

Town Board Minutes  
Town of North Castle  
15 Bedford Road  
Armonk, New York  
on  
October 8, 2014

The meeting was called to order at 5:00 p.m. on the duly adopted motion of Councilman D'Angelo and immediately adjourned to an executive session. All Town Board members, the Town Attorney and the Town Administrator were present for the executive session which adjourned at 7:30 p.m. The regular meeting reconvened at 7:35 p.m.

Supervisor:	Michael Schiliro
Councilmen:	Stephen D'Angelo
	Barbara DiGiacinto
	Barry Reiter
	José Berra

Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni
Town Administrator	Joan Goldberg

The minutes of the Public Hearing which commenced at 8:15 p.m. follow at the end of these minutes.

Councilman D'Angelo moved, seconded by Councilman Reiter, approval of the minutes of the September 23, 2014 meeting.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, receipt of CVS Construction Performance Bond in the amount of \$200,675 for utility pole relocation at 450 Main Street, Armonk.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, approval of request from the Edge of Dance for a one month extension to October 31, 2014 to submit property owner authorization for a Special Use Permit at 7 North Greenwich Road. It was noted by the Town Attorney that the current property owner must sign the authorization within the Special Use Permit application.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, receipt of proposed Local Law to revise Town Code to include a definition of a fence, and further moved the scheduling of a Public Hearing on October 22, 2014.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Reiter, a Resolution of adoption of Rules and Procedures to conduct a Disciplinary Hearing with regard to any member of the North Castle Police Department. The Resolution follows at the end of these minutes.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, the scheduling of a Public Hearing on October 22, 2014 to consider a Local Law assigning authority so that the Town Board may choose to designate a Hearing Officer to conduct a Disciplinary Hearing with regard to any member of the North Castle Police Department.

Vote: Unanimous

Pursuant to a letter from Sal Misiti, Director of Water and Sewer Operations, Councilman Reiter moved, seconded by Councilman DiGiacinto, authorization of Payment Application #3 in the amount of \$580,783.38 to Bilotta Construction Corp. regarding the Water District No. 2 Water System Replacement Project, for work completed through September 16, 2014.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, receipt of pre-demolition asbestos inspection report from QuEST Environmental regarding the IBM Community Park Recreation Building, 205 Business Park Drive, Armonk.

Vote: Unanimous

Pursuant to a letter from Matt Trainor, Superintendent of Recreation and Parks, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, approval to seek proposals for asbestos abatement and removal at the IBM Community Park Recreation Building, 205 Business Park Drive, at locations identified in the September 2014 report provided by QuEST Environmental.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, the award of architectural services for rebuilding of the Gazebo to Sullivan Architecture, subject to written extension of valid date of agreement, and further moved authorization for the Supervisor to sign an agreement with Sullivan Architecture, in accordance with fees and schedule of hourly rates stated in the agreement.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, receipt of letter of resignation from Ljubisa Jovasevic from the Architectural Review Board, effective immediately.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, receipt of donation in the amount of \$500 to NC4 from Sam Morrell, Small Town Theatre Company.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, receipt of the following reports from Town Comptroller Denise Oakley regarding:

- 2014 Mortgage Tax Collection
- 2014 Sales Tax Collection

Vote: Unanimous

Pursuant to a recommendation from Kellard Sessions Consulting, Councilman Reiter moved, seconded by Councilman D'Angelo, the award of bid for sidewalk improvements to Vernon Hills Contracting Corp., the lowest bidder, for a total cost of \$117,650, pending compliance with the Town's insurance requirements.

Vote: Unanimous

Request for approval of reduction of the performance bond for Subdivision of 61 and 67 Old Route 22, as detailed in a letter from Jack Hughes, Esq. representing George E. Briggs Excavation and Contracting Corporation, was tabled.

Councilman Berra moved, seconded by Councilman D'Angelo, authorization for the Supervisor to sign Amendment B to the Municipal Snow and Ice agreement with NYS DOT for 2013-2014. The index adjustment is \$109,207.99 and the total reimbursement to the Town is \$199,017.19 for the 2013- 2014 season.

Vote: Unanimous

Pursuant to a recommendation from Matt Trainor, Superintendent of Recreation and Parks, Councilman Reiter moved, seconded by Councilman D'Angelo, authorization for the Supervisor to sign an agreement with Clean Air Quality Service, Inc. for the installation of a new temperature control system at the North Castle Community Center, Clove Road, North White Plains, at a cost of \$9,980.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, the probationary appointments of the following Highway Laborers, effective October 20, 2014:

- Rocco Liberti, Step 1
- Ronald Keesler, Step 1

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, approval of terminal leave payment to Scott Benedict.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, the reappointment of Dana Coakley to the Landmarks Preservation Committee, for a term to expire May 17, 2017.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Berra, ratification of the appointment of Stephanie Paul to the Library Board, for a term to expire December 31, 2017.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, the consensus agenda as follows:

- Receipt of Town Clerk's monthly report – September 2014
- Approval of release of the following Highway bond:  
Steven Russell – Permit 0833 in the amount of \$500 for driveway alteration at 3 Sterling Road South, Section 2, Block 17, Lot 4.E02.
- Acknowledgment that the appointment of Annamarie Conte, part-time availability-Library Page, did not occur on September 11, 2014.
- Receipt of \$500 cash bond from Marc Mancini regarding Haunted Dead End special event clean up.

