

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
March 23, 2011

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

Supervisor	William R. Weaver
Councilmen	Rebecca A. Kittredge
	Michael J. Schiliro
	Diane Roth
	John J. Cronin
Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni

The meeting was immediately adjourned into a work session which was then adjourned into executive session at 6:30 p.m., which was then closed at 7:30 p.m. The regular meeting was reconvened at 7:40 p.m.

Councilman Schiliro reported on the Association of Towns of NYS Annual Meeting and two day Training School that he recently attended. Stating that the it provides a forum to share best practices, Mr. Schiliro cited several topics that would be appropriate to discuss in work sessions, including: multi-year planning, shared services, projecting health care costs, grant writing, outsourcing of human resources, re-assessment, tax caps, mandate relief and reform.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the minutes of the March 9, 2011 Town Board meeting.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

The minutes of the Public Hearing which commenced at 8:20 p.m. follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of letter from Veneziano & Associates, granting a further extension, through April 13, 2011, for the Board to render a decision on the special use permit application for 7 Round House Road.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None.

Pursuant to the referral to the Board of Ethics at the March 9, 2011 meeting, Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of letter from Edward Berman, Chair of the Board of Ethics, in response to letters from Maria Gentile and Michelle Sorkin, stating that there is no basis for submission of either letter to the Board of Ethics for an advisory opinion.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, referral of a letter from Sara Doto requesting an Ethics Board review.

The roll call vote was as follows:

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Ayes: Councilmen Kittredge, Schiliro, Roth
Noes: Councilman Cronin, Supervisor Weaver

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of application from the Errico family requesting approval to have a private party at Community Park on June 4, 2011. Town Attorney Baroni said that based on the size and type of event, the application requires approval of the Town Board and Town Clerk administration concerning insurance. Supervisor Weaver stated that he has met with the applicant and that the event is a Sweet 16 party, similar to an outdoor concert, with food vendor trucks and private security. The permit fee of \$1,000 is believed to be adequate for turf management. The Supervisor indicated that the private security arrangements will be coordinated and approved by the Police Department and all required insurance certificates will be submitted to the Town Clerk prior to the issuance of a permit.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver
Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, adoption of bond resolution in the amount of \$375,000 for borrowing for the settlement agreement with Westwood Organic Recycling, LLC. The resolution follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Cronin, Supervisor Weaver
Noes: None
Abstain: Councilman Roth

Councilman Roth moved, seconded by Councilman Cronin, receipt of letter from Director of Planning, Kaufman, regarding proposed CB-B District Amendments to permit luxury dog hotels, and further moved the scheduling of a public hearing for April 13, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Cronin, Supervisor Weaver
Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, approval of a holiday display permit application from Gail Lombardi Norris to place a nativity at Miller Park at Broadway and Reservoir Road in North White Plains from December 1, 2011 – January 9, 2012.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Cronin, Supervisor Weaver
Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, approval to proceed with the development of a RFP regarding pavement and asset management services for road repair throughout the Town.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver
Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, receipt of a letter from Brian Dyer regarding Round House Road.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver
Noes: None

Councilman Roth moved, seconded by Councilman Kittredge, receipt of letter from NYS Office of Historic Preservation stating that on February 22, 2011, 11 Tallwoods Road was listed on the National Register of Historic Places, which is the nation's official list of properties worthy of preservation.

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The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Nays: None

Upon the recommendation of Assistant General Foreman, Jamie Norris, Councilman Kittredge moved, seconded by Councilman Roth, to award bid for precast concrete structures (catch basins) to Chemung Supply Corp., the only bidder who submitted a non-collusion certificate and bid bond, as follows:

30"X48" CATCH BASIN STRUCTURE WITH FOUR (4) KNOCKOUTS			
1CB-NS3	3' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$353.00
1CB-S3	3' DEPTH WITH SUMP	Chemung Supply Corp	\$389.00
1CB-NS4	4' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$489.00
1CB-S4	4' DEPTH WITH SUMP	Chemung Supply Corp	\$444.00
1CB-NS5	5' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$689.00
1CB-S5	5' DEPTH WITH SUMP	Chemung Supply Corp	\$554.00
1CB-NS6	6' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$712.00
1CB-S6	6' DEPTH WITH SUMP	Chemung Supply Corp	\$648.00
FRAMES AND GRATES		Chemung SupplyCorp	\$449.00
ALTERNATE FRAMES AND GRATES		Chemung Supply Corp	\$474.00

