

Meeting of the Town Board, Town of Yorktown held on Tuesday, May 9, 2023 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Thomas P. Diana, Supervisor  
Edward A. Lachterman, Councilman  
Sergio Esposito, Councilman  
Luciana Haughwout, Councilwoman  
Mary Capoccia, Councilwoman

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

#### TOWN BOARD MEETING

Supervisor Thomas Diana called the meeting to order.

#### EXECUTIVE SESSION

Upon motion made by Councilwoman Capoccia, seconded by Councilwoman Haughwout, the Town Board moved into Executive Session to discuss litigation and negotiations with the Town Attorney. Upon motion made by Councilwoman Capoccia, seconded by Councilwoman Haughwout, the Town Board moved out of Executive Session and proceeded with the meeting.

#### PLEDGE OF ALLEGIANCE

Building Inspector John Landi led the Pledge of Allegiance.

#### MOMENT OF SILENCE

Supervisor Diana asked for a moment of silence to remember our first responders (EMS, fire, police), and the members of our military who serve to protect our freedoms both here and overseas.

#### REPORT FROM THE TOWN SUPERVISOR

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

- The FamJam Event is coming up this weekend. FamJam supports local charities and attendance is encouraged for all residents and their families.
- “Follow the French: Rochambeau Festival” at the Yorktown Grange Fairgrounds scheduled for Saturday, May 20.

#### BIRD BUS

Building Inspector John Landi came before the Town Board to request a Temporary Certificate of Occupancy for Bird Bus so that they may open their business and finish their curbing and landscaping. He said the building is ready and is safe. Mr. Landi said his staff has been there throughout the week and everything looks good.

Supervisor Diana said there are some site plan issues that have been discussed and the Town is going to require a \$75,000 cash bond until those issues are resolved. He asked Mr. Landi if everything is safe and working – the sprinklers, the electrical, etc. – and Mr. Landi said everything is good, including the air circulation system.

Councilman Esposito asked Mr. Landi what is left to do and he said that it is mostly the parking lot area – curbing, plantings, etc.

Supervisor Diana said that Planning Director John Tegeder agreed that a \$75,000 cash bond is appropriate for this project.

#### TEMPORARY CERTIFICATE OF OCCUPANCY FOR BIRD BUS

##### RESOLUTION #237

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

WHEREAS, the building permit issued to Bird Bus Company for renovations to an existing automobile dealership located at 3805 Crompond Road, Cortlandt Manor, New York, also known as Section 35.08, Block 1, Lots 21 & 22 on the Town of Yorktown Tax Map, is still open for the following reason: site work items not yet complete (parking lot curbing, landscaping); and

WHEREAS, the Applicant (Bird Bus) is requesting a temporary certificate of occupancy be issued; and

WHEREAS, the Applicant will post a \$75,000 cash bond to serve as a guarantee that all work on the approved site plan will be completed; and

WHEREAS, a temporary certificate of occupancy must be authorized by the Town Board and the necessary steps to issue a temporary certificate of occupancy are described in the Town Code, Chapter 300-1967, Paragraph B;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Building Inspector to issue a temporary certificate of occupancy to Bird Bus Company, 3805 Crompond Road, for a period of 180 days.

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

### THE CAPA SPACE

Supervisor Diana introduced Elise Graham and Tim Hartung to speak about The Capa Space. Mr. Capa was a renowned photographer who took wartime photographs.

Mr. Hartung said The Capa Space is located at 2467 Quaker Church Road and it is a photographic exhibition and education space. It is located in an auxiliary building on the Amawalk Friends Meeting House. The exhibition called "This is Robert Capa" opened on April 8. They are open on Thursdays, Fridays, and Sundays from 1:00-5:00 p.m. and on Saturdays from 11:00 a.m.-5:00 p.m. Mr. Hartung gave a brief biography of Mr. Capa and how his burial ended up being in Yorktown.

Ms. Graham spoke about the programs that are a part of the Robert Capa exhibition. She said they are asking veterans if they have any photographs during their time in service that could be submitted as part of the exhibition. She said that more information could be found on their website, [www.thecapaspace.org](http://www.thecapaspace.org). Ms. Graham said they are working on a theatrical presentation of a play called *George and Ruth: Letters and Songs from the Spanish Civil War*. She gave a brief synopsis of the play. The play dates are June 11 and June 15. She said a program is being led by Rod Whitehead, who is a photography and art teacher in the Ossining High School and is also a veteran. He is getting a group of his students and pairing them with veterans to view the Capa exhibition. The students will then prepare photographic essays and present them to the veterans. A show of these photographs is being planned for November.

