

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York 10504

on
July 9, 2008

Supervisor Berman called the meeting to order at 5:30 p.m. and the following persons were present:

Supervisor	Reese Berman
Councilmen	Rebecca A. Kittredge Gerald K. Geist Michael J. Schiliro William R. Weaver
Town Clerk	Ann Leber
Town Counsel	Roland A. Baroni

The meeting was immediately adjourned into Executive Session to discuss contractual and personnel matters. The Executive Session was closed at 7:25 p.m.

The regular meeting was reconvened at 7:30 p.m.

The minutes of the Public Hearings which commenced at 7:45 p.m. follow at the end of these minutes.

Councilman Weaver moved, seconded by Councilman Kittredge, approval of the minutes of the Work Session and regular meeting of June 25, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist urged residents to be aware of gas station price postings. He said that at a station in North White Plains, the street sign had a small “cash only” sign under the prices, and it was not clear that the credit card prices were 10 cents more per gallon. Councilman Geist asked Town Clerk Leber to contact Westchester County Department of Consumer Protection regarding the regulations for gas price postings.

Supervisor Berman made the following announcements:

- Summer hours for clerical employees, from July 1st through August 29th, are 8:00 a.m. to 4:00 p.m. in all Town buildings, with the exception of the Court Clerk’s office that maintains its regular hours of 8:30 a.m. to 4:00 p.m.
- The County’s Mobile Shredder will be at Town Hall on Saturday, July 12th.
- Volunteers are needed for the Town’s Home Delivered Meals program. Supervisor Berman said that it takes approximately one hour to deliver the meals. Please contact Kathy Lynch at the Recreation Department at 273-3500, ext. 500 for more information.
- Con Edison continues to ask that all residents please use energy wisely. Report power interruptions or service problems to 1-800-75-CON ED (1-800-752-6633) with your account number available, if possible; report whether your neighbors have lost power.
- The Town’s contract with Joken Development Corp for the Quarry Heights Low Pressure Sewer System is being signed at tonight’s Town Board meeting. The few remaining homeowners who have not yet signed the agreement with the Town and paid for their grinder pumps, electrical connections and installation are urged to do so.
- Fordham University’s Louis Calder Center, located in Armonk, provides an on line Tick Index as a public service at www.fordham.edu/tick.

Councilman Geist announced that a bill which will give four Westchester towns – Bedford, Lewiboro, North Castle and Pound Ridge – the right to set speed limits on their local roads has been passed by the Assembly (143 to 1) and the Senate (62 to 0) and is now before Governor Paterson for signing. Councilman Geist said that Senators Adam Bradley and Vincent Leibell

Town Board Minutes
July 9, 2008

were influential in the passage of the bill and have been supportive of towns' home rule decisions. Councilman Geist moved, seconded by Councilman Weaver, authorization for the Supervisor to send a letter to Governor Paterson urging him to sign the bill.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, authorization for the Supervisor to sign the NYSDOT application to relocate the Main Street crosswalk and reconstruct the sidewalk on the eastern side of Main Street in the Armonk hamlet.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that a public hearing be scheduled on July 23, 2008, to consider a local law to install a crosswalk and a "no parking any time" zone on Maple Avenue near the entrance to Armonk Square.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Pursuant to the proposals from General Foreman Craig Useted, Councilman Weaver moved, seconded by Councilman Geist, approval of the proposal for the repair of the fence on Nethermont Avenue to Choice Fence Company, the low bidder, in the amount of \$4,000. (*See correction in minutes of July 23, 2008.*)

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

With regard to the memo from the Housing Board to Director of Planning Adam Kaufman requesting a change in the Code to make middle income rental units more affordable, Councilman Schiliro thanked the Housing Board for its analysis. He explained that the proposed percent decreases as a percentage of maximum aggregate family income would result in applicants qualifying for MIU rental units with significantly lower aggregate family incomes on a percentage basis. Supervisor Berman said that, therefore, the Code would not be changed with respect to rental prices.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

A letter from Shamberg Marwell, et al., regarding an amended site plan/text amendment for the Mariani Garden Market had been withdrawn at the request of the applicant.

Pursuant to a letter from Receiver Patricia Colombo regarding an Order of Judgment for Safe Flight Instrument Corp., 20 New King, Armonk, (Section 3, Block 06, Section 2.A) for tax years 2005 through 2008, Councilman Geist moved, seconded by Councilman Kittredge, that Finance Director Donovan be authorized to issue a refund totaling \$12,769.33.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of Finance Director Dawn Donovan, Councilman Geist moved, seconded by Councilman Weaver, that the mileage reimbursement rate be increased to 58.5 cents from 50.5 cents, per IRS policy.

