

Regular meeting held by the Town Board,
Town of Yorktown on March 20, 2012 held at
363 Underhill Avenue, Yorktown Heights, NY 10598

Present: Michael Grace, Supervisor
Nicholas Bianco, Councilman
Terrence Murphy, Councilman
Vishnu Patel, Councilman
David Paganelli, Councilman
Diana L. Quast, Deputy Town Clerk

Absent:

EXECUTIVE SESSION

Upon motion made by Councilman Bianco, seconded by Councilman Murphy, the Town Board moved into Executive Session to discuss Personnel.

TOWN BOARD MEETING

Supervisor Michael Grace called the meeting to order. Town Attorney Jeannette Koster was also present at the meeting.

PLEDGE OF ALLEGIANCE

Girl Scout Gold Award Recipient Christa Bracka 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.

PRESENTATION

LAKE MOHEGAN FIRE DEPARTMENT TO THE YORKTOWN LEO'S

Mr. Steve Pagoda and Mr. Robert Gordineer, Members of the Lake Mohegan Fire Department presented the Yorktown Leo's President Meghan McGowan, Vice President Colleen Riordan, Treasurer Aatish Bathija and Board Member Cullen Malzo with an award for all their hard work in helping the Lake Mohegan Fire Department raise funds to create a 911 Memorial at the Lake Mohegan Fire House located on Lee Boulevard. The Yorktown Leo's fundraised all of the monies needed to build the memorial.

Leo's President Meghan McGowan thanked the Lake Mohegan Fire Department for this award.

Councilman Patel congratulated the Leo's on receiving this award and for all the work they do keeping Patriot Garden clean.

Supervisor Grace stated that the Yorktown Leo's are inspirational and a great group, this award is well deserved.

DURING THE SUPERVISOR'S REPORT TO THE TOWN

Supervisor Grace stated that there will be another Community Outreach meeting on March 22, 2012 at Copper Beech Middle School. He urged everyone to attend.

Supervisor Grace announced that the Ribbon Cutting for the renovated Senior Center has been postponed.

DURING REPORTS FROM TOWN COUNCIL

Councilman Bianco stated that the blacktop plants will be opening next week. He noted that many roads are in need of paving and hopes CHIP money will help pay for this. He also stated that due to the mild winter we may have some surplus in the Highway Budget which can be used along with the CHIPS money.

Highway Superintendent Eric DiBartolo stated that the Town has applied for a \$750,000 Grant from New York State and this will help with the wear and tear on the Town Roads from all the alternate routes that will be taken due to the Taconic State Parkway roadwork. Mr. DiBartolo stated that the Highway Department will be doing as much paving as possible this year because our roads are in need of repairs.

Supervisor Grace stated that there is not enough money to pave all the roads in Town but we will meet with the Highway Superintendent and prioritize as money is received.

Councilman Patel spoke about several Intel Science Students and congratulated them on their outstanding achievements.

Councilman Paganelli spoke about two Yorktown Police Officers who assisted a woman and received a letter of recognition.

PRESENTATION

POLICE CHIEF DANIEL MCMAHON GAVE A UPDATE ON THE CONSTRUCTION PROJECT ON THE TACONIC STATE PARKWAY

Police Chief Daniel McMahon updated the Town Board and the public on the upcoming Taconic State Parkway closure. He stated that Emergency Service Personnel will be working together with adjacent communities to make sure that proper coverage is provided. The concern is with the area south of the reservoir because there will be high traffic congestion.

DISCUSSION - YORKTOWN ENERGY COMMITTEE

PAUL MOSKOWITZ

Mr. Paul Moskowitz, Chair, Yorktown Energy Committee stated that there are rebates for the purchase of energy efficient refrigerators and washing machines that are available from NYSERDA. They are also giving free home energy audits. Information can be obtained from the following websites: www.yorktownny.org, or from www.nysappliance.com.

COURTESY OF THE FLOOR

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

Ms. Carol O'Connell stated that there is a Relay for Life Quilt hanging on the wall in the Yorktown Town Boardroom. This quilt was made as a fundraiser for the upcoming Relay for Life event on Yorktown.

A resident stated that she would like the brook that runs down Highbrook Street checked for some type of alleviation to it flooding constantly. She also spoke about a sewer backup onto her property two years ago and she has not heard anything from the Town regarding it and would like to know the status.

Supervisor Grace stated that she should contact the Town Attorney.

Mr. Bonanno from J&J Backflow stated that he would like his company and his rates for backflow inspections to be placed on the Town notice's for backflow inspection services.

Supervisor Grace said that he would speak with the Water Distribution Superintendent regarding this issue.

Mr. Alan Most spoke about the Holland Sporting Club and would like a status on where the Town is with regards to the asbestos removal and demolition of the buildings.

