

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York 10504
on
November 18, 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..

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

Councilman Kittredge moved, seconded by Councilman Weaver, approval of the minutes of the regular meeting of November 9, 2009 and the Work Session of November 10, 2009.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist abstained.

Supervisor Berman made the following announcements:

- The public hearing to consider the 2010 preliminary budgets will take place on December 1 at 7:30 p.m. in Whippoorwill Hall.
- The Friends of the North Castle Public Library were recognized at the Annual Meeting of the Westchester Library System with its 50th Anniversary Award for Support. The award is given to the municipality, not-for-profit or volunteer organization that has provided a foundation to sustain library services in its community. Judy Moniz was nominated for WLS's Award for Service and Susan Geffen for WLS's Award for Innovation.
- The Byram Hills Boys Varsity Soccer Team will be playing for the NYS Championship this weekend. The team is the defending champion.
- The annual Winter Walk will take place in the Armonk hamlet on December 13.
- The information about mandatory recycling of leaves was reiterated.

Upon the recommendation of Superintendent Futia, Councilman Weaver moved, seconded by Councilman Schiliro, approval to award the bid for removal and disposal of sanitary sewage sludge, Sewer District No. 2, to Spectraserv, Inc., the lowest bidder, as follows: Price per gallon: 11 cents; price per 6,000 gallon load: \$660.00. The contract is for one year, with an option to renew for another year.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, acceptance of a proposal from Alan Offenbergs & Associates for full appraisals of vacant Town-owned properties at a cost of \$400 for each parcel. The Board made this action conditional upon receipt of a letter from Assessor Anna Maria Marrone stating that she has done business with Alan Offenbergs & Associates and has found it to be a reliable and competent firm.

Town Board Minutes
November 18, 2009

The roll call vote was as follows:

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

Noes: None.

Upon the recommendation of Town Clerk Leber, Councilman Kittredge moved, seconded by Councilman Schiliro, approval to increase commuter parking lot permit fees effective January 2010 as follows:

	<u>Current</u>	<u>Recommended</u>
Fisher Lane	\$200 for 6 months	\$250 for 6 months
Virginia Road	\$155 for 6 months	\$180 for 6 months

The roll call vote was as follows:

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

Noes: None.

Lengthy discussion ensued with regard to a proposed resolution to revise the Town's current policy for determining eligibility for and contributions toward medical insurance for elected officials and non-union employees and eligibility for the dental/vision plan for Town Board members. Supervisor Berman explained that the current policy, whereby the Town pays 100% of the premium for elected officials and department heads, has been the practice for 30 years. She stated that the current Board is trying to reduce the medical plan benefit by requiring elected officials and department heads to contribute to their premiums and by eliminating dental and vision coverage for elected officials unless they pay 100% of the premium. She added that a vote would not be taken tonight as some issues require clarification.

Noting that at one time municipal employees' benefits were more generous to compensate for lower salaries, Michael Fareri said this is no longer the case. The Town can not afford such generous benefits because the cost of health plan premiums has escalated and there is no longer a great disparity between salaries in the public and private sectors. He advocated for reduced benefits and stated that the Town should not pay full health premiums for part time employees.

Frank Benish agreed with Mr. Fareri as did Kerry Lutz and others who suggested that this controversial action be left for the in-coming Town Board.

Supervisor Berman said the proposed resolution has been discussed for many months and is just a first step. She added that three members of the current Board will continue to serve. The Supervisor also noted that, should the proposed policy be adopted, it would have an impact on the 2010 budget.

In response to a question from Morris Newman, Councilman Weaver said the Board has looked at retirement benefits as well as health benefits. He said that he planned to pay 20% of his health premium beginning in 2010.

Stating that the definitions of part time and full time need to be clarified, Mr. Fareri threatened a legal action under Article 78.

