

Town Board Minutes  
Town of North Castle  
15 Bedford Road  
Armonk, New York  
on  
October 22, 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 7:35 p.m. The regular meeting reconvened at 7:40 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 Hearings which commenced at 7:45 p.m. follow at the end of these minutes.

Approval of the minutes of the October 8 and October 15 meetings was tabled.

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, approval of request from Michael Fareri to relocate the required six AFFH units for 156 Bedford Road to 170 Bedford Road. The resolution to permit off-site location of the AFFH units follows at the end of these minutes. The roll call vote was as follows:

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

Noes: None

Abstained: Councilman Berra

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, authorization for the Supervisor to sign a letter of engagement with Gerard Terry, Esq. for special counsel regarding Special Election on a Ward System at the following rates:

- \$250.00 per hour for advice, counsel and attendance at Town Hall on Election Day
- \$275.00 per hour for litigation services, if any.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, the resolution as follows, regarding the Special Election to be held on November 13, 2014.

Vote: Unanimous

**RESOLUTION DESIGNATING ELECTION OFFICIALS AND A BOARD OF  
REGISTRATION FOR A SPECIAL TOWN ELECTION  
IN THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK  
TO BE HELD ON NOVEMBER 13, 2014.**

WHEREAS, the Town Board of the Town of North Castle, Westchester County, New York, has established the date of a special election as Thursday, November 13, 2014, between the hours of 6:00 A.M. and 9:00 P.M., at three polling places: Armonk Firehouse, Banksville Firehouse and North Castle Community Center, for the purpose of voting on two propositions as set forth herein.

**PROPOSITION NO. 1**

Shall the ward system be established for the election of Councilmen or Councilwomen in the Town of North Castle?

**PROPOSITION NO. 2**

Shall the number of Councilmen or Councilwomen of the Town of North Castle be increased from four to six?

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of North Castle, Westchester County, New York, as follows:

Section 1. That persons qualified to vote at such special election shall, except as otherwise provided in the following paragraph with respect to personal registration, be electors of the Town of North Castle, Westchester County, New York.

Section 2. That personal registration is required and an elector shall not be entitled to vote at said special election unless his or her name appears on the register of the Town or such elector registers as hereinafter provided. All electors currently registered to vote with the Westchester County Board of Elections need not register again in order to vote in such special election.

Section 3. The Board of Registration for such special election will meet at the location of each polling place specified in Section 4 on Monday, November 3, 2014, between the hours of 3:00 P.M. and 8:00 P.M., such date being not more than fifteen days nor less than ten days prior to said election, for the purpose of preparing a register of those qualified to vote at such special election on November 13, 2014, at which time any elector may present himself or herself personally for registration and to have his or her name added to such register for such special election.

Section 4. The established polling sites with corresponding election districts for such special election and personal registration are as follows:

**POLLING SITE**

**ELECTION DISTRICTS**

Armonk Firehouse,  
400 Bedford Road, Armonk

Election Districts Nos. 2, 4, 6, 7, 8, 10, 11

Banksville Firehouse,  
33 Bedford-Banksville Road, Bedford

Election Districts Nos. 1, 9

North Castle Community Center  
10 Clove Road, North White Plains

Election Districts Nos. 3, 5

Section 5. Applications for absentee ballots for qualified electors whose names appear on the aforescribed registration list may be applied for at the Office of the Town Clerk, 15 Bedford Road, Armonk, NY, not later than the seventh day before such special election if the ballot is to be mailed to the qualified elector, or the day before such special election if the ballot is to be delivered personally to the qualified elector or his or her agent.

Section 6. Absentee ballots must be returned and received by the Town Clerk not later than 5:00 P.M. on the date of the special election, Thursday, November 13, 2014.

Section 7. The Town Clerk is hereby authorized and directed to give notice of such special election by publication in the Journal News, and such notice is to be made at least ten days prior to the November 3, 2014 registration date. In addition, the Town Clerk shall post or cause to be posted a copy of such notice on the sign board maintained in Town Hall and in at least four other conspicuous locations in the Town, each such posting to be at least ten days prior to said registration date. Said notice shall be in substantially the following form, to-wit.

Councilman D'Angelo moved, seconded by Councilman Berra, the resolution as follows, regarding the Special Election to be held on November 13, 2014.

