

Work Session held by the Town Board, Town of Yorktown on  
March 13, 2012, held 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Michael J. Grace, Supervisor  
Nicholas J. Bianco, Councilman  
Terrence P. Murphy, Councilman  
David D. Paganelli, Councilman  
Vishnu V. Patel, Councilman  
Diana L. Quast, Deputy Town Clerk

#### EXECUTIVE SESSION

Upon motion made by Councilman Bianco, seconded by Councilman Murphy, the Town Board moved into Executive Session to discuss Litigation and Personnel.

#### WORK SESSION

Supervisor Michael Grace called the meeting to order. Town Attorney Jeannette Koster, was also present.

#### ENERGY GRANT

Assistant Planner Lorraine DeSisto, Mr. Jerry Robock and Mr. Paul Moskowitz, members of the Energy Advisory Committee were present to discuss with the Town Board a revised list of proposed projects to be done with the Federal Energy Stimulus Grant.

The Town Board asked if these funds could be used to purchase a new gasboy system.

Mrs. Lorraine DeSisto stated that it is possible and would could justify the project because of the valuable information regarding energy usage we could obtain from this type of system.

Mr. Robock stated that he would like to place solar lighting at the John C. Hart Memorial Library.

#### KVS WORKFLOW PROPOSAL RESOLUTION #95

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

Whereas, the town's current financial software, KVS, has a remote access purchasing solution program called Workflow, and

Whereas, the Town Board has determined the addition of this program will enhance the current procurement system by reducing delays, and

Whereas, various methods of implementation were discussed, and it was ultimately decided that simultaneous implementation across all departments would be most cost effective for training expenses, now,

Therefore, Be It Resolved, the Supervisor is hereby authorized to accept the revised KVS proposal, in the maximum amount of \$40,000, subject to Town Attorney approval.

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

#### HOLLAND SPORTING CLUB

Supervisor Grace stated that there is a couple of issues with the Asbestos Contract. The contract calls for air quality monitoring to be on site while the asbestos is being removed. This cannot be done by the contractor by State Law it must be a separate contractor. This will add more money to the cost of the job.

Mr. Bob Violante, Asbestos Inspector, stated that the contractor basically found away to drive a truck through the bid specifications. He explained that the Law calls for three different types of monitoring which is interior, interior and exterior, and visual.

Councilman Paganelli asked why the Town should have to pay for the monitoring if it was included in the bid.

Town Attorney Koster will research this and have an answer next Tuesday.

Supervisor Grace asked Mr. Violante to prepare a scope of work for the air monitoring. He also stated that if the Town chooses to rebid the project it should include a timeline for when the work is to be finished.

#### CREATIVE LIVING

Mr. CJ Diven, Creative Living Development was present to discuss his Navajo Fields project. It adds a Volleyball Court Basketball Court and Climbing Wall. These were on the plans the Town Board previously reviewed.

Councilman Paganelli stated there was no mention of these added facilities at the last meeting this was discussed.

Acting Town Engineer Sharon Robinson stated that the plans did not show these additional facilities on the plans that the board previously reviewed they only approved the dug out change.

Building Inspector John Winter stated that the Climbing Wall would be considered a structure and may need a Building Permit.

Mr. Capellini, Esq. stated that the original plans do not need site plan approval because these recreational fields are on private property. The enhancements being done now are not in the wetlands and should not apply to the wetlands permit.

Councilman Bianco asked if the Volleyball Courts, Basketball Courts and the Climbing Wall have already been constructed.

Mr. Capellini, Esq., answered, No but that doesn't mean construction might not start during the Town Board's review.

#### SHALLOW CREEK

Mr. Al Capellini, Esq., and his client Mr. Kevin Chin were present to discuss with the Town Board and RFP that was accepted by the Town to construct a recreational Facility at the Shallow Creek Golf Course.

Supervisor Grace stated that while he was looking at the terms of the agreement many issues concerned him. Some of his concerns are liability, setting fees and hours, what if the facility does not make any money, issues with prevailing wage and exclusive use.

