

Regular meeting held by the Town Board,
Town of Yorktown on October 4, 2011 held at
The John C. Hart Memorial Library, 1130 East Main Street, Shrub Oak, NY 10588

Present: Susan Siegel, Supervisor
Nicholas Bianco, Councilman
James Martorano, Councilman
Terrence Murphy, Councilman
Vishnu Patel, Councilman
Alice E. Roker, Town Clerk

EXECUTIVE SESSION

Upon motion made by Councilman Martorano, seconded by Councilman Bianco, the Town Board moved into Executive Session to discuss Litigation. Upon motion made by Councilman Bianco, seconded by Councilman Murphy, to move into Town Board meeting.

TOWN BOARD MEETING

Supervisor Susan Siegel called the meeting to order. Town Attorney Jeannette Koster was also present at the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Siegel led the salute to the flag.

MOMENT OF SILENCE

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

PROCLAMATION – GERMAN AMERICAN DAY

Supervisor Siegel spoke about the following Proclamation:

WHEREAS German Americans through their work and contributions to the culture of the United States since the arrival of the first German immigrants in the United States on October 6, 1683 have earned this recognition and tribute to their achievements; and

WHEREAS for more than three centuries Germans have helped build and strengthen this country and historically constitute the staunchest supporters of the democratic values and principles of the United States of America, and

WHEREAS as they have before, so will Americans of German descent continue to contribute to the life and culture of the United States and will work for and will support the government of the United States, its democratic principles and the freedom of all people everywhere; and

WHEREAS such contributions should be recognized and celebrated in 2008 and annually thereafter; and

WHEREAS common ties and lasting friendship exist between the United States and the Federal Republic of Germany and other German speaking countries.

NOW, THEREFORE, I, SUSAN SIEGEL, Supervisor of the Town of Yorktown, along with the Town Board, hereby proclaim Thursday, October 6, 2011 as

"GERMAN AMERICAN HERITAGE DAY"

in the Town of Yorktown, and I urge all residents to join their fellow residents in marking this observance.

PROCLAMATION – COLUMBUS DAY

Supervisor Siegel expressed her apology for not having the following Proclamation with her.

WHEREAS Americans, as a people, are a rich and diverse mixture of many cultural, religious and ethnic groups from all over the world; and, the unique strength of the American people is their proven ability to meld such diversity into an ever-evolving national form; and

WHEREAS Americans of Italian descent continue to generously contribute to the cultural and economic enrichment of the American people; and

WHEREAS in the Yorktown area of Westchester County, the Circolo da Vinci Italian American Society has given out thousands of dollars in scholarships, held a Bocce Tournament bringing Italians together and sponsoring after-school Italian lessons for our youth, to ensure that the best qualities of Italian culture are perpetuated here in America; and

WHEREAS such contributions should be recognized and celebrated in 2011 and annually thereafter; and

NOW, THEREFORE, I, DONALD S. PETERS, Supervisor of the Town of Yorktown, along with the Town Board, hereby proclaim October 2011 as

"ITALIAN HERITAGE MONTH"

in the Town of Yorktown, and I urge all residents to join their fellow residents in marking this observance.

DURING THE SUPERVISOR'S REPORT TO THE TOWN, Supervisor Siegel spoke about several issues including:

- A. Complimentary letters she received about Michael Colarruso, an employee of the Water Department and the Nutrition Department.
- B. How the Town of Yorktown's new Emergency Notification System operates.
- C. Representatives of FEMA visited her office. The deadline to apply for disaster relief from the recent Hurricane is October 31, 2011.
- D. The deadline to register to Vote in this year's General Election is October 14, 2011.
- E. The East of Hudson Coalition is seeking to hire a Program Director. The qualifications for this position are listed on the Town's website.
- F. The Town Board Meeting Room is undergoing renovation. We are installing a state-of-the-art video system. Money the Town received from Cablevision and Verizon will pay for the new equipment.
- G. She provided the community with an update on the Town's foreclosure process. During the last year, the Town has received \$1.8 million in back taxes.
- H. In 2008, the Town Board went to a new process for providing legal services to the Planning Board and Zoning Board. The work is done by outside counsel. In 2010, the Town Board adopted a Master Fee Schedule and Professional Review Fees Law. During the review process, the applicant may be required to set up an escrow account from which withdrawals can be made to reimburse the Town for the cost of outside professional services. Applicants coming before the Planning Board have established escrow accounts. Supervisor Siegel explained that this has not been the case when it comes to the Zoning Board of Appeals. The Town Board on several occasions has refused to apply the law to the ZBA, so the taxpayers of Yorktown have had to

DURING REPORTS FROM TOWN COUNCIL

Councilman Bianco spoke about the upcoming October Harvest Festival sponsored by the Chamber of Commerce. The event will take place on Sunday, October 9, 2011.

Councilman Murphy thanked the members of the Yorktown Volunteer Fire Department and the members of fire departments from six other municipalities who worked on a house fire on Maiden Lane. He spoke in opposition to the Supervisor's comments

about permitting the Zoning Board of Appeals to set up applicant escrow accounts. Councilman Murphy said he is not going to give an open check book to any more lawyers. Members of the Town Board, including himself have had to sit in on discussions between planning board applicants and outside counsel when legal fees have been challenged. The Board has worked with applicants to get the legal fees reduced in most instances.

Councilman Patel spoke about the renovation work being down in the Town Board Meeting Room. Hilltop Hanover Farm received a grant for \$125,000. Councilman Patel will be taking pictures at Sunday's Harvest Festival.

Councilman Martorano spoke about the Town's infrastructure problems. He said that the Town has to find a way to put more money into our paving and drainage programs.

Councilman Patel also spoke about flooding in Yorktown. He said that a lot of the flooding comes from property owned by the Town of Yorktown which is not maintained.

Supervisor Siegel stated that the Town has made an application to FEMA for disaster aid.