Vote: Unanimous

The Town Board audited and approved payments totaling \$22,645,473.41 as indicated on Warrant #18.

After all persons were heard who desired to be heard, the Supervisor closed the regular meeting at 10:40 p.m. in memory of Linda DiFiore, resident and former employee of Building Department, and residents Paula Raskin, Thomas Gala and Miles Applebaum.

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Anne Curran, Town Clerk

Dated: December 15, 2014

## RESOLUTION

**BE IT RESOLVED**, that the Town Board of the Town of North Castle, pursuant to Chapter 104, Section 7, of the Laws of 1936 (the "Westchester County Police Act") hereby establishes the following rules and regulations for the examination and hearing of charges, made or preferred against any member of the Town of North Castle Police Department:

1. Charges shall be served upon any member of the Town of North Castle Police Department ("Member") by the Town Board of the Town of North Castle (the "Town Board"), or the entity or person designated by the Town Board to make or prefer charges (the "Charging Party"). After charges have been preferred, they may be altered or amended by the Charging Party, or he/she may cause new charges to be prepared.
2. Any Member shall have the right to reply to each charge and specification in writing, have the right to a public hearing and trial and to be represented by counsel. Any such Member and or his/her representative must provide not less than seven (7) days prior notice to the Town Board of such request for a public hearing;
3. The Town Board reserves the right to suspend a Member with or without pay at any time while the charges are pending against the Member.
4. No person who shall have made or preferred charges shall sit as a judge at such hearing and trial;
5. The hearings for a Member shall be held in a location and at a time(s) and date(s) designated by the Town Board.

6. The burden of proof in any such hearing and trial shall fall upon the Charging Party;
7. The technical rules of evidence shall not be applicable at such hearing and trial;
8. If the Town Board is the entity that hears the evidence at the hearing and trial, the Town Board may designate a member of the Town Board to have the authority to make all rules concerning: the admissibility of evidence, relevance of evidence and questions, materiality of evidence and questions, requests for adjournments; and to swear all witnesses and stenographers.
9. The Charging Party shall have the right to call witnesses and offer evidence into the Record.
10. The Member or his/her chosen representative shall have the right in such a hearing and trial to call witnesses and to cross-examine witnesses called by the Charging Party. The member and/or his/her representative is solely responsible for producing witnesses to testify on his/her behalf. The Member and/or his/her representative is required to subpoena any witnesses unwilling to voluntarily appear as a witness at the hearing of such charges. The Member and/or his/her representative is required to comply with the applicable provisions of the New York Civil Practices Rules and Laws concerning service of subpoenas and appropriate subpoena fees.
11. The Charging Party shall have the right to cross-examine witnesses called by or on behalf of the Member;
12. Either party (the Member or the Charging Party) wishing a transcript at a hearing and trial may provide for one, at its own expense;
13. If a hearing officer is appointed to hear the evidence at the hearing and trial, that hearing officer, for the purpose of such hearing and preliminary hearing matters, shall be vested with the Town Board's powers related to such hearing, and shall make a record of such hearing, which shall, with conclusions and recommendations, be referred to the Town Board for reviewing and decision. Further, such hearing officer's authority shall be limited to making recommendations regarding guilt or innocence and the appropriateness of the proposed penalty to the Town Board. The Town Board shall be the final decision making authority regarding guilt or innocence and the appropriate penalty, if any.
14. The Charging Party shall be required to provide a transcript of the hearing and trial to the hearing officer and/or Town Board.

**BE IT FURTHER RESOLVED**, that these rules and regulations shall supersede and replace any and all previously adopted rules and regulations for the examination and hearing of charges, made or preferred against any member of the Town of North Castle Police Department.

**BE IT FURTHER RESOLVED**, that these rules and regulations shall be applicable to all disciplinary charges presently pending at the time this Resolution is adopted, and all disciplinary charges made or preferred thereafter.

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PUBLIC HEARING  
October 8, 2014

At 8:15 p.m. Supervisor Schiliro reconvened the Public Hearing which was adjourned on September 23, 2014 for the purpose of considering a local law to amend the Code of the Town of North Castle by adding Chapter 161 entitled Property Maintenance to provide a method whereby vacant lots, improved properties and public lands within the Town are kept clean, properly maintained and kept free from vermin, nuisances, hazards, debris and litter.