Mr. Capellini, Esq., stated that the issue of revocability at any time is on great concern to his client. He stated that his client would be putting a substantial amount of money out to build this facility and the Town could revoke his license at any time.

Mr. Kevin Chin stated that he could not raise the funds for the project with a license that is revocable.

Mr. Capellini stated that the Town can depark the property so that the land could be sold.

Councilman Paganelli stated that Alienation of Parkland requires two consecutive acts of State Legislation and this could take up to a minimum of four years.

Councilman Bianco spoke against deparking this property, he would like to work on this issue with the applicant and find away to make it happen.

#### RECYCLING CENTER

Mr. Al Capellini, Esq., was present along with his client Mr. Brian Amico who would like to establish a Recycling Center on Navajo Road. They are asking the Town Board to change

the current Zoning Code definition to include the term Recycling Center in an Industrial Zone, I-1 Zone.

Mr. Amico explained that the facility would be for more commercial users than residential.

Supervisor Grace stated that there would need to be changes to the definitions and the Town would have to develop bulk regulations covering operation of this type of facility.

Councilman Bianco asked Mr. Amico what has changed since he came to the Town Board in October 2011.

Mr. Amico stated that he wanted the Town to approve his request before seeking approval from Westchester County and New York State. Since then he has gotten Westchester County and New York State to approve his licenses and is now coming back to the Town for its approval.

Supervisor Grace stated that the Intermunicipal Agreement with Westchester County is for residential recycling and only has to do with the recyclables that the Town collects and sends to the Westchester County recycling Center. This does not preclude a private recycler from opening a business.

Councilman Paganelli stated that he is concerned with the amount of traffic that would be going into Navajo Road and would this disturb the new fields that have been created there.

The Town Attorney Jeannette Koster will draft legislation to be referred out to the appropriate agencies for review.

#### GRANITE KNOLLS

Mr. Tim O'Connell, a representative from the Westchester Mountain Bike Association was present along with Mr. Walt Daniels to discuss with the Town Board having a barn located on the Granite Knolls property demolished. He would like to use this as parking for people utilizing the trail system. He suggested combining the project with the current demolition being done at the Holland Sporting Club.

Councilman Murphy asked if the money from the open space bond could be used to have the barn demolished.

Councilman Paganelli stated that he is concerned this area will become a hangout.

Supervisor Grace will do a site visit.

#### PROPOSED AMENDMENT TO AFFORDABLE HOUSING LOCAL LAW RESOLUTION #96

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

WHEREAS, a proposed local law to amend Chapter 300 of the Code of the Town of Yorktown entitled "ZONING," Article VII, entitled "Permitted Special Uses" to remove residency preferences from the eligibility requirements for certain affordable housing units and to conform the requirements herein to those in Chapter 102 Affordable Housing, now, therefore, be it

RESOLVED, that said request will be forwarded to the following agencies and departments for their review and recommendation to be received by the Town Clerk by April 16, 2012:

Assessor  
Building Department  
Receiver of Taxes  
Section 8  
Community Housing Board  
Raymond Arnold  
Town Attorney

Yorktown Planning Dept./Planning Board  
Westchester County Planning Board

And be it,

FURTHER RESOLVED that a copy of the proposed local law is on file in the office of the Town Clerk where the same may be inspected during regular office hours.

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

HOUSING NON-DISCRIMINATION STATEMENT  
RESOLUTION #97

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

RESOLVED, that the Town Board hereby adopts the following Non-Discrimination Statement:

The Town of Yorktown is committed to equal housing opportunity. The Yorktown Section 8 Housing Choice Voucher Program does not discriminate on the basis of race, color, national origin, religion, creed, disability, familial status, sex, marital status, age, military status, sexual orientation, citizenship or alienage status, or against victims of domestic violence, sexual abuse or stalking.

The Yorktown Section 8 Housing Choice Voucher Program will include the Non-Discrimination Statement on its applications and post it at its Section 8 office in a location that is visible to the public and on the Program's webpage on the Town's website.