APPROVE SEPTEMBER 20, 2011 TOWN BOARD RESOLUTIONS
RESOLUTION #471

Upon Motion by Councilman Bianco, Seconded by Councilman Martorano

Supervisor Siegel asked that the vote on Local Law #13 be changed to reflect that Councilman Martorano was out of the room when it took place.

Resolved, that the Town Board Meeting Resolutions for September 20, 2011 are approved by the Town Board.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

COURTESY OF THE FLOOR

During Courtesy of the Floor, the following people addressed the members of the Town Board:

Mr. John Galbraith, a resident of Jefferson Valley reiterated his comments from August. During the Jefferson Valley Streetscape Project, the Town of Yorktown built a wall near the intersection of Old Jefferson Valley Road and East Main Street. Mr. Galbraith feels that the wall obscures his vision. He also pointed out that grass is growing over the wall further exacerbating the problem. Mr. DiBartolo says he doesn't have the staff to cut the grass, but he should be doing something. Mr. Galbraith further stated that he has had discussions with the Safety Officer who suggested that he go out the other end of the block. He says he raised these issues earlier this year, but nothing has been done. Mr. Galbraith ended his discussion by saying if no one can maintain the property, take the wall down.

Mr. Paul Moskowitz spoke about an issue discussed at the last work session. He heard that Trump Residence which he thought was built for seniors, are now being sold to families. Mr. Moskowitz wanted to know how this was possible. He also wanted the Board to get assurances that the same thing will not happen at the proposed Croton Overlook Senior Development. Mr. Moskowitz also announced that Green Yorktown will be hosting a Forum for Candidates at the Temple Beth Am on October 16, 2011.

Mrs. Deborah Scales, a resident of Millpond Road spoke about flooding conditions in her area. Twenty (20) years ago, flooding was confined to the area of the Hunterbrook Bridge. After Hurricane Floyd, the flooding became widespread. Mrs. Scales wanted to know what the Board is going to do. She says the pond needs to be dredged.

Mr. Vincent Scotto who also lives in the Millpond area suggested that COSTCO as a condition of its approval be required to dredge the Bound Brook. Mr. Scotto also wanted to know why the Town Board decided to bond work on seven projects including the renovation of the tennis courts at Downing Park. He says he believes tennis courts are a luxury.

Mr. Bill Primavera asked if time limits could be imposed on political signs.

Mr. Howard Frank, a representative of the United Tax Payers of Yorktown spoke about the renovation work at the Library which took place about a year ago. He said the Town needed to get a service contract. He said there is still a ladder on the roof of the Library and that the toilets needed polishing. Mr. Frank also stated that the Police Station needed work. Looking at the roof from the street, it appears the chimney has collapsed near the air intake. Unless you do something, Police Department personnel may be susceptible to carbon monoxide poisoning during the winter. Mr. Frank also spoke about a large tree that came down during a recent storm. It is still on the roof of the pump station on Curry Street.

Mr. Nicholas DiTomasso stated that Town Board members must, at every opportunity demonstrate their honesty, integrity and compassion. He said the recent Audit by the New York State Comptroller's Office is compelling proof to him, that ethics are eroding.

Mrs. Colleen Reed, a co-owner of Lakeside at Osceola, in the Jefferson Valley section of Yorktown. Mrs. Reed presented photographs of what her business looked like on September 29th after a light rain. She spoke about flooding conditions in her area which have become more severe since the sidewalk improvement project was completed.

Mr. Lester Rosenbaum renewed his request to purchase property at the intersection of Hanover Street and Railroad Avenue. He tried to buy it many years ago but was turned down because the property is owned by the Urban Renewal Agency.

Mr. Ed Killeen asked that the Town start handing out awards to people who improve their property, particularly in the commercial areas of Town. He also spoke about the issue first raised by Mr. Moscowitz regarding the Trump property. Condominium owners only pay 30% of the taxes that a single family property owner pays.

Mr. Richard Campanaro, President of the Yorktown Athletic Club stated that he is before the Town Board to discuss the comments made by two Councilmen in the newspapers. He said YAC has worked very hard to see that ball games are not scheduled on a religious holiday. We have done everything we can to protect our members and to preserve a sense of community amongst our members. Our schedule is based on the school calendar. We have never held an event on Yom Kippur. The Shrub Oak Athletic Club did hold an event on Yom Kippur, not us.

Mr. Edward Ciffone, President of the United Taxpayers of Yorktown renewed his request that the Town Board schedule a Public Hearing on the New York State Audit at the Yorktown Community and Cultural Center. According to the report, millions of dollars was wasted. He also spoke about a petition that his organization will be submitting to the Town Board concerning term limits for the Town Council.

COURTESY OF THE FLOOR CLOSED

The following are responses to comments and questions posed during Courtesy of the Floor:
From Supervisor Siegel:

Mr. Galbraith, you did get responses that you are not happy with. Issues with the Highway Superintendent must be taken up separately. He is an elected official.

From Councilman Bianco:

Mr. Galbraith, I thought we offered up a compromise; to take out the grass and replace it with low vegetative shrubs.

From Supervisor Siegel:

In response to Mrs. Scales, Mr. Scotto and Mrs. Reed:

The Town could easily spend \$1 million on drainage and \$1 million on paving. Over the years, the Town Board cut back on both programs. The Town Board has not taken a

comprehensive look at all of the flooding problems. We need to come up with a Master Plan to correct this problem.

In response to Mr. Frank:

We have discussed infrastructure problems in Town buildings and nothing has been done. The Town will be placing the building and grounds staff under the Building Department.

In response to Mr. Primavera:

The Town Board recently amended our sign law due to a pending lawsuit. There are constitutional problems with limiting free speech.

In response to Mr. Rosenbaum:

We have talked about this issue concerning property owned by the Urban Renewal Agency. There are five parcels belonging to that agency. The Town Attorney is working on this issue.

