

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
November 19, 2007

Supervisor Berman called the meeting to order at 6:35 p.m. and the following persons were present:

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

Councilman William H. McClure was absent.

The meeting was adjourned into Executive Session to discuss a real estate matter on the duly adopted motion of Councilman Geist.

The regular meeting was reconvened at 7:40 p.m.

Councilman Weaver moved, seconded by Councilman Geist, approval of the minutes of November 7, 2007.

The roll call vote was as follows:

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

Noes: None.

Supervisor Berman announced that the Byram Hills Bobcats soccer team had won the New York State Championship held in Oneonta, NY. Deputy Town Clerk and mother of team member Nick Curran described the excitement as the team won the semi-final game and then the championship game as more than 500 Bobcat fans cheered them on. Saying that this is the first State title won by Byram Hills in its 40 year history, Coach Matt Allen commended the team on its hard work and determination throughout the season. Mrs. Curran requested, and permission was given, to hold a parade in Town on December 8 and to place a sign under the eagle to publicize the victory. Councilman Kittredge described the excitement as the bus carrying the team came down the ramp from I-684 to be greeted by a police and fire truck escort back to the high school. Supervisor Berman said the team's accomplishments will be recognized at the December 5 Town Board meeting.

Councilman Weaver said he will not be at the December 5 meeting to congratulate the team.

Mrs. Berman then announced that the last day to put out loose leaves is November 25, after which leaves must be bagged. She also said that the Westchester County Mobile Shredder will be in the Town Hall parking lot on Saturday, December 15 from 11 a.m. to 2 p.m. and urged citizens to avail themselves of this service.

In connection with the proposed highway garage construction project, Councilman Kittredge moved, seconded by Councilman Weaver, the following:

- Adoption of a resolution authorizing the issuance of up to \$150,000 bonds of the Town of North Castle to pay preliminary planning costs for the construction of a new highway garage.

Town Board Minutes

November 19, 2007

- Approval of a proposal from Kellard Sessions Consulting, P.C., in the amount of \$6,000 for preparation of a project description, Long EAF and Part III narrative.
- Approval of a proposal from Sullivan Architecture, PC, in the amount of \$17,000 for services and tasks to assist in understanding the size, design and costs to construct the proposed garage.
- Acceptance of a no-fee proposal from Phoenix Building Corporation for a preliminary cost budget and project schedule for the proposed highway garage.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, approval of the final payment in the amount of \$21,767.50 for James Ford Plumbing in connection with the Hergenhan Recreation Center project.

The roll call vote was as follows:

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

Noes: None.

Pursuant to the recommendation of Stearns & Wheler, LLC, Councilman Waver moved, seconded by Councilman Kittredge, approval of Payment # 13 in the amount of \$13,300 to Stratis Contracting Corporation in connection with the wastewater treatment plant upgrade.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, receipt of a Negative Declaration from the Planning Board for the Armonk Square mixed-use development.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, receipt of a copy of a letter from Veneziano & Associates to the Landmarks Preservation Committee answering questions about the Armonk Square project raised by the LPC at its August 8 meeting.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver stated his opinion that information about a party on the premises of the Mariani Garden Market, in violation of zoning, was not communicated to the Town Board in a timely manner. Supervisor Berman said she had no knowledge until she received an invitation to the event six days before it took place. She immediately contacted Town Attorney Baroni who advised her to notify the Building Department which would issue summonses. Building Inspector Richard Fon stated that two summonses to appear in court in December were issued for zoning violations. Councilman Geist said he believed that the Building Department had acted appropriately and asked what processes need to be implemented to handle such a matter in the future. Supervisor Berman said that after the event she met with Attorney Patrick Bliss, Director of Planning Adam Kaufman and Building Inspector Fon to discuss a mechanism to

Town Board Minutes

November 19, 2007

ensure that Town rules are not flaunted. One of the measures discussed was increasing the amount of the fines. Mrs. Berman asked Mr. Baroni to draft appropriate legislation.