Supervisor Grace explained that the Town has to review its options because the bid documents stated that it included air monitoring of the site while the asbestos is being removed. This cannot be done by the winning bidder it must be done by an outside company. The Town can choose to rebid the project or just bid out the air quality monitoring section. Supervisor Grace does not have a timeline at this time.

Mr. Edward Ciffone asked about the Granite Knolls and the cost to create the fields.

Highway Superintendent Eric DiBartolo stated that it has only cost about \$500 at this time.

Mrs. Susan Siegel asked if the CSEA Contract negotiations could be explained.

Councilman Bianco explained that the contract calls for a zero increase in 2009, a 1.5 lump sum payment for 2010 and a 1.5 percent increase in 2011.

COURTESY OF THE FLOOR IS CLOSED

AUTHORIZE THE SUPERVISOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT WITH CSEA FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2011

RESOLUTION #108

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

WHEREAS, the Town of Yorktown (“the Town”) and the CSEA, Local 1000, AFSCME, AFL-CIO, Town of Yorktown Unit, Westchester Local 860 (“the Union”) are parties to a collective bargaining agreement covering the period January 1, 2005 – December 31, 2008; and

WHEREAS, the negotiating committees for the Town and the Union have agreed upon the terms of a Memorandum of Agreement, dated January 26, 2012, which sets forth the terms of a successor agreement for the period from January 1, 2009 through December 31, 2011; and

WHEREAS, that Agreement provides that it is subject to ratification by the Town Board and the Union’s membership; and

WHEREAS, the Union has advised the Town that its membership has voted and has approved the Agreement; and

WHEREAS, the members of the negotiating committee for the Town have recommended unanimously that the Memorandum of Agreement be ratified by the Town Board;

NOW, THEREFORE, BE IT RESOLVED that the Memorandum of Agreement between the Town and the Union dated January 26, 2012, is hereby ratified and approved and the Town Board approves the funding for such Agreement; and

BE IT FURTHER RESOLVED that the Town Supervisor is authorized to execute a collective bargaining agreement for the period from January 1, 2009 through December 31, 2011 that is consistent with the terms of the Memorandum of Agreement.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

BID - LAB SERVICES FOR THE YORKTOWN HEIGHTS WATER POLLUTION CONTROL PLANT
RESOLUTION #109

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

Sealed proposals will be received by the **Town Clerk** of the Town of Yorktown, Westchester County, **New York, at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, until 10:00 A.M., on April 9, 2012, for Laboratory Services for the Yorktown Heights Sewage Treatment Plant, Bid #12-02.**

Specifications and standard proposals for the bid may be obtained at the office of the Town Clerk at said Town Hall.

The bidder assumes the risk of any delay in the mail or in the handling of mail by the employees of the Town of Yorktown. Whether sent by mail or means of personal delivery, the bidder assumes the responsibility for having bids in on the time and the place specified above.

The Town of Yorktown reserves the right to waive any informalities in the bids, to reject any or all bids and reserves the right to accept that bid which it deems most favorable to the interests of the Town of Yorktown. No bidder may withdraw his bid within thirty (30) days after the actual date of the opening thereof.

If mailed, sealed proposals must be addressed in care of the Town Clerk at the above address.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

BID - SUMMER CAMP T-SHIRTS – PARKS AND RECREATION
RESOLUTION #110

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

NOTICE IS HEREBY GIVEN that sealed proposals will be received by the Town Clerk of the Town of Yorktown, Westchester County, NY until 11:00 AM on Wednesday, April 4, 2012 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598 for supplying the following goods: T-Shirts and Uniforms for the Parks & Recreation Department.

All bids must be accompanied by an executed non-collusion bidding certificate.

Specifications may be obtained at the office of the Town Clerk at said Town Hall, Yorktown Heights, NY during regular office hours.

The bidder assumes the risk of any delay in the mail or in the handling of mail by the employees of the Town of Yorktown. Whether sent by mail or means of personal delivery, the bidder assumes the responsibility for having bids in at the time and the place specified above.

The Town Board reserves the right to reject any or all bids and to accept that bid which it deems most favorable to the interests of the Town of Yorktown.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

AMEND JEFFERSON VILLAGE TAX CERTIORARI SETTLEMENT
RESOLUTION #111

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

This resolution amends Resolution 431 adopted September 6, 2011 and Resolution #460 dated September 20, 2011.