In response to Mr. Killeen:

She thinks handing out an award is a great idea.

In response to Mr. Campanaro:

The Town Board will have more discussion on this issue.

In response to Mr. Ciffone/Mr. DiTomasso:

The Audit is online. It speaks for itself. The Board has also submitted a corrective action plan to the State Comptroller's Office.

Responses from Councilman Bianco:

To Mr. Galbraith:

John Tegeder, Yorktown's Planning Director promised him that he would take a look at the area.

To Mr. Moskowitz:

The Town Board gets fooled all the time. I don't know what we are going to do about the situation at Trump Park.

To Mrs. Scales/Mr. Scotto

We have flooding issues all over town. He agrees that Costco should be required to do mitigation at Mill Pond.

To Mrs. Reed:

There have been flooding problems in your area for more than twenty five years. There is a stream that goes through your property. It was larger at one time. The stream is one of the causes of the flooding problem.

To Mr. DiTomasso/Mr. Ciffone:

He suggested that they read the page in the Audit Report which states that the State did not turn up any ethical or criminal problems.

REQUEST FROM LUIS AND DEBBIE SEPA SEEKING RELIEF ON THE BASIS OF
HARDSHIP FROM TEMPORARY MORATORIUM ON APPROVALS FOR BUILDINGS
ACCESSORY

Supervisor Siegel convened a public hearing to consider the application of Luis and Debbie Sepa seeking relief from the Moratorium pursuant to Local Law #8/2011 in order to begin the Building Department's review process for an accessory detached structure to their residence known on the Yorktown Tax Map as 15.20-1-15. The Town Clerk presented affidavits of posting and publication.

Town Attorney Jeannette Koster read a portion of the local law as it relates to proving hardship; Local Law #8/2011, Section 8, Sub paragraph A, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the

application for a variance, special use permit, or other permit during the period of the moratorium imposed by this local law.

Mrs. Sepa, the applicant explained that there was a garage on her property when she purchased it. It was knocked down during a snowstorm. The Code Enforcement Officer told her that she had to remove the debris from her property and to apply for a permit to replace the garage. Mrs. Sepa stated that she is paying storage costs for her son's classic car and the family's lawn furniture and lawn equipment.

Councilman Bianco read a letter from Mrs. Sepa's neighbors, Norman and Melanie Bussel who asked that the Town Board turn down this request because when they wanted to build a garage on their driveway, their request was turned down.

Mr. Edward Ciffone asked if there had been a garage on the property and if the Sepa's were paying taxes on it?

Supervisor Siegel explained the reason that the Town Board imposed a moratorium on accessory structures. We are working on the revision of the local law concerning accessory structures.

Mrs. Sepa stated that there was a garage on her property and yes, she does pay taxes.

Councilman Martorano asked the applicant if she needed the garage and if paying storage costs were a hardship?

Councilman Bianco read a letter from another neighbor, Ardeth Kessler who had no objection to this request as long as it was just to replace what was there.

Mrs. Sepa stated that her deed clearly states there is a garage on the property. She used to park her car inside of the garage.

Supervisor Siegel asked Mrs. Sepa if she could place a tarp over the equipment and car for the winter.

There was discussion between Town Board members on whether they could impose a provision that might be contained in the new law. Councilman Bianco disagreed. He said we cannot impose conditions that we are merely considering. What happens if we don't vote to include the condition in the new law.

All those present having been given the opportunity to be heard and there being no further discussion the hearing was closed. Councilman Bianco motioned, seconded by Councilman Martorano.

RELIEF ON THE BASIS OF HARDSHIP FROM TEMPORARY MORATORIUM ON APPROVALS FOR BUILDINGS ACCESSORY – LUIS AND DEBBIE SEPA RESOLUTION #472

Upon motion made by Councilman Bianco, seconded by Councilman Martorano,

WHEREAS, Town residents Debbie and Luis Sepa have filed an application seeking relief from the applicability of the provisions of Local Law 8 of the year 2011 (the "Moratorium") in order to be able to apply for a building permit to install an accessory building on the site of a preexisting shed that fell during a snowstorm at 3270 Lincoln Drive, Mohegan Lake, NY 10547; and

WHEREAS, the applicants stated that the shed they wish to install is a prefabricated garage having a size of 12' by 36' and they wish to install it on the same spot on their property as their previous shed was located; and

WHEREAS, a public hearing was convened on October 4, 2011, to afford the property owners, and any other parties wishing to present evidence with regard to the application, an opportunity to be heard with respect to the application for relief.

WHEREAS, the applicants appeared at the public hearing and presented an explanation of and arguments in support of the application for relief based as follows: they stated that the proposed shed is no larger than one which they previously had, which was destroyed in a snowstorm, that they need a replacement shed to store a 1990 VW Corrado and a tractor during the upcoming cold weather, and that they are paying storage costs elsewhere for storing the car and the family's lawn furniture and equipment which is financially burdensome; and

WHEREAS, a neighbor of the applicants, Ardeth Kessler, wrote to the Town Board, which was read aloud at the public hearing, in which Ms. Kessler that she had no objection to the Sepas' application as long as the shed was just replacing what was there before; and

WHEREAS, the applicants' neighbors, Norman and Melanie Bussel, wrote to the Town Board which was read aloud during the public hearing, in which they presented arguments against the application for relief, stating for their reason for opposition that they had been turned down for a permit to build a garage on the driveway on their own property, and that application had been denied;

WHEREAS, Edward Ciffone, a resident, testified at the public hearing that he wanted to know if the Sepas were paying taxes on the shed; and

WHEREAS, the Town Board finds that the proposed shed as described by the applicants will not be larger than the main building on the Sepas' property, and therefore should not conflict with the holding in *Witkovich v. Town of Yorktown*, and

WHEREAS, the applicants have established to the satisfaction of the Town Board that they need to apply for a building permit before the moratorium ends in order to have time to get their application approved so as to be able to install the shed before winter;

