

Town Board Minutes
Town of North Castle
19 Whippoorwill Road East
Armonk, New York
on
August 12, 2009

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

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

The meeting was immediately adjourned into Executive Session, which was then closed at 7:15 p.m.

Supervisor Berman reconvened the regular meeting at 7:30 p.m.

Councilman Weaver moved, seconded by Councilman Kittredge, approval of the minutes of the regular meeting of July 29.

The roll vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, approval of the minutes of the Special Meeting of August 11, 2009.

The roll vote was as follows:

Ayes: Councilmen Kittredge, Weaver, Supervisor Berman.

Noes: None.

Abstentions: Councilmen Geist and Schiliro

The minutes of the Public Hearing which commenced at 7:47 p.m. follow at the end of these minutes.

Supervisor Berman made the following announcements:

- Ken Abrams, an Armonk resident and a Town employee in the Building Department for many years, died on August 9th.
- Per the NYSDOT Regional Director's office and from the contractor for the NYSDOT, paving work was scheduled to begin August 24th. The most current information received on August 19th is that the start day may be moved to August 31st.
- Members of the Armonk Chamber of Commerce are sponsoring a day of sales and fun for the family on September 12, 2009 from 10am until 4pm. For more information, call the Chamber at 449-6116.
- A transportation referendum will take place on October 6th at H.C. Crittenden Middle School from 6 a.m. to 9 p.m. A portion of the project is for a wash bay that will be shared by the Byram Hills School District and the Town of North Castle.

Pursuant to a memo from Superintendent Barnard, Councilman Geist moved, seconded by Councilman Kittredge, acceptance of the donation from the Lombardi family for the purchase of a park bench to be installed at the North Castle Community Center in memory of the Lombardi brothers.

The roll vote was as follows:

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

Noes: None.

Gail Norris, daughter of former Supervisor Jack Lombardi and niece of Sabatino Lombardi, said that her father had grown up near the Community Center and the family wanted to have the bench placed there in the brothers' memory.

NC4 Chairman Jane Cahn asked that the Board consider approval of a Memo of Understanding between the Town and local vendors who would agree to provide supplies and services at a reasonable rate to the Town's emergency shelter. Ms. Cahn explained that NC4's first mission is to open and maintain a shelter, adding that it would be important to provide meals to residents staying there during an emergency.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the Memo of Understanding between local vendors and the Town whereby vendors agree to provide supplies/services to the Town's emergency shelter at a rate approximately 25% above the vendor's actual cost.

The roll vote was as follows:

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

Noes: None.

Ms. Cahn said the NC4's second mission is to educate the community about the need to prepare for an emergency. In recognition of September as National Disaster and Emergency Preparedness Month, a program entitled "Disaster and Emergency Preparedness: What North Castle Residents Need to Know" will be held on September 10, 2009 at 7:00 p.m. at the Hergenhan Recreation Center.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of correspondence regarding the Town Administrator position.

The roll vote was as follows:

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

Noes: None.

Town Clerk Leber said that since the July 29, 2009 Town Board meeting seven e-mails and letters had been received in favor of the establishment of the Town Administrator and six against. Resident Lydia Rippstein read aloud her e-mail opposing the creation of the position. Town Clerk Leber and Deputy Town Clerk Pesquera, upon the request of writers, each read aloud two of the letters.

Supervisor Berman read the following statement regarding the establishment of the Town Administrator position.

"At the July 29th Town Board meeting, I gave my reasons for supporting creating the position of an Administrator and will not repeat them this evening. They are available on the Town web-site, under the What's New section both in text and on YouTube. I have supported creating the position of administrator since our first work session on May 14, 2008 because administrators are professionals trained in public administration and will provide efficiencies, cost savings and improved governance. An administrator will have the technical expertise, experience and training to deal with a \$30,000,000 budget; he or she will provide stability and continuity. And if the Supervisor's position becomes part-time with a full-time administrator, many more capable residents who have other jobs can consider the position, which in its present configuration requires a very full time Supervisor.