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

HOUSING NON-DISCRIMINATION POLICY  
RESOLUTION #98

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

RESOLVED, that the Town Board hereby adopts a written non-discrimination policy with reference to housing ("Non-Discrimination Policy"), a copy of which is attached .

All current and future officers, employees and volunteers of Yorktown in the Planning Department, Planning Board, Section 8 office, Town Board, and Community Housing Board as well as the Town Supervisor and Town Attorney shall be required to read the Non-Discrimination Policy and sign the Acknowledgment Form.

**HOUSING NON-DISCRIMINATION POLICY  
OF TOWN OF YORKTOWN**

As part of our continuing effort to ensure compliance with federal, state, and local anti-discrimination laws, we would like to take this opportunity to remind all employees, independent contractors, volunteers and agents of the Town of Yorktown of our policies against discrimination.

It is the policy and practice of the Town of Yorktown not to engage in or assist others to engage in housing discrimination. Consistent with that policy, we remind you that the anti-discrimination laws of the United States, New York State, and Westchester County are quite specific in the area of housing. To comply with these laws, when acting on behalf of the Town of Yorktown you must not do any of the following:

1. Refuse to provide Section 8 housing vouchers, or assist a Section 8 housing voucher recipient, or perform any action under the Town's Affordable Housing Program, or otherwise make unavailable or deny, housing under the Town's Section 8 Housing Voucher Program or the Town's Affordable Housing Program to any person because

of their race, color, religion, creed, sex, familial status (having or expecting a child under 18), national origin, disability, marital status, age, sexual orientation, alienage or citizenship status, military status, or status as a victim of domestic violence, sexual abuse, or stalking (each a “prohibited basis”);

2. Discriminate against any person in the terms, conditions or privileges of providing Section 8 Housing Vouchers or in the provision of services or facilities regarding the Town’s Section Housing Voucher Program or Affordable Housing Program, because of a prohibited basis;
3. Make any verbal or written statement or inquiry with respect to housing that indicates any preference, limitation or discrimination concerning a prohibited basis, or any statement indicating an intention to make any such preference, limitation or discrimination;
4. Represent to any person because of a prohibited basis that any housing is not available for purchase, or rental when such housing is in fact so available, or represent to any person because of a prohibited basis that a Section 8 Housing Voucher is not available or the waiting list for a voucher is closed when such a voucher is in fact so available or the waiting list is not closed;
5. Discriminate against any person in the Section 8 Housing Voucher Program or the Town’s Affordable Housing Program because of a prohibited basis;
6. Enter into an agreement that imposes any restriction upon persons to whom housing may be shown, rented or sold because of a prohibited basis;
7. Direct or steer any individual away from or toward a particular building, neighborhood, or vacancy because of a prohibited basis;
8. Coerce, intimidate, threaten or interfere with any person who is a prospective or current resident, owner, tenant, or Section 8 Housing Voucher recipient, or anyone assisting a current resident, owner, tenant, or Section 8 Housing Voucher recipient to exercise or enjoy the rights guaranteed by the federal Fair Housing Act and state and local fair housing laws.

It is important to understand that any action you take because of race, color, religion, sex, familial status, national origin, disability, marital status, age, sexual orientation, alienage or citizenship status, military status, or status as a victim of domestic violence, sexual abuse, or stalking that has the effect of making housing unavailable to persons protected under these laws constitutes a violation of federal, state, and/or local laws.

Providing equal opportunity to all persons is the law. The Town of Yorktown is firmly committed to the goal of fair housing. **You should understand that any violation of this non-discrimination policy will lead to disciplinary action, up to and including discharge.**

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

CROTON OVERLOOK LEGAL FEES

The Town Board agreed to discuss this issue at a later date.

BERNSTEIN HOUSE FORMAL PROPOSAL TO MARKET

The Town Board will seek formal proposals to market the Berstein House for the purpose of selling it.