NOW THEREFORE BE IT

RESOLVED, that the Town Board finds that the Sepas have shown to the satisfaction of the Board that the proposed accessory building is intended to be a replacement for a preexisting shed of approximately the same size, that there was support for the Sepas' application from most neighbors and what opposition there was not relevant;

RESOLVED, that the Town Board finds that the Sepas have adequately demonstrated the existence of a hardship; accordingly

RESOLVED, that the application of Debbie and Luis Sepa, seeking relief from the applicability of the provisions of the Moratorium in order to be able to seek the approvals needed from the Town to allow them to commence construction, is hereby granted; and

RESOLVED, Sepas may submit an application for a building permit and may apply for a setback variance from the ZBA if one is needed (no decision being made by this Board at this time regarding the appropriateness of the ZBA granting such a variance); and be it further

RESOLVED, upon the Building Inspector determining that all applicable laws have been complied with and any variances needed by the applicants have been granted by the ZBA, the Building Inspector may issue a permit to the applicants.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

CONVENE PUBLIC HEARING
REQUEST FROM MR. ROBERT SANGANOO SEEKING RELIEF ON THE BASIS OF
HARDSHIP FROM TEMPORARY MORATORIUM ON APPROVALS FOR BUILDINGS
ACCESSORY

Supervisor Siegel convened a public hearing to consider the application of Robert Sanganoo seeking relief from the Moratorium pursuant to Local Law #8/2011 in order to complete the process to be granted a variance for an accessory detached structure on their residence known on the Yorktown Tax Map as 37.19-2-10. The Town Clerk presented affidavits of posting and publication.

Mr. Sangano, the applicant explained that he is selling his home. He is trying to legalize a pre-existing shed on the property.

Mr. Edward Ciffone asked if he was paying taxes on this shed.

No further questions from the Town Board or public.

All those present having been given the opportunity to be heard and there being no further discussion the hearing was closed. Councilman Bianco motioned, seconded by Councilman Martorano.

RELIEF ON THE BASIS OF HARDSHIP FROM TEMPORARY MORATORIUM ON APPROVALS FOR BUILDINGS ACCESSORY – ROBERT SANGANOO RESOLUTION #473

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

WHEREAS Town resident Robert S. Sangano (“Applicant”) has filed an application seeking relief from the applicability of the provisions of Local Law 8 of the year 2011 (the “Moratorium”) in order to be able to apply for a building permit to legalize an existing shed on his property at 1869 Andre Place, Yorktown Heights; and

WHEREAS, a public hearing was convened on October 4, 2011, to afford Applicant, and any other partys wishing to present evidence with regard to the application, an opportunity to be heard with respect to the application for relief; and

WHEREAS Applicant appeared at the public hearing and presented an explanation of and arguments in support of the application for relief ; and

WHEREAS the Town Board finds that the existing shed as described by Applicant is not larger than the main building on the property, and therefore should not conflict with the holding in *Witkovich v. Town of Yorktown*, and

WHEREAS, Applicant has established to the satisfaction of the Town Board that he is experiencing a hardship in that his inability to obtain a building permit will interfere with sale of the property;

NOW THEREFORE BE IT RESOLVED, that the Town Board finds that Applicant has adequately demonstrated the existence of a hardship, and be it further

RESOLVED that the application of Applicant, seeking relief from the Moratorium is hereby granted; and be it further

RESOLVED, upon the Building Inspector determining that all applicable laws have been complied with in the application for a building permit, and any variance needed by Applicant has been granted by the Zoning Board of Appeals, if any is required, the Building Inspector may issue a building permit to Applicant.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

REQUEST FROM PAUL AND JENNIFER SILVERMAN SEEKING RELIEF ON THE BASIS OF HARDSHIP FROM TEMPORARY MORATORIUM ON APPROVALS FOR BUILDINGS ACCESSORY

Supervisor Siegel convened a public hearing to consider the application of Paul and Jennifer Silverman seeking relief from the Moratorium pursuant to Local Law #8/2011 in order to complete the Building Department’s review process for an accessory detached structure to their residence known on the Yorktown tax map as 36.10-1-80. The Town Clerk presented affidavits of posting and publication.

Mr. Silverman told the Board that he has lived on this property for four years. The property is located next to what he referred to as the neighborhood dumping ground. Mr. Silverman spoke about removing illegal runoff drains from his property; cutting down dead

trees and cleaning the property which had been used as a dump. He also stated that a lot of the water runoff in the area will be corrected once he is on sewer.

Councilman Bianco asked if there ever was a garage on this property.

Mr. Silverman stated that he is the only one in the area that does not have a garage.

Mr. Howard Frank stated that he heard there was going to be an accessory apartment over this garage. Does it have all of the necessary approvals?

Mr. Silverman explained that everything was approved by the Zoning Board of Appeals.

Mrs. Marissa Marr stated that many of the trees cut down on the Silverman's property were not dead. She also stated that they did not have an illegal hookup on his property. They believed they owned the property that he hookup was on. They also stated that Mr. Silverman ripped out drainage that was on her property.

Councilman Martorano asked if there was any clear cutting of trees. He wanted to know when the trees were cut down.

Mr. Silverman stated that he began cutting down trees last summer. Once the new law went into effect, he applied for a permit. He further stated that all of the information concerning the plan for the property was available to everyone.

Mr. Dave Marr stated that trees on the Silverman property were alive. At least 40 were taken down. He further stated that the water problem on his property has nothing to do with trees.

Mr. Silverman stated that he had a conversation with the Marrs in March about removing their property from his. By May since they hadn't done it, he removed it.

Mrs. Marr states that water in the area comes from Wilkens Fruit & Fir Farm.

Mr. Tom Baker, a resident of Walter Road reiterated that many of the trees on the Silverman property were alive when they were cut down. He believes that it is imperative that the entire Town Board visit this property.

