

On July 24, 2012, held at the Town Hall, 363 Underhill Avenue,
Yorktown Heights, NY 10598

Present: Michael J. Grace, Supervisor
Terrence Murphy, Councilman
Nicholas Bianco, Councilman
Vishnu Patel, Councilman
David Paganelli, Councilman
Alice E. Roker, Town Clerk

EXECUTIVE SESSION

Upon motion made by Supervisor Grace, seconded by Councilman Bianco, to move into Executive Session to interview candidates for the Conservation Board and to talk about negotiations concerning the Superior Officers contract.

WORK SESSION

Supervisor Michael Grace called the meeting to order. Town Attorney Jeannette Koster, Highway Superintendent Eric DiBartolo, Acting Town Engineer Sharon Robinson, Water Distribution Superintendent David Rambo, Town Comptroller Joan Goldberg, Library Director Patricia Barresi and Brian Gray, Parks and Recreation Superintendent.

2011 AUDIT PRESENTATION

Mr. Joseph Klimek, a representative of the Auditing Firm, Toski, Schaeffer, & Co., P.C. presented a draft copy of the 2011 audit to the Town Board. The Town of Yorktown did an excellent job with its finances; the fund balance totals approximately 18 percent of the budget. Among the firm's recommendations was that the Town Board adopt a fund balance policy, establish an audit committee.

DISCUSSION OF VEHICLES

Acting Town Engineer spoke about the need for two trucks for the sewer department. The money is in the budget.

ADVERTISE BID FOR TWO (2) TRUCKS FOR THE SEWER DEPARTMENT RESOLUTION #320

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

Be It Resolved, the Acting Town Engineer is hereby authorized to go out to bid for two (2) F-250 trucks for the sewer department, and

Be it further Resolved, the Town Clerk is authorized to advertise the bid in the Journal News, the official newspaper of the Town of Yorktown

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

Town Comptroller Joan Goldberg continued the discussion concerning vehicles stating that she was advised by the Foreman at Central Garage that the truck driven by the Fire Inspector is no longer suitable for the Town of Yorktown.

AUCTION CAR DRIVEN BY FIRE INSPECTOR RESOLUTION #321

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

WHEREAS, the vehicle driven by the Yorktown Fire Inspector, a 2000 Ford Crown Victoria, Vin Number 2FAFP71WOYX195845 has been taken out-of-service; and

WHEREAS, on June 15, 2011 the preceding Town Board authorized the former Supervisor to sign a two-year contract agreement with Auctions International, Inc. to sell surplus Town vehicles and equipment using an online auction;

THEREFORE BE IT RESOLVED, that the Town Board designates the vehicle driven by the Fire Inspector as surplus equipment and authorizes such equipment to be placed on public online auction with Auctions International, Inc.

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

DISCUSSION OF BUDGET TRANSFER

AUTHORITY

Comptroller Goldberg explained that the KVS Accounting System boots department heads who are trying to pay bills out of the system if there is no money in a particular line.

She asked for authority to transfer funds up to \$5,000 in the same department, within like lines.

APPROVE GIVING BUDGET TRANSFER

AUTHORITY TO THE TOWN COMPTROLLER

RESOLUTION #322

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

RESOLVED, that the Town Board authorizes the Town Comptroller to transfer funds up to the amount of \$5,000 within the same departments' budgets and between the same budget categories. The categories are Payroll, Equipment, Supplies, and Benefits.

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

BALL FIELD MACHINE

Parks and Recreation Superintendent Brian Gray spoke about the ball field machines owned by the Town of Yorktown. One was purchased in 2000 and their back-up machine was purchased in 1988. The oldest machine no longer works. A ball field machine is used on the in-field of a baseball diamond to rough up the surface and to drag clay.

ADVERTISE BID FOR

BALL FIELD MACHINE

RESOLUTION #323

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

Be It Resolved, the Parks and Recreation Superintendent is hereby authorized to go out to bid for a new Smithco Ballfield Machine.

