

Regular meeting held by the Town Board,
Town of Yorktown on April 20, 2010 held at
Yorktown Town Hall, Yorktown Heights, NY.

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

EXECUTIVE SESSION

Councilman Bianco motioned, seconded by Councilman Martorano, to move into Executive Session to conduct an interview with a proposed Conservation Board member as well as to discuss a possible land purchase.

TOWN BOARD MEETING

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

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.

DURING HER REPORT TO THE TOWN, Supervisor Susan Siegel spoke about future improvements to the Town of Yorktown's website. On behalf of the Town Board, the Supervisor thanked the members of the Senior Advisory Committee who came up with a plan that will be submitted to Westchester County for their consideration of \$125,000 in Community Development Block Funds. The Yorktown Organic Waste Facility has free mulch and is open on the weekends. The Supervisor provided those in attendance with magnets that she received after attending a conference on New York State's Storm Water Management Law as it pertains to Westchester County. The magnets remind everyone to protect our lakes, streams, wildlife and water. Supervisor Siegel introduced Harrison Bluestone a member of Boy Scout Troop 164 who is working on his Community Service Badge. Kathy Dickan, Yorktown's Court Clerk is retiring in June and the requirements and responsibilities of her position are available.

DURING THEIR REPORTS TO THE TOWN, Councilman Bianco stated that he recently read the 200 page Health Care Report that was recently voted on by Congress. He handed the Town Clerk a copy of his critique of the bill which he says is available in the Town Clerk's Office.

Councilman Vishnu Patel announced that he recently attended the 100th birthday party of a gentleman who lives at the Country House in the Town of Yorktown. He also attended a DARE Graduation at George Washington School. Councilman Patel thanked everyone who participated in last weekend's Battle of Yorktown to clean up the litter. He also spoke about the two awards for recycling that Yorktown received from Westchester County.

Councilman Martorano stated that a year hasn't gone by when the Town of Yorktown has not won an award for its recycling programs which he believes are the best in the County.

Councilman Murphy also thanked the hundreds of volunteers who did their part for the Battle of Yorktown, our battle against litter.

COURTESY OF THE FLOOR

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

Mrs. Jennie Menton thanked the Town Board for approving the Plan that the Senior Advisory Committee came up with for the Yorktown Community and Cultural Center. If the grant from Westchester is approved, we will have more than \$400,000 to make improvements.

Mrs. Pat Kibbe, a 50 year resident of Yorktown spoke about an organization she created during the early 1990's called Kids to Kids. Her volunteer organization sends picture books created by students in the United States to youngsters in various parts of the world. Books were recently sent to young people in Afghanistan and Liberia. She is hoping to get funding to send books to children in Haiti which was devastated by an earthquake several months ago.

Mrs. Monica Doherty along with Anna Rabowski, members of the Yorktown Garden Club and the Yorktown Beautification Committee asked for the community's support with their annual Plant Sale that will take place on the Saturday prior to Mother's Day. She also asked for volunteers to join them in this year's Plant-in. On May 23rd, volunteers will be placing flowers in the beds at the town's major intersections.

Mr. Anthony Grasso who served the Town as a Councilman as well as serving on many town communities stated that he was upset with a letter he received from the Town dated April 7, 2010. Mr. Grasso stated that the letter says he was not selected to serve on the Ethics Committee. He wanted to know how you could turn down someone when you have not even interviewed them. Mr. Grasso further stated that when he served as a Councilman, his Town Board interviewed everyone who asked to be a volunteer. He further asked why were people turned down?

Mr. Tony Forcelli, stated that he was concerned about something else that was going on in Town. He believed that something occurred on Baldwin Road which caused a huge amount of damage that may be a result of something that Con Ed did. Who is going to pay to repair the damage? Mr. Forcelli also stated that there maybe a problem with the transmission line near his home because water is flowing out of it even when it doesn't rain.

Mr. Eric DiBartolo stated that he will call for an official investigation into the contract that the Supervisor signed with Mr. David Rambo on January 6th which left out a \$500 transportation fee.