Mr. Edward Ciffone asked the Town Board several questions including the definition of hardship, and is it the community's hardship to stop water.

Mr. Silverman explained his hardship as having his wife coming out of their home after a snow storm, having to clear cars as well as the driveway. He has four young children and the space over the garage is for the nanny.

Mr. Frank McCarthy, a resident of Walter Road stated that his real concern is water runoff and the destruction of the trees. He's also concerned about the size of the structure, the location of the garage on the property. He is not clear what the purpose of this garage is. Is there a possibility that it will become an accessory apartment? Mr. McCarthy also spoke about the process. He said the rules may have or may not have been followed. He's not speaking against the plan, but he does have concerns.

Mr. Silverman stated that this past February, he wrote and hand delivered a letter to all of the neighbors explaining the plan.

Mr. McCarthy stated that he remembers receiving an earlier letter which spoke about water problems in the area.

Mr. David Kavovit, a resident of Walter Road stated that he did not get the letter that Mr. Silverman is talking about. He further states that there has always been flooding problems in the area because the original land was an orchard. He is concerned about the size of the garage. Will this be a three car garage?

The Board inquired about the zoning.

Mr. Silverman stated that the zoning is half acre, he has just over two acres.

Mrs. Marr said the whole community is feeling the loss of the trees.

Mr. Silverman reiterated that he did not take the trees down illegally.

Mr. Ed Killeen stated that it there appears to be a lot of confusion, where is the site plan?

Mr. Nicholas DiTomasso stated that when you buy a car, you ask to see the car fax. Why isn't there something similar when you buy a house?

Mr. McCarthy stated that he never saw the sign that was on his property.

Mr. Jeff Preiss, a resident of Leland Drive spoke about the fact that a lot of the process requires neighbors to visit the Town Hall during business hours when we in fact are working ourselves. There has to be an easier way to review plans.

Councilman Murphy stated that he feels the Town Board should visit this property before making a decision.

Councilman Martorano spoke about a legal principle called “clean hands.” He told Mr. Silverman that he would have to see evidence that he did apply for a tree permit. He didn’t feel that Mr. Silverman demonstrated or proved hardship.

Mr. Silverman explained that if he doesn’t break ground within the next few weeks, he will have to wait until spring.

All those present having been given the opportunity to be heard and there being no further discussion the hearing was adjourn until October 18, 2011. Councilman Murphy motioned, seconded by Councilman Martorano.

PUBLIC HEARING

PROPOSED LOCAL LAW CREATING CHAPTER 102 ESTABLISHING A NEW AFFORDABLE HOUSING PROGRAM

Supervisor Siegel convened a public hearing for the purpose of enacting Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING,” establishing a new Affordable Housing Program. The Town Clerk presented affidavits of posting and publication.

Mr. Ken Belfer, Chairman of the Yorktown Community Housing Board provided the following background:

In the 2005 one section of the Comprehensive Plan called for a Housing Set-Aside Program. The Comprehensive Plan was challenged and thrown out. There was also a lawsuit filed against Westchester County regarding Community Development Block Funds. As part of the settlement, Westchester County agreed to come up with an Affordable Housing Model Ordinance. Communities who do not adopt the model may no longer be eligible for Community Development Block Grants. The legislation does not create development. It does not add density. Developments of eight (8) or more homes must set aside 10% of the units as affordable units. There will be deed restrictions. There is also text on how these units must be marketed. There are no quotas on race. The law also calls for an expedited project review for these developments. Developers will not receive incentives.

Mr. Michael Grace stated that he has reviewed the ordinance. He explained that what the Town Board is attempting to do is not legally permissible. What you are doing is taking money from a small discreet group of property owners, giving it to someone else without any consideration. During 1988, the Town Board explored Affordable Housing and decided to grant a density bonus for developers of affordable units. What this proposal amounts to is a taking or a tax which you do not have enabling legislation from New York State to levy. Mr. Grace further stated that you have not done any SEQRA analysis on this subject. This is a ruse on the very people you are trying to help. They will not be able to create equity in their home because of the restrictions. The best way for the middle class to create wealth is in their homes. You have to let the market control it.

Councilman Bianco stated that Westchester County is under federal mandate to pass this law. He gave Mr. Grace a letter from the Deputy County Executive which states that communities who do not pass this legislation may not get Community Development Block Grant Funds.

Mr. Grace stated that if that is what Westchester County is telling you, then we need to elect a new county government. What the Town of Yorktown should be doing to make Yorktown affordable is getting help paying for infrastructure repairs. Taking money from a few land owners and giving it others is creating a trap.

Mrs. Claire McNeill, a member of the Community Housing Board spoke in favor of the proposed legislation. The median wage for someone who works for the Town of Yorktown is \$57,000 and the starting salary for a teacher in Yorktown is \$59,000.

Mr. Edward Killeen says he feels a little de-ja-vu. The Town has had so many proposals on this subject. He believes everyone is deserving of a place to live. If 10% of the development has to be built affordable, will those houses be built on different size lots, will the square footage be different. Mr. Killeen also raised the issue of the Courtyard. This was an affordable housing development that was ended by the Town Board. He said if we do have affordable units, there should be a time span in which the property owner can get equity out of the unit.

Mr. Melvin Tansmann supports this proposal. He also supported the plan that is in the Comprehensive Plan. Mr. Tansmann stated that he doesn't understand why this is being revisited. Yorktown is strengthened by diversity. He disagreed that this was a form of entrapment. He further stated that the owners of these units should be allowed to receive a reasonable amount of money when the unit is sold. He also didn't think this was unfair to developers.

Mr. Edward Ciffone stated that he hears two affordable housing plans, one from the Town of Yorktown and the other from Westchester County. He believes that Yorktown should not have to participate in this program since the number of minorities in Yorktown is more than 9 percent. He believes housing set asides should be for people who can afford to live here.

