

Work Session held by the Town Board, Town of Yorktown on December 14, 2010. Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

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

**EXECUTIVE SESSION**

Councilman Martorano motioned, seconded by Councilman Murphy, to move into Executive Session to discuss litigation.

**WORK SESSION**

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

**ACCEPT TAX CERTIORARI SETTLEMENT**

**NEW CHALET HOMES**

**RESOLUTION #571**

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

WHEREAS, tax certiorari proceeding were instituted by New Chalet, Inc. challenging the aggregate assessment for Section 3.06, Parcel 130, Lot 1.1 through 24.6, totaling 203 individual condominium units, located on New Chalet Drive and

WHEREAS, the 203 individual condominium unit assessments will be determined by its percent share of the aggregate value, now therefore be it

RESOLVED, that the tax certiorari proceedings affecting the aggregate value of New Chalet Condominiums, as mentioned above for assessment roll years 2009, 2008, 2007, 2006, 2005, 2004, 2003 and 2002, be settled as set forth in the proposed stipulation as follows:

<b><u>Tax Year</u></b>	<b><u>Assessment Year</u></b>	<b><u>Total AV</u></b>	<b><u>Proposed MV</u></b>	<b><u>Proposed AV</u></b>	<b><u>Proposed Reduction</u></b>
2010	2009	\$575,250	\$25,000,000	\$550,000	\$25,250
2009	2008	\$575,250	\$25,000,000	\$525,000	\$50,250
2008	2007	\$575,250	\$25,000,000	\$492,500	\$82,750
2007	2006	\$575,250	\$24,000,000	\$482,400	\$92,850
2006	2005	\$575,250	\$23,000,000	\$529,000	\$46,250
2005	2004	\$575,250	\$22,500,000	\$553,500	\$21,750
2004	2003	\$575,250	\$22,000,000	\$569,800	\$5,450
2003	2002	\$575,250	\$21,000,000	\$575,250	\$0

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

**TREE ORDINANCE**

**LOCAL LAW #16 OF 2010**

**RESOLUTION #572**

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

Councilman Bianco stated that he supports this legislation and will be voting in favor of it tonight.

Councilman Patel also expressed his support for the legislation and will also be voting aye.

Councilman Murphy began his discussion by thanking Mrs. Kutter and Mrs. Miller and the Tree Commission for drafting this legislation. He further stated that he cannot support the legislation. He has been on both sides of this issue and has received too many telephone calls from residents who do not want to see this legislation go into effect.

Councilman Martorano stated that he had mixed feelings about this proposal for a number of reasons. He believes that the government is passing too many laws. But, he believes that the greatest legacy that this board will leave is one of environmental conservation. The Councilman was happy to see the flow chart. He will be voting in favor of the law.

Supervisor Siegel thanked Mrs. Kutter, Mrs. Miller and the Tree Commission for their work on this legislation. This law protects the function of trees. It is not restrictive for homeowners. It is not retroactive. It will not go into effect for sixty (60) days.

WHEREAS, a public hearing was reconvened on December 7, 2010, pursuant to notice duly published as required by law to hearing to repeal and reenact chapter 270 of the Code of the Town of Yorktown entitled "TREES," relating to establishing a program for the preservation, protection and maintenance of the individual trees and the Yorktown Forest, Amend Chapter 10, Article VIII Section 10-26. Amend Chapter 165, Section 165-7. Amend Chapter 178, Section 178-9. Amend Chapter 195- Section 195-15, Section 195-25, Section 195-26, Section 195.40. Now therefore be it

RESOLVED, that Local Law #16/2010, 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 Patel	Voting	Aye
Supervisor Siegel	Voting	Aye
Councilman Murphy	Voting	Nay

Local Law #16/2010 was thereupon declared adopted.

#### YCCC – NON-THEATRE 2011 LEASES AND RENT

Supervisor Siegel stated that this discussion has two parts.

##### A. Approval of the Draft Lease:

Supervisor Siegel explained that Town Attorney Koster has prepared a draft lease that will be given to all of the tenants.

#### YCCC – NON-THEATRE 2011 LEASES

##### RESOLUTION #573

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

RESOLVED, the draft lease format is hereby approved to be sent to tenants at the Yorktown Community and Cultural Center.