"At the July 29th meeting, Councilman Weaver used a newspaper article to talk about the cost of the administrator's position in New Castle. Mr. Weaver continually refers to the inevitability of the administrator position ballooning into a huge expense. Rather than rely on a newspaper article, I contacted the New Castle administrator to ask for the exact figures not only for the administrator's offices, but also for the Supervisor and Town Board. Here they are. I do not agree that the administrator position will necessarily grow to include a deputy administrator and additional staff. Please note that the New Castle Supervisor makes \$32,865, each Town Board member makes \$10,250, and no one gets benefits. They get less because they do less. If Mr.

Weaver is going to use numbers to scare us into seeing great expenditures as a consequence of hiring an administrator, it is appropriate to include information about the New Castle Supervisor and Town Board as well. The total cost of that office is \$93,885. The cost of salary and benefits of the North Castle Town Board is nearly four times the cost of the New Castle Town Board. The difference could more than pay for an administrator.

“When I proposed creating the administrator position in North Castle, it was May, 2008 – a non-election year. I proposed it because I thought it would make for a better-governed Town. I always said that we should create the position and then determine how we could fund it. Now it has turned into a political controversy. Additionally there have been rumors about my and the Town Board interviewing candidates. There is not a shred of truth to this.

“Tonight I hope that we can create the position and leave it to the next administration to determine when and if they want to hire an administrator. Though I wanted to do this sooner, there are two main reasons to wait. First, several of the candidates for Supervisor and Town Board don’t want to hire an administrator. This Town Board cannot force that decision on a reluctant or unwilling new Board. Second, as Mr. McGraw said at the last meeting, who would take the position in the midst of all this controversy? In order to make a smooth transition, a new administrator must have full Town Board support. I hope that will be forthcoming in 2010.”

Residents expressed their views on the establishment of the Town Administrator position.

Frank Benish and Bob Romano expressed interest in the concept of a Town Administrator and thought it should be explored, but thought the position should not be created at this time, expressing concerns about cost and the growth of local government. Guy Mezzancello expressed opposition to the position stating the Supervisor position should be full time. Chris Carthy said he was not opposed to the incoming Board’s considering it, but would object if it resulted in the Supervisor position becoming part time. Stacey Silpe and Michael Fareri also said the incoming Board should consider if the position is needed. Diane Roth expressed her view that Town revenues needed to increase before the position can be considered.

Suzie Brown, John Fava, Maggie Pack, Brian Kaminer, Charles Shapiro, Beth Pollack, Tony Futia, Len Mitchell, Sam Morell, Steve Russell and Rick Koh spoke in favor of establishing the position citing several benefits including improved town governance, inter-departmental coordination and cost savings. Some residents expressed the view that the position would be an investment in the Town’s future and would enable the Board to focus on policy issues. They urged the Board to support the unanimous recommendation of the Administrator Review Task Force.

Councilman Weaver said that he has not seen the advantages of the Administrator position in the towns of New Castle and Mamaroneck. Mr. Weaver said that the Board needs to make difficult decisions and does not need an Administrator to advise it. He said the position should not be established until the need for it is proven.

Councilman Kittredge said she agreed with the concept of a Town Administrator but would not support the establishment of the position at this time due to the Town’s economic conditions. She added that the matter requires more study by department heads.

Councilman Kittredge moved, seconded by Councilman Weaver, that the establishment of the Town Administrator position be tabled.

The roll vote was as follows:

Ayes: Councilmen Kittredge, Weaver.

Noes: Councilmen Geist, Schiliro, Supervisor Berman.

Councilman Geist expressed his support for the position citing the increasing complexities of managing local governments, as well as the knowledge and experience needed to address issues and to deliver services efficiently and economically. Mr. Geist said it would be simpler for the current Board to pass the issue along to the incoming Board, but the establishment of the position at this time would be a symbolic gesture to tell the next generation that this is the direction in which the Town will go.

