

Meeting of the Town Board, Town of Yorktown held on Tuesday, February 22, 2022, at 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Matthew J. Slater, Supervisor  
Thomas P. Diana, Councilman  
Sergio Esposito, Councilman  
Luciana Haughwout, Councilwoman  
Edward A. Lachterman, Councilman

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 Supervisor Slater, seconded by Councilman Diana, the Town Board moved into Executive Session to discuss individual personnel issues, as well as litigation and negotiations. Upon motion made by Councilman Lachterman, seconded by Councilman Diana, the Town Board moved out of Executive Session and proceeded with the meeting.

#### PLEDGE OF ALLEGIANCE

Supervisor Matthew Slater led the Pledge of Allegiance.

#### MOMENT OF SILENCE

Supervisor Slater asked for a moment of silence to remember our first responders, police, fire, EMTs, doctors, and nurses. He also asked for a special remembrance for our soldiers serving overseas and all those on the Ukraine/Russia border, as we continue to monitor that crisis.

#### INTRODUCTIONS

Members of the Town Board introduced themselves, as well as Maura Weissleder, Deputy Town Clerk, and Jim Glatthaar, who is filling in for the Town Attorney.

#### REPORT FROM THE TOWN SUPERVISOR

Supervisor Slater reported on recent Town events and updates, including the following:

- E-Waste Day this Friday in front of the Police Department. Information has been posted on the Town's website.

#### REPORTS FROM TOWN COUNCIL

Members of the Town Council reported on recent Town events and public service announcements. Councilman Esposito announced the inauguration ceremony for newly elected officials will be held this Sunday, February 27<sup>th</sup> in the gymnasium of the Albert A. Capellini Cultural and Community Center at 12 noon. All are invited.

Supervisor Slater read the following proclamation:

#### PROCLAMATION – CONDEMNATION OF THE USE OF RACIST REMARKS IN PUBLIC DISCOURSE

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

WHEREAS, over the course of the last two years the Yorktown Town Board has consistently spoken out and stood against all forms of hate, racism and bigotry within our community and beyond; and

WHEREAS, over the course of the last two years the Yorktown Town Board and the Yorktown community have taken concrete steps toward combatting hatred, racism and bigotry in all of its forms; and

WHEREAS, the Yorktown Town Board recognizes the societal infections of hate and racism and continue to exist in all communities across our nation; now, therefore, be it

RESOLVED, that the Yorktown Town Board condemns the use of any racist remark in public discourse, and

BE IT FURTHER RESOLVED, the Yorktown Town Board once again wholeheartedly rejects violence and the destruction of property and is committed to the protection and safety of all residents; and

BE IT FURTHER RESOLVED, the Yorktown Town Board wholeheartedly rejects all forms of hatred, racism, oppression, religious or ethnic bias, discrimination, incitement of violence and vandalism.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

Town Board members commented on and discussed the unfortunate need to have conversations about hatred, racism, oppression, etc.

APPOINT YVONNE CECH PERMANENT TO THE CIVIL SERVICE TITLE, LIBRARY DIRECTOR III  
RESOLUTION #110

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

BE IT RESOLVED, that Yvonne Cech, is hereby appointed permanent to the civil service title, Library Director III, job class code 0217-01, from Eligible List No. 61-058, at the John C. Hart Memorial Library, effective February 28, 2022, to be paid a salary of \$123,000.00 annually;

BE IT RESOLVED, upon the recommendation of the Board of Trustees for the John C. Hart Memorial Library, based on the Certification of Eligible List No. 61-058, Yvonne Cech is hereby appointed permanent Library Director III at the John C. Hart Memorial Library;

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 February 28, 2022.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

APPOINT VINCENT CALICCHIA TEMPORARY TO THE CIVIL SERVICE TITLE, SEWER MAINTENANCE WORKER IN THE SEWER DEPARTMENT  
RESOLUTION #111

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

BE IT RESOLVED, that Vincent G. Calicchia, is hereby appointed temporary to the civil service title, Sewer Maintenance Worker, job class code 0652-02, within the Sewer Department, effective February 28, 2022, to be paid from Yorktown CSEA Salary Schedule A, Group 10, Step 4, which is \$64,959.00 annually.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

APPOINT FRANK RENDINA TEMPORARY TO THE CIVIL SERVICE TITLE, SEWER MAINTENANCE WORKER (MECHANICAL) IN THE SEWER DEPARTMENT  
RESOLUTION #112

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

BE IT RESOLVED, that Frank M. Rendina, is hereby appointed temporary to the civil service title, Maintenance Worker (Mechanical) , job class code 0443-02, within the Sewer Department, effective February 28, 2022 to be paid at the rate set forth in Yorktown CSEA Salary Schedule A, Group 12, Step 4 which is \$73,471.00 annually.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

