

Town Board Minutes
Regular Meeting
Town of North Castle
Whippoorwill Hall
North Castle Public Library
19 Whippoorwill Road East, Armonk, NY
on
January 25, 2017

The Town Board meeting was called to order at 5:00 p.m. at Town Hall and immediately adjourned to an Executive Session on the duly adopted motion of Councilman D'Angelo. All Town Board members, the Town Attorney and Town Administrator were present for the Executive Session. The Executive Session adjourned at 6:15 p.m. on the duly adopted motion of Councilman D'Angelo. The Town Clerk joined the regular meeting that reconvened at 6:40 p.m. at Whippoorwill Hall and the following persons were present:

Supervisor	Michael J. Schiliro
Councilmen:	Stephen A. D'Angelo
	Barbara W. DiGiacinto
	Barry S. Reiter
	José L. Berra

Town Clerk	Alison Simon
Town Counsel	Roland Baroni
Town Administrator	Joan Goldberg

The minutes of the Public Hearing that commenced at 8:00 p.m. follow at the end of these minutes.

With regard to the Notification of Paradigm Treatment Centers LLC to establish a community residential facility for the mentally disabled, pursuant to section 41.34 of the New York State Mental Hygiene Law, at 14-16 Cole Drive in the Town of North Castle, the Town Board took the following actions:

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, receipt of the following:

1. Letter from Acting Building Inspector Michael Cromwell re NYS Building Code requirements for Group Homes, dated 1/17/17.
2. Letter from Davis Pond Conservancy LLC, dated 1/17/17.
3. Letter from Nixon Peabody LLP, dated 1/20/17.
4. Letter from Nixon Peabody LLP, dated 1/24/17.
5. Supplemental Stipulation extending the Town's response time to 1/27/17, dated 1/25/17.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, to adopt the Resolution in Objection to Paradigm Treatment Centers LLC to establish a community residential facility for the mentally disabled, pursuant to section 41.34 of the New York State Mental Hygiene Law, at 14-16 Cole Drive in the Town of North Castle. The Resolution follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman Berra, authorization of the Town Supervisor to sign the Objection of the Town of North Castle to the establishment of the proposed community residence for children and adolescents by Paradigm Treatment Centers LLC at 14-16 Cole Drive in the Town of North Castle. The Objection follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, Berra, DiGiacinto, Reiter, Supervisor Schiliro

Noes: None

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Councilman D'Angelo moved, seconded by Councilman Berra, approval of the minutes from the January 11, 2017 Town Board meetings.

Vote: Unanimous

With regard to the Public Scoping Session for *The Vue*, 1700 Old Orchard Street, to provide an opportunity for the public to identify specific issues and environmental impacts that should be addressed in a Draft Environmental Impact Statement (DEIS), Anthony Veneziano, Veneziano & Associates, appeared before the Board on behalf of his client, JMF Properties. Also in attendance were Bonnie Von Ohlsen, John Myer Consulting, and Richard Pearson, John Myer Consulting. A stenographer recorded the minutes of the Scoping Session including the public comments and those minutes are attached as an addendum to the year 2017 minutes.

Councilman D'Angelo moved, seconded by Councilman Berra, receipt of letter from NYC Department of Environmental Protection regarding *The Vue* Draft Scope, dated 1/19/17.

Vote: Unanimous

Pursuant to a letter from Tax Receiver Colombo regarding a Consent, Order and Judgment for 62 E Middle Patent Road, Armonk, Tax Map #103.01-1-19, for tax year 2016, Councilman Reiter moved, seconded by Councilman D'Angelo, approval to issue a refund of \$555.11.