Councilman Schiliro said he would support a motion to establish the position if the other Board members agree to two stipulations: 1) that the decision regarding if and when to fill the position be made by a future Board; and 2) that the resolution to establish the position be reviewed and amended as needed by a future Board. Mr. Schiliro said there is a need for a professionally trained Administrator, but the position should be filled when the funding and a well-qualified person are available.

Supervisor Berman reread the following from her statement regarding the Town Administrator position:

“Tonight I hope that we can create the position and leave it to the next administration to determine when and if they want to hire an administrator. In order to make a smooth transition, a new administrator must have full Town Board support. I hope that will be forthcoming in 2010.”

On a motion by Councilman Geist, seconded by Councilman Schiliro, the Town Board considered the following resolution to establish a Town Administrator position for the Town of North Castle:

Resolved, that the Town Board hereby establishes the position of Town Administrator. The Town Administrator shall perform all the duties now and hereafter conferred or imposed upon the position by law and directed by the Supervisor and Town Board and shall have all powers and perform all duties necessarily implied or incidental thereto.

Resolved, that the decision regarding if and when to fill the position be made by a future Town Board and that this resolution be reviewed and amended as needed by a future Town Board.

Notwithstanding the provisions of this resolution, nothing herein shall be deemed or construed as abolishing, transferring or curtailing any powers or duties of the Supervisor or Town Board. The job description of the Town Administrator shall include the following:

1. Supervise and coordinate the activities and functions of the Town, its departments, and its volunteer boards to maximize economy, efficiency, and effectiveness and from time to time recommend to the Town Board any measure or program to further that goal.
2. Attend all Town Board meetings and participate in the Board's discussions and deliberations, but without any right to vote on any issue. Report to and advise the Town Board on matters on the Town Board's agenda or as otherwise requested by the Town Board or deemed important by the Town Administrator.
3. Under the general supervision of the Town Board and subject to applicable budget limitations, bid requirements, and particular department needs, supervise and coordinate the Town's acquisition of materials, equipment, supplies and services.
4. Oversee the work of the Town's department heads and coordinate the work of Town employees.
5. Implement the Town's personnel policies and work rules in a fair and equitable fashion and in accordance with applicable laws and regulations.
6. Supervise and participate in the Town's collective bargaining with the Town's employees and provide periodic status reports and recommendations to the Town Board.
7. Subject to applicable laws and regulations and final approval by the Town Board, hire, terminate, discipline, and determine the compensation of all Town employees.
8. Under the general supervision of the Supervisor, prepare and submit the Town's tentative budget to the Town Board with a budget message on its important features and administer the adopted budget.
9. Report the financial condition, revenues, and expenses of the Town to the Town Board at least quarterly and also as may be otherwise requested by the Supervisor or the Town Board.

10. Serve as the Town’s liaison with other governments and agencies and in the administration of intermunicipal contracts and agreements, and as requested by the Supervisor or the Town Board, represent the Town in intermunicipal discussions.

11. Under the direction of the Town Board, coordinate the Town’s response to inquiries regarding the Town’s government, operations and affairs.

12. Perform such other duties and responsibilities as the Town Board may assign from time to time.

ROLL CALL:

Councilman Geist	voting aye
Councilman Kittredge	voting no
Councilman Weaver	voting no
Councilman Schiliro	voting aye
Supervisor Berman	voting aye

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of an e-mail from Michael Fareri and response by Town Clerk Leber regarding the hiring of a Town Administrator.

The roll vote was as follows:

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

Noes: None.

Director of Planning Adam Kaufman said that in response to direction given by the Board at the last meeting he has prepared draft revisions to Chapter 83 of the Town Code currently entitled “Carnivals and Circuses”. Mr. Kaufman said the draft proposes renaming the law “Special Events” with such events requiring a permit. Applicants would have to meet requirements for a “fire watch” by the local fire department or North Castle Fire Marshal; security and/or traffic control by the North Castle Police Department; a certificate of insurance; a cash bond; and approval of the County Department of Health.