TOW BID

Councilman Paganelli stated that the bid specifications need to be updated and he suggested a new bid by done. Councilman Paganelli will work on this issue and report back to the Town Board.

EXTEND AUTOBODY WORK ON TOWN TRUCKS

The Town Board agreed to place this on the next Town Board agenda.

EXTEND AUTOBODY WORK ON TOWN CARS

The Town Board agreed to place this on the next Town Board agenda.

AUTHORIZE TOWN ATTORNEY TO EXECUTE DEEDS FOR CONVEYANCE OF PROPERTIES AT GAY RIDGE ROAD AND GAY RIDGE COURT BACK TO VS CONSTRUCTION CORP.

RESOLUTION #99

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

WHEREAS, parcels having tax map identification numbers 17.06-2-32.69 and 17.06-2-32.70, which were road parcels located at Gay Ridge Road and Gay Ridge Court, respectively, and which were owned by VS Construction Corp. (37 Croton Dam Road, Ossining, NY 10562) as part of the Yorktown Farms development, were tendered to the Town in accordance with the Planning Board’s resolution of Final Subdivision Plat approval but inadvertently recorded prematurely;

NOW THEREFORE BE IT RESOLVED, that the Town Board authorizes the Town Attorney to execute deeds and all other documents necessary to cause the conveyance of said parcels back to VS Construction Corp. at no cost, to be held by VS Construction Corp. until the Town agrees to accept them.

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

EXTEND BLACKTOP BID – HIGHWAY DEPARTMENT PECKAHAM MATERIALS

RESOLUTION #100

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

Resolved, that the Blacktop Bid for the Town of Yorktown is hereby extended for one year, per the terms of the bid, to Peckham Materials, 20 Haarlem Avenue, White Plains, NY 10603. The dates of the extension will be April 1, 2012 to March 31, 2013.

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

AUTHORIZE SUPERVISOR TO SIGN AMENDMENT TO CONTRACT AGREEMENT MICHAEL DUBOVSKY

RESOLUTION #101

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an Amendment to the Agreement dated October 26, 2011, with Michael Dubovsky at the hourly rate set forth in the Agreement, and to extend the term of the contract until December 31, 2013, at the pleasure of the Town Board, to provide professional environmental consulting services for the Town of Yorktown.

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

AUTHORIZE SUPERVISOR TO SIGN AMENDMENT TO CONTRACT AGREEMENT FREDERICK KOELSCH

RESOLUTION #102

Upon motion made by Councilman Bianco, seconded by Councilman Murphy

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an Amendment to the Agreement dated March 16, 2010, with Frederick L. Koelsch at the hourly rate set forth in the Agreement, and to extend the term of the contract until December 31, 2013,

at the pleasure of the Town Board, to provide professional GIS services for the Town of Yorktown.

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

AUTHORIZE SUPERVISOR TO SIGN AMENDMENT TO CONTRACT AGREEMENT  
LYNSTAAR ENGINEERING  
RESOLUTION #103

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an Amendment to the Agreement dated September 21, 2010, with LynStaar Engineering, P.C., at the hourly rates set forth in the Agreement, and to extend the term of the contract until December 31, 2013, at the pleasure of the Town Board, to provide professional engineering consulting services for the Town of Yorktown.

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

REDUCTION PERFORMANCE BOND  
KIRSCHENBAUM SUBDIVISION  
RESLOTION #104

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

WHEREAS, Ariel Weinberger, as applicant, provided the Town with Western Surety Company Performance Bond No.70978493, in the amount of \$61,620.00, to serve as the Performance Bond for the Kirschenbaum Subdivison located on White Hill Road, and,

WHEREAS, Ariel Weinberger, as applicant, provided the Town with Western Surety Company License & Permit Bond #70978496, in the amount of 10,000.00, to serve as the Erosion Control Bond for the Kirschenbaum Subdivision, and

WHEREAS, Ariel Weinberger, as applicant, provided the Town with Check No.614, in the amount of \$5,729.00, to serve as the Inspection Fees for the Kirschenbaum Subdivision, and