1D1 30"x30" DRAIN INLET WITH FOUR (4) KNOCKOUTS			
1DI-NS3	3' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$278.00
1DI-S3	3' DEPTH WITH SUMP	Chemung Supply Corp	\$304.00
1DI-NS4	4' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$374.00
1DI-S4	4' DEPTH WITH SUMP	Chemung Supply Corp	\$399.00
1DI-NS5	5' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$457.00
1DI-S5	5' DEPTH WITH SUMP	Chemung Supply Corp	\$494.00
1DI-NS6	6' DEPTH WITHOUT SUMP	Chemung Supply Corp	\$558.00
1DI-S6	6' DEPTH WITH SUMP	Chemung Supply Corp	\$574.00
FRAMES AND GRATES		Chemung Supply Corp	\$249.00
ALTERNATE FRAMES AND GRATES			No Bid

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, approval of the request of Assistant General Foreman, Norris, to award the bids for highway materials, pavement markings and guiderails to the lowest bidders as follows:

AGGREGATES:

Bank Run	Red Wing Properties, Stormville, NY
Washed, State Approved Stone	
3/8"	Tilcon, West Nyack, NY
3/4", 1-1/4", 1-1/2"	Wingdale Materials, White Plains, NY

Trapped Rock	
3/8"	Thalle Industries, Briarcliff, NY
3/4", 1-1/4", 1-1/2"	Tilcon, West Nyack, NY
Shoulder Material	Tilcon
Screened Top Soil	Red Wing Properties, Stormville, NY

SNOW PLOW AND GRADER BLADES	Expanded Supply Corp., Cold Spring, NY
TRUCK SKID CHAIN	Chemung Supply Corp., Elmira, NY
LIQUID CALCIUM CHLORIDE	Peckham Materials, Athens, NY
GUIDERAIL	Chemung Supply Corp., Elmira, NY
PAVEMENT MARKINGS	Hi-Way Safety, Rockland, MA

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

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Councilman Roth moved, seconded by Councilman Kittredge, receipt of a letter from A&P regarding their restructuring and securing financial stability, stating they expect to emerge from the Chapter 11 process as a financially stable and more productive company.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of letters from Tax Receiver, Colombo, requesting the Town Attorney be authorized to execute the following Consent Judgments and approval to pay refunds as shown:

	Parcel	Refund
Michael Longo	2-03-7.-12	\$6,887.85
Harding Avenue Associates, LLC	6-08-15.A01	\$2,478.24
Gisondi Associates	6-09-46	\$13,851.07

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

The discussion of proposed order for public hearing regarding Water District No. 6–Extension was moved to the next scheduled Town Board meeting of April 13, 2011, pending receipt of further information from the engineer.

Councilman Kittredge moved, seconded by Councilman Roth, authorization for the Town’s attorneys to execute the Consent Judgment in the matter of CMI Realty Corp. vs. Town of North Castle – Index No. 21900/08 et al.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of the mortgage tax update for January and February, 2011. Councilman Schiliro noted that the projected mortgage tax for 2011 of \$600,000 is slightly ahead of budget.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Roth moved, seconded by Councilman Schiliro receipt of a final audit report from Ashpaugh & Sculco, CPAs, PLC Re: Analysis of franchise fees paid by Cablevision July 1, 2004 through June 30, 2009.

Town Clerk Curran explained that the audit was approved based on the recommendation of the former Cable Advisory Committee and participation included a consortium of Towns (Bedford, Harrison, Lewisboro, Mt. Kisco, North Castle, Pound Ridge, Somers and Yorktown). Ms. Curran stated that the report indicates that underpayment of franchise fees to North Castle is \$88,000. While the full amount is not likely to be collected, she said she will continue to work with the two lead negotiators from the consortium and will keep the Town Board informed concerning progress on a settlement with Cablevision.

