

Meeting of the Town Board, Town of Yorktown held on Tuesday, May 28, 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 Councilman Lachterman, seconded by Councilman Diana, the Town Board moved into Executive Session to discuss 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.

#### PANBAR REALTY – 1285 ASPEN ROAD

Mr. John Barile of PanBar Realty came before the Board to discuss his Stormwater Pollution Prevention Plan (SWPPP) and Tree Removal applications for the purpose of constructing a single-family home on the property.

Councilwoman Roker explained that there was a question as to whether this property needed a variance. After review with the Town Attorney, it was decided that a variance was required.

Town Engineer Michael Quinn stated that the septic approval has elapsed and was told it has been renewed. He said there was a question about soil management, the removal of 13 trees, and a soil PERC test.

Supervisor Gilbert said there is zero frontage on that road and frontage only on a paper road.

Town Clerk Diana Quast requested clarification from Mr. Michael Quinn as to whether or not these applications, specifically the tree removal, were to be considered Town Board actions and was told they were.

Mr. Quinn asked that the applicant stake the corners and tag the trees so the Town Board can do a site visit.

#### WSP/CHARLES SELLS ON-CALL SERVICE AGREEMENT – ENGINEERING DEPARTMENT

Town Engineer Michael Quinn stated that in 2018 the Town created an on-call service agreement with WSP/Charles Sells that enabled us to call them out when we had an issue related to a road, a bridge, culverts, etc. The professional services agreement was done in June 2018 (a \$10,000 agreement). The Town has now used up the entire amount of this agreement – Mr. Quinn listed the work they have been doing for the Town. He said that he feels this agreement has been of great value to the Town, and this request is also being made by the Highway Superintendent, David Paganelli. Mr. Quinn said this is a way to have an agreement in place with fixed prices, ready on call, and not have to wait until the procurement process is followed.

Councilwoman Roker said that although she feels WSP has done a good job, she feels it is time for the Town Board to review documentation. She would like to see a presentation showing the work that was done last year, as well as future work. Councilwoman Roker said she would like to see all department heads do this when they are presenting a request/project to the Town Board so that there is a visual of the work proposed.

## PROPOSED SOLAR LOCAL LAW

Supervisor Gilbert asked if it would be possible to simultaneously pass the solar law and a law that pertains to the Town entering into pilot agreements with applicants. Town Attorney Richard Abbate said that it can be passed simultaneously; it would be a separate section “payment in lieu of taxes.” He said the way the State law is written, the solar panels are tax exempt for 15 years and a way to raise revenue is to require a payment in lieu of those taxes. It cannot be more than 15 years or more than what the taxes would have been. He said he will prepare a draft. Supervisor Gilbert said this is important to have in place when passing a solar law.

Councilwoman Roker asked Mr. Abbate to go over the proposed solar law. Mr. Abbate explained that the law addresses commercial uses and residential uses. Residential would be an application to the Building Inspector and if the panels are placed in the front of a home, the application would be referred to ABACA. Commercial or large systems would be a Planning Board application, which would then be subject to site plan approval. The proposed law addresses decommissioning/abandonment that require cost estimates and decommissioning plans. Mr. Abbate explained that he did not include a bond requirement because he felt it is difficult to bond something that is “forever” – if the solar farm is decommissioned in 20, 30, or 40 years, it is difficult to determine what that cost would be. He also thought that a bond requirement may be prohibitive for the solar companies; however, if the Board feels that this should be included, he will do a revision.

Councilwoman Roker said she feels that Town would need some form of protection given what they have been told by the Ken Rundle, Distribution Superintendent of Water, about the cell tower companies leaving debris at the tank sites where the towers are located. Mr. Abbate said that the last cell tower lease the Town entered into did include a decommissioning bond so it is possible so he will amend and add that language.

Councilman Patel asked about differentiation between roof-mounted panels and field-mounted panels. Mr. Abbate said there is no difference in the proposed law. However, the field-mounted panels would be subject to setbacks.

Mr. Abbate said that some people objected to solar farms in residential areas and that is a decision that could be handled by the Planning Board. Supervisor Gilbert said regarding the fact that authorization is being given to the Planning Board, maybe the Town Board should indicate certain criteria that the Town Board would like them to consider whenever they deal with an application of this sort; for example, the screening if it is going to be in residential, tree cutting, potential resulting erosion and flooding runoff, and the potential loss of wildlife habitat. Supervisor Gilbert commented that Director of Planning John Tegeder requested more time. When asked if he knew if Mr. Tegeder was comfortable with this version, Mr. Abbate said that he and Mr. Tegeder drafted this version together.

Supervisor Gilbert asked Linda Miller if John Tegeder, who helped draft the solar law, had in mind to the idea to mesh it with the proposed tree law and asked if there would be a conflict. Ms. Miller said that she could not speak for Mr. Tegeder, however, there are several things in the solar law that conflict with the tree law which is why it is crucial that both are reviewed by the Town Board. She assumed he is okay with the proposed tree law. Supervisor Gilbert said it is their desire to have a public hearing on both so that potential conflicts can be addressed. Ms. Miller said the goals and intents of both are entirely different things. One law attempts to protect trees and the other attempts to collect sunshine that necessitates open space which, in turn, involves cutting down trees. She said the Town Board has to make a policy decision about how to weigh those different goals. She says the tree law is ready in its current form – there are very few things that the Town Board needs to make a policy decision on and those are summarized at the beginning of each section. Once those decisions are made, those summarizations can just be deleted.

Councilwoman Roker said the proposed tree law needs to be put into local law format before it can be sent out and that is what the Board is doing now and then go to a public hearing.