Resident Sue Shimer concurred that the primary remedy should be in court and suggested that, in the future, such infractions should be kept in mind when considering zoning changes.

With respect to memos from General Foreman Craig Useted, Councilman Kittredge moved, seconded by Councilman Weaver, release of a highway bond in the amount of \$750 to Ed Hammer, 1 Megan Lane (Permit 0751) and in the amount of \$500 to A. Olsen, 64 McDougal Drive (Permit 0702).

The roll call vote was as follows:

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

Noes: None.

Pursuant to a memo from Mr. Useted, Councilman Kittredge moved, seconded by Councilman Geist, permission to award the bid for the purchase of uniforms for the period 2008 - 2010 to the sole bidder, Varsity Army & Navy, for the bid price of \$5,463.50.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Supervisor Berman.

Noes: None.

Abstentions: Councilman Weaver.

Upon the recommendation of Director of Planning Kaufman, Councilman Geist moved, seconded by Councilman Weaver, that a public hearing be scheduled for December 19, 2007 to consider adopting a new Stormwater Management Law as mandated by New York State law.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a Notice of Intent to be Lead Agency from the Town of Bedford Planning Board with respect to the modified plan for the Seven Springs Residential Subdivision. Director of Planning Kaufman will notify Bedford that North Castle should be included as an interested party. Mr. Kaufman was also authorized to send a letter to the Bedford Planning Board asking it to take a hard look at the environmental impacts of the project.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, permission for the following organizations to put a sign under the eagle:

- Armonk Baseball League to publicize 10 and Under Little League's division championship.
- Armonk Chamber of Commerce to advertise the Winter Walk on December 9.
- St. Patrick's Church to publicize its Christmas Boutique on December 9.

The roll call vote was as follows:

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

Town Board Minutes
November 19, 2007
Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a memo from Village of Sleepy Hollow regarding the FAA's new flight plans over Westchester County airport.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Conservation Board Chairman John Fava advising that the Conservation Board received the 2007 Environmental Project Award for its brochure *Septic and Lawn Care* and its *Messages* newsletter, both of which were mailed town-wide.

The roll call vote was as follows:

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

Pursuant to a petition from Hocherman Tortorella & Wekstein, LLP, on behalf of Stop and Shop Supermarket Company LLC to amend Town Code, Chapter 213 entitled "Zoning," to permit outdoor displays, sales and service as an accessory use in the Shopping Center (SC) Zone, Councilman Kittredge moved, seconded by Councilman Geist, that the petition be referred to the Planning Board for its study and report. The Town Board would like the Planning Board to consider other zoning districts as well as the SC district.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to make the budget transfers that follow at the end of these minutes.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Weaver, that a Notice of Claim from Scott Silverman and David Sirkin be received and referred to the Town Attorney.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to sign the Inter-Municipal Agreement with Westchester County for funding for the Quarry Heights Sewer project.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Kittredge, that the Supervisor be authorized to sign the proposal in the amount of \$8,700 from Fulbright & Jaworski, L.L.P., as

Town Board Minutes

November 19, 2007

bond counsel with respect to the issuance of \$2,307,500 EFC Clean Water Facility Note (a bond anticipation note).

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that the Supervisor be authorized to sign the renewal agreement with CSEA Employee Benefit Fund for dental and vision insurance for CSEA Unit 2 for the term January 1, 2008 through December 31, 2010.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to sign the contract with Westchester County for Community Development Block Grant funds in the amount of \$50,000 for the Washington Avenue Public Improvement Project.

The roll call vote was as follows:

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

Noes: None.

Pursuant to a memo from Town Clerk Leber, Councilman Kittredge moved, seconded by Councilman Geist, that a public hearing be scheduled for December 5, 2007 to consider a local law to waive the residency requirement for the position of Deputy Town Clerk. Should the law be adopted, Ms. Leber will appoint Barbara Pesquera to the second line position, which will not affect the 2008 budget. Mrs. Pesquera has passed the Civil Service exam for the position.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist said he spoke at the Westchester Tax Receivers' Association meeting where the topic was the possibility of the County's centralizing all of the Receivers' offices. Mr. Geist urged the Receivers to be vocal in expressing their opposition to the proposal which, he believes, would raise a host of problems.