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

B. Approval of a 3% rent hike

There was discussion concerning the way the rent is levied. Councilman Murphy asked if the tenants were told that a 3% rent hike was on the way. Supervisor Siegel stated that they know every year, the Town raises their rent in January. In fact, one tenant, Bright Beginnings has sent a letter requesting no rent hike. Councilman Bianco stated that he doesn't want to raise their rent either, but the Town runs this building on a deficit and the cost of oil to heat the building has risen since last year. The Town of Yorktown pays all of the utilities.

Councilman Murphy stated that he wants the Town to have a discussion with these tenants before any rent hike goes into effect.

Supervisor Siegel asked if we postponed the increases to February, would that work.

Councilman Murphy responded yes.

YCCC – NON-THEATRE 2011 RENT  
RESOLUTION #574

Upon motion by Councilman Bianco, seconded by Councilman Murphy,

RESOLVED, a 3% rental increase is approved for the following tenants in 2011;

Head Start

Bright Beginnings

Get Fit-Dance Fit

Kids to Kids

Westchester Ballet

Yorktown Youth Soccer

BE IT FURTHER RESOLVED that the rental increase will not take effect until February, 2011.

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

Councilman Patel stated that he voted no for this resolution because the rents are not fair and equitable for all.

Councilman Martorano stated that he doesn't believe that the Town should be charging any non profit company. He further stated that he doesn't think we should be increasing anyone's rent because these are tough times.

GARBAGE CONSULTANT RFP  
RESOLUTION #575

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

Supervisor Siegel explained that the current garbage contract expires at the end of 2011. We would like to send out a Request for Proposal (RFP) to Garbage Consultants who will work with the Town on a bid document for next year. She also stated that we would like them to consider one pickup per week as well as the current two pickups per week.

The majority of the Town Board did not want to pursue any change to the way garbage is picked up. The Board asked that all information regarding a one day a week pick up be removed from the RFP before it is sent out.

Upon Motion by Councilman Bianco, seconded by Councilman Murphy  
RESOLVED, the Superintendent of Environmental Conservation is authorized to send out a Request for Proposals (RFP) for a Garbage Consultant

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

#### SHALLOW CREEK RFP

Councilman Murphy recused himself from this discussion and left the room.

Supervisor Siegel stated that the Recreation Department would like to send out a Request for Proposals for a recreational use of the property.

Councilman Bianco stated that he would like to see this discussion tabled. Right now youngsters are using the property as practice fields and until the fields on the Granite Knoll property are completed, we need to allow them to use these fields.

Supervisor Siegel stated that sending this RFP out now would have no effect on using Shallow Creek as practice fields.

Councilman Martorano agreed with Councilman Bianco that the discussion should be tabled while the kids use the fields.

Councilman Patel stated that this is a good proposal and could bring revenue into the Town of Yorktown.

The Town Clerk advised the Board that there was no majority, so a vote was not possible.

Councilman Murphy returned to the table.

#### EXECUTIVE SESSION

Councilman Martorano motioned, seconded by Councilman Murphy, to move into Executive Session to discuss possible litigation.

Councilman Martorano motioned, seconded by Councilman Bianco, to move out of Executive Session and return to the work session.

#### BERNSTEIN PROPERTY

Mr. William Primavera, Mr. Chris Scherra and Mr. Ken Belfer joined the Town Board for a discussion on a proposal their handout calls "A Best Case Scenario for the Adams-Bernstein Property" a copy of which is also on file under Town Board Minute Handouts.

The members of the Town Board listened as Mr. Primavera and Mr. Scherra's plan to develop the site was described by the Supervisor.

Mr. Scherra added that he has since learned that it is possible to construct sewers on this piece of property.

Supervisor Siegel explained that the Town could not participate in the type of program described in the handout. But, she is looking at other properties that the Town of Yorktown owns and will probably include the Bernstein House in the next auction sometime next year.

Mr. Primavera expressed his disappointment and stated that this type of project could have brought new business to Yorktown. He further stated that businesses have told him that they do not feel welcome in Yorktown.

Councilman Bianco asked him which businesses he was talking about. He further stated that he would just like to sell the property.