Vote: Unanimous

Following discussion of a Proposed Local Law to amend Chapter 288 entitled Taxation to add Article IX entitled Room Occupancy Tax to the Code of the Town of North Castle, the Board requested that Town Attorney Baroni clarify specific language in the proposed Local Law in preparation for a public hearing. Councilman D'Angelo moved, seconded by Councilman DiGiacinto, the scheduling of a Public Hearing on February 15, 2017.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman Berra, receipt of Certificate of No Referendum regarding the sale of 45 McDougal Drive, North White Plains, dated 1/17/17.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, receipt of letter from Safe Flight Instrument Corp, dated 1/5/17.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman DiGiacinto, approval of a request for an alcohol permit from the Friends of the North Castle Library for a Friends Board and North Castle Library Trustees meeting at the Library on February 22, 2017 and also approval of waiver of permit fee.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman Berra, authorization for Town Administrator Joan Goldberg to issue a Request for Proposal (RFP) seeking a new telephone system for use in three Town buildings: Town Hall, the Annex, and the Hergenhan Recreation Center.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Reiter, receipt of 4th Quarter 2016 Revenue/Expense Reports and Bank Reconciliations.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, approval to purchase a Toro Groundmaster 4100-D mower for the Parks Department in the amount of \$60,659.82 on NYS Contract; this mower is fully funded in the current year's budget.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, receipt of letter from The NYS Association of Towns Executive Director, Gerry Geist, dated January 11, 2017.

Vote: Unanimous

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Councilman Reiter moved, seconded by Councilman Berra, authorization for the Supervisor to sign an Agreement with Lothrop Associates for architectural services for the North White Plains Community Center expansion, in the amount of 11% of the actual construction cost, estimated to be \$138,000.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, approval for Administrator Goldberg, the Comptroller, and Bookkeeper-Kieya Glaze to attend the 2017 NYS GFOA Conference in Albany, March 28 to March 31, 2017, and further authorized the use of a Town vehicle to and from the conference.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Berra, approval for Director of Planning Adam Kaufman to attend the 2017 American Planning Association Conference in NYC, May 6 to May 9, 2017.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, the appointment of Peter Block to the Budget and Finance Advisory Committee for a three-year term to expire January 25, 2020.

Vote: Unanimous

Consideration to adopt a Resolution regarding appointment of a Hearing Officer pursuant to Local Law Section 68-8 B., Chapter 104 of the Laws of 1936, as amended, a/k/a the Westchester County Police Act and New York State Town Law Section 155 to conduct a hearing and issue findings of fact and a recommendation on guilt or innocence and the appropriate penalty, if any, to the Town Board for employee numbers 2025 and 3347 was tabled.

Councilman Reiter moved, seconded by Councilman DiGiacinto, the appointment of Abbas Sura as Town Comptroller, effective March 6, 2017.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Reiter, approval of the consensus agenda as follows:

- Receipt of Workers Compensation Report, Highway Department.
- Receipt of Workers Compensation Report, Town Clerk's Office.
- Receipt of NYS Gaming Commission Verified Statement of Raffle Ticket Operations for New York Wing Civil Air Patrol.

Vote: Unanimous

The Town Board audited and approved payments of \$375,179.40 as indicated on Warrant #2 dated January 25, 2017 as follows:

\$254,921.10 (for year 2016)
\$120,258.30 (for year 2017)

After all persons were heard who desired to be heard, the Supervisor adjourned the regular meeting in memory of residents William Cahn III and Alessandra DiFeo at 12:26 a.m. The meeting was reconvened to Executive Session. The Executive Session closed 12:45 a.m.

Alison Simon, Town Clerk

Dated: February 6, 2017

RESOLUTION OF THE TOWN BOARD
OF THE TOWN OF NORTH CASTLE, NEW YORK

WHEREAS, by a certain Notice dated November 7, 2016, received on November 14, 2016, by the office of the Town Supervisor of the Town of North Castle (*the "Town"*) from Paradigm Treatment Centers, LLC of 6323 Via Escondido Drive, Malibu, California 90265 (*"Paradigm"*), Paradigm provided the Town of North Castle with formal notification under Section 41.34 of the New York Mental Hygiene Law of the interest and intent of Paradigm to establish a proposed community residential facility for the mentally disabled at 14-16 Cole Drive in the Town of North Castle (*the "Property"*); and

WHEREAS, Paradigm's Notice represented that Paradigm desired to convert the Property into a community residential facility for the mentally disabled for up to eight (8) individuals suffering from mental illness, including depression, anxiety, trauma, grief, co-occurring substance abuse disorders and/or co-occurring eating disorders; and

