

Meeting of the Town Board, Town of Yorktown held on Tuesday, March 1, 2022 held in Yorktown Heights, New York 10598.

Present: Matthew J. Slater, Supervisor
Thomas P. Diana, Councilman
Sergio Esposito, Councilman
Luciana Haughwout, Councilwoman
Edward Lachterman, Councilman

Also Present: Diana L. Quast, Town Clerk
Maura Weissleder, Deputy Town Clerk
Adam Rodriguez, Town Attorney

TOWN BOARD MEETING

Supervisor Matthew Slater called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Lachterman, seconded by Councilman Esposito, the Town Board moved into Executive Session to discuss the employment of a particular person and Litigation. Upon motion made by Councilman Diana, seconded by Councilman Lachterman, the Town Board moved out of Executive Session and proceeded with the meeting.

PLEDGE OF ALLEGIANCE

Supervisor Slater led the Pledge of Allegiance.

MOMENT OF SILENCE

Supervisor Slater introduced Rabbi Heber of the Chabad of Yorktown and Father Quarato of St. Elizabeth Ann Seton for a special moment of silence. They both prayed for peace in the Ukraine. Supervisor Slater thanked Councilman Diana for arranging the prayer. Councilman Diana said he thought it appropriate during this troubled time that we remember those in Ukraine and those armed forces fighting to help them. Supervisor Slater asked for a moment of silence for all those fighting for freedom across the globe.

INTRODUCTIONS

Supervisor Slater introduced himself and the Town Board members, as well as Town Clerk Diana Quast, and Town Attorney Adam Rodriguez.

DURING REPORTS FROM TOWN SUPERVISOR MATTHEW SLATER

Supervisor Slater reported on recent Town events and updates, including the following:

- COVID update
- Online petition against Con Edison's proposed rate hike now has over 450 signatures.
- Unpaid water and sewer bills will be re-levied, which is standard procedure for the Town. The unpaid balances will be added on to your tax bill.
- A letter was sent to the Department of Environmental Conservation requesting an extension of the comment period for the draft SPEDES General Permit to April 15, 2022. This is something municipalities across the region (East of Hudson Watershed, specifically), as it relates to the MS4 mandate, are dealing with.
- The Engineering Department is putting forward an application to be one of fifty municipalities to work with DEC as it relates to implementing an asset management program for our water withdrawal reporting and technical assistance to protect drinking water.
- Information on the Household Water Assistance Program through New York State will be posted on the Town's website. Eligibility and benefits are based on income. The benefits are based on the actual amount of drinking water and/or wastewater, up to a maximum of \$2,500 per drinking water or wastewater provider or \$5,000 if drinking water or wastewater services are combined per household.

REPORTS FROM TOWN COUNCIL

Members of the Town Council reported on recent Town events and public service announcements.

POET LAUREATE

John McMullen, Poet Laureate, read his original poem, "Democracy."

PUBLIC HEARING

Supervisor Matthew Slater convened a public hearing to consider amending Chapter 108 of the Code of the Town of Yorktown entitled, "ALCOHOLIC BEVERAGES" as follows:

Section I. Replacing Section 108-7(A) of the Code of the Town of Yorktown is hereby amended by "§28-9" with "§108-9."

Section II. Section 108-8(E) of the Code of the Town of Yorktown is hereby replaced in its entirety with the following language:

Permits shall not be issued for the possession, consumption or sale of alcoholic beverages in public parks in the Town of Yorktown, except such permits may be granted for: (1) the possession, consumption and sale of alcoholic beverages at the Par 3 Golf Course and Railroad Park; and (2) the possession and consumption of alcoholic beverages at the Downing Park Pavilion and the Sparkle Lake Service Building.

No Public Comment was received.

Town Clerk Quast showed the affidavit of publication for the public hearing.

Parks and Recreation Superintendent James Martorano said, to be clear, the Town is not looking to allow alcohol in all of its parks. It will allow alcohol consumption in four parks under certain guidance provided by the Town Clerk's office and his department. The locations are the Par 3 Golf Course, Railroad Park where Town events are held, the Sparkle Lake Service Building where family functions may be held, and Downing Park where family functions are also held.