WHEREAS, tax certiorari proceedings were instituted by Jefferson Village III Condominiums, challenging the aggregate assessment for Section 17.09, Block 1, Lots 69.-217 thru 69.-343, totaling 127 individual, located in the Jefferson Village Condominium Complex, on the Tax Map of the Town of Yorktown, and

WHEREAS, the 127 individual condominium assessments will be determined by its percent share of the aggregate value, now therefore be it

RESOLVED, that the tax certiorari proceedings affecting the aggregate value of Jefferson Village III Condominiums, as stated above, for assessment roll years 2005, 2006, 2007, 2008, 2009 and 2010, be settled as set forth in the proposed stipulation as follows:

<u>Roll Year</u>	<u>AV From</u>	<u>AV To</u>	<u>Proposed Reduction</u>
2010	\$413,600	\$341,111	\$72,489
2009	\$413,600	\$325,583	\$88,017
2008	\$413,600	\$327,524	\$86,076
2007	\$413,600	\$307,343	\$106,257
2006	\$413,600	\$315,506	\$98,094
2005	\$413,600	\$356,975	\$56,625

Approved by the Town Board upon condition that all taxes are paid.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

EXTEND THE BID FOR BODYWORK ON TOWN CARS
RESOLUTION #112

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

Whereas, bids for Bodywork on Town Cars were received and opened on February 2, 2010, and

Whereas, said bid was awarded to Tompkins Garage, Inc. 1440 Croton Lake Road, Yorktown Heights, New York 10598, and

Whereas, the Town has the option to extend said bid for three additional years in one-year increments, and

Whereas, said bid commenced February 2, 2010 through February 1, 2011 with additional years of 2011, 2012 and 2013, Now, Therefore Be It

Resolved, that the Superintendent of Highway Eric DiBartolo hereby recommends to the Town Board that the Town exercise its option to renew the contract for one year, per the terms of the bid, and Be It,

Further Resolved, the date of the extension will commence February 2, 2012 through February 1, 2013.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

EXTEND THE BID FOR BODYWORK ON TOWN TRUCKS
RESOLUTION #113

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

Whereas, bids for Bodywork on Town Trucks were received and opened on February 2, 2010, and

Whereas, said bid was awarded to Tompkins Garage, Inc. 1440 Croton Lake Road, Yorktown Heights, New York 10598, and

Whereas, the Town has the option to extend said bid for three additional years in one-year increments, and

Whereas, said bid commenced February 2, 2010 through February 1, 2011 with additional years of 2011, 2012 and 2013, Now, Therefore Be It

Resolved, that the Superintendent of Highway Eric DiBartolo hereby recommends to the Town Board that the Town exercise its option to renew the contract for one year, per the terms of the bid, and Be It,

Further Resolved, the date of the extension will commence February 2, 2012 through February 1, 2013.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

AMEND WETLANDS PERMIT – CREATIVE LIVING DEVELOPMENT
RESOLUTION #114

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

WHEREAS, the Town Board of the Town of Yorktown is authorized to issue freshwater wetlands and excavation permits under Chapter 178 of the Town Code and tree permits under Chapter 270 of the Town Code; and

WHEREAS, Creative Living Development, Inc. (“the applicant”) is the record owner of a 49.75 +/- acre parcel in the Town of Yorktown identified on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 situated on Mahopac Street and accessible from Navajo Road and situated in an R1-80 single-family zone; and

WHEREAS, Creative Living Development, Inc. was issued wetlands and excavation permit number WP-E-010-10 and tree permit number T-020-11 on April 15, 2011 by the Town Board of the Town of Yorktown for the construction of a temporary private park complex which is a main permitted use in the R1-80 zoning classification under the Town of Yorktown zoning code, which the applicant has requested be amended as set forth below to permit additional work; and

WHEREAS, the applicant in 2011 proposed to convert 9.8 +/- acres of a 49.75 +/- acre parcel formerly used as pasture and paddock area into two multiuse fields and one college level baseball field, and obtained an amendment to the wetlands permit on February 21, 2012 to permit the installation of four dugouts, and seeks approval for the installation of a climbing wall, two volleyball courts, a basketball court, and sixteen batting/pitching cages (“additional recreational facilities:”); and

WHEREAS, the applicant proposes to provide associated site improvements including a pervious parking area designed to accommodate 129 cars, a gravel drive to provide access to the fields, an on-site, non-potable water supply well and required electrical connections, stormwater practices, two open bottom culverts which shall be installed to provide access over a watercourse, temporary comfort stations, temporary bleachers and backstops, a temporary shed and administration trailer, and plantings which shall serve in part as wetland and tree mitigation and also for the purpose of screening and noise attenuation; and

WHEREAS, the following plans and documents were submitted in support of the original applications:

- Plans entitled; “Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields” prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of April 5, 2011, 12 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-501, C-502 and C-503.
- Plan entitled; “Tree Inventory Map” prepared by Site Design Consultants dated March 31, 2011 (revised date), 1 sheet C-103.
- Plan entitled; “Overall Site Plan and Buffer Mitigation Plan” prepared by Site Design Consultants (not signed or sealed) dated April 4, 2011, 1 sheet: Sheet 1 of 1.
- Stormwater Pollution Prevention Plan prepared by Site Design Consultants dated March 25, 2011 (most recent revision date).
- Memo dated March 29, 2011 executed by Joseph Riina, P.E. of Site Design

Consultants, 2 pages.