Mr. Kaufman explained that certain events, including those held at private residences, would be considered exempt and therefore not require a permit. Councilman Geist requested that a revision be made to the proposed law to ensure that a bazaar, circus or carnival would not be permitted on private property.

Councilman Weaver moved, seconded by Councilman Kittredge, receipt of the draft revisions to Town Code, Chapter 83, Carnivals and Circuses and, and further moved the scheduling of a public hearing for September 9, 2009.

The roll vote was as follows:

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

Noes: None.

Mark Miller, Veneziano & Associates, representing Archer Stables (formerly Rose Hill Farm), 35-61 Bedford Banksville Road, said the pending application for amended special use permit approval is proposing to enclose the existing riding ring and to provide a storage area. Mr. Miller said that no changes are proposed to any of the conditions in the existing special permit resolution and requested the Board declare its intent to act as Lead Agency and refer the application to the Planning Board. Councilman Geist said that the Board had previously requested that the applicant provide veterinary and farrier records to ensure there was no commercial use of the property, but the records have not been provided. Superintendent Fon said that when an inspection was made of the property no commercial use was found. The Board discussed whether to amend Town Code to change the definition of a private stable.

Councilman Geist moved, seconded by Supervisor Berman, that Chapter 213 of Town Code be revised to change the definition of a private stable, and further moved that a report regarding compliance with the special permit for Archer Stables be prepared for the Board’s review.

The roll vote was as follows:

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

Noes: None.

Mark Miller, Veneziano & Associates, representing North Castle Landscaping & Tree Service, Inc., 7 Round House Road, requested that the Board receive the letter from the Planning Board regarding the proposal for the construction of a private garage with office within the GB Zoning District and schedule a public hearing to consider the special use permit application.

Supervisor Berman said she had concerns with several of the conditions that had to be met in order for the Board to approve a special use permit, including whether the use would be in harmony with the appropriate and orderly development of the district and would not have a significant adverse effect on the environment.

Councilman Geist said he had similar concerns and asked if the applicant should provide an environmental impact statement. Mr. Kaufman said that Part 2 of the Environmental Assessment Form (EAF) would provide information regarding the environmental impact of the application.

Councilman Geist moved, seconded by Councilman, receipt of the letter from the Planning Board regarding the Lowrey, 7 Round House Road special use permit application, and further moved that the applicant submit Part 2 of the EAF for the Board's review.

The roll vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of a memo from Town Clerk Leber in response to Anthony Futia's memo regarding staffing in the Town Clerk's office.

The roll call vote was as follows:

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

Noes: None.

Deputy Town Clerk Anne Curran provided an update on cable TV operations. Ms. Curran reviewed the following points:

- Government Cable TV transmission (NCTV) was established at Town Hall nearly one year ago by using grant monies provided by Verizon and Cablevision to purchase studio equipment and to provide technical support for installation and operations.
- Coverage has expanded. Verizon FIOS TV (Channel 39) reaches 87% of homes. Cablevision subscribers in Armonk and the Eastern District receive NCTV on Channel 18. As of August 5, 2009, Cablevision subscribers in North White Plains tune in to NCTV on Channel 75. North White Plains residents have access to the Government channel for the first time as result of successful negotiation in the recent Cablevision franchise renewal. Ed Lobermann was recognized for his assistance in monitoring audio quality on the new channel 75.
- In addition to frequent playbacks of Town Board and Planning Board meetings, video segments airing on NCTV include: concerts and lectures at the Library, John Nonna's report on the County budget, alternate week recycling, the Supervisor's budget update, a report from the Administrator's Review Task Force, home composting, paper recycling, and public service announcements from the County's storm water education program. A rotating bulletin board posts government information and events.
- The Town Board approved the re-establishment of the Cable Advisory Committee (CAC) to work on NCTV policies, procedures and programming considerations. Steve Russell, a former CAC member, was recognized for his past contributions and welcomed back to participate in the second phase of the Committee's work.