Be it further Resolved, the Town Clerk is authorized to advertise the bid in the Journal News, the official newspaper of the Town of Yorktown

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

DISCUSSION OF REMOVAL OF

RESIDENCY REQUIREMENTS FOR

EMERGENCY PERSONNEL

The Town Board discussed a memorandum sent by the Recreation Commission asking them to remove the residency requirements and allow our volunteer emergency personnel to purchase pool passes at a discounted rate.

REMOVE RESIDENCY REQUIREMENTS

AND PERMIT VOLUNTEER EMERGENCY PERSONNEL

TO PURCHASE POOL PASSES AT A DISCOUNTED RATE

RESOLUTION #324

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

Whereas, the dedication of our Volunteer Emergency Personnel serving the Town of Yorktown is evident as they readily respond night and day to calls for assistance, and

Whereas, Volunteer Emergency Personnel should be commended for their selflessness, bravery and courage that they provide our community, now therefore be it,

Resolved, that the Town Board in conjunction with the Yorktown Parks and Recreation Commission authorize a discount Pool Pass Program for Volunteer Emergency Service Personnel who provide Emergency Services to the Town of Yorktown.

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

EXECUTIVE SESSION

Upon motion made by Supervisor Grace, seconded by Councilman Bianco, to move into Executive Session for discussions with Judge Raniolo and Judge Lagonia to discuss court staffing.

TOWN BOARD MOVED OUT OF EXECUTIVE DISCUSSION AND RESUMED THE WORK SESSION

COURT STAFFING
RESOLUTION #325

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

RESOLVED, that the Town Board authorizes the change in staffing at the Yorktown Court; and;

BE IT FUTHER RESOLVED, the current staff level of four (4) full time employees and two (2) part-time employees will change to five (5) full time employees; and

BE IT FUTHER RESOLVED, this change will not have a negative impact on the current 2012 Budget.

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

APPOINTMENT – ASSISTANT COURT CLERK
PAULA GIGLIO
RESOLUTION #326

Upon motion made by Councilman Bianco, seconded by Councilman Paganelli

BE IT RESOLVED, that Paula Giglio of Valhalla, NY, is hereby appointed provisional Assistant Court Clerk, job class code 0050-01, effective August 7th, 2012, to be paid from Yorktown CSEA Salary Schedule A1, Group 8, Step 1, which is \$45,844.00 annually.

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

DISCUSSION OF PAVEMENT FUNDING

Highway Superintendent Eric DiBartolo explained that his department is in the middle of paving various roads in Town. They would like to add some roads to the paving schedule; Hanover Street from Moseman to California, Somerston Rd – down the hill and Front Street from Moseman to the end. They need additional funding. The cost per ton of the paving material is \$82.90 per ton.

PAVING BUDGET TRANSFER
RESOLUTION #327

Upon motion made by Councilman Paganelli, seconded by Councilman Bianco

Be It Resolved, the following interfund budget amendment is hereby approved for the purposes of additional paving:

Increase	D 5112.210 Paving	\$100,000
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Increase	D 5031	Transfer In		\$100,000
Increase	A 1002	Appropriated Fund Balance	\$100,000	
Increase	A 9901.902	Transfer to Highway		\$100,000

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

ZONING TO PERMIT
RECYCLING

Mr. Albert Capellini, attorney for the applicant Brian Amico asked the Town Board to amend the proposal which is currently out on referral.

Yorktown Planner John Tegeder stated that he didn't see any problems with the amendments.

Supervisor Grace asked Mr. Tegeder to work with the Town Attorney to come up with the new proposal.

LIBRARY PERSONNEL

Mrs. Barresi asked the Town Board for permission to call for the list of candidates for a position at the Library that has become vacant due to the promotion of a former employee.

Mrs. Barresi was told to get the list.

EXECUTIVE SESSION

Upon motion made by Supervisor Grace, seconded by Councilman Bianco, to move into Executive Session for discussions with Mr. William Primavera, the Realtor for the Town on the sale of the Bernstein House. The Board received a new offer.