Vote: Unanimous

**NOTICE OF SPECIAL ELECTION, REGISTRATION OF VOTERS  
AND AVAILABILITY OF ABSENTEE BALLOTS  
Town of North Castle, Westchester County, New York**

NOTICE IS HEREBY GIVEN, that a special election in the Town of North Castle, Westchester County, New York, will be conducted on Thursday, November 13, 2014, between the hours of 6:00 A.M. and 9:00 P.M., at the polling places set forth below, for the purpose of voting on two propositions as set forth herein.

**PROPOSITION NO. 1**

Shall the ward system be established for the election of Councilmen or Councilwomen in the Town of North Castle?

**PROPOSITION NO. 2**

Shall the number of Councilmen or Councilwomen of the Town of North Castle be increased from four to six?

NOTICE IS HEREBY FURTHER GIVEN, that persons qualified to vote at such special election shall, except as otherwise provided in the following paragraph with respect to personal registration, be electors of the Town of North Castle, Westchester County, New York.

NOTICE IS HEREBY FURTHER GIVEN, that personal registration is required and an elector shall not be entitled to vote at said special election unless his or her name appears on the register of the Town or such elector registers as hereinafter provided. All electors currently registered to vote with the Westchester County Board of Elections need not register again in order to vote in such special election.

NOTICE IS HEREBY FURTHER GIVEN, that the Board of Registration will meet at the location of each polling place specified below on Monday, November 3, 2014, between the hours of 3:00 P.M. and 8:00 P.M., at which time any elector may present himself or herself personally for registration and to have his or her name added to such register for such special election.

NOTICE IS HEREBY FURTHER GIVEN, that the polling places for such special election and personal registration shall be as follows:

**POLLING SITE**

**ELECTION DISTRICTS**

Armonk Firehouse,  
400 Bedford Road, Armonk

Election Districts Nos. 2, 4, 6, 7, 8, 10, 11

Banksville Firehouse,  
33 Bedford-Banksville Road, Bedford

Election Districts Nos. 1, 9

North Castle Community Center  
10 Clove Road, North White Plains

Election Districts Nos. 3, 5

NOTICE IS HEREBY FURTHER GIVEN, that applications for absentee ballots for qualified electors whose names appear on the aforescribed registration list may be applied for at the Office of the Town Clerk, 15 Bedford Road, Armonk, NY, not later than the seventh

day before such special election if the ballot is to be mailed to the qualified elector, or the day before such special election if the ballot is to be delivered personally to the qualified elector or his or her agent.

NOTICE IS HEREBY FURTHER GIVEN, that absentee ballots must be returned and received by the Town Clerk not later than 5:00 P.M. on the date of the special election, Thursday, November 13, 2014.

NOTICE IS HEREBY FURTHER GIVEN, that a list of all qualified electors to whom absentee ballots have been issued will be available for public inspection at the Office of the Town Clerk during regular office hours up to and including the date of the special election. Such list will also be posted at each polling place during the special election. Any qualified elector may, upon examination of such list, file a written challenge to the qualification of any elector to receive an absentee ballot, and stating the reasons for such challenge. Such written challenge shall be filed with the Town Clerk who will transmit the same to the Inspectors of Election prior to the close of the polls.

Dated: Armonk, New York,  
October 21, 2014

BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF NORTH CASTLE,  
WESTCHESTER COUNTY, NEW YORK

By: Anne Curran, Town Clerk

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, the resolution as follows, regarding the Special Election to be held on November 13, 2014.  
Vote: Unanimous

**RESOLUTION AUTHORIZING THE TOWN CLERK TO SECURE MECHANICAL LEVER VOTING MACHINES FOR A SPECIAL ELECTION IN THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK.**

WHEREAS, the Town Board of the Town of North Castle, Westchester County, New York, has provided for the holding of a special election on Thursday, November 13, 2014, and

WHEREAS, the Commissioners of Westchester County Board of Elections have approved the use of up to eight lever machines for such special Town election on Thursday, November 13, 2014,

NOW THEREFORE, BE IT RESOLVED, that the Town Clerk is authorized to secure up to eight mechanical lever voting machines at such cost as is set forth on the fee schedule promulgated by the Commissioners of the Westchester County Board of Elections.

This resolution shall take effect immediately.

