

Meeting of the Town Board, Town of Yorktown held on May 19, 2015 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598

Present: Michael J. Grace, Supervisor
Vishnu V. Patel, Councilman
Susan M. Siegel, Councilwoman
Gregory M. Bernard, Councilman
Thomas P. Diana, Councilman

Also present: Alice E. Roker, Town Clerk
Jeannette Koster, Town Attorney

TOWN BOARD MEETING

Supervisor Michael Grace called the meeting to order

PLEDGE OF ALLEGIANCE

Scout Master Kevin Burns and the Boy Scouts of Troop 125 led the salute to the flag.

MOMENT OF SILENCE

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

DURING REPORTS FROM TOWN SUPERVISOR.

Supervisor Grace spoke about the importance of the two Memorial Day Ceremonies in the Town of Yorktown. The first ceremony to honor our men and women who have kept us safe will be at the monument in Shrub Oak at 10:00AM. There will also be a ceremony at Town Hall at 11:00AM followed by a parade to the Gazebo. Supervisor Grace also spoke about the award the Town of Yorktown received from Westchester County on Earth Day for our new Textile Recovery Program.

REPORTS FROM THE TOWN COUNCIL.

Councilman Thomas Diana stated that the Citizens Task Force on Heroin will host its next meeting on May 27, 2015 at the Elks Club.

Councilman Bernard stated that there was still time for people to vote in the School Elections.

Councilwoman Siegel also urged everyone to get out and vote.

Councilman Patel spoke about a recent Dare Graduation Ceremony.

PRESENTATIONS

Marietta C. Manoni, a representative of Family Services of Westchester spoke about the Rideconnect program which provides rides to older adults and the disabled in Westchester County.

Mark Linehan, a representative of the Yorktown Trail Town Committee gave a power point presentation explaining the group's objectives which are developing tools to promote the extensive trail system that runs through the Town of Yorktown in addition to providing a form of economic development.

Gerald Knapp, Commander of American Legion Post 1009 spoke about resurrecting their "Honor Flag Program." Veterans are entitled to receive a "burial flag" from the Veterans Administration when they pass away. The American Legion will use the Flagpole in Veterans Memorial Park to fly burial flags they receive from relatives of deceased veterans. Commander Knapp also spoke about the Flag Retirement Ceremony which is held each June.

Mr. Kevin Burns, Scout Master of Troop 2174 stated that his troop is working on their Citizenship in the Community Merit Badge.

APPOINTMENT – HIGHWAY DEPARTMENT
NICHOLAS J. DEVITO - LABORER
RESOLUTION #187

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

BE IT RESOLVED, that Nicholas J. DeVito of Yorktown Heights, NY, is hereby appointed Laborer, job class code 0425-05, within the Highway Department, effective May 26th, 2015 to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$40,841.00 annually;

BE IT RESOLVED, contingent upon successful completion of a drug test and reference checks,

BE IT RESOLVED, that Nicholas J. DeVito will report to work at the Highway Department on May 26th, 2015, and this date will be used as the first date of appointment,

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on May 26th, 2015.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPOINTMENT – HIGHWAY DEPARTMENT
MICHAEL BATTISTA – LABORER
RESOLUTION #188

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

BE IT RESOLVED, that Michael Battista of Shrub Oak, NY, is hereby appointed Laborer, job class code 0425-05, within the Highway Department, effective June 8th, 2015 to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$40,841.00 annually;

BE IT RESOLVED, contingent upon successful completion of a drug test and reference checks,

BE IT RESOLVED, that Michael Battista will report to work at the Highway Department on June 8th, 2015, and this date will be used as the first date of appointment,

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on June 8th, 2015.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

DURING COURTESY OF THE FLOOR, the following people addressed the members of the Town Board:

Mr. Gregory Kravtsov, Mr. David Paganelli, Mr. Anthony Grasso, Mr. Robert Giordano, Mrs. Mara Ziedens, Mr. Paul Moskowitz, Mrs. Jane Daniels, Nancy Vann, Mr. Mark Michaels, Mr. Jonathan Hyman Mr. Edward Ciffone, Mr. Don Roberts.