AUTHORIZE SUPERVISOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH WSP USA, INC. FOR ON-CALL ENGINEERING INSPECTIONS AT TOWN-OWNED BRIDGES AND CULVERTS  
RESOLUTION #219

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

1. As per a Town Board resolution dated 6/19/18, the Town entered into a professional services contract with WSP USA Inc. for professional services to perform on-call inspections that will help ensure the Town is fully compliant with the rules and regulations of NYSDOT and safeguarding the traveling public.
2. The Engineering Department, the Highway Department and WSP plan to continue working to address various deficiencies and infrastructure issues that arise from time-to-time along with ongoing monitoring of Town-owned bridges, culverts, retaining walls and roadways.
3. The NYSDOT does independent investigations of bridges and culverts; issues that are found are forwarded to the Town for further action. There was a recent “red flag” condition identified at the Old Kitchawan culvert that will require further action by the Town. There was also a prior red flag issued at the Greenwood Street culvert that requires periodic inspections to ensure the deteriorated conditions do not worsen.
4. As under the prior agreement, the Town will only incur cost when services are performed. All work will be as directed by the Highway Superintendent or Town Engineer. Under this arrangement WSP would be paid at the firm’s normal hourly rate schedule that will be included as part of the Agreement.
5. This work will again be assigned to Budget Code A.1440.490 Professional Services and will require a transfer from General Fund Contingency in the amount of \$10,000.

NOW, THEREFORE BE IT RESOLVED, the Town Board authorizes the Town Supervisor to sign a Professional Services Agreement with WSP USA Inc., for the scope of work as described in the preceding section in the amount of \$10,000, and the Town Comptroller is authorized to transfer \$10,000 from General Fund- Contingency into Cost Code A.1440.490 Professional Services.

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

RELEASE OF ESCROW – STREET OPENING PERMIT 2758 HEDGE STREET  
RESOLUTION #220

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

RESOLVED, that the Escrow Deposit for Street Opening Permit #018-004 in the amount of \$1,000.00 for 2758 Hedge Street is released based on the recommendation of the Highway Superintendent to Wiccopee Construction, Inc., 157 Wiccopee Road, Putnam Valley, NY 10579.

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

AGREEMENT WITH SHRUB OAK INTERNATIONAL SCHOOL, MONUMEDIC, INC., AND THE COMMUNITY CHURCH OF YORKTOWN – STUDENT INTERN PROGRAM  
RESOLUTION #221

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

RESOLVED, that the Town Board authorizes the Supervisor to sign an Agreement with Shrub Oak International School, MonuMedic, Inc and The Community Church of Yorktown for a student intern program to map and clean the cemetery located at The Community Church, 1645 Baptist Church Road. Expenditures in the amount of \$350.00 will be paid from the Landmark Preservation Trust Account.

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

APPROVE ATTENDANCE AT LAW ENFORCEMENT TRAINING SEMINAR, LODGING EXPENSES WILL COST \$136.00

RESOLUTION #222

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

RESOLVED, that the Town Board approves lodging expenses of \$136.00 for a Yorktown Police Officer to attend a Law Enforcement Training Seminar.

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

AUTHORIZE COMPTROLLER TO PAY TUITION REIMBURSEMENT FOR POLICE OFFICER JOHN DOHERTY FOR SUMMER COURSE IN THE AMOUNT OF \$999.00

RESOLUTION # 223

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes the Town Comptroller to pay the Summer 2019 tuition for Police Officer John E. Doherty upon the satisfactory completion of said courses in the amount of \$999.00.

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

ADVERTISE PUBLIC HEARING – REPEAL AND REPLACE CHAPTER 159 OF THE TOWN CODE

RESOLUTION #224

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

RESOLVED, the Town Clerk is hereby authorized to advertise a public hearing to repeal Chapter 159 of the Code of the Town of Yorktown entitled: "ENERGIZE, NY Benefit Financing Program and replace it with a new Chapter 159, Article I, entitled, "ENERGIZE NY Open C-PACE Financing Program.

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

REVIEW OF PUBLIC HEARINGS

Town Clerk Diana Quast reviewed the calendar for upcoming public hearings with the Town Board.

Due to several conflicts and lack of a quorum, the Town Board Meeting scheduled for June 4, 2019 was cancelled.

Ms. Miller reminded the Board that because of the way the tree law is written it needs to interface with Chapter 248 and Chapter 178. So those two laws have minor amendments that need to be done. Councilwoman Roker said that these may be done at the same time.

Councilman Diana asked to have the following property owners come in to a work session to discuss issues with their properties: Getty Station in Shrub Oak, Avgush property in Shrub Oak, Inner City Tire in Shrub Oak. He also mentioned the golf course in regards to planting details and Supervisor Gilbert said they had actually come in to see him about the building issue. Councilman Diana said that they were supposed to come in sooner rather than later and they need to be scheduled. He also said that the Town's Code Enforcement Officer has been to see these properties. He also mentioned bringing the owner of the Shrub Oak Gulf Station in regarding the screening and sign issues.

Councilwoman Roker asked why the Code Enforcement Officer does not report to the Town Board on these issues. It was recommended that both the Building Inspector, John Landi, and Code Enforcement Officer, Jason Zeif, also attend the work session.

Supervisor Gilbert introduced a brief discussion regarding something Greenburgh Town Supervisor Paul Feiner has proposed as an “eye sore” tax on properties that are considered unsightly.

ADJOURN MEETING

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

---

DIANA L. QUAST, TOWN CLERK  
TOWN OF YORKTOWN  
CERTIFIED MUNICIPAL CLERK