TOWN BOARD MOVED OUT OF EXECUTIVE DISCUSSION AND RESUMED THE WORK SESSION

FALL FESTIVAL

Mr. Joseph Visconti, President of the Yorktown Chamber of Commerce held a discussion with the Board concerning the Town of Yorktown's participation in this year's Harvest Festival. He also asked for permission to place flags on street poles. The Town Board suggested that he ask the Parks and Recreation Department to help him put up the flags.

2012 FALL FESTIVAL
RESOLUTION #328

Upon motion made by Councilman Paganelli, seconded by Councilman Bianco

Be It Resolved, the Town Board authorizes the Yorktown Chamber of Commerce to place flags on street light poles; and

Be If Further Resolved, that the Town Board also approves erecting a banner at the corner of Route 118 and Commerce Street beginning August 15th through October 15, 2012 announcing the Chamber's 2012 Fall Festival.

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

YCCC NUTRITION CENTER
CHANGE ORDERS
RESOLUTION#329

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

WHEREAS, the Town Board of the Town of Yorktown on June 21, 2011, awarded Peter A. Camilli & Sons the contract for renovation to the YCCC Senior Center;

WHEREAS, said contract was awarded in the amount of \$ 474,849.00; and

WHEREAS, Peter A. Camilli & Sons submitted change orders for additional expenses totaling \$17,580.36, and

WHEREAS, the Town Board authorized the additional expenditure of \$17,580.36 on January 17, 2012, of which Peter A. Camilli & Sons completed the additional work for the sum of \$13,563.07, and

WHEREAS, Peter A. Camilli & Sons has submitted change orders for additional expenses in the amount of \$41,587.93

WHEREAS, Peter A. Camilli & Sons has submitted change orders for additional expenses for work to satisfy Building Department requirements and address unforeseen conditions:

CO #2	Removal of Stone	\$1,773.80
CO #3	Doors #12 & #13	\$8,615.50
CO #6	New Electrical Feed	\$3,887.50
CO #7	Void	
CO #8	Doors #14 & #15 - Additional Hardware	\$4,002.92
CO #9	New Gym Door and Frame	\$3,023.94
CO #10	Door #16 & #17	\$9,528.37
CO #11	Void	
CO #12	Extend Ceiling Height & Radiator Cover	\$807.53
CO #13	Create Storage Areas in New Gym Closet	\$1,500.00
CO #14	Create 2 New Pipe Enclosures	\$664.12
CO #15	Leveling of Floor - Added Door	\$1,216.05
CO #16A	Added Cat-5 Lines	\$3,191.25
CO #16B	Additional Exit Signs	\$747.50
CO #16C	Electric & GC Work Needed for Pump	\$574.94
CO #16D	Box Office #1 - Additional Outlets	\$575.00
CO #18	Added Electric @ Door #13	\$300.00
CO #19	Leveling Back Hallway	\$679.51
CO #20	Added Electric for Freezers	<u>\$500.00</u>
	Total	\$41,587.93

NOW THEREFORE BE IT RESOLVED, that the Town of Yorktown Town Board hereby authorizes payment for said expenses with an increased allocation of \$41,587.93 for a total allocation of \$530,000.00.

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

REQUEST TO HAVE TOWN CODE CHANGED REGARDING BACKYARD CHICKENS

Mrs. Teresa Ambrose and some of her neighbors signed a petition and are now asking the Town Board to amend its Zoning Code with regard to backyard chickens.

Mrs. Ambrose provided the Town Board with copies of sections of the codes from the Village of Dobbs Ferry and the Town of Bedford, both of which permit chickens in zones with less than five acres.

The Supervisor asked the Town Attorney to look over the codes and to come up with a proposal for the Town Board.

TREES OBSTRUCTING VIEW AT MEADOWCREST DRIVE AND CLEARVIEW STREET

Dr. Marvin Medow and two neighbors who live on Clearview Street spoke about shrubbery on a neighbor's property which they say significantly obscures a driver's vision and makes it impossible to make a safe left hand turn off of Meadowcrest Drive onto Clearview

Street. It also makes walking or driving in either direction on this portion of Meadowcrest Drive extremely dangerous. We have done a number of things to rectify the situation ourselves, but nothing has worked. The Yorktown Code Enforcement Officer, Jason Zeif sent a letter to our neighbor telling him that it is clear to him that these shrubs/bushes pose a public safety danger. The Yorktown Police Department and the Highway Department all agree, this is a hazardous situation. Our neighbor refuses to do anything.