Councilman Roth moved, seconded by Councilman Schiliro, approval to sign the agreement with Artmonk Studios, Inc. to provide fine arts programs and instruction for Recreation Dept.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

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Councilman Kittredge moved, seconded by Councilman Schiliro, approval of John Delano as Chairman of the Planning Board, for a term to expire December 31, 2011.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilmen Kittredge moved, seconded by Councilman Schiliro, appointment of Guy Mezzancello to the Planning Board, for a term to expire December 31, 2015.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, the appointment of Chris Walz as a part-time student intern, working up to six hours per week, Town Clerk's office – Public Information, effective March 24, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, the appointment of Nicole Huszar as a part-time student intern, working up to six hours per week, Recreation Dept., effective March 24, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of Workers Compensation Report for a Highway Department employee.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Town Clerk Curran read an e-mail, from Robert Peake, John Meyer Consulting, to Peg Michelman, former Planning Board Chairman, in which he thanked Ms. Michelman for the service she provided to the Town.

Councilman Kittredge moved, seconded by Councilman Roth, receipt of a letter, with regret, from Franklin Thomas announcing his retirement from the Police Department, effective April 18, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

After all persons were heard who desired to be heard, the Supervisor closed the meeting in memory of Randy Ramirez, Emil Eiserman, Jr., Mary Agnes Wagner, Norman Janicki, Jr., brother of Castle Janicki, Highway worker, and Frank Lombardi at 10:35 p.m.

Anne Curran, Town Clerk

Dated: April 4, 2011

The following resolution was offered by Councilman Kittredge, who moved its adoption, seconded by Councilman Schiliro, to-wit:

BOND RESOLUTION DATED MARCH 23, 2011.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$375,000 BONDS OF THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK, TO PAY PART OF THE \$525,000 ESTIMATED MAXIMUM COST OF THE SETTLEMENT OF A CLAIM BROUGHT BY WESTWOOD ORGANIC RECYCLING, LLC.

WHEREAS, the town has entered a settlement agreement concerning a legal claim brought by Westwood Organic Recycling, LLC, (the "Claimant"), calling for the Town to pay \$475,000 to the Claimant, and has legal and other expenses in connection therewith which are not expected to exceed \$50,000;

WHEREAS, the Town expects to received an insurance reimbursement in connection therewith in the amount of \$150,000, and now desires to provide financing for the \$375,000 cost not expected to be reimbursed by insurance;

BE IT RESOLVED, by the Town Board of the Town of North Castle, Westchester County, New York, as follows:

Section 1. For the specific object or purpose of paying part of the cost of the settlement of a claim brought by Westwood Organic Recycling, LLC, including incidental expenses in connection therewith, there are hereby authorized to be issued \$375,000 bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of said specific object or purpose is \$525,000, and that the plan for the financing of the aforesaid specific object or purpose is by the issuance of the \$375,000 bonds of said Town authorized to be issued pursuant to this bond resolution, together with the \$150,000 expected to be received from an insurer.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is five years, pursuant to subdivision thirty-three of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the

chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of North Castle, Westchester County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. Annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the Town of North Castle, Westchester County, New York, by the manual or facsimile signature of the Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the Town Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he or she shall deem best for the interests of the Town; provided, however, that in the exercise of these delegated powers, he or she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or

exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Supervisor shall determine.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 11. This resolution, which takes effect immediately, shall be published in summary form in *The Journal News*, the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

William R. Weaver	VOTING	Aye
Rebecca A. Kittredge	VOTING	Aye
Michael J. Schiliro	VOTING	Aye
Diane Roth	VOTING	Abstained
John J. Cronin	VOTING	Aye

The resolution was thereupon declared duly adopted.

PUBLIC HEARING

March 23, 2011

At 8:20 p.m. Supervisor Weaver 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 March 23, 2011, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering the adoption of a Local Law to create a new Chapter 163 entitled "Maintenance of Separate Sewage Disposal Systems/On-site Wastewater Systems".

By Order of the Town Board

Anne Curran, Town Clerk

Dated: March 9, 2011

Armonk, New York

The Public Notice 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.

