

Town Board Minutes  
Town of North Castle  
Whippoorwill Hall  
19 Whippoorwill Road East  
Armonk, New York 10504  
on  
December 1, 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 7:05 p.m.

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

Councilman Kittredge moved, seconded by Councilman Weaver, approval of the minutes of the regular meeting of November 18, 2009.

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, approval of the minutes of the Special Meeting of November 17, 2009 and the Work Session of November 23, 2009.

Councilman Geist abstained as he was not present at the meeting.

The roll call vote was as follows:

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

Noes: None.

Abstentions: Councilman Geist.

The minutes of the Public Hearings which commenced at 7:37 p.m. follow at the end of these minutes.

Supervisor Berman made the following announcements:

- Tax Receiver Patricia Colombo advises residents that, as January 31, 2010 is a Sunday, the Tax Receiver's office will be accepting school tax payments, without penalty, through Monday, February 1, 2010.
- The Town is offering 12 properties for sale. The sizes of the parcels range from 0.13 of an acre to 1.22 acres. For additional information, contact Town Assessor Anna Maria Marrone at [ammarrone@northcastleny.com](mailto:ammarrone@northcastleny.com) or at 914-273-3324.
- It was announced at the last meeting that the Byram Hills Boys Varsity Soccer Team was traveling to Oneonta to play for the NYS championship. Although they did not win that game, the coach of the opposing team said it was a pleasure to play against the Bobcats team.
- Councilman-elect John Cronin has provided information regarding his family's cost for health care benefits which are \$600 per month for health insurance and \$70 per month for dental.

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Councilman Geist moved, seconded by Councilman Weaver, receipt of a franchise fee payment from Verizon in the amount of \$12,116.37.

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, permission for the Byram Hills Preschool Association to place a sign under the eagle to publicize its Winter Family Festival scheduled for January 24, 2010.

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, authorization for Comptroller Donovan to make the following payments in connection with the wastewater treatment plant nitrogen removal project:

Payment No. 6 to BMJ Construction Company in the amount of \$5,747.50.

Payment No. 2 to D.J. Heating & Air Conditioning, Inc., in the amount of \$19,142.50.

Payment No. 4 to S & L Plumbing & Heating Corp. in the amount of \$9,025.00.

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, receipt of a Workers Compensation Report for Chris Adams, Highway Department.

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 the recommendation of the Personnel Committee to appoint Deputy Town Clerk Anne Curran to the position of Town Clerk at the December 16, 2009 meeting.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, approval of terminal leave pay for Town Clerk Ann Leber who will be retiring on December 16, 2009 after thirty years of service.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, to ratify the permanent appointment of Richard Fon, Superintendent of Department of Public Works, effective November 20, 2009.

The roll call vote was as follows:

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

Noes: None.

Tony Futia expressed his view that there should not be more than one superintendent in Town departments and that Mr. Fon has not accomplished the goals set when he was appointed to this position. Mr. Futia said he objected to the allocation of some of the costs for this position to the Special Districts rather than to the General Fund.

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Supervisor Berman said that appointments automatically become permanent after one year per Westchester County Civil Service rules. She added that Mr. Fon has taken on a huge job and performed well. She said there has not been not additional work in the Sewer and Water Department requiring Mr. Fon's attention this year. Councilman Schiliro said that the Building Department was the only one to come in with a budget less than 2005 levels and that Mr. Fon has developed many ways to do more with less. Councilman Weaver agreed that Mr. Fon has done a good job and added that the best thing to do for the future of the community is to ensure continuity in the face of department heads retirements.

Councilman Kittredge moved, seconded by Councilman Schiliro, the appointment of Dr. Martin Rube to the Landmarks Preservation Committee, for a term to expire May 17, 2011.

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, approval for Joseph Remo, Jr., to carry over two weeks of 2009 vacation time to 2010.

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, approval for Herta Smorol to carry over two additional weeks of 2009 vacation time to 2010.

The roll call vote was as follows:

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

Noes: None.

In response to resident Ed Lobermann's inquiry regarding the Town's vacation carry over policy, Supervisor Berman explained that employees are permitted to carry over a maximum of ten days of vacation. She added that the policy is rather strict and that under her administration employees have been required to use up any excess days.

Resident Chris Carthy said that he frequently hears people complimenting the Town's department heads. Mr. Carthy said he plans to meet with Main Street merchants to catalogue their positions with regard to a North Castle farmers market and hoped to make a presentation to the Board at the December 16, 2009 meeting. Supervisor Berman said she would be interested in this information.