Supervisor Slater said this is not a blanket authorization; if alcohol is going to be sold authorization is needed by the Town and the State Liquor Authority. It will require multiple levels of approval, depending upon the situation. Private parties would need approval by the Town.

Councilwoman Haughwout wanted to remind the community that the new Parks and Recreation Brochure would be coming out soon and asked if anyone is interested in purchasing an ad in the new brochure to support the Parks and Recreation's programs, they can contact Superintendent Martorano.

Councilman Lachterman said he has been talking about this for a long time and is in favor of the law, as is Councilman Diana.

Town Clerk Quast said her office already issues these permits for other locations in Town and these four locations were not included because the Code states you cannot have alcohol in parks.

Supervisor Slater said the selling of alcohol would only be allowed in two of the four locations – Par 3 Golf Course and Railroad Park.

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

ADOPT LOCAL LAW #2 OF 2022 AMENDING CHAPTER 108 OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED "ALCOHOLIC BEVERAGES"
RESOLUTION #127

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

WHEREAS, a public hearing was held on the 1st day of March, 2022 pursuant to notice duly published as required by law to consider the adoption of a proposed Local Law amending Chapter 108 of the Code of the Town of Yorktown entitled, "ALCOHOLIC BEVERAGES" as follows:

Section III. Replacing Section 108-7(A) of the Code of the Town of Yorktown is hereby amended by "§28-9" with "§108-9."

Section IV. Section 108-8(E) of the Code of the Town of Yorktown is hereby replaced in its entirety with the following language:

Permits shall not be issued for the possession, consumption or sale of alcoholic beverages in public parks in the Town of Yorktown, except such permits may be granted for: (1) the possession, consumption and sale of alcoholic beverages at the Par 3 Golf Course and Railroad Park; and (2) the possession and consumption of alcoholic beverages at the Downing Park Pavilion and the Sparkle Lake Service Building.

NOW, THEREFORE, BE IT RESOLVED that Local Law No. 2 of 2022, be and is hereby adopted.

Slater, Diana, Lachterman, Patel, Roker Voting Aye
Local Law No. 2 of 2022 was thereupon declared adopted.

DURING COURTESY OF THE FLOOR.

The following members of the public spoke:

- Susan Siegel, resident, asked that when the public hearing for the Solar Law Amendment is scheduled if the Town would explain the changes that are being proposed. She also asked when Town Board discussed the changes since the last week's public hearing; there has been no other public meeting. She said that obviously the Town Board came to some agreement on what was going to be changed. She is hoping some of the changes would incorporate the suggestions made by herself and other residents.
- Dan Strauss, resident, spoke about the Tree Law. He said it is devastating to the Town to cut down thousands of trees to put up solar farms and that it attacks the fabric of Yorktown. He also spoke about mitigation and said that mitigation does not replace thousands of cut mature trees; it just puts up new trees. Mr. Strauss also raised the issue of the property at Route 6 and Strawberry Road where used cars were not to be seen from Route 6 and they have been visible for the last 4.5 years. Mitigation was supposed to be done and was never enforced. He asked to Town Board to enforce the mitigation on this property.
- John McMullen, resident, said the whole movement for clean energy is not just for us but for future generations and there has to be a balance.
- Ed Ciffone, resident, said he retired as president of United Taxpayers of Yorktown but no one wants to take over. He spoke about the increase in oil prices and how people cannot keep up. Mr. Ciffone also spoke of a personnel issue he had as a former employee of the Town and the Town Board asked him to speak about this issue privately.

Upon motion made by Councilman Diana, seconded by Councilman Lachterman, Courtesy of the Floor was closed.

The Town Board members responded to questions and issues raised during Courtesy of the Floor, including the following:

Councilman Lachterman said Mr. McMullen hit the mark about the balance that has to be achieved between cutting trees and installing solar, particularly with the exorbitant cost of gas, oil, and electricity. He said even solar is not as good an option as it was because its costs have also increased. Councilman Lachterman said he believes the changes in the Solar Law will protect 80% of the Town regarding where the solar installations would be permitted. He also said no one is going to be 100% when a balance is trying to be achieved.

