

FINAL TOWN BOARD AGENDA
TOWN OF YORKTOWN
JULY 7, 2015

PLACE:
TOWN HALL

TIME:
6:00 pm

THE MEETING WILL BE AT TOWN HALL BEGINNING AT 6:00 P.M..

1. PLEDGE OF ALLEGIANCE
2. MOMENT OF SILENCE
3. WELCOME – Parks and Recreation Superintendent Brian Gray
4. SUPERVISOR GRACE’S REPORT TO THE TOWN

Town Board will hold its next outside meeting of 2015 at Mohegan Colony Association Beach, corner of Oak and High Streets, Mohegan Lake, NY on July 21, 2015. The meeting will begin at 6:00PM. This meeting will be recorded for broadcast.

5. REPORTS FROM THE TOWN COUNCIL
6. COURTESY OF THE FLOOR
7. PERSONNEL
Resignation:
Police Officer Iacona
8. ADVERTISING

Bids:
Sparkle Lake Dam – Capital Improvement Project #2

Sealed proposals will be received by the Town Clerk of the Town of Yorktown, Westchester County, New York, at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, until 10:00 A.M., on Monday, July 27, 2015, for the Sparkle Lake Dam Capital Project #15-2.

Street Sweeping – Highway Department

8. ADVERTISING (Continued)

Public Hearings:

Request for a Wetlands Permit by the Town of Yorktown for the rehabilitation of Sparkle Lake Dam

RESOLVED, that notice is hereby given that a Public Hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Mohegan Colony Association Beach, at the corner of Oak and High Streets, Mohegan Lake, NY., on the 21st day of July, 2015 at 6:30 o'clock PM to consider the application filed by the Town of Yorktown for a wetlands permit for the rehabilitation of the Sparkle Lake Dam, Yorktown Heights, NY.

Amend Special Use Permit – Commerce Heights Foodsmart, Inc
2001 Commerce Street

RESOLVED, that notice is hereby given that a Public Hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Mohegan Colony Association Beach, at the corner of Oak and High Streets, Mohegan Lake, NY., on the 21st day of July, 2015 at 6:30 o'clock PM to consider the application filed by Henry Steeneck for an amended Special Use Permit. The request is to approve signs at the Commerce Heights Foodsmart, Inc. located at 2001 Commerce Street, also known as Section 37.14, Parcel 2, Lot 70 on the Tax Map of the Town of Yorktown.

9. REFERRAL

Request to amend zoning code relating to community care residences
See Attachment #1 to the agenda for proposal

10 BID AWARDS

Cummins Engine OEM Parts

WHEREAS, invitation to bid for the Cummins Engine OEM Parts for the Town of Yorktown was duly advertised, and

WHEREAS, one bid was received and opened on June 22, 2015, with the bid amount for the above-referenced project summarized as follows:

Campbell Freightliner of Orange Cty LLC – 10% to be discounted from list price

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Cummins Engine OEM Parts be and is hereby awarded to Campbell Freightliner of Orange Cty, LLC, 2040 Route 208, Montgomery, NY 12549.

BE IT FURTHER RESOLVED, the contract is to begin on June 22, 2015 and terminate on June 21, 2016. The Town shall have the option to extend this contract at the same price for (5) consecutive one-year terms.

9. BID AWARDS (Continued)

John Deere Construction Equipment OEM Parts

WHEREAS, invitation to bid for the John Deere Construction Equipment OEM Parts for the Town of Yorktown was duly advertised, and

WHEREAS, one bid was received and opened on June 22, 2015, with the bid amount for the above-referenced project summarized as follows:

Jesco, Inc. – 2% discount from list price

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli,, the bid for the John Deere Construction Equipment OEM Parts be and is hereby awarded to Jesco Inc., 118 St. Nichols Avenue, So. Plainfield, NJ 07080.

BE IT FURTHER RESOLVED, the contract is to begin on June 22, 2015 and terminate on June 21, 2016. The Town shall have the option to extend this contract at the same price for (5) consecutive one-year terms.

Asphaltic Concrete Laid-in Place

WHEREAS, invitation to bid for the Asphaltic Concrete Laid-in-Place for the Town of Yorktown was duly advertised, and

WHEREAS, said bids were received and opened on June 22, 2015, with the bid amounts for the above-referenced project summarized below (see attachment #2) and be it

RESOLVED, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Asphaltic Laid-in-Place be and is hereby awarded to Clove Excavators, Inc., 212 Van Wagner Road, Poughkeepsie, NY 12603, the lowest responsive bidder.

