

Meeting of the Town Board, Town of Yorktown held on September 20, 2016 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Michael J. Grace, Supervisor
Vishnu V. Patel, Councilman
Gregory M. Bernard, Councilman
Thomas P. Diana, Councilman
Edward Lachterman, Councilman

Also Present: Diana L. Quast, Town Clerk
Michael McDermott, Town Attorney

TOWN BOARD MEETING

Supervisor Michael Grace called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Bernard, seconded by Councilman Diana, the Town Board moved into Executive Session to conduct interviews for volunteer boards and negotiations. Upon motion made by Councilman Patel, seconded by Councilman Lachterman, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Grace led the salute to the American 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 THE TOWN SUPERVISOR, Michael Grace expressed his hope that everyone enjoyed the Feast of San Gennaro Festival and mentioned that Cardinal Dolan stopped by to visit. He wanted to thank all those who participated, including vendors and local restaurants.

DURING REPORTS FROM TOWN COUNCIL, Councilman Diana spoke about the Roma Building and how progress is moving forward and wants to assure residents that although they may not see construction trucks moving, it doesn't mean that other work, such as soil testing, isn't getting done. He wanted to make certain that residents understood that this was not costing the town any money; the owners of the property have stepped up to bear the cost of the entire project. Councilman Diana also reminded the public that school is open, so please drive carefully.

Councilman Bernard announced that the Yorktown Rotary is sponsoring a beer-tasting event, The Best and The Worst, behind the firehouse between 12 noon and 5 p.m. on October 1st. He also wanted to thank the auxiliary police for their volunteerism at these events. Councilman Bernard announced that Costco is no longer coming to town and Lowe's will be replacing them in that space. The developer is planning to make the same improvements to the Route 202 corridor which were stipulated in the Costco plan.

Councilman Patel mentioned that the Grange Fair was a great success and that he took Best in Show in the flower event. He also wanted to mention about school being open and parents should try to be on time in dropping off children so that drop off lines keep moving and traffic doesn't back up. He stated that we are still in a dry spell, so please conserve water.

Councilman Lachterman announced that this past Friday a plaque was unveiled at the Senior Nutrition Center that has the names of 53 Yorktown residents on it that are in the Westchester County Senior Hall of Fame. He stated that he met with seniors to discuss some projects that would enhance the YCCC for all age groups. There is a little bit of money owed back to them for renovations so that should help. He will be meeting with them again after the Jewish New Year and wished a Happy New Year to those celebrating. On Sunday, October 9th from 11:00 a.m. and 5:00 p.m. the Yorktown Chamber Street Fair will be held on Commerce Street and Veterans Road.

DURING REPORT FROM HIGHWAY SUPERINTENDENT, Dave Paganelli, he gave a quick update, particularly regarding paving and asked residents to be patient with the "Bump" signs being used while re-paving is being done. The Highway Department has paved 5.5 miles of road already and should be able to do 2 miles more due, in large part, to the money allocated by the Town Board and the NYS Pave New York program. He also introduced 2 new hires from August – Kevin Harrigan and Brian Stam.

ADVERTISE PUBLIC HEARING FOR RESTORE NY COMMUNITIES INITIATIVE
GRANT FOR DEPOT SQUARE/HIGHWAY GARAGE RELOCATION PROJECT
RESOLUTION #423

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

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town Board of the Town of Yorktown in Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598 on Tuesday, September 27, 2016 at 7:30 PM or as soon thereafter as the same can be heard, to discuss the Town's application for a Restore NY Communities Initiative grant for the Depot Square/Highway Garage Relocation Project and the property assessment list for this project.

All persons in interest and citizens may be heard at the public hearing to be held as aforesaid.

Depot Square/Highway Garage Relocation Project Property Assessment List
Property: Current Town of Yorktown Highway Garage located at 281 Underhill Avenue, Yorktown Heights, NY 10598 and also known as Section 37.19, Block, 1, Lots 7 & 10 on the Town of Yorktown Tax Maps.