Supervisor Grace asked the Town Attorney to find out where the actual right-of-way is on the property.

Mr. Medow handed the Town Board a letter was given to the Town Clerk, which will serve as a Notice of Claim.

MOHEGAN IMPROVEMENT DISTRICT WETLAND PERMIT APPLICATION

Mr. Ken Belfer, head of the Mohegan Improvement District explained that this proposal will allow them to continue with their Lake Management Plan. This is a permit that can be renewed for three years.

REFERRAL -MOHEGAN IMPROVEMENT DISTRICT WETLAND PERMIT APPLICATION RESOLUTION # 330

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

RESOLVED, that the Town Clerk is hereby authorized to refer the application received from the Town of Yorktown, Lake Mohegan Improvement District. The request is for a Wetlands Permit to allow for the continuation of their Lake Management Plan for 2012-2015. Lake Mohegan is a 103 acre water body located in the Town of Yorktown

BE IT FURTHER RESOLVED, the Town Board declares its intent to act as Lead Agency, and

BE IT FURTHER RESOLVED, that the Town Board would like your comments and or recommendation by August 20, 2012,

Westchester County Planning Department/Planning Board

NYS Department of Environmental Conservation

U. S. Army Corp. of Engineers

Yorktown Agencies:

Acting Town Engineer

Conservation Board

Environmental Consultant

Planning Department/Board

Town Attorney

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

WILDWOOD STREET

Mr. Robert Nugent spoke about driving conditions on Wildwood Street which he says has become hazardous since the other side of the street was opened.

He asked if the street could be closed by the Town Board.

Supervisor Grace explained that the Planning Board would never agree to closing the street. The Town Board could consider placing weight restrictions on the road. Supervisor Grace said Public Safety Officer will make a site visit.

WATER METER PROJECT UPDATE

Water Distribution Superintendent David Rambo provided the Town Board with an update on this project.

Supervisor Grace explained that he has some concerns about the project and the bid. The bid stated that the Town wanted to purchase 2500 meters that are touch read. Inside the bid, the plan calls for antennas. He explained that the meters that were to be changed were manual read, he questioned why the touch read meter on his office building was changed.

Mr. Rambo acknowledged that as soon as they found out that newer meters were being replaced, they stopped it.

The Supervisor stated that the Town should complete Phase 1 of this project. We should then look at what data becomes available before additional funds are committed to this project.

APPROVE MAINTENANCE OF NEW
HIKING TRAIL
RESOLUTION #331

Upon motion made by Councilman Bianco, seconded by Councilman Murphy

WHEREAS, the New York State Department of Transportation proposes to construct a hiking trail along SH9480 pursuant to the New York State Highway Law, such highway being identified as the Bear Mountain Parkway Extension, Town of Yorktown, County of Westchester within the geographical jurisdiction of the Town of Yorktown under PIN8561.34, and

WHEREAS, the New York State Department of Transportation will include a hiking trail within the highway boundary as shown on the contract plans, and

WHEREAS, the New York State Department of Transportation will include as part of the improvement of the above mentioned project the construction of a hiking trail, pursuant to the Highway Law as shown on the contract plans, and

NOW, THEREFORE, THE Town Board duly convened, does hereby

BE IT RESOLVED, that the Town of Yorktown shall maintain the hiking trail and be it hereby further

RESOLVED, that the Town Board of the Town of Yorktown hereby authorizes the Supervisor of the Town of Yorktown to enter into and execute an Agreement with the State of New York and through the Commissioner of Transportation to commit the Town of Yorktown to maintain at its own expense, the hiking trail on the above mentioned project, and

BE IT FURTHER RESOLVED, that the Clerk of this Board is hereby directed to transmit five (5) certified copies of the foregoing resolution to the State Department of Transportation.

