

Zoom Video Conference Meeting of the Town Board, Town of Yorktown held on Tuesday, February 16, 2021 held in Yorktown Heights, New York 10598.

Present: Matthew J. Slater, Supervisor
Thomas P. Diana, Councilman
Edward Lachterman, Councilman
Vishnu Patel, Councilman

Absent Alice E. Roker, Councilwoman

Also Present: Diana L. Quast, Town Clerk
Adam Rodriguez, Town Attorney

TOWN BOARD MEETING

Supervisor Matthew Slater called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Diana, seconded by Councilman Lachterman, the Town Board moved into Executive Session to conduct interviews for the Arts & Culture Committee, individual personnel matters, and litigation and negotiations. Upon motion made by Councilman Diana, seconded by Councilman Lachterman, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Slater led the Pledge of Allegiance.

MOMENT OF SILENCE

Supervisor Slater asked if everyone would join him in a moment of silence to remember those who have been lost to the COVID-19 pandemic, as well as frontliners, medical professionals, teachers, grocery store workers, police officers, firefighters, and emergency response personnel, and our military.

INTRODUCTIONS

Supervisor Slater introduced himself and the Town Board members, as well as Town Clerk Diana Quast, and Town Attorney Adam Rodriguez.

DURING REPORTS FROM TOWN SUPERVISOR MATTHEW SLATER

Supervisor Slater reported that the Water Department would be working in the Croton Heights area and there would be water service interruption from 9:00 a.m. to 12:00 p.m.

Supervisor Slater reported that there is another bout of winter weather anticipated this Thursday and AAA Carting Service is going to begin collection an hour earlier.

Supervisor Slater reported that after 5 months of deliberation, the report from the Coalition on Community Safety and Engagement would be released this coming Thursday. He thanked Town Clerk Diana Quast for helping to organize the meetings and Chief Robert Noble for involvement. The next step would be a public hearing in early March and then it would go to the Town Board for approval. The approval needs to be done and sent to the state by April; this is all part of the Town's compliance with Executive Order 203.

Supervisor Slater gave an update on the COVID vaccination – 10 million are qualified to receive the vaccine and 300,000 vaccinations are being sent to the state. The demand far exceeds the supply and he is trying to provide as much information as possible. Slots may be opening up at the Westchester County Center. Supervisor Slater urged residents to sign up for email alerts from the Town.

Supervisor Slater said Genesis Jewelers is providing free lamination of vaccine cards.

Supervisor Slater said the State Division of Criminal Justice Services has certified that the Yorktown Police Department meets the Use of Force Standards in order to receive discretionary federal grants for the next three years. He congratulated Chief Robert Noble.

Supervisor Slater notified the public that there are emails being sent out in his name – these are false and are coming from a “spoofed” Gmail account. His email is mslater@yorktownny.org and would be the only one used in sending residents emails.

Supervisor Slater announced that Grace Lutheran Church is hold a blood drive tomorrow. He said that blood supply is alarmingly low because people are not donating during the pandemic and blood drives have not been held.

Supervisor Slater congratulated Ben Brown, Eagle Scout (Troup 164), on his project honoring a former Yorktown resident, Lt. James Rushin, who served as a Tuskegee Airman during WWII. He said it was a very moving ceremony.

REPORTS FROM TOWN COUNCIL

Councilman Patel said that there are many discarded masks littering the Town. He asked that people do their part in disposing of them properly. He congratulated Ben Brown on his project and spoke of how valuable the projects are to the community.

Councilman Diana also congratulated Ben Brown on his project. He said it was a beautiful headstone that was erected that had Mr. Rushin’s plane etched on it. Councilman Diana asked residents to drive carefully in the winter weather. He also mentioned the littering of masks and gloves.

Councilman Lachterman spoke about meeting several former Tuskegee Airmen several years ago. Councilman Lachterman spoke about the Town of Yorktown’s Home Heating Plan for residential heating that assists homeowners with their heating bills. Councilman Lachterman said he recently learned that AT&T is going to replace their cell towers in the next couple of years that would not support 3G phones. He said there are 4G flip phones available.

Supervisor Slater thanked Dave Paganelli, Highway Superintendent, and his staff for all of their work handling inclement-weather related problems.

POET LAUREATE

John McMullen, Poet Laureate, read his original poem “The Quest.”