APPOINT THOMAS LAGATELLA PROMOTIONAL TO HEAVY EQUIPMENT OPERATOR IN THE WATER DEPARTMENT  
RESOLUTION #113

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

BE IT RESOLVED, that Thomas Lagatella is hereby appointed promotional to Heavy Motor Equipment Operator, job class code 0429-02, in the Water Department, effective February 28, 2022 to be paid from Yorktown CSEA Salary Schedule A, Group 12, Step 4, which is \$73,471.00 annually,

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of no more than 12 weeks, commencing on the first date of appointment on February 28, 2022.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

APPOINT GIULIO ELISEO CONTINGENT PERMANENT TO THE CIVIL SERVICE TITLE, WATER MAINTENANCE WORKER GRADE II IN THE WATER DEPARTMENT  
RESOLUTION #114

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

BE IT RESOLVED, that Giulio E. Eliseo, is hereby appointed contingent permanent to the civil service title, Water Maintenance Worker Grade II, job class code 0621-01, from Eligible List No. 66-831, within the Water Department, effective February 28, 2022 to be paid from Yorktown CSEA Salary Schedule A, Group 10, Step 3 which is \$61,942.00 annually;

BE IT RESOLVED, that this appointment is subject to a probationary period of no more than 12 weeks, commencing on the first date of appointment on February 28, 2022;

BE IT RESOLVED, should the position become free, the status will automatically change from contingent permanent to permanent, provided the probationary period has been successfully completed.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

PUBLIC HEARING - LOCAL LAW TO AMEND CHAPTER 200-81.4 ENTITLED  
“SOLAR POWER GENERATION SYSTEMS AND FACILITIES”

Supervisor Slater convened a public hearing to consider a proposed local law to amend Chapter 300-81.4 entitled “Solar Power Generation Systems and Facilities.”

Town Clerk Diana Quast showed the Affidavit of Publication for the public hearing.

Director of Planning John Tegeder said the solar law was enacted in 2020 and this amendment will add and/or modify the following:

1. Small Scale Solar Arrays – small residential arrays 1 to 2 acres
2. Large Scale Solar Arrays – setback 50 to 100 feet and the highest point from 15 feet to 10 feet in residential zones only (remains 20 feet in commercial zones.)
3. 2 acres to 5 acres
4. addition requiring annual inspections of landscaping mostly affecting screening (required by owner or operator) annually. If deficiencies are found, replacement in kind are required.
5. bond for decommissioning along with the decommissioning plan.
6. PILOT (payment in lieu of taxes) is required
7. Lock box required at any gate
8. Any development under this law has to comply with all other existing regulations (state, county, etc.)

Supervisor Slater reviewed the comments received during the referral period. He said the Planning Board reviewed the amendments and had no objections; however, they did

recommend that the law contain a grandfathering clause that exempts projects that have an active application for a special use permit for a solar project before the Town, or, if they have already received approval from the Town, from compliance with the proposed modifications.

The following members of the public spoke:

- Jay Kopstein, resident, spoke about how the industrial-sized solar projects should be further broken down into categories of large and mega-large. He also said a moratorium should be imposed until this is sorted out. Mr. Kopstein questioned who the companies are and who will actually benefit by proposed projects. Would the town residents benefit? Is it an industrial company who is making significant profits, like Con Edison? He said Con Edison has three different ISO building models. Who gets the benefit of the energy produced – does it remain local or is it sent to another area? Mr. Kopstein said that these types of questions needed to be answered before the Town saddles the residential areas with industrial-sized solar projects.
- Paul Moskowitz, resident, said he felt the Town overlooked one fact: the creation of large-scale solar farms in residential areas is now an “as of right” development. If someone meets the zoning requirements and the requirements of the law, they cannot be stopped, no matter how much the Planning Board or the Town Board may want to because the permit is “as of right.” He thought the Town Board has abrogated their responsibility by tossing this over the fence to the Planning Board. The Planning Board would have to say yes as long as the minimum requirements are met. He said he felt the decision making process should not be left to the Planning Board because their decision making capability is limited. As long as someone meets the requirements, the permit must be issued. He said a representative of Con Edison, Mr. Shanahan, who represented the Lockwood Development in the northwest part of Yorktown where they are going to cut down approximately 12 acres of healthy trees, was asked if he read the law and the Town’s preference for land that has already been cleared (unused agricultural or recreational land) said he did not care because he met the zoning requirement and the Town had to give him the permit. Mr. Moskowitz said the Town is making it possible for anyone who wishes to develop a large-scale solar farm who has enough land to just go ahead and do it. Mr. Moskowitz said that he is in favor of solar development. He does not feel this should be – each project should be reviewed on its own merits. He had one particular question about the law regarding the change from 1 acre to 2 acres. He asked if that meant to you had to have 2 acres of land to put in a solar farm or you had to be zoned for 2 acres and Supervisor Slater said you have to have 2 acres of land in order to put in a solar application. Mr. Moskowitz asked if that was for small-scale installation and Supervisor Slater said no, it was for large-scale; it limits the amount of residential property where they can be installed.
- Susan Siegel, resident, said that while she supports the proposed amendments, they do not go far enough. She said she was disappointed that her previous suggestions were not included in the proposed amendments:
  - Add language to the purpose and intent section that talks about the importance that woodlands and trees add to the environments, as well as solar.
  - Add language to mitigation as to the multiple functions lost by tree removal
  - Add language that landscaping added to the buffers does not count towards mitigation
  - Add language that SEQRA review includes the loss of tree function