Letter from Conservation Board Chairman, John Fava, dated March 3, 2011 was marked Exhibit "D" for the record.

Full Environmental Assessment Form was marked Exhibit "E" for the record.

Director of Planning Kaufman explained that effective May 1, 2011 property owners within the Croton and Kensico watersheds will be required to have their septic tanks pumped once every five years. The mandate is required as part of the Municipal Separate Storm Sewer Systems (MS4) requirements, a federal mandate that is enforced by the New York State Department of Environmental Conservation (NYSDEC). In addition to having the septic tank pumped, the process would include a visual inspection of the septic fields for any obvious problems. Mr. Kaufman said the draft legislation includes the extension of the inspection requirement to the entire Town as discussed at recent Town Board meeting based upon the recommendation of the Conservation Board. He said Warren Lucas, North Salem Supervisor, has developed a database, for a coalition of Northern Westchester municipalities, which will import County data to create letters to notify property owners who have not met the minimum requirement for a pump out by a County licensed septic hauler.

In response to a request from Chris Carthy for further clarification, Mr. Kaufman said the legislation would require each property owner in the Town to have a septic system pump out once every five years.

Councilman Kittredge said that when a septic system is pumped, the septic company provides the report to both the County and the property owner. Ms. Kittredge added that some property owners may not know that the septic systems should be pumped and the proposed requirement would protect the homeowners as well as the neighboring properties.

Supervisor Weaver said that the requirement would protect areas of Town where residents do not have municipal water or sewer, as well as protecting New York City drinking water. Mr. Weaver said it would ensure that property owners are taking care of their septic systems.

Michael Fareri asked for clarification regarding the definition of inspection and whether a test of the septic fields would be required. Mr. Kaufman explained that NYSDEC has accepted the pump out of the septic system to qualify as an inspection, and testing of the fields is not required. Based on this clarification, Mr. Fareri then said he was in favor of the legislation being adopted.

Councilman Schiliro asked about the waiver period for properties which are used infrequently and Town Attorney Baroni said the waiver period would be 180 days after the five year minimum period had elapsed.

When Councilman Roth asked how many properties located in the affected watershed areas have septic systems and how many are located outside the areas have them, Mr. Kaufman said a few hundred in the watershed areas have septic systems and a few thousand outside the areas have them.

Councilman Cronin said he had no issues with the proposed legislation which is mandated for properties located in the watershed areas, but he was not in favor of extending the requirement to pump septic systems to all homes in the Town.

Councilman Roth said she was not in favor of adopting the legislation and said an inspection test would determine whether a septic system is working property, not a pump out of the tank.

Supervisor Weaver said that a visual inspection of the area is included when the septic tank is pumped.

Councilman Kittredge said she was in favor of adopting the legislation for the entire Town to ensure that septic tanks are not negatively impacting the wells of neighboring property owners. Ms. Kittredge said the requirement is not onerous and every property should have a properly maintained septic system. She said the owners could encounter a situation of failed septic fields and insufficient property to have new septic fields installed.

Councilman Cronin reiterated that he shared Councilman Roth's reluctance to expand the requirement beyond properties located in the watershed.

Supervisor Weaver said that he wanted to ensure we are protecting everyone's property and the drinking water in the community. He said the vast majority of residents probably understand the need to have septic tanks pumped and have it done on a regular basis, but the five year requirement would address all homeowners.

Christine Salandra asked how many wells have been affected by neighbors' septic systems. Mr. Kaufman said the data is not available. Supervisor Weaver said that the Town receives calls from owners reporting septic overflows on a neighbor's property which could run into groundwater and affect wells. Mr. Weaver said on smaller parcels in Town there is limited area between wells and septic tanks. In response to a query from Ms. Salandra about education of property owners regarding septic systems, Mr. Weaver said that a few years ago the Conservation Board sent a pamphlet to all owners describing how septic systems work and how to care for them to keep them running safely and efficiently.

John Trainor said he was against adoption of the legislation and there were no facts that septic systems pollute neighboring wells. He objected to the costs to owners as well as to the fines for non-compliance, and said the enforcement costs would be unsustainable.