WHEREAS, Paradigm's Notice failed to notify the Town of the community support requirements of the proposed facility; and

WHEREAS, Paradigm's Notice failed to provide the Town with any of the most recently published data compiled pursuant to Section four hundred sixty-three of the Social Services Law; and

WHEREAS, Paradigm's Notice erroneously represented that the Property was serviced by public sewer and water whereas in fact the Property is serviced by septic and well water; and

WHEREAS, the Property borders a pond jointly owned by several other Town residents; and

WHEREAS, Paradigm's Notice purported to invoke a 40-day period from November 14, 2016, for the Town to respond pursuant to one of the enumerated methods of Mental Hygiene Law Section 41.34 (c)(1)(A)(B) or (C); and

WHEREAS, the Town Board scheduled a public meeting with respect to Paradigm's Notice for November 30, 2016, at 7:30p.m. (*the "Public Meeting"*); and

WHEREAS, at the November 30, 2016, Public Meeting many concerns were raised with respect to the type of facility in fact proposed by Paradigm, about whether it was governed by the Padavan Law and in regard to conflicts between Paradigm's various notices to the Town and other written materials publicly posted by Paradigm which stated that "Paradigm New York is one of the leading treatment centers for adolescent substance abuse and addiction treatment"; and

WHEREAS, specific concerns were also raised at the Public Meeting with regard to septic, water, traffic, parking and other environmental impacts of the proposed intensification of an already taxed infrastructure in the neighborhood; and

WHEREAS, in particular, many members of the community identified information, including from Paradigm's own website quoted above, demonstrating that Paradigm was, in fact, advertising a proposed drug addiction and substance abuse facility at the Property; and

WHEREAS, a transcript of the Public Meeting and a complete record of petitions, correspondence and other materials were provided to the Town Board; and

WHEREAS, questions were raised about the very short, temporary period of time planned for treatment of anyone at the facility and, as such, whether this was in fact a community residential facility under the Padavan Law; and

WHEREAS, on November 30, 2016, Paradigm issued what it referred to as a "Supplemental Notice" whereby Paradigm provided to the Town a list containing some of the most recently published data required by Mental Hygiene Law Section 41.34(c)(1); and

WHEREAS, Paradigm's Supplemental Notice was identified at the Public Meeting to be deficient and not a complete copy of the most recently published data required by Mental Hygiene Law Section 41.34(c)(1); and

WHEREAS, on December 8, 2016, Paradigm again supplemented its earlier notices by providing the Town of North Castle with what Paradigm identified as a copy of the New York State Communities Facilities Registry for the entirety of Westchester County; and

WHEREAS, on or about December 19, 2016, the Town of North Castle and Paradigm entered into a Stipulation where by it was mutually agreed, *inter alia*, that the 40-day time period for the Town Board to act regarding Paradigm's Notices was extended to the Town Board meeting and Town Board vote of January 25, 2017, and subsequently further extended by Supplemental Stipulation dated January 25, 2017, to January 27, 2017, to allow sufficient time for the Town Board to file an objection; and

WHEREAS, at the Public Meeting and in and by the Stipulation, Paradigm agreed to respond, in writing, to many questions raised at the Public Meeting and to provide professional reports, data and studies with respect to the septic and water systems, traffic, et al. by various dates, all well before December 31, 2016; and

WHEREAS, Paradigm failed to provide to the Town the information data and professional reports they had specifically agreed to provide well before December 31, 2016, in anticipation of the scheduled January 25, 2017 Town Board meeting, the extended date for the Town's determination herein; and

WHEREAS, the Town Board hereby finds based upon the most recently published list compiled pursuant to Section four hundred sixty-three of the Social Services Law, that the proposed facility would result in such a concentration of community residential facilities for the mentally disabled in the municipality or in the area in proximity to the site selected, or a combination of such facilities with other community residences or similar facilities licensed by other agencies of state government, including all community residences, intermediate care facilities, residential care facilities for adults and residential treatment facilities for individuals with mental illness or developmental disabilities, operated pursuant to Article 16 or Article 31 of the Mental Hygiene Law and all similar residential facilities of 14 or less residents operated or licensed by another state agency, that the nature and character of the areas within the municipality would be substantially altered; and