Mr. Anthony Grasso, a former member of the Town Board stated that this has been an interesting discussion. When he was on the Town Board, they passed an Affordable Housing Law. Mr. Grasso said, at the time we thought we were doing the right thing, unfortunately, we didn't. He gave examples of how people who work in Yorktown make in excess of one hundred thousand dollars including people who work in the school districts. When he moved to Yorktown years ago, he purchased his home for \$15,000.00. Today, he pays \$14,000.00 in taxes on his home. Yorktown is an affordable community. He believes Yorktown must fight Westchester County. We must have a diversified community. Low cost housing does not belong here. He wanted to know who Mr. Belfer works for. Is he tied into a housing agency?

Mr. Howard Frank spoke about an additional way that other communities create affordable housing. The program is called "Land Rent."

Mr. Belfer responded to Mr. Grasso's employment question stating that he does work in the field of affordable housing. He also clarified a number of issues including; explaining why he believed the law is legal and how homeowners build equity in their home.

Mr. Edward Killeen stated that the Consumer Price Index (CPI) should not be used to figure anything on a house. The CPI is a political number controlled by the White House Economic Council.

There was further discussion between Mr. Grace and the Town Board. He knows Professor John Nolan and asked what case is he citing to come to the conclusion that this proposed law is legal. He further stated that this is not just a matter of legality but also one of fairness. Mr. Grace ended by stating that you are taking a regional problem and putting on the back of a few; do your homework.

All those present having been given the opportunity to be heard and there being no further discussion the hearing was adjourned. Councilman Murphy motioned, seconded by Councilman Martorano.

ADVERTISE PUBLIC HEARING – OCTOBER 18, 2011
PROPOSED LOCAL LAW REPEALING SECTION 216-10 ENTITLED "PEACE AND GOOD ORDER, PERTAINING TO SNOW REMOVAL AND TO ENACT A NEW ARTICLE ENTITLED "SNOW AND ICE REMOVAL" IN CHAPTER 250
RESOLUTION #474

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

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598 on the 18th day of October, 2011 at 7:30 o'clock PM, or as soon thereafter as the same can be heard, to consider Repealing Section 216-10 of the Code of the Town of Yorktown, in the chapter entitled "PEACE AND GOOD ORDER," pertaining to snow removal, and to enact a new article entitled "Snow and Ice Removal" in chapter 250, entitled "STREETS AND SIDEWALKS," creating snow removal districts.

A copy of the Local Law is on file in the Office of the Town Clerk, Town of Yorktown, 363 Underhill Avenue, Yorktown Heights, New York, where it is a public record, available for inspection during regular office hours.

A copy of the Local Law may also be seen on the Town of Yorktown's website www.yorktownny.org

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

ACCEPT EROSION CONTROL BOND - RCB MINOR SUBDIVISION: OLD CROMPOND ROAD – EROSION CONTROL BOND AND INSPECTION FEE RESOLUTION #475

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

WHEREAS, Rich Bartzick (RCB Development), as applicant and developer, provided the Town with Check No. 1067 in the amount of \$5,000.00, to serve as the Erosion Control Bond for the RCB Development Minor Subdivision located on Old Crompond Road, and

WHEREAS, Rich Bartzick (Amberlands Realty Corp.), as applicant and developer, provided the Town with Check #6075, in the amount of \$4,051.00, to serve as the 8% Inspection Fee for the RCB Development Minor Subdivision, and

WHEREAS, Rich Bartzick has chosen to construct the public facilities first and not pay the Performance Bond at this time, and

WHEREAS, Rich Bartzick will be required as per town code (Chapter 195-24) to post a Maintenance Bond or equivalent security equal to 10% of the Performance Bond, NOW, THEREFORE BE IT

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

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

RELEASE EROSION CONTROL BOND - #E-088-05 – COLONIAL STREET – EROSION CONTROL BOND AND INSPECTION FEE RESOLUTION #476

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

WHEREAS, Joanne Mogrovejo, as applicant, posted Check No. 0644870 in the amount of \$10,000.00, to serve as the Erosion Control Bond for Excavation Permit #E-088-05, which was deposited into the T-33 account on September 15, 2006 for work performed at her Colonial Street residence, and

WHEREAS, Joanne Mogrovejo, as applicant, posted check #308 in the amount of \$600.00, to serve as the required inspection fees for this Excavation Permit, which was deposited into the A2116 account on September 15, 2006, and

RESOLVED, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$10,000.00 for erosion control and the \$287.50 for unused escrow may be released, AND, BE IT FURTHER

RESOLVED, that the above-referenced monies are hereby released to Ms. Joanne Mogrovejo, 2575 Colonial Street, Yorktown Heights, NY 10598.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

RELEASE WETLAND BOND
#WP-045-11 – MEADOWCREST DRIVE – WETLAND BOND
RESOLUTION #477

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

WHEREAS, Caroline & Salvatore DiCioccio, as applicant, posted Check No. 2549 in the amount of \$300.00, which was deposited into the T33 account on July 22, 2011, to serve as the Wetland Bond for Wetland Permit #WP-045-11, for work performed at their Meadowcrest Drive residence, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for erosion control may be released, NOW THEREFORE BE IT

RESOLVED, that the above-referenced Wetland Bond in the amount of \$300.00 be and is hereby released to Mr. & Mrs. Salvatore DiCioccio, 2929 Meadowcrest Drive, Yorktown Heights, NY 10598.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

RELEASE EROSION CONTROL BOND
#E-039-10 – BALDWIN ROAD – EROSION CONTROL BOND
RESOLUTION #478

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

WHEREAS, Aiden Carey, as applicant, posted Check No. 168 in the amount of \$300.00, which was deposited into the T33 account on August 20, 2010, to serve as the Erosion Control Bond for Excavation Permit #E-039-10, for work performed at his Baldwin Road residence, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for erosion control may be released, NOW THEREFORE BE IT