The existing building on both lots is a 17,000 sq. ft. highway garage for municipal use. The Depot Square project proposes to demolish this building and relocate the highway garage to other Town owned property outside of the downtown on Greenwood Street, leaving the property as surplus. A new mixed use commercial and residential building with an approximate footprint of 8,000 sq. ft. and a maximum height of 35 ft. is proposed to be built on the property. Already approved by vote on September 19, 2016.

PUBLIC HEARING TO REPEAL AND REPLACE CHAPTER 270, TREES

Supervisor Michael Grace convened a public hearing to consider to repeal in its entirety Chapter 270 entitled “TREES” and replace it with a new Chapter 270 of the Code of the Town of Yorktown entitled TREE ORDINANCE.

Bruce Barber, Environmental Consultant, gave an overview of the proposed revised elements of the existing ordinance called Trees. Much work was done in 2010 by Ann Kutter and Linda Miller to get to the existing ordinance but over time, as the ordinance was put into use, areas for improvement and change were discovered. It was felt that repealing the existing ordinance but incorporating much of the good work that was done in 2010 would be the way to proceed with a new ordinance. The intent of the Town Board was to streamline the ordinance and make it more clear and workable for the general public as they do work on their private property, as well as for developers who are looking for guidance regarding preservation and mitigation. The substantial elements of the new ordinance are that size of the regulated, or protected tree, has changed from 6 inches to 8 inches DBH; the regulated buffer components (areas between properties) is being repealed; additional protection has been added of septic fields, housing, and driveway where there is no permit required to remove trees in those areas that would prove dangerous or hazardous. Protected trees section is still in place. The Planning Board aspect of development proposals is that the mitigation can be both onsite as well as offsite, and the Planning Board has the ability to create mitigation opportunities. There is a lot of emphasis with this ordinance of working with the Tree Conservation Advisory Commission to create the vision of what is called a town-wide Forest Management Plan where areas in the town would be earmarked for future mitigation. This mitigation has also been modified to include not just tree replacement, but can also include removal of invasive species, enact areas that would protect understory from deer allowing for regenerative growth, etc. Mitigation is now being defined with a “broader brush” for practical purposes. There is also an opportunity to contribute to a “tree bank” which would go towards funding other opportunities. In addition, there are some additional standards of approval that the Board is considering. The Board has also determined that town-owned property is not to be included in the new ordinance at the present time. The new ordinance will reduce permitting procedures and red tape for residents and provide a broader brush of opportunity for mitigation.

Supervisor Grace addressed the issue of town-owned property being exempted from the new ordinance: “The town should be exempt from any of its own regulations in the sense that the Town Board is its own approving authority as to how it conducts its business. The vetting of any town project is done through its own staff, anyhow, so there is a certain amount of redundancy in that.” One of the main goals of the new ordinance is to empower the Tree Advisory Commission because they are looking to enact a town-wide new forest management plan that are now no longer funded by third parties and to actually see these plans put into execution of what we want for the town through mitigation. Supervisor Grace would also like the Tree Commission to master plan what it is the town is looking to accomplish with local forest and canopy. This plan needs to be defined and prioritized in order to make opportunities for project mitigation rather than just doing diameter replacement since there is a great need for management of town-owned land. The Town is one of the major open space land owners in the town and many of these forests are in poor shape, in part, due to poor past management.

Mr. Randy Pratt, manager and grower at Wilkins Farm, said an exception has not been made for agricultural activity. There are times on a farm when multiple trees have to be removed to plant a new orchard which can be bigger than 8 inches and under the new ordinance would cause him to have to apply for a permit each time this needs to be done. An exception had been placed into the current ordinance for the removal of trees for such activity which has not been included in the new proposed ordinance. He plants over 2700 trees a year and now will have to get a permit. They have a forest management plan for their woodlands which is managed by DEC and their forester. They are in an agricultural district and perform an agricultural activity and need to have this exception included.