Pursuant to a recommendation from Kellard Sessions Consulting regarding 61 and 67 Old Route 22 Subdivision, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, approval of a reduction of the Briggs construction performance bond to an amount equal to 25% of the original estimate (\$78,002.37).  
Vote: Unanimous

Pursuant to a recommendation from Kellard Sessions Consulting, Councilman D'Angelo moved, seconded by Councilman Reiter, approval for the release of the \$29,800 which represents the remainder of the Sidewalk Bond in place for the Market at Armonk Square.  
Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, authorization for the Town's attorneys to execute a Consent Order and Judgment in the matter of Cardile Enterprises, Ltd. vs. Town of North Castle, Index Nos. 23180/2010 et al.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, authorization for the Supervisor to sign a one-year renewal agreement with Westchester County, from October 1, 2014 through September 30, 2015, for removal of snow and ice from County roads. The Town will receive \$3,351 per mile for two lane roads, of which the Town clears 7.64 miles, totaling \$25,601.64, and \$ 4,878 per mile for four lane roads, of which the Town clears .30 miles, totaling \$1,463.40.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, approval of amendment to the GHD contract, in the amount of \$49,000 for engineering services, in connection with water District No. 2 Water Distribution System Replacement project, and further authorized the Supervisor to sign the amendment.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, the probationary appointment of Michael Arco, Motor Equipment Operator, Step 1, effective November 10, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, receipt of letter of resignation from Kimberly Barbieri, part-time Personnel Manager, effective October 22, 2014.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, the appointment of Jacqueline Macken to the Beautification Committee to serve at the pleasure of the Town Board.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, the recognition of service of George Drapeau to Communications Committee, through September, 2014.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, the appointment of George Drapeau to serve on the Conservation Board for a term to expire April 8, 2016.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman DiGiacinto, the consensus agenda as follows:

- Approval of request of General Foreman Norris for release of the following highway bonds:
  - o Chang Park – Permit 0032 in the amount of \$750 for curb cut at 7 Terrace Circle, Section 2, Block 3, Lot 2-16.
  - o Matthew Franco – Permit 0832 in the amount of \$500 for driveway alteration at 14 Fawn Lane, Section 2, Block 02, Lot 5.A.7.
  - o Thomas Strauss – Permit 0835 in the amount of \$500 for driveway alteration at 117 Round Hill Road, Section 1, Block 09, Lot 13.A.

Vote: Unanimous

The Town Board audited and approved payments totaling \$8,428,878.30 as indicated on Warrant #19.

After all persons were heard who desired to be heard, the Supervisor closed the regular meeting at 10:40 p.m. in memory of residents Yudith Schwartz and Joseph Lestingi.

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Anne Curran, Town Clerk

Dated: December 18, 2014

## RESOLUTION

**Action:** Approval to permit off-site location of AFFH units  
**Application Name:** 156 Bedford Road  
**Applicant:** Michael Fareri  
**Owner:** Roderick T Green Trust  
**Zone:** RMF-SS Zoning District  
**Location:** 156 & 170 Bedford Road  
**Date of Approval:** October 22, 2014

WHEREAS, the Applicant has submitted a site plan application for the redevelopment of the former Bedford Road lumber yard site and the Green property located next door; and

WHEREAS, the Green property was recently rezoned by the Town Board to the R-MF-SS Zoning District; and

WHEREAS, the proposed redevelopment contemplates the demolition of all existing structures and the construction of an approximately 29,000 square foot, three story, 20 1 and 2-bedroom unit, residential apartment building and a separate 17,000 14 2 and 3-bedroom unit garden apartment building; and

WHEREAS, Section 213-22.I.5(ii) of the Town Code states that “within multi-family developments the affordable AFFH units shall be physically integrated into the design of the development and shall be distributed among various sizes efficiency one two three and four bedroom units in the same proportion as all other units in the development...” and

WHEREAS, Section 213-22.I.5(iii) of the Town Code permits the Town Board, upon a determination that the onsite location of AFFH units is not practical, to construct the AFFH units at another location within the Town; and

WHEREAS, the Town is required to place a strong preference for AFFH units provided on site; and

WHEREAS, the Applicant has provided the following reasons supporting the off-site AFFH unit request to the Town Board:

- The project becomes bankable
- The project has less risk involved
- The AFFH units will have their own exits and entrances and their own private space
- There is no common hallway or elevators thereby reducing common area maintenance charges
- The Town will get six (6) AFFH Units instead of four (4) AFFH Units

WHEREAS, the Town Board, based upon its review of the entire record, finds that the location of on-site AFFH units is not practical given the above cited criteria; and

NOW THEREFORE BE IT RESOLVED, pursuant to Section 213-22.I.5(iii) of the Town Code, the Town Board hereby finds that the onsite location of AFFH units is not practical and the Town Board permits the construction of the AFFH units for 156 Bedford Road at 170 Bedford Road.