COURTESY OF THE FLOOR

The following members of the public spoke:

Elise Graham, resident and member of the Committee for Sound Solutions for Soundview, spoke about a comment made at last week’s work session by Mr. Guillaro, the developer for the Soundview property that they would prefer to apply under the proposed overlay law because it would be more user friendly. Ms. Graham questioned why it should be made easy for a developer who proposes rezoning a property that would have an enormous impact on the Town. She said it needs to be right, not easy. She said there would be a lack of community input under overlay zoning on all of this project’s impacts on the Town.

Mrs. Zeidins, resident, said that she wanted to find out about the COVID vaccines and had not been able to find any availability. She said there is a lack of availability of sites in Northern Westchester. Many of the sites are located in southern Westchester, New York City, and Long Island. This puts the elderly at a disadvantage. She asked the Supervisor and the Town Board to help.

Jennie Sunshine, resident, spoke about the Soundview project. She said that it is a myth that Unicorn Contracting (owners of the property) has to buy the farmhouse at the property in order to save it. Saving the building can be done in a myriad of other ways. She said there is nothing in the overlay law that would prohibit the demolishing of the farmhouse or requiring the developer to save the building, according to the Planning Director at the February 9 meeting. Ms. Sunshine said that she felt misleading statements were made by some members of the Board regarding this.

Louise Fang, resident, spoke about the Soundview project. She said that the Town needs to be developed in an orderly way per the Comprehensive Plan. She does not believe the overlay law is consistent with the Comprehensive Plan and does not provide a rational explanation for the development of the Soundview property. She said the plans for the Soundview property amounts

to spot zoning and puts the Town in a “reactive mode” to the developer’s proposals, rather than in the driver’s seat. Ms. Fang spoke of the downside of adding retail space to the proposed project, given the state of businesses in the Heights area. She spoke of the added density and traffic to the area.

Patricia Sullivan-Rothberg, resident, addressed Unicorn’s proposed development of the Soundview property. She said that many in the community believe a “behind the scenes” arrangement was made between the Town and Unicorn Contracting. She said that there are four indisputable facts that, when taken together, make very little sense. Fact One: this property has been zoned as an R1-40 (single family, maximum units of 13) since the 2010 Comprehensive Plan. Fact Two: when the property was purchased by Unicorn, it was zoned for R1-40 zoning and the purchase contract signed in May 2020 stated “an additional payment to the seller of \$350,000 after the closing, contingent upon the purchaser obtaining approvals for a zoning change to all for the multi-family development.” Fact Three: (Ms. Sullivan-Rothberg held up Unicorn’s development plans dated June 22, 2020 for R3 High Density Zoning.) She said these plans have 165 units of mixed-use housing for an R1-40 zoned site, which allows for 13 units. Fact Four: there is precedent for Town Board limiting density. She said they did it in 2015 for Crompond Terraces. Ms. Sullivan-Rothberg said the Town Board needed to answer a few questions so the community can be clear as to this project. She asked why Unicorn Contracting created development plans in June, modified them three times, for R-3 zoning for property that is zoned R1-40. She asked if, at the time of purchase in May 2020, was there a commitment made between the Town and Unicorn that this would be changed into multi-family. She said the signers of the petition (2,600) are requesting that the Town Board show the timeline and how the repeated updates of the high-density plan over six months reconcile with single-family zoning. Ms. Sullivan-Rothberg said that, in the past, Mr. Guillaro has said that he would be open to applying for a rezone of the property not under the overlay law. She said that the Town Board should take Mr. Guillaro at his word and remove the Soundview Property from the overlay district and require that the property follow the traditional rezoning process.

Susan Siegel, resident, picked up where Elise Graham left off when she quoted Mr. Guillaro’s reason why he was applying as part of the overlay zone and not traditional rezoning. Ms. Siegel said Mr. Guillaro said, “the overlay zone would be more user friendly.” She explained why the overlay district is more user friendly because it gives Unicorn the more profitable, multi-family density without having to go through the SEQRA process that is part of any major multi-family rezoning application. She cited Crompond Terrace’s lengthy and comprehensive SEQRA process. Unicorn would not have to do any of this under the overlay district and would automatically be entitled to more profitable multi-family density. She said it is not true that the Town Board is insisting that the only way the Town would benefit from Unicorn’s plan is to include it in the overlay district. She said that as part of rezoning, the farmhouse and pond could be saved, senior housing units built, a public park created, etc. Ms. Siegel said all of these benefits could be achieved through a multi-family plan with a density more in keeping with the historic nature of the site and the character of the neighborhood. She said an eight-page memo is being sent to the Town Board regarding the project that poses questions that she said have not yet been addressed or answered.

Ms. Siegel also asked that when the Town Board votes on the facilities assessment study later in the evening, they explain exactly what buildings/structures would be done as part of the study.