Councilman Schiliro took exception to e-mails being widely circulated making misleading claims about Town Board members. He asked that future communications be accurate. Mr. Schiliro then explained that, when he came on the Board, he made a conscious decision whether benefits were warranted and determined that the benefits program was overly generous; he declined medical, dental and vision coverage. He also agreed to take a 10% pay cut and volunteered to take a five day furlough in 2009. Councilman Schiliro noted that the role of Supervisor is a difficult one and that a full time Supervisor needs full time benefits, especially if he or she gives up a career. Although councilmen may not be on call, Mr. Schiliro noted that, when they are out in public, they are often called upon to discuss Town issues and individual problems. Councilman Schiliro said we must consider who will be attracted to these positions and added that access to health benefits is okay but a fair price should be paid.

The proposed resolution to revise the Town's current policy for determining eligibility for and contributions toward medical insurance for elected officials and non-union employees and eligibility for the dental/vision plan for Town Board members was tabled.

Councilman Schiliro read aloud the proposed Fund Balance Policy for the General Fund which he had crafted for the Board's consideration. He said he would like to establish and adhere to a formal policy as the fund balance is an important factor in determining the Town's bond rating and interest rate for capital borrowing. Mr. Schiliro then explained the difference between the fund balance, the appropriated fund balance, and the contingency fund. He said his goal is to get the fund balance back to 10% of the General Fund over the next five years; the fund balance is currently 2.4% of the General Fund. The fund balance was depleted over more than ten years by using it to fund the budget, a practice that has been discontinued this year. He cautioned future Boards not to rely on non-recurring revenue to balance the budget.

Supervisor Berman applauded Councilman Schiliro for his initiative, saying this action has been long recommended by the Town's auditors.

Councilman Kittredge moved, seconded by Councilman Schiliro, adoption of a Fund Balance Policy for the General Fund as follows:

Fund Balance Policy
General Fund
Town of North Castle, New York
November 18, 2009

- The Town should maintain an unreserved/undesignated fund balance in the General Fund equal to between 10% and 20% of operating expenditures as presented in the most recent audited financial statements of the Town, and it is our goal that at no time shall it fall below 5% unless due to unforeseen emergencies.
- In addition to the unreserved/undesignated fund balance, the Town will designate a contingency for emergency designation in the annual budget with a target of 1% of the operating expenditures of that budget.
- The Town may appropriate, in whole or in part, funds designated for emergencies pursuant to a resolution of the Town Board.
- If the use of fund balance, due to emergency or unforeseen events, causes the unreserved/undesignated fund balance to fall below 10%, the Town will replenish these balances through the budgetary process over a period of three to five years.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of Cablevision franchise fee payments for the third quarter ending September 30, 2009 from Cablevision System, in the amount of \$32,129.00, and from Southern Westchester System, in the amount of \$7,076.00.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a memo from Comptroller Dawn Donovan stating that \$21,030 of the contingency fund had been used to pay for replacement of the boiler in Town Hall. The balance in the fund is now \$178,970.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of a Workers Compensation Reports for Fabio Giordani, Police Department and Robert Candrea, Highway Department.

Town Board Minutes
November 18, 2009

The roll call vote was as follows:

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

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

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Geist, authorization for the Supervisor to sign an agreement with NYS Department of Transportation to extend the Municipal Snow and Ice contract from July 1, 2011 through June 30, 2012.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Geist, authorization for the Supervisor to sign an agreement for 2010 with Verde Electric Maintenance Corp. for traffic signal maintenance at a base cost of \$1,500. The traffic signal covered under this contract is located at the intersection of Bedford Road and Maple Avenue in Armonk.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Kittredge, receipt with regret, of a letter from Gene Matusow stating that he does not want to be considered for reappointment to the North Castle Planning Board when his term expires on December 31, 2009.

The roll call vote was as follows:

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

Councilman Schiliro thanked Dr. Matusow for his contributions. Councilman Kittredge said Dr. Matusow had done good things during his time on the Town Board, but that his first love was the Planning Board where he will be missed. Supervisor Berman commended Dr. Matusow for the extraordinary amount of time he devoted to both Boards and said he is worthy of the Town's gratitude and thanks. Saying that he had always respected Dr. Matusow, Resident Chris Carthy said it will take a long time for someone to step into his shoes.