BE IT FURTHER RESOLVED, that the approval be, and it hereby is, approved, subject to the conditions set forth below:

### Conditions:

1. Compliance with all applicable local laws and ordinances of the Town of North Castle.
2. Approval of the off-site AFFH units shall be contingent upon the project, including the off-site location of the AFFH units, meeting, to the satisfaction of Westchester County, all

Westchester County AFFH requirements. If AFFH unit compliance can't be provided to the satisfaction of Westchester County, the Applicant shall be required to comply with Section 213-22.1.5(ii) of the Town Code and AFFH units shall not be located off-site.

I, Anne Curran, Town Clerk of the Town of North Castle, do hereby certify that the above resolution was duly adopted at a regular meeting of the Town Board of the Town of North Castle held on October 22, 2014 and that the above is a true and correct transcript thereof.

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Anne Curran, Town Clerk

Dated: October 23, 2014  
Armonk, New York

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PUBLIC HEARING  
October 22, 2014

At 7:45 p.m. Supervisor Schiliro reconvened the Public Hearing which was adjourned on October 8, 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 October 8, 2014:

Memo and photos from Richard Osband received October 20, 2014 regarding the stone house at the site of the former North Castle Country Club were marked Exhibit "F" for the record.

Revised draft Local Law.

Supervisor Schiliro said there were several public hearings and input from the public on drafts of the legislation. Mr. Schiliro said it has been determined that, at the current time, the current legislation would be limited to zombie properties or constructively abandoned properties to address these properties, and anything beyond that is currently covered by the Property Maintenance Code of New York State.

Town Attorney Baroni highlighted the revisions to the draft law. He said Section 161-1, entitled Legislative Intent, recognizes the existence of NYS Property Maintenance Code and incorporates the State code into the local law by reference. Other provisions regarding local nuances regarding graffiti and garbage dumpsters were removed as they were overcomplicating what the Town was trying to accomplish. The revised draft addresses enforcement and provides the Town with the ability to have the work done if it is not done by the property owner and to levy the property accordingly.

With regard to Section 161-4.B of the proposed law, Michael Fareri said the removal of any nuisance, hazard or litter, etc. should not be performed by Town employees. Following discussion with Town Administrator Joan Goldberg, the Board agreed that the removal shall be performed by private contractors rather than Town employees to avoid challenges to invoices.

Following comments from Mark Kirschner, Hopes Farm Lane, and Ed Lobermann, North White Plains, the Board agreed that the language vermin, nuisance, hazard, debris and litter should be specified in sections 161.4.B. and 161-5.A. of the law.

Councilman DiGiacinto said she visited the property at 5 Hope Farms Lane and said there was no doubt that the property was abandoned and it is an eyesore.

Councilman D'Angelo clarified that the old stone house on Bedford Road at the site of the former North Castle Country Club would not violate this legislation.

Councilman Berra said he has been in support of the legislation, and noted that reference to any vehicle parked and stored in violation of this chapter should be removed from Section 161-4.B. It was agreed to remove the language.

In response to a query from Mario Ruggiero, Limestone Road, regarding how to keep vermin off your property, there was discussion regarding the definition of the term. Mr. Baroni confirmed that the term was included in the NYS Property Maintenance Code.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Reiter, that the Public Hearing be closed at 8:10 p.m.

The roll call was as follows:

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

Noes: None

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

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

Noes: None

Councilman Reiter moved, seconded by Councilman D'Angelo, the adoption of Local Law 4 of 2014, with amendments, 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 roll call vote was as follows:

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

Noes: None

The Local Law follows at the end of these minutes.

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Anne Curran, Town Clerk

Dated: December 18, 2014



**TOWN OF NORTH CASTLE**

**Local Law No. 4 for the Year 2014  
Adopted October 22, 2014**

A Local Law to Amend the Code of the Town of North Castle by adding Chapter 161 entitled Property Maintenance.

