

Regular meeting held by the Town Board,
Town of Yorktown on October 5, 2010 held at
Yorktown Town Hall, Yorktown Heights, NY.

Present: Susan Siegel, Supervisor
Nicholas Bianco, Councilman
James Martorano, 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 discuss litigation

AUTHORIZE STIPULATION OF SETTLEMENT
WILLIAM D. GREGORY V. THOMAS DECHIARO
RESOLUTION

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

RESOLVED, that the Town Board authorizes the firm of Wormser, Kiely, Galef & Jacobs, LLC to sign a Stipulation of Settlement in substantially the form annexed on behalf of the Town in the matter of Town of Yorktown and William D. Gregory v. Thomas DeChiaro, et al, Index No. 15369/09 (Sup. Ct. Westchester County)

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

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.

PROCLAMATION

Supervisor Siegel read the following proclamation:

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

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

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

WHEREAS such contributions should be recognized and celebrated in 2010 and annually thereafter; and

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

NOW, THEREFORE, I, SUSAN SIEGEL, Supervisor of the Town of Yorktown, along with the Town Board, hereby proclaim tomorrow, Wednesday, October 6, 2010 as

"GERMAN AMERICAN HERITAGE DAY"

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

DURING THE SUPERVISOR'S REPORT TO THE TOWN, Supervisor Siegel made the following announcements; flu shots will be given out at the Town Hall on October 7th. The cost is \$30. She thanked member of ASK (The Alliance for Safe Kids) who printed a new card for the Town listing the senior programs. Supervisor Siegel also spoke about a letter that she received from a resident thanking Police Officers McTygue and Dillon for coming to her home with helpful suggestions after she called the Police Department to report a telephone scam. The Town held its Auction on September 29, 2010 and sold 11 properties for \$586,500.00.

On Saturday, October 9, 2010, the New Yorktown Chamber of Commerce and the Town of Yorktown will hold its 2nd Annual Street Festival. October 13th is the final day to mail in your voter registration forms.

You may also register in person at the Westchester County Board of Elections up until November 1, 2010.

DURING THE TOWN COUNCIL'S REPORT TO THE TOWN

Councilman Bianco also spoke about the up-coming Street Festival.

Councilman Patel spoke about the Field Home's 130th Anniversary Celebration. He stated that he has ordered very good weather for the Street Festival. He spoke about the Dinner Dance held by the Christopher Columbus Society that he and Supervisor Siegel attended.

Councilman Patel aided by Councilmen Murphy and Bianco handed out Certificates of Merit to the most recent inductees into the Lakeland High School Hall of Fame. They included Howey "Babe" Kanter, Colleen Carney, Nancy Patterson, Lindsay Robinson, and Christine Robinson.

Councilman Patel also thanked the members of the Yorktown Lions Club for cleaning up the gazebo located behind the Yorktown Community and Cultural Center.

Councilman Terrence Murphy spoke about Westchester County's Senior Law Day on October 14, 2010.

DURING HIS REPORT FROM THE WHITE PLAINS, Westchester County Legislator Michael Kaplowitz spoke about two issues that he felt the Town of Yorktown could help him with. The County Executive has removed funding for the Hilltop Hanover Farm from the 2011 Budget. He is attempting to have the funding shifted from the General Operating Budget to the Sewer Districts budget. He believes the farm is not only an asset to the Town of Yorktown, but an asset to Westchester County. Legislator Kaplowitz also stated that the County Executive has not place renewing the County's Agriculture District on the calendar. He would like the Town's support on that issue as well.

COURTESY OF THE FLOOR

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

Rachel, a representative of the Yorktown Dog Park stated that they have been patiently waiting for this park for three years. Though promises were made to them, they have not seen anything to date. The committee has four hundred members, many of whom have given money and now want to know what is happening with it.

Mrs. Filomena Poli, a representative of the Yorktown Senior Advisory Committee stated that she has invited Mae Carpenter, Senior Programs and Services Commissioner for Westchester County. She will speak at the Yorktown Community and Cultural Center on October 22, 2010.

Mrs. Sherry Hughes, the attorney for the Croton Heights Homeowners Association asked the Town Board to refrain from voting on two parcels located on Croton Heights Road that were auctioned off on September 29th. She asked why Councilman Bianco and Councilman Martorano's request to have the Conservation Board and Open Space Committee provide the Board with analyses of these two properties did not happen. These properties are wetlands.

Mr. Mark Michaels, also a resident of Croton Heights stated that he has lived here for twenty seven years. He too is troubled with the Town's intended sale of these two wetland properties. Mr. Michaels stated that this area is a valuable habitat for many species including the box turtle.

The proposed sale violates the spirit and letter of the town code. This new approach of having an outside company auction off properties is a betrayal to the residents of the Town of Yorktown. He suggested that the Town Board read the intent of the Wetlands Law.

Mrs. Patricia Michaels, also a resident of Croton Heights read a written communication from Nancy Truitt who also urged the Town Board to set aside these two properties from consideration tonight. The letter also asked about the town's former policy of offering property to the neighboring property owner was not done.

Mr. Stanley Serafin, a resident of Croton Heights stated that what the Town is selling is a stream and a pond. He asked that the two properties be referred to the Conservation Board.

Mrs. Gina Serafin, a resident of Croton Heights read a written communication from a neighbor, Rene Block who also asked that the two Croton Heights properties not be sold off tonight. The letter further stated that the man who purchased the property obviously plans to build on it because he told his neighbors that he loves a good fight.

The President of the Croton Heights Homeowner's Association stated that they are gravely ecologically concerned about this area. The sale of these two lots in Croton Heights, represents a lack of concern by the Town Board.

Mr. Howard Frank, speaking on behalf of the United Taxpayers of Yorktown read a letter, a copy of which is on file in the Town Clerk's Office that was sent to the Chairman and Chief Executive Officer of Con Edison asking that they take a second look at the denial of rebates and refunds for the installation of a gas boiler at the Hart Library.

Mrs. Linda Greene, a resident of the Croton Heights area read a letter from her and her husband concerning the two sales of the two lots, a copy of the letter is on file in the Town Clerk's Office. The letter states that they live directly across the street and downstream from these wetlands and over the last 17 years, have endured flooding and significant damage to our property due to wetland run-off. Ten years ago, the Town installed a new drain pipe and re-pitched Croton Heights Road in order to alleviate the effects of the wetland overflowing.

Before these wetlands are sold and developed, great care must be taken to ensure that neither the Croton Heights community, nor the properties' immediate neighbors are harmed.

Mr. Larry Horowitz, also a resident of the Croton Heights area stated that the land on these two lots is always marshy.

Mr. Joe Giama, a resident of Croton Heights Road reiterated that the land is very wet. Many years ago, when the property owner was placing pipes in the ground, he told them they were too small to handle the drainage.

Ms. Patti Peckham stated that she supports legislation that is being offered by Legislator Kaplowitz to continue the Agriculture District in Westchester County. As co-chair of Green Yorktown, she invited the community to their next public event which is scheduled to take place in Town Hall on October 19, 2010.

Mr. Jean Francois Delaperouse, a resident of Croton Heights Road stated that he lives right across the street from parcel #9. Heavy rains causes a huge runoff from the property for anyone living below or downstream from this property.

Mrs. Tammi Horowitz, also a resident of the Croton Heights area stated that she was in total agreement with her neighbors. Mrs. Horowitz then read a letter from Mr. Garrison Corwin which urges the Town Board not to sell the two parcels on Croton Heights Road. His letter further stated that the auction and sale of these properties would automatically trigger an environmental review and a Negative Declaration should not be issued.