The proposed local law is available in the Town Clerk's office during regular business hours and on the Town website. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

By Order of the Town Board  
Anne Curran, Town Clerk

The following correspondence was received since September 23, 2014.

Revised draft Local Law.

The following residents provided comments regarding the revised draft of the local law.

John Diaconis, Orchard Drive, noted the addition to Section 161.-5.E of the local law which states that a summons would be returnable to the Justice Court. With regard to the definition of Nuisance, Hazard, Debris and Litter, Mr. Diaconis suggested that the language 'to be offensive to surrounding properties' be amended as 'to be offensive to the objectively reasonable surrounding property owner'.

Michael Fareri said the law should address abandoned properties, but he expressed concerns with additional provisions in the law. Mr. Fareri cited Section 163-3, Maintenance of property, which addresses dumpsters and Section 161-4, Landscaping maintenance, which addresses dead and diseased trees and asked if tree stumps would be considered an offense. He said the law as proposed would cause tensions among neighbors.

Joe Viola, North White Plains, said there are many dumpsters on Lafayette Avenue and they could not be enclosed.

Ann Danzig, Orchard Drive, said many of the regulations in the law would be more suitable for an association, not for a town. Ms. Danzig said the law goes beyond health and safety and is overstepping bounds. She expressed concerns about specific language in various sections of the law which she found to be subjective and asked how the law would be enforced. Ms. Danzig expressed support for defining abandoned properties, dealing with abandoned properties, and addressing health and safety issues.

Robert Dean, MacDonald Avenue, agreed with Ms. Danzig's comments and said the law goes beyond what was intended. Mr. Dean said the law would indicate to neighbors that they have the power to define right and wrong types of landscaping, and if plantings had to be removed, property owners would bear that expense.

Mark Kirschner, 4 Hope Farms Lane, asked that the law be changed if necessary to address the residents' comments, but requested that the real problem with abandoned properties be addressed. He said the property at 5 Hope Farms Lane was abandoned five years ago, is in dispute with several lenders, and is tied up in court. No one has taken true ownership of the property, but taxes are being paid to avoid lien foreclosure. He said the property has extensive broken fencing, weeds, and a pool filled with rain water accumulated over five years. Vandals have been seen entering the property. Surrounding owners are prohibited from cleaning the property and his understanding is the Building Inspector cannot deem the building unsafe because it is not in danger of falling down. He recommended revised legislation be developed which focuses specifically on abandoned properties, gives the Town the ability to clean them up, and not address the other provisions which deal with individual property rights.

Town Attorney Roland Baroni advised that much of what is contained in the draft local law currently exists in the New York State (NYS) building maintenance code which the Building Department can enforce, including the landscape provision. Mr. Baroni said that the draft law mirrors the NYS code; and the Town law cannot be more restrictive than NYS. The local law would give the Town the ability to remedy the situation when the current property owner cannot be determined.

Councilman D'Angelo asked if a comparison could be made between the draft local law and NYS code to determine if there are provisions in the local law which are not found in NYS Code. Mr. D'Angelo suggested a definition of 'abandoned building' be developed.

Councilman Berra said the law should address a property that is abandoned or constructively abandoned, a property that a reasonable person would objectively think is abandoned, and provide that the Town can remedy a situation which is in violation of NYS code.

In response to a query from Councilman DiGiacinto regarding the Town enforcing some provisions of NYS code and not others, Mr. Baroni confirmed that the Town should enforce the NYS building maintenance code. As Councilman Berra recommended, Mr. Baroni said the local law could reference the NYS code and define the Town's ability to address abandoned properties.

Councilman Reiter reiterated that the Town needs to address the zombie properties as this is the key issue.

Supervisor Schiliro said he agreed with Councilman Berra that the abandoned properties should be addressed first to resolve the problem which currently exists, and said other issues could be addressed at a future time.

Anthony Futia said it should be clear on what is an abandoned property. He expressed concerns about selective enforcement and constitutional rights.

Dick Osband, Bedford Road resident, expressed concerns that the old stone house at the back of his property might be considered abandoned. He added that he found the penalty amounts excessive.

Jill Greto said she lives near an abandoned property in North White Plains, but said the property was in a horrible condition for two years before it became abandoned. She said there are problems with the enforcement of the existing regulations by the Building Department.

Neil Baumann, Armonk, expressed support of the proposed legislation. He said there is a property in his neighborhood which is not abandoned, but its condition damages the local community and the ability to successfully market surrounding properties.

In response to a comment from Bob Romano recommending that there be a notice period to reach the owner of abandoned or derelict property, Mr. Baroni said a notification provision is currently included.

Supervisor Schiliro requested that Mr. Baroni redraft the law to focus on abandoned and constructively abandoned properties and to reference the NYS building maintenance code.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Berra, that the Public Hearing be adjourned at 9:00 p.m.

The roll call was as follows:

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

Noes: None

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Anne Curran, Town Clerk

Dated: December 15, 2014