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

**Chapter 161. PROPERTY MAINTENANCE**

**§161-1. Legislative intent.**

The Town Board of the Town of North Castle hereby determines that it is necessary for the health, safety, appearance and general welfare of the residents of the Town of North Castle to provide a method whereby vacant lots, improved properties and public lands within the Town are clean, properly maintained and free from vermin, nuisances, hazards, debris and litter. The Town Board acknowledges the existence of the Property Maintenance Code of New York State (2010) as amended and that its administration and enforcement is the responsibility of the Building Inspector or his representative. The provisions of said Code are incorporated herein and made a part hereof.

**§161-2. Enforcement and compliance; notice of violation.**

A. Any owner, tenant, or occupant of any property responsible for the creation of an offense in violation of this chapter located within the Town of North Castle shall remove such offense when ordered to do so by the Building Inspector or his representative within thirty (30) days of the service of written notice of violation as provided in Subsection C below.

B. Any person responsible for the creation of an offense in violation of this chapter affecting a public street or other public property within the Town of North Castle shall remove such offense when ordered to do so by the Building Inspector or his representative within thirty (30) days of the service of written notice of violation as provided in Subsection C below.

C. All written notices of violation under this section shall be served on the owner, tenant, or occupant, responsible for the creation of such offense on any property located within the Town of North Castle by posting a copy of such violation notice upon the front portion of the property or upon the main structure and by mailing a copy of such notice by first-class mail to the owner of the property as shown on the latest assessment rolls of the Town. In the case of any person responsible for the creation of an offense existing upon a public street or public property, notice may be personally served on such person or mailed by ordinary mail to such person at such person's last known address.

D. The Building Inspector, or his representative, shall be responsible to direct the proper securing of dumpsters, containers or enclosures upon all properties, and such officer shall provide written notice of violation to the owner, tenant, occupant or other party as provided in Subsection C, which shall require the removal within thirty (30) days of any vermin, nuisance, hazard, debris or litter thirty (30) days of any vermin, nuisance, hazard, debris or litter not properly secured within a dumpster, container or enclosure.

E. In the event that a Notice of Violation issued to an owner, tenant, or occupant on any property located within the Town of North Castle is not remedied to the satisfaction of

the Building Inspector or his representative within the time provided for in the Notice of Violation, a Summons shall issue returnable in Justice Court of the Town of North Castle.

**§161-3. Penalties for offenses.**

A. Any person found guilty of a violation of any provision of this chapter shall be punished by a fine of up to \$500. Any person found guilty of a second offense of any provision of this chapter within 18 months of the date of the first conviction shall be punished by a fine of not less than \$500 and not more than \$1,000. Any person found guilty of a third offense of any provision of this chapter within 18 months of the date of the second conviction shall be punished by a fine of not less than \$2,500. and not more than \$5,000. Any person found guilty of a fourth or subsequent offense of any provision of this chapter within 18 months of the date of the third conviction shall be punished by a fine of not less than \$5,000. and not more than \$7,500.

B. The continuation of an offense against the provisions of this chapter shall constitute, for each week the offense is continued after issuance of the Notice of Violation, a separate and distinct offense hereunder.

**§161-4. Removal by Town; charges.**

A. Upon the failure of an owner, tenant or occupant, responsible for the creation of such offense to comply with a notice to correct a condition as cited within the days allotted, the Town Board may hold a public hearing. The public hearing shall be held upon notice posted conspicuously on the affected property and forwarded to the last known address of the property owner, as it appears on the current tax records of the Town, by certified mail, return receipt requested. Posting and service of such notice shall not be less than 10 days prior to the date of such hearing.

B. The Town Board, after a public hearing as provided in Subsection A, may cause any vermin, nuisance, hazard, debris or litter as defined in this chapter to be removed from any property within the Town of North Castle upon the failure of such owner, tenant or occupant to comply with any order of the Town Board. Said removal shall be performed by a private contractor hired by the Town. The Town Board shall ascertain the cost of the proceeding and the costs of removal, and such costs shall be charged and assessed against the owner of the property. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

C. The removal of any vermin, nuisance, hazard, debris or litter by the Town of North Castle or its agents shall not operate to excuse such owner, tenant or occupant from properly maintaining any premises as required by this chapter, and such owner, tenant or occupant shall, notwithstanding such action, be subject to any other penalties for herein.