COURTESY OF THE FLOOR IS CLOSED

RESPONSES TO COURTESY OF THE FLOOR:

Supervisor Siegel responded to questions and comments stating:

She thanked Mrs. Menton for her comments concerning the plan formulated by the Senior Advisory Committee. The Supervisor apologized to Mr. Grasso explaining that the letter was in no way meant as an insult. She said the Town Board stated that they would not place people who were committee district leaders on the Ethics Committee. The Town Board wanted to avoid any appearance of anything wrong. The Supervisor explained to Mr. Forcelli that Con Ed placed eight storm drains along Baldwin Road under the supervision of the Environmental Consultant. Their next drainage issue which they have agreed to help the Town with is on London Road. Supervisor Siegel stated that the problem with Mr. Rambo's contract is on the agenda for a vote tonight.

Councilman Martorano thanked Mrs. Menton and the members of her committee who came up with a plan for the Yorktown Community and Cultural Center that will

benefit seniors. He told Mr. Forcelli that another issue concerning Con Ed is on the agenda tonight.

Councilman Bianco asked the members of the Garden Club if they would help with watering the planters along Commerce Street. He further stated that while a majority of the Council chose not to include district leaders on the Ethics Board, he voted against that amendment to the law.

Councilman Patel stated that all of the candidates that the Town Board did interview were excellent. He hopes that others will volunteer to be on different boards.

Supervisor Siegel then stated after last year's problems with the hanging baskets and many of the plants dying because they require watering as often as three times a day, the Town Board has decided not to place them outside this year. We have sixty (60) hanging baskets and thirty (30) planters.

APPOINTMENT

DIANE DRIER – CONSERVATION BOARD

RESOLUTION #184

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

RESOLVED, that Diane Drier is hereby appointed to the Conservation Board to replace Richard Fon for a term ending August 30, 2012.

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

APPOINTMENT

ANN KUTTER – CO-CHAIR CONSERVATION BOARD

RESOLUTION #185

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

RESOLVED, that Ann Kutter be appointed co-chair of the Conservation Board for a term ending July 31, 2011.

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

PRESENTATIONS

Mr. David Rambo, Town of Yorktown Water Distribution Superintendent read from a two page prepared statement (a copy of the document is on file in the Minute Folder) entitled Water Department Action Plan. Among the first projects that are expected to take place is a Town Wide Water Meter Replacement Project. Phase 1 of this project will cost between \$1,200,000 – 1,500,000. The benefits include fair and balanced water billing for the entire water district and a break even point/payback period is 8 to 10 years.

Supervisor Siegel thanked Mr. Rambo for the update and for the good work that he is doing at the Yorktown Water Department.

RESIGNATION

The Town Board accepted with regret the resignation of Michael Cook from the Tree Advisory Commission

TERMINATE EMPLOYMENT

PURSUANT TO SECTION 71 OF THE CIVIL SERVICE LAW

LOUIS GAGNE – WATER DEPARTMENT

RESOLUTION #186

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

BE IT RESOLVED, that the Town Board of the Town of Yorktown hereby terminates the employment of Louis Gagne pursuant to Section 71 of the Civil Service Law, effective April 21, 2010.

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

MODIFICATION OF THE PEEKSKILL SANITARY SEWER DISTRICT
2804 GOMER STREET
RESOLUTION #187

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

WHEREAS, the Town of Yorktown Town Board is desirous of including 1 parcel of land into the existing Peekskill Sanitary Sewer District, NOW THEREFORE BE IT

RESOLVED, that the Town Board of the Town of Yorktown does hereby request that the County of Westchester incorporate parcel 27.09-3-59 (2804 Gomer Street – Matier) into the Peekskill Sanitary Sewer District.

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

BJ'S ROUTE 202 TRAFFIC IMPROVEMENTS - \$100,000
RESOLUTION #188

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

WHEREAS, BJ's Wholesale Club, as applicant, posted Check No.1630891 in the amount of \$100,000.00, for Route 202 Traffic Improvements, and

WHEREAS, the money will be used for Route 202 traffic improvements as part of their site plan approval, NOW, THEREFORE, BE IT

RESOLVED, that Check No.1630891 is hereby accepted as the Traffic Improvement monies for Route 202.