Ms. Siegel asked if the PILOT subject to the Town Board’s discretion and a public discussion. She said the issue about “as of right” is going to tie the hands of the Planning Board and there are better ways to look at this. She emphasized that she supports solar, but the Town Board also has to look at other issues.

- Dan Strauss, resident, said thousands of trees are going to be cut down as a result of these projects. He said that since 2020, the Town Board had an opportunity to make changes in the law. There are two or three specific projects going on right now that are at the core of the discussion. He said there is nothing in the amendments that prevents the use of “as of right.” He suggested that an overlay district be created over the entire

town for these solar projects. Mr. Strauss spoke about a proposed project on Underhill Avenue and said the man proposing it eventually abandoned the project due to the public outcry over tree cutting. The other proposed projects total approximately 3,000 cut trees. He said if someone comes in and wants to cut down 5,000 trees, they can do this and nothing can be done under this law. Mr. Strauss said whether or not he believes in solar is not the point; the point is that allowing the large-scale projects would destroy the Town. Mr. Strauss also raised the problems of intense storms and stormwater runoff when trees have been cut.

- Sara Wilson, resident, said she supports the proposed amendments. However, she said in the Statement and Purpose of Intent section of the amendment (which she quoted,) nothing was actually provided in the solar law to put any “teeth” behind the intent. No model of enforcement is provided. She recommended an assessment step that will rate, measure, or classify a proposed solar power generation development according to that criteria. The intent would be to set a higher bar for the proposed projects that are on vacant parcels and are in a naturalized state versus the more desirable proposals on that already-cleared property or on commercial roofs or parking lots.

Ms. Wilson said Section F.2 governs the special use permit requirements for large-scale systems. Item E requires the applicant to provide a statement detailing the loss of trees to be removed and the quantity of carbon sequestered that would help to compare how much solar power is going to be generated and how beneficial that is against non-renewable power. However, there is not actual rating (is it good, not good, etc.) – the Town is just requiring the comparison. She said the flaw in this approach is that while each individual tree has a carbon sequestering value, it does not take into account the function of the forest. Ms. Wilson said when a woodland site is evaluated, it includes all the benefits of woodlands that are outlined in the Findings and Facts Section 270-3 of the Tree Law. She said according to the Tree Law, the goal of the mitigation plan states “such plan is to replace the functions carried out by the protected trees and woodlands affected by the proposed activity.” She said those functions, of course, go far beyond sequestering carbon. While the solar law provides for mitigation for the carbon sequestering ability of the removed trees, Ms. Wilson recommended that the solar law more clearly reflect and mirror the Tree Law by also addressing the impact of tree removal on the function of those woodland sites. She said these two changes: first, rating the proposed project, according to what type of site is involved; and second, requiring the applicant to conduct a more comprehensive comparison of the benefits of the renewable energy project versus the total environmental impact on the entire woodland would both be positive enhancements to the solar law. They would provide a roadmap to address the Town’s priorities as they were expressed in the opening Statement and Purpose of Intent.

- Dan Strauss said that anything the Town Board does now should be retroactive to the projects in progress so that it would stall anything that is going on until the Town gets the law right. Regarding mitigation, he said that putting money in a tree fund is not mitigation. He said there is no ongoing code enforcement in Town who will effectively oversee mitigation efforts regarding solar farms. Mr. Strauss referred to a gas station at Strawberry Road and Route 6 where the owner cut down trees illegally. He said there was a large fence in front of the property that looked terrible. He said they put up a fence below ground level and planted trees in between that are now dead.
- Mr. Kopstein made a correction to a previous statement regarding the Lockwood site being a Con Edison project. He said it is not a Con Edison project – it is Con Ed Solutions, which is not Con Ed as we normally see them. It is an ESCO (Energy Service Company) and it not restricted to community purchases. It does not 100% benefit our community.
- Kathryn Honig, resident, said she is concerned about grandfathering as she is currently doing a project on her property. She said many of the things in the law are already being met by her project (landscaping, maintenance, decommissioning, bonds, etc). Ms. Honig said she personally has had solar for the last 7 years. Ms. Honig thinks it is important that each project stand on its own two feet. She said they have spent a lot of time and energy into getting this project right. There are incentives that are expiring

and if these amendments are retroactive, it could potentially destroy the economics of the project. Ms. Honig said she thinks it is important that the Planning Board has the discretion to make applicants go through the process, which she has done. She asks that the Town Board not make these amendments retroactive. Her project is a Con Ed project that Yorktown residents will be able to subscribe (up to 60% can be for individual homeowners and 40% for businesses). She said they are working with her neighbors to address any of their concerns.