Mr. Hartung presented the Town Board with copies of some of the photographs and information on the exhibit.

### AUTHORIZATION TO PAY ANNE C. SGROI, AS FIDUCIARY, THE CASH VALUE OF KENNETH SGROI'S UNUSED BENEFIT TIME RESOLUTION #238

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

Be It Resolved that the Town Board hereby authorizes the Town Comptroller to pay Anne C. Sgroi, as fiduciary the cash value of Kenneth Sgroi's unused benefit time as of the date he was deceased

Rate of Pay:	\$75.2404				
Compensatory Time	57.40 hours	x	\$75.2404	=	\$ 4,318.79
Holiday Pay	.0038 hours	x	\$75.2404	=	.28
Vacation	280.00 hours	x	\$75.2404	=	\$21,067.31
Personal Leave	32.00 hours	x	\$75.2404	=	\$ 2,407.69
Longevity					
16 years of service				=	\$ 1,511.00
Total			\$29,305.07		

Be It Further Resolved that the Comptroller is hereby authorized to transfer funds as follows:

From: A3120.102 Police – Salary / Uniformed \$27,794.07

A3120.106 Police – Longevity \$ 1,511.00  
To: A3120.108 Police – Lump Sum Payments \$29,305.07

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

REFUND OF DUPLICATE TOWN/COUNTY TAX PAYMENT FOR ACCOUNT #1754610  
RESOLUTION #239

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

Be It Resolved that the Town Board hereby authorizes the Comptroller to refund duplicate 2023 Town /County Tax payment for account #1754610 in the amount of \$4,743.74.

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

REFUND OF DUPLICATE TOWN/COUNTY TAX PAYMENT FOR ACCOUNT #1766770  
RESOLUTION #240

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

Be It Resolved that the Town Board hereby authorizes the Comptroller to refund duplicate 2023 Town /County Tax payment for account #1766770 in the amount of \$4,543.86.

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

REFUND OF DUPLICATE TOWN/COUNTY TAX PAYMENT FOR ACCOUNT #0454500  
RESOLUTION #241

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

Be It Resolved that the Town Board hereby authorizes the Comptroller to refund duplicate 2023 Town /County Tax payment for account #0454500 in the amount of \$2,292.26.

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

BUDGET TRANSFER FOR PUMPING ASSOCIATED WITH SEWER BREAK WITHIN THE  
ALGONQUIN GAS MAIN ROW  
RESOLUTION #242

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

Resolved, that the Town Comptroller is authorized to transfer \$15,000 from Chemical Supplies Plant DEP (YS.8130.0456.0001) to Maintenance and Repair Road (YS.8130.0461) to pay for the pumping associated with the sewer break caused by settlement within the Algonquin gas main ROW.

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

BUDGET TRANSFER FOR THE PURCHASE OF CAUSTIC USED AT THE YORKTOWN  
POLLUTION CONTROL PLANT  
RESOLUTION #243

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

Resolved, that the Town Comptroller is authorized to transfer \$75,000 from Yorktown Sewer (YS) fund balance to Chemical Supply (YS.8130.0456) for the purchase of caustic used at the Yorktown Water Pollution Control Plant for the rest of the year.

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

BUDGET TRANSFERS TO HIGHWAY PAVING LINE

RESOLUTION #244

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

Resolved, the Town Comptroller is authorized to process the following budget transfers:

From: D.1002 Hwy Fund Balance \$129,413.48  
To: D5112.210 Hwy Paving Line

From: D.1002 Hwy Fund Balance \$86,275.66  
To: D5112.210 Hwy Paving Line

From: D.1002 Hwy Fund Balance \$79,000.00  
To: D5112.200 Hwy Paving Line

to be reimbursed by additional funding allocated by New York State for CHIPS, Pave New York and Pave Our Potholes monies.

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

SOLE SOURCE SUPPLIER FOR THE REPLACEMENT OF MICRO FILTER MEMBRANES AT THE WATER POLLUTION CONTROL PLANT – FILMTEC CORPORATION

RESOLUTION #245

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

Resolved, that the Town Engineer is authorized to obtain the services of Filmtec Corporation service technicians for a total cost of \$17,700 as a sole source supplier of their services regarding the replacement of micro filter membranes at the Yorktown Water Pollution Control Plant.