Mr. Carl Hogler asked what the motivation was for replacing the law as it now exists. Regulated buffer seems to not receive any attention in the new law – it was proportioned according to the acreage of the lot. It is a restricted area where trees can grow. If there is a drainage problem, it will be made worse without the trees. He feels there is no reason why, if residents’ taxes are used to pay town employees to do their jobs, the town should not have to obtain the same permits as the residents. He also feels the new ordinance is not clear enough in its language regarding approving boards. He is concerned that streamlining the process may cause jumping ahead and not asking the proper boards, like Conservation, for input. He is bothered that the word “may” is used frequently in the new ordinance and not “shall” or “should.” This word would allow a potential abuse of interpretation and not have to contact the proper boards. He doesn’t understand why administrative and non-administrative permits were excluded since he thought that would make town permits more efficient because they would be delegating a particular application to one or two of the boards instead of the Conservation Board. Absent from the proposed ordinance is any reference to tree deforestation activity in a wetland or wetland buffer in a residential area which should, in all cases, require a wetland permit. This is not clear and should be made so. Also, in addition, it will not require a permit with a proviso that no more than 3 protected trees in a wetland or wetland buffer zone owned by the town can be removed in an 18-month period. Again, no review or permit process is stipulated. If the town owns a wetland, do they have to apply for a permit?

The proposed law allows for the clearing, cutting, uprooting of less than 10 protected trees, with no indication of the size of the plot or whether it is on a wetland. It also states that cutting less than 10 protected trees, 8 inches or more, in a 10,000 square foot area is permitted. This amounts to a quarter of an acre. What this means is that a landowner can cut up to 40 trees, 8 inches to 23 inches, on an acre of property. Mr. Hogler said this is clear-cutting and the law needs to be more stringent. Drainage can become a very big problem.

Mr. Hogler quoted from the new ordinance, “mitigation measure may be required.” He feels it should be strict and should be required. He feels that if the ultimate goal of a tree ordinance is to protect trees then it should do that. He also presented a petition of 25 signatures from residents in his neighborhood regarding their concerns. He feels the intent of the Board is good but feels things should be more stringent for developers.

Supervisor Grace explained that one of the problems the Town had with its current ordinance is that instead of it being a shield to protect the environment, it ended up pitting one resident against another. The law did really address how many trees could be cut down under a permit. The town was trying to see what could be practically accomplished and discovered that not much was getting done. The new ordinance aims to give the Tree Advisory Commission more power to develop this. Right now the Planning Board handles these applications and assures that the Conservation Board will also be a part of the referral process.

Mrs. Andrea Jeffries asked how a law like this will affect the buffer zone that a builder would have to provide.

Supervisor Grace responded that it wouldn't because that is in an application for a site plan before the Planning Board and it is handled through them.

Mrs. Jeffries asked how this would affect wetland areas that are not tended to.

Supervisor Grace said that, especially with town-owned property, drainage swales have a lot of erosion and trees drop in there and then there is flooding. Part of this change is to look toward mitigation and development to look at tending to these large parcels. Ms. Jeffries also asked how will it be addressed when a property owner clear cuts property with no purpose, as happened on a piece of property up the street? Will there be increased protection or a penalty for someone who does this? Supervisor Grace said he wasn't familiar with the parcel of land she was referring to and would have to look into it. Councilman Bernard responded that the developer will be having an informational meeting for the public regarding the parcel of land she is referring to. Councilman Lachterman stated that the new law does have penalty provisions.

Mr. Paul Coteus asked for clarification of the penalty of a law that is broken under this new ordinance. Supervisor Grace responded that there are penalties that do exist. He likes the current ordinance but feels that any changes need to be done with a clear reason in mind. The biggest problem facing the world today is global warming and the presence of too much carbon in the atmosphere. He said that it is easy to put carbon into the atmosphere but not easy to get it out; however, trees do this every day. Mr. Coteus said that there hasn't been a discussion yet about global warming, carbon trapping or any policy mitigating the most important role the trees play. He is for the law that makes it hardest to remove trees because it is that important. He feels the new law seems to make it easier to remove trees even though its intention might be to give enough flexibility so that in the end there would be more trees. The attempt to have more trees, more carbon sinks, the real purpose of the tree, etc. needs to be cited in the new law. Supervisor Grace said in the new law there is a review of the functional component of the tree being removed or the forest being disturbed. He stated that part of the mitigation process is to look at the function. Councilman Patel agreed with Mr. Coteus that it was not clearly written.