Mr. Steve Gardner stated that during the past week, he heard that Westchester County for the third time was named the highest taxed county in the United States of America. He spoke about the fact that many businesses have shut and there have been an increase in the amount of bankruptcy filings. The Town should watch how it spends its money. Although he agrees that the Highway Superintendent does need to rebuild five trucks, the type of body he is looking to purchase would be considered the filet mignon of auto bodies. Mr. Gardner stated that he believes the Highway Superintendent should look at different options. He could go with a standard metal body which can be purchased for 30% less than the stainless steel bodies in the bid. He also questioned the number of companies that the bid was mailed to. There are 70 companies that build these types of auto bodies but it was only sent to five auto bodies.

Mr. Eric DiBartolo, Yorktown Highway Superintendent stated that he did go out to bid on stainless steel bodies because they will last a lifetime. Mr. DiBartolo also spoke about an email that he received from a representative of Henderson, a copy of which is on file in the Town Clerk's Office stating that he received a call from a man at Clark Funeral Home in Yorktown Heights who stated that he was acting as a liaison for a member of the Yorktown Town Board and had several questions concerning the bid. Mr. DiBartolo asked the Board which member appointed Mr. LaPierre as his or her liaison.

Mr. Bill LaPierre stated that he did call Henderson Auto Bodies. He believes the competitive bidding process was flawed because the bid document called for a Henderson auto body. He further stated that the headquarters for this company is in the Midwest, but there is only one regional distributor in this area that can sell this type of auto body. He further stated that the same truck body was available on State Bid.

Mrs. Sherry Hughes, continued her conversation regarding the sale of the two properties on Croton Heights Road by asking the Town Board if they would like to be known a Town Board who made unfair decisions. She again asked that the Town Board not to vote on the sale of these two parcels, but to give the residents of the community, the opportunity to purchase them.

Mr. Steve Gardner stated that he was offended by what he called his tax dollars just wasting away. He further stated that the Highway Superintendent has a paving machine that he hasn't used in two years, why doesn't he just sell it.

Mr. Ed Ciffone stated that he was a former member of the Museum Board and asked if the money from the sale of the Bernstein House would go for the benefit of the Museum. He also spoke about the fact that over the last few years, the Town Board voted on the budget, the same night as the public hearing, he hopes this will not happen this year. He also

spoke about how the Police Department could decrease its budget, have the Lieutenant working the 4:00PM – 12:00PM shift serve as a School Resource Officer. He also suggested closing the Library one day during the week.

COURTESY OF THE FLOOR IS CLOSED

Supervisor Siegel responded to some of the comments by stating:

Thank you Green Yorktown for the work you do in the community.

Just last week, a letter was sent to the New York State Parks Commission with additional details of the Yorktown Heights Fire Department's plan for a controlled burn at the Donald Trump Park. We are dealing with New York State which is a bureaucracy. The Town Board has agreed to share the cost of removing the asbestos from the structures.

Con Edison is a private corporation that makes its own decisions regarding rebates. We appreciate you for getting the information for the Town, but the Town Engineer and Consultant did talk to Con Edison and were turned down. We are currently pulling together a list of equipment the Town will be auctioning off. The Highway Superintendent has three pieces of equipment that was used at the Legacy Ball Field Park. We will discuss the paving machine with the Highway Superintendent.

Supervisor Siegel stated that by law, her budget will be sent to the Town Clerk on October 29, 2010. The Town Board will meet with department heads on November 12 and on November 13th, we'll discuss what changes will be made to the Supervisor's Budget. The Budget Public Hearing is scheduled for December 2, 2010.

Speaking to the residents of Croton Heights, the Supervisor stated that she believes there has been some misunderstanding. Just because someone purchases the property, doesn't mean it will be developed. Whether these parcels were buildable or not, the question before the Town Board was did it make sense for the Town to own these two separate parcels of land. If a person does have a site with a wetland, there is a process that they must go through in order to obtain a wetlands permit. There is an exhaustive review. Again, the land may or may not be developable. One of these two parcels is too small and could never qualify to be developed on. The Supervisor stated that she felt that auctioning the land representing a method that was fair, equitable, open and transparent. She did not want to make private deals with abutting land owners. The Supervisor then referred to the many slivers of property all over Yorktown that the Town must maintain.

Councilman Martorano stated that he wanted to have the Open Space Committee and the Conservation Board but the vote failed. He hoped everyone would stay longer and help address other environmental legislation. Councilman Martorano stated that he agrees the Town should have done its due diligence with regard to these properties.

Councilman Bianco stated that he was happy to see that the environmental community is finally awakened. The trouble is that these properties have wetlands that act as sponges. He also stated that he believed that they should have been referred out to the town's Conservation and Open Space Advisory Boards. But, the majority of members on this board did not want to do it. In the past, it was the policy of the Town to keep all of the properties that it receives around the lake. In 2 – 3 years, the individual who purchased these properties will be before the Town Board. He agrees that the two parcels on Croton Heights Road should be taken out of the bundle as well as other vacant lands. The only properties that the Town should sell tonight, are those with homes on them. The others should be sent to our advisory boards.

Councilman Patel stated that Councilman Bianco has not mentioned the Holland Sporting Club. He has been there. He has done work there and doesn't want to see any other lands owned by the town go into disrepair. If the Town cannot maintain these properties, we should sell them, maybe the person who purchases them will not develop them.

Councilman Murphy stated that everyone has made great points tonight, he is always willing to listen and learn. He is not here to disturb the Croton Heights area by trying to make a fast buck. He spoke about Westchester County believed the highest taxed

community in the nation. The councilman ended by stating that maybe we should have referred these properties to our advisory boards.

Supervisor Siegel stated that we do keep our dock lots because they represent a purpose to the Town. She spoke about a piece of property that the daughter of a former owner asked the Town if it was interested in purchasing. The advisory boards and the Town Board all reached the same conclusion, that we were not interested in this property. Supervisor Siegel also spoke about the properties that she did remove from sale.

Councilman Bianco stated that the Supervisor was speaking about the Hartel property which we do not want to purchase, but would take if the owner gave it to us.

APPOINT
HUMAN RESOURCE SPECIALIST
MARGARET GSPURNING
RESOLUTION #430

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

BE IT RESOLVED, that Margaret Gspurning of Yorktown Heights, NY, is hereby appointed Human Resource Specialist (TYT), job class code 0952-01, from Eligible List No. 66-635, effective October 6, 2010, to be paid at her current salary level, which in 2010 is \$83,679.00, with annual vacation, sick days, personal days, floating holidays and other benefits to follow the CSEA agreement.

BE IT FURTHER RESOLVED, that in recognition of the fact that Margaret Gspurning has been employed with the Town of Yorktown for approximately two years initially as a consultant and as of October 7, 2008 as a provisional employee, that effective January 1, 2011, and pursuant to the CSEA agreement, she will be entitled initially to 12 vacation days.

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on October 6, 2010.

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

RECONVENE PUBLIC HEARING
PROPOSED LOCAL LAW REPEALING AND REENACTING CHAPTER 270
ENTITLED "TREES" AND VARIOUS SECTIONS OF THE CODE OF THE TOWN OF
YORKTOWN INCLUDING CHAPTERS 10, 165, 178, 195

Supervisor Siegel reconvened the public hearing to consider repealing Chapter 168 of the Code of the Town of Yorktown to repeal and reenact Chapter 270 of the Code of the Town of Yorktown entitled "TREES" and various sections of the Code of the Town of Yorktown including Chapter 10, Chapter 165, Chapter 178 and Chapter 195. Affidavits of Posting and Publication were presented by the Town Clerk.

Mr. Frank McVetty, a resident of the Sparkle Lake area stated that he opposed the legislation. The Town should not be in the land buying business. We can't afford it. It's getting difficult to afford living here.

Mr. Jonathan Nettlefield, stated that the idea of a tree ordinance grew out of the fact that several years ago, we asked the Town Board to allow the Town to become a member of Tree City. A tree ordinance is a requirement of membership. Mr. Nettlefield rattled off a list of towns and villages in Westchester County that have tree ordinances including Bedford, Croton on Hudson, Hastings on Hudson, Pleasantville, Rye Brook and Mamaroneck. There are currently 99 members of Tree City in all of New York State.