Pursuant to a request from the County Executive's office, Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the Town's participation in a countywide food drive to benefit the Food Bank of Westchester which distributes to food pantries throughout the County. Councilman Kittredge said she would coordinate the distribution and pick-up of food containers at Hergenhan Recreation Center, Town Hall and North Castle Community Center.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, approval of the request of General Foreman Ussted to reinstate \$4,000 of the \$50,000 bond provided by Cablevision, for Permit #s 649, 650, 591 and 719.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of the 2009 second quarter sales tax update in the amount of \$322,768 from Comptroller Donovan.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, approval of the requests of the Friends of the North Castle Public Library to use Community Park facilities for the Armonk Outdoor Art Show scheduled for October 3 and 4, 2009, and to place a sign under the eagle to publicize the event.

The roll call vote was as follows:

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

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, approval of the request of Rosenthal JCC of Northern Westchester to place a sign under the eagle to advertise the JCC Children's Carnival during the week of September 6 – 13, 2009.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for Comptroller Donovan to make Payment No. 2 to S & L Plumbing and Heating Corporation in the amount of \$2,850, and Payment No. 3 to BMJ Construction Co., Inc. in the amount of \$263,777 in connection with the wastewater treatment plant nitrogen removal project.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a proposal from Stearns and Wheler regarding Amendment No. 4 to renew the SPDES permit for nitrogen removal at the wastewater treatment plant. Supervisor Berman thanked Assistant Superintendent Sal Misiti for expediting the proposal.

The roll call vote was as follows:

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

Noes: None.

A report from the Sewer Capacity Task Force, prepared by Kellard Sessions Consulting, PC, was tabled pending receipt at the September 9, 2009 Board meeting.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a letter from Dolph Rotfeld Engineering, P.C., and a maintenance bond on behalf of Joken Development Corporation; and further moved authorization for Payment Requisition No. 6 in the amount of \$40,000 to Joken Development Corporation for work performed in substantial conformance in connection with Quarry Heights Low Pressure Sewer System.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, approval of a Negative Declaration in connection with the replacement well for Water District No. 2 municipal water supply.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of the Town Clerk's report for the month of July, 2009.

The roll vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of Workers Compensation Reports for Allison Graber and Frances French, Recreation Department.

The roll vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, authorization for the Supervisor to sign an agreement with Ashpaugh & Sculco, CPAs, PLC for analysis of cable television franchise fees in the amount of \$6,000.

The roll vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign the hydrant lease agreement with the Board of Fire Commissioners, North Castle South Fire District No. 1, for the term January 1, 2009 through December 31, 2011 in which the Commissioners agree to pay to the District the sum of \$161.75 per hydrant per year, a total of \$14,881.00 per annum, half to be paid by June 30th of each year and the second half to be paid on or before December 30th of each year.

The roll vote was as follows:

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

Noes: None.

Consideration for the Supervisor to sign a grant application for NYSERTA energy funding was tabled.

Councilman Kittredge moved, seconded by Councilman Geist, that unpaid leave of absence be granted to Police Officer Franklin J. Thomas from April 18, 2009 until October 1, 2009.

The roll vote was as follows:

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

Noes: None.

Pursuant to the request of Superintendent Barnard, Councilman Geist moved, seconded by Councilman Kittredge, authorization for Comptroller Donovan to make the final payment in the amount of \$9,717.96 to DeRosa Tennis, Inc., in connection with the Lombardi Park road and parking lot improvement capital project.

The roll vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a letter from Director of Planning Kaufman regarding the petition from the Sanford I. Weill Center for Strategy and Executive Development (Citigroup), 188 King Street, to amend Chapter 213 of the Town Code to permit the Center to be used by non-Citigroup entities, and further moved the scheduling of a public hearing for September 23, 2009.

The roll vote was as follows:

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

Noes: None.

Tony Futia said that he had received a telephone call from Congresswoman Nita Lowey's office inviting him to participate in a telephone town hall type meeting regarding health care reform. Mr. Futia said that he did not participate because he prefers to attend meetings in person.