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

BOND RELEASES FOR HILLTOP HANOVER SUBDIVISION

RESOLUTION #246

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

Whereas, John Sites, Jr., as applicant, posted check #6770 in the amount of \$50,000 to serve as the Excavation Bond which was deposited into the T33 account on April 8, 2005 for Excavation Permit #E-056-04, and

Whereas, John Sites, Jr., as applicant, posted check #6769, in the amount of \$50,000 to serve as the Wetland Bond which was deposited into the T33 account on April 8, 2005 for Wetland Permit #WP-047-04, and

Whereas, John Sites, Jr. as applicant, posted United States Fire Insurance Company Bond No. 608103250 in the amount of \$140,000 to serve as the Site Improvement Bond for the Hilltop Hanover Subdivision, and

Whereas, the applicant has requested his money be released and bond accepted as the site is nearing completion, and

Whereas, the Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released, now

Therefore be it Resolved, that Site Improvement Bond No. 608103250 be accepted for completion of the Hilltop Hanover Subdivision, and

Be it Further Resolved, the above referenced bonds be released to Hilltop Hanover Construction LLC, c/o John Sites, 209 Long Neck Point Road, Darien, CT 06820.

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

PROMOTION OF STEPHANIE ELIO TO LIBRARIAN I AT THE JOHN C. HART MEMORIAL  
LIBRARY

RESOLUTION #247

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

Be It Resolved, that Stephanie Elio is hereby promoted to the civil service title, Librarian I, job class code 0224-01, from eligible list number 62-705, effective May 22, 2023; to be paid at the rate set forth in Yorktown CSEA salary schedule A1, group 11, Step 1, which is \$66,907 annually, with benefits, such as sick days, personal days, and floating holidays to follow the CSEA agreement; and

Be It Further Resolved, that this appointment is subject to a probationary period of not less than 12 weeks, commencing on the first day of appointment on May 22, 2023.

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

ASSIGN DANIEL CURTIS TO THE POSITION OF DETECTIVE EFFECTIVE MAY 15, 2023

RESOLUTION #248

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

Resolved, that effective May 15, 2023 Police Officer Daniel Curtis is hereby assigned, at the discretion of the Chief of Police, as Detective in the Yorktown Police Department at an annual salary of \$131,907.

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

ASSIGN JAMES HANNIGAN TO THE POSITION OF DETECTIVE EFFECTIVE MAY 15, 2023

RESOLUTION #249

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

Resolved, that effective May 15, 2023 Police Officer James Hannigan is hereby assigned, at the discretion of the Chief of Police, as Detective in the Yorktown Police Department at an annual salary of \$131, 907.

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

PERMANENT STATUS GRANTED TO POLICE OFFICER CHAD A. DELGADO

RESOLUTION #250

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

Be it Resolved, that Chad A. Delgado, Police Officer in the Town of Yorktown, has completed the 12-week minimum probationary period and is hereby granted permanent status effective May 10, 2023.

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

BID EXTENSION FOR CUMMINS ENGINE OEM PARTS TO DIEHL & SONS, D/B/A NEW  
YORK FREIGHTLINER

RESOLUTION #251

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

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

Whereas, said bids were received and opened on June 2<sup>nd</sup>, 2020,

Resolved, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the Cummins Engine OEM Parts for the Town of Yorktown is hereby extended for one year, per the terms of the Bid, to Diehl & Sons, d/b/a New York Freightliner, 129-01 Atlantic Ave., Richmond Hill, NY 11418.

Be it Further Resolved, the dates of the extension will be June 16, 2023 to June 16, 2024.

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

BID EXTENSION FOR THE JOHN DEERE CONSTRUCTION EQUIPMENT OEM PARTS TO JESCO, INC.

RESOLUTION #252

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

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

Whereas, said bids were received and opened on June 9th, 2022.

Resolved, that upon the recommendation of the Highway Superintendent, Dave Paganelli, the bid for the John Deere Construction Equipment OEM Parts for the Town of Yorktown is hereby extended for one year, per the terms of the Bid, to Jesco, Inc., 497 Fishkill Avenue, Beacon, NY 12508.

Be It Further Resolved, the dates of the extension will be June 22, 2023 to June 21, 2024.

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

AUTHORIZATION TO ADVERTISE BID FOR NEW STUDY ROOMS FOR THE JOHN C. HART LIBRARY

RESOLUTION #253

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

Resolved, that the Town Clerk is authorized to advertise for bids for the New Study Rooms for the John C. Hart Library project Bid 22-11. Copies of the Bid Documents will be available in the office of the Town of Yorktown Town Clerk located at 363 Underhill Avenue, Yorktown Heights, NY 10598. A completed Bid Proposal Form must be returned to the Town Clerk, 363 Underhill Avenue, Yorktown Heights, NY 10598, marked: "BID NEW STUDY ROOMS FOR THE JOHN C. HART LIBRARY – BID #22-11."