Ms. Patti Peckham read from questionnaires that were sent to candidates when they were running for office about a tree ordinance. All of those asked, stated that they would

support an ordinance. She also thanked Mrs. Ann Kutter and Mrs. Linda Miller for their work on this piece of legislation.

Ms. Jennie Sunshine stated that her family supports this legislation. She asked the Town Board to look twenty years in the future, if you do not protect the trees now, there will be none later.

Mrs. Olivia Buehl stated that trees absorb carbon dioxide and improve air quality. Trees also reduce road noise and cut down on air conditioning costs by approximately 15%. Mrs. Buehl also spoke of a number of real estate studies that show that the addition of trees to a homeowner's property will affect the value. She asked the Town Board to adopt the legislation.

Mr. William Kellner, a member of the Tree Advisory Committee read a prepared statement which in part stated that the Town of Yorktown needed smart development. There is plenty of opportunity to have more residential and business development. This tree ordinance will make Yorktown a good place to live.

Mr. William Bronner read from a three page communication handed to the members of the Town Board tonight, a copy of which is on file with the proposed local law. He and his family have lived in Yorktown since 1977. They are the owners of 41 acres of property in southern Yorktown. They possess a private right of way from the City of New York, Office of Water Supply Lands, allowing their driveway to extend across 257 feet of New York City New Croton Reservoir lands to reach a public. He writes that the proposed tree ordinance was drafted without awareness of the existence of such interests in land, and without appreciation of the potential impact of the Ordinance. Included in some of his examples would be the family's inability to maintain their 257 foot long private right of way which, he writes would imperil both our lives and any first responders called to our house, and potentially expose us to unnecessary liability. The ordinance allows for the removal of hazardous trees, it does not exempt trees that will predictably grown to become hazardous. He ended by stating that as he reads the statute, a lot of his freedoms would be constrained unreasonably. Mr. Bronner also stated that this type of legislation requires (SEQRA), the State Environmental Quality Review Action to be applied.

Mr. Ken Belfer stated that he has watched the progression of this ordinance over the last several years. He doesn't think it is perfect, but does believe it strikes a good balance. He urged the Town Board to adopt the ordinance.

Mr. Paul Moskowitz, thanked the members of the Town Board, and the co-authors of this legislation, Mrs. Kutter and Mrs. Miller. Speaking as Chairman of the Energy Advisory Committee, we support the legislation. As a resident, tree serves many important purposes including absorbing rainfall. If too much rain fell on roads or bridges, they would have to be repaired or replaced more frequently.

Mr. Gregory Bronner stated that his property has more than twelve thousand (12,000) trees. Two thousand (2,000) are in the buffer zone. Mr. Bronner listed several reasons why he opposed this ordinance including the fact that he said it would be impractical for him, he would have to spend most of his weekend filling out applications and how the law did not provide relief from a permit for various situations including one tree getting caught up in another tree which he referred to as a widow maker.

Former Supervisor Don Peters thanked the Tree Advisory Committee, Mrs. Ann Kutter and Mrs. Linda Miller for their work on this ordinance. He likes portions of the old ordinance and some of this newer version. We need to have a law that balances the rights of property owners as well as trees.

Nancy Blumgarten, stated that she is a tree lover, she chooses to live in a forest. She doesn't like cutting down trees. She and her family have lived in Yorktown for over 30 years. Ms. Blumgarten questioned whether this proposed local law is the best way of protecting the environment. We have a beautiful community. Yorktown is a place where most people who live here and own property act responsibly. This proposal was done without systematic environmental review. What are the fact that these assumptions in the

law is based upon. The Town has not promulgated an Environmental Impact Statement. It looks like the purpose of the law is aesthetics. We need an Environmental Impact Statement. This proposal is potentially expensive to the Town as well as to property owners. Ms. Blumgarten spoke about economic incentives that some communities are offering to their property owners. She urged the Town Board not to adopt this local law without an Environmental Impact Statement.

Mr. John Kincart stated that he was glad to hear environmentally attorneys discussing this law. He lives on property which has more trees today than when he purchased the land. He is in favor of trees, but not this ordinance. Mr. Kincart stated that he has a problem with the words community forest. A lot of this wording comes from the New York City Department of Environmental Protection's website. Among some of the concerns and questions raised by Mr. Kincart were the definition of a tree of significance, and where does the 70% threshold come from?

Mr. John Settembrino, Co-Chair of the Open Space Committee stated that he has lived in this community for twenty seven years, and it was his neighbor who is an arborist who explained the importance of trees to him. The Open Space Committee supports the intent of the law.

Mr. Arthur Bartosch, stated that he fought a proposed tree ordinance last year. This proposal appears to swing to the other side. Mr. Bartosch gave various reasons for opposing the current legislation.

Mr. Geoff Thompson stated that he too had problems with the ordinance. The Town of New Castle's tree law is ten pages. This proposal needs to be re-tooled. The law needs to make sense. This one doesn't. He has planted 520 apple trees and is concerned that this area may now become regulated. Mr. Thompson said he planted 50 black locust trees. He has since learned that was a mistake because they are an invasive species.

Councilman Bianco stated that he wants to exempt orchards.

Mr. Randy Pratt, stated that his family plants more than two thousand trees each year. There needs to be an exemption in the law for agriculture as well as for orchards.

Mr. Keith Shepard, member of the Tree Advisory Commission stated that he supports this ordinance.

Mr. Steve Gardner stated that he would like to see a public/private partnership and a stewardship of the land.

Ms. Patti Peckham stated that she does support the ordinance. This will act as a blue print for the Town.

Dr. Edwin Pelt stated that he has been a resident of this community for more than fifty years. He purchased a house which backed onto 150 acres of woodland. Today, it is a diseased forest. A century ago, there were many chestnut trees, not today. The Town should designate land where people can plant chestnut trees.

Discussion on amending Section 270-7 subsection C to include the words all agriculture property or orchards.

Councilman Martorano stated that the Board should not vote tonight, but continue the discussion.

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

INSTALLATION OF A CATHODIC PROTECTION GROUND BED SYSTEM –
STONEY STREET TO TACONIC STATE PARKWAY

Supervisor Siegel reconvened the public hearing to consider repealing Chapter 168 of the Code of the Town of Yorktown to consider the application of Algonquin Gas transmission, LLC for a Wetlands and Excavation Permit. Affidavits of Posting and Publication were presented by the Town Clerk.

Mr. Christopher Newhall introduced several members of his team including Chuck Thomas, Terrence Doyle and Kyle Nielsen. Mr. Newhall explained that this application is to install an approximately 5,300 linear foot cathodic protection system for our existing underground natural gas pipelines located in the vicinity of Stoney Street and the Taconic State Parkway, in Yorktown, New York. Approximately 12,344 square feet of temporary wetland alteration will result. No trees will be removed.

Mr. Bruce Barber, Environmental Protection Consultant for the Town of Yorktown stated that he and the Town Engineer supplied the applicant with various questions that have been dealt with satisfactorily.

Mr. Howard Frank asked if there were any surveys showing existing corrosion to the pipeline. He also asked what type of anode was being placed in the ground and what type of wattage are we talking about.

The type of anode that is being used will last indefinitely. Federal law requires us to inspect the pipeline every five years. The wattage is minimal, approximately 2,000 watts.

Highway Superintendent Eric DiBartolo stated that they worked with the Algonquin people at the new Legacy Ball Field. He found what they do to be extremely interesting.

Mr. Paul Moskowitz asked how long the pipeline had been in the ground?

Mr. Doyle said there are two pipe lines in the ground. One was placed there in the early 1950's and the other in the mid 1960's. This action will provide each with additional cathodic protection.