Councilman Diana said the Town wanted to make the best law possible, acknowledging Ms. Siegel's remarks. He addressed Mr. Strauss and said the property at Route 6 and Strawberry Road had made changes according to their site plan. He asked if Director of Planning, John Tegeder, would address the issue. Mr. Tegeder said at the time when the trees were removed, when the owner was redoing his site plan, the tree mitigation under the law would probably not have recommended fencing and low shrubs, which were put there. He said he did not think it was mitigation related to the tree removal; he believes the Town Board recognized that they did not think that seeing the cars and the car lot was the most attractive thing to see so they might have wanted to soften that and put up the intermittent fencing and shrubs. Mr. Tegeder said he believes

that was the intent. He said if the fence has fallen down or bushes died, the enforcement would be to send a code enforcement authority to give a violation or site plan violation. He said it is enforceable under the site plan and not the Tree Law. Councilman Diana spoke about a site visit he made to the location. He said there was an agreement for the owner not to put signs on the cars, which the owner has abided by. He said the owner is trying to get Gulf to come up with a sign so it can be redone. Mr. Tegeder said the owner was also asked to replace the old “Welcome to Shrub Oak” sign.

Councilman Lachterman said mitigation is a mechanism to give relief in situations that require it. The law is supposed to have some flexibility and be able to preserve the land rights of the property owner. It is important to keep in mind that these mechanisms are in the laws specifically because they are meant to be used. He said he sometimes feels that people lose sight of that.

Councilman Diana said regarding the property at Route 6 and Strawberry Road, there is an issue with the state DOT who need to dig out the culvert so that the water runs freely through there but they have to go through much permitting.

Councilman Esposito said he agreed with Mr. Strauss that the Town was headed to becoming a town of solar farms but felt that the amendments to the Solar Law that are being proposed would prevent that from happening. He said the need for renewable energy is outpacing the developing technology in its production.

Councilwoman Haughwout said it is time to move forward with solar energy. We need to come up with a better plan for replanting trees in areas where they are most needed and not necessarily in the areas where they were removed.

Councilman Esposito said that this country is not producing enough energy to sustain ourselves and are reliant on other countries (i.e., Russia) for our fuel, which puts us in a difficult position (especially now with the situation in the Ukraine).

Supervisor Slater, addressing Mr. Strauss, said he is going to ask the Building Inspector and the Code Enforcement Officer to look at the gas station to make sure they are adhering to their site plan approval. He said, according to the Town Assessor, of the 10,803 residential properties in the Town of Yorktown, 8,522 are less than one acre so by increasing the threshold to 2 acres, you are preventing 80% of the residential properties in Yorktown from qualifying for large-scale solar projects. He credited this proposed change to Councilman Diana.

REAPPOINT ROBERT FAHEY, WILLIAM GREGORY AND GORDON FINE AS MEMBERS OF THE ZONING BOARD OF APPEALS
RESOLUTION #128

Upon motion made by Councilwoman Haughwout, seconded by Councilman Lachterman,

RESOLVED, that Robert Fahey, William Gregory and Gordon Fine are hereby reappointed to serve as members of the Zoning Board of Appeals, for terms retroactive to January 1, 2022 through December 31, 2026; and

BE IT FURTHER RESOLVED, that Gordon Fine shall continue to serve as Chairman of the Zoning Board of Appeals.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE TOWN CLERK TO ADVERTISE A PUBLIC HEARING TO AMEND CHAPTER 300-81.4 ENTITLED “SOLAR POWER GENERATION SYSTEMS AND FACILITIES AND SET PUBLIC HEARING FOR MARCH 22, 2022
RESOLUTION #129

Upon motion made by Councilman Esposito, seconded by Councilman Diana,

Authorize Town Clerk to advertise a public hearing to amend a proposed Local Law regarding Chapter 300-81.4 entitled “Solar Power Generation Systems and Facilities.” and set the public hearing for Tuesday, March 22, 2022 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York at 7:30 o’clock PM, or as soon thereafter as the same can be heard.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE TOWN CLERK TO REFER OUT A PROPOSED LOCAL LAW TO
CONSIDER ADDING A NEW CHAPTER ENTITLED, "COMMUNITY CHOICE
AGGREGATION (ENERGY) PROGRAM"
RESOLUTION #130

Upon motion made by Councilman Esposito, seconded by Councilman Diana,

RESOLVED, that the Town Clerk is authorized to refer out a proposed Local Law to consider adding a new Chapter entitled, "COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM."