- Memo dated February 23, 2011 executed by Joseph Cermele, P.E. of Site Design Consultants, 2 pages.
- Memo dated March 29, 2011 executed by Albert Capellini, Esq, 2 pages with 2 page attachment.
- Memo dated March 24, 2011, prepared by Steve Marino, PWS of Tim Miller Associates (unsigned), 2 pages with 5 pages attachment; and

WHEREAS, there shall not be any lighting, except pedestrian lighting on the path to the fields, or permanent sewage disposal; and

WHEREAS, there shall not be any potable water supply on the site unless a well is infeasible; and

WHEREAS, there are New York State and Town of Yorktown regulated wetlands and associated buffers located on the site; and

WHEREAS, the applicant proposes to permanently alter 3.8 acres of Town of Yorktown jurisdictional wetland buffer and temporarily disturb a Town of Yorktown watercourse; and

WHEREAS, the applicant has provided satisfactory documentation that there is a critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the proposed wetland and wetland buffer disturbance is necessary to construct the proposed ballfields to address in part the critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the applicant has provided a written plan which details how Town of Yorktown residents will be given priority in the use of the proposed fields to address the critical social need for ballfields; and

WHEREAS, this said plan is incorporated into the wetland permit by reference; and

WHEREAS, for the original applications, the applicant provided an event management plan which provided protocols and mitigation for periodic events where the persons in attendance exceed 200 total and said event plan was reviewed and accepted according to the thresholds and parameters established therein; and

WHEREAS, access to the ballfields and additional recreational facilities shall be from Navajo Road only and there shall not be any access to the ballfields or additional recreational facilities including vehicular or pedestrian from Route 6N; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate wetland and wetland buffer impacts; and

WHEREAS, the applicant proposes 9.8 +/- acres of land disturbance; and

WHEREAS, the applicant has submitted a comprehensive stormwater pollution prevention plan (SWPPP) including an erosion and sediment control plan and a stormwater design plan in compliance with the requirements of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity GP-0-10-001; and

WHEREAS, the applicant proposes to remove approximately 6.7% of the total site woodland area and certain specimen trees; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate the loss of trees as a result of this action; and

WHEREAS, the applicant proposes grading and filling within a designated flood plain area; and

WHEREAS, a floodplain development permit was approved by the Town of Yorktown Building Inspector in 2011, and applicant has applied for a revised floodplain development permit; and

WHEREAS, the applicant submitted a Long Environmental Assessment Form (EAF), dated February 23, 2011; and

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

WHEREAS, a public hearing was convened on June 15, 2010 in order to solicit comments from the public regarding the proposed action and;

WHEREAS, the public hearing was reconvened on March 15, 2011 in order to solicit comments from the public regarding the proposed action; and

WHEREAS, following a coordinated review, the Town of Yorktown Town Board declared Lead Agency on March 15, 2011; and

WHEREAS, the Town of Yorktown determined in 2011 that the action will not have a significant adverse impact on the environment and a Notice of Determination of Non-Significance dated March 15, 2011 was issued; and

WHEREAS, the public hearing regarding the Town of Yorktown permit applications was reconvened on April 5, 2011; and

WHEREAS, prior to the issuance of the wetland/excavation and tree permits to applicant on April 15, 2011, the applicant fulfilled to the satisfaction of the Town the following conditions:

1. Submission of all then-applicable fees and escrows.
2. Issuance of a floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.
3. All comments contained in the April 4, 2011 memo drafted by the Acting Town Engineer, Town Environmental Consultant and Town Planner were addressed by applicant to their written satisfaction.
4. The Town Attorney provided written notification to the Town Board that she reviewed the April 5, 2011 draft permit resolution and found the form and content satisfactory.
5. The Town Supervisor signed the EAF.
6. The Town Stormwater Management Officer signed the MS4 acceptance form upon written recommendation from the Town Engineer.
7. Erosion and Sediment Control: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$15,000.00 issued by Gotham Bank of New York, was accepted by Town as security for the satisfactory completion of erosion and sediment control work.
8. Wetland and Trees: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$25,000.00 issued by Gotham Bank of New York, was accepted by Town, which shall be released after a five-year period as measured upon receipt of the as-built survey and upon written documentation by the Town of Yorktown that a minimum of 85% of the planted species as indicated on the as-built survey are viable.

9. Four original copies of the approved plans and SWPPP, as revised to meet the conditions of this Resolution, with all plan sheets signed by a NYS Professional Engineer were submitted for the Town Supervisor's signature.
10. A valid New York State Department of Environmental Conservation wetland permit was provided.
11. Copies of the event management plan and plan which details the priority of use by Town of Yorktown residents was executed by the owners.
12. A tree mitigation plan was approved by the Town Engineer.
13. A wetland mitigation plan was approved by the Town Engineer.