Mr. Ken Belfer, Chairman of the Yorktown Community Housing Board stated that he had been in contact with Norma Drummond, the person in charge of Westchester County's Affordable Housing Program. If the Town was to sell the Bernstein House to Westchester County, all you Yorktown would receive is what you have paid out on the house. Since the house was a donation, all you would receive is your maintenance costs. He suggested that Mr. Primavera contact Westchester County directly.

STIPULATION FOR POLICE OFFICER

RESOLUTION #576

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

Be It Resolved, that the Town Board hereby ratifies and approves the attached Stipulation of Agreement between and among the Town, the PBA and Joseph Colarusso.

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

APPROVE VACATION CARRYOVER

GEORGE ROUTSIS – WATER DEPARTMENT

RESOLUTION #577

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

WHEREAS, the following employee has requested and received permission from their applicable department head to carry 2010 accrued vacation time for use in 2011, and

WHEREAS, the comptroller has confirmed the available balances, now

THEREFORE BE IT RESOLVED, the following employee may carry the time balance next to his name:

George Routsis            37.5 hours

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

REDUCE RETAINAGE

FOURMEN CONSTRUCTION – JEFFERSON VALLEY SIDEWALKS

RESOLUTION #578

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

WHEREAS, Fourmen Construction, completed Jefferson Valley Streetscape at a cost of \$534,351.34 which the Town considered complete on October 12, 2010, and

WHEREAS, the Town withheld \$26,717.57 as retainage, and

WHEREAS, that the retainage percentage be reduced from 5% to 2.5%, and BE IT FURTHER

RESOLVED, that the amount of \$13,358.79 is hereby released to Fourmen Construction, 1008 Main Street, Peekskill, NY 10566.

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

CHANGE ORDERS - PATRIOT GARDEN  
RESOLUTION #579

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

WHEREAS, additional services were required to design and address drainage issues at Patriot Skate Park/Patriot Garden to obtain approval from New York State Department of Environmental Protection for Stormwater Pollution Prevention. And;

WHEREAS, professional landscape architect and engineering services are required to meet these requirements; now

BE IT HEREBY RESOLVED that the Town of Yorktown Town Board hereby authorizes payment to I/Q Landscape Architects for said professional services in the amount of \$5,596.42.

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

AMEND RESOLUTION - SULLIVAN DATA CONTRACT  
RESOLUTION #580

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

RESOLVED, that the Town Supervisor is hereby authorized to sign an agreement with Sullivan Data Management Inc. for management, maintenance, troubleshooting and repair of the existing network infrastructure at the Town Court, Police Department and Town Hall. The contract extends the existing contract for network support for the Town Court. The contract amount is \$52,033.33 and the term is for one year, from September 1, 2010 through August 31, 2011; the term for the support of the Police Department network system is retroactive to July 1, 2010.

This resolution supersedes the resolution passed on December 7, 2010.

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

REFUND - NWJWW  
LITTON LOAN SERVICES FOR OVERPAYMENT  
RESOLUTION #581

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

Resolved, that the Town Board hereby authorizes a refund of \$397.03 to Litton Loan Services for overpayment of water charges.

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

REFUND - NWJWW  
CORNELIUS CALLAHAN FOR OVERPAYMENT  
RESOLUTION #582

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

Resolved, that the Town Board authorizes a refund of \$1,838.84 to Cornelius Callahan for overpayments pertaining to an incorrect meter reading.

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

TRANSFER LABORER FROM TOWN BUILDINGS DEPARTMENT  
TO WATER DEPARTMENT  
RESOLUTION #583

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

Be it resolved, that Jeffrey Baumeister is hereby transferred from the Town Buildings Department to the Water Department as a laborer, job class code 0425-05, effective January 1, 2011, with no change in salary.

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

2011 BUDGET DISCUSSION

Supervisor Siegel provided the Town Board with answers to 11 questions posed by the Public at the Budget Hearing, a copy of which is on file in the 2011 Preliminary Budget Book on file in the Town Clerk's Office.

The Town Clerk spoke about questions posed about the Bingo Inspector. She introduced, Jane Fisher who is the Bingo Inspector. Mrs. Roker stated that after her former Bingo Inspector retired, she received calls from a State Agent from the New York State Racing and Wagering Board on a regular basis concerning questions and problems at one of the sites holding Bingo games. Since, Mrs. Fisher took over as Bingo Inspector, the Town Clerk's Office has not received any complaints from the State's Wagering and Gaming Board.