BE IT FURTHER RESOLVED, the contract is to begin on August 1, 2015 and terminate on July 31, 2016. The Town shall have the option to extend this contract at the same price for (3) consecutive one-year terms.

10. RESOLUTIONS

Requests from the Town Comptroller

Retirement Payout – Patricia Barresi

BE IT RESOLVED, that the Town Board hereby authorizes the Town Comptroller to pay Patricia Barresi the cash value of unused time as of her retirement date

Rate of Pay: \$58.5616 hourly

Sick	565.50 hours	@	50%	=	282.75 hours
	282.75 hours	x	\$58.5616	=	\$16,558.29
Vacation	205.00 hours	x	\$58.5616	=	\$12,005.13

Personal Days 2.50 hours x \$58.5616 = \$ 146.40

Floating Holidays 14.00 hours x \$58.5616 = \$ 819.86

Longevity

\$1,400 / 261 days = \$5.36 per day

07/18/14 to 06/26/15 = 245 days

245 days x \$5.36 = \$ 1,313.10

Total \$30,842.88

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

From:

L909.8 Library Fund Reserve for Employee Accrued Benefits

To:

L7410.108 Library Lump Sum Payments

Amount:

\$30,842.88

Retirement Payout – Mary DeSilva

BE IT RESOLVED, that the Town Board hereby authorizes the Town Comptroller to pay Mary DeSilva the cash value of unused time as of her retirement date

Rate of Pay: \$39.1117 hourly

Sick 1980.50 hours / 7 hours per day = 282.93 days

282.93 days – 165 days (applied to 41J) = 117.93 days

117.93 days x 7 hours per day = 825.51 hours

825.51 hours @ 50% = 412.76 hours

412.76 hours x \$39.1117 = \$16,143.75

Vacation 329.00 hours x \$39.1117 = \$12,867.75

Floating Holidays 14.00 hours x \$39.1117 = \$ 547.56

Longevity

\$1,400 / 261 days = \$5.36 per day

09/05/14 to 06/26/15 = 215 days

215 days x \$5.36 = \$ 1,152.40

Total \$ 30,711.46

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 General Fund Reserve for Employee Accrued Benefits
To:
A6772.108 Nutrition Lump Sum Payments
Amount:
\$30,711.46

Retirement Payout – Peter Reyes

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

Rate of Pay: \$34.4133 hourly

Sick	1,500 hours (maximum)@	50%	=	750.00 hours
	750.00 hours	x	\$34.4133	= \$25,809.98
Vacation	86.25 hours	x	\$34.4133	= \$ 2,968.15
Personal Days	7.50 hours	x	\$34.4133	= \$ 258.10
			Total	\$29,036.23

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
To:
D5110.108 Highway Lump Sum Payments
Amount:
\$29,036.23

Retirement Payout – Kathleen Scanlon

BE IT RESOLVED, that the Town Board hereby authorizes the Town Comptroller to pay Kathleen Scanlon the cash value of unused time as of her retirement date

Rate of Pay: \$39.9759 hourly

Sick	487.00 hours	@ 50%	=	243.50 hours
	243.50 hours	x	\$39.9759	= \$ 9,734.13
Vacation	84.00 hours	x	\$39.9759	= \$ 3,357.98
Personal Days	4.50 hours	x	\$39.9759	= \$ 179.89
Floating Holidays	7.00 hours	x	\$39.9759	= \$ 279.83
			Total	\$13,551.83

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

From:
 L909.8 Library Fund Reserve for Employee Accrued Benefits
 To:
 L7410.108 Library Lump Sum Payments
 Amount:
 \$13,551.83

Requests from the Engineering Department:

Authorize the Supervisor to sign:

An amendment to the agreement with Maser relating to the Sparkle Lake Dam Project

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an amendment to a Professional Services Agreement with Maser Consulting for the Sparkle Lake Dam project for additional tasks requested of Maser by the NYC DEC, AND, BE IT FURTHER

RESOLVED, that the above referenced agreement total lump sum cost of \$14,020.00 and allowances in the amount of \$5,000.00 for mandated soil testing and \$1,000.00 for reimbursables - to be funded from A1440.479 Special Projects.

