

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York 10504
on
March 10, 2010

Supervisor Weaver called the meeting to order at 5:00 p.m. and the following persons were present:

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

The meeting was immediately adjourned into executive session, which was then closed at 7:25 p.m.

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

Supervisor Weaver led the Pledge of Allegiance.

The minutes of the Public Hearing which commenced at 7:35 p.m. follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the minutes of the regular meetings of February 11, 2010 and February 24, 2010.

The roll call vote was as follows:

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

Noes: None.

Town Clerk Curran made the following announcements:

- The Town of North Castle is accepting applications for a part-time clerical position in the Tax Receiver's office. Applicants must be able to work flexible hours depending on collection cycles. Further details are available on the Town web site and Town Hall bulletin board.
- North Castle Recreation's Spring/Summer brochure has been mailed out and is also online at www.northcastleny.com.
- The 2010 U.S. Census Questionnaire forms must be completed and returned to the U.S. Census Bureau between March 15 and April 15, 2010. An accurate count of local population helps ensure that the Town receives its fair share of federal funding.
- The Westchester County Clerk's mobile office van will be at Town Hall on Saturday, April 24th to process applications for U.S. passports.

Jane Cahn, Chairman of North Castle Citizens Corps Council (NC4), thanked Emergency Management Officer David Lander, Recreation and Parks Superintendent Bruce Barnard, NC4 Volunteers and the Town Board for their emergency response and support during the severe February snowstorm. Ms. Cahn urged residents to evaluate their emergency preparedness plans, and said pamphlets about emergency kits and plans are available at the Town Clerk's office.

Copies of thank you letters from Jane Cahn to Police Officer Lander and Superintendent Barnard were read by Town Clerk Curran and received on the duly adopted motion of Councilman Kittredge.

Letters from Barbara DiGiacinto, Susan Shimer and Reese Berman commending the Police, Highway, Recreation and Parks, and Sewer and Water Departments, and other Town employees

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for their response during the snowstorm were received on the duly adopted motion of Councilman Kittredge.

Deborah Cerar, North Castle Recycling Committee Co-Chairman, provided information regarding Zero Waste Day on Saturday, April 24, 2010 at Town Hall. Town residents, with valid proof of residency, can bring e-waste and scrap metal for collection by Suburban Carting. Donations of household furniture, spring and summer clothing and linens, adult bicycles, and dog and cat supplies will be accepted from all donors. Organizations will provide a donation receipt. More information about Zero Waste Day and volunteering for the Recycling Committee is available on the Town's web site on the Conservation and Environment page.

Town Clerk Curran read a letter from Barbara DiGiacinto expressing concerns about discussion at the previous Town Board meeting about Chapter 213 and permitted uses in the Nursery Business District, (Mariani Gardens), and specifically, Councilman Roth's proposed addition of the NB District to the zoning text amendment to allow outdoor dining. Mrs. DiGiacinto's letter was received on the duly adopted motion of Councilman Kittredge.

P. Daniel Hollis, III of Shamberg Marwell, et al., on behalf of his client Mariani Gardens, stated that Mr. Mariani is asking for permission to have additional seats outside and to be treated in the same fashion as other establishments, and added that an additional sixteen seats outside, the same number of indoor seats, is the only thing Mr. Mariani is looking to change.

Councilman Kittredge moved, seconded by Councilman Roth, receipt of letters from Director of Planning Kaufman and Shamberg Marwell Davis & Hollis, P.C. pertaining to the creation of a law to eliminate Outdoor Dining as a Special Use Permit and to create a new Chapter 142 to regulate Outdoor Dining within the Town of North Castle; and further moved the scheduling of a Public Hearing for March 24, 2010.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the recommendation of Director of Planning Kaufman to award the contract for the preparation of Phase I of the Planned Light Industry (PLI) Zoning District Planning Study Relating to Supermarkets to BFJ Planning, the lowest bidder, in the amount of \$7,500 without survey, or \$9,000 with survey, conditional upon payment for the study by the petitioner for the zoning amendment to create a new special permit use.

The roll call vote was as follows:

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

Noes: None.

Business owner Charlene Jacobi and property owner Jeff Garson expressed their concerns about the impact of a supermarket located outside of the Central Business (CB) zoning district on the local merchants in the CB zoning district.

Councilman Roth recused herself from the discussion regarding the 7 Round House Road special use permit application. Director of Planning Kaufman reviewed the Parts 2 and 3 of the Environmental Assessment Form which he had updated per the Board's request.