Ms. Linda Miller said she opposes the repeal of the current law. She believes the current law should be kept because it is progressive and is a cohesive set of regulations which recognizes the value and important functions of both individual trees and trees as part of interconnected forest communities while balancing this with the right of property owners to manage their own land and developers to profit from their projects. She stated that it is prudent to review a law after it has been in effect for a few years to see if any revision or "tweaking" needs to be done but feels that this is not what is happening now. This is a total repeal and replacement of the current law. Ms. Miller also stated that it is also poorly written and cited some examples. The proposed new law doesn't actually have provisions stating how it will accomplish its goals. It is weaker in its protection of trees, and does not offer protection to homeowners from environmental damage caused by unregulated tree removal on neighboring property. It does not recognize the value of woodlands as complex multi-species ecological communities. The focus of the new law is narrower. The proposed new law does not have the provisions to accomplish healthy forests. How can this law promote healthy forests when it doesn't even define them? She cited examples of this lack of definition and quotes where it does so in the current law. Ms. Miller also does not agree that the town should not have to apply for permits for town-owned property; this would only encourage transparency and inform the public. She asks why the current law couldn't be amended to accomplish some of the goals that the Supervisor stated as the objective of the new ordinance.

Mr. John Flynn stated that he wanted to focus on the provision of the new law that would give the Town Board authority to review Planning Board decisions and feels that it would add an additional layer of land use review that is unnecessary and would politicize the planning process rather than insulate it from politics. Multiple agencies already review the planning process and feels that adding Town Board review complicates an already cumbersome process. Supervisor Grace interjected that this is a requirement by law. Mr. Flynn said that in the time he has been on the Planning Board, a review has never been required over any challenges. Supervisor Grace explained that any local regulation has to have a local appeals process.

Mr. Flynn feels the problem with this process is that the Town Board may wish to make the Planning Board process easier for some and a future board may feel the Planning Board decisions may not be rigorous enough. Mr. Flynn stated that new law is structured so that the applicant, as well as other interested parties, can appeal to the Town Board. Mr. Flynn said that this law politicizes the process which is contrary to why advisory boards, like Planning, were first created. Supervisor Grace restated that the provision for Town Board authority to review has to be there or the law is unconstitutional. Mr. Flynn stated that in the time he has been on the Planning Board, they have handled several applications from board members, Westchester County Executive, and asked if the Town Board really wants to be the review process for a member of their own Board or a county executive? Supervisor Grace stated that if an applicant feels aggrieved by a Planning Board decision, there has to be an appeals process by law. Other regulations exist for zoning, wetlands, etc. Councilman Bernard doesn't believe this board wants to politicize the planning process or override decisions.

Mrs. Jenny Sunshine wanted to express her sentiments as to why trees are important to the community; she quoted from several articles and studies:

Health –trees help improve the air by trapping air pollutants, thereby improving our health, both physical and mental.

Economical – trees help cool the environment, reducing the need for air conditioning.

Property Values – the presence of trees around your home or business increases your property value.

She mentioned that Yorktown has held the title of “Tree City USA” from the Arbor Day Foundation. She said the town has this because the town has a tree ordinance. Ms. Sunshine stated that many newcomers to the area are afraid of trees (storm damage, falling, etc.) and cut trees down too quickly and maybe the Town or Tree Commission could let them know there is a tree ordinance and refer them to tree specialists regarding what trees to keep and what to cut.

Supervisor Grace stated that it is difficult for the Town to tell a private homeowner that they cannot take down a tree on their property or get in the middle of neighbor disputes over tree cutting on private property. He said that educating the public is a very good idea.

Mr. William Kellner, Chairman of the Tree Conservation Advisory Commission presented written comments to the Board. He first stated that he supports Supervisor Grace's statement about streamlining and rationalizing the town code - not just chapter 270, but other parts of the code, as well. He stated that he thinks there are a number of places in the code, beyond the tree ordinance, where the code works against preserving the environment and at the same time imposes regulations that can be burdensome. He feels the regulatory burden can be lightened and improve environmental quality at the same time. His comments contain examples of what he is referring to regarding the code.