The roll call vote was as follows:

Town Board Minutes
July 9, 2008

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Verizon regarding new channels for Verizon FiOS TV customers.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, receipt of a memo from the Sewer and Water Superintendent Anthony Futia regarding the Sewer District No. 2 treatment plant capacity and flow estimates. Supervisor Berman said that, with respect to future connections and change of use, the recommendation is to move slowly and cautiously at this time. Mr. Futia commented that the demand for sewer and water services has crept up over time and is close to capacity at this time.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a petition submitted to the Planning Board from residents of Old Mount Kisco Road requesting the extension of Sewer District No. 2. Councilman Weaver asked Superintendent Futia if Old Mount Kisco Road was included in the original calculations for Sewer District No. 2. Mr. Futia said the Town did look at areas that potentially would need sewers. Town Attorney Baroni commented that the Sewer Task Force's original recommended capacity of 600,000 gallons per day was reduced over time to 450,000 gallons when areas did not show interest. Councilman Kittredge added that some residents on Annadale Street/ Orchard Drive had previously decided not to participate due to the projected cost.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of memos from Superintendent Futia and Kellard Sessions regarding Madonna Subdivision/Old Mount Kisco Road. Supervisor Berman said Kellard Sessions estimated that the addition of sixty 66 homes would increase usage in Sewer District No. 2 by about 20,000 gallons per day. Town Attorney Baroni recommended that the Town wait to make a decision regarding the residents' petition until after the Town Engineer and the Sewer and Water Department refined their numbers. Supervisor Berman said that a meeting, with Messrs. Kellard, Futia, Misiti, Town Attorney Baroni and Councilmen Kittredge and Geist, would be held in a few days to review the sewer capacity issue. With respect to the issue raised by the petitioners regarding fecal coliforms, Mr. Futia said that they will be present in any storm drain in Westchester County; it is the degree of coliforms that is important and their presence alone should not be of concern.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, receipt of a letter from resident Sharon Reiner regarding the capacity of the Sewer District No. 2 treatment plant capacity. The letter was read aloud by Town Clerk Leber at Ms. Reiner's request.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, receipt of a memo from Assistant Foreman Jamie Norris regarding policy for Town Fire Departments' use of the Gasboy Fuel System. Mr. Futia mentioned that the North White Plains Fire Department was looking into

Town Board Minutes
July 9, 2008

another source for gas that is in closer proximity to its station house. Supervisor Berman asked Town Clerk Leber to instruct Mr. Norris not to have keys made for that department.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from NYS Department of Public Service regarding temporary operating authority for Cablevision.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, approval of the request of General Foreman Useted for the release of highway bonds to Awesome Landscape, Permit #704, in the amount of \$750; Heather Barnes, Permit #622, in the amount of \$500; and Stuart Warshaw, Permit #597, in the amount of \$500.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, acceptance of a donation of \$300 from Henderson and Walsh to the North Castle DARE Program.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that Finance Director Donovan be authorized to pay Estimate 113 in the amount of \$ 334,511.66 to DMJM+Harris in connection with the Route 120 project.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of the Town Clerk's monthly report for June 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a Workers Compensation Report on James Cuffe, Police Department.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for the Supervisor to sign the contract with Joken Development Corp. in connection with the Quarry Heights Low Pressure Sewer System; the contract price is \$1,022,166.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for the Supervisor to sign the proposal from Kellard Sessions Consulting, P.C., to provide bid documents for

Town Board Minutes
July 9, 2008

residential and commercial collection, transportation and disposal of refuse, and processing of recyclables. Supervisor Berman noted that the Town is at the end of a very favorable five year sanitation collection contract. She added that she doesn't know what we will be looking at next year.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that the Supervisor be authorized to sign the Memo of Understanding with Byram Hills Central School District in connection with the use of school buildings and grounds.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Pursuant to the request of Chief D'Angelo, Councilman Geist moved, seconded by Councilman Weaver, that permission be granted for Police Officer Thomas McCormack to attend a seminar on homicide investigations on September 20 – 25, 2008 in Albany, New York.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, acceptance, with regret, of the resignation of Brenda Van Voorhies from the Housing Board; and Town Clerk Leber was directed to send a letter of appreciation for her contribution to the Housing Board and community service.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, ratification of the probationary promotions of Virginia Garcia to Library Assistant and to Ginesia Ryan to Principal Library Clerk.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, approval of the request of Building Inspector Fon to attend the Certified Tree Course at Cornell University on November 5, 6, 7, 18 and 19, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Welby, Brady & Greenblatt, LLP, requesting that the Town Board consider amending the Conservation Easement for 6 Hadley Road (Giuseppe and Camille Luppino) to permit stormwater drainage improvements in the easement area to allow construction of a pool on the property; a public hearing was scheduled for July 23, 2008. Town Clerk Leber was asked to notify neighbors who had attended the Planning Board meeting on this subject.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Town Board Minutes
July 9, 2008

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to sign the contract documents with DeRosa Tennis Contractors, Inc. for the Lombardi Park road and parking lot improvements in the amount of \$ 429,540.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Resident Ilana Adler thanked the Town Board for the time and effort it devoted to its duties. She recognized the detail the members of the Board have to deal with and expressed her appreciation.

The Town Board audited and approved payments totaling \$357,266.92 as indicated on Warrant #13.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 8:38 p.m.