AWARD BID
TRANSPORTATION SERVICES FOR CAMP BUSES
RESOLUTION #189

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

WHEREAS, invitation to bid for the Provision of Buses for the Summer Camp Program for the Yorktown Parks and Recreation Department was duly advertised, and

WHEREAS, said bids were received and opened on April 24, 2015, with the bid amounts for the above-referenced project summarized as follows; NOW, THEREFORE BE IT

Section I. A. (School Buses for Swimming Program)

	COMPANY	BID
1	Royal Coach Lines, Inc.	\$13,340.00 (2 buses)
2	Baumann & Sons Buses, Inc.	\$13,293.54 (2 buses)
3	Hudson Valley Transportation	No Bid

Section I. B (School Buses for Extended Day Program)

	COMPANY	BID
1	Royal Coach Lines, Inc.	\$1,035.00
2	Baumann & Sons Buses, Inc.	\$1,380.00
3	Hudson Valley Transportation	No Bid

RESOLVED, that upon recommendation of the Superintendent of Parks and Recreation, Brian Gray, the bid for Section I. A. (School Buses for Swimming Program) and Section I. B (School Buses for Extended Day Program) be combined and is hereby awarded to Royal Coach Lines, Inc. the lowest responsible bidder.

Section I. C (School Buses for Trips 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 18, 20)

1	Baumann & Sons Buses, Inc.	\$11,495.00
2	Royal Coach Lines, Inc.	\$11,539.00
3	Hudson Valley Transportation	No Bid

RESOLVED, that upon recommendation of the Superintendent of Parks and Recreation, Brian Gray, the bid for Section I. C (School Buses for Trips 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 18, 20) be and is hereby awarded to Baumann & Sons Buses, Inc. the lowest responsible bidder.

Section II (Coach Buses for Trips 1, 2, 4, 6, 7)

	COMPANY	BID
1	Hudson Valley Transportation	\$14,400.00
2	Baumann & Sons Buses, Inc.	\$17,820.00
3	Royal Coach Lines, Inc.	No Bid

RESOLVED, that upon recommendation of the Superintendent of Parks and Recreation, Brian Gray, the bid for Section II. (Coach Buses for Trips) be and is hereby awarded to Hudson Valley Transportation the lowest responsible bidder.

AND BE IT FURTHER

RESOLVED, the results of sections I.A. and I.B., is hereby awarded to Royal Coach Lines, Inc., the results of sections I.C., is hereby awarded to Baumann & Sons Buses, Inc. and Section II, is hereby awarded to Hudson Valley Transportation and will amount to approximately: (please note – trips may change due to scheduling changes/conflicts/weather etc. Additional bids were collected for other trips and will be used if needed)

Section I.A (2 buses) and Section I.B (1 bus) to Royal Coach Lines, Inc. = \$14,375.00
 Section I.C to Baumann & Sons Buses, Inc = \$11,495.00
 Section II to Hudson Valley Transportation = \$14,400.00

Grace, Patel, Siegel, Bernard, Diana Voting Aye
 Resolution adopted.

MOHEGAN LAKE IMPROVEMENT DISTRICT WETLANDS PERMIT
RESOLUTION #190

Upon motion made by Councilwoman Siegel, seconded by Councilman Patel,

WHEREAS, the applicant, Lake Mohegan Improvement District, received a general wetland permit from the Town of Yorktown Town Board on September 18, 2012, and

WHEREAS, the applicant, in support of the general wetland permit submitted a lake management plan dated July 9, 2012 which provides details of the activities that are proposed to improve the lake and the surrounding wetlands, and

WHEREAS, Lake Mohegan has experienced excessive growth of blue-green algae growth since the lake management plan was completed, and

WHEREAS, the excessive growth of blue-green algae in Lake Mohegan has resulted in the introduction of toxins into the lake resulting in beach closures in 2012, 2013 and 2014 as mandated by the Westchester County Department of Health, and

WHEREAS, as it is not possible to prevent contact with these toxins by people and pets who may frequent the lake a potential health hazard exists, and

WHEREAS, the applicant sought all cost effective mechanisms in an attempt to control the blue-green algae growth, and

WHEREAS, the applicant has determined that the use of copper sulfate is the appropriate method to be used in order to selectively treat areas of the lake that total approximately 50 acres, and

WHEREAS, the Mohegan Lake Improvement District has submitted a Town of Yorktown wetland permit application dated April 10, 2015 in which the wetland permit application requests an amendment to the previously issued Town of Yorktown general wetland permit dated September 18, 2012 in order to apply copper sulfate to select areas Lake Mohegan Lake comprising approximately 50 acres, and