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

ADVERTISE 5PM START TIME FOR AUGUST 7 TOWN BOARD MEETING
RESOLUTION #332

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

The Town Board of the Town of Yorktown will begin its Tuesday, August 7, 2012 Town Board Meeting at 5:00 PM to conduct interviews for the position of Comptroller. The meeting will take place at Downing Park, 2881 Crompond Road, Yorktown Heights, NY. 10598.

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

DECISION - BAPTIST CHURCH ROAD PIPE RELINING
EMINENT DOMAIN PROCEDURE – NEGATIVE DECLARATION
RESOLUTION #333

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

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

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

Name of Action: Rehabilitation and repair by the Town of Yorktown of culverts, roadbed and supporting structure located between 1225 and 1210 Baptist Church Road, and associated actions in connection therewith, including acquisition of temporary and permanent easements and issuance of Wetland and Stormwater Permit for the Town of Yorktown, New York.

SEQRA Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: The applicant is proposing reline two structurally failing culverts under Baptist Church Road between 1225 Baptist Church Road and 1210 Baptist Church Road. The work is located within a wetland and control area of a jurisdictional Town of Yorktown wetland, which is also a State wetland and within a New York City watershed. An access road will be constructed of millings which shall be removed upon completion of the project. The access road will be located on the north side of the road segment being repaired in this project. Total land disturbance is approximately less than one acre and all disturbed areas will be restored with vegetation in accordance with an approved plan. The applicant requires a Wetlands and Stormwater Permit from the Town Board. Approvals have been obtained from the New York State Department of Environmental Conservation (NYSDEC), the Army Corps of Engineers (ACOE), and informal approval from NYC DEP. The Town is in the process of acquiring easements from the adjacent property owners by negotiation or eminent domain.

Location: Baptist Church Road and two private parcels on Baptist Church Road in the Town of Yorktown, Westchester County, New York.

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

1. The proposed action will not result in a substantial adverse change in the existing air quality, ground or surface water quality or quantity, traffic or noise levels, or a substantial increase in solid waste production. There shall be no permanent increase in the existing footprint or impervious surface area. There will not be any loss of wetland or wetland buffer area or function. An erosion and sediment control plan has been provided.
2. The proposed action will not result in the removal or destruction of large quantities of natural vegetation or fauna; cause substantial interference with the movement of any resident or migratory fish or wildlife species; impact a significant habitat area; result in substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such species; and will not result in other significant adverse impacts to natural resources.
3. The proposed action will not result in the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to 6 NYCRR Part 617.14(g).
4. The proposed action will not result in a material conflict with the Town's officially approved or adopted plans or goals.
5. The proposed action will not result in the impairment of the character or quality of important historical, archaeological, architectural, aesthetic resources, or the existing character of the community or neighborhood. The proposed action will not result in a major change in the use of either the quantity or type of energy. A substantial net increase in energy will not result.
6. The proposed action will not create a hazard to human health and safety as all applicable health and safety regulations will be followed.
7. The proposed action will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.

8. The proposed action will not encourage or attract a large number of people to a place or place for more than a few days, compared to the number of people who would come to such place absent the action.
9. The proposed action will not create a material demand for other actions that would result in one of the above consequences.
10. The proposed action will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
11. When analyzed with two or more related actions, the proposed action will not have a significant impact on the environment and when considered cumulatively, will not meet one or more of the criteria under 6 NYCRR 617.7(c).
12. The Town Board has considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions.

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

DECISION - BAPTIST CHURCH ROAD PIPE RELINING
EMINENT DOMAIN PROCEDURE – DETERMINATION AND FINDINGS
RESOLUTION #334A

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

WHEREAS, the roadbed adjacent to and in the vicinity of 1225 and 1210 Baptist Church Road, and the culverts beneath said roadbed, are in substandard condition and require repairs and modifications (the “Project”), and

WHEREAS, to perform Project, the Town needs access to the two properties adjacent to Baptist Church Road; and

WHEREAS, on April 3, 2012 the Town Board of the Town of Yorktown (the “Town”), declared lead agency pursuant to the New York State Environmental Quality Review Act, and determined that the Project is an Unlisted Action; and