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

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

PETITION FOR ZONING TEXT AMENDMENT REQUEST RECEIVED FROM VOLTA ELECTRIC VEHICLE CHARGING/DISPLAY KIOSKS

Kristen Motel from Cuddy and Feder, introduced Samuel Lee, Volta Charging, and Steve Harris, Washington Prime (representing Jefferson Valley Mall ownership). Ms. Motel said their client, Volta Charging, filed for a zoning code amendment to permit electric vehicle (EV) charging stations. Volta provides the infrastructure for EV charging stations. She gave a brief overview of the charging stations. She said that right now the way zoning code is written does not address these stations. Volta stations have electronic display screens, and their charging is universal (not just Tesla). Ms. Motel said the displays are used for standard advertising and help defray the cost of charging to customers. There is no sound to the advertising (static not moving) and is targeted to the EV user and pedestrian foot traffic. They are looking to install these at the JV Mall and Staples Plaza. Displays will not be distracting to passing drivers. Ms. Motel said they are seeking for amendments to the sign provisions of the law and to tailor the amendment to these charging stations.

Samuel Lee spoke to the Town Board about the physical aspects of the kiosks. They are 55 inches diagonally across (screen size). Mr. Lee said the dimensions of the kiosk is 7.5 feet tall. He said they are proposing quick charge stations at the Staples Plaza (DCFast – 50Kw chargers), and they are proposing the slower chargers (L2) at the Jefferson Valley Mall that will be completely free to the user.

Supervisor Slater asked if there is proposed language for the amendment that would limit the type of advertising and could they provide this language; Ms. Motel said they had not yet contemplated that but Volta has a brochure of all of their advertising partners, which they can provide. Mr. Lee said Stop & Shop is a larger advertiser, as well as other retail and grocery stores. There are no advertisements for cigarettes, alcohol, guns, cannabis, or political advertisements.

Councilman Esposito asked how many kiosks would be at the mall and Mr. Lee said there would be 4 at the mall and 2 at Staples Plaza.

There was a discussion about the types of charges that EV users could expect in terms of how much of a charge could be obtained from the stations.

Supervisor Slater asked if there would be any input from the Department of Transportation since both sites are located on state roads and if they could be visible from the roads and was told no.

Councilman Esposito said that as long as the signage is on private property, the DOT usually does not object.

Supervisor Slater said he would like to be clear about what types of imagery would be allowed. He said he is concerned about inappropriate advertising. He would like to see the types of imagery that they would allow/not allow to be put into the code.

Councilwoman Haughwout said she would eventually like to see the charging stations in the commuter lot next to Town Hall. Supervisor Slater mentioned the J. C. Hart Library as a potential site.

Councilman Esposito said this type of infrastructure needed to be supported, as it is much needed in Town.

Supervisor Slater asked Mr. Lee to have Volta contact the Planning Department to start the legislative process.

Steve Harris (Washington Prime Group – Jefferson Valley Mall) said he is supportive of the project. He said his presence at the meeting is to support Volta; they are a great partner. Mr. Harris said their advertising is modest.

Supervisor Slater said the next steps would be to begin work with the Planning Department to draft legislation and for the company to provide samples of advertising to the Town Board.

Councilman Diana asked how much the fast charge would cost per kilowatt and Mr. Lee said it is approximately \$.20 per kilowatt-hour but could not say for certain. Mr. Lee said how much of a charge you get depends on the power output of the dispenser. A discussion took place regarding how EV users would use the kiosks, costs, length of charging, etc. A discussion took place regarding the cost of the charging to EV users.

#### SUSTAINABLE WESTCHESTER & WESTCHESTER POWER PROGRAM

Supervisor Slater said everyone knows about the backbreaking utility bills that are being experienced, in not only Westchester County, but surrounding counties as well and this program is one way that on a local level, they can provide relief. He said the Town has done much work with Sustainable Westchester with the Community Solar Program and they have been great partners in helping the Town become regional leaders in renewal energy initiatives. He said this is another one of their cornerstone programs.