WHEREAS, the Town Board hereby further finds that Paradigm has not presented the Town Board with any data demonstrating need for the proposed facility within the Town of North Castle or County of Westchester; and

WHEREAS, the Town Board further finds that commencing with the Notice dated November 7, 2016, erroneously representing that the Property was serviced by public sewer and water and omitting entirely identification of all other facilities as required by law, followed by a supplemental notice which failed to provide the required most recent and comprehensive list of facilities as required by New York Law, and the failure by Paradigm to meet submission dates they had committed to provide to the Town Board many answers to questions raised at the Public Meeting as well as, *inter alia*, professional reports with respect to septic, water and traffic among other items as Paradigm had agreed with the Town at the Public Meeting and, in writing, pursuant to Stipulation; and

WHEREAS, it appearing to the Town Board and to the many members of the community who have contacted the Town Board with respect to Paradigm's action and conduct herein that Paradigm has proceeded in a disingenuous manner and; accordingly, it is

RESOLVED, that the Town Board, under all of the facts and circumstances presented in this record, expresses its concern that the proposal by Paradigm does not qualify under Section 41.34 of the Mental Hygiene Law (*the "Padavan Law"*) and questions whether the proposal should be rejected by the Office of Mental Health on that basis; and it is hereby further

RESOLVED, pursuant to the State Mental Hygiene Law, Section 41.34 that the Town Board hereby Objects to the establishment of the proposed community residential facility by Paradigm at 14-16 Cole Drive, Armonk, New York; and be it further

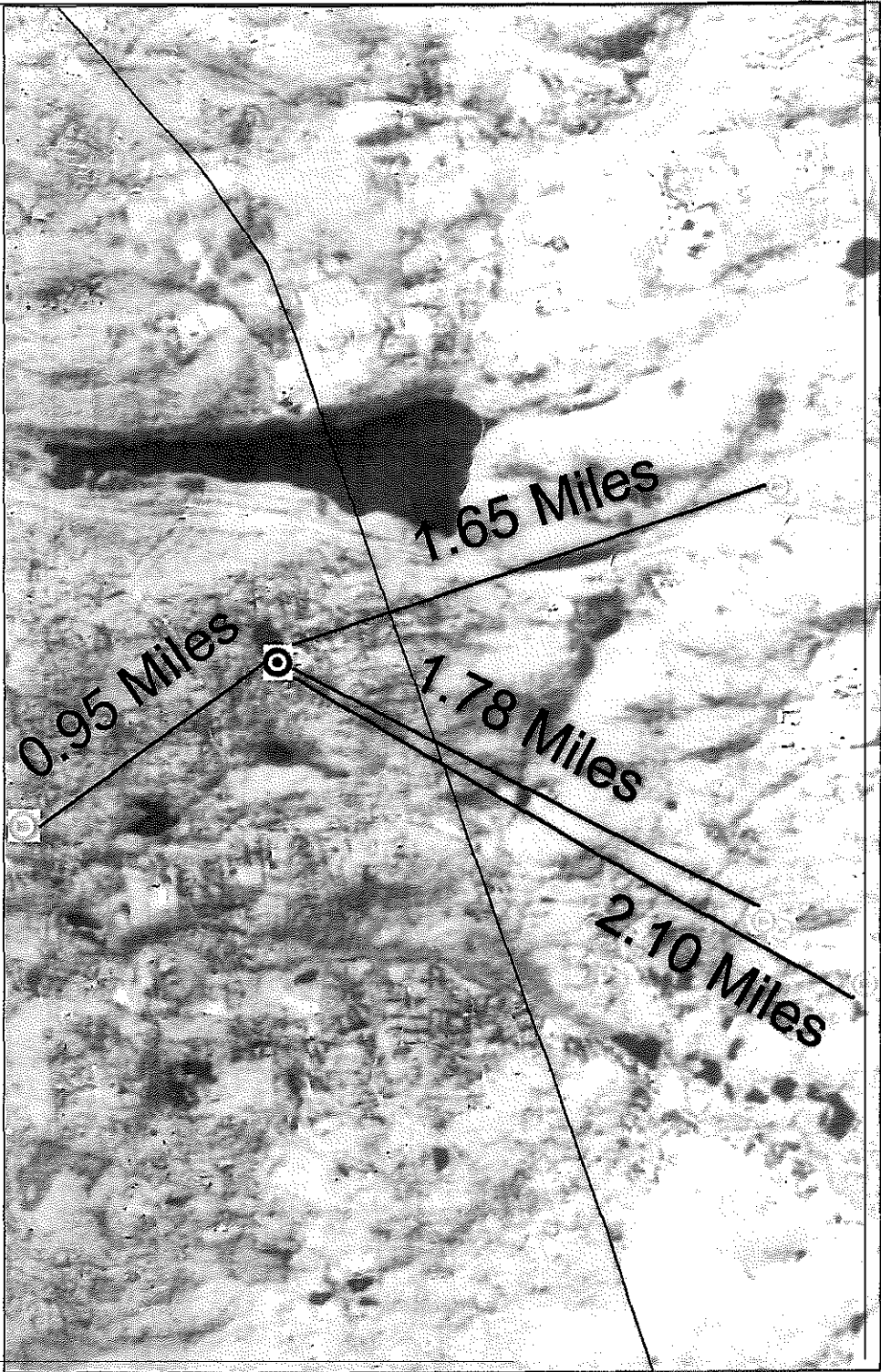
RESOLVED, that the establishment of the proposed community residential facility by Paradigm at 14-16 Cole Drive, Armonk, New York would result in an over concentration of community residential facilities for the mentally disabled and other similar facilities by other agencies of state government in the Town of North Castle and in the area in proximity to 14-16 Cole Drive, Armonk, New York, such that the nature and character of the areas within the Town of North Castle would be substantially altered; and be it further