Ann Leber, Town Clerk

Dated: July 16, 2008

PUBLIC HEARING

July 9, 2008

At 7:45 p.m. Supervisor Berman reconvened the Public Hearing which was adjourned from June 25, 2008 for the purpose of considering a local law to establish a new “veterinary specialist & emergency center” permitted Town Board special use principal use in the CB, IND-A, IND-AA, RELIP AND PLI Zoning Districts, create associated special use permit requirements, create a definition for “veterinary specialist & emergency center” and create an off-street parking requirement for “veterinary specialist & emergency center.”

The following correspondence was marked Exhibit “F” for the record:

Letter and Exhibits A and B from Veneziano and Associates, dated July 3, 2008 regarding 135 Bedford Road – Proposed zone text amendment.

Memos from Town Attorney Baroni and Kristin Holt, dated July 3 and 7, 2008, regarding 135 Bedford Road - Proposed zoning text amendments.

Memo from Supt. Anthony Futia, dated July 9, 2008, regarding Animal Hospital water use.

Memo from Consulting Engineer John Kellard, dated July 9, 2008, regarding 135 Bedford Road – Sewer use.

Letter from resident John Ianuzzi, received July 7, 2008.

Mark Miller of Veneziano and Associates, representing the applicant, stated that his submission addresses the issues raised at the last Town Board meeting regarding traffic, spot zoning, noise, odor and whether the proposed zone text amendment is consistent with the Town Comprehensive Plan. He said that he cannot address the new issues raised tonight with regard to sewer and water usage as he has not yet seen the new correspondence. Mr. Miller added that Bibbo Associates, the applicant’s consulting engineers, had calculated the estimated water usage of a typical office building in comparison to an animal hospital and concluded that the animal hospital would use 10% less. Mr. Miller suggested that the Town Board proceed with the adoption of the proposed local law with the zoning districts as listed, and he will gather additional data for submission as part of the site specific special use application.

Councilman Geist said that there are issues with water and sewer usage, and more information is needed as indicated in the memos from the Town’s engineer and the Sewer and Water Superintendent. In addition, Mr. Geist recommended that the Town Board members get copies of relevant documents previously received by the Planning Board before making a decision on

Town Board Minutes
July 9, 2008

the proposed legislation. He commented that he is in favor of emergency pet facilities but opposes them in the CB zone.

Councilmen Weaver, Schiliro and Kittredge agreed with Councilman Geist's assessment. Supervisor Berman stated that this is the eighth meeting on the subject going back to January 23, 2008. Agreeing with her fellow Board members, she added that at some point they had to reach a decision – hopefully by the next meeting.

No other correspondence or comments were entered for the record.

When Mr. Miller requested that the meeting be adjourned to a date certain, Councilman Weaver asked if the applicant would be able to provide the actual water usage at the Katonah Bedford BrightHeart facility. Mr. Miller responded that he would. Mr. Miller added that Tim Allen of Bibbo Associates will be contacting John Kellard and Anthony Futia regarding this information. The Board agreed to reconvene the public hearing on July 23.

Councilman Weaver moved, seconded by Councilman Schiliro, that the meeting be adjourned at 8:03 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Ann Leber, Town Clerk

Dated: July 16, 2008

Note: Public Hearing:	June 25, 2008:	Adjourned to: July 9, 2008
Reconvened P.H.	July 9, 2008	Adjourned to July 23, 2008

PUBLIC HEARING

July 9, 2008

At 8:03 p.m. Supervisor Berman stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Hall will hold a Public Hearing on July 9, 2008 at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York 100504, to consider an open space acquisition using previously approved bond proceeds: said parcels being known and described as the Falzarano/Spinelli parcels located at William Street and described as Section 3, Block 07, Lot 15.C; 8 William Street and described as Section 3, Block 07, lot 15.F; and 1479 Old Orchard Street and described as Section 3, Block 07, Lot 16 on the tax assessment maps of the Town of North Castle.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: June 27, 2008
Armonk, New York

The Public Notice read by the Town Clerk was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

Town Board Minutes
July 9, 2008

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

A memorandum of agreement (MOA) from Prudential Holmes & Kennedy Real Estate was marked Exhibit "D" for the record.

Town Attorney Baroni said that the MOA prepared by the seller reflected the purchase price of \$180,000 and that the agreement is subject to marketable and acceptable title and a Phase I Environmental public hearing. The Town will pay the \$720 transfer tax.

Supervisor Berman noted that the Open Space Committee is supportive of the purchase of the three parcels which are adjacent to a small park in Quarry Heights. She believes the additional land will lead to greater use of the park.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Weaver moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 8:06 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, approval of the purchase of three parcels to be used for open space using previously approved bond proceeds. Said parcels being known and described as the Falzarano/Spinelli parcels located at William Street and described as Section 3, Block 07, Lot 15.C; 8 William Street and described as Section 3, Block 07, lot 15.F; and 1479 Old Orchard Street and described as Section 3, Block 07, Lot 16 on the tax assessment maps of the Town of North Castle; and further moved that the Supervisor be authorized to execute the contract of sale and other relevant documents.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Ann Leber, Town Clerk

Dated: July 16, 2008