**§161-5. Vacant or abandoned properties.**

A. Upon failure to respond and comply with the requirements of the notices described in §161-2C within 30 days from posting and mailing, the Building Inspector, or assistant will perform an inspection of the premises and submit a detailed report to the Town Board describing the level of vermin, nuisance, hazard, debris or litter as defined in herein. The Official will further investigate and detail the circumstances of the abandonment of the premises, as well as perform due diligence regarding the current status of the property. The report will also contain the scope of the work required to remove any vermin, nuisance, hazard, debris or litter affecting the health, safety and welfare of the neighboring properties, residents and the public at large.

B. Upon receipt and review of the report, the Town Board may, by resolution, authorize the necessary work to be done and pay the cost thereof out of general Town funds appropriated by the Town Board for such purpose.

C. The Town shall seek reimbursement for the cost of the work performed or the services rendered through any means permitted by law and/or by assessment against the owner of the property. The expense so assessed shall constitute lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner as other Town charges in the manner provided for the assessment of the cost of public improvements pursuant to Article 4, §64, 5-a of the Town Law of the State of New York (general powers of town boards, removal of fire and health hazards and weeds), as amended.

**§161-6. Severability and partial invalidity.**

If any section of this chapter shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this chapter.

**§161-7. Effective date.** This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.

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PUBLIC HEARING  
October 22, 2014

At 8:12 p.m. Supervisor Schiliro 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 October 22, 2014 at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, to consider a local law to revise Section 213-3 of the Town Code to include a definition of fence.

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

Dated: October 11, 2014  
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.

Letter from Director of Planning Adam Kaufman dated September 11, 2013 was marked Exhibit "D" for the record.

Two emails received from Sandra McMahon were marked Exhibit "D" for the record.

Proposed Local Law.

Director of Planning Adam Kaufman said the issue arose when a complaint was received regarding the erection of a tarp separating two properties. Upon investigation, the Building Department determined it did not have the authority to issue a violation or require a permit because there is not a definition of a fence in the Town Code. After reading aloud the proposed definition, Mr. Kaufman noted the unresolved issues discussed at the previous Board meeting regarding how to dispose of the existing tarp, whether tarps would be grandfathered, and whether tarps should be expressly prohibited.

Councilman DiGiacinto said it was a good definition, but it does not take it a step further by including a definition of traditional fence materials. Ms. DiGiacinto noted that some communities have passed 'spite' legislation to prevent the erection of an unsightly fence and this is not addressed in North Castle's Code. She suggested that section 213.14.G (Walls and fences) of Town Code be amended to include specific fence materials permitted, and, if necessary, specify that tarps are not permitted.

Mr. Kaufman said as the legislation is currently drafted, the Residential Project Review Committee (RPRC) or Planning Board would determine whether a fence is reasonable and acceptable, and meets requirements in terms of neighborhood character and aesthetics. He said if specific materials were included in the Code, a newly formed fence material would not be included in the future. In response to a query from Councilman D'Angelo, Mr. Kaufman said that section 213.14.G could be amended to prohibit the construction of fences with tarp material.

In response to queries from Councilman Reiter and Supervisor Schiliro regarding issues with existing fences, Town Attorney Roland Baroni said that the legislation would impact fences going forward, unless the Board also includes a sunset provision which would provide a period of time, such as one year, for a non-conforming fence to be brought into conformance.

In response to a query from Michael Fareri, Mr. Kaufman confirmed that a building permit is required for residential fencing, including deer fencing.

Following a query from Sandy McMahon, Sniffen Road, who lives near a property using tarps as fencing, and comments from Neil Baumann regarding the time period of the sunset provision, Mr. Baroni advised that the time period must be reasonable, and one month would not be considered reasonable. Supervisor Schiliro said the Board would review a time period of six months or less when the public hearing is reconvened.

Mr. Kaufman noted that the proposed language, which would amend the zoning code, needs to be reviewed by the Planning Board before the legislation can be adopted by the Town Board.

After all persons were heard who desired to be heard, Councilman Reiter moved, seconded by Councilman D'Angelo, that the Public Hearing be adjourned at 8:30 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 18, 2014

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PUBLIC HEARING  
October 22, 2014

At 8:30 p.m. Supervisor Schiliro 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 October 22, 2014 at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, to consider a local law assigning authority to the Town Board of the Town of North Castle so that the Town Board may designate a Hearing Officer to preside at a Disciplinary Hearing.