Mr. Kellner also addressed what he believed to be a misconception of their differences with the Board – he felt it was portrayed inaccurately as a sparring match when it was actually a productive and viable conversation between the Board and the Commission. He thanked Town Attorney Michael McDermott and Bruce Barber, Environment Consultant, for their contributions. The Commission does, however, have some lingering concerns about the new ordinance. Mr. Kellner said that the Commission looks forward to their role within the new ordinance. He also made a suggestion for a reword of a particular section regarding a time frame issue regarding tree removal (eighteen months).

Supervisor Grace said he appreciated Mr. Kellner's comments and restated that their conversations were healthy discussions of the new ordinance, as well as how well the Commission does their part in forest protection and preservation.

Mr. Keith Schepart, owner of Taconic Tree Care, Inc. and member of the Tree Conservation Advisory Commission commended the Board for having a tree ordinance in place; however, he feels that a provision needs to be added regarding trees and buffer zones, as these are frequently areas of contention between neighbors. Border trees should be addressed in a separate section of the ordinance. He feels the process is appropriate to have an application which allows for a discussion between neighbors prior to any cutting in order to prevent problems.

Mrs. Ann Kutter, drafter of the original tree ordinance passed in 2010 and current member of the Tree Conservation Advisory Commission, spoke. She stated that with any ordinance, if it is not enforced, it isn't worth anything. She pointed out areas that were lacking in basic knowledge in the 2010 ordinance and, subsequently, not enforced. She feels the Town Board should be commended for the openness and inclusiveness they've shown during the process of drafting a new town ordinance. They have reached out to experts, volunteer advisory board, and any persons interested, in drafting the new law. Ms. Kutter feels that the new ordinance isn't perfect – for example, the provision for agricultural activity should be kept included in the new law and the town property should not be excluded from the ordinance. The ordinance document, although maybe incomplete in some areas, is still a strong protection for Yorktown's woodlands. Ms. Kutter then proceeded in outlining provisions in the new ordinance which proves this is so. She ended by saying that in order to achieve what the ordinance sets out to accomplish, enforcement of the law must take place.

Mr. Dale Salzman, resident, spoke. He is glad the Town wants to have a tree ordinance. He stated that trees must be managed by utilizing forest management plans in order to maintain our forests. Since the Town, as representative of the ordinance, and since "all good teachers are representatives of what they teach," the town should be required to obtain permits when public land is going to be changes. The mechanism for this would be the continuation of non-administrative and administrative permits. This would keep the advisory boards and the public advised larger changes that would be made and would promote transparency.

Ms. Harper, resident, commended some of the changes that the new ordinance proposes. She has concerns regarding the use of the words “must” and “may.” She felt that the Conservation Board and the Tree Conservation Advisory Commission should also be involved in permit applications. She brought up an issue about the number of trees that can be removed within a certain square footage. She also voiced concern about tree removal every eighteen months from buffer zones from homes near Mohegan Lake. The trees located there are one of the biggest buffers to preventing certain nutrients flowing into the water from nearby homes. Supervisor Grace, as well as Councilman Bernard, reiterated the issue of buffer zones being an area of contention between neighbors and the intent of the new ordinance. Ms. Harper feels that removing woodland designation seems to weaken the protection of the trees and woodlands. She suggested that some of the strong points from the previous ordinance and some of the elements from the new would create a better ordinance.

Ms. Janice Turner, resident, also an enrolled citizen of the Lenape tribe, told the board she was present to represent Mother Earth and her ancestors and says that the land is Lenape land, not Westchester County. She spoke against what she feels as the over development of the land and the inequities of how it was developed. She ended by saying the community will change for the better and to think to the future.