Pursuant to a memo from General Foreman Craig Useted, Councilman Kittredge moved, seconded by Councilman Schiliro, release of highway bonds to Michael Bellantoni, Permit #886, in the amount of \$750; and Judy Early, Permit #890, in the amount of \$500.

The roll call vote was as follows:

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

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a memo from Comptroller Donovan indicating that the mortgage tax estimate for October 2009 is projected to be \$60,000.

The roll call vote was as follows:

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

With respect to a letter from Tax Receiver Patricia Colombo requesting permission to attend the Association of Towns 2010 Training School and Annual Meeting on February 15 and 16 in New York City, Councilman Kittredge moved, seconded by Councilman Schiliro, approval.

Town Board Minutes
November 18, 2009

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that the Town Engineer be authorized to request proposals for surveying services for a Town-owned parcel located on Old Route 22.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, permission for Planning Board member John Delano to attend the “Sustainable Strategies for Stormwater Planning and Design” workshop on December 2 at the County Center. The cost is \$95 plus \$6 for parking.

The roll call vote was as follows:

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

Noes: None.

Acknowledging the preparation and hard work on the part of the Town Board, especially the outgoing members, Linda Trummer thanked them for their efforts. She commented on the lack of civility on the part of some residents during recent discussions.

Diane Roth talked about her ideas to facilitate outdoor dining in the Armonk hamlet.

Supervisor Berman noted that this is the last meeting in the Town Hall meeting room for her and Councilman Geist who referred to the memories and the history associated with the room.

Ed Lobermann suggested future Town Boards give residents a reasonable amount of time to comment during public comment period. There is no time limit to items on the agenda.

The Town Board audited and approved payments totaling \$279,331.78 as indicated on Warrant #20.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:35 p.m. in memory of Dr. Morton Loring, a longtime Windmill Farm resident; Marcy Kroll’s mother; and Ron Macellaro’s father, Anthony.

Ann Leber, Town Clerk

Dated: November 26, 2009

PUBLIC HEARING

November 18, 2009

At 7:35 p.m. Supervisor Berman stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on November 18, 2009 at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York for the purpose of considering the adoption of a Local Law to amend the definition of a Private Stable, include fire safety provisions for barns and create a reinspection program of Private Stables in the Town of North Castle Town Code.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: November 4, 2009
Armonk, New York

The Public Notice read by the Town Clerk was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

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

The following correspondence was marked Exhibit "D" for the record:

- A letter from Director of Planning Adam Kaufman on behalf of the Planning Board, dated October 1, 2009.
- Notice of Intent from the Planning Board, dated October 27, 2009.
- The proposed local law.
- A letter from Jeff Brown, dated November 16, 2009.
- A letter from Mark Miller, Veneziano and Associates, representing Archer Stables, dated November 17, 2009.

Town Clerk Leber read aloud Mr. Miller's letter in which he expressed his view that the proposed local law is not needed because there are no violations of the special permit conditions at Archer Stables. Councilman Geist said Mr. Miller's statement was of no import since the proposed law is not site specific. Mr. Geist said the intent of the proposed law is to ensure that private stables in residential districts are used exclusively for the private use and enjoyment of the horse owners and to clarify that any commercial use is prohibited.

Director of Planning Kaufman said that he prepared the proposed amendments at the Town Board's direction. Mr. Kaufman said that, currently, there is no limitation on the commercial boarding of horses provided that the lot size is a minimum of 25 acres, that the maximum number of horses does not exceed two per acre, and that the proposed change in the definition would prohibit boarding of houses that are not owned by the property owner. He reviewed the Planning Board's response to the Town Board's request to amend the definition of a private stable and to add requirements for fire safety provisions, yearly inspections, and submission of veterinary and farrier records. He said the Planning Board unanimously recommended that the definition not be amended, the fire regulations be eliminated, and that inspections be performed once every three years.