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

DECLARE LEAD AGENCY AND NEGATIVE DECLARATION
STATE ENVIRONMENTAL QUALITY REVIEW
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE
ALGONQUIN GAS TRANSMISSION, LLC
RESOLUTION #431

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

BE IT RESOLVED, that the Town Board declares itself lead agency; and

BE IT FURTHER RESOLVED, that 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; and

BE IT FURTHER RESOLVED, that 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; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Yorktown hereby adopts a negative declaration with respect to this proposal.

Name of Action: Wetland and Excavation Permit for Algonquin Gas Transmission, LLC.

SEQRA Status: _____ Type 1

X Unlisted

Conditioned Negative Declaration: _____ Yes

 X No

Description of Action: The applicant is proposing to install approximately 5,400 linear feet of cathodic protection for the existing underground gas pipelines located entirely within an existing utility easement held by the applicant. The construction will entail installation of cable with an excavated trench 24” wide by 60” deep and will result in temporary disturbance to approximately 0.28 acres of wetlands and 1.32 acres of total land area. The applicant requires a Wetlands and Excavation Permit from the Town Board.

Location: Utility Easement: Section 26.07 Block 1 Lots 19, 20, 21 as well as Section 26.09 Block 1 Lot 22 as well as Section 26.10 Block 1 Lots 3,5 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 increase in the existing footprint or impervious surface area. All work shall be conducted in an existing, maintained utility easement. There shall not be any loss of wetland or wetland buffer area or function. An erosion and sediment control plan has been provided and work shall be conducted so that all open trench areas shall be backfilled and stabilized at the end of each work day.
2. The proposed action will not result in the removal or destruction of large quantities of natural vegetation or fauna; 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.

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

APPROVE WETLANDS AND EXCAVATION PERMIT
ALGONQUIN GAS TRANSMISSION, LLC
RESOLUTION #432

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

Wetland and Excavation Permit # WP-E-030-10 Algonquin Gas Transmission, LLC
Utility Easement, Tax Map: 26.07-1-19, 20, 21, 26.09-1-22, 26.10-1-3, 5

WHEREAS, the applicant proposes to install approximately a 5,400 linear feet cathodic protection system for the existing underground gas pipelines located entirely within an existing utility easement held by the applicant; and,

WHEREAS, there are Town regulated wetlands and associated buffers located on the site; and

WHEREAS, the total area of proposed land disturbance will be 1.32 acres; and

WHEREAS, the applicant has submitted a wetland and excavation permit application in which plans have been provided to mitigate impacts to wetland and wetland buffer areas and to prevent erosion and sediment from the leaving the site and preventing the introduction of pollutants to the wetlands; and

WHEREAS, the applicant has submitted a short Environmental Assessment Form (EAF), dated July 1, 2010; 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 has declared intent to act as Lead Agency and circulated on August 4, 2010 the short-form EAF and associated documents to the following boards, agencies and departments and received comments back as indicated: Town of Yorktown Conservation Board (09/03/10), Town of Yorktown Highway Department, Town of Yorktown Open Space Committee, Town of Yorktown Planning Department (08/11/10), Town Engineer/Town Environmental Consultant (09/24/10), NYSDEC (08/12/10), NYCDEP (09/02/10), and;

WHEREAS, as objection to the declaration of lead agency status were not received and the Town Board thereby adopts Lead Agency status; 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;

NOW THEREFORE BE IT RESOLVED, that, the public hearing for the Wetlands and Excavation 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 Excavation Permit Application WP-E-030-10, dated July 7, 2010, executed by Nikki LaBella.
- Short-form EAF (Pages 1 and 2), executed by Nikki LaBella dated July 1, 2010, with attached "Project Description" narrative (1 page), and with attached table entitled "Required Permits and Approvals" (1 page).
- Plans entitled; "Spectra Energy Algonquin Gas Transmission, LLC" dated 04/20/10, prepared by John D. Conklin, RLS, 5 total sheets.
- Report entitled; "Joint Application for US Army Corps of Engineers and NY State Department of Environmental Conservation Permit" prepared by Spectra Energy, dated July 2010.
- Report entitled "Stormwater Pollution Prevention Plan" prepared by Spectra Energy, dated August, 2010.
- Memo executed by Chris Newal of AECOM dated September 13, 2010 providing responses to memo dated 09/02/10 prepared by Cynthia Garcia of NYCDEP, 6 pages.
- Memo executed by Chris Newhall of AECOM dated September 30, 2010 providing responses to a memo dated 09/24/10 prepared by the Town Engineer and Town Environmental Consultant, 9 pages.

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit is granted subject to the signing of the plans by the Town Supervisor and shall be valid for a period of one year from date of this resolution. All work associated with the Wetland and Excavation Permit shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the Town Wetland Inspector 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 Wetlands and Excavation 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. Submission of all applicable fees and escrow.
2. A construction monitoring escrow in the amount of \$1,500.00 shall be submitted to the Engineering Department.
3. The applicant shall satisfy any outstanding comments provided by the Town Engineer, Town Attorney and/or Town Environmental Consultant.
4. The Town Supervisor shall sign the EAF.
5. The Town Stormwater Officer shall sign the MS4 acceptance form.
6. Provide any/all approvals and permits from NYSDEC, NYCDEP, ACOE, NYSDOT and the Town of Yorktown Highway Department.
7. Final reports from the applicant, submitted to the Town Engineer and Town Wetlands Inspector, shall be reviewed to ensure that all outstanding comments have been satisfied and shall also address resolution conformance.
8. A Wetland/Erosion and Sediment Control Bond, or other collateral acceptable to the Engineering Department and in form acceptable to the Town Attorney, shall be

submitted the Engineering Department. Said security shall be in the amount of \$2,500.00 which shall be released upon required documentation of satisfactory completion of work.

9. Four original copies of the approved plans, as revised to meet the conditions of this Resolution, signed by a NYS Professional Engineer, Registered Architect or Registered Landscape Architect and the easement holder of the property shall be submitted for the Town Supervisor's signature.
10. The easement shall be reviewed as to form by the Town Attorney.

Conditions of the Wetlands and Excavation Permit

1. The applicant agrees to allow periodic inspections by the Town and its consultants.
2. The Town Wetland Inspector 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 excavation permit.
3. No additional disturbance or modifications is permitted.
4. Inspection reports prepared by the qualified inspector shall be furnished to the Town Engineer within 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 Requirements to be Satisfied Subsequent to the Signing of the Plans:

1. Applicant must provide an as-built survey prepared by a NYS Licensed Land Surveyor which confirms that the permitted work has been installed in accordance with the approved plans.
2. The Town Engineer and Town Wetland Inspector must provide a written report, no later than at the expiration date of the wetland and excavation permit, documenting the status of the implementation of the requirements of this resolution.
3. Prior to the issuance of a notice of satisfactory completion, the Town Clerk Department shall confirm with the Engineering Department that all consultant fees have been paid in full.

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

DISCUSSION ON AUCTIONED PROPERTIES

Councilman Martorano and Councilman Bianco stated that he and Councilman Bianco would like to see all properties that went out to auction referred to the Open Space Committee and Conservation Board.

Siegel, Murphy, Patel Voting Nay
Bianco, Martorano Voting Aye
Resolution not adopted

Supervisor Siegel stated that this is undoing everything that a majority of the Town Board voted to do. The auction was legally advertised. The Town Board agreed to hire an auction company. The agreement with the company was that these properties would be closed on within 30 days.

Councilman Murphy stated that he is happy that there had been this discussion because he was unaware of certain issues. He would support removing parcels 8 and 9 from consideration tonight and having our advisory boards give us an opinion.