Ms. Linda Miller, speaking for Susan Siegel who could not be present, read: Supervisor Grace has said that one reason for repealing and replacing the current tree law is that it hasn’t accomplished anything and Mrs. Siegel wonders if the new ordinance will do any better. What are the goals of the new ordinance and will the new provisions and regulations achieve these goals? Mrs. Siegel feels that there will be less protection for the woodlands and forests of Yorktown. She stated that the new law does not require mitigation, yet Supervisor Grace looks to mitigation to improve public, town-owned lands that require attention. A developer potentially has the opportunity to cut down dozens of trees and mitigation may not take place since it is optional. Mrs. Siegel says this fits in with Supervisor Grace’s other goal which is to ease the burden on developers. She feels this is a contradiction. Mrs. Siegel also brought up the issue of the differences in the definitions of the words “shall” and “may.” She also feels the new ordinance is inconsistent with what the stated goals are. The current law did have its accomplishments, which she enumerated. She felt enforcement has been an issue which only serves to weaken an ordinance.

Mr. Paul Moskowitz, resident, spoke about how he is a supporter of a strong tree law and isn’t sure that this new law fills that needs. The new law will take final authority from the Planning Board which consists of either experts in their field or those interested individuals who are willing to learn. Supervisor Grace stated that the new law has an appeals process because it is required by law – just as the old law does – it is not meant to take away authority. Mr. Moskowitz does not believe the town should be exempt from its own regulations; it can lead to arbitrary or capricious acts by a future Town Board member or employee or outside agency without any due process.

Mr. Jay Kopstein, resident, spoke about how enforcement is the key to any ordinance and cited an incident where someone who had been told not to cut down trees, did so anyway and the town did nothing in retaliation.

Mr. Walter Daniels, chairman of the Open Space Committee, wanted to thank the Board for taking the Dornac property as open space. He said he wanted to bring this up because in order to protect a large space such as this property is needs to be preserved and maintained by the town. The ordinance should be one that protects the open space.

Ms. Jane Daniels, resident, stated that the purchase of her home many years ago was based on the trees. She read a real estate article about Yorktown that compliments the area and its foliage. Ms. Daniels is concerned about the new eight-inch diameter allowance to cut a tree and the town land being exempt. She feels these two issues weaken the tree ordinance.

Mr. Howard Frank, former member of the Conservation Board, spoke about how enforcement of the current tree ordinance did take place in the past. Mr. Frank pointed out that Yorktown is a “Tree City USA” and their standards and recommendations should be part of the code. He also stated that utility corridors have not been addressed. Mr. Frank mentioned that trees have not been cut down properly and maintenance of these corridors needs to be addressed. Public utilities need to be aware of the Town’s tree ordinance. He cited a tree ordinance from Oyster Bay, NY.

Ms. Geri Schwalb, resident, spoke about how critical enforcement is to any ordinance. She mentioned that she had recently encountered tree cutting near her home and when she tried to report it, the enforcement officer said there was no evidence of tree cutting because the trees were already gone. She stated that the law needs to be enforced in a timely manner with penalties in order for it to “have teeth.”

Mr. John Schroeder, Yorktown Land Trust, said he had the opportunity to work with Linda Miller and Ann Kutter on the original tree ordinance and knew how much work went into it. The Land Trust agrees with many of the comments, including opposition of the town-owned property being exempted. Mr. Schroeder said he has not heard during any of the comments that the proposed law is good enough to be adopted. He hoped that the Town Board would hold off adopting the new law and consider the comments and suggestions that were made this evening.

Supervisor Grace spoke to the concerns of the old law versus the new law regarding enforcement, regulation, and advisory board authority. He feels this new law will accomplish what it is intended to do and moved to, under Chapter 270-5(c), include agricultural activity and under 274(a), make an eighteen month time frame.

All those present having been given the opportunity to be heard and there being no further discussion, upon motioned made by Councilman Bernard, seconded by Councilman Diana, the Public Hearing was closed.

LOCAL LAW #21 OF 2016 - REPEAL AND REPLACE CHAPTER 270 – TREE ORDINANCE
RESOLUTION #424

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

WHEREAS, a public hearing was held on the 20th day of September, 2016 pursuant to notice duly published as required by law to repeal and replace in its entirety Chapter 270 entitled “TREES” and replace it with a new Chapter 270 of the Code of the Town of Yorktown entitled “TREE ORDINANCE,” as amended.

RESOLVED, that Local Law #21/2016 as annexed hereto, be and is hereby adopted.