WHEREAS, the applicant applied for an amendment to Wetlands Permit WP-E-010-10 to add four dugouts and the Town Board approved such application on February 21, 2012; and

WHEREAS, the applicant has now applied to amend Wetlands Permit WP-E-010-10 to provide for additional recreational facilities; and

WHEREAS, the Town Board finds that the proposed modification does not conflict with the most recent prior approval and determines that the proposed alterations are minor in nature and there is no need to hold a public hearing on the proposed alteration; and

WHEREAS, the following documents have been submitted in support of the application to amend wetland and excavation permit number WP-E-010-10:

- Plans entitled: "Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of February 8, 2012, 13 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-401, C-402, C-403, C-501, C-502, C-503, and C-504.
- An application for a building permit for the dugouts.
- An application for a revised floodplain permit.
- An amended Event Management Plan, submitted on March 20, 2012.
- A letter dated March 20, 2012 from applicant's engineer stating that the previously submitted SWPP does not require amendment as a result of this amendment application
- An application for area variances from the Zoning Board of Appeals for the climbing wall and rock wall;

NOW THEREFORE BE IT RESOLVED THAT, the application for an amendment to Wetlands and Excavation Permit WP-E-010-10 issued on April 15, 2011, as amended February 21, 2012, and the plans enumerated herein are approved subject to the signing of the plans bearing revision date February 8, 2012 by the Town Supervisor, and all work associated with the Wetland and Excavation Permit and Tree Permit, as amended, shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the following conditions must be met prior to the Town Supervisor signing the February 8, 2012 Plans:

14. Submission of all applicable fees and charges;
15. Four original copies of the approved plans as most recently revised on February 8, 2012, with all plan sheets signed by a NYS Professional Engineer, shall be submitted for the Town Supervisor's signature.
16. An updated valid New York State Department of Environmental Conservation wetland permit must be provided, if applicable.

17. A revised floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit, Tree Permit and Floodplain Disturbance Permit are subject to the following conditions:

1. A pre-construction meeting with the applicants, the applicant's contractors, applicant's engineer, the Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must be held a minimum of 72 hours in advance of the commencement of land disturbance work needed for additional recreational facilities under the amended permit. The applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting.
2. The applicant agrees to allow periodic inspections by the Town and its consultants.
3. The Acting Town Engineer, Town Environmental Consultant, the Town Planner and the Town Building Inspector shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion or any certificate of occupancy, to ensure compliance with the wetland and excavation permit, tree permit and floodplain development permit.
4. No additional disturbance or modifications is permitted.
5. Inspection reports prepared by the qualified stormwater inspector shall be furnished to the Town Engineer within 3 calendar days of the date of inspection. There shall be no modifications of the approved plans without prior written consent of the Town Engineer; and

BE IT FURTHER RESOLVED THAT, the following Additional Requirements shall be satisfied subsequent to the signing of the Plans:

1. Prior to commencing work within the setbacks affected by the variance application, applicant shall obtain a determination permitting such work.
2. Applicant must provide an as-built survey prepared by a NYS Licensed Land Surveyor which confirms that the permitted work including but not limited to grading, structures and mitigation has been installed in accordance with the approved plans.
3. The Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must provide a written report, no later than at the expiration date of the wetland and excavation permit, tree permit and floodplain development permit documenting the status of the implementation of the requirements of this resolution.
4. Prior to the issuance of a notice of satisfactory completion, applicant shall provide any/all approvals and permits from the Army Corps of Engineers (ACOE), New York State Department of Transportation (NYSDOT), the Town of Yorktown Highway Department, the Town of Yorktown Building Department, and the New York State Department of Environmental Conservation, to the extent applicable.

WHEREAS, the Town Board of the Town of Yorktown is authorized to issue freshwater wetlands and excavation permits under Chapter 178 of the Town Code and tree permits under Chapter 270 of the Town Code; and

WHEREAS, Creative Living Development, Inc. ("the applicant") is the record owner of a 49.75 +/- acre parcel in the Town of Yorktown identified on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 situated on Mahopac Street and accessible from Navajo Road and situated in an R1-80 single-family zone; and

WHEREAS, Creative Living Development, Inc. was issued wetlands and excavation permit number WP-E-010-10 and tree permit number T-020-11 on April 15, 2011 by the

Town Board of the Town of Yorktown for the construction of a temporary private park complex which is a main permitted use in the R1-80 zoning classification under the Town of Yorktown zoning code, which the applicant has requested be amended as set forth below to permit additional work; and