REFER OUT TWO PARCELS OF AUCTIONED PROPERTY
OPEN SPACE COMMITTEE AND CONSERVATION BOARD
586, 566 CROTON HEIGHTS ROAD
RESOLUTION #433

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

Resolved, the Town Board of the Town of Yorktown hereby refers to the Open Space Committee and the Conservation Board the following two (2) parcels of property that were auctioned off on September 29, 2010, and

Be it Further Resolved, that the Open Space Committee and the Conservation Board forward its comments and recommendations to the Town Board before October 12, 2010.

Parcel #8 – 586 Croton Heights Road
Parcel #9 - 566 Croton Heights Road

Councilman Bianco, Murphy, Martorano, Patel Voting Aye
Supervisor Siegel Voting Nay
Resolution adopted.

Supervisor Siegel stated that the Town Board knew that both of these sites were wet. No new information has come forward. Residents of Croton Heights were at the auction as well as the seminar. Everything that was done was done in good faith.

Councilman Martorano spoke about the Town's history of preserving environmentally sensitive property.

PUBLIC HEARING

PROPOSED LOCAL LAW REPEALING CHAPTER 168 OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED "FEES", AMENDING VARIOUS OTHER SECTIONS OF THE CODE RELATING TO LAND DEVELOPMENT APPLICATION FEES AND PERMIT FEES AND RE-ENACTING A CHAPTER 168, ENTITLED MASTER FEE LAW

Supervisor Siegel reconvened the public hearing to consider repealing Chapter 168 of the Code of the Town of Yorktown entitled "FEES", amending various other Sections of the Code of the Town of Yorktown relating to Land Development application fees and permit fees and re-enacting a Chapter 168 entitled "Master Fee Law." Affidavits of Posting and Publication were presented by the Town Clerk.

Supervisor Siegel stated that the Board held a hearing on this issue two weeks ago.

Mr. Aaron Bock, Chairman of the New Yorktown Chamber of Commerce thanked the Town Board for working with the Chamber on this issue. He asked for the addition of the word "reasonably" to Section 168-5 Section B.

The Town Board agreed to the change.

Councilman Murphy thanked the Chamber for working with the Town Board on this proposal.

Mr. Howard Frank stated that there are omissions in the proposals i.e. accessory apartments, building department inspections.

Supervisor Siegel stated that this local law only applies to land development fees.

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

LOCAL LAW #9 OF 2010

REPEALING CHAPTER 168 OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED "FEES", AMENDING VARIOUS OTHER SECTIONS OF THE CODE RELATING TO LAND DEVELOPMENT APPLICATION FEES AND PERMIT FEES AND RE-ENACTING A CHAPTER 168, ENTITLED MASTER FEE LAW RESOLUTION #434

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

WHEREAS, a public hearing was held on the 5th day of October, 2010 pursuant to notice duly published as required by law to repeal Chapter 168 of the Code of the Town of Yorktown Entitled "FEES", amending various other sections of the Code of the Town of

Yorktown relating to Land Development Application Fees and Permit Fees and Re-Enacting a Chapter 168, Entitled Master Fee Law, now therefore be it

RESOLVED that Local Law #9/2010, as annexed hereto, be and is hereby adopted.

The question of the adoption of the foregoing Local Law was duly put to a vote on roll-call, which resulted as follows:

Councilman Bianco	Voting	Aye
Councilman Martorano	Voting	Aye.
Councilman Murphy	Voting	Aye
Councilman Patel	Voting	Aye
Supervisor Siegel	Voting	Aye

Local Law #9/2010 was thereupon declared adopted.

ADOPT MASTER FEE SCHEDULE
RESOLUTION #435

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

RESOLVED, that pursuant to Chapter 168-1 of the Code of the Town of Yorktown, the Town Board hereby adopts the attached Master Fee Schedule setting forth the fees to be charged to applicants in connection with the review of all land development applications and permit fees, and

BE IT FURTHER RESOLVED, that this Master Fee Schedule may be amended from time to time by resolution of the Town Board after prior notice and the holding of a public hearing.

BE IT FURTHER RESOLVED, that this Resolution will take effect when the new Chapter 168, entitled “Fees,” approved by the Yorktown Town Board on October 5, 2010, is filed with the Secretary of State.

Type of Application or Permit	Fee	Original Code Chapter
Residential (1 & 2 family subdivisions)		
Pre-preliminary application	\$100	168-3 (A)
Application: Minor subdivision: up to 4 lots	\$1,080 + \$270/lot	195-22 (A)
Application: Major subdivision: 5 or more lots	\$3,600 + \$450/lot	195-23 (B)
Final application (major subdivision)	\$1,080 + \$90/lot	195-25 (B)
ABACA Review – one family	\$100 + \$100/unit	300-12 (D)
ABACA Review – two family	\$100 + \$175/lot	300-12 (D)
General development fee	\$720/new lot	195-51 (A)
Professional Review Escrow Fee	\$500	(new 168-5)
Recreation	Land or \$10,000/lot	195-16 (B)
Site Plan- Residential		
Pre-application review	\$100	168-3(A)
Application	\$4,500 +\$831/unit	300-247 (A)
ABACA Review	\$150 + \$50/unit	300-12 (D)
General development fee	\$720/unit	195-51 (A)

Professional Review Escrow Fee	\$750	(new 168-5)	
Parkland/Recreation	\$10,000/unit in lieu of land or recreation improvement	300-22 (D)	
Amended parking plan or previously approved and constructed site plan not requiring a building permit	1/2 existing fee	300-247 (A)	
Amended parking plan or site plan for structural changes requiring a building permit	100% of existing fee	300-247 (A)	
Reapproval of parking plan or site plan w/o significant alterations and no building permit	1/4 existing fee	300-247 (A)	
Site Plan - Non-residential			
Pre-preliminary application	\$100	168-3(A)	
Commercial & Industrial	\$3,937+ \$393/acre	300-247 (A)	
Parking plan	\$2,175 + \$281/acre	300-247 (A)	
Professional Review Escrow Fee	\$750	(new 168-5)	
Appeals to ZBA	\$210	300-247 (A)	
ABACA Review	\$250 + \$200/1,000sq ft or less, up to 10,000 sq ft + \$75/add'l 1,000 sq ft	300-12 (D)	
General development fee	\$0.14/sq ft	195-51 (B)	
Reapproval of parking plan or site plan w/o significant alterations and no building permit	1/4 existing fee	300-247 (A)	
Amended parking plan or previously approved and constructed site plan not requiring a building permit	1/2 existing fee	300-247 (A)	
Amended parking plan or site plan for structural changes requiring a building permit	100% of existing fee	300-247 (A)	
Miscellaneous Permits & Fees			
Wetland Permit ¹			
Administrative: Level One	\$300	178-10 (A)	
Administrative: Level Two	\$800 ²	178-10 (A)	
Non-administrative	\$1,800 ³	178-10 (B)	
Erosion & Sediment Control ¹			
Administrative	\$40	165-8 (C)	
Non-administrative (Planning and Town Boards)	\$250	168-8 (C)	
Stormwater	Based on review of application	248-11	
Tree Removal			
Administrative	To be determined	(pending legislation)	
Non-administrative	To be determined	(pending legislation)	
Conservation Area permit	\$525	140-10 (C)	
Floodplain development	\$350	175-11 B)	
Watershed & water supply facilities	\$500 + \$1/sq ft of exterior footprint of structure	300-67 (C)	
SEQRA Fees (One or the other but not both)			
DEIS	.002 x dev cost, including land & building	161-2 (A)	
FEIS	.001 x dev cost, including	161-2 (B)	

	land & building		
<u>Rezoning Applications</u>			
Pre-application	\$100	168-3(A)	
Application	\$100/acre but not less than \$500 or greater than \$3,500	168-3(B)	
Professional Review Escrow Fee	\$750		
<u>Inspection & Monitoring Fees</u>			
Street improvements and utilities	8% of cost of improvements, excluding buildings	195-37 (D); 195-39D	
<u>Special Use Permits</u>			
Initial application	\$625	300-247 (A)	
Renewal application	\$312	300-247 (A)	
Gasoline station	\$1,500	300-247 (A)	

¹ Fees are doubled with issuance of a Stop Work Order

² Includes a \$500 escrow fee

³ Includes a \$1,500 escrow fee

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

CONVENE PUBLIC HEARING
PROPOSED LOCAL LAW REPEALING AND REENACTING CHAPTER 248
ENTITLED STORMWATER MANAGEMENT AND CHAPTER 165 EROSION AND
SEDIMENT CONTROL

Supervisor Siegel reconvened the public hearing to consider repealing Chapter 168 of the Code of the Town of Yorktown to consider repealing Chapter 248 entitled “Stormwater Management” and Chapter 165 of the Code of the Town of Yorktown entitled “Erosion and Sediment Control”, and re-enacting a new Chapter 165 entitled “Stormwater Management and Erosion and Sediment Control.” Affidavits of Posting and Publication were presented by the Town Clerk.