10. RESOLUTIONS (Continued)

Authorize the Supervisor to sign:

An amendment to the agreement with WSP Sells relating to the Croton Heights Culvert Replacement Project

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an amendment to a Professional Services Agreement with WSP Sells for the Croton Heights Road Culvert Replacement for additional environmental permitting, AND, BE IT FURTHER

RESOLVED, that the above referenced agreement total lump sum cost of \$7,740.00 to be funded from A1440.479 Special Projects.

Release Wetland Bond - #WP-073-13

WHEREAS, Mario & Ann Consolo, as applicant, posted check #730 which was deposited into the T33 account on December 16, 2013, in the amount of \$300.00 covering Wetland Permit #073-13, for work performed at the Curry Street location, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for wetlands may be released to the applicant.

East of Hudson Wetland and SWPPP Permit Fees

WHEREAS, the East of Hudson Corporation is currently constructing stormwater practices in the Town of Yorktown to achieve phosphorus removal in the NYCDEP Watershed, and

WHEREAS, the cost of the design and construction of the stormwater retrofit projects are borne fully by the NYCDEP, NOW THEREFORE BE IT

RESOLVED, that fees associated with wetland or SWPPP permits for the East of Hudson Stormwater Retrofit projects that are being installed at no cost to the Town of Yorktown be waived.

Requests from the Highway Superintendent:

Approve the following release of escrow

Upon recommendation of the Highway Superintendent, the Town Board authorizes the release of the following escrow deposits to JDG Builders, 40 Shallow Stream Road, Carmel, NY 10512:

Street Opening Permit #014-006, \$2,0000.00

Driveway Permit #1188, \$500.00

11. MONTHLY REPORTS
Building Department

12. ADJOURN

Alice E. Roker, Town Clerk
Town of Yorktown

Updated: July 7, 2015

Attachment 1

Proposed amendment to the Zoning Code
Adding a new special permit for a “Community Care Facility”

Note: This proposed amendment to the Zoning Code is being referred out for comment so that the Town Board can get feedback before finalizing the text of a local law and scheduling a public hearing. When the local law is drafted, it will include any required related changes to other sections of the Zoning Code.

Rationale for the new special permit

Given the recent experience with an application for a special permit for a “convalescent home,” it is the opinion of some board members that the current definition in the Zoning Code of the term “convalescent home” is not applicable for certain types of residential care facilities and that:

1. A new term should be added to the Code that more adequately reflects certain types of facilities that were not in existence when the original “convalescent home” term was incorporated into the Code
2. There should be a separate and distinct special permit for this new type of facility over and above the general conditions for a special permit found in Section 300-36 of the Code
3. The new special permit should regulate certain land use issues in order to preserve the residential character of single family neighborhoods.

Definition: Community Care facility

A facility, located in a single family dwelling unit, that provides temporary transitional housing to adults recovering from a disease, illness or disability after completing treatment in a licensed health care facility and before returning to their previous living arrangement, and which does not provide any medical or other health related services, is staffed seven days a week, 24 hours a day and is not licensed by the state or any other governmental entity.

Legislative intent

This section is intended to preserve the residential character of single family residential neighborhoods while at the same time making provision for the temporary housing needs of persons with special needs and disabilities and in accordance with the federal Americans with Disabilities Act and the Fair Housing Law.

Approval authority

The approval authority for this special use permit shall be the Planning Board.

Application

The written approval of the property owner to operate a Community Care Facility on the property shall be required if the applicant for the permit is not the property owner.