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

EXTEND BID FOR REBUILDING STONE WALLS AND STONE HEAD WALLS
HIGHWAY DEPARTMENT
RESOLUTION #189

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

WHEREAS, bids for the Rebuilding of Stone Walls / Stone Head Walls were received and opened on March 1, 2007; and

WHEREAS, said bid was awarded to DeCarvalho Landscaping Service, Inc., 31 State Street, Ossining, New York 10562; and

WHEREAS, the town has the option to extend said bid for three additional years in one-year increments; and

WHEREAS, said bid commenced March 15, 2007 through February 28, 2008 with additional years of 2009, 2010 and 2011; SO THEREFORE BE IT

RESOLVED, the Superintendent of Highways hereby recommends to the Town Board that the Town exercise its option to renew the contract for one last year, per the terms of the bid; and be it

FURTHER RESOLVED, the date of the extension will commence March 15, 2010 through to February 28, 2011.

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

APPROVE POLICE TRAINING
SERGEANT JAMES GRAHAM
RESOLUTION #190

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

BE IT RESOLVED, that the Town Board hereby authorizes Sergeant James Graham to attend a Benelli Armorer Course scheduled for November 8, 9, and 10, 2010 in Accokeek, Massachusetts.

FURTHER RESOLVED, his attendance at this 3-day training will not create any overtime nor create any overtime backfill for his absence.

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

EXTEND BID SHRUB OAK AND JUNIOR LAKE CONCESSION STANDS
RESOLUTION #191

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

WHEREAS, bids for Concession services at the Brian Slavin Aquatic Center in Shrub Oak and the Junior Lake Pool in Yorktown Heights received and opened on April 20, 2007; and

WHEREAS, the Town of Yorktown has entered into an agreement with O'Neill's Concessions of 2709 Baldwin Road, Yorktown Heights, New York to provide food and refreshment services at the Brian J. Slavin Aquatic Facility in Shrub Oak and the Junior Lake Pool in Yorktown Heights; and

WHEREAS, the town has the option to extend said bid for three additional years in one-year increments; and

WHEREAS, said bid commenced in the 2007 pool season, with additional years of 2008, 2009 and 2010; and

RESOLVED, the Superintendent of Parks and Recreation hereby recommends to the Town Board that the Town exercise its option to renew the contract for one last year, per the terms of the bid; and be it

FURTHER RESOLVED, the extension will be for the 2010 pool season.

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

POOL PASS REDUCTION
VOLUNTEER BOARD MEMBERS
RESOLUTION #192

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

RESOLVED, that members of volunteer Boards and Commissions appointed by the Town Board and meeting a minimum of 10 times per year, shall receive a 50% discount on the purchase of a pool pass as per the purchasing regulations outlined in the Parks and Recreation Department brochure.

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

APPROVE REQUEST FOR PROPOSALS (RFP) FOR
RISK ASSESSMENT OF TOWN'S INSURANCE COVERAGE
RESOLUTION #193

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

WHEREAS, the Town spends in excess of \$500,000 a year in insurance premiums and workers' compensation, and

WHEREAS, the Town's current insurance policies expire on or about December 31, 2010, and

WHEREAS, it is in the Town's best interest to analyze its current insurance coverage prior to soliciting competitive quotes for its 2011 insurance needs, and

NOW, THEREFORE BE IT RESOLVED, that the Town Board authorizes the Supervisor to distribute a Request for Proposals to professional risk managers to conduct a comprehensive risk assessment of the Town's insurance coverage and workers' compensation program.

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

AUTHORIZE SUPERVISOR TO SIGN INTERMUNICIPAL AGREEMENT
WITH WESTCHESTER COUNTY FOR MUTUAL AID AND RAPID RESPONSE
RESOLUTION #194

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

RESOLVED, that the Supervisor is hereby authorized to sign a five year Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County, New York and the Westchester County Arson Zone Plan IMA for the period July 31, 2010 thru July 30, 2015.

FURTHER RESOLVED, this agreement shall commence on July 31, 2010 and terminate on July 30, 2015.

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

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT
WITH SULLIVAN DATA FOR THE MAINTENANCE, REPAIR AND
TROUBLESHOOTING OF COMPUTER SYSTEM FOR ONE (1) YEAR BEGINNING
MARCH 1, 2010 – FEBRUARY 28, 2011 IN THE AMOUNT OF \$4,750.00
RESOLUTION #195

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

RESOLVED, that the Town Supervisor is hereby authorized to sign an agreement with Sullivan Data Management Inc. for management, maintenance, troubleshooting and repair of the existing network infrastructure. The contract amount is \$4,750.00 and the term is for one year, from March 1, 2010 through February 28, 2011.