RESOLVED, that the above-referenced Erosion Control Bond in the amount of \$300.00 be and is hereby released to Mr. Aiden Carey, 1670 Baldwin Road, Yorktown Heights, NY 10598.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

RELEASE LANDSCAPE BOND
#2347 – LANDSCAPE BOND – SPRINGHURST STREET
RESOLUTION #479

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

WHEREAS, Chuck Wallace, as applicant, heretofore filed Landscape Bond #2347 in the amount of \$300.00, for Lot #78 for his residence on Springhurst Street, which was deposited into the T-30 Account on May 4, 2010, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected said property and determined that the work has been satisfactorily completed, and that said bond totaling \$300.00 may be released, NOW, THEREFORE, BE IT

RESOLVED, that Landscape Bond #2347 in the amount of \$300.00 be and is hereby released to Mr. Chuck Wallace, 2848 Springhurst Street, Yorktown Heights, NY 10598.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

RELEASE ESCROW DEPOSIT
DRIVEWAY PERMIT #1182 - \$500
RESOLUTION #480

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

WHEREAS, a representative of the Highway Department has made an inspection of the following site and found the work to be completed satisfactorily.

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the release of the following Escrow Deposit:

| Type of Permit | Permit # | Amount | Location | Refund to |
|----------------|----------|----------|-----------------|--|
| Driveway | 1182 | \$500.00 | 1374 White Hill | Gjergi & Aida Balaj 1374 White Hill Road Yorktown Heights, NY 10598 |

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

AUTHORIZE THE TOWN ATTORNEY TO SEND A NOTICE OF DEFAULT AND
TERMINATION TO VERIZON
RESOLUTION #481

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

WHEREAS, by resolution on September 6, 2011, the Town Board directed the Supervisor to send a Notice of Service Failures to Verizon concerning Verizon's significant and recurrent breaches of the Town's contract; and

WHEREAS, on September 7, 2011 the Town Attorney sent, by first class mail and certified mail, return receipt requested, as required under the contract, a Notice of Service Failures to the address set forth in the contract for notices; and

WHEREAS, both letters were returned to the Town Attorney unopened and marked undeliverable by the U.S. Postal Service; and numerous other efforts were made to locate an individual or office to whom to send the Notice of Service Failures, without success;

NOW THEREFORE, the Town Board hereby finds and determines that Verizon has defaulted on its 2010 contract with the Town for the reasons set forth in letter dated September 7, 2011, a copy of which shall be filed with the Town Clerk, and be it further

RESOLVED, that the Town Board directs the Town Attorney to send a Notice of Default to Verizon and file a copy of such default notice with the Town Clerk.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO EXECUTE A STIPULATION CONSENTING TO
ELECTRONIC FILING WITH TAXPAYERS WHO FILE SMALL CLAIMS
ASSESSMENT REVIEW PETITIONS
RESOLUTION #482

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

RESOLVED, the Town Supervisor is authorized to execute a Stipulation Consenting to Electronic Filing with Taxpayers Who File Small Claims Assessment Review petitions, to permit the electronic filing of petitions challenging the Town Assessor's property assessments under the 2011 Final Assessment Roll. The purpose of the Stipulation is to allow the Town of Yorktown to participate in a program operated by the Westchester County Clerk under Part 202 of the Uniform Rules of the Supreme and County Courts to facilitate E-Filing of small claims assessment review petitions.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye

Resolution adopted.

AMEND YORKTOWN FARMS
RESOLUTION NO. 111 DATED FEBRUARY 27, 2007
RESOLUTION #483

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

WHEREAS, the Town Board of the Town of Yorktown (the "Town Board") rezoned the property now known as the Yorktown Farms Subdivision by Resolution #111, dated February 27, 2007(the "Rezoning Resolution");

WHEREAS, pursuant to said Rezoning Resolution, the Town Board imposed various conditions including, but not limited to, requiring that all Sewer Connection Stipend Payments of \$3,000 per home (the "Stipend Payments") were to be paid to the 67 Neighborhood Property Owners who were going to be able to connect to the Yorktown Farms Sewer system (the "Neighborhood Property Owners") prior to the issuance of the first Certificate of Occupancy in the Yorktown Farms Subdivision;

WHEREAS, the Yorktown Farms Subdivision was approved by the Planning Board by Resolution #08-03, dated February 11, 2008, as subsequently extended; and

WHEREAS, all conditions of final approval were satisfied and the Yorktown Farms Subdivision Plat was signed by the Chairman of the Planning Board and filed in the Westchester County Clerk's office, on July 20, 2011, as Map No. 28496;

WHEREAS, VS Construction Corp. ("VS") as developer of Yorktown Farms has installed the on-site infrastructure and has completed the off-site sewer improvements, including those to benefit the Neighborhood Property Owners;

WHEREAS, VS has entered into agreements with approximately 25 of the Neighborhood Property Owners to install individual sewer lateral connections to their homes and has extended a \$3,000 credit to each such homeowner as and for their respective Sewer Stipend;

WHEREAS, VS has agreed to correspond with and/or meet with all Neighborhood Property Owners to extend an offer to either connect such homeowner to the public sewers or pay the \$3,000 Sewer Stipend;

WHEREAS, VS met with the Town Board on September 27, 2011 to provide the Town Board with a complete update on the status of the project, and also requested the issuance of one (1) Certificate of Occupancy and three (3) Building Permits;

WHEREAS, VS has agreed that on or before November 30, 2011, it will have either: i) entered into Sewer Connection Agreements with all Neighborhood Property Owners, ii) paid the \$3,000 stipend to the Neighborhood Property Owners, and/or iii) placed a sum in escrow with Zarin & Steinmetz, as Attorneys, totaling \$3,000 times the number of Neighborhood Property Owners who have not entered into Sewer Connection Agreements or been paid the \$3,000 Sewer Stipend and signed written receipts therefor;

WHEREAS, evidence of all written receipts and the establishment of the escrow account shall be provided to the Town Attorney on or before November 30, 2011;

WHEREAS, VS shall request an Amended Resolution from the Planning Board consistent herewith.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Yorktown hereby amends the Rezoning Resolution as follows:

1) VS may apply for a Certificate of Occupancy for the model home on site in the Yorktown Farms Subdivision, which Certificate of Occupancy the Town shall issue upon the satisfactory completion by VS of all prerequisites under the Building Code and Town Code, including but not limited to, submission of all required documents, including a

survey, and completion of all required inspections to the satisfaction of the Building Inspector.