Mr. Bruce Barber, Environmental Consultant for Yorktown explained that this proposal along with the next is being done to comply with the Municipal Separate Storm Sewer System (MS4) Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NYDES) regulations administered by New York State.

This proposal will repeal the existing storm water law as well as the town’s soil erosion and sediment control laws.

This will streamline the process for us. It is cost effective and simpler to enforce.

Mr. Barber stated that he will incorporate comments from the Department of Conservation as well as the Planning Board and hand the Town Board a new version at its next meeting.

Councilman Murphy asked how this would impact the individual homeowner.

Mr. Barber explained that it will impact everyone, but that homeowners will be given help by the E Panel.

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

CONVENE PUBLIC HEARING
PROPOSED LOCAL LAW CREATING A NEW CHAPTER OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED ILLICIT DISCHARGE, CONNECTIONS AND ACTIVITIES

Supervisor Siegel reconvened the public hearing to consider repealing Chapter 168 of the Code of the Town of Yorktown to consider creating a new Chapter of the Code of the Town of Yorktown entitled "Illicit Discharge, Connections and Activities." Affidavits of Posting and Publication were presented by the Town Clerk.

Mr. Barber again explained that this proposal would bring the Town into compliance with current New York State regulations.

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

ADVERTISE PUBLIC HEARING
UPDATE ZONING MAP FOR PERIOD 1991-2009
RESOLUTION #436

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

RESOLVED, that notice is hereby given that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, on November 16, 2010 at The Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights NY 10598; at 7:30 PM, or as soon thereafter as possible on the following matter:

Proposed adoption of a map Titled:

Unofficial Zoning Map Town of Yorktown NY

Prepared by: Town of Yorktown Department of Planning

Dated May 2010, and last revised October 5, 2010

FURTHER RESOLVED, that the purpose of this hearing is to administratively update the current zoning mapping that previous Town Boards have, in the past adopted, in order to rectify any minor irregularities that may have occurred, in adopting such zoning changes, since the last publication of a similar map on January 31, 1991 and be it.

FURTHER RESOLVED, that this proposed action is a Type 2 action under SEQRA, since the action to be undertaken by the Town Board will not change the zoning designation on any parcel in the Town.

A copy of said proposal 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

REZONINGS ASSOCIATED WITH COMPREHENSIVE PLAN ADOPTED
ON JUNE 15, 2010
RESOLUTION #437

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

NOTICE IS HEREBY GIVEN that a public hearing will be convened by the Town Board of the Town of Yorktown, Westchester County, New York, at Yorktown Town Hall Board Room, 363 Underhill Avenue, Yorktown Heights, NY 10598 on Tuesday, November 16, 2010 at 7:30 p.m. or as soon thereafter as the same can be heard. The public hearing will be convened for the public to comment orally and/or in writing upon the proposed changes to the Zoning Text of the Town of Yorktown. This is an excerpt of original notices annexed to the minutes.

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

ADVERTISE BID
2011 FORD F550 4X4 TRUCK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
RESOLUTION #438

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

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, October 18, 2010 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598 for the purchase of One (1) 2011 Ford F550 4x4 Truck for use in the Environmental Conservation 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.

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

AWARD BID
THREE (3) FRONT DISCHARGE WITH CROSS CONVEYER
MULTI PURPOSE ALL SEASON DUMP BODIES
RESOLUTION #439

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

WHEREAS, invitation to bid for the (3) Front Discharge with Cross Conveyer Multi-Purpose All Season Dump for the Highway Department was duly advertised, and

WHEREAS, said bids were received and opened on September 7, 2010, with the bid amounts for the above-referenced project summarized as follows:

Henderson Truck Equipment NY 22686 Fisher Road Watertown, NY 13601	\$24,067.96 Per
Amthor Welding Inc.	\$27,593.00 Per

20 Osprey Lane
Gardner, NY 12525

RESOLVED, that upon the recommendation of the Highway Superintendent, Eric DiBartolo, the bid for the (3) Front Discharge with Cross Conveyer Multi-Purpose All Season Dump be and is hereby awarded to Henderson Truck Equipment NY., in the amount of \$24,067.96 Per Front Discharge with Cross Conveyors, the lowest responsible bidder.

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

APPROVE CERTIORARI SETTLEMENT
FOR YEARS 2007, 2008, 2009 – PARCEL 16.17, BLOCK 1, LOT 5
RESOLUTION #440

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

WHEREAS, tax certiorari proceedings were instituted challenging the assessment for parcel known as Section 16.17, Block 1, Lot 5 located at 950 East Main St., on the Tax Map of the Town of Yorktown, now therefore be it

RESOLVED, that the tax certiorari proceedings affecting tax parcel 16.17-1-5, as mentioned above for assessment roll years 2007, 2008, 2009 be settled as set forth in the proposed stipulation as follows:

Assessment Year	AV Tax Year	AV From	To	Reduction
2007	2008	\$81,250	\$72,650	\$8,600
2008	2009	\$81,250	\$76,150	\$5,100
2009	2010	\$73,000	\$69,300	\$3,700

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

ACCEPT BOND AND FEE
VILLAGE TRADITIONS – SITE PLAN
RESOLUTION #441

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

WHEREAS, Timothy Mallon, as applicant and developer, provided the Town with Check #4476, in the amount of \$132,380.00, to serve as the Performance Bond for the Village Traditions Site Plan located on Route 6; and

WHEREAS, Timothy Mallon, as applicant and developer, provided the Town with Check #4477, in the amount of \$20,000.00 to serve as the Erosion Control Bond; and

WHEREAS, Timothy Mallon, as applicant and developer, provided the Town with Check #4478, in the amount of \$12,190.00, to serve as the 8% Inspection Fees; NOW, THEREFORE BE IT

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

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

RELEASE ESCROW DEPOSIT
STREET OPENING PERMIT #009-008 - \$18,800.00
RESOLUTION #442

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

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:

<u>Type of Permit</u>	<u>Permit #</u>	<u>Amount</u>	<u>Location</u>	<u>Refund to</u>
Street Opening	009-008	\$18,800.00	475 E. Main St.	Turnquist Architects 95 Beekman Ave. Sleepy Hollow, NY, 10591

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

AGREEMENT WITH METROPCS NEW YORK LLC,
FOR COLLOCATED FACILITY ON THE EXISTING TELECOMMUNICATIONS
FACILITY - DARBY STREET
RESOLUTION #443

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

WHEREAS, MetroPCS submitted one or more applications to the Town for issuance of a building permit (the "Permit") to collocate a wireless communications facility on a certain 150' cell tall tower situated at 1750 Darby Street, Yorktown, New York on land owned by the Town (the "Premises"); and

WHEREAS, on August 31, 2010, the Town Board passed a resolution stating that the 2009 lease extension agreement with STC Five, LLC for the cell tower located at 1750 Darby Street is subject to permissive referendum, and directed the Town Clerk to publish and post such resolution; and

WHEREAS, the August 31, 2010 resolution was posted and published on September 8, 2010 and members of the public have a period of thirty (30) days commencing September 8, 2010 and ending October 8, 2010 (the "Public Protest Period") to challenge the resolution; and

WHEREAS, MetroPCS seeks, without further delay, to mount the antennas on the Tower, install the unmanned equipment in the At-Grade Expansion Area and perform such other work as may be required within the Premises pursuant to a Permit issued by the Town for its collocated wireless facility; and

WHEREAS, MetroPCS agrees to dismantle all work performed and restore the Premises to its original condition in the event that a third party having standing commences within the Public Protest Period a challenge to the right of MetroPCS to install and operate its collocated facility and thereafter succeeds in such challenge within the time period prescribed by applicable local law; and indemnify the Town in connection therewith; SO, THEREFORE BE IT

RESOLVED, the Town Board authorizes the Town Supervisor to enter into an agreement with MetroPCS New York LLC in accordance with the terms and conditions set forth therein.