WHEREAS, WSP Sells, Inc. (the “Engineers”) has prepared plans for construction of the Project facilities consisting of relining of two culverts under Baptist Church Road; and

WHEREAS, in order to perform this work, the Town has attempted to acquire easements over certain properties through negotiation, without success. The proposed easements were appraised, and the Town offered the owners 100% of the appraised value, namely: \$2,815.00 for the permanent easement on the Kaufman property; \$797.00 for the temporary easement on the Kaufman property; and \$586.00 for the temporary easement on the Salitan property. The properties affected by this proceeding are as follows:

<u>Property Owner(s)</u>	<u>Affected Parcel Address</u>	<u>Affected Parcel Tax Map No.</u>
Michael Salitan	1225 Baptist Church Road Yorktown Heights, NY 10598	47.15-1-18
Elizabeth Kaufman	1210 Baptist Church Road Yorktown Heights, NY 10598	47.15-1-4

WHEREAS, due to the culverts being located on and under the road that runs between the two properties, there are no other possible alternative locations for the Project other than over said properties, and

WHEREAS, a public hearing commencing eminent domain proceedings on these easements was held pursuant to Eminent Domain Procedure Law section 202 on July 17, 2012. Notice to the property owners was duly served and issued pursuant to the Eminent Domain Procedure Law of the State of New York. Statements and testimony were taken at the hearing

from the Town Attorney; the Town Engineer; one of the property owners from whom an easement is sought, Michael Salitan; and two owners of property in the vicinity of the Project, Babette Ballenger and Paul Moskowitz; and

WHEREAS, Michael Salitan testified a town agent had allegedly trespassed upon his property and contested

NOW THEREFORE, the Town Board hereby makes the following determinations as a result of the public hearing.

The Project will result in a public use, benefit and purpose, as the Project will make the road safe for traveling, improve the flow of stormwater through the culverts and around the road;

Two easements are sought on the Kaufman property: a rectangular permanent easement approximately 25 feet wide and approximately 50.97 feet long, and comprising approximately 1,274.31 square feet (0.02925 acre); and a rectangular temporary easement abutting the permanent easement to the west, approximately 25 feet wide, approximately 161.99 feet long, and comprising approximately 4,048.50 square feet. The easement sought on the Salitan property is a temporary one approximately 15 feet wide, approximately 195.93 feet long abutting Baptist Church Road, approximately 196.16' parallel to the southern boundary, and comprising approximately 2,940.69 square feet. Copies of the proposed easement descriptions and a map depicting the location of the easements are annexed hereto as Exhibits "A" and "B". Although the Town has made numerous and repeated attempts to reach an agreement with Salitan and Kaufman for these easements, including special visits to their properties by the Project engineers to discuss the location of the easement, Salitan and Kaufman have declined by action or inaction to grant the Town the required easements. The Town engineers consider it impossible to perform the Project from any other location in that area to avoid the necessity for these easements.

The Project's general effect on the environment has been determined as part of a review pursuant to the State Environmental Quality Review Act. The Town has applied for a State Department of Environmental Conservation wetland permit, which has been granted. A copy of that permit is on file with the Town Clerk. The Town held a hearing for a required Town wetland permit on July 17, 2012 along with the eminent domain hearing, and determined that the Project would not have a significant adverse impact on the environment. Any effects on residents of the locality will be positive, due to the improvement of Baptist Church Road and stormwater management of the watercourse beneath it at that location.

The Town Board of the Town of Yorktown, having considered the testimony of all those who came forward to testify at the public hearing, hereby determines that the Project, and these eminent domain proceedings, and the acquisition of the above-described easements, are necessary and appropriate for the improvement of Baptist Church Road.

NOW, THEREFORE, THE TOWN BOARD IN REGULAR SESSION DULY CONVENED, pursuant to its right to exercise Eminent Domain pursuant to section 402(B) of the Eminent Domain Procedure Law does hereby make the above findings and determinations and does hereby authorize and direct Town Attorney Jeannette Koster to commence proceedings against the above-listed property owners for the acquisition of the above-described easements for construction of the Project.

This Resolution shall take effect immediately.