RESOLVED, that Paradigm has failed to demonstrate need for its proposed community residential facility in the Town of North Castle; and be it further

RESOLVED, that the Town Attorney is hereby directed to immediately file a copy of this Resolution and the accompanying Objection with the Commissioner of Mental Health of the State of New York; and it is further

RESOLVED, that this Resolution and the accompanying Objection is and shall be without prejudice to all other rights and remedies of the Town of North Castle, all of which are hereby reserved and preserved with respect to Paradigm.

Dated: January 25, 2017



Legend
North Castle Bound
Parcels

0 625 1,250 2,500 3,750 5,000 6,250 Feet
The Town of North Castle does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. The Town of North Castle provides this map without any warranty of any kind whatsoever, express or implied.



Town Board: Town of North Castle

In the Matter of the Notice of Paradigm Treatment
Centers LLC to the Supervisor of the Town of North Castle
under Section 41.34 of the Mental Hygiene Law

**Objection of Town of
North Castle**

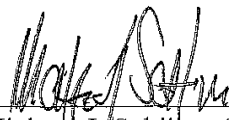
Pursuant to the State Mental Hygiene Law, Section 41.34, the Town of North Castle hereby objects to the establishment of the proposed community residence for children and adolescents by Paradigm Treatment Centers LLC ("Paradigm") at 14-16 Cole Drive, Armonk, New York, finding that:

- a. The establishment of the proposed community residence by Paradigm at 14-16 Cole Drive, Armonk, New York would result in an over concentration of community residential facilities for the mentally disabled and other similar facilities by other agencies of state government in the Town of North Castle and in the area in proximity to 14-16 Cole Drive, Armonk, New York, such that the nature and character of the areas within the Town of North Castle would be substantially altered; and
- b. Paradigm has failed to demonstrate need for its proposed community residential facility in the Town of North Castle.

This Objection is without prejudice to all other rights and remedies of the Town of North Castle, all of which are hereby preserved.

Dated: January 25, 2017

TOWN OF NORTH CASTLE

By: 
Michael J. Schilliro, Supervisor

To:

Anne Marie T. Sullivan, MD Commissioner
New York State Office of Mental Health
44 Holland Avenue
Albany, New York 12229

Paradigm Treatment Centers LLC
c/o Robert N. H. Christmas, Esq.
Nixon Peabody LLP
437 Madison Avenue
New York, NY 10022-7039