Jeff Brown, Bedford-Banksville Road, said he agreed with Councilman Geist that the proposed amendments were needed to ensure residential properties are not used for commercial purposes. Mr. Brown also agreed that Town representatives should be permitted to inspect private stables and review records on a yearly basis. He commented on the inconsistency in the number of horses permitted at a private stable, provided the lot requirements are met, as compared to the requirement for a horse owner on a residential lot to apply for a special permit to maintain more than two horses. He recommended that, when determining the maximum number of horses that may be kept on any lot, the amount of net area which is actually available for use by horses be considered, taking into account steep slopes, wetland, wetland buffers, buildings and other

impervious surfaces. Mr. Kaufman said if the code were amended as recommended, the density requirements for both private stables in residential districts and stables on residential lots would be based upon the total net lot area of the property, not the total acreage.

Councilman Weaver said that the Town could not mandate fire safety provisions that exceed NYS standards. Supervisor Berman confirmed with Mr. Kaufman that the Town could suggest and encourage these provisions, but not require them.

Councilman Weaver said asking horse owners to provide veterinary and farrier records for each horse could be cumbersome. Councilman Geist said that these records are carefully kept, and therefore it would not be an onerous requirement. He added that the Board would be better able to prevent commercial use on properties by requiring annual inspections of the property and horse records. Councilman Schiliro said that he was in support of annual inspections and neutral regarding the requirement for submission of records.

Larry Nokes, Jackson Road, said he was in support of the change in definition of a private stable. Mr. Nokes thought it would be better for applicants if the zoning requirements were clearer, rather than requiring special use conditions which he said have been violated in the past. He said it was his understanding that horse records are well maintained as a matter of course.

Sara Doto, Hobby Lane, also agreed that there should be no problem for owners to produce records. Ms. Doto said the requirements for horse owners in other towns such as Bedford are rather strict in terms of the amount of land required to maintain horses.

The Board requested that Mr. Kaufman further amend the proposed law to standardize the density requirement for additional horses on private stables and residential lots based on the net lot area of the property and to delete the requirements for fire safety provisions for barns. Supervisor Berman said that the public hearing would be reconvened pending the completion of the SEQRA process.

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 Weaver, that the Public Hearing be adjourned at 8:03 p.m.

The roll call vote was as follows:

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

Noes: None

Ann Leber, Town Clerk

Dated: November 24, 2009

PUBLIC HEARING

November 18, 2009

At 8:03 p.m. Supervisor Berman reconvened the Public Hearing which was adjourned from April 7, 2009 for the purpose of considering the Whippoorwill Stream Stabilization project for Wetland/Fill/Erosion & Sediment Control/Tree Removal/Floodplain Development application review.

The following correspondence, received after April 7, was marked Exhibit "H" for the record:

- Kensico Watershed Stormwater Best Management Facilities project drawings prepared by the NYC Department of Environmental Protection, Bureau of Water Supply, dated March, 2009.
- Kensico Watershed Stormwater Best Management Facilities: Whippoorwill Stream Stabilization documents; prepared by the NYC Department of Environmental Protection, dated May 12, 2009.
- Environmental Assessment and Negative Declaration for the Kensico Action Plan Best Management Facilities: Whippoorwill Stream Stabilization, prepared by NYC Department of Environmental Protection, dated July 20, 2009.
- NYS Department of Environmental Conservation Notice of Complete Application, dated September 14, 2009.
- NYS Department of Environmental Conservation Permit Under the Environmental Conservation Law, dated October 27, 2009.
- North Castle Conservation Board recommendation of approval dated November 5, 2009.
- A letter from Matthew Warne, Chief, Regulatory Review and Engineering Division, NYCDEP, dated November 13, 2009, with attachments including: project summary, response to Kellard Session comments in April 3, 2009 memo, site renderings, and project drawings.

Supervisor Berman said that the Whippoorwill Stream Stabilization project has been before the Town Board and the Conservation Board for several months, and the NYCDEP has been asked to address concerns previously raised by the Town Board and the public.