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE TOWN CLERK TO SET A PUBLIC HEARING TO CONSIDER ADDING A
NEW CHAPTER ENTITLED, "COMMUNITY CHOICE AGGREGATION (ENERGY)
PROGRAM"
RESOLUTION #131

Upon motion made by Councilman Esposito, seconded by Councilman Diana,

NOTICE IS HEREBY GIVEN that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York on Tuesday, March 22, 2022, at 363 Underhill Avenue, Yorktown Heights, New York 10598 at 7:30 PM, or as soon thereafter as the same can be heard.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

INVESTIGATIVE REPORT FROM BUILDING INSPECTOR REGARDING PROPERTY
LOCATED AT 3148 HEARTHSTONE COURT
RESOLUTION #132

Upon motion made by Councilman Esposito, seconded by Councilman Diana,

WHEREAS, the Town Board has considered the Investigative Report of Building Inspector Landi concerning the building at 3148 Hearthstone Court ("Building"), which Report found the Building to be unsafe and dangerous; and

WHEREAS, the Report recommends that the Building be demolished and removed;

WHEREAS, the Building presents a clear and imminent danger to life, safety and health; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board adopts the Report's recommendations; and

BE IT FURTHER RESOLVED, that the Town Board determines that the Building is dangerous, unsafe, presents an emergency situation under Town Code section 135-11, and is in immediate need of being secured; and

BE IT FURTHER RESOLVED, that the Building Inspector is authorized to immediately cause the Building to be secured by way of a chain link or other fencing and locking mechanisms; and

BE IT FURTHER RESOLVED, that the expenses of such securing shall be a charge against the land on which the Building is located, under Town Code section 135-11; and

BE IT FURTHER RESOLVED, that a copy of this resolution shall be served by the Building Inspector in accordance with Town Code section 135-7.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

ADDITIONAL TOWN BOARD MEETING

RESOLUTION #133

Upon motion made by Councilman Esposito, seconded by Councilman Diana,

RESOLVED, the Town Board of the Town of Yorktown will hold an additional work session on Wednesday, March 16, 2022 at 6:00 p.m. at the Town Hall, 363 Underhill Avenue, Yorktown, NY 10598. The Town Board will immediately vote to move into an Executive Session to conduct interviews for volunteer boards, committees, and commissions.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN APPLICATION FOR THE STATE AND MUNICIPAL FACILITIES CAPITAL PROGRAM (SAM) GRANT FOR THE JOHN C. HART MEMORIAL LIBRARY

RESOLUTION #134

Upon motion made by Councilman Esposito, seconded by Councilman Diana,

BE IT RESOLVED, that the Supervisor is authorized to sign an application for the State and Municipal Facilities Capital Program (SAM) Grant for the John C. Hart Memorial Library in the amount \$50,000, entitled Network Wiring and Elevator Upgrade, to be submitted to Senator Peter Harckham's Office for consideration on March 1, 2022.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

ACCEPT MONTHLY REPORTS

Resolved, the Town Board accepted the Monthly Reports from the following departments:

Finance Department – February 2022

Receiver of Taxes – February 2022

Town Clerk – February 2022

Supervisor Slater asked the Town Attorney to address Ms. Siegel's question regarding the publication of the Solar Law's public hearing. Mr. Rodriguez said the changes are to address pending applications.

ADJOURN

Upon motion made by Councilman Diana, seconded by Councilman Lachterman, the Town Board meeting was adjourned.

DIANA L. QUAST, TOWN CLERK
TOWN OF YORKTOWN
CERTIFIED MUNICIPAL CLERK