The Town Board audited and approved payments totaling \$2,327,129.00 as indicated on Warrant #21.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 11:45 p.m. in memory of Vincent Pennella and Kathleen Lutz.

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Ann Leber, Town Clerk

Dated: December 13, 2009

## PUBLIC HEARING

December 1, 2009

At 7:37 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 December 1, 2009, at 7:30 PM, or as soon thereafter, at Whippoorwill Hall, 19 Whippoorwill Road East, Armonk, NY 10504, for the purpose of considering the Special Use Permit application for the Sanford I. Weill Center for Strategy and Executive Development, 188 King Street, Armonk, NY, to be used by unaffiliated business entities and professional organizations for conference, planning and training purposes.

By Order of the Town Board  
Ann Leber, Town Clerk

Dated: November 17, 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 green cards denoting mailing to and receipt of certified mail by adjoining property owners were received and marked Exhibit "D" for the record.

The following correspondence was marked Exhibit "E" for the record

- A letter from the Planning Board, dated July 15, 2009.
- A letter from the Westchester County Planning Board to Mr. Kaufman dated September 21, 2009, in connection with the original zoning code application, stating that the action is a matter for local determination.
- The proposed resolution of approval.

John Armentano, Farrell Fritz, P.C., representing Citigroup Inc., said that the Town Board, at its October 6, 2009 meeting, had approved the local law amending Town Code to permit unaffiliated business entities to use the Sanford I. Weill Center. His client has now applied for the special use permit.

Lydia Rippstein, School Street, asked if traffic would increase as a result of allowing other businesses and organizations to use the Weill Center. Director of Planning Kaufman said the approval of the special use permit would allow the center to be fully used as was originally planned. Supervisor Berman added that full utilization had existed until the past few years but not currently due to economic conditions.

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 7:40 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 Weaver, approval of the Special Use Permit application for the Sanford I. Weill Center for Strategy and Executive Development, 188 King Street, to be used by unaffiliated business entities and professional organizations for conference, planning and training purposes.

The roll call vote was as follows:

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

Noes: None.

The resolution follows at the end of these minutes.

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Ann Leber, Town Clerk

Dated: December 13, 2009

## R E S O L U T I O N

<b>Action:</b>	Professional and Business Conference Facility Special Use Permit Approval
<b>Application Name:</b>	Weill Center for Strategy and Executive Development
<b>Owner/Applicant:</b>	Citigroup
<b>Designation:</b>	Section 3, Block 5, Lot 1
<b>Zone:</b>	DOB-20A
<b>Acreage:</b>	30.62-acres
<b>Location:</b>	188 King Street (NYS Route 120)
<b>Date of Approval:</b>	December 1, 2009
<b>Expiration Date:</b>	December 1, 2010 (1 year)

WHEREAS, an application dated June 4, 2009 for Zoning Text Amendment and special use permit request was submitted to the Town Board by Citigroup to amend Sections 213-21, 213-33.S.1(d) and (e), and 213-33.S.3 (3) and (4) of the Town Code to permit unaffiliated business entities to use the Sanford I. Weill Center for Strategy and Executive Development for conference, planning and training purposes; and

WHEREAS, since 1997 Citigroup (then Travelers Group) has been operating the Sanford I. Weill Center for Strategy and Executive Development on the property; and

WHEREAS, the Sanford I. Weill Center for Strategy and Executive Development is limited in use to Citigroup employees, visitors and guests; and

WHEREAS, Citigroup has indicated that the Sanford I. Weill Center for Strategy and Executive Development has experienced a significant decrease in the utilization of the Facility; and

WHEREAS, at the request of Citigroup, the Town Board recently amended the Town Code to create a new principal use (by Town Board Special Use Permit) in the DOB-20A Zoning District that would permit the Citigroup Sanford I. Weill Center for Strategy and Executive Development to be used by business and professional organizations for conferences, education, training and lodging; and

WHEREAS, Citigroup is now requesting special use permit approval pursuant to the recently adopted change in the Town Code; and

WHEREAS, the proposed special use permit would not require any construction since the proposed Professional and Business Conference Facility will be located entirely within the existing Citigroup Sanford I. Weill Center for Strategy and Executive Development; and

WHEREAS, the proposed special use permit will not require approval of the Architectural Review Board since no new construction is proposed; and