Dan Welsch, Sustainable Westchester, gave a slide presentation about Sustainable Westchester and the Westchester Power Program and what it offers in terms of adaptability for residents and cost savings. It is a municipal membership non-profit organization that helps develop, design, and administer programs to help municipalities in their environmental sustainability goals. Their programs include community energy, electrification solutions, grid efficiency, zero waste, and sustainable landscaping. Mr. Welsch said there are 29 local municipalities that have joined the Westchester Power Community Choice Aggregation (CCA) program, with approximately 145,000 residents and small business participants. The program is a big bulk-purchasing program that provides 100% New York State renewable energy at competitive prices and it is a community energy program that affects the electricity supply only.

Supervisor Slater clarified that if you are a Con Edison customer or NYSEG customer, you will remain so.

Mr. Welsch spoke about the electricity generation and delivery and where it comes from. He said a critical piece that distinguishes this community choice program is that it changes the default for participating municipalities. When there is no program like this, your default supply is with the utility (ex. Con Edison). Communities that participate in the Westchester Power program have the decision about that default supply brought into the community. There is an opt-out structure to ensure that they are able to fully leverage the buying clout of all participating municipalities in order to provide an alternative to confusing ESCP offerings, cost-effective means of bringing more renewable energy to the community, and to provide stable fixed rates.

Supervisor Slater said no one is mandated to use the default supply so if you want out, you can and deal with your utility company or explore your own ESCO options. Mr. Welsch confirmed this. If a municipality signs up, it should be publicized since it is an automatic roll-in for residents; they can go to a website to opt out. There is flexibility – you can go in and out of the power contract because you may be ahead or behind of the standard utility rates. There is no deadline for signing up and no penalties for withdrawing from the program.

Mr. Welsch said in order to join this program the Town Board would need to pass an enabling law to establish a Community Choice Aggregation program. This does not mean the Town has to join but establishes the law in case they do. Supervisor Slater asked Mr. Welsch for model legislation. He said there is a two-month period of obligatory outreach – how to reach the public – that informs residents of the program.

Mr. Welsch displayed a slide of the current Westchester Power contract showing the rates for both 100% renewable energy and standard supply. The rates vary up and down between the two supply sources.

Supervisor Slater wanted to make clear that if the Town enrolls in this program there is no mandate for an individual customer to use it; they can opt out or bounce between the renewable and standard supply. Mr. Welsch said this is correct; they cannot predict the rates, therefore, the customer can make changes as they need to.

Councilman Lachterman asked how easy is it to switch back and forth and Mr. Welsch said it can be done by phone or computer.

Mr. Welsch said the steps to joining this program are to pass a CCA enabling law, do public outreach, obtain Department of Public service approval, and then sign a contract.

Councilman Diana asked if Mr. Welsch had a short zoom presentation that could be uploaded to the Town's website that would explain the program and Mr. Welsch said they could provide videos as well as other materials.

Councilman Esposito said the Town could pass the law but not necessarily opt in. Mr. Welsch said this is correct.

Mr. Welsch said the entire process takes approximately six months. Sustainable Westchester is the administrator of the contract.

Supervisor Slater asked that the Town Board be sent model legislation so that the Town Attorney can begin working on a draft.

#### CLIMATE SMART COMMUNITIES TASK FORCE – CLEAN ENERGY GRANTS

Kyra Brunner, who has been working on grants with the Climate Smart Communities (CSC) Task Force, said the CSC was awarded two \$5,000 grants in December 2021. CSC has decided to look into energy audits on town owned properties with the grant money. They are getting quotes to see how many buildings can be covered by this money. She said this would help the Town along to becoming a designated Climate Smart Community (we are currently a designated Clean Energy Community). The information from the audits will help the Town to make decisions regarding clean energy for town buildings. When a contractor is chosen, they will need a letter of support from the Town Board.

#### UNDERHILL FARM OVERLAY DISTRICT APPLICATION – DECISION STATEMENT

James Glatthaar, sitting in for the Town Attorney, said an applicant has requested the most preliminary of authorizations to pursue development under the Town's Overlay District. The project, if it is built to capacity, will be 148 units among 12 structures on 11,000 square feet of commercial space. They would create two new driveways. The Planning Board reviewed and agreed that pursuit under Overlay District was appropriate. The resolution is to allow to proceed under Overlay District regulations. It does not bind the Town; it can determine that the Overlay District does not work at this site. This will define the overlay zone and reduce the lot frontage, coverage, etc. and concentrate the buildings towards the center of the site – except for the historical building. Mr. Glatthaar said the Westchester County Planning Department wanted to see an affordable fair housing program but the Town is of the opinion that the project was designed under town law, no county law. Ms. Drummond made two comments best addressed at the site plan stage regarding the intersection at Saw Mill River Road and Underhill Avenue. The Planning Board will be strenuously scrutinizing this. They will make sure there is sufficient capacity and there will be minimal impositions to abutting properties. In addition, the applicant disagreed with the comment that the site plan approval process is not the proper method for reviewing the project and they are not sure what this means since it is an appropriate process for this application. He said he believed the county was



overreaching a bit but there are some site plan waivers that will be requested under the Overlay Zone.