WHEREAS, the applicant in 2011 proposed to convert 9.8 +/- acres of a 49.75 +/- acre parcel formerly used as pasture and paddock area into two multiuse fields and one college level baseball field, and obtained an amendment to the wetlands permit on February 21, 2012 to permit the installation of four dugouts, and seeks approval for the installation of a climbing wall, two volleyball courts, a basketball court, and sixteen batting/pitching cages (“additional recreational facilities:”); and

WHEREAS, the applicant proposes to provide associated site improvements including a pervious parking area designed to accommodate 129 cars, a gravel drive to provide access to the fields, an on-site, non-potable water supply well and required electrical connections, stormwater practices, two open bottom culverts which shall be installed to provide access over a watercourse, temporary comfort stations, temporary bleachers and backstops, a temporary shed and administration trailer, and plantings which shall serve in part as wetland and tree mitigation and also for the purpose of screening and noise attenuation; and

WHEREAS, the following plans and documents were submitted in support of the original applications:

- Plans entitled; “Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields” prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of April 5, 2011, 12 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-501, C-502 and C-503.
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- Plan entitled; “Overall Site Plan and Buffer Mitigation Plan” prepared by Site Design Consultants (not signed or sealed) dated April 4, 2011, 1 sheet: Sheet 1 of 1.
- Stormwater Pollution Prevention Plan prepared by Site Design Consultants dated March 25, 2011 (most recent revision date).
- Memo dated March 29, 2011 executed by Joseph Riina, P.E. of Site Design Consultants, 2 pages.
- Memo dated February 23, 2011 executed by Joseph Cermele, P.E. of Site Design Consultants, 2 pages.
- Memo dated March 29, 2011 executed by Albert Capellini, Esq, 2 pages with 2 page attachment.
- Memo dated March 24, 2011, prepared by Steve Marino, PWS of Tim Miller Associates (unsigned), 2 pages with 5 pages attachment; and

WHEREAS, there shall not be any lighting, except pedestrian lighting on the path to the fields, or permanent sewage disposal; and

WHEREAS, there shall not be any potable water supply on the site unless a well is infeasible; and

WHEREAS, there are New York State and Town of Yorktown regulated wetlands and associated buffers located on the site; and

WHEREAS, the applicant proposes to permanently alter 3.8 acres of Town of Yorktown jurisdictional wetland buffer and temporarily disturb a Town of Yorktown watercourse; and

WHEREAS, the applicant has provided satisfactory documentation that there is a critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the proposed wetland and wetland buffer disturbance is necessary to construct the proposed ballfields to address in part the critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the applicant has provided a written plan which details how Town of Yorktown residents will be given priority in the use of the proposed fields to address the critical social need for ballfields; and

WHEREAS, this said plan is incorporated into the wetland permit by reference; and

WHEREAS, for the original applications, the applicant provided an event management plan which provided protocols and mitigation for periodic events where the persons in attendance exceed 200 total and said event plan was reviewed and accepted according to the thresholds and parameters established therein; and

WHEREAS, access to the ballfields and additional recreational facilities shall be from Navajo Road only and there shall not be any access to the ballfields or additional recreational facilities including vehicular or pedestrian from Route 6N; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate wetland and wetland buffer impacts; and

WHEREAS, the applicant proposes 9.8 +/- acres of land disturbance; and

WHEREAS, the applicant has submitted a comprehensive stormwater pollution prevention plan (SWPPP) including an erosion and sediment control plan and a stormwater design plan in compliance with the requirements of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity GP-0-10-001; and

WHEREAS, the applicant proposes to remove approximately 6.7% of the total site woodland area and certain specimen trees; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate the loss of trees as a result of this action; and

WHEREAS, the applicant proposes grading and filling within a designated flood plain area; and

WHEREAS, a floodplain development permit was approved by the Town of Yorktown Building Inspector in 2011, and applicant has applied for a revised floodplain development permit; and

WHEREAS, the applicant submitted a Long Environmental Assessment Form (EAF), dated February 23, 2011; and

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

WHEREAS, a public hearing was convened on June 15, 2010 in order to solicit comments from the public regarding the proposed action and;

WHEREAS, the public hearing was reconvened on March 15, 2011 in order to solicit comments from the public regarding the proposed action; and

WHEREAS, following a coordinated review, the Town of Yorktown Town Board declared Lead Agency on March 15, 2011; and

WHEREAS, the Town of Yorktown determined in 2011 that the action will not have a significant adverse impact on the environment and a Notice of Determination of Non Significance dated March 15, 2011 was issued; and

WHEREAS, the public hearing regarding the Town of Yorktown permit applications was reconvened on April 5, 2011; and

WHEREAS, prior to the issuance of the wetland/excavation and tree permits to applicant on April 15, 2011, the applicant fulfilled to the satisfaction of the Town the following conditions:

18. Submission of all then-applicable fees and escrows.
19. Issuance of a floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.
20. All comments contained in the April 4, 2011 memo drafted by the Acting Town Engineer, Town Environmental Consultant and Town Planner were addressed by applicant to their written satisfaction.
21. A construction monitoring escrow in the amount of \$5,000 was submitted to the Engineer Department Clerk.
22. The Town Attorney provided written notification to the Town Board that she reviewed the April 5, 2011 draft permit resolution and found the form and content satisfactory.
23. The Town Supervisor signed the EAF.
24. The Town Stormwater Management Officer signed the MS4 acceptance form upon written recommendation from the Town Engineer.
25. Erosion and Sediment Control: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$15,000.00 issued by Gotham Bank of New York, was accepted by Town as security for the satisfactory completion of erosion and sediment control work.
26. Wetland and Trees: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$25,000.00 issued by Gotham Bank of New York, was accepted by Town, which shall be released after a five-year period as measured upon receipt of the as-built survey and upon written documentation by the Town of Yorktown that a minimum of 85% of the planted species as indicated on the as-built survey are viable.
27. Four original copies of the approved plans and SWPPP, as revised to meet the conditions of this Resolution, with all plan sheets signed by a NYS Professional Engineer were submitted for the Town Supervisor's signature.
28. Prior to the Town Supervisor signing the plans as amended through April 5, 2011, the Town Clerk confirmed with the Engineering Department Clerk that all then-due consultant fees had been paid in full.
29. A valid New York State Department of Environmental Conservation wetland permit was provided.
30. Copies of the event management plan and plan which details the priority of use by Town of Yorktown residents was executed by the owners.
31. A tree mitigation plan was approved by the Town Engineer.
32. A wetland mitigation plan was approved by the Town Engineer.

WHEREAS, the applicant applied for an amendment to Wetlands Permit WP-E-010-10 to add four dugouts and the Town Board approved such application on February 21, 2012; and

WHEREAS, the applicant has now applied to amend Wetlands Permit WP-E-010-10 to provide for additional recreational facilities; and

WHEREAS, the Town Board finds that the proposed modification does not conflict with the most recent prior approval and determines that the proposed alterations are minor in nature and there is no need to hold a public hearing on the proposed alteration; and

WHEREAS, the following documents have been submitted in support of the application to amend wetland and excavation permit number WP-E-010-10:

- Plans entitled: “Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields” prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of February 8, 2012, 13 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-401, C-402, C-403, C-501, C-502, C-503, and C-504.
- An application for a building permit for the dugouts.
- An application for a revised floodplain permit.
- An amended Event Management Plan, submitted on March 20, 2012.
- A letter dated March 20, 2012 from applicant’s engineer stating that the previously submitted SWPP does not require amendment as a result of this amendment application
- An application for area variances from the Zoning Board of Appeals for the climbing wall and rock wall;

NOW THEREFORE BE IT RESOLVED THAT, the application for an amendment to Wetlands and Excavation Permit WP-E-010-10 issued on April 15, 2011, as amended February 21, 2012, and the plans enumerated herein are approved subject to the signing of the plans bearing revision date February 8, 2012 by the Town Supervisor, and all work associated with the Wetland and Excavation Permit and Tree Permit, as amended, shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the following conditions must be met prior to the Town Supervisor signing the February 8, 2012 Plans:

33. Submission of all applicable fees and charges;
34. Four original copies of the approved plans as most recently revised on February 8, 2012, with all plan sheets signed by a NYS Professional Engineer, shall be submitted for the Town Supervisor’s signature.
35. An updated valid New York State Department of Environmental Conservation wetland permit must be provided, if applicable.
36. A revised floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit, Tree Permit and Floodplain Disturbance Permit are subject to the following conditions:

1. A pre-construction meeting with the applicants, the applicant’s contractors, applicant’s engineer, the Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must be held a minimum of 72 hours in advance of the commencement of land disturbance work needed for additional recreational facilities under the amended permit. The applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting.
2. The applicant agrees to allow periodic inspections by the Town and its consultants.
3. The Acting Town Engineer, Town Environmental Consultant, the Town Planner and the Town Building Inspector shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion or any certificate of occupancy, to ensure compliance with the wetland and excavation permit, tree permit and floodplain development permit.