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

ADVERTISE PUBLIC HEARING
REPEALING AND REENACTING A NEW CHAPTER 45

OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED "ETHICS"
RESOLUTION #196

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

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, New York on the 4th day of May, 2010 at 7:30 PM, or as soon thereafter as the same can be heard, to consider repealing and reenacting Chapter 45 of the Code of the Town of Yorktown entitled, "ETHICS" relating to definitions; applying the ethics provisions to all town employees and officials; adding revolving door restrictions; and other changes intended to strengthen the town ethics code.

A copy of the proposed Local Law is on file in the office of the Town Clerk, at the said Town Hall, where the same may be inspected during regular office hours.

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

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

ADVERTISE PUBLIC HEARING
REPEALING CHAPTER 168, IN ITS ENTIRETY AND ENACTING A NEW CHAPTER
168 ENTITLED "FEES"
RESOLUTION #197

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

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, New York on the 4th day of May, 2010 at 7:30 PM, or as soon thereafter as the same can be heard, to consider repealing Chapter 168, in its entirety, and enacting a new Chapter 168, entitled "FEES" relating to authorizing a master fee schedule and professional review fees.

A copy of the proposed Local Law is on file in the office of the Town Clerk, at the said Town Hall, where the same may be inspected during regular office hours.

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

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

ADVERTISE BID
BUSES SUMMER CAMP PROGRAMS
RESOLUTION #198

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

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 Monday, May 3, 2010 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598 for contracting bus service for various programs in the Yorktown Parks and Recreation Department. Bids may be made on a total per section basis, a group basis or the total bid. The Town reserves the right to award the bid(s) on a lowest cost per section basis, a lowest cost for a group of sections basis or the lowest cost for a total bid (Section I: School Buses - Camps; Section II: Coaches - Camps), for a one (1) year contract starting June 1, 2010 and ending on May 31, 2011.

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.

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

AUTHORIZE SUPERVISOR TO ENTER INTO CONTRACT
TO PURCHASE TWO PARCELS ON STONY STREET
RESOLUTION #199

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

BE IT RESOLVED that the Town Board authorizes the Supervisor to enter into a contract for the purchase of two parcels on Stony Street, Yorktown, Tax Lots 26.09-1-22 and 26.06-1-1, formerly known as sections 0327 and 403, parcels 227 and 42, for the price of \$2,700,000, and that the contract of sale shall include the following conditions:

- (a) that the tax arrears on the property including penalties and interest as of December 31, 2009 shall be a credit against the purchase price;
- (b) that if the closing occurs on or before May 12, 2010, there shall be a credit to the purchaser of \$100,000 against the purchase price;
- (c) that if the closing occurs after May 12, 2010 and before May 31, 2011, there shall be a credit to the purchaser of \$150,000 against the purchase price;
- (d) that it shall be a condition of closing that, on or before May 12, 2010, the seller produce a closure letter from the New York State Department of Environmental Conservation and a certification from seller's environmental remediation contractor, indicating that the oil spill on the property is remediated to the satisfaction of the State of New York and no further work needs to be done to clean up the oil spill; and
- (e) that it shall be a condition of closing that the seller shall remove any abandoned vehicles, appliances, drums and storage containers identified in the Phase I environmental assessment previously performed with respect to the property; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to enter into an agreement with Benchmark Title Agency, LLC for title insurance in the statutory amount; and

BE IT FURTHER RESOLVED, that the Town Board intends to designate this site as parkland.

Supervisor Siegel stated that the former Town Board voted to purchase this property using money from the Open Space Fund. The sale was not completed by December 31, 2009. Since that time, there has been a constant struggle with the seller. The Supervisor stated that she has had concerns about the cost impact of this purchase on the Town of Yorktown.

Councilman Patel asked if there was asbestos on the sight and who would be responsible for the removal if there is.

Councilman Murphy stated that he believes that the purchase of this property was a bad business decision. The sellers have not done a Phase 2 Environmental Study and have not provided the Town with proof that one was done. No borings have been done on this

property. The cost of removing the asbestos at the Holland Sporting Club could be as high as \$50,000. This is not a good deal and he will not be voting to approve the resolution.