Sergio Esposito, Chamber of Commerce, said there is an upcoming Diversifying Your Business presentation followed by a series of diversity, equity, and inclusivity seminars with April Francis Taylor. Mr. Esposito addressed the Soundview property issue. He said that before an overlay district can be implemented, it must go through a rezoning process – it is not automatic. He said that one main difference in the rezoning process (under the overlay law), is that the developer is not on hand, whereas under a typical rezoning process the developer is present. He said that the Town wants to rezone the area in order to usher in much needed economic revitalization. He proceeded to review the overlay process. He said the overlay portion of the process takes place in the beginning and is in no way a rubber stamp.

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

Councilman Lachterman recommended that any quotes used by Mr. Guillaro should be reviewed by the questions that were asked of him because there is misinformation about the building being saved and what had to happen. He said the question was made to Director of Planning John Tegeder by himself: if the zoning stays the same, do we have to preserve/save the building, and the answer was no; it can be taken down. He said he then asked if the zone were to be changed, would the change of zone preclude them from tearing it down, and the answer Mr. Tegeder gave was “our zoning, as is, does not preclude a property owner from doing anything once it is there.” Councilman Lachterman said he believed that Mr. Tegeder said you can try to attach some different things to the zoning, which is exactly what was said today except with the caveat saying we (the Town) did not say that. He said that it was said, and Mr. Tegeder answered the question. Councilman Lachterman said he does not understand the concept of a deal in place and then saying the developer, in their contract to buy, said that if they were able to rezone, they would then pay more money. He said that every person who buys a big lot is more than welcome to try to rezone – that is why we have a Zoning Board of Appeals and the Town Board who looks at zoning changes. This does not mean they are going to get it. He said he feels the implication made is rude.

Councilman Diana said he finds it a bit insulting that there is something nefarious going on here, especially when this is one of the first times it was brought to the public for their input on what to do with this piece of property. He referenced the Weyant project and how it was whittled down to make is more “user friendly” to the surrounding area. He said the Town Board looks at the whole of the project; not just what the developer wants. Regarding a timeline, Councilman Diana said the Town Board did not really have a timeline; they had what they had. He said that they knew Mr. Guillaro had purchased the property and came to the Town Board and told them what he would like to do. Councilman Diana said it does not mean that he (Mr. Guillaro) is going to get that. He said that he finds the idea that the Town Board is doing something nefarious very insulting.

Councilman Patel said the overlay zoning issue has caused him to receive over 2,400 emails and that he would like to be able to listen to everyone.

Supervisor Slater addressed Mrs. Zeidens’ comments by saying he could not agree with her more. Northern Westchester needs a vaccination site. He said that he and Town Clerk Diana Quast have written a letter to the Governor’s office, the County Executive, and all of the Town’s partners on a state and county level making that argument. He said they have gone to the newspapers and News 12 to advocate as hard as they can. He said that it is unacceptable to ask our seniors to travel long distances for a vaccination.

A discussion took place among Board members regarding some of the difficulties of getting the vaccinations to local providers (Caremount Health, local pharmacies, etc.).

RECONVENE PUBLIC HEARING TO CONSIDER A PROPOSED LOCAL LAW AMENDING CHAPTER 135 OF THE TOWN CODE ENTITLED “BUILDINGS, UNSAFE” BY ADDING A NEW SECTION 135-13 “YORKTOWN ZOMBIE PROPERTIES LAW.”

Supervisor Matthew Slater reconvened a public hearing to consider a proposed Local Law amending Chapter 135 of the Town Code entitled “BUILDINGS, UNSAFE” by adding a new Section 135-13 “Yorktown Zombie Properties Law.”

Supervisor Slater said the Town Board had received memos from the Planning Board and the Building Department. Supervisor Slater introduced Building Inspector John Landi. He asked Town Attorney Adam Rodriguez to review some of the edits he made to the proposed amendment since they received the comments from Planning and Building.

Town Attorney Rodriguez reviewed the edits section by section, which are available on the Town’s website.

Supervisor Slater asked Mr. Landi if he had any additional statements. Mr. Landi said the Town has current laws in place along with the New York State Property Maintenance Code that will work well with the new amendment.

Councilman Patel said his concern is the real estate value of these properties and the Town absorbing owed taxes, and this is why he is in favor of the law. The Town may be able to sell these properties to offset any losses.

