Town Clerk Diana Quast if a referendum could be placed on the ballot to discern public opinion. Town Clerk Quast said there is a time frame of when you have to get it done. Councilman Lachterman said this would be a good way to find out how the residents feel.

Supervisor Gilbert read a statement in response to the Reproductive Healthcare Act:

“I understand that the abortion issue is an emotionally charged one. It has philosophical implications; it has religious implications. There has always been the saying that the definition of certain items in philosophy and religion is like trying to count the number of angels on a pinhead. Those are very difficult questions and are debated over and over again over the years and I know it evokes strong emotions and feelings by people who are against abortion and those that are pro-choice.

Saying that, I believe, asking this board to take action in the form of a resolution serves no legal purpose and will only unnecessarily divide our town. When elected, I indicated I believed one of my goals was to change the tone of government, its discourse, and fight the forces that were dividing us. I have been working tirelessly to address critical items our town government faces and is charged to act upon. I believe the abortion issue is not one of those issues.

When it comes to the issues confronting us as Americans, it's hard to know where to begin: Climate change, immigration reform, the widening income gap, affordable health insurance, gun violence, personal rights -- the list goes on and on.

All of these are issues of vital concern that we must and should be debating. But there is a time and place for that -- and it's not the Town Board meetings. Here in Yorktown, there's more than enough to keep us busy: balancing the budget, keeping taxes as low as we can, keeping the lights on, the water flowing, the streets paved, the snow removed, the garbage and sewage handled, looking out for the local economy by attracting new businesses. All of it sounds so mundane, and yet it couldn't be more vital. These are the issues that we, as a Town Board, should and do address -- and frankly, that's what you elected us to do.

There are many more appropriate venues in which to debate these larger issues, and we encourage everyone to use them. Each and every one of us ultimately has the right

to express their own personal views on this matter and I encourage anyone who wishes - to communicate their feelings to their state or federal representatives.”

Councilman Diana felt that the Supervisor was equating human life to pavement and infrastructure.

Supervisor Gilbert quickly dispelled this analogy and said he misinterpreted his words.

Councilman Diana would like a message sent to Albany saying the Town does not like what was written.

Councilwoman Roker asked Councilman Diana why he didn't write something when it initially came up as an issue. She said she does not want this to become personal as Board members.

Councilman Diana then said it was not the words that the Supervisor used, but the tone.

Supervisor Gilbert said Councilman Diana still misinterpreted his meaning. He was saying that it is not something that the Town Board should be addressing because it is not something the Town Board was charged to do. He ended by saying he respected all those that came to speak at the Board.

Councilman Lachterman said that this law did not give a lot of time for opinions. He also said that he, too, experienced religious racism growing up. The option of a referendum will be investigated.

Supervisor Gilbert stated that he is very concerned about dividing the Town and for the Board to be involved in an issue where they have no idea of the temperature of this Town is not prudent. He said that one of the reasons he felt he was elected was to try to bring the Town together and this is why he will continue to take the position he read earlier.

Councilwoman Roker likened this to the subject of sanctuary towns that was raised during the campaign. It was an issue that she felt did not belong in the repertoire of local government.

Ms. Maria Litrenta, resident and co-coordinator Respect for Life group of St. Patrick's Church, said she goes back to a lack of education of what the procedure is and what the whole bill is about. She said she does not want to overturn Roe v. Wade, but to please take the law back to what it was before RHA. Ms. Latreinta said if there was no problem with the law, why did was the RHA needed. She thanked the Board for allowing her to speak.

WORKERS COMPENSATION SETTLEMENT – MICHAEL KAHN  
RESOLUTION #79

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

RESOLVED, that the Town Board authorizes the Settlement of the Workers Compensation Lien for the claim for Michael Kahn in the amount of \$57,386.00.

IT IS FURTHER RESOLVED that the Town Supervisor is authorized to sign any and all necessary documents to effectuate the Settlement.

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

EXECUTIVE SESSION

Upon motion made by Councilman Diana, seconded by Councilwoman Roker, the Town Board moved into Executive Session to discuss individual personnel issues and was adjourned thereafter.

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