WHEREAS, the applicant has included a Short Environmental Assessment Form dated April 10, 2015, executed by Kenneth Belfer, President of the Lake Mohegan Improvement District, and

WHEREAS, the applicant has submitted a report entitled, "Project Narrative for Lake Mohegan Algae Control Program, 11 total pages, and

WHEREAS, the applicant has submitted a report executed by Fred S. Lubnow, PhD., of Princeton Hydro, dated April 6, 2015, 3 pages, and

WHEREAS, the proposed action has been determined to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town of Yorktown Town Board declared intent to be Lead Agency on May 19, 2015, and

WHEREAS, the Town Board recognizes that there are certain potential adverse impacts of lake treatment with copper sulfate among which include reduction in beneficial lake bacteria and benthic organisms and potential increased cost of future dredging, and

WHEREAS, the Town Board has considered the potential adverse impacts as well as the potential health hazards due to exposure to blue-green algae toxins as well as the beach closures and overall reduction in lake utility and enjoyment to town residents and,

WHEREAS, having reviewed all reports and information submitted by the applicant, the Town Board finds that any adverse impacts to Lake Mohegan due to lake treatment with copper sulfate will be controlled and mitigated to the greatest extent practicable and the Town Board has

considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action and determined they will not have a significant negative impact on the environment; and

WHEREAS, a public hearing on the amended permit application was waived on May 19, 2015

NOW THEREFORE BE IT RESOLVED THAT, the Town Board amends wetland permit WP-057-12 to include the application of copper sulfate to Lake Mohegan with the following conditions:

- The use of copper sulfate in Lake Mohegan is permitted for the **2015 season only**. Future use of copper sulfate will require review and approval by the Town Engineer prior to any applications.
- Notification of the application will be done at a distance at least one-half mile along the outflow on Mohegan Avenue. There will be a 24 hour restriction for drawing drinking water within this area after the application of copper sulfate. Application will only be done in areas 12' deep or greater but not less than 100' from jurisdictional wetlands and watercourses.
- Prior to the use of copper sulfate, the applicant will secure a NYSDEC permit and WCDOH permit as applicable and completely follow all conditions of the permit(s).
- The Town Engineer must be contacted no less than seven days prior to the applicant of the copper sulfate. The Town Engineer may add additional conditions to this permit as determined to be appropriate.
- Any and all prior conditions of the Town of Yorktown general wetland permit WP-#057-12 dated September 18, 2012 shall remain in full force and effect.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPROVE ATTENDENCE

ASSESSOR TRAINING – 2015 CORNELL SEMINAR ON APPRAISING
RESOLUTION #191

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

Whereas, sufficient funds exist in the Assessor Training line to cover the cost of expenses, including lodging and seminar

Be it resolved that Kim Penner has permission to attend the 2015 Cornell Seminar on Appraising to be held at Cornell University, Ithaca, NY from July 12, 2015 through July 17, 2015 with use of a town vehicle.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

BOND AND FEE ACCEPTANCE CON ED - #WP-078-14
RESOLUTION #192

Upon motion made by Councilman Bernard, seconded by Councilwoman Siegel,

WHEREAS, Con Edison, as Principal, provided the Town with Travelers Casualty & Surety Company of America, Bond #103426454, in the amount of \$5,000.00, to serve as the Compliance Bond for Town Board Wetland Permit #078-14, and

WHEREAS, Con Edison, as applicant, provided the Town with Check #0000485519 in the amount of \$1,500.00, to serve as the annual escrow fee, and

WHEREAS, Con Edison, as applicant, provided the Town with Check #0000486661, in the amount of \$850.00, to serve as additional requested escrow fee, NOW, THEREFORE BE IT

RESOLVED, that the above referenced monies are hereby accepted to serve as the required bonds and fee for the above referenced permit.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

BOND RELEASE FRAIOLI - #WP-032-14
RESOLUTION #193

Upon motion by Councilwoman Siegel, seconded by Councilman Patel,

WHEREAS, Paul & Margherita Fraioli, as applicant, posted check #3614 in the amount of \$300 which was deposited into the T33 account on July 3, 2014, to serve as the Erosion Control Bond for Wetland Permit #WP-032-14, for work performed at their Columbine Court residence, 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 above referenced monies may be released, NOW, THEREFORE BE IT

RESOLVED, that the above referenced Erosion Control Bond be released to Mr. & Mrs. Paul Fraioli, 268 Columbine Court, Yorktown Heights, NY 10598.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPROVE BUDGET TRANSFER
RESOLUTION #194