General standards

When considering an application for a special permit for a Community Care Facility, the Planning Board shall apply the following standards in addition to those general standards found in Section 300-36 of this Chapter

1. In order to retain the single family character of neighborhoods and to avoid an undo concentration of Community Care Facilities in a single neighborhood, a Community Care Facility shall be located at a distance of at least one half (½) mile from another Community Care Facility.
2. A special use permit for a Community Care Facility shall not be granted for any single family dwelling unit currently under construction or proposed to be constructed.
3. The maximum occupancy of a Community Care Facility at any given time shall not exceed fifteen (15) residents.
4. In determining the maximum number of bedrooms on the property that can be used to house residents, all the legal single family dwelling units on the property shall comply with the Schedule of Regulations for residential properties in the applicable zoning district.
5. The lot size shall be at least 20,000 square feet.
6. The property must be in full compliance with all state building and fire codes and all town codes. If the property is serviced by an onsite wastewater sewage treatment system (septic system), the applicant shall comply with the requirements of Chapter 873.726 of the Laws of Westchester County.
7. In the event the Planning Board approves a special use permit under this section and subsequently the state or any other governmental entity enacts a licensing requirement for the type of use covered by the permit, the Community Care Facility shall be required to obtain the required license.
8. No signs announcing the name of the Community Care Facility shall be permitted.
9. Any changes to the exterior of the single family dwelling unit/s on the lot shall be such as to maintain the residential character of the structure/s.
10. No medical, health related services, or individual or group counseling conducted by a licensed professional shall take place on the premises

Parking

1. One space for each employee, whether full time or part time, and one space per resident, although the latter requirement may be waived or modified if the residents are prohibited by the applicant from operating their own vehicles while residing in the facility.
2. Additional parking spaces may be required if the facility has passenger type vans designed to transport residents.
3. Visitor parking shall be one space for every five residents, but this requirement may be waived to reflect the facility's visitation policy.
4. The site plan shall show an additional area reserved for future parking spaces as may be deemed appropriate by the Planning Board.
5. The required parking area, other than the area reserved for possible future spaces, shall be permanently improved.
6. No parking shall be located within the required front yard.
7. Parking spaces shall be at least five (5) feet from all other property lines.
8. Parking areas shall be screened from neighboring properties and from the street by fencing and/or landscaping as deemed appropriate by the Planning Board.
9. No vehicles larger than a suburban vehicle, as defined in Section 300-62 of this Chapter, shall be parked on the premises on a regular basis.

Outdoor recreation areas

Active outdoor recreation facilities for use by residents may be permitted provided that such facilities are located at least ten (10) feet from all property lines and provided that the Planning Board shall find that such facilities would not be a nuisance to surrounding properties. Fencing and landscaping of the active recreation facilities shall be required where the Board deems appropriate.

Length of permit

1. The special use permit shall be granted for a maximum of three years to the owner of the property whose name is on the application, or with the owner's written approval, the name on the application of the operator of the facility, and, shall be subject to renewal.
2. The provisions of Section 300-30 notwithstanding, in the event there is a change in the ownership or the operator of the facility within the three year period of the permit, the new owner and/or operator shall apply not less than 90 days before assuming ownership and/or operation for a renewal of this special use permit. Any new owner and/or operator shall be bound by the conditions of the permit and any additional reasonable conditions that the Planning Board deems appropriate after the holding of a public hearing. If the new owner or operator fails to obtain a renewal of the current special use permit, the special use

3. permit shall be considered null and void and the use of the facility shall be discontinued within 30 days from the change of ownership or operation.

Site Plan

1. The applicant shall provide a site plan in compliance with Section 300-29 of this chapter.
2. The site plan shall be referred to appropriate town advisory boards, commissions and committees as deemed appropriate by the Planning Board for their review and recommendations.
3. The Planning Board may require additional screening, fencing and landscaping as it deems necessary to preserve the residential character of the neighborhood and to minimize any potential negative impact on adjacent land or buildings or which would impact the value thereof.

Operation of the Facility

The owner/operator of the facility shall provide an Operation Plan that shall include the following information

1. The maximum number of persons to be housed in the facility at any one time.
2. The anticipated length of stay of the residents.
3. The number of full time and part time staff members.
4. Contact information (phone and email) for the operator the facility.
5. A copy of the facility's House Rules if the residents will be required to adhere to a series of house rules as a condition of their residence in the facility.
6. A written visitation policy.

Waiver

The Planning Board may, for good cause shown, and to provide reasonable accommodation where required by state or federal law, impose less restrictive requirements.

Revocation of special permit

Pursuant to Section 300-33 of the Zoning Code, a special use permit granted by the Planning Board pursuant to this section may be revoked by the Planning Board if said Board finds and determines, after a public hearing held in the manner provided for by law, that there has been a substantial failure, or repeated failures, of compliance with any one of the terms, conditions, limitations and requirements imposed by said permit.