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

Dated: October 11, 2014  
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.

Proposed Local Law.

Town Attorney Roland Baroni said the proposed local law gives the Town Board the option to retain a hearing officer in a police disciplinary matter. Mr. Baroni said a local law needs to be in place to have the option, and without the option the Town Board serves as the hearing officer. He said this is a discretionary optional procedure which labor counsel has advised be put in place in the event the Board chooses to use the option.

Joel Thomas, North Castle Police Officer for nine years and President of North Castle's Police Benevolent Association (PBA), appeared before the Board. Officer Thomas quoted the following from the Westchester County Police Act: "If a disciplinary hearing and trial are to be held, the trial of such charges may not be delegated and must be heard before the full town board or board of police commissioners... and the affirmative vote of a majority of such members shall be necessary for a conviction of such charges." Officer Thomas read the following statement: We believe that this was done to ensure accountability of elected officials - in most employment situations, if a disciplinary action is to be taken, it is decided upon and administered by the employee's direct supervisor or someone further up the chain of command, not outsourced to a third party. In contrast, the rules adopted nominally provide for the board to have the final decision, but this decision is based upon the recommendation of the hearing officer and not on the board actually hearing the evidence and circumstances themselves. The PBA has full faith in the Town Board to conduct a fair and impartial hearing and accept the responsibility for any decision made therein. We respectfully ask that, instead of changing the procedure, after charges have already been filed, that the board adhere to the current law.

Supervisor Schiliro clarified that per labor counsel and the Town Attorney, the Town Board does have the legal ability to establish the option to designate a hearing officer, and it does not mean it will, but it provides the option if it is decided to do so.

Town Attorney Baroni said that the hearing officer would only be making recommendations back to the Town Board and the Board would then make a final decision.

Councilman DiGiacinto said she liked the option of the hearing officer, adding that it does not necessarily mean that the Board will choose to use the option.

Councilman D'Angelo said the Board may or may not decide to designate a hearing officer, but giving the current Board or future Board the option is a good idea.

It was clarified that the local law for the Board's consideration would amend the existing Chapter 39 entitled Police Department of the Town Code.

In response to a query from Ed Lobermann, Officer Thomas confirmed it was his understanding that the hearing officer would hear the testimony, but the Town Board would not; and the Board would make a decision based on the recommendation of the hearing officer. Mr. Thomas said the PBA would prefer that the entire Town Board hear the evidence. He said the Town Board is vested in the community and he would prefer the hearing not be outsourced to someone who does not have familiarity with the community.

In response to a query from Councilman Berra, Mr. Baroni confirmed there would be a record if a hearing officer was used and the Town Board could review the testimony.

Referring to the question raised by Mr. Lobermann as to why a hearing officer was necessary, Officer Thomas said it seems to be unnecessary duplication if the Town Board were to hear all the evidence. He said if a transcript were provided it would not allow for interaction among the parties involved nor provide the opportunity to ask questions which may be necessary depending on the process.

Councilman DiGiacinto said as a longtime resident of the Town she might question her objectivity if she knew the police officer, as may be the case for other Board members, and this could reduce the number of Board members for a hearing. Ms. DiGiacinto said in this type of situation a hearing officer might be an option worth considering if the Board felt it was in the best interest of the process.

Neil Baumann said he shared the concerns of Officer Thomas about delegating the responsibility for the hearing to one person. He said there should be a public record on video, not only a written transcript. He asked what would happen if there were a political motive involved with a particular officer.

Mr. Lobermann said hearings can go on for some time; and the Town Board might not have the time and experience to conduct a hearing. He also expressed concerns about the objectivity of the hearing officer and said he would like to see a compromise.

Supervisor Schiliro reiterated that this is not a decision by the Town Board to hire a hearing officer; it gives the Board the option to do so. Mr. Schiliro said that, as explained by labor counsel, a hearing can involve many hours which would be difficult for the full Board.

Anthony Futia said he agreed with Officer Thomas and expressed concern about costs associated with hiring a hearing officer and suggested that the hearings be held at times convenient for the Board. He said the Board was in the best position to make decisions without the extra cost.

Councilman D'Angelo said it did not have to be the same decision with every hearing; and there could be a hearing officer for one hearing and the Board could hear another one.