Mark Miller, Veneziano & Associates, representing the applicant, North Castle Landscaping & Tree Service, Inc., 7 Round House Road, and Bob Roth, John Meyer Consulting, PC were present regarding additional information regarding the use, handling and storage of fertilizers, herbicides which was prepared by Mr. Roth in response to the Board's request.

Residents Eric Birnbaum, Steven O'Connor, Nancy Birnbaum, Jerry March, and Denise O'Connor were present. Thomas Whyatt of Oxman Tulis Kirkpatrick Whyatt & Geiger, LLP, representing Eric and Nancy Birnbaum and Ed Saggese, expressed concerns about the potential health and environmental impacts of pesticide storage. Mr. O'Connor provided the Board with documents regarding NYSDEC's Facility Structural Requirements for the storage and handling

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of pesticides. He suggested that the application be sent back to the Planning Board for review of the proposed structure in terms of pesticide storage.

Councilman Kittredge moved, seconded by Supervisor Weaver, receipt of all documents regarding 7 Round House Road.

The roll call vote was as follows:

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

Noes: None.

Town Attorney Baroni said that it is the Town Board's decision whether an applicant is issued a special use permit and that the process is handled through a public hearing. Mr. Baroni suggested that a public hearing be held separate from a Town Board meeting date, possibly at a larger venue.

Councilman Schiliro moved, seconded by Councilman Kittredge, the scheduling of a public hearing for May 4, 2010.

The roll call vote was as follows:

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

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, receipt of a mission statement from the Town of North Castle Organic Recycling Study Group: To study the appropriateness of the Westwood Organic Recycling Facility located on town property behind and adjacent to the town's Highway Department operation, and provide recommendations to improve the town's long term yard waste recycling program.

The roll call vote was as follows:

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

Noes: None.

Howard Arden, Co-Chair of the North Castle Organic Recycling Study Group, announced that the group had reviewed all materials and recommend that a modified stop work order be issued. Co-Chair, Bob Greene, elaborated on the reasons for the stop work order recommendation, including: 1) safety concerns of additional truck traffic using Bedford Road access passes by Town Hall, United Methodist Church, Armonk Nursery School and the ball field as the Main Street access road is not finished; 2) absence of a site plan, thereby eliminating input from appropriate Town experts including Planning Board, Architectural Review Board, and Conservation Board; and 3) the need to determine the validity and enforceability of the Westwood contract.

James Scoli, Westwood Organic Recycling, said that the driveway entrance from Main Street could be completed in three weeks, and suggested that Town employees should monitor and flag traffic until the driveway is finished. Mr. Scoli said that typically the Town does not issue site plans for its own projects, and reiterated that over the five months that the facility has been in development, he has invested a great deal of time and money. Objecting to what he termed as false allegations, Mr. Scoli said that he has photos that show the original condition of the site and suggested that a meeting take place to review the facts. Explaining that his program was started to assist municipalities with handling of yard waste while saving money for taxpayers, Mr. Scoli said that his is one of the few businesses that handle this work and they are in full compliance of County and NYS regulations, adding that visiting officials have had no issue with what is presently being performed at the site. When the site off Main Street was determined to be a better location than Middle Patent Road, Mr. Scoli said he offered to use non-permanent structures, work on grading and drainage, help build the driveway and screen the facility by constructing a berm, cedar fencing and by donating plantings. He stated that he has invested upwards of three-quarters of one million dollars, and the issuance of a stop work order now is not fair or legal.

Michael Fareri, member of the Organic Recycling Study Group, reiterated safety concerns and stated that no request for proposal was put forth for the Town Hall location, the project did not go through SEQR and appropriate wetland, traffic, noise, odor and stormwater evaluation and

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that studies and plans were not evaluated in advance. Mr. Fareri also criticized the driveway construction and challenged the Town's liability if there is a problem due to faulty construction.

Mr. Scoli offered to cease bringing in soil and grass clippings until the study group reports on all findings, but said that he would like to continue to process wood chips, and tree materials. He also agreed to have a structural engineer review the driveway construction. He added that he has a Westchester County permit for the facility and offered to provide copies. In response to suggestions that he continue to process trees and brush collected by the Highway Department and Lewis Tree Co., Mr. Scoli declined stating that the request is unfair and waiting three weeks to continue processing his outside work, while the study group's evaluation continues, is not feasible for his seasonal business.