WHEREAS, the 30.62-acre property is located in the DOB-20A Zoning District and is designated on the Tax Maps of the Town of North Castle as Section 3, Block 5, Lot 1; and

WHEREAS, the Applicant submitted a Short Environmental Assessment Form (EAF) dated June 4, 2009; and

WHEREAS, the Town Board is familiar with the nature of the site and surrounding area;

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on December 1, 2009 and closed on that date at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Town Board has requested, received and considered comments from the Town Attorney, the Town Engineer and Town Planner regarding the proposed development; and

WHEREAS, the Planning Board adopted a positive recommendation, (5-0) at its July 15, 2009 meeting and determined that there were not any evident global *planning* issues, with respect to the proposed changes to the Town Code, which would prohibit the Town Board from taking action; and

WHEREAS, the Town Board declared its intent to act as Lead Agency in connection with the proposed action and circulated such Notice of Intent and the EAF to all involved and interested agencies as required under SEQRA; and

WHEREAS, in accordance with Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617 and the North Castle Environmental Quality Review Law, the Town Board, on October 6, 2009, made a determination that the proposed special use permit will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board finds that the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all special requirements for such use; and

BE IT FURTHER RESOLVED, the Town Board finds that the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings; and

BE IT FURTHER RESOLVED, the Town Board finds that operations in connection with the special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit; and

BE IT FURTHER RESOLVED, the Town Board finds that parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives are laid out so as to achieve maximum convenience and safety.

BE IT FURTHER RESOLVED, the Town Board finds that the design criteria identified in Section 213-33.S(a) of the Town Code have been met; and

BE IT FURTHER RESOLVED, that the special permit is approved, subject to the conditions identified below; and

BE IT FURTHER RESOLVED, that this special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if work is not initiated pursuant thereto within one year, or if said use or uses shall cease for more than one year for any reasons or if all required improvements are not completed within two years from the date of issue or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use.

**Conditions:**

1. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
2. Functions at the Professional and Business Conference Facility shall be limited to education, lectures, seminars and training of professional and business personnel associated only with businesses, institutions of higher learning, official government and professional or business organizations.
3. A Professional Business Conference Facility shall not contain a restaurant, tavern, catering hall, nightclub, hotel, motel or inn serving the general public.

WHEREAS, the Town Board is familiar with the nature of the site and surrounding area;

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on December 1, 2009 and closed on that date at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Town Board has requested, received and considered comments from the Town Attorney, the Town Engineer and Town Planner regarding the proposed development; and

WHEREAS, the Planning Board adopted a positive recommendation, (5-0) at its July 15, 2009 meeting and determined that there were not any evident global *planning* issues, with respect to the proposed changes to the Town Code, which would prohibit the Town Board from taking action; and

WHEREAS, the Town Board declared its intent to act as Lead Agency in connection with the proposed action and circulated such Notice of Intent and the EAF to all involved and interested agencies as required under SEQRA; and

WHEREAS, in accordance with Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617 and the North Castle Environmental Quality Review Law, the Town Board, on October 6, 2009, made a determination that the proposed special use permit will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board finds that the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all special requirements for such use; and

BE IT FURTHER RESOLVED, the Town Board finds that the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings; and

BE IT FURTHER RESOLVED, the Town Board finds that operations in connection with the special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit; and

BE IT FURTHER RESOLVED, the Town Board finds that parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives are laid out so as to achieve maximum convenience and safety.

BE IT FURTHER RESOLVED, the Town Board finds that the design criteria identified in Section 213-33.S(a) of the Town Code have been met; and

BE IT FURTHER RESOLVED, that the special permit is approved, subject to the conditions identified below; and

BE IT FURTHER RESOLVED, that this special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if work is not initiated pursuant thereto within one year, or if said use or uses shall cease for more than one year for any reasons or if all required improvements are not completed within two years from the date of issue or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use.

**Conditions:**



4. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
5. Functions at the Professional and Business Conference Facility shall be limited to education, lectures, seminars and training of professional and business personnel associated only with businesses, institutions of higher learning, official government and professional or business organizations.
6. A Professional Business Conference Facility shall not contain a restaurant, tavern, catering hall, nightclub, hotel, motel or inn serving the general public.