Councilman Bianco stated that the New York State Department of Environmental Conservation will certify that there is no oil contamination on the site or the Town will not purchase the property. He further stated that because of the certification, there is no need to do a Phase II Study. Councilman Bianco stated that the Town will get the back taxes that we have paid over the years and will end up with a surplus of approximately \$800,000.

Councilman Martorano stated the best thing that the former Town Board ever did was to vote to purchase these 200 acres of pristine property. He further stated that if and when the Board can purchase open space, it is something we should do. These 200 acres will be a legacy to our children.

Councilman Murphy stated that the way the Town is going about to purchase this property is the wrong way.

Councilman Patel stated that he is looking for a clean bill of health on this property.

Councilman Martorano stated that the purchase of open space goes all the way back to the Nancy Elliott administration, once the purchase is made, it will be designated parkland.

Supervisor Siegel read from prepared remarks stating that her concern about this property began in November when the Town Board announced that they were going to buy it. After she became Supervisor, she found out that a contract for the purchase had not been signed. She also learned that there had been an oil spill on the property at one time. No Phase 2 Study of the property has been done. Supervisor Siegel stated that she is concerned that there may possibly be asbestos in the barn. The sellers have stated that they do not want to pay for an asbestos study. The property owes many years of back taxes and nothing was put in the 2010 budget for this purchase. Using statistics, the Supervisor spoke of the financial outcome if the purchase was done last year or in 2010. She further stated that there is no money in the fund balance, and when she spoke to the Comptroller, she was told that the money from the back taxes would not be placed in the surplus fund, but in the general fund. Supervisor Siegel went on to say that she spoke to John Tegeder, the Planning Director who told her that under the current Comprehensive Plan, this property will be up-zoned. Between 30 and 40 homes might be built on the property. Through the use of new planning techniques, such as clustering, the site could be developed and still be left with possibly one hundred acres that would link to a nearby trail. She further stated that the Town could have foreclosed on this property in 2007 or 2008 because of all of the taxes that are owed.

Supervisor Siegel further stated that the Town continues to negotiate with one of its unions, CSEA which have not had a contract in one and a half years. After that, our next rounds of negotiations will be with the PBA who do not have a current contract.

Councilman Martorano stated that clustering homes on a parcel of land cannot compare to open space. There are never any guarantees concerning financial issues. The Councilman complimented the Supervisor and Town Attorney on their negotiating skills with the seller.

Councilman Bianco stated that he had big concerns about some of the statements the Supervisor made. Particularly, about the money, after the purchase is made the seller will then have to pay the Town the back taxes and penalties which are owed. The money will go to the General Fund and eventually become surplus.

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

REFERRAL WETLANDS PERMIT
HANSMANN – 289 EAST MAIN STREET
RESOLUTION #200

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

WHEREAS, 3 JK1K Properties, LLC/Jay Hansmann has made a request for a wetlands permit approval for property located at 289 East Main Street, Jefferson Valley, NY as directed by NYSDEC for the removal of fill from wetlands as delineated by Bruce M. Donohue and stabilize disturbed areas. The application for a wetlands permit will be referred to the following agencies:

ABACA
Building Inspector
Conservation Board
Planning Department
Town Attorney
Town Board
Town Engineer
Planning Board

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

REFERRAL EXCAVATION PERMIT
ANDREW SHAIKEN – 363 WOODED HILL COURT
CONSTRUCTION OF SWIMMING POOL
RESOLUTION #201

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

WHEREAS, Joseph Riina/Andrew Shaiken has mad a request for an excavation permit for construction of Swimming Pool, Pool Cabana, Tennis Court and Stormwater Practices at 363 Wooded Hill Court, Yorktown, NY. The application for an excavation permit will be referred to the following agencies:

ABACA
Building Inspector
Conservation Board
Planning Department
Town Attorney
Town Board
Town Engineer
Planning Board

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

REFUND DUPLICATE TAXES
ACCOUNT #0991000, 1780530
RESOLUTION #202

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

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</u>
2009 Sch 21	16.9-1-2	0991000	\$3,110.31
2009 Sch 21	16.15-1-52	1780530	\$4,326.37

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

MONTHLY REPORTS

Building Department

AMEND TOWN BOARD RESOLUTION #24 DATED JANUARY 5, 2010
HIRING DAVID RAMBO AS CONSULTANT FOR THREE (3) MONTH PERIOD
RESOLUTION #203

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

WHEREAS, the Town Board adopted a resolution on January 5, 2010 authorizing the Supervisor to sign a Consulting Agreement with David Rambo to serve as Acting Water Superintendent for a period of 90 days for a total fee of \$21,5000, and

WHEREAS, the resolution failed to include a \$500 stipend for travel expenses for the 90 day period that was included in the Consulting Agreement that David Rambo signed on January 6, 2010,

NOW, THEREFORE BE IT RESOLVED, that the authorizing resolution of January 5, 2010 be amended to include a stipend of \$500 to cover travel expenses.