Bob Greene summarized the request that there be a stop to all trucks from bringing new materials in to the site, adding that Mr. Scoli's trucks should be allowed to remove materials from the site.

Councilman Cronin moved, seconded by Councilman Roth, to follow the recommendation set forth by the Organic Recycling Study Group and cease work at the site for a three week period.

The roll call vote was as follows:

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

Noes: Kittredge.

Councilman Kittredge moved, seconded by Councilman Roth, to allow Kellard Sessions, Consulting, P.C. to conduct an environmental assessment in consideration of potential adverse impacts of the Westwood Organic Recycling facility at a cost not to exceed \$10,000.

The roll call vote was as follows:

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

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, approval of the recommendations of Comptroller Dawn Donovan to lease copy machines from Ricoh Business Systems for Town Hall and Town Hall Annex for an annual amount of \$8,421.48, and from Arden Business Systems for the Recreation Department at an annual amount of \$3,192 and Police Department for an annual amount of \$3,858; and to purchase the wide format machine in the Town Hall Annex for \$3,562 plus annual maintenance.

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 a memo from Assistant Building Inspector and Fire Marshal William Richardson regarding a proposed revision to the Town's ordinance for fire sprinklers at the request of the New York State Fire Prevention and Building Code Council; and further moved the scheduling of a public hearing for April 14, 2010.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the recommendations of request of Housing Board Chairman Barbara DiGiacinto to notify people on the Middle Income Unit (MIU) waiting lists of MIU availability by email only; to require MIU owners to pay the Town a \$100 fee to cover costs each time a unit is being offered for sale; and in addition to the \$75 non-refundable first time applicant fee, to add a \$50 fee for subsequent applications.

The roll call vote was as follows:

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

Noes: None.

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Councilman Schiliro moved, seconded by Councilman Roth, authorization for the Supervisor to sign a Professional Services Agreement with Farmer's Market Contractor, Carol DeLisa; and an agreement authorizing the use of space on Kent Place executed by Attorney Joseph DiGiacinto on behalf of Armonk Whippoorwill Associate LLC and D.F.R. No.1 Realty, LLC.

Upon recommendation of Town Attorney Baroni, the code requirement for a surety bond and provision of sanitary facilities was waived.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, the appointments of Beth Pollack as member, Linda Trummer-Napolitano as non-voting member, and Diane Chickering as ad hoc committee member of the Recycling Committee, to serve at the pleasure of the Board.

The roll call vote was as follows:

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

Noes: None.

Councilman Roth moved, seconded by Councilman Kittredge, the appointments of Anne Curran (ex-officio) and Steve Russell as Co-Chairmen of the Communications Committee, to serve at the pleasure of the Board.

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 appointments of Sean Ryan and Elise Trainor to the Communications Committee, to serve at the pleasure of the Board.

The roll call vote was as follows:

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

Noes: None.

Councilman Roth moved, seconded by Councilman Schiliro, the appointment of Michael Porpora as an ad hoc member of the Communications Committee.

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 following:

Approval of the request of General Foreman for the supervision of removal of town trees as follows:

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| Rocco's Landscaping | Rental of 57' bucket truck with operator and one groundsman for various tree service for \$750 per day (8 hours). |
|---------------------|---|

| | |
|---------------------|---|
| Rocco's Landscaping | Rental of 70' bucket truck with operator and one groundsman for various tree service for \$750 per day (8 hours). |
|---------------------|---|

The roll call vote was as follows:

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

Noes: None.

Approval of the request of the Byram Hills Preschool Association to place a sign under the eagle to publicize its Havana Nights Fashion Show scheduled for May 6.

Approval of the request of Green Acres Garden Club to place a sign under the eagle, on the grass median in North White Plains and in Wampus Park to publicize its annual Plant Sale scheduled for May 7.

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Approval of the request of the North Castle Recycling Committee to place a sign under the eagle and on the grass median in North White Plains to publicize its bi-annual Zero Waste Day scheduled for April 24 at Town Hall.

Receipt of a memo from Zoning Board of Appeals Secretary Linda DiFiore regarding to the completion of training requirements by Zoning Board members Robert Schmidt, Joseph Monticelli and Lester Berkelhamer.

Receipt of Workers Compensation Reports for Michael Giaccio, Castle Janicki and Kenneth Gaska, Highway Department.