PUBLIC HEARING

December 1, 2009

At 7:40 p.m. Supervisor Berman stated that Public Hearings would be held in accordance with the Public Notices that follow:

NOTICE IS HEREBY GIVEN THAT THE Preliminary Budget of the Town of North Castle for the year 2010 has been completed and that the same has been filed in the office of the Town Clerk of said Town where the same is available for inspection by any person interested therein, and that a Public Hearing thereon will be held by and before the Town Board of said Town at Whippoorwill Hall, 19 Whippoorwill Road East, Armonk, NY, on December 1, 2009 at 7:30 p.m., or as soon thereafter, when any person may be heard in favor of or against the Preliminary Budget as compiled, or for or against any item therein contained.

Supervisor	\$105,000
Four Town Council Members	\$ 72,544
Town Clerk	\$ 92,000

By Order of the Town Board  
Town of North Castle, NY

Ann Leber, Town Clerk

Date: November 16, 2009  
Armonk, NY

NOTICE IS HEREBY GIVEN that the Preliminary Budgets for the year 2010 have been completed for Sewer District Nos. 1, 1B, 2, 3, 4 and 5; Water District Nos. 1, 2, 4, 5, 6 and 7; Street Light District Nos. 1, 2 and 3; Parking District No. 1; Ambulance District Nos. 1 and 2; and Fire Protection District No. 1; and that the same have been filed in the office of the Town Clerk of said Town, and

FURTHER NOTICE IS GIVEN that the Town Board of the Town of North Castle, NY, has been assessed the amount of estimated expenditures for Sewer District Nos. 1, 1B, 2, 3, 4 and 5 for the year 2009 less the estimated revenues as set forth in proportion as nearly as may be to the benefits which each lot or parcel will derive therefrom, and has prepared an assessment roll describing the several properties, the names of the owners or reputed owners thereof and the aggregate amount of assessment levied there against, and filed the same with the Town Clerk of said Town where it may be examined by any person interested therein, and

FURTHER NOTICE IS GIVEN that the Town Board will meet and review such Preliminary Budgets and such assessment roll at a Public Hearing to be held by and before said Board on December 1, 2009 at 7:30 p.m., or as soon thereafter, at Whippoorwill Hall, 19 Whippoorwill Road East, Armonk, NY, at which time any person may be heard in favor of or against the estimates and/or assessment roll as compiled or in favor of or against any item therein contained.

By Order of the Town Board  
Town of North Castle, NY

Ann Leber, Town Clerk

Dated: November 16, 2009  
Armonk, NY

The Public Notices were marked Exhibit "A" for the record.

The Affidavits of Posting calling the Public Hearings were marked Exhibit "B" for the record.

The Affidavits of Publication from The Journal News calling the Public Hearings were marked Exhibit “C” for the record.

An introductory letter, prepared by Comptroller Donovan and dated October 30, 2009, accompanied the 2010 Preliminary Budget and was entered as Exhibit “D” for the record.

A letter from Supervisor Berman, dated November 4, 2009, was marked Exhibit “E” for the record.

The 2010 Tentative Budget, received by the Town Clerk on October 30, 2008, was entered as Exhibit “F” for the record.

Letters from Residents Donald P. Gregg and Steven White were entered as Exhibit “G” for the record.

Supervisor Berman made the following statement:

“Thank you for coming to this public hearing on the 2010 Preliminary Town and Special District Budgets. The Town Board received the Tentative Budgets at its meeting on November 9 and will be able to make further adjustments until the Final Budgets are adopted. The Final Budgets must be adopted by December 20; adoption is currently scheduled for December 16.

“We will begin with a presentation by Comptroller Dawn Donovan of the Preliminary General Town, Highway and Library Budgets and the considerations which shaped them. I will follow up with my own comments and will tell you about the procedures we will follow for the public hearing. Our Department Heads are in attendance. If you have questions about issues in their departments, they will be available to answer those that they are able to answer now, and to note those that require further consideration so that they can get back to you.

“The 2010 Preliminary Budgets reflect the difficult economic times facing North Castle, surrounding communities, and our Country. The Town Board has been sensitive to our many residents who have lost their jobs, seen their incomes reduced, and their savings diminished, and who are anxious about the future. At the same time, our Town government is faced with declining revenues and increasing mandated expenses. This budget seeks to restrain tax increases, provide essential services, and project revenues realistically.”

Using a Powerpoint presentation, Comptroller Donovan then gave an overview of the 2010 budget including:

- External items that influenced the budget (lower than projected mortgage tax, sales tax, building permit fees and interest rates) and increased NYS mandated expenses (pension rate, health insurance premiums, new MTA payroll tax).
- Actions taken by the Town Board and department heads to reduce the 2010 budget, including spending cuts from 2009 budget allocations.
- Overall staffing which is down 12% from 2002 levels.
- Pie charts illustrating revenue and expenditure detail, and analysis of average assessed value and the breakdown of town, county and school taxes.