Supervisor Siegel stated that this resolution that she worked on within days of taking office. She apologized for the error. The Supervisor further stated that Mr. Rambo initial appointment was as a consultant to the water district. Consultants are not permitted to drive town vehicles. There was a \$500 provision for travelling expenses in his contract which she felt was reasonable since he would have to drive to different locations in the Town of Yorktown.

Councilman Martorano stated that the Town Board was unaware of the error until recently. Several years ago, The Town Board spent a considerable amount of time working on a Town Vehicle Policy which we do not want to change. He ended his remarks by stating that he believes that this was a genuine mistake.

Councilman Bianco stated that he believes that this was an oversight on the Supervisor's part. Unfortunately, the Town Board was not able to look at the contract until it was signed.

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

AUTHORIZE SUPERVISOR TO SEND A LETTER TO THE PUBLIC SERVICE
COMMISSION REGARDING THE STATUS OF UTILITIES OVERSIGHT
COMMITTEE
RESOLUTION #204

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

WHEREAS, the Town Board created by Resolution #382 a Utilities Oversight Committee on October 16, 2007; and

WHEREAS, Resolution #382 stated that the Committee was to "report directly to the Town Board"; and

WHEREAS, the current Town Board has not authorized the Utilities Oversight Committee to represent or speak for the Town of Yorktown, in either written or oral comments, to other public or private entities or groups; and

WHEREAS, the members of the Utilities Oversight Committee, acting as private individuals and not representatives of the Town of Yorktown, are encourage to express their personal views regarding utility related issues;

NOW, THEREFORE BE IT RESOLVED, that the Town Board directs the Supervisor to send a letter to the Public Service Commission indicating that the Yorktown

Utilities Oversight Committee in no way is representing or speaking for the Town of Yorktown and has no official standing as a Town advisory committee.

Supervisor Siegel stated that in 2007 when this Committee was created, the resolution said that they would report to the Town Board. While she thanked the members of the Utilities Oversight Committee for activism, she is concerned that at a time when the Public Service Commission is holding hearings concerning Con Ed's work around transmission lines, the Public Service Commission will believe this committee is speaking for the Town Board.

Councilman Martorano stated that the Town has had a difficult time with Con Edison. He is grateful for the strong leadership that Dr. Podolak has shown on this issue. He believes this resolution is the opposite of what the Town of Yorktown should be doing.

Councilman Bianco stated that he agreed 100% with Councilman Martorano. We should not be trying to stifle public comment. He further stated that what Dr. Podolak did which set this resolution in motion was what the Town Clerk did, she sent the resolution to the Public Service Commission.

Councilman Murphy stated that he would like to know what is going on with the Utilities Oversight Committee. They are very active. This is not personal. Before someone speaks for the Town Board, he would like to know what they are saying.

Councilman Patel stated that his concern with Con Edison is the fact that they use cheap workers who have ruined the environment.

Supervisor Siegel stated that there appears to be some confusion, the discussion should not be about Con Edison, but about the role of the Utilities Oversight Committee.

Siegel, Murphy Voting Aye
Bianco, Martorano, Patel Voting Nay
Resolution denied

Councilman Martorano called on the Town Board to reaffirm a resolution sent to the Public Service Commission earlier this year.