2) VS may apply for three (3) Building Permits for the construction of three additional homes from the Town Building Department, which permits the Town shall issue upon the satisfactory completion by VS of all prerequisites under the Building Code and Town Code, including but not limited to submission of required plans and fees.

3) VS shall file copies of all receipts of Sewer Stipends, proof of the extension of Sewer Stipend credits, proof of the establishment of the escrow account, and proof of the release of all stipend payments from escrow with the Town Clerk.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

RELEASE POLICE CAR THAT WAS DEEMED A TOTAL LOSS TO THE INSURANCE COMPANY

RESOLUTION #484

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

WHEREAS, Police Vehicle 06-532 was damaged and determined by Trident Insurance Co. to be a total loss (exclusive of the computer equipment in the vehicle at the time of the fire, which is the subject of a separate claim under a different insurance policy), and Trident has issued the Town a check in the amount of \$18,562.45, constituting the replacement value of the vehicle plus the salvage value;

WHEREAS, Police Chief Daniel McMahon has determined that the Police Department has no need to keep the damaged vehicle for parts or other municipal use, and the Supervisor has determined that no other town agency has any use for the damaged vehicle; now therefore be it

RESOLVED, that the Supervisor is hereby authorized to execute any and all documents in order to execute the transfer of right, title and interest in the Police Vehicle 06-532 vehicle to Trident Insurance Co., and be it

FURTHER RESOLVED, that the Town Attorney is hereby directed to do all that is necessary to execute said transfer.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

ACCEPT DONATION FROM YORKTOWN CENTRAL SCHOOL DISTRICT OF MELBOURNE HOUSE ARTIFACTS

RESOLUTION #485

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

Resolved, that the Town Board gratefully accepts, on behalf of the Yorktown Museum, a donation, from the Yorktown School District, of decorative items removed from the Melbourne Farmhouse.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

REFUND ZONING BOARD OF APPEALS FEE

794 BARBERRY ROAD - VARIANCE REFUND - \$210.00

RESOLUTION #486

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

RESOLVED, that the Town Board approves a refund in the amount of \$210.00 be made to Felix & Darlene Rivera of 794 Barberrry Road, Yorktown Heights, NY 10598 for a Zoning Board of Appeals variance fee that was determined to be not required.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

REFUND DUPLICATE TAX PAYMENT

ACCOUNT #4875240, 0541622

RESOLUTION #487

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

WHEREAS, records of the Receiver of Taxes indicate that the following duplicate tax payment was made:

| <u>Year and Tax</u> | <u>S-P-L</u> | <u>Account #</u> | <u>Refund Amount</u> |
|---------------------|-----------------|------------------|----------------------|
| 2011 Town/Cty | 15.20-1-26.36-2 | 0541632 | \$1,699.50 |
| 6,060.54 | 71.05-1-4 | 4875240 | \$6,060.54 |

BE IT RESOLVED, that the Supervisor is hereby authorized to refund the above noted amount.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

MONTHLY REPORTS

Building Department – September Cost of Construction Report

FAMILY VALUES

RESOLUTION #488

Upon motion made by Councilman Bianco, seconded by Councilman Martorano

There was discussion amongst Board Members about why the resolution is being put forth.

Mr. Mark Levine, a resident of Yorktown who came before the Town Board seeking the resolution explained why he came forward.

The council members said this resolution is not mandatory. They had nothing against any particular athletic club. It appears that there is a problem with the travel team league.

Councilman Martorano said, as an individual, he's very mindful of the separation of church and state.

WHEREAS, Yorktown is a town that welcomes people of all faiths, as well as people who do not profess faith in a deity;

WHEREAS, Yorktown is a town that believes in instilling in our children important civic values, including those of religious tolerance and respect for the religious beliefs of others;

WHEREAS, Yorktown believes that family harmony and the right to practice one's religion are important values and that neither the town government nor organizations in the town should take actions that might cause conflicts between parents and their children;

NOW, THEREFORE, RESOLVED, That it is the sense of the Town Board that:

(1) Having ball games for the town's youth on holidays when Yorktown parents believe their children should be observing the holiday instead of playing organized sports is inconsistent with the family values of Yorktown and the town's tradition of religious tolerance, and

(2) Organizations planning events open to all the town's youngsters should use their best efforts to avoid such scheduling, both in schedules they prepare and in schedules prepared by leagues they are members of.

Bianco, Martorano, Murphy, Patel Voting Aye
Siegel Abstain

Resolution adopted.

Supervisor Siegel stated that the reason she abstained from voting on this resolution is has to do with what Councilman Martorano stated; the separation of church and state.

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

Mr. Richard Camponara stated that his organization, the Yorktown Athletic Club has received a lot of negative press concerning this resolution. He said his club does not schedule games on religious holidays. It was the Shrub Oak Athletic Club that had a travel team game on Yom Kippur. Mr. Camponara stated that this is not the type of resolution that a Town Board should be adopting. YAC is a private organization staffed by volunteers who are doing your job. Most of the Town's in Westchester do what we do. Mr. Campanora also stated that the Board thought there was a problem, why didn't you ask to meet with the athletic clubs. The Town Board came to a YAC Board Meeting and we asked you to have a meeting with us, but you didn't schedule one.

ADJOURN

Councilman Martorano moved, seconded by Councilman Patel, to adjourn the Town Board meeting.

Alice E. Roker
Town Clerk
Town of Yorktown