Supervisor Berman then made the following comments:

“Comptroller Donovan’s presentation has covered the difficult economic restraints and other important considerations involved in developing the Preliminary Budget. Rather than repeat them, I will talk about some of the ones that raised the most significant issues we had to confront.

“As Dawn stated, the 2010 Preliminary Budget proposes a 6.46% increase in the tax rate; that represents \$148.24555 per \$1000 of assessed value. That is an increase of \$8.99585 per \$1000 of assessed value. For the average home assessment of \$23,900, a homeowner would see an increase of \$215 in his Town taxes.

“Reduced Sources of Revenue and Projections for 2010

“Based on the downward trend in our receipts from mortgage recording tax, we budgeted \$766,000 for 2009, a reduction of 28% from 2008 receipts. However, actual 2009 receipts are going to be approximately \$518,000, \$248,000 lower than projected. We expect the housing market to remain soft for at least a year and are budgeting a conservative \$500,000 in mortgage recording tax receipts for 2010.

“We have seen similar declines in our next two major sources of income, sales tax receipts and investment earnings, and, accordingly, we are projecting lower receipts in these areas also. Building permit fees, although lower than in 2008, may meet projections.

#### “Expense Reductions in 2009

“Once it became clear that revenues would fall short of projections, the Town Board, Department Heads and union representatives worked to make up the shortfall. We eliminated non-essential expenses, such as attendance at seminars, non-emergency overtime, leaf vacuuming, and paying for leaf grinding, reduced purchases of supplies and fuel, and permitted fewer employees to take home town-owned vehicles. We negotiated savings with the unions, and did not replace employees who retired.

#### “Reductions in Staffing

“Eight positions were eliminated in 2009. Three full-time employees have taken our recently adopted retirement incentive; others have retired or resigned, and another will be leaving shortly. None of these positions will be replaced with full-time employees. Our Highway Department has four fewer employees than it did in 2008 and is at its lowest staffing level since 1997. However, this reduced staff must maintain many more miles of road than in 1997.

“We will have 122 full-time employees in 2010. That’s a reduction of 12 positions or 9% since 2007. We’ve reduced our part-time staff by 9 positions or 21% since 2007.

#### “General Fund Balance

“The general fund balance is the Town’s savings account, but appropriations have been made from it since 1997 to cover expenses and avoid or minimize tax increases. We must now work to build up the fund balance to provide stability. We have taken two important steps to do so. First, we adopted a fund balance policy at the Town Board’s November 18 meeting that seeks to bring the balance up to between 10% and 20% of operating expenditures. Second, we have reversed the trend in 10 of the last 13 years of invading the fund balance. The Preliminary Town Budget takes nothing from the fund balance in 2010, and the Preliminary Budget shows a zero Appropriated Fund Balance. This decision obviously impacts the 2010 budget, but a majority of the Town Board feels that this is the only fiscally responsible decision consistent with our fiduciary duty to protect the Town’s assets.

#### “Mandated expenses in 2010

“Mandated expenses are expenses which are forced upon us and which we neither control nor agree to. These include new initiatives which we cannot predict and budget for, such as the recently imposed MTA payroll tax. For 2010, these mandated expenses include:

- Over 60% increase in contribution rates to the New York State Retirement System, an increase of about \$500,000
- 4.5% increase in Health Insurance Rates
- MTA payroll tax estimated to cost North Castle \$40,000

#### “Reductions in Expenses for Elected Officials and Non-Union Staff

“We have adopted the following cost saving policies:

- 10% reduction in salary for Supervisor and Town Board
- Elimination of dental and vision benefits for Supervisor and Town Board
- 0% increase for all other elected officials, department heads and non-union employees

## “Reductions in Spending

“Our anticipated total 2009 expenses for the General, Highway, and Library Funds are \$22,720,672. This is \$1,213,625 or 5.07% less than the budgeted amount of \$23,934,297, and has been accomplished in spite of increases in mandated expenses and in compensation for our unionized staff. Our projected expenses of \$23,452,188 for 2010 are \$482,109 or 2.01% lower than our budgeted expenses for 2009.