Matthew Warne said the agency has returned to the Board with recommendations to better address concerns of all involved parties. Mr. Warne said the DEP has received permits from the Town of Mount Pleasant, NYSDEC, and the U.S. Army Corps of Engineers, and hoped to obtain a permit from North Castle. He summarized the purpose of the project to improve stormwater flows and reduce turbidity and coliforms entering the Kensico Reservoir, thereby improving the reservoir's water quality. The project would involve the construction of in-stream structures to better channel the flow of water and stabilize the stream. He introduced the members of the project team in attendance, Laura Csoboth and John Robig from HDR Architecture and Engineering, P.C., and Jose Nieves and Mike Usai from DEP.

Supervisor Berman added that the proposed stream stabilization project is on DEP owned property.

Laura Csoboth reviewed the project including the status of permits and approvals. Ms. Csoboth said that approval is pending from the NYS Historic Preservation Office; and an archeological study was conducted of an historic site, and a subsequent report was submitted for review. Ms. Csoboth reviewed the DEP's recommendations to mitigate the impacts of transportation/staging, removal of vegetation and noise. Ms. Csoboth said that trucking would avoid local roads to the greatest extent possible. Employees would be required to park off-site and there would be restrictions on deliveries. Planned tree removal has been substantially reduced and restoration planting would be done throughout the site. With regard to the impact of noise, Ms. Csoboth said that the stream diversion may require the use of pumps to move water, but that the DEP would comply with all Town regulations for noise levels. The construction schedule would require the implementation of conservation measures from the U.S. Fish and Wildlife Service to protect animal habitats. Hardwood tree removal would need to occur from October 1st through March 31st; other stream disturbance would need to occur from May 1st through September 30th. Post-construction site monitoring would be annual to evaluate plant survival and ground cover; site maintenance would be weekly for the first two years and then annually thereafter. Corrective action would be implemented following monitoring.

Sue Shimer, Pond Lane, asked where the historic site is located, what it is and if it were landmarked. Ms. Csoboth responded that she believed it was a cider mill and it is not landmarked. Ms. Shimer later requested that the DEP send information to the Landmarks Preservation Committee regarding the plan to cover the site with three feet of clean fill to protect it from vehicles which would pass over it and then to uncover it when the project was completed.

Conservation Board Chair John Fava said the recommendations proposed by the DEP have addressed his Board's concerns regarding tree removal, overnight construction noise, protection of trout spawning habitat, and restoration. He mentioned that the restoration plan includes the planting of additional evergreen trees at Route 120 and Nannyhagen Road to help screen the view along the river banks. Mr. Fava added that the DEP has said it would try to be careful in the area and the concerns of the Conservation Board were taken seriously.

Supervisor Berman confirmed with Town Attorney Baroni that, since the DEP is the lead agency on the project, it had adopted the Negative Declaration.

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 Geist that the Public Hearing be closed at 8:20 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman Weaver moved, seconded by Councilman Geist, a Conditional Wetland Permit be issued to the NYC Department of Environmental Protection. The permit expires November 18, 2011, or upon satisfactory completion of improvements as approved.

The roll call vote was as follows:

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

Noes: None

Ann Leber, Town Clerk

Dated: November 24, 2009

PUBLIC HEARING

November 18, 2009

At 8:22 p.m. Supervisor Berman stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on November 18, 2009 at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York 10504, concerning grant of conservation easement and declaration of restrictive covenants for property located at 69 Round Hill Road, Armonk, New York.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: November 4, 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.

Town Attorney Baroni said that some typos in the agreement have been corrected and the document is ready for the Supervisor to sign.

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 8:23 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman Kittredge moved, seconded by Councilman Geist, that the Supervisor be authorized to sign the Conservation Easement and Declaration of Restrictive Covenants for property located at 69 Round Hill Road, Armonk, New York (Section 1, Block 9, Lot 4-2).

The roll call vote was as follows:

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

Noes: None

Ann Leber, Town Clerk

Dated: November 26, 2009