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

TAX ABATEMENT FOR UNDERHILL FARM PROJECT

RESOLUTION #254

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

Whereas, in November of 2020, by the adoption of Local Law 13-2020, the Town of Yorktown ("Town Board") amended Chapter 300, Zoning, of the Yorktown Town Code when it added Article XXXI, Planned Design District Overlay Zones; and,

Whereas, the Legislative Purpose and Intent of Article XXXI was stated clearly when the Town Board "found and determined that there is a need throughout the Town of Yorktown to encourage and establish further economic development. To stimulate that growth and provide for revitalization, the Town requires the use of smart-growth techniques capable of creating smarter, less wasteful, and more economically efficient development patterns. Specifically, the Town needs flexibility in land uses which bolster economic development by providing not only a diverse array of commercial businesses, but mixed-use residential and commercial parcels to both provide abundant job opportunities and contribute to the local tax base," and duly adopted the amendment; and,

Whereas, in furtherance of the purpose and intent of Article XXXI, in January of 2022, the Town Board further amended Chapter 300, Zoning, Article XXXI Planned Design District Overlay Zones, when it added Section 300-255, Yorktown Heights Planned Design District Overlay Zone; and,

Whereas, project sponsor Underhill Farms, LLC (“Underhill Farms”), sought authorization from the Town Board to have its proposed multi-family, mixed use commercial project located at the former site of the Soundview Preparatory School at 370 Underhill Avenue, in the Town of Yorktown (“Project”) considered under the Overlay regulations; and,

Whereas, the Town Board found that the Project complied with the requirements of Article XXXI and deemed Project eligible to apply for site-plan under the auspices of the overlay district; and,

Whereas, Underhill Farms made application to the Town of Yorktown Planning Board (“Planning Board”) for site plan review and review under the State Environmental Quality Review Act (“SEQRA” and collectively both referred to as “Site Plan Review”) and that review is currently underway; and,

Whereas, during the course of the Site Plan Review, certain impacts were identified, and corresponding mitigation measures have been proposed for each impact, one such impact being the existing undesirable service level of the intersection at State Route 118 and Underhill Avenue; and,

Whereas, Underhill Farms has proposed to finance and undertake a full reconstruction of the intersection, including the installation of certain improvements that will improve service of the intersection beyond the potential impacts imposed by the Project; and,

Whereas, Underhill Farms has requested the Town Board’s support in certain real-property tax abatements for eligible portions of the improvements to the intersection, through an application made to the Westchester County Industrial Development Agency (“WCIDA”); and,

Whereas, having recognized the greater community benefits offered by the Project, and in particular the proposed Intersection Improvements (attached hereto), the Town Board has agreed to support the Project’s abatement proposal; and

Whereas, the N.Y.S. D.O.T. has requested confirmation that the Town and Underhill Farms have come to an understanding about the financing of the Intersection Improvements; and

Whereas, the Project is contingent upon all necessary approvals, including Site Plan Review;

Whereas, Underhill Farms has committed to contributing two hundred and twenty-five thousand dollars (\$225,000) toward Town parks and recreation purposes, in addition to the Intersection Contribution (defined below); now

Therefore be it Resolved, the Town Board supports Underhill Farms’ application to the WCIDA for real-property tax abatement of eligible portions of the Project; and,

Resolved, the abatement shall adhere to the following parameters:

- 1) The period of tax abatement shall coincide with the amount of time required for Underhill Farms to recapture Eligible Expenditures (as defined below),
- 2) Underhill Farms shall contribute thusly: payments not to exceed six-hundred and twenty-seven thousand nine hundred and eighteen dollars and eighty-eight cents (\$627,918.88) (“Intersection Contribution”) toward the cost of the Intersection Improvements,
- 3) The cost of construction of the Intersection Improvements beyond the Intersection Contribution (“Eligible Expenditures,” which are anticipated to be \$610,148.81) shall be eligible for the real-property tax abatement for the necessary term to recapture that amount.
- 4) The abatement shall be limited to the retail/rental-unit building of the Project (“Commercial Portion”), and only regarding applicable county, town and school taxes over the current taxes of \$43,378.74 (which payment shall continue during the term of abatement and be split as follows: county \$4,407.26, town \$5,444.18 and school \$33,527.25).
- 5) The abatement on the Commercial Portion shall begin: (1) after the Intersection Improvements have been completed, i.e., after all necessary signoffs have been issued (including a certificate

of completion/occupancy); and (2) after a reassessment based on the construction of the Commercial Portion of the Project has occurred.

6) The abatement is contingent upon all necessary approvals, including Site Plan approval.

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

ADJOURN

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

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