Director of Planning John Tegeder was asked to step in to explain, as there were sound difficulties with Mr. Glatthaar's video. He said the Town Board has a request for an application to be processed under the Overlay Zone. He said the Town Board has received and taken into consideration comments from the Westchester County Planning Board and is now ready to decide whether or not this project can be processed under the Overlay Zone, at the Planning Board level (as the law is written).

Supervisor Slater said the applicant responded to the comments from the Westchester County Planning Board providing their perspective on the items pointed out by the county.

Councilwoman Haughwout asked Mr. Galtthaar if he feels the Town Board is on the right track now that they have reached out to the county for their opinion and Mr. Galtthaar said yes. He said this is just the first step in a long process and he would not be hesitant at all to adopt the resolution and refer it to the Planning Board.

Mr. Tegeder said the Westchester County Planning Board discussed site planning details – how you get to the end result and do it in a manner that you preserve the function and operation of site planning issues in and around the site. He said this is a little premature because this is nowhere at that point. Supervisor Slater said, ultimately, the county did endorse moving the project to the next phase, which is site plan approval.

Councilman Esposito said this has been thoroughly reviewed and the application is still in the infancy stage of this project and he is in favor of moving it forward.

Councilwoman Haughwout said the process has been followed.

Councilman Diana said it is a laudable project and it is time to send it to Planning.

Councilman Lachterman said it meets the criteria under the law and this was their only decision.

**DECISION FOR UNDERHILL FARM OVERLAY DISTRICT APPLICATION  
RESOLUTION #115**

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

WHEREAS, Underhill Soundview LLC (hereinafter the "Applicant") is owner of property located at 370 Underhill Avenue (hereinafter the "property"), Yorktown Heights, formerly Soundview Preparatory School, Beaver Conference Farm, and the Abraham and Edward Underhill Estate; and

WHEREAS, the Applicant has by letter dated January 11, 2022, requested authorization from the Town Board to apply the standards set forth in Article XXXI of the Yorktown Zoning Code in furtherance of a project to construct multi-family residential units and commercial space on the property; and

WHEREAS, the Town Board's consideration of the requested authorization to apply standards pursuant to Article XXXI is based on its intent to promote and encourage economic development, to stimulate growth and provide for revitalization, while utilizing smart-growth techniques capable of creating smarter, less wasteful, and more economically efficient development patterns that engender flexibility in land uses by providing a diverse array of mixed-use residential and commercial parcels; and

WHEREAS, the proposed project which is the basis of this request calls for the construction of 148 residential units of varying size and design distributed among 12 structures, and eleven thousand (11,000) square feet of commercial space in one of the 12 structures and the renovation and restoration and adaptive reuse of the existing historic mansion, accessed by two (2) proposed driveways from Underhill Avenue ("Proposed Project"); and

WHEREAS, applying the standards set forth in Article XXXI affords the project flexibility in the application of the zoning code's bulk requirements with respect to building height, lot frontage, lot coverage, lot area, and minimum floor area, floor area ratio, open space requirements, side yard requirements, front and rear yard requirements, maximum allowable coverage, parking regulations, unit density per acre, and off-street parking and loading spaces; and

WHEREAS, the applicant's request is a required step in obtaining the ability to apply Article XXXI as outlined in Section §300-251B of said Article which sets forth the procedure to request such authorization and the criteria by which the Town Board must consider the request; and

WHEREAS, Section §300-251B requires the Town Board consider the following factors when considering authorizing a project to apply the standards set forth in Article XXXI :

- (a) Whether the project is consistent with the general goals of the Comprehensive Plan;
- (b) Whether the project will likely be detrimental to the character of its immediate neighboring properties, or the district and Town at large;
- (c) Whether the scope of the project will likely cause operational difficulties on the site that have potential to negatively affect the health, safety, and welfare of the public;
- (d) Whether the Town's infrastructure is capable of servicing the project or that the impacts or deficiencies of the infrastructure can be appropriately mitigated;
- (e) Whether the project will eliminate a blight or potential blight within the district;
- (f) Whether the project is consistent with the goals and intent of the overlay district;
- (g) Whether the project is consistent with the requirements of the overlay district and does not exceed the limitations or requirements set forth therein;
- (h) Whether the project is likely to contribute to the economic development of the district and the Town at large.