4. No additional disturbance or modifications is permitted.
6. Inspection reports prepared by the qualified stormwater inspector shall be furnished to the Town Engineer within 3 calendar days of the date of inspection. There shall be no modifications of the approved plans without prior written consent of the Town Engineer; and

BE IT FURTHER RESOLVED THAT, the following Additional Requirements shall be satisfied subsequent to the signing of the Plans:

5. Prior to commencing work within the setbacks affected by the variance application, applicant shall obtain a determination permitting such work.
6. Applicant must provide an as-built survey prepared by a NYS Licensed Land Surveyor which confirms that the permitted work including but not limited to grading, structures and mitigation has been installed in accordance with the approved plans.
7. The Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must provide a written report, no later than at the expiration date of the wetland and excavation permit, tree permit and floodplain development permit documenting the status of the implementation of the requirements of this resolution.
8. Prior to the issuance of a notice of satisfactory completion, the Town Clerk shall confirm with the Town Engineer that all consultant fees have been paid in full.
9. Prior to the issuance of a notice of satisfactory completion, applicant shall provide any/all approvals and permits from the Army Corps of Engineers (ACOE), New York State Department of Transportation (NYSDOT), the Town of Yorktown Highway Department, the Town of Yorktown Building Department, and the New York State Department of Environmental Conservation, to the extent applicable.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

APPROVE BRIAN SOKOLOFF, ESQ. AS THE ATTORNEY WHO WILL REPRESENT HIGHWAY SUPERINTENDENT ERIC DIBARTOLO IN A LAWSUIT RESOLUTION #115

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

WHEREAS, the Town Board passed a resolution on March 13, 2012 directing the Town Attorney to notify Highway Superintendent Eric DiBartolo in writing of the Town Board's determination that he is entitled to be represented by private counsel at town expense in the case LaPierre v. DiBartolo, et al., the choice of which counsel was to be subject to the Town Board's approval; and

WHEREAS, such notification was duly made by the Town Attorney; and

WHEREAS, Mr. DiBartolo has informed the Town Board that he has retained Brian Sokoloff, Esq., a partner in the firm Sokoloff Stern LLP, 355 Post Avenue, Suite 201, Westbury, New York 11590, and now requests that the Town Board approve his choice of defense counsel; and

WHEREAS, Mr. Sokoloff competently and satisfactorily represented a Town councilmember in a recent lawsuit unrelated to the LaPierre case, and is currently representing the Town and certain police officers competently and satisfactorily in another unrelated lawsuit; and

WHEREAS, Town Attorney Jeannette Koster has considered the issue of potential conflict of interest and has opined that the Town's agreement to pay legal fees to Mr. Sokoloff in the LaPierre case will not create a conflict of interest or an appearance of conflict of interest by virtue of Mr. Sokoloff's representation of the Town and town officials in the

STIPEND – DEPUTY ASSESSOR KIM PENNER
RESOLUTION #118

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

Whereas, the individual serving as full time Assessor vacated the position effective December 19, 2011, and

Whereas, until such time as a successor is named it is important to have one individual in charge to render technical, operational and administrative decisions, and

Whereas, the Town Board has determined that it wishes to have the Deputy Assessor assume the responsibilities until such time as a replacement is made, now,

Be It Resolved, for the period from December 19, 2011 through April 30, 2012, Deputy Assessor Kim Penner is hereby authorized to perform the tasks of the Assessor, and

Be It Further Resolved, in return for the performance of the duties of the Assessor, Kim Penner shall receive a personal stipend of \$300 per week.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

APPOINTMENT YORKTOWN POLICE OFFICER
DANIEL J. KAEN
RESOLUTION #119

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

BE IT RESOLVED, that Daniel J Kaen of Yorktown, New York is hereby appointed Police Officer in the Town of Yorktown Police Department from Eligible List No. 60-006 effective March 26, 2012 to be paid the contractual salary of \$36,190.00 annually,

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 78 weeks, commencing on the first date of appointment on March 26, 2012.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

APPOINTMENT YORKTOWN POLICE OFFICER
MATTHEW D. RACIOPPO
RESOLUTION #120

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

BE IT RESOLVED, that Matthew D. Racioppo of Yorktown, New York is hereby appointed Police Officer in the Town of Yorktown Police Department from Eligible List No. 60-006 effective March 26, 2012 to be paid the contractual salary of \$36,190.00 annually,

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 78 weeks, commencing on the first date of appointment on March 26, 2012.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

REFUNDS DUPLICATE TAXES
RESOLUTION #121

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

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

Year and Tax	S-P-L	Account #	Refund
2010 Sch 22	26.12-3-23	1742500	\$4,282.57
2011 Sch 22	37.18-2-42	3317000	\$4,210.48
2011 Sch 22	48.11-3-17	4363500	\$3,703.25

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

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

RELEASE STREET OPENING PERMIT #011-004
RESOLUTION #122

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

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
Street Opening	011-004	\$2,000	2463 Evergreen Street

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

COURTESY OF THE FLOOR

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

Mrs. Susan Siegel asked if the Code Enforcement Officer is being hired as a fulltime position.

Supervisor Grace answered yes.

COURTESY OF THE FLOOR IS CLOSED

ADJOURN

Councilman Bianco moved, seconded by Councilman Murphy, to adjourn the Town Board meeting.

Diana L. Quast
Deputy Town Clerk
Town of Yorktown