The question of the adoption of the foregoing Local Law was duly put to a vote on roll call, which resulted as follows:

Supervisor Grace	Voting	Aye
Councilman Patel	Voting	Nay
Councilman Bernard	Voting	Aye
Councilman Diana	Voting	Aye
Councilman Lachterman	Voting	Aye

Local Law #21 of 2016 is hereby duly adopted.

ADOPT NEGATIVE DECLARATION - REPEAL CHAPTER 270, TREES AND REPLACE IT WITH CHAPTER 270, TREE ORDINANCE
RESOLUTION #

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

WHEREAS, the Town Board finds that healthy trees stabilize the soil and control water pollution by preventing soil erosion and flooding, absorb air pollution, provide oxygen, yield advantageous microclimatic effects, have an intrinsic aesthetic quality, offer a natural barrier to noise and a natural habitat for wildlife and are integrally involved in fundamental ecological systems, and

WHEREAS, it is the goal of the Town Board to preserve, protect, conserve and regulate the forests and trees and the benefits derived therefrom, prevent uncontrolled, widespread cutting of trees, prevent soil erosion, and protect wetlands, waterbodies and watercourses, air quality, wildlife and fragile natural resources, and

WHEREAS, it is the further goal of the Town Board to protect against cutting of trees which can create, including but not limited to, surface drainage problems, increased municipal costs to control drainage, adversely affect air quality, impair the stability and value of nearby properties, adversely affect fundamental ecological systems and result in unsightly and barren conditions; and

ADOPT SEQR, NOTICE OF DETERMINATION ON NON-SIGNIFICANCE
RESOLUTION #

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

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Yorktown Town Board has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Adoption of Local Law 248: Stormwater Management and Erosion and Sediment Control.

SEQRA Status: ___ Type 1
 X Unlisted

Conditioned Negative Declaration: ___ Yes
 X No

Description of Action: Adoption of a Local Law, Chapter 270: Tree Ordinance. Repeal of existing Local Law, Chapter 270: Trees.

Location: Town of Yorktown, Westchester County, New York.

Reasons Supporting This Determination: The Town Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c), specifically:

1. The proposed action will not result in a substantial adverse change in the existing air quality, ground or surface water quality or quantity, traffic or noise levels, or a substantial increase in solid waste production. Air quality and ground and surface water quality will be increased due to the implementation of tree planting as part of a town-wide forest management plan.
2. The proposed action will not result in the removal or destruction of large quantities of natural vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impact a significant habitat area; result in substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such species; and will not result in other significant adverse impacts to natural resources. The adoption of the new law will result in increased opportunities to increase tree replacement and mitigation that will be in accordance with a town-wide forest management plan prepared by the Tree Conservation Advisory Commission and approved by the Town Board. In addition, provision is made to remove invasive species

ACCEPT DONATION OF PROPERTY LOCATED AT 2924 BIRCH STREET FOR
HIGHWAY PURPOSES
RESOLUTION #425

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

Whereas, Christopher Sciarra conveys to the Town a certain parcel of property shown and described as Section 27.09, Block 3, Lot 70.11, also known as address 2924 Birch Street, as set forth in the deed for the purpose of dedicating the property for highway purposes.

Now, Therefore Be it Resolved, that the Town Board of the Town of Yorktown accepts the dedication of the property for highway purposes.

Be it Further Resolved, the Town Supervisor is hereby authorized to sign any required documents or forms and to take such further acts as may be necessary to finalize the dedication of the donated property.

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

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME
FOR NANCY CALICCHIA
RESOLUTION #426

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

Be It Resolved that the Town Board hereby authorizes the Town Comptroller to pay Nancy Calicchia the cash value of unused time as of her date of separation, Monday, August 17, 2016

Rate of Pay: \$25.54 hourly

Vacation	47.68 hours x \$25.54 =	\$1,217.75
Floating Holiday	.25 hours x \$25.54 =	\$ 6.39
	Total	\$1,224.14

Be it further resolved that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:		
A1330.110	Tax Part Time Salary	\$1,224.14
To:		
A1330.108	Tax Lump Sum	\$1,224.14