Robert Dean, town resident and business owner, asked if there would be sufficient sewer capacity in District No. 2 if the Armonk Shopping Center is expanded as proposed. Supervisor Berman said the Board will soon be receiving the report from the Sewer Capacity Task Force addressing the issue. Mr. Futia said that this is less of an issue for properties already in the sewer district than for those requesting additional capacity.

The Town Board audited and approved payments totaling \$507,929.50 as indicated on Warrant #14.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 11:30 p.m. in memory of Angelina Accardo, Ted Nierenberg, and Kenneth Abrams.

Ann Leber, Town Clerk

Dated: August 31, 2009

PUBLIC HEARING

August 12, 2009

At 7:47 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 August 12 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York for the purpose of considering the adoption of a Local Law to create a new Section 213-23.D(3) to incorporate into the CB District the existing special regulations of the SC District for a shopping center having excess of 50,000 square feet of gross floor area.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: July 15, 2009
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.

The petition from Werber Management, Inc. dated June 5, 2009 and a letter from its attorneys DelBello Donnellan Weingarten Wise & Wiederkehr, LLP dated July 9, 2009 were marked Exhibit "D" for the record.

A letter from the North Castle Planning Board dated June 23, 2009 stating that the Board had adopted a positive recommendation, a memo from Councilman Kittredge to the Planning Board dated July 8, 2009, the proposed local law, and a Notification of Intent dated July 9, 2009 were marked Exhibit "E" for the record.

Supervisor Berman said that the applicant is requesting a zone text amendment to change the parking regulations in the Central Business (CB) District to be the same as the regulations for shopping centers of this size in the Shopping Center (SC) District.

Resident Jeff Brown, Bedford Banksville Road, asked what effect this proposed change in parking regulations would have on the Central Business Banksville (CB-B) District and Town Attorney Baroni said there would be no effect.

Upon Supervisor Berman's request, Alfred DelBello, DelBello Donnellan Weingarten et al, representing the property owner of the Armonk Shopping Center, explained that the proposed change in parking regulations would apply only to shopping centers having excess of 50,000 square feet of gross floor area, the same as required for shopping centers in the SC District. Mr. DelBello said it has been found that the parking regulations for the Stop & Shop Shopping Center in North White Plains are adequate.

Bob Roth, John Meyer Consulting, PC, reviewed the site plan for the redevelopment of the Armonk Shopping Center. Mr. Meyer said that the A&P store would be operational throughout the construction of the new A&P which would be a "Fresh Market" store of approximately 34,000 square feet.

Resident Lydia Rippstein, School Street, asked if the proposed parking regulations would result in one-third less parking than currently required. Director of Planning Kaufman expressed his opinion that the current parking regulations in the CB District of one parking space for every 150 square feet of gross floor area, compared to 200 square feet and in special circumstances 250 square feet in the SC District, are in excess of the actual parking demand and therefore, the proposed regulations are adequate. Ms. Rippstein expressed her opinion that the proposed change would create parking problems in Armonk which do not exist at Stop & Shop because

there are other shopping centers within a shorter distance in North White Plains, and questioned if the Town should consider cutting back on parking spaces.

Resident Michael Fareri, Round Hill Road, asked Town Attorney Baroni to confirm that the Town Board is not obligated to consider the change in the zoning code and Mr. Baroni said the statement was correct. Mr. Fareri expressed his opposition to the proposed site for the shopping center and to the proposed use of Town property to meet parking regulations, and questioned if the redevelopment would result in a sewer capacity problem. Supervisor Berman said that the SEQR process must be completed.

Resident Rick Koh, Pheasant Drive, said it was important to ensure that a CVS is not permitted to be built at the site. Supervisor Berman said the code requires that any construction over 5,000 square feet in the CB District must be approved via a special use permit by the Town Board. Mr. DelBello said that the applicant cannot proceed with the site plan without the approval of the proposed zoning change.

Supervisor Berman recommended that the Public Hearing be adjourned pending the completion of the SEQR process.

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 adjourned at 8:00 p.m.

The roll call vote was as follows:

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

Noes: None.

Ann Leber, Town Clerk

Dated: September 1, 2009