“I consider it to be the duty of the Supervisor and of the Town Board to do the best we can to balance the needs of the Town with our desire to keep tax increases in check. While different individuals have always had and will continue to have different views as to what the Town needs and how much they are willing to pay for them, we believe that we have adequately planned for the funding of services that are essential and that the residents can reasonably expect to receive. The goal of this budget is to deliver these services at minimum costs and without raiding our fund balance.”

The Supervisor then reviewed the guidelines for conducting tonight’s public hearing. As a departure from previous practice, speakers will be permitted to speak as long as necessary to make their points.

Frank Benish, Sterling Road North, read a letter in which he suggested dramatic spending cuts to avoid a tax increase, including:

- Town Board and Supervisor to pay 100% of their health insurance premiums.
- All non-union employees contribute 50% of their health insurance premiums.
- Detective bureau responsibilities be turned over to Westchester County or NYS.
- Eliminate all stipends.
- 10% pay cut for most non-union employees.
- Eliminate assistant general foreman, superintendent of public works and code enforcement officer positions.
- General foreman position be shared with elimination of one road maintenance foreman.
- Eliminate outside town attorney and contract negotiator; hire in-house attorney.
- Eliminate all “take home” vehicles and provide mileage reimbursement.

Alan Freilich, Carpenter Way, spoke of difficulties and expenses incurred with his plans to install a swimming pool on his property.

Michael Fareri, Round Hill Road, spoke at length about his analysis of the Town’s past and proposed budgets, illustrating his presentation with numerous charts. He claimed that the lack of new assessables is largely responsible for the Town’s fiscal difficulties. Mr. Fareri reviewed many of the departmental budgets and pointed out areas that were of concern to him such as salaries and benefits. He questioned the amount of money that will be saved by eliminating the leaf vacuuming program. Mr. Fareri then addressed the decline in the fund balance since its peak at \$3 million in 1996. Stating that the Town has not grown sufficiently, he cited developments that were not realized such as the Trump project on the Seven Springs property; the bowling alley property which Mr. Fareri sold to the NYCDEP; Armonk Square, which was impacted by the economy; and the lumberyard property. By Mr. Fareri’s estimates, the above projects would have represented \$10 million dollars in revenue each year.

Criticizing the Town for listing the Town Board and Supervisor as full time employees, Tony Futia, Custis Avenue, read aloud a letter written by his attorneys, Oliver & Oliver, stating that the Town would be vulnerable in the face of a lawsuit, that it is illegal to include on-call time in the number of hours worked by elected officials, and “requesting that the practice of designating elected officials as full time be stopped immediately.”

Supervisor Berman addressed Mr. Futia’s accusations as follows:

“Tony, you have been very interested in questions about retirement accruals for elected officials for as long as I can remember, and you raised important issues during both Supervisor Lombardi’s administration and mine. These have included, for example, the many times you complained about the Lombardi administration’s practice of counting “on call” time for pension credits. I have appreciated your efforts and have carefully considered all the issues you have raised. Indeed, you can claim partial credit for some of the important steps my administration has

taken to update our time keeping and accrual practices to assure full conformity to all legal requirements.

“Because of your background and participation in such matters, you are, I am sure, well aware of those steps. And for these reasons, I know that you would not have written this letter, because it is based entirely on mistakes of fact. It is unfortunate that Mr. Oliver does not have your experience and knowledge about these matters. Let’s review his points.

“Mr. Oliver’s letter requests that

North Castle cease the practice of claiming that elected officials are full-time employees in the annual Town budget so that they can receive credit for as having been full time municipal employees in the State retirement pension program, when in fact they do not work full time.

“The letter also claims that

Over the last several years since at least 2007, the annual Town budget has declared that the Supervisor and Councilmen receive their salaries as “full-time” employees. In addition, the Town Board has declared that the standard work day for elected officials is “six (6) hours per day”, and that the six (6) hour work day shall include availability for being “on call” on a daily basis for all elected officials.

“The facts are (1) that there has been no such statement in the Town budget “since at least 2007” or at any time during my administration, and (2) that we do not count “on call” time as time worked.

“I am sure you will recall the facts about the “on call” issue, Tony, because you raised it even before I became Supervisor and followed it closely. I **discontinued** that practice almost three years ago. First, I announced at the February 14, 2007 Town Board meeting “that on call time will not be counted.” Councilman Geist and I met with representatives of the State Comptroller’s office on pension credit matters on August 30, 2007. I reported at the September 10, 2007 Town Board meeting that, ‘It was confirmed at that meeting that, **as I stated at the beginning of this year**, on call time cannot be counted.’