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

SUPERSEDE RESOLUTION #404 OF 2010
RELATING TO NYSEG

RESOLUTION #444

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

WHEREAS, the New York State Electric & Gas Corporation (NYSEG) has requested a 10-foot wide easement across Darby Street in order to add electrical service to the cell phone tower located on French Hill in connection with a recently renewed lease between the Town and AT&T; and

WHEREAS, the town board passed resolution No. 404 dated September 7, 2010, authorizing the supervisor to execute an easement using a description of the easement that is different than the one now proposed to be used;

BE IT HEREBY RESOLVED BY THE TOWN BOARD AS FOLLOWS:

That Resolution No. 404 dated September 7, 2010, is hereby rescinded and superseded, and

That the Board has determined that the grant of a utility easement in connection with a lease renewal where there will be no material change in permit conditions or the scope of permitted activities is a Type II action under Section 617.5(c) of the New York State SEQRA regulations requiring no further review; and

That the Town Board authorizes the Supervisor to execute and deliver a certain Easement to New York State Electric & Gas Company (NYSEG), which once granted will permit NYSEG to cable underground to serve the Crown Castle cell phone tower project on Town property located at Darby Street, as shown on the engineering drawings submitted by NYSEG to the Town Attorney's Office, dated September 29, 2010, and more fully described in the easement being presented;

That this resolution is subject to permissive referendum and shall be posted and advertised accordingly.

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

AUTHORIZE EXTENSION OF BI-ANNUAL BROCHURE BID
TO COURIER PRINTING – JANUARY 1, 2011-DECEMBER 31, 2011
RESOLUTION #445

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

RESOLVED, that the Town Board authorizes the extension of the Yorktown Department of Parks and Recreation Bi-Annual Brochure Bid, which was awarded to Courier Printing Corporation, 24 Laurel Bank Avenue, Deposit, NY 13754, per the terms of the contract for one additional year, January 1, 2011 through December 31, 2011.

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

AWARD CONTRACT
POSITIVE ENERGY SERVICES – INSTALLATION OF NEW LIGHTING IN THE
YCCC PARKING LOT AND WALKING TRAIL
RESOLUTION #446

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

WHEREAS, the Town Board of the Town of Yorktown has received quotes for the installation of lighting along the Yorktown Community and Cultural Center parking lot; and walking track; and

WHEREAS this project has been approved by the Department of Energy, and completely funded by the Department of Energy Federal Grant DE-EE0002487, part of the American Recovery and Reinvestment Act; and.

WHEREAS the Town has received the following two (2) quotes in response to the RFP

Positive Energy Services

11 Mega Lane

Carmel, NY 10512

YCCC lighting along the parking lot and walking track. \$16,500.00

P&M Electric, Inc.

1775 Front Street

Yorktown Heights, NY 10598

YCCC lighting along the parking lot and walking track. \$18,301.00

WHEREAS, the Town's Environmental Consultant recommends the award be given to Positive Energy Services as the lowest bidder; and

BE IT RESOLVED that the Town Board authorizes the Supervisor of the Town of Yorktown to execute a contract for work described above with Positive Energy Services, 11 Mega Lane, Carmel, NY 10512 as the low bidder. All costs for this project are to be taken from the Department of Energy, Energy and Efficiency Conservation Block Grant Monies.

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

AWARD CONTRACT

POSITIVE ENERGY SERVICES – INSTALLATION OF SOLAR TUBE SKYLIGHTS AND CONTROLS IN THE CHILDREN'S ROOM OF THE JOHN C. HART MEMORIAL LIBRARY

RESOLUTION #447

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

WHEREAS, the Town Board of the Town of Yorktown has received quotes for the installation of solartube skylights, and controls at the John C. Hart Memorial Library children's reading room; and

WHEREAS this project has been approved by the Department of Energy, and completely funded by the Department of Energy Federal Grant DE-EE0002487, part of the American Recovery and Reinvestment Act; and.

WHEREAS the Town has received the follow two (2) quotes in response to the RFP

Positive Energy Services

11 Mega Lane

Carmel, NY 10512

Installation of 8 Solartube skylights & controls \$15,449.00

P&M Electric

1775 Front Street

Yorktown Heights, NY 10598

Installation of 8 Solartube skylights & controls \$22,790.00

WHEREAS, the Town's Environmental Consultant recommends the award be given to Positive Energy Services as the lowest bidder; and

BE IT RESOLVED that the Town Board authorizes the Supervisor of the Town of Yorktown to execute a contract for work described above with Positive Energy Services, 11 Mega Lane, Carmel, NY 10512 as the low bidder. All costs for this project are to be taken from the Department of Energy, Energy and Efficiency Conservation Block Grant Monies.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye

Resolution adopted.

ACCEPT DONATION
CAR AND RADIOS FROM THE YORKTOWN HEIGHTS FIRE DISTRICT
RESOLUTION #448

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

WHEREAS, the Yorktown Heights Fire District has equipment that is no longer serviceable with the Yorktown Heights Fire District, and

WHEREAS, the unserviceable equipment consists of:

1. a 1999, Ford, Expedition, four door, 4x4, VIN #1FMPU18L6XLA92159, and
2. a Motorola portable radio, model HT1000 serial #168-402TYN5437Z, and
3. a Motorola portable radio, model HT1000 serial #169-402TZL0899Z, and
4. a Motorola portable radio, model HT1000 serial #170-402TZL0926Z, and
5. a Motorola portable radio, model HT1000 serial #171-402TZS5678Z, and

WHEREAS, the Yorktown Heights Fire District desires to donate said equipment to the Yorktown Police Department for use by the Police Department, and

WHEREAS, said donated vehicle will be used by the Yorktown Police Department to supplement the Department's police vehicle fleet, and

WHEREAS, said donated portable radios will be used by the Yorktown Police Department to supplement the Department's radio equipment.

NOW THEREFORE BE IT RESOLVED, that the Town Board accepts, with gratitude, the Yorktown Heights Fire District donation of a vehicle and four portable radios to be used by the Police Department.

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

WAIVE INTEREST OR PENALTIES DUE 2010 TOWN AND COUNTY TAXES FOR
TEN (10) FORECLOSED PROPERTIES
RESOLUTION #449

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

WHEREAS, the Town of Yorktown foreclosed on the properties identified below, and

WHEREAS, these properties have current 2010 Town and County taxes due in the amounts beside each parcel,

NOW, THEREFORE BE IT RESOLVED, the Receiver of Taxes is hereby directed to accept the 2010 Town and County taxes due from the Town of Yorktown in the amounts listed;

BE IT FURTHER RESOLVED, the Receiver of Taxes is hereby directed to waive any interest or penalty due on the 2010 Town and County taxes for the listed parcels.