The Town has 109 telephones. 69 have full service. 40 are walkie-talkies. We pay \$25 per month for blocks of time.

Unused funds – The numbers in the budget reflect what was paid up until November 30, 2010. The Finance Department is still paying October bills, there is a 60 day lapse.

Live Scan – The cost of the equipment was \$26,935. The grant that the Police Department received totaled \$17,382. The funds for equipment in 2011 will pay for a new phone recorder and 2 new cars.

The 2010 Contingency Line was spent on items that were not budgeted or under-budgeted. \$150,000 in legal expenses and a retirement pay out of \$52,000.

The Legal Research line went up because the former Town Attorney signed a contract for \$750.00 per month. The subscription cannot be shared with the Library. Our new Town Attorney will look into getting a better deal.

There is nothing current in the contingency line for 2011. We will have to take money from the Fund Balance.

Supervisor explained that our auditors told us that we had to sign contracts with the clubs to cover the cost of umpires, balls and custodial charges. If the Town had to pay employees to do what the Sports Club volunteers do, then we would have to hire additional staff.

The Town has bottled drinking water because the State Building Code requires all public buildings to have drinking fountains. It's cheaper to have bottled water than to have to build drinking fountains.

Opening the YCCC on Sundays – The figure that Mr. Liebman gave to open the Yorktown Community and Cultural Center on Sundays is incorrect. We calculate a blended rate of \$75 per hour. Right now, the rent we charge him for Yorktown Stage is \$1,850.00 which is well below market rate. The Town of Yorktown paid for a number of items in the theatre including; new seats, we had the drapes fire proofed and installed a new sprinkler system.

There was discussion from several members of the Town Board regarding having a Westchester County Police Officer serve as a School Resource Officer in Yorktown. Supervisor Siegel stated that the services are not equal. The SRO in Lakeland doesn't start when the school year begins and he ends before the last day of school. Further, if the Westchester County School Resource Officer is sick or on vacation, he is not replaced. Supervisor Siegel stated that if the Yorktown SRO is sick or on vacation he or she is replaced. So, we are comparing apples to oranges.

Councilman Bianco asked the Comptroller what she thought the Fund Balance would be at the end of the year, she stated it would be \$1,500,000.

He told her he believed the figure would be \$1,900,000, which is 8% of the budget.

There was a discussion concerning additional money that had to be paid out in connection with the Jefferson Valley Sidewalk Project.

Highway Superintendent DiBartolo stated that the money for this project would not be coming from the Town of Yorktown. Westchester County owes the Town of Yorktown \$414,000 for taking over its roads. The work done in this area can be covered with this money.

The Comptroller said if the County would be paying the additional cost of the sidewalk project, then the Fund Balance would probably be \$1,900,000. Mrs. Goldberg also spoke about an \$8.3 million bond anticipation note. Next week, she'll be closing on a \$10 million dollar loan with a 1 and a quarter percent interest rate. She also stated that she is not sure the Town has to pay for the cooling tower. The contractor destroyed it, so she wants to hold his insurance company liable for the replacement.

Councilman Bianco stated that he would like to vote on the budget with two additions.

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

Approve an additional \$2,000 to the Auxiliary Police line to pay the costs for a volunteer police officer.

Supervisor Siegel stated that she is fully supportive of the Auxiliary Police, but as she has told so many department heads, we just cannot afford to pay for this.

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

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

Approve an additional \$3,000 to pay the salary of Cary Vigilante for six months.

Supervisor once again stated that she cannot agree to additional expenditures when she has turned down all requests from her department heads.

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

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

Approve an additional \$8,000 to continue Frederick Gauthier as General Foreman in the Highway Department.

Supervisor Siegel stated that this was a recommendation from the Highway Superintendent.

Councilman Bianco stated that he would agree with whatever the Highway Superintendent wanted to do with positions in his department.

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

Upon Motion made by Councilman Patel, seconded by Supervisor Siegel,

Remove \$150,000 of Fund Balance money from the Preliminary Budget.

Siegel, Patel, Voting Aye  
Bianco, Murphy, Martorano voting Nay  
Resolution defeated

Councilman Murphy stated that it is now time for Yorktown to open up its doors to businesses and look for new revenue sources.