AUTHORIZE TOWN CLERK TO RESEND RESOLUTION CALLING FOR A MORATORIUM ON CON EDISON TRANSMISSION LINE CUTTING TO THE PUBLIC SERVICE COMMISSION RESOLUTION #205

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

WHEREAS, the Yorktown Town Board continues to receive numerous complaints from property owners throughout the Town of Yorktown on whose property, or adjacent to whose property, Consolidated Edison Company of New York, Inc., ("Con Edison") has an easement or right-of-way for the erection and maintenance of high voltage towers and wires, concerning the cutting and/or removal of trees and other vegetation thereon by Con Edison and/or by contractor(s) hired by Con Edison for that purpose; and

WHEREAS, Con Edison has asserted that its tree clearing activities are mandated by rules adopted by the New York State Public Service Commission ("PSC") "Requiring Enhanced Transmission Right of Way Management Practices by Electric Utilities" in Case 04-E-0822 issued and effective June 20, 2005 ("PSC's Rules"); and

WHEREAS, the tree clearing activities allegedly mandated by the PSC's Rules have been implemented in an arbitrary and intermittent manner; and

WHEREAS, Con Edison's interpretation and implementation of PSC's Rules has resulted in the unlawful and unreasonable cutting of trees in such a way that often amounts to unnecessary clear-cutting, excessive and unsightly debris piles, and extreme vegetation removal that exposes bare soil in the entire easement area and beyond resulting in a "scorched earth" appearance (hereinafter referred to as "Scorched Earth Practice"); and

WHEREAS, Con Edison has not provided adequate public notice of its plans to implement the PSC Rules, including failure to properly survey affected properties and failure to communicate with affected property owners regarding the work that is to be performed by contractors of Con Edison; and

WHEREAS, a lack of an appropriate communication and complaint handling protocol between Con Edison, its contractors, PSC and the public has caused significant frustration and exacerbated the problem; and

WHEREAS, the PSC has failed to properly oversee Con Edison's implementation of its transmission vegetation management plan, resulting in unnecessary economic, environmental, and aesthetic harm to numerous property owners and communities; and

WHEREAS, the PSC's Rules were not accompanied by a fair and adequate environmental review, as only a limited, inaccurate review was conducted, with little notification to the affected public; and

WHEREAS, the PSC's Rules remain unrevised, even though the North American Electric Reliability Corporation ("NERC"), under authority provided by Congress in the Energy Policy Act of 2005, has developed national transmission vegetation management standard FAC-003-1 in 2007 and as of January 2010 is reviewing a revised standard FAC-003-2; and

WHEREAS, the Yorktown Town Board has consulted with experts that believe that given the size and location of many of the trees being removed, the trees are not now, nor in the future, likely to reach or otherwise interfere with Con Edison's transmission lines and towers; and

WHEREAS, the Yorktown Town Board believes that the PSC's Rules, to the extent the Rules actually mandate the Scorched Earth Practice being employed by Con Edison and/or Con Edison's interpretation of the regulations far exceed those steps reasonably required to protect Con Edison's transmission assets and the legitimate public interest in maintaining an uninterrupted flow of power through the region; and

WHEREAS, the Yorktown Town Board believes that Con Edison's scorched earth practice, as it is being implemented in Westchester County's densely populated suburban communities, violates the real property rights of the immediately affected property owners and otherwise adversely affects the legitimate land use interests of the residents of Westchester County, resulting in unsightly visual impacts, unnecessary and uncontrolled erosion due to denuded land, and the virtual decimation of carefully planned and maintained buffers; and

WHEREAS, there are equally important town, county and state laws that must be enforced and honored, which regulate land usage, zoning, permits, land preservation, easement agreements, trespassing outside of legal easements and right-of-ways, that are being violated and ignored by the Public Service Commission and Con Edison in the adoption and implementation of this Scorched Earth Practice; and

NOW THEREFORE BE IT RESOLVED, that the Yorktown Town Board reaffirms its resolution dated March 2, 2010 demanding that the New York State Public Service Commission direct Con Edison to immediately cease its Scorched Earth Practice, until such time as there has been a full, open public examination by the PSC, within the communities affected, as to the conditions that exist and the management steps required to be taken in Westchester County, to ensure compliance with town, county and state law and to revisit the PSC Rules as being interpreted by Con Edison and to make adjustments to same so that certain goals can be achieved, including but not limited to (i) preservation of non-offensive vegetation, (ii) control of erosion and run-off, (iii) retention and maintenance of sight lines and integrity of the residential appearance, (iv) retention and maintenance of vegetation providing noise abatement, (v) preservation of woodland and wetland habitats to the greatest extent possible, (vi) avoidance of herbicide use for vegetation management, but if required, that only herbicides approved by NYS DEC for use along wetlands and watercourses be utilized, and (vii) compliance with local and state laws; and that the Yorktown Town Board:

FURTHER REAFFIRMS that Con Edison should further be directed to implement a full mitigation plan, establish a proper plan of public notification of future work sites, establish a management plan that requires it to properly remove and dispose of all debris generated by its clearing and/or cutting activities within three weeks, including but not limited to the remnants of any tree cut or cleared from its easements or other right-of-ways, as well as to develop a replanting plan whereby any tree removed as undesirable is replaced with a more desirable and right-of-way compatible species and not by seedlings but rather more mature trees. Such replanting plan should apply both going forward and to those areas already affected by Con Edison's clearing activities; and be it further

RESOLVED, that the Yorktown Town Board further reaffirms that Congress enact legislation requiring the North American Electric Reliability Corporation to include proper environmental review, dispute resolution, and mitigation and restitution measures in the revision of its transmission vegetation management standard; and be it further

RESOLVED, that the Town of Yorktown Attorney continues to see what actions can be taken with regard to the PSC's Rules and the way these have been implemented in Westchester County and to take whatever actions may be necessary to achieve the goals stated herein, including but not limited to initiating litigation against Con Edison or bringing a proceeding against the Public Service Commission on behalf of the Town of Yorktown citizens; and be it further

RESOLVED, that the Town of Yorktown Clerk be and is hereby authorized and directed to once again send a certified copy of this resolution to U.S. Senators Charles Schumer and Kirsten Gillibrand; U.S. Representative John Hall; New York State Governor David Paterson; New York State Senator Vincent L. Leibell, III; New York State Assembly Member Gregory Ball; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of New York State Senate and Assembly; Westchester County Executive Robert Astorino, Westchester County Board of Legislators Chairman Kenneth Jenkins, Westchester County Legislators Michael Kaplowitz and John Testa, Chairman Kevin Burke of Consolidated Edison, Inc.; the New York State Public Service Commission; the New York State Department of Environmental Conservation and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

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

PRESENTATION – PAULA CASTELLA

Ms. Castella stated that she is a part-time social worker being paid from a federal grant. She has spent time with the senior clubs at the Nutrition Center and she has made quite a few home visits. Ms. Castella has also started a Wellness Program for Seniors at the Nutrition Center.

COURTESY OF THE FLOOR

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

Mr. Forcelli apologized to the Supervisor for his earlier remarks concerning Con Edison. He did not know that the use of the equipment that was on Baldwin Road was beneficial to the Town of Yorktown. He mistakenly thought that Con Edison had destroyed the existing drains.

Mrs. Ann Kutter asked if there had been any follow-up to getting the New York State Department of Transportation to hold a meeting in Yorktown where the citizenry can express their concerns?

Mr. Eric DiBartolo stated that the Supervisor had sat in the audience and watched the Town Board work for many years. During the past two years, the Town received many

Freedom of Information Requests (FOILS) from the Supervisor and was given what she wanted. It is a different story now that she is Supervisor.

Mr. Anthony Grasso stated that he disagreed with the Supervisor's decision not to interview all of the people who have applied for volunteer positions. During the time that he served as a member of the Town Board, we would interview everyone who wanted to volunteer.

Mrs. Pat Kibbe spoke about how proud she was to be an American. During this meeting she watched as people agreed with one another and disagreed. This doesn't happen all over the world.

Mr. Ed Ciffone stated that the Court Clerk, Kathy Dickan was leaving and a new person would be taking her place. He wanted to know if her replacement will be allowed to work on state police cases. Mr. Ciffone asked that the 15mph speed limit near Brookside School be reexamined. He asked that the Board be careful in its negotiations concerning the Granite Knoll property.

COURTESY OF THE FLOOR IS CLOSED

RESPONSES TO COURTESY OF THE FLOOR:

Supervisor Siegel responded to questions and comments stating:

She told Mrs. Kutter that her office would speak to the Department of Transportation concerning a meeting in Yorktown. She will refer Mr. Ciffone's concern about the 15mph speed limit to the Traffic Safety Committee. The purchase price of Granite Knolls is \$2.7 million. The Town of Yorktown will receive \$700,000 in back taxes.

ADJOURN

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

Alice E. Roker
Town Clerk
Town of Yorktown