Sec/block/lot	Street Address	2010 Town/Co Taxes Without penalty or interest
59.10-2-13	Bronx Road	\$181.52
59.10-2-31	496 Vine Road	\$ 75.46
16.13-2-49	1281 Ivy Road	\$4,108.48
25.08-2-74	1569 Wenonah Trail	\$240.07
25.11-1-4	3050 Lexington Avenue	\$334.65
37.09-1-83	Crompond Road	\$ 46.19

37.11-1-42	2285 Saw Mill River Road	\$354.11
48.18-2-37	586 Croton Heights Road	\$483.26
48.18-2-39	566 Croton Heights Road	\$418.50
17.9-1-41	299 Lewis Avenue	<u>\$3,698.30</u>
	Total	\$9,940.54

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

EXTINGUISH ALL OUTSTANDING TAXES DUE ON TEN (10) FORECLOSED PROPERTIES
RESOLUTION #450

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

WHEREAS, the Town of Yorktown foreclosed on the parcels listed below, and

WHEREAS, at a public auction held September 29, 2010, all the listed parcels were sold free of any outstanding taxes, and

WHEREAS, the records of the Receiver of Taxes still indicate the following lien totals:

Sec/block/lot	Street Address	Liens outstanding Without interest
59.10-2-13	Bronx Road	\$6,047.43
59.10-2-31	496 Vine Road	\$2,051.82
16.13-2-49	1281 Ivy Road	\$138,906.33
25.08-2-74	1569 Wenonah Trail	\$22,950.64
25.11-1-4	3050 Lexington Avenue	\$152,743.64
37.09-1-83	Crompond Road	\$947.03
37.11-1-42	2285 Saw Mill River Road	\$11,831.42
48.18-2-37	586 Croton Heights Road	\$15,215.56
48.18-2-39	566 Croton Heights Road	\$12,750.42
17.9-1-41	299 Lewis Avenue	<u>\$123,720.84</u>
	Total	\$487,165.13

NOW, THEREFORE BE IT RESOLVED, the Receiver of Taxes is hereby directed to extinguish the above described liens.

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

ACCEPT BIDS FROM THE AUCTION FOR TEN (10) FORECLOSED PROPERTIES
RESOLUTION #451

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

WHEREAS, The Town of Yorktown is the owner of ten (10) properties, all of which were acquired by tax lien foreclosure, and the Town has determined that said properties are not needed for Town use, and should therefore be sold; and

WHEREAS, a public auction was held on September 29, 2010 in Town Hall, prior notice of which was duly published in the North County News and duly posted on the Town Clerk's bulletin board, as authorized by Town Board Resolution Number 394 dated August 31, 2010, as amended by Resolution Number 402 dated September 7, 2010; and

WHEREAS, the Town has received and considered bids on said properties, and has made a determination as to the winning bids;

NOW, THEREFORE BE IT RESOLVED that the Town Board does hereby accept the bid of the respective bidder listed below to purchase the said respective property, in the amount listed next to the bidder's name; and be it further

RESOLVED, that the Town attorney is hereby authorized to prepare and have executed all documents necessary to effectuate the sale of the properties located at the addresses and Tax Map Numbers listed below, subject to the following conditions:

The Town will convey each parcel by Quit-Claim Deed, subject to any and all conditions, restrictions, zoning, actions of Town and/or building inspectors, etc. affecting the said parcel or premises and to such facts as would be disclosed by a survey and inspection; the Town further will make no warranty or representation as to the condition, dimensions, location or physical existence of the property described herein, or to the marketability of its title, and the purchaser will assume all risk thereof.

The Town Board voted on each parcel individually as follows:

PARCEL 59.10-2-13
BRONX ROAD
RESOLUTION #452

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

Sec/block/lot	Street Address	Bid Price	Buyer
59.10-2-13	Bronx Road	\$1,250.00	MD Anissuzzaman

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

PARCEL 59.10-2-31
496 VINE ROAD
RESOLUTION #453

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

Sec/block/lot	Address	Bid Price	Buyer
59.10-2-31	496 Vine Road	\$1,000.00	MD Anissuzzaman

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

PARCEL 16.13-2-49
1281 IVY ROAD
RESOLUTION #454

Upon motion made by Councilman Martorano, seconded by Councilman Bianco

Sec/block/lot	Address	Bid Price	Buyer
16.13-2-49	1281 Ivy Road	\$165,000.00	Ana P. Arvela

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

PARCEL 25.08-2-74
1569 WENONAH TRAIL
RESOLUTION #455

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

Sec/block/lot	Address	Bid Price	Buyer
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RESOLVED, the Town Clerk is authorized to refer out the rezonings associated with the Comprehensive Plan adopted on June 15, 2010 to the following town agencies:

Engineering
Building
Water
Highway
Parks
Environmental Conservation
Conservation
Bruce Barber
Open Space
Town Attorney
Town Clerk
Town Board (5)

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

REFUND DUPLICATE TAX PAYMENTS

ACCOUNT #

RESOLUTION #461

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

RESOLVED, that records of the Receiver of Taxes indicate that the following duplicate payments were made:

<u>Tax & Year</u>	<u>Property</u>	<u>Amount</u>	<u>Refund to:</u>
2010 Town/Cty	25.08-1-36	\$3,608.19	Chase Home Finance Attn: refund dept. 1 Corelogic Drive Westlake, Tx 76262

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

COURTESY OF THE FLOOR

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

Sherry Hughes stated that she was upset by certain comments from the Supervisor. What her community is asking the Town Board to do is have your Conservation Board look at these two parcels. Possible development on these properties would be unfair.

Mr. Mark Michael echoed Mrs. Hughes comments. He spoke about the various laws that he believes protects wetlands in the Town of Yorktown. Mr. Michael stated that it was very difficult getting environmental information from the Town about these two properties.

Mrs. Patricia Michaels stated that she was also disturbed by the process.

Ms. Gina Serafin stated that she and her neighbors did do their due diligence. She explained that it was difficult getting anyone to show us a hydrology map. Parcel 39 was purchased by a gentleman who owns parcel 38. We don't know what his intentions are, but we do know that most of the wetlands are on parcel 39.

The Chairman of the Croton Heights Association stated that what he heard tonight was a lot of passion and the fact that the Town does not want the property. It should be obvious to you that our community does want the property and we want it placed back on the tax roll with a wetland designation. For more than twenty five years, nothing has been done

with this property. Today, it is wild and magnificent. It is a functioning wetland and any deed must say no development.

Highway Superintendent asked the Town Board who Mr. LaPierre was representing as a liaison when he called Henderson Auto Bodies. He further stated that there is a state bid for truck bodies, but you must purchase the chassis.

Mr. Steve Gardner spoke about activity which he stated that he saw at the 7 Stars Diner on Route 6. He wanted to know why the Highway Superintendent and Deputy Highway Superintendent were at this site. Mr. Gardner also stated that prior Highway Superintendents always drove hand me down cars.

Highway Superintendent DiBartolo stated that after working through the night because of a storm, he did in fact go to the old 7 Stars Diner to go to the restroom. Upon leaving the establishment, he was confronted by Mr. Gardner with a camera in his face. He welcomes anyone who would like to ride with him through a storm if they wanted to know what he does.

COURTESY OF THE FLOOR IS CLOSED

Supervisor Siegel responded to some of the comments by stating:

She doesn't know who Mr. LaPierre was representing as a liaison.

Speaking to the Croton Heights neighborhood, Mrs. Siegel stated that many of the residents of this area came to the pre-bid seminar as well as the auction. The auctioneer made it very clear that it was up to the buyer to do their own due diligence. Some people investigated these properties so well that we found additional liens. More than one person did their due diligence. Others inspected the properties inside as well as walked the outside of the property.

ADJOURN

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

Alice E. Roker
Town Clerk
Town of Yorktown