Councilman Martorano stated that ten positions have been eliminated from the budget which means that it will have to rely on its employees to do more with less.

Councilman Patel stating that not restoring the \$150,000 to the fund balance is wrong, but he will support the budget.

Supervisor Siegel stated that she will be voting for the budget, but with a lot of reservations.

Councilman Bianco thanked the Comptroller and her department as well as the Supervisor for their hard work on the budget. He believes this is a budget that taxpayers can afford. The tax increase will be approximately 1.4% increase for residents with utilities which is lower than the increase in the cost of living which is about 2%.

2011 ADOPTED BUDGET  
RESOLUTION #584

Upon motion made by Councilman Bianco, seconded by Councilman Martorano

WHEREAS, Supervisor Susan Siegel, acting as Budget Officer, did on the 29<sup>th</sup> day of October, 2010 file her tentative budget with the Town Clerk and the Town Board for its review, and

WHEREAS, upon completion of its review and modification of the tentative budget, the Town Board filed its preliminary budget of the estimated revenues and expenditures for the fiscal year commencing January 1, 2011, and

WHEREAS, a public hearing was called and duly held on the 2<sup>nd</sup> day of December, 2010, at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY at which time and place the Yorktown Town Board did meet and review such preliminary budget as compiled, and accepted public comment for or against any item contained therein, and

WHEREAS, following such public hearing the Town Board on December 14, 2010 did further change, alter, and revise the preliminary budget by authority vested in Section 109 of the Town Law, now therefore be it

RESOLVED, that the Town Board of the Town of Yorktown does hereby adopt such preliminary budget as amended and be it

FURTHER RESOLVED, that the said preliminary budget as adopted by this resolution be entered in detail in the minutes of the proceedings of this Town Board and it shall be known as the Annual Budget of the Town of Yorktown for the fiscal year beginning on the 1st day of January, 2011, and be it

FURTHER RESOLVED, that the several sums estimated for expenditures in the same annual budget as adopted are hereby appropriated in the amounts for the purposes therein specified, and be it

FURTHER RESOLVED, that the several sums therein estimated as anticipated revenues and the monies necessary to be raised by tax and assessments in addition thereto, to pay the expenses of conducting the business of the Town for the purposes contemplated by the Town Law and otherwise by law, shall be and become applicable in the amounts therein named for the purposes of meeting such appropriations.

FURTHER NOTICE IS HEREBY GIVEN pursuant to Section 108 of the Town Law that the following are adopted yearly salaries of Town Officers of this Town remain unchanged, to wit:

Supervisor - \$112,095.00  
Councilman (4) - \$18,085.00  
Town Clerk - \$81,497.00  
Superintendent of Highways - \$125,000.00  
Town Justice - \$28,935.00

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

ABOLISH POSITION – INTERMEDIATE ACCOUNT CLERK  
ARDETH KESSLER – RECEIVER OF TAXES DEPARTMENT  
RESOLUTION #585

Upon motion made by Councilman Bianco, seconded by Supervisor Siegel

Be it Resolved, that the Town Board hereby abolishes all vacant positions in the title of Intermediate Account Clerk, job class code 0713-01, and abolishes one filled titled position of Intermediate Account Clerk, job class code 0713-01, held by Ardeth Kessler, effective December 31, 2010.

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

ABOLISH POSITION – GENERAL FOREMEN  
REAPPOINT AS ROAD MAINTENANCE FOREMEN  
FREDERICK GAUTHIER - HIGHWAY DEPARTMENT  
RESOLUTION #586

Upon motion made by Supervisor Siegel, seconded by Councilman Bianco

Be it resolved, that the Town Board hereby abolishes one filled titled position of General Foremen, job class code 0420-02, held by Frederick Gauthier, effective December 31, 2010,

Be it Further resolved, effective close of business on December 31, 2010, Frederick Gauthier will return to his previous permanently held appointment of Road Maintenance Foremen, job class code 0435-02, to be paid at the rate set forth in Yorktown CSEA Salary Schedule A, Group 14, Step 5, which is \$68,213.00

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

EXECUTIVE SESSION

Councilman Martorano motioned, seconded by Councilman Murphy, to move into Executive Session to discuss Comp Plan and Legal Issues.

ADJOURN

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

Alice E. Roker  
Town Clerk  
Town of Yorktown