The following members of the public spoke:

Susan Siegel, resident, said she applauded the Board's efforts to address this issue. She asked why these changes were added to the Unsafe Buildings part of the Town Code and not the Property Maintenance law. She said that if you review the purpose of both laws, the Property Maintenance Code is much broader and more in line with the Town Board's goals. She cited examples of how this is so. She said that enforcement is needed more than new laws. Ms. Siegel pointed out what she perceives as problems with the proposed amendment. She said the Town will end up with two separate codes to deal with the same problem: the Unsafe Buildings Law that deals with the lack of property maintenance or properties that have defaulted on their mortgages (if the Town knows they have defaulted) and the Property Maintenance Law for properties without a mortgage or where a property owner is not maintaining the property. She said it does not make sense to her to have two laws covering the same thing. Ms. Siegel said the Town Board already has the power to deal with these types of property problems – the issue is enforcing the laws the Town already has.

Town Attorney Rodriguez said there is some overlap in the Zombie Property Law with property maintenance issues but there is also a significant portion of it that deals with keeping buildings safe and secure. He said Ms. Siegel asked how the Town would know if a mortgage were in default and said there is a default law that requires mortgagee to register with the Town within 10 days of declaring default. Mr. Rodriguez addressed some of the specifics of Ms. Siegel's issues with the proposed amendment. He said the law places an affirmative obligation on the mortgage company to register when it declares a property to be in default.

A discussion ensued between the Town Board, Ms. Siegel, and Mr. Landi regarding unsafe conditions and property maintenance.

Mrs. Ziedens also commented on senior citizens needing help with property conditions with their homes.

All those present having been given the opportunity to be heard and there being no further discussion, the hearing was closed. Upon motion made by Councilperson Diana, seconded by Councilman Lachterman, and carried.

AUTHORIZE SUPERVISOR TO EXECUTE DOCUMENTS NECESSARY TO TRANSFER WATER MAINS AND APPURTENANCES TO THE NORTHERN WESTCHESTER JOINT WATER WORKS AS PART OF THE TOWN'S COMMON INFRASTRUCTURE
RESOLUTION #64

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

WHEREAS, the Town of Yorktown was one of the founding members of the Northern Westchester Joint Water Works to provide for the treatment and bulk distribution of drinking water; and

WHEREAS, the formation of the Water Works occurred in the 1990s; and

WHEREAS, at the time of formation each member transferred infrastructure to the Water Works; and

WHEREAS, it has been determined that two parts of the transmission line, to wit a 16" and 24" on Route 35 at the town's border with Somers, have not been transferred; and

WHEREAS, it is the desire of the Board to clarify this;

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is authorized to execute the documents necessary to transfer the above water mains and appurtenances to the Northern Westchester Joint Water Works as part of the town's common infrastructure, and the Water Superintendent is authorized to settle and close out any accounts associated with the mains.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AUTHORIZE COMPTROLLER TO PAY THE CASH VALUE OF UNUSED TIME FOR DONALD MESUDA AS OF HIS RETIREMENT DATE
RESOLUTION #65

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

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

Rate of Pay: \$38.1344

Sick	504.375 hours @ 50%	=	252.18 hours
	252.18 hours x \$38.1344	=	\$ 9,616.73
Vacation	120.00 hours x \$38.1344	=	\$ 4,576.12
Total			\$14,192.85

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

From:

YS909.8	Sewer Reserve Employee Accrued Benefits	\$ 9,616.73
YS8130.101	Sewer Salary	\$ 4,576.12

To:

YS8130.108	Sewer Lump Sum Payments	\$14,192.85
------------	-------------------------	-------------

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AUTHORIZE COMPTROLLER TO PROCESS A BUDGET TRANSFER FOR SOLID WASTE DISPOSAL FEES – WESTCHESTER COUNTY
RESOLUTION #66

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

RESOLVED, the Comptroller is hereby authorized to process the following transfer from 2020 budget:

From:

SR7210.101	Refuse & Recycling - Salary	\$30,804.25
------------	-----------------------------	-------------

To:

SR8160.450	Refuse & Recycling – Dumping Fees	\$30,804.25
------------	-----------------------------------	-------------

for payment to Westchester County for payment of December 2020 solid waste disposal fees.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AUTHORIZE TOWN CLERK TO ADVERTISE BID FOR ASPHALT CONCRETE & LIQUID BITUMINOUS MATERIALS FOR THE HIGHWAY DEPARTMENT
RESOLUTION #67

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

RESOLVED, that the Town Clerk is authorized to advertise bid for Asphalt Concrete & Liquid Bituminous Materials for the Highway Department.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AUTHORIZE RELEASE OF PROJECT PERFORMANCE BOND TO A. DEVITO & SONS
RESOLUTION #68