“Mr. Oliver’s letter also claims that

The practice of classifying the Supervisor and Town Councilmen as full-time employees through the annual budget process, regardless of the number of hours actually worked, is illegal and causes unnecessary increased taxes in order to finance higher pension benefits for these elected officials upon their retirement.

“We looked into that issue also and received a report from Comptroller Donovan at the September 10, 2007 Town Board meeting which advised that ‘Our retirement system cost is based on salaries paid to our employees and not on whether they are credited as full time or part time employees.’

“Finally, Mr. Oliver’s letter argues that

Fixing a realistic number of hours worked for elected officials and requiring them to document these hours, based on a representative sample month, as suggested by the new Comptroller’s guidelines, will not deprive elected officials of retirement benefits.

“That is exactly what we do. For example, at the Town Board’s January 8, 2008 annual organizational meeting we adopted the following resolution:

Elected officials who do not work set hours and who seek service credit in the NYS Retirement System shall keep detailed time records of their work for a sample month and submit same to the Town Clerk annually by October 31.

“And at the January 14, 2009 organizational meeting we adopted the following resolution:

Councilman Geist moved, seconded by Councilman Weaver, that elected officials shall maintain and submit time records in accordance with the guidelines established by the New York State Comptroller’s Office.

“Tony, as I said at the outset, I have appreciated your efforts and have carefully considered all the issues you have raised. I assume you will continue your interest in Town affairs in the future. You may want to discuss the errors in the Oliver letter with Mr. Oliver.”

Resident Linda Trummer Napolitano said she rejected the notion that the Town Board does anything against the better interests of the Town and stated that it is unfair and mean spirited to expect those receiving benefits to give them back, especially those who have worked for the Town for 24-26 years. She thanked the Town Board for its efforts in going over the budget line-by-line and commended it for discontinuing the leaf vacuuming program – a good move environmentally.

Sam Morrell, Birdsall Farm Drive, suggested keeping in mind that Town taxes represent only 15% of overall taxes. He stated that “you can cut only so much fat before cutting into muscle,” and added that the whole country is experiencing economic hardship.

John Delano, resident of North White Plains and member of the Planning Board, stated his opinion that the Trump project would have been better as a golf course, the bowling alley property should have had a shopping center, and that there are problems with the A&P proposal. Speaking of his own volunteer service, he encouraged others to do the same. He commended the Town’s excellent Police Department and fire and ambulance volunteers. Mr. Delano said that Town Attorney Baroni’s institutional memory makes him a valuable asset to the community and to the Planning Board where Mr. Delano is the second most senior member with only six years of service.

Barry Malvin, Green Valley Road, cited the public meetings where almost 500 people were in attendance to support a moratorium and smart development in response to tremendous growth in the community and its resultant increase in demand for services. Mr. Malvin noted that the Town Board did not do anything to impede the development of Armonk Square and that former Supervisor Lombardi had told the Land Use Study Committee not to look at the bowling alley property as the owner had decided to sell it to the DEP. Noting the vacancies on Greenwich Avenue, Mr. Malvin suggested that the delay in the development of Armonk Square is due to lack of financing and tenants. He urged residents to consider comments made tonight in the context of what has taken place and the economic times.

Edward Lobermann, Nethermont Avenue, urged the Town Board not to allow employees to accrue additional vacation time in order to add to their retirement benefits. He said that it is not within the Town Board’s power to increase assessables, but it must decrease expenses. Commenting that people can tell the truth but not the whole truth, Mr. Lobermann noted abuses of the pension system by state and federal officials.

Saying that these are not normal circumstances and everyone has to sacrifice, Kerry Lutz, Birdsall Farm Drive, said we must be prepared to cut current and future budgets.

Lisa Dorfman, North White Plains, acknowledged that the Town Board has worked hard to take care of the residents and Town employees have made sacrifices. She continued, saying that, although she is not happy about her increasing expenses, including taxes, she is satisfied. Ms. Dorfman added that other towns are submitting budgets with larger increases.

Sue Shimer, Pond Lane, said that perhaps the Town and Planning Boards could have acted faster in approving projects but faster action would not save us today. She questioned if Armonk Square were approved faster, whether it would have viable tenants today? She added that there is a reason for the existence of boards and that is to protect the quality of life.