WHEREAS, the Town Board considered the request at its meeting of January 25, 2022, at which time the applicant presented information in favor of authorizing the use of Article XXXI; and

WHEREAS, the Town Board under Section §300-251B is empowered, in its discretion, to hold a public hearing and determined a public hearing was not necessary as the Board has publicly discussed the adoption of Article XXXI, the inclusion of the project in the boundaries of the district in which the ARTICLE may be applied, and the merits of the project at various meeting throughout 2021, and heard comments from the public, its professional staff, advisory boards, and other interested parties; and

WHEREAS, the Town Board considered all the factors as above enumerated and notes the following:

- a) The Yorktown Comprehensive Plan in Chapter 2, Land Use, recommends the use of overlay zones to protect resources and to help implement various land uses or mixes of land uses, and Chapter 4, Economic Development and Hamlet Business Centers recommends actions that strengthen economic viability of Yorktown and maintain economic strength by addressing trends in the market place and the development industry, and recommends promoting a mix of uses in the hamlets as set forth, inter alia, in Goals 4-B, 4-D, and 4-E and in Policies 4-1 and 4-7; and
- b) The project is located on State Route 118 and Underhill Avenue, main arterial and collector roads, abutting and across a road from existing multi-family residential developments of similar density, across a road from commercial development and across a road from single family residential development at which the project proposes low-rise town house style units and further that the project proposes retention of the historic mansion and proposes complementary, historically inspired architecture of all new structures; and

- c) The project proposes a mix of development and open space that includes recreational areas, internal driveways, parking areas, a connection to a neighboring multi-family residential development, and two main driveway connections to Underhill Avenue; and
- d) The Town’s professional staff has stated that water and sewer capacity are available to handle the scope of the project, and the applicant has submitted plans and data that indicated that the road infrastructure can be appropriately mitigated to accept the traffic impacts of the project; and
- e) The property contains the main mansion building and several other ancillary buildings, of varying quality and state of function and maintenance, any of which could fall to disrepair without sufficient attention and resources available to be applied to each.
- f) The goals of the Overlay district, Article XXXI, as stated herein seek to promote mixed uses, promote residential development within and near the hamlets, promote economic development, and preserve unique and historic structures, and further that the project is preserving and reusing the historic mansion, creating mixed use with residential dwelling units of varying design and type, creating small scale commercial space, creating open space and recreational amenities available to the public, and creating pedestrian amenities and connections that promote walkability, health, and economic viability; and
- g) The bulk requirements cited in Article XXXI support the project scope and physical characteristics and none have been shown to be exceeded; and
- h) The project will locate 148 units of residential space, which places consumers within walking distance of the hamlet and further proposes the creation of eleven thousand square feet of additional commercial space, proposes pedestrian connections and recreational amenities that attract users to the local hamlet area; and

WHEREAS, the application was referred to the Westchester County Planning Board under General Municipal Law § 239-m;

WHEREAS, the Westchester County Planning Board responded to the referral, and noted that it was supportive of the Town Board authorizing the application to proceed to the Yorktown Planning Board for consideration under Article XXXI; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (“S.E.Q.R.A.”), this action is considered a Type II action under N.Y.C.R.R. Title 6, section 617.5(c)(33), and (c)(34); and

WHEREAS, based on the entire record before the Town Board, the Town Board finds that the request to apply the standards of the Yorktown Heights Overlay District pursuant to Chapter 300, Article XXXI, Section §300-250 through Section §300-255 of the code of the Town of Yorktown to the Underhill Soundview, LLC property will achieve the Town's objectives of the Comprehensive Plan and the preservation and enhancement of the hamlet of Yorktown Heights, promote economic development, pedestrian connections and complete street initiatives, open space, recreation, and high architectural design standards, and other areas of economic and social value; now therefore be it

RESOLVED, that the Underhill Soundview LLC request for authorization to apply the standards pursuant to Chapter 300, Article XXXI, Section § 300.250 through Section § 300.255, to the Proposed Project, is granted; and

BE IT FURTHER RESOLVED, that the Proposed Project will require site plan approval by the Planning Board, and must comply with all applicable laws, including but not limited to the S.E.Q.R.A.; and

BE IT FURTHER RESOLVED, that the permission herein granted is subject to and contingent on the site plan being in substantial conformance with the Proposed Project as presented to the Town Board on the instant application.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT WITH THE COUNTY OF WESTCHESTER FOR NUTRITION AND SUPPORT SERVICES TO SENIORS OVER 60 YEARS OLD UNDER TITLE 111-C-2

RESOLUTION #116

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

RESOLVED, the Supervisor is authorized to sign an Agreement with County of Westchester for the provisions of nutrition and support services to seniors over 60 years old under Title 111-C-2 of the Older Americans Act, for a term retroactive to 12/27/20 through 9/30/22 for an amount to the Town of Yorktown not to exceed \$20,308.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE THE SUPERVISOR TO SIGN THE NEW YORK STATE LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM VENDOR AGREEMENT