Mr. Kaufman responded that it was not really true that there were no facts to support the legislation. He said a balance must be struck between enacting a law and getting it applicable to every situation. He said that the State has determined that for the average home and situation that five years is an appropriate time period to protect the health, safety and welfare of public regarding septic maintenance.

Tony Futia said that he could see the requirement being applicable in the Quarry Heights area, but in modern homes there is sufficient separation between well and septic systems. He said that newer homes with properly designed separate tanks should not have problems.

John Fava read a statement in support of the adopting the legislation on a town-wide basis. In North Castle about 80% land area uses septic systems and 95% of water users in the Town, including businesses, schools and residential properties rely on drilled wells and groundwater for their water supply. He said that the effluent from septic systems gradually makes it way down to groundwater. In North Castle, the major watersheds that supply drinking water to reservoirs are the Kensico, Croton, Byram Lake and the Mianus. Additional public water supplies are from wells in the Byram-Wampus watershed which provides water to a portion of the Armonk area, while wells along the Mianus River provide water to the Windmill Farm area. North White

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Plains is served by both water and sewer facilities, while Quarry Heights is partially served by sewers. The remainder of the Town is served by individual wells.

Mr. Fava said that to protect the quality of the precious and valuable water resource, it is important to keep septic systems in good working order and regular pumping is essential for this purpose. He said that the Westchester County Department of Health and the North Castle Conservation Board have for years recommended the pumping of septic tanks every two to three years depending on use. He added that the few hundred dollars to pump out a septic tank is much less costly than the tens of thousands required for replacing failed septic fields.

Richard Ferguson said that as a fairly recent town resident he was pleased to receive a call from the septic company used by the previous owner as he did not know that the septic system should be pumped. Mr. Ferguson and he said he would continue to have this service done to protect the Town and residents.

Howard Arden asked if the Town had considered trying to negotiate prices with septic companies since many residents would require this service if the legislation is adopted. Supervisor Weaver said this was not discussed and that many residents are probably having this service done on a regular basis and would not need to have it done immediately.

Councilman Schiliro said he found it was odd that the Board is adopting mandated legislation to protect the water we do not use and is considering amending it which will not protect the water we do use. Mr. Schiliro said he has his septic system maintained on a regular basis to protect the well on his property and those of his neighbors. He recommended that the Board move forward on passing the mandated legislation and have a follow up public hearing and hear from residents who may want to have their wells protected.

Councilman Kittredge said that she would be in favor of adopting the amended legislation for properties located in the watersheds at this time, but also recommended that another public hearing be held regarding properties outside the watersheds.

Tony Futia said that water in wells which are drilled many hundred feet below ground will be purified from any contaminants from septic systems. He said that few people have their well water tested and this should be done.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 9:05

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Roth moved, seconded by Councilman Schiliro, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Roth moved, seconded by Councilman Schiliro, adoption of Local Law 2 of the year 2011, to add Chapter 163 entitled "Maintenance of Separate Sewage Disposal Systems/On-site Wastewater Systems", as amended to include only Town parcels located within the New York City Croton or Kensico Reservoir Watersheds.

The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Anne Curran, Town Clerk

Dated: April 5, 2011

TOWN OF NORTH CASTLE
Local Law 2 For the Year 2011
(Adopted March 23, 2011)

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

1. A new Chapter 163 to be entitled “Maintenance of Separate Sewage Disposal Systems/On-site Wastewater Systems” is hereby added to the Town Code of the Town of Castle to read as follows:

Chapter 163. Maintenance of Separate Sewage Disposal Systems/On-site Wastewater Systems

Section 163-1. Purpose and Intent.

To support the water quality guidelines negotiated with the NYS DEC and NYC DEP for stormwater runoff in an attempt to reduce the phosphorous and nitrogen loading in the Town’s stormwater and to further support the health, safety and welfare of the residents of the Town of North Castle, the Town of North Castle hereby finds it necessary that separate sewage disposal systems operate and be maintained in a manner that will prevent, to the extent possible, hazards to the public health and to protect the drinking water supply of, and which pass through, the Town of North Castle.