Officer Thomas said the PBA was not sure why the hearing process has to be changed if the Board does not intend to avail itself of that option, especially for the charges which are already pending against one member. Mr. Thomas said as far as the time commitment involved, in addition to the cost factors, in a situation where there is a possibility of firing an officer, depending on the charges, the Board should invest the time that may be necessary.

Councilman Berra said he thought it was a good idea to provide for a hearing officer based on advice of counsel.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be closed at 8:47 p.m.

The roll call was as follows:

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

Noes: None

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, the adoption of Local Law 5 of 2014 to amend Chapter 39 entitled Police Department to assign authority to the Town Board of the Town of North Castle so that the Town Board may designate a Hearing Officer to preside at a Disciplinary Hearing.

The roll call vote was as follows:

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

Noes: None

The Local Law follows at the end of these minutes.

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Anne Curran, Town Clerk

Dated: December 18, 2014

## **TOWN OF NORTH CASTLE**

### **Local Law No. 5 for the Year 2014 Adopted October 22, 2014**

Amend Chapter 39 Entitled "POLICE DEPARTMENT" of the Code of the Town of North Castle.

Add Article II – **Administration and Disciplinary Procedures**

#### **§ 39-5     Purpose.**

The purpose of this Article shall be to provide for the efficient administration of the Police Department of the Town of North Castle (the "Department").

#### **§ 39-6     Board of Police Commissioners.**

The Town Board hereby establishes a Board of Police Commissioners which shall consist of the Town Board. The Supervisor shall Chair the Board of Police Commissioners.

#### **§ 39-7     Powers and duties of Board of Police Commissioners.**

The Board of Police Commissioners shall have all of the powers and duties granted to a Board of Police Commissioners under the Westchester County Police Act (Chapter 104 of the Laws of 1936), except to the extent those powers or duties are otherwise delegated to the Chief of Police by this Article.

#### **§ 39-8     Powers of Chief of Police.**

A. In carrying out the day-to-day operations of the Department, the Chief of Police shall have reasonable discretion to take such actions as are necessary to ensure the safe and efficient operation of the Department, in a manner consistent with accepted police practices; provided, however, that fundamental policy changes, including those which should properly be included in Department rules and regulations, shall be subject to approval by the Board of Police Commissioners and all other applicable laws governing such activities.

B. Except as to the discipline of the Chief of Police, all formal departmental disciplinary charges shall be brought by the Chief of Police, subject to the requirements of applicable laws. All such charges shall be heard either by the Board of Police Commissioners, or by a hearing officer appointed by the Board of Police Commissioners, at the Board of Police Commissioners' discretion. In the event a hearing officer is appointed to hear disciplinary charges, the hearing officer shall issue Findings of Fact and Recommendations on guilt or innocence and penalty, if any, and the Board of Commissioners shall retain the sole and exclusive right and authority to make the final determination as to guilt or innocence and the appropriate penalty, if any. In the case of discipline of the Chief of Police, such charges shall be brought by the Supervisor of the Town Board and shall be heard either by the Board of Police Commissioners or by a hearing officer appointed by the Board of Police Commissioners, at the Board of Police Commissioners' discretion. In the event a hearing officer is appointed to hear disciplinary charges against the Chief of Police, the hearing officer shall issue

Findings of Fact and Recommendations on guilt or innocence and penalty, if any, and the Board of Commissioners shall retain the sole and exclusive right and authority to make the final determination as to guilt or innocence and the appropriate penalty, if any.

C. In all other instances, the Board of Police Commissioners shall be granted all the powers and duties granted to a Board of Police Commissioners under The Westchester County Police Act (Chapter 104 of the Laws of 1936).

**§ 39-9 Inconsistencies with state law.**

It is the purpose and intent of this Article to supersede the Westchester County Police Act (Chapter 104 of the Laws of 1936), as it relates to the powers and duties of the Chief of Police and the Board of Police Commissioners. The Town Board, pursuant to the authority granted to the Town Board by the Municipal Home Rule Law, may supersede such a special act of the legislature, and to the extent that such special act of the legislature is inconsistent with this Article, then the Westchester County Police Act (Chapter 104 of the Laws of 1936), is hereby superseded.

**§ 39-10 Applicability of other laws.**

In all other respects, the Police Department of the Town of North Castle shall be governed by applicable law.

**§ 39-11 Effective date.** This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.