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

DECISION - BAPTIST CHURCH ROAD PIPE RELINING
EMINENT DOMAIN PROCEDURE – WETLANDS PERMIT
RESOLUTION # 334B

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

WHEREAS, the applicant proposes to repair the structurally failed Baptist Church Road culverts and restore the road; and

WHEREAS, two temporary easements and one permanent easement are in the process of being obtained from the property owners for this project; and

WHEREAS, jurisdictional permits and approvals for this project have been obtained from the New York State Department of Environmental Conservation (NYSDEC), New York City Department of Environmental Protection (NYCDEP) and the Army Corps of Engineers (ACOE); and

WHEREAS, there are Town-regulated wetlands and associated buffers located on the site and temporary disturbance to a Town of Yorktown wetland will occur due to the culvert replacement; and

WHEREAS, NYSDEC stream disturbance and water-quality permits are also required; and

WHEREAS, land disturbance of less than 1 acre will be required to complete the project; and

WHEREAS, the applicant has submitted Wetland and Stormwater Permit applications in which plans have been provided to mitigate impacts to wetland and wetland buffer areas, prevent erosion and sediment from the leaving the site and prevent the introduction of pollutants to the wetlands and to mitigate for the loss of trees; and

WHEREAS, the applicant has submitted a short Environmental Assessment Form (EAF), dated April 10, 2012; and,

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

WHEREAS, the Town of Yorktown Town Board declared Lead Agency on April 3, 2012 and has received review comments from the Town of Yorktown Conservation Board; and

WHEREAS, the Town Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment; and

WHEREAS, the Town Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions; and

WHEREAS, a public hearing on the permit application was conducted on July 17, 2012; and

NOW THEREFORE BE IT RESOLVED THAT, the public hearing for the Wetland and Stormwater Permit is hereby closed; and

BE IT FURTHER RESOLVED THAT, the following plans and documents are approved subject to the below-listed conditions;

- Town of Yorktown Wetland and Stormwater Permit Application WP-BSWPPP-062-12, dated April 3, 2012, executed by the Town of Yorktown.
- Short-form EAF dated April 10, 2012.
- Design drawings and specifications prepared by Charles H. Sells, Inc.

BE IT FURTHER RESOLVED THAT, the Wetland and Stormwater Permit is granted and shall be valid for a period of one year. All work associated with the Wetland and Stormwater Permit shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the Town Environmental Consultant will provide the Town Board with a report stating whether the applicant has complied with the requirements of this Resolution and the approved drawings by the end of the term of this permit; and

BE IT FURTHER RESOLVED THAT, the Wetland and Stormwater Permit shall automatically expire upon completion of work; and

BE IT FURTHER RESOLVED THAT, the below-listed conditions must be completed within six months of the date of this Resolution. Should the below-listed conditions not be completed within the allotted time frame, this Resolution shall become null and void unless an extension is requested by the applicant (in writing) within said six month period and granted by the Town Board.

Conditions that must be met prior to the Supervisor signing the Plans:

1. The Town Stormwater Officer shall sign the MS4 acceptance form.
2. Provide any/all approvals and permits from NYSDEC, NYCDEP, ACOE, and the Town of Yorktown Highway Department.
3. The Town Supervisor shall sign the EAF.

Conditions of the Wetland, Stormwater and Tree Permit

1. The applicant agrees to allow periodic inspections by the Town and its consultants.
2. The Town Environmental Consultant shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion, to ensure compliance with the Wetland and Stormwater Permit.
3. No additional disturbance or modifications is permitted without prior written approval from the Acting Town Engineer.
4. Inspection reports prepared by the qualified inspector shall be furnished to the Acting Town Engineer with 3 calendar days of the date of inspection. Modifications to the approved plans and SWPPP shall be made only with prior Town Engineer approval.

Additional Requirement:

6. The Acting Town Engineer and Town Environmental Consultant must provide a written report, no later than at the expiration date of the Wetland and Stormwater Permit, documenting the status of the implementation of the requirements of this resolution.

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

ADJOURN

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

Alice E. Roker
Town Clerk
Town of Yorktown