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

WHEREAS,

1. A. DeVito & Sons, Inc., as applicant, posted check #18877 in the amount of \$5,000 to serve as the Project Performance Bond. The funds were deposited to the T33 account on August 3, 2020.
2. DeVito & Sons has requested the money be released as the site development work 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 Project Performance Bond be released to A. DeVito & Sons, Inc., 334 Underhill Avenue, Suite 4D, Yorktown Heights, NY 10598.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AUTHORIZE RELEASE OF PROJECT BOND IN THE AMOUNT OF \$2,500.00 TO PCSB BANK

RESOLUTION #69

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

WHEREAS,

1. PCSB Bank as applicant, posted check #73688 in the amount of \$2,500 which was deposited to the T33 account on December 28, 2018.
2. PCSB Bank has requested their money 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 \$2,500 bond be and is hereby released to PCSB Bank, 2651 Strang Boulevard, Box 712, Yorktown Heights, NY 10598.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AWARD BID FOR AQUATIC PESTICIDE TREATMENTS TO CONTROL BLUE GREEN ALGAE BLOOMS AT MOHEGAN LAKE

RESOLUTION #70

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

WHEREAS, the Town received proposals from three companies to conduct aquatic pesticide treatments to control blue green algae blooms at Mohegan Lake;

WHEREAS, based on anticipated treatments, Limnology Information and Freshwater Ecology Inc.'s proposal was for \$49,100, Stahl Holdings, LLC's (d/b/a The Pond and Lake Connection) was \$53,300, and Solitude Lake Management LLC's was \$47,074;

RESOLVED, that upon the recommendation of the Mohegan Lake Improvement District, the Bid be awarded to Solitude Lake Management LLC,

BE IT FURTHER RESOLVED, that the Supervisor is authorized to enter into an agreement with Solitude Lake Management LLC for the provision of aquatic pesticide treatments in an amount not to exceed \$47,074. The term of the agreement shall end on December 31, 2021.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

AUTHORIZE COMPTROLLER TO RELEASE PERFORMANCE BOND PERMIT #FSWPPP-T-068-17 IN THE AMOUNT OF \$5,000.00 TO KEAR UNDERHILL ASSOCIATES, LLC
RESOLUTION #71

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

WHEREAS:

1. Planning Board Approval Resolution #17-20 and the Engineering Permit issued for this project required the Applicant to post a Performance Bond in the amount of \$50,000.
2. Kear Underhill Associates, LLC, as applicant provided the Town with check #1019 in the amount of \$50,000, which was deposited into the T33 account on September 21, 2018 to serve as the Performance Bond for permit #FSWPPP-T-068-17.
3. The Performance Bond was reduced to \$5,000 at the Town Board meeting of January 21, 2020.
4. Kear Underhill Associates, LLC, has requested the Performance Bond balance be released.
5. The Engineering Department has inspected the property and determined that the improvements for the site have been completed. The project completion date has been established as 10/31/19.

NOW, THEREFORE BE IT RESOLVED, the \$5,000 Performance Bond balance is released to Kear Underhill Associates, LLC, 10 Julia Lane, Suite 101, Cold Spring, NY 10516.

Slater, Patel, Diana, Lachterman Voting Aye
Resolution Adopted.

Supervisor Slater asked Town Attorney Rodriguez to confirm the scope the facilities assessment in the following resolution to be the Highway Garage, Town Hall, and the Parks & Recreation Building at Sparkle Lake, which he confirmed.

AUTHORIZE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH CUSHMAN & WAKEFIELD U.S., INC. FOR THE PROVISION OF A FACILITIES ASSESSMENT IN AN AMOUNT NOT TO EXCEED \$32,000
RESOLUTION #72

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

WHEREAS, the Town received quotes from three companies to conduct a facilities assessment;

WHEREAS, Laberge Group's proposal was for \$39,000, H2M Architects and Engineers' proposal was for \$35,000, and Cushman and Wakefield's proposal was for \$32,000;

RESOLVED, that the Supervisor is authorized to enter into an agreement with Cushman & Wakefield U.S., Inc. for the provision of a facilities assessment in an amount not to exceed \$32,000. The term of the agreement shall end on December 31, 2021.

BE IT FURTHER RESOLVED, that the Comptroller is authorized to transfer \$32,000 from Capital Contingency (A1990.499.1) to Professional Services (A1220.490).

Slater, Patel, Lachterman, Voting Aye
Diana Voting Nay
Resolution Adopted.

Councilman Diana said that he thought the Town would be better served to have an engineering firm (and for best value) take care of this.

ADJOURN

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

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