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

AUTHORIZE COMPTROLLER TO PAYOUT THE CASH VALUE OF UNUSED TIME FOR DANIEL MCMAHON
RESOLUTION #427

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

Be it resolved that the Town Board hereby authorizes the Town Comptroller to pay Daniel McMahon the cash value of unused time as of his date of retirement, Monday, August 29, 2016

Rate of Pay: \$79.55 hourly

Compensatory Time	82.30 hours x \$79.55 =	\$ 6,546.97
Personal Time	32.00 hours x \$79.55 =	\$ 2,545.60
Longevity 1/29/16 – 8/29/16 146 days x \$34.58 per day		\$ 5,048.19
Holiday Time (Double Time)	\$79.55 x 2 = \$159.10 69.20 hours x \$159.10 =	\$11,009.72
	Total	\$25,150.48

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 Accrued Employee Liability	\$ 9,092.57
A3120.102	Police Salary	\$11,009.72
A3120.106	Police Longevity	\$ 5,048.19
To:		
A3120.108	Police Lump Sum	\$25,150.48

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

AUTHORIZE COMPTROLLER TO REFUND DUPLICATE TAXES
RESOLUTION #428

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

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund duplicate tax payments to the following Account Numbers:

Account #4785500 in the amount of \$110.88
 Account #4785000 in the amount of \$19.24

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

EXTEND BID FOR AUTOMOTIVE SMALL ENGINE PARTS AND
EQUIPMENT/TOOLS
RESOLUTION #429

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

WHEREAS, invitation to bid for the Automotive and Small Engine Parts and Equipment/Tools was duly advertised; and

WHEREAS, said bids were received and opened on October 2, 2014;

Now Therefore Be It Resolved that upon the recommendation of the Distribution Superintendent, Ken Rundle, the Automotive and Small Engine Parts and Equipment/Tools bid be and is hereby extended for one year, per the terms of the bid contract which will expire October 7, 2017.

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

AUTHORIZE COMPTROLLER TO RELEASE ESCROW DEPOSIT FOR STREET
OPENING PERMIT #016-004
RESOLUTION #430

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

RESOLVED, that the Town Board authorizes the release of an escrow deposit in the amount of \$1,000.00 to Panbar Realty, LLC, 361 Route 6, Mahopac, NY 10541 for Street Opening Permit No. 016-004.

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

MONTHLY REPORTS

The Town Board accepted the Monthly Reports from the Building Department Construction Report August 2016 and Receiver of Taxes Reports for July and August 2016.

DURING COURTESY OF THE FLOOR, the following people spoke:

Mr. Ed Ciffone, United Taxpayers of Yorktown, wanted to know if anything more than the grant application was passed at the untelevised special meeting held on September 19th. He questioned the cost of the new highway garage project. Mr. Ciffone also wanted to know about the collection of unpaid taxes, as well as the budget that is coming out at the end of October and questioned the fund balance.

Mr. Howard Frank, United Taxpayers of Yorktown, complimented the presentation done by the Police Department at a previous meeting. He then proceeded to speak about lost revenue regarding the Water Department. He spoke about the increases in water rates and the loss of millions of gallons of water last year, along with the price per gallon.

Ms. Miriam Curtain, resident, spoke regarding political signs on public property. She felt that it was wrong to have them on public property and that they are not removed by code enforcement. They end up becoming detritus on the side of the road. She listed many locations where these signs are to be found. Ms. Curtain asked that the code enforcement officer be told to remove illegal signs, including advertisement signage. She also called the Board's attention to an article that appeared in LOHUD about Yorktown. It listed the demographics of Yorktown, things to do in town, etc. It also had a section that spoke to the political strife in Yorktown and suggested that the Town Board read it and do something about it. The town should not be known as "the town of political strife."

Mr. Jay Kopstein, resident, stated that the Feast of San Gennaro was great but they need more room in the future. He also wanted to state that the highway department needs to be moved from where it is because it is currently an eyesore.

Mr. Ed Ciffone, resident, spoke again regarding the speed with which the Town Board adopted the new Tree Ordinance, seemingly without regard to the comments made by the public.

ADJOURN

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

Diana L. Quast, Town Clerk
Town of Yorktown