Resident Michael Dritz commented that too much building would lead to the need for new schools and place increasing demand on services. He reiterated his belief that the Town needs a professional administrator to deal with the state and county and to manage a \$30 million budget. Mr. Dritz added that an administrator would have saved money, not cost money. He said there is too much negativity and that the residents have to come together in a positive way.

Lydia Rippstein, School Street, stated that tax increases have been higher than the consumer price index each year. She urged the Board to take steps to contain costs.

After thanking each member of the Town Board for all they have done and apologizing for the abuse they have received, resident Barbara DiGiacinto suggested that residents read Supervisor Berman's November 4 letter synopsizing the proposed budget. She said she is tired of hysterics and misrepresentations and encouraged people to speak up against the naysayers. Regarding a recent email that was circulated predicting that property values were going down 20-30% because of the budget, she said that is the type of misleading sound bite that "gets legs." She urged people watching tonight's meeting to attend the December 16 meeting and stand up for all the Town's boards and all the people who work for and serve our Town. Mrs. DiGiacinto said "Who wouldn't want a zero increase budget," but added that she wouldn't if it meant compromising the rapid response of the Police Department and the fire and ambulance volunteers; the efficient service provided by the Highway Department in keeping our roads open; and the accessibility of knowledgeable Town staff and consultants. She asked "Who will want to work for the Town if we cut salaries and benefits?"

Tony Futia thanked the Town Board for the work they do, saying he may not always agree with them. He believes the employees have to give back, too, and urged that the use of Town vehicles should be decreased.

Saying she would like to clarify some statements made by Mr. Futia, Supervisor Berman said that in 2008 fourteen Town vehicles were taken home by employees; in 2009 there were only seven, including two by the Police Department. She continued, saying that when they were hired, some employees negotiated to be allowed to take home a Town vehicle as part of their salary package. A salary study is being planned for next year, at which time it can be decided if an adjustment in salary in return for giving up the use of a Town vehicle is fair.

Town Clerk Leber then read aloud a letter from Donald Gregg in support of Supervisor Berman's imagination and integrity and her initiative in recognizing the need for a town administrator.

Addressing misstatements in a Letter to the Editor in the Journal News, Councilman Kittredge said that the Assessor is not an elected position and that 16 town clerks in Westchester are elected.

Councilman Weaver said he believes that the 2010 budget is the most fiscally sound in 20 years and emphasized that the reserve fund was not being used to balance the budget. He commented that increasing assessables and managing responsible growth is a two-edged sword.

Councilman Geist cited the drastic steps taken by the Board in 2009 to cut expenses. He also pointed out Councilman Schiliro's successful effort to get the Board to adopt a fund balance policy. He stated that the Board worked very hard, going over the budget line-by-line to cut expenses while trying to maintain the services the Town prides itself on.

Councilman Schiliro spoke at length about the budget process that began in February, the impact of the economy on revenues, and the Board's shared goal of a responsible budget. Department heads begin with a zero based budget and have to defend their budget requests. Mr. Schiliro said services must be provided to the community whether business is good or bad; the Board had to figure out how to do more with less. Stating that the budget has to be realistic and less reliant on revenue streams, he noted that the budget is down by 1% overall in expenses since 2006. He added that with spending at 62% of the budget for salaries and benefits, North Castle is at the norm when compared to other Westchester communities.



After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Geist, that the Public Hearing be adjourned at 11:20 p.m. It will be reconvened on December 16 at H.C. Crittenden Middle School at 7:30 p.m., or as soon thereafter.

The roll call vote was as follows:

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

Noes: None.

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Ann Leber, Town Clerk

Dated: December 13, 2009

## PUBLIC HEARING

December 1, 2009

At 11:25 p.m. Supervisor Berman reconvened the Public Hearing which was adjourned from November 18, 2009 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.

Director of Planning Adam Kaufman said the proposed local law has been revised to delete the requirements for fire safety provisions for barns because the Town could not mandate fire safety provisions that exceed NYS standards. The proposed law has been amended to standardize the density requirement for additional horses on private stables and residential lots based on the net lot area of the property.

Supervisor Berman said that the public hearing would be closed, but local law could not be adopted pending the completion of the SEQRA process by the Planning Board.

No other comments or correspondence were entered for the record.

After all persons were heard who desired to be heard, Councilman Weaver moved, seconded by Councilman Kittredge, that the Public Hearing be closed at 11:30 p.m.

The roll call vote was as follows:

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

Noes: None.

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Ann Leber, Town Clerk

Dated: December 13, 2009