This local law is intended to implement the provisions of Part IX.A.3.b of the New York State Department of Environmental Conservation, SPDES General Permit GP-0-10-002 (“Permit”) for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) effective May 1, 2010 which require that the Town implement and enforce a program to ensure that separate sewage disposal systems/on-site wastewater treatment systems are inspected and, where necessary, maintained or rehabilitated as required by Part IX.A.3.b of the Permit and/or similar provisions in successor Permits.

Section 163-2. Definitions.

1. SEPARATE SEWAGE DISPOSAL SYSTEM/ONSITE WASTEWATER TREATMENT SYSTEM shall mean a system or facilities or means for the treatment or modification or ultimate disposal of waterborne sewage or domestic wastes or trade wastes or offensive material, regardless of location with respect to any building or structure or premises thereby served, including but not limited to septic tanks. Such system shall include, but shall not be limited to, facilities for the treatment or modification or required control of harmful or deleterious substance, as defined in Section 873.721 of the Westchester County Sanitary Code, before subsurface discharge.
2. SEPTAGE COLLECTOR shall mean an individual or entity licensed by the Westchester County Commissioner of Health who engages in the performance of any one (1) or more of the following services, or who offers

to provide any one (1) or more of the following services for a fee, in Westchester County, with respect to separate sewage disposal systems: evacuation, removal, collection or transportation of septage.

3. SEPTAGE shall mean the contents of a septic tank or other Separate Sewage Disposal System/On-site Wastewater Treatment System which receives sanitary sewage waste.
4. INSPECTION shall mean the evacuation and removal of septage from a Separate Sewage Disposal System/On-site Wastewater Treatment System and subsequent reporting by a Septage Collector that is licensed by the Westchester County Department of Health pursuant to Sections 873.722, 873.724 and 873.726 of the Westchester County Sanitary Code (see Appendix for complete sections).
5. APPEALS AUTHORITY shall mean the Building Inspector.

Section 163-3. Inspection requirements.

1. Beginning on May 1, 2011, the owner of any parcel located within the New York City Croton or Kensico Reservoir Watersheds and located within the Town of North Castle which relies upon a Separate Sewage Disposal System/On-site Wastewater Treatment System for the treatment or modification or ultimate disposal of water borne sewage or domestic wastes or trade wastes or offensive material, with respect to any building or structure thereon, shall cause an inspection to be performed on said Separate Sewage Disposal System/On-site Wastewater Treatment System at a minimum frequency of once every five (5) years.
2. Upon the completion of any inspection, every owner shall maintain a copy of the record of such inspection as required by Section 873.724 of the Westchester County Sanitary Code, which will be provided to the owner by the Septage Collector, for a minimum of six (6) years.

Section 163-4. Waivers/Variance.

The Appeals Authority shall not grant a waiver or exemption from any of the requirements of this local law provided, however, that the Appeals Authority may vary the time requirements as referenced within this local law, upon the submission and consideration of evidence which may necessitate an extension of time to comply with all aspects of this local law. Such extension shall not exceed one hundred eighty (180) days.

Section 163-5. Enforcement and penalties.

Any owner of a parcel which is located in the Town of North Castle and is served by a Separate Sewage Disposal System/On-site Wastewater Treatment System that violates the provision of this local law, shall be guilty of a violation, and shall be subject to a penalty as follows:

- (1) The Building Inspector shall first issue a written notice of violation to the owner informing the owner of the anticipated imposition of penalties if the violation is not corrected within 30 days.
- (2) If the violation is not remedied within 30 days, the owner shall be subject to a fine not to exceed \$200.00 for each violation. Thereafter, beginning on the 31st day of the continuing violation, the

owner shall be subject to a fine in the amount of \$200.00 for each fourteen (14) day period until the violation is remedied and can be verified in writing by the Building Inspector.

Section 163-6. Compliance with Other Laws.

Compliance with this local law shall not be deemed compliance or approval of the municipality under any other rules, regulations, code or laws including, but not limited to, Article VIII of the Westchester County Sanitary Code.

Section 163-7. Severability.

In the event that any provision of this local law shall be held unconstitutional or unlawful, the remaining provisions in this local law shall remain in full force and effect.

2. This Local Law shall take effect immediately upon its adoption and filing in the office of the Secretary of State.