RESOLUTION #117

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

RESOLVED, that the Supervisor is authorized to sign the New York State Low Income Household Water Assistance Program Vendor Agreement which provides bill assistance to eligible households to reduce the household's cost for drinking water and wastewater services.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

PROMOTE AND SUPPORT RECORDS MANAGEMENT PROGRAM AND DESIGNATE TOWN CLERK AS RECORDS MANAGEMENT OFFICER

RESOLUTION #118

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

WHEREAS, under the New York Arts and Cultural Affairs Law Section 57.19, the Town Board is required to promote and support a Records Management Program, and under New York State Law the Town Clerk is designated as the Records Management Officer (RMO) of the Town,

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Yorktown promotes and supports the Town's established Records Management Program and designates the Town Clerk as the Records Management Officer as prescribed by Law.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE TOWN CLERK TO ADVERTISE REBID FOR FIVE (5) VARIOUS CHEMICALS FOR THE WATER POLLUTION TREATMENT PLANT

RESOLUTION #119

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

RESOLVED, that the Town Clerk is authorized to advertise a rebid for Five (5) Various Chemicals for the Water Pollution Treatment Plant.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE TOWN CLERK TO ADVERTISE A BID FOR THE REPLACEMENT OF AIR CONDITIONING SYSTEMS AT THE ALBERT A. CAPELLINI COMMUNITY AND CULTURAL CENTER

RESOLUTION #120

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

RESOLVED, that the Town Clerk is authorized to advertise a bid for the replacement of Air Conditioning Systems at the Albert A. Capellini Community and Cultural Center.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE TOWN CLERK TO ADVERTISE A BID FOR CAMP BUSES FOR THE  
PARKS AND RECREATION DEPARTMENT

RESOLUTION #121

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

RESOLVED, that the Town Clerk is authorized to advertise a bid for Camp Buses for the Parks and Recreation Department.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE TOWN CLERK TO REFER OUT THE APPLICATIONS RECEIVED BY BP  
GAS STATION AND 7-ELEVEN REQUESTING TO AMEND THEIR SITE PLANS -  
GASOLINE STATION

RESOLUTION #122

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

RESOLVED, that the Town Clerk is authorized to refer out the following applications received by BP Gas Station, 1770 East Main Street and 7-Eleven, 3451 Crompond Road to amend their Site Plans - Gasoline Station.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE COMPTROLLER TO PROCESS THE FOLLOWING BUDGET TRANSFER  
FOR THE BUILDING MAINTENANCE DEPARTMENT

RESOLUTION #123

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

RESOLVED, that the Comptroller is authorized to process the following budget transfer for the Town Hall Building Maintenance Department:

|               |                                |             |
|---------------|--------------------------------|-------------|
| From: A.1002  | General Fund – Fund Balance    | \$13,370.00 |
| To: A1620.416 | Town Hall Building Maintenance | \$13,370.00 |

for the replacement of air-conditioning units at Town Hall damaged by a motor vehicle accident. Insurance recovery will reimburse a portion of this expenditure.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE COMPTROLLER TO REFUND SCHOOL TAX PENALTY FOR ACCOUNT  
NUMBER 3321000 IN THE AMOUNT OF \$317.87

RESOLUTION #124

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

RESOLVED, that the Comptroller is authorized to refund School Tax penalty for Account #3321000 in the amount of \$317.87 due to receiving original payment with the correct United States Postmark.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE ALCOHOLICS ANONYMOUS TO RENT MEETING SPACE AT THE  
ALBERT A. CAPELLINI COMMUNITY AND CULTURAL CENTER AND SPARKLE  
LAKE BUILDING

RESOLUTION #125

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

RESOLVED, Alcoholics Anonymous is permitted to rent meeting space twice per week at the Albert A. Capellini Community and Cultural Center and once per week at the Sparkle Lake Building. The rental fee for the Albert A. Capellini Community and Cultural Center will be \$200.00 per month. The rental fee for the Sparkle Lake Building will be \$100.00 per month.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

AUTHORIZE THE SENIOR SERVICES/NUTRITION DEPARTMENT TO DISPOSE OF  
EQUIPMENT THAT IS DEEMED OBSOLETE AND NO LONGER USED TO BE SOLD  
AT AUCTION

RESOLUTION #126

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

WHEREAS, the Town of Yorktown has found the following kitchen equipment to be obsolete and no longer needed for public use by the Town of Yorktown, and

WHEREAS, the Senior Services/Nutrition Department recommends to the Town Board that the below listed equipment be deemed obsolete and sold at auction by Absolute Auctions & Realty, Inc.

- Blodgett Full size Convection Oven (DFG 100 double – natural gas)
- Cleveland SteamCub Cooker (Model No 1SCE)

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye  
Resolution adopted.

ADJOURN MEETING

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

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