WHEREAS, Ariel Weinberger has requested that his Performance Bond be reduced, and

WHEREAS, the Town Engineer has informed this Board that a representative of her department has inspected the property and determined that the sewer improvements for the site have been met, therefore, a bond reduction has been completed and all other securities held for the remaining improvements, NOW, THEREFORE BE IT

RESOLVED, that the above referenced Performance Bond is hereby reduced to \$29,652.00 (\$61,620.00 - \$29,652.00 = \$31,968.00 back to developer) and, BE IT FURTHER

RESOLVED, that the Erosion Control Bond will remain in full force and effect until the entire site has been completed.

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

REDUCTION PERFORMANCE BOND  
CURRY NISAN SITE PLAN  
RESOLUTION #105

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

WHEREAS, Curry Nissan, as applicant, has provided the Town with Check No. 25009207 in the amount of \$10,000.00, which was deposited into the T33 account on November 6, 2009 to serve as the Performance Bond for the Curry Nissan Site Plan located on Route 202, and

WHEREAS, the above referenced bond was posted for paving work at the Curry Nissan site, and

WHEREAS, Curry Nissan has requested that the above referenced bond be released as the work has been completed, and

WHEREAS, the Town Engineer has informed this board that a representative of her department has inspected the property and determined that the work has been satisfactorily completed, NOW THEREFORE BE IT

RESOLVED, that the above referenced check be released to Curry Nissan, 727 Central Avenue, Scarsdale, NY 10583.

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

EXTEND SPRINKLER INSPECTION/TESTING BID  
SIMPLEX GRINNELL  
RESOLUTION #106

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

WHEREAS, the Town Board at its meeting of April 20, 2011, awarded the annual Sprinkler Inspection/Testing Bid, for various Town facilities, and

WHEREAS, the Town has the contractual option to extend the bid in one-year increments, up to a maximum contract term of three (3) years, and

WHEREAS, the Town intends to extend this bid for a period of one-year, NOW, THEREFORE, BE IT,

RESOLVED, Simplex Grinnell will be paid an annual rate of \$1,296 in accordance with its 2011 bid, for the one-year extension period.

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

PURCHASE TWO TRUCKS - SEWER DEPARTMENT

The Town Board discussed the purchase request from the Sewer Department for two new trucks. The Town Board agreed to review this request further.

ADVERTISE LAB SERVICES FOR THE WATER POLLUTION CONTROL PLANT

The Town Board agreed to place the advertisement to bid for Lab Services for the Water Pollution Control Plant on the next Town Board agenda.

AUTHORIZE SPECIAL COUNSEL FOR  
HIGHWAY SUPERINTENDENT ERIC DIBARTOLO  
RESOLUTION # 107

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

WHEREAS, Highway Superintendent Eric DiBartolo has requested the Town to provide him with a defense in the case entitled *LaPierre v. DiBartolo*, et al., and

WHEREAS, the Town Board has reviewed and considered the *LaPierre* complaint, and has determined that the Town has a duty to provide a defense to Mr. DiBartolo under Section 30-4 of the Town Code, and

WHEREAS, the Town Attorney has recommended, and the Town Board has determined that representation by the Town Attorney would be inappropriate, and that Mr. DiBartolo is entitled to be represented by private counsel of his choice,

NOW THEREFORE BE IT RESOLVED, that the Town Board directs the Town Attorney to notify Mr. DiBartolo in writing of the Town Board's determination that he is entitled

to be represented by private counsel, the choice of which counsel shall be subject to the Town Board's approval.

Grace, Bianco, Murphy, Paganelli	Voting	AYE
Patel	Voting	NAY

Resolution adopted.

TOWN BOARD AGENDA

MARCH 20, 2012

The Town Board discussed the March 20, 2012 Town Board meeting agenda which will be held at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598. The televised meeting will begin at 7:30 P.M.

ADJOURN

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

Diana L. Quast  
Deputy Town Clerk  
Town of Yorktown