The Town Board audited and approved payment totaling \$497,031.15 as indicated on Warrant #20.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 8:30 p.m.

Ann Leber, Town Clerk

Dated: November 27, 2007

Town Board Minutes
November 19, 2007

PUBLIC HEARING

November 19, 2007

At 7:50 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 Board will hold a Public Hearing on November 19, 2007 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering the adoption of a local law to amend the Code of the Town of North Castle, Chapter 204 entitled "Water" Article I entitled Water District No. 2, section 103 entitled "Water Rates" to increase the water rate to \$4.75 per thousand gallons. In addition, section 104 "Charges for consumers outside district" will increase to \$9.50 per thousand gallons, which is double the inside rate.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: November 8, 2007
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.

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

A memo from Superintendent Futia dated November 2, 2008 and a memo from Town Attorney Baroni dated November 8, 2007 were marked Exhibit "D" for the record.

Supervisor Berman explained that the rate increase had been requested by Superintendent Futia due to a depleted fund balance in Water District No. 2. In his memo, Supt. Futia proposed that the rate be increased in 2007 to benefit the last quarterly billing.

In his memo, Mr. Baroni explained that "the new rate is applicable only to water purchased subsequent to the effective date of the new rate. The new rate may not be retroactively applied. Either the last quarterly billing has to be split out using the proportionate time the respective water rates (old and new) are effective or the new rate is made effective for the next successive quarterly billing cycle."

Councilman Weaver asked whether the school district should be charged the double out-of-district rate. Assistant Supt. Sal Misiti responded that the district was originally set up that way. Mr. Baroni added that the Town could not charge the Canyon Club one rate and the school district another.

Resident Sue Shimer asked that in the future the Town Board to consider charging one rate for usage up to a certain amount and a higher rate for usage over that amount. Mr. Misiti said that would be something to consider.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Geist moved, seconded by Councilman Kittredge, that the Public hearing be closed at 7:55 p.m.

Town Board Minutes
November 19, 2007

The roll call vote was as follows:

Ayes: Councilman Kittredge, Geist, Weaver, Supervisor Berman

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, the adoption of Local Law 20 of the year 2007, to amend Town Code, Chapter 204, Article I, Section 103 and Section 104 as follows:

A Local Law to amend Chapter 204 entitled Water Article II entitled Water District No. 2 of the Code of the Town of North Castle.

Be It Enacted by the Town Board of the Town of North Castle as follows:

1. Section 204-103 entitled Water Rates is hereby amended to read as follows:

- A. Water rates shall be \$4.75 per 1,000 gallons, with a minimum rate of \$40 per quarter. In the event that revenues received through water rates and other fees are insufficient to provide budgeted funds to the district, the water district reserves the right to fix an additional assessment upon the properties located therein to recover said funds upon due notice and public hearing called for such purpose.
- B. All eligible and qualified senior citizens shall be entitled to a fifty-percent discount on water bills received by them for actual water usage only. This water rate discount shall be limited to the minimum rate (\$20 of \$40). In order for a senior citizen to be eligible and to qualify for this water rate discount, such senior citizen must be registered on the Town's age exempt list and must be eligible for actually receiving real property tax exemption pursuant to § 467 of the Real Property Tax Law of the State of New York.

2. Section 204-104 entitled Charges for Consumers Outside District is hereby amended to read as follows:

The charge for water to consumers outside of North Castle Water District No. 2 shall be \$9.50 per 1,000 gallons. The fire line charge to the Canyon Club shall be \$2,338.

3. This Local Law shall take effect immediately upon filing of same with the Secretary of State of the State of New York.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Geist, Weaver, Supervisor Berman

Noes: None.

Ann Leber, Town Clerk

Dated: November 28, 2007

Town Board Minutes
November 19, 2007