Receipt of letters from Cablevision regarding removal of LATV channel and negotiations with WABC-TV.

Receipt of letters from Verizon regarding removal of LATV, Selanta Sports and Fox Reality channels from FiOS TV service.

Receipt of the Town Clerk's report for the month of February, 2010.

Martye Futia voiced positive comments regarding the addition of the Pledge of Allegiance at the beginning of each Board meeting and the elimination of the time limit on public comments. Mrs. Futia voiced objection to the reading of her letter regarding outdoor dining, at the February 24, 2010 meeting, specifically citing that it was read out of order and not in entirety. Supervisor Weaver said the part which was not read contained a personal attack. Mrs. Futia expressed disagreement and said the residents should have the right to redress the Board.

The Town Board audited and approved payments totaling \$2,502,269.41 as indicated on Warrant #5.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 12:45 a.m. in memory of Vinnie Boglioli and Mark McLaughlin.

Anne Curran, Town Clerk

Dated: March 11, 2010

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PUBLIC HEARING

March 10, 2010

At 7:35 p.m. Supervisor Weaver reconvened the Public Hearing which was adjourned from February 24, 2010 for the purpose of considering the adoption of a Local Law to amend the Town Code of the Town of North Castle, Chapter 196 entitled "Vehicle and Traffic." Article III, Section 196-22 and Article VI, Section 196-53 (Schedule XIII) to establish a "No Parking Any Time" zones on several areas on Washington Avenue, Washington Place East and Hillandale Avenue.

Lt. Peter Simonsen stated that the local law was revised slightly based on expressed requests of residents, while adhering to safety concerns and the goal of improving site distances.

Councilman Cronin complimented Lt. Simonsen saying that the law struck a nice balance of improving safety and listening to concerns of residents with hardships.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Roth, that the Public Hearing be closed at 7:40 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, the adoption of Local Law 1 of the year 2010 to amend the Town Code of the Town of North Castle, Chapter 196 entitled "Vehicle and Traffic." Article III, Section 196-22 and Article VI, Section 196-53 (Schedule XIII) to establish a "No Parking Any Time" zones on several areas on Washington Avenue, Washington Place East and Hillandale Avenue.

The roll call vote was as follows:

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

Noes: None.

The Local Law follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: March 11, 2010

TOWN OF NORTH CASTLE
Local Law No. 1 For the Year 2010
(Adopted March 10, 2010)

A Local Law to amend Chapter 196 entitled Vehicles and Traffic of the Town of North Castle.

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

1. Article III, Section 196-22 and Article VI, 196-53 Schedule XIII: No Parking Any Time is hereby amended to add the following:

| <u>Name of Street</u> | <u>Side</u> | <u>Location</u> |
|-----------------------|-------------|---|
| Washington Avenue | West | From its intersection with Virginia Road for a distance of 255' north (To 11 Washington Ave.) |
| Washington Avenue | West | From a point of 428' north of its intersection of Virginia Road extending for a distance of 75' north (between 19 & 23) |
| Washington Avenue | West | From a point 95' south of the center of the intersection of Washington Place East extending north for a distance of 870' (from stone wall south of Washington Place East to a point approximately 200 ft. south of Custis Avenue). |
| Washington Avenue | East | From its intersection with Washington Place East extending north for a distance of 870'. (Washington Place East to Custis Avenue) |
| Washington Avenue | West | From a point of 442' south of the center of its intersection with Hillendale Avenue north for a distance of 203' (post area on the west side south of the center of its intersection with Hillendale Avenue) (post area on the west side south of Hillendale Avenue |
| Washington Avenue | East | From its intersection with Hillendale Avenue for a distance of 108' south (new bus stop area). |
| Washington Avenue | West | From its intersection with Hillendale Avenue for a distance of 49' south (West side, just south of the intersection) |
| Washington Avenue | West | From the center of its intersection with Hillendale Avenue extending north for a distance of 93'. |
| Washington Avenue | West | From a point 303' north of the center of its intersection with Hillendale |

| | | |
|-----------------------|-------|--|
| | | Avenue to its intersection with Bronx River Parkway. |
| Washington Avenue | East | From its intersection with Hillandale Avenue extending north to its intersection with Bronx River Parkway. |
| Washington Place East | North | From its intersection with Washington Avenue for a distance of 130' east. |
| Hillandale Avenue | South | From its intersection with Washington Avenue to its intersection with Custis Avenue. |

2. Effective Date: This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.

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