Upon motion made by Councilwoman Siegel, seconded by Councilman Bernard,

BE IT RESOLVED that the Comptroller is hereby authorized to process the following budget transfers:

From: A8020.101 Planning Salary
To: A1440.490 Engineering Professional Services
Amount: \$20,000

From: A1220.101 Supervisor Salary
To: A1440.490 Engineering Professional Services
Amount: \$20,000

To comply with a portion of the compensation and payment section of the professional services agreement signed with Cornerstone Appraisal Service, Inc as per February 17, 2015 Town Board resolution

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

AUTHORIZE BUILDING INSPECTOR TO EXTEND BUILDING PERMIT ISSUED IN 2012
TO FIELD HOME HOLY COMFORTER FOR TEMPORARY SALES BUILDING
RESOLUTION #195

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

RESOLVED, that, pursuant to Section 300-19 of the Code of the Town of Yorktown, good cause having been shown by the applicant, Field Home-Holy Comforter, the Town Board hereby approves an extension of its July 17, 2012 approval to construct and maintain a temporary sales building in connection with construction for a senior living residence located at 2300 Catherine Street. This extension approval is retroactive to July 17, 2013, and shall expire on July 16, 2016. This approval is subject to the \$1,000 cash bond posted to the Town Clerk in 2012

continuing to be held by the Town, and to the applicant's compliance with all applicable laws and rules.

FURTHER RESOLVED, that this approval may be renewed by application to the Town Board within forty-five days before its expiration date.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH RYAN LAW GROUP LLP
AND MCCARTHY FINGAR LLP
RESOLUTION #196

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

WHEREAS, the Town Board and Planning Board are named as Respondents/Defendants in the hybrid Article 78 and plenary action entitled *Yorktown Smart Growth, et al. v. Town of Yorktown, et al.*, State Supreme Court, Westchester County, Index No. 1880-15, which action challenges various approvals in separate land use approval proceedings concerning BJ's Wholesale Club's existing site and the Costco development site; be it

RESOLVED, that the Town Supervisor is hereby authorized to sign an agreement with the law firm Ryan Law Group LLC to provide legal consultation services on an as-needed basis to the Town Attorney, at the hourly rate set forth in the retainer agreement with said law firm for SEQR legal review on the Costco development project, and an agreement with the law firm McCarthy Fingar LLP to provide legal consultation services on an as-needed basis to the Town Attorney, at the hourly rate set forth in a retainer agreement with said firm, in connection with the Town Attorney's defense of the above-named action.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

AUTHORIZE A DE MINIMUS TAKING OF PROPERTY ON BAPTIST CHURCH ROAD
RESOLUTION #197

Upon motion made by Councilwoman Siegel, seconded by Councilman Patel,

WHEREAS, as the Town was finalizing a request for bids to repair a segment of Baptist Church Road, including culverts and supporting structure, a culvert under the segment collapsed without warning on or about April 26, 2015, causing the supporting structure and the roadbed above also to collapse; and

WHEREAS, as a result of the sudden collapse, (1) the Highway Superintendent closed Baptist Church Road at that location to permit the Town and its agents to investigate, redesign the project, and reconstruct the segment of road and its supporting structure and culverts while keeping the traveling public safe from harm, (2) the consulting engineer determined that the 2010 design for relining of the culverts could no longer be used and that a new design would have to be drawn up, and new, larger easements acquired, and (3) the Town Board declared the condition of Baptist Church Road an emergency by resolution on April 28, 2015, and authorized the Town's consulting engineer to redesign the project and the Highway Superintendent to proceed with the project under emergency procurement rules; and

WHEREAS, the consulting engineer has produced a new design (the 2015 Design) which calls for the installation of new culvert pipes and the replacement of the existing supporting structure with a new supporting structure, and

WHEREAS, in order to construct the 2015 Design, the Town requires a larger permanent easement over the Upstream Parcel (1210 Baptist Church Road) than was acquired in 2014, a different temporary easement over the Downstream Parcel (1225 Baptist Church Road) than was acquired in 2014, and a new permanent easement over the Downstream Parcel; and

WHEREAS, the ownership of the Downstream and Upstream Parcels has not changed since easements were acquired by the Town in 2014; and

WHEREAS, as before, due to the culverts being located on and under the road that runs between the two properties, there are no possible alternative locations for the Project, and

WHEREAS, Section 206(D) of the Eminent Domain Proceedings Law (EDPL) provides that a condemnor is exempt from compliance with the hearing requirements of Article 2 of the EDPL (D) 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

WHEREAS, the Downstream Parcel is 221,350 square feet in total size, and the Upstream Parcel is 82,328 square feet in total size; and

WHEREAS, the three easements acquired in 2014, compared to the total size of the Upstream and Downstream Parcels, were respectively only 1.3%, 1.6% and 4.9% the total size of the parcels upon which they were sought, and thus were properly considered *de minimus*; and

WHEREAS, the new, temporary easement sought over the Downstream Parcel is smaller than the 2014 Downstream TE (approximately 2,200 square feet, compared to 2,940.69 square feet), or 1% of the total size of the Parcel, and located in a different area; the new permanent easement over the Downstream Parcel is approximately 3,700 square feet, or 1.7% of the Downstream Parcel's total size; and the total of the two new easements -- approximately 5,900 square feet -- is only 2.7% of the Downstream Parcel's total size; and

WHEREAS, the larger permanent easement to be acquired over the Upstream Parcel is approximately 2,300 square feet, or 2.3% of the total size of the Upstream Parcel; and

WHEREAS, the Town's acquisition of the new Downstream and Upstream easements will not prevent ingress or egress to or from either parcel, the area of the parcels upon which the easements will be acquired are not improved by any structure and are not the subject of a building permit, and the construction period is anticipated to last less than one month; and

WHEREAS, the need for the additional easements has been occasioned by an emergency condition;

NOW THEREFORE, BE IT RESOLVED, that Town Board finds that the takings of the above-described new permanent and temporary easements upon the Upstream and Downstream Parcels are exempt from the requirements of Article 2 of the EDPL on the grounds that they are *de minimus* takings, and on the grounds that an emergency condition exists at that location on Baptist Church Road, and be it further

RESOLVED, that the Town Board hereby authorizes the Town Attorney to take all necessary steps to acquire the additional easements required to for the 2015 Design pursuant to the EDPL on an expedited basis.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

REFUND DUPLICATE TAXES
RESOLUTION #198

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

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund \$31,088.85 for duplicate Town/County tax payments to Corelogic for the following accounts: 2218337, 48500, 541622, 295060, 1123050, 279540, 4809500, 4759250,

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund \$9,419.00 for duplicate Town/County tax payments to Wells Fargo for the following accounts: 115200, 1791500,

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund \$356.85 for duplicate Town/County tax payments to Account #4719000.

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund \$73.13 for duplicate Town/County tax payments to Old Yorktown Village c/o Heritage Management,

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund \$2,587.46 for duplicate Town/County tax payments to Celink Reverse Mortgage c/o Industry Consulting Group.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

SPECTRA ENERGY/ALGONQUIN LICENSE AGREEMENT
RESOLUTION #199

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

RESOLVED, that the Town Supervisor is hereby authorized to sign a license agreement with Algonquin Gas Transmission, LLC, for access to and use of 7.5 acres of temporary workspace in Sylvan Glen Park Preserve and Granite Knolls Park West (tax map numbers: 25.20-1-8, 25.16-1-25, 26.13-1-1, 26.13-1-1.1 in Sylvan Glen Park Preserve, and 26.09-1-22 in Granite Knolls Park West), for a period of eleven (11) months as shown on drawings submitted by Algonquin and on file with the Town Clerk, for purposes of construction of the AIM Project pipeline as approved by the Federal Energy Regulatory Commission on March 3, 2015 (Case No. CP14-96), and for access to and post-construction monitoring and, to the extent necessary, restoration of such area for a period of five (5) years commencing completion of construction, in consideration of a license fee in the amount of \$1.5 million to be paid within 30 days after execution of the agreement.

Grace, Bernard, Diana Voting Aye
Patel, Siegel Voting Nay
Resolution adopted.

Councilwoman Siegel read a statement saying that she was opposed to the construction of a permanent road at Granite Knolls. She explained that a SWWPP was never done on this permanent road. Mrs. Siegel also stated that an inventory of the value of the trees on the property had never been done.

Supervisor Grace explained that Spectra Energy will file an amendment to their application with the Federal Energy Regulatory Commission and a SWWPP will be done.

ADJOURN

Upon motion made by Supervisor Grace, seconded by Councilman Diana,
The Town Board Meeting was adjourned.

Alice E. Roker, Town Clerk
Town of Yorktown