

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
November 5, 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 7:40 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 Hearing that commenced at 8:10 p.m. follow at the end of these minutes.

Councilman D'Angelo moved, seconded by Councilman Berra, adoption of two resolutions (below) regarding procedures at polling sites for the November 13, 2014 Special Election on the ward system of government.

Vote: Unanimous

RESOLUTION DESIGNATING PROCEDURES FOR POLL WATCHERS FOR A SPECIAL ELECTION IN THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NY.

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, three designated polling sites will be open for voting on Thursday, November 13, 2014 from 6:00 A.M. until 9:00 P.M.;

NOW THEREFORE, BE IT RESOLVED, that the following rules of procedure for said special election be and hereby are adopted:

1. Poll watchers shall be permitted at the special election.
2. A poll watcher shall be a qualified voter of the Town of North Castle.
3. The maximum number of poll watchers per polling site shall be as follows:
 - Four (4) in total at Banksville Firehouse and the Community Center in North White Plains, two each on behalf of proponents and two each on behalf of opponents.
 - Six (6) in total at Armonk Firehouse, three each on behalf of proponents and three each on behalf of opponents.
4. The Town Clerk shall issue a poll watcher certificate, in blank, which must be completed by each watcher and presented to the designated Chairperson at each polling site.
5. Copies of voter lists will be provided only to poll watchers who have their watcher certificates on file with the polling site Chairperson. To the extent reasonably practicable, such copies will be made available at approximately 3:00 pm, 5:00 pm and 7:00 pm.
6. The conduct of poll watchers shall conform, to the extent reasonably practicable, to the pertinent provisions of the Election Law.
7. As the chief election officer for the special election, the Town Clerk, and/or her deputy and designated agents, shall be responsible for the supervision of poll

watchers, as necessary and appropriate, and all decisions of the Town Clerk shall be final.

This resolution shall take effect immediately.

RESOLUTION DESIGNATING A SPANISH LANGUAGE TRANSLATOR FOR A SPECIAL ELECTION IN THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NY.

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, three designated polling sites will be open for voting on Thursday, November 13, 2014 from 6:00 A.M. until 9:00 P.M.;

NOW THEREFORE , BE IT RESOLVED, that the Town Clerk is authorized to engage the services of a professional Spanish language translator for the special election at a sum of \$60 per hour, not to exceed \$900, for translation services on November 13, 2014; and

BE IT FURTHER RESOLVED, that the Town Clerk is authorized instruct the professional translator to be stationed at, or transfer to, any designated polling site.

This resolution shall take effect immediately.

Brynwood Partners LLC submitted a revised development proposal for the golf course and property on Route 22 in Armonk. The presentation by Mark Weingarten, Brynwood legal counsel, included the following points:

- The goal remains the same: to preserve the country club and create a first class golf course with an upscale residential community on the existing property.
- The density of residential units has decreased, from the original 243 units to the previous submission of 88 units to the current plan for 80 units. The 80 units would include 63 market rate condos, 10 fee-simple golf cottages and 7 units designated as affordable housing units that meet the County requirements for AFFH units. It was noted that if the affordable units would be approved to build off-site, those 7 units would revert to market rate and then a total of 8 affordable units would be built at an approved off-site location.
- If the modified project with mix of residential homes within a golf course community is not approved, they will have to close the golf club and develop private homes.
- Benefits of the modified project presented in the FEIS include preservation of the golf course with a perpetual conservation easement in favor of the Town; applicant will petition to join Water Dist. No. 2 and agree to make system capacity improvements at estimated expense of \$1,044,000; applicant agrees to mitigate adverse financial tax impacts to Town, BHCS and County by establishing an annual payment equal to the difference between the amount of real property tax paid by condominium units vs. the amount of tax collected if units were taxed as fee simple units.

Town Attorney Baroni explained the steps involved going forward. The Town Board would receive the preliminary FEIS tonight, anticipating that the applicant will post escrow in the next two weeks. The Board would refer the FEIS to Town professionals for review during December – January. The consultants would issue a report to determine if the document is adequate or needs revision. By early 2015 there should be an acceptable and complete FEIS. At that time the Public Hearings would be reopened to consider Special Use Permit language to be added to code and amendments to the Comprehensive Plan. After all public comments are heard the Public Hearings would close and the findings would be adopted, thereby concluding the environmental review process. Amendments to zoning code allowing a golf community could be established and the applicant could proceed with applications made to Planning Board for proposed subdivisions and site plan review.

Councilman D'Angelo stated that accepting the preliminary FEIS brings the project out for discussion among the Town Board and the public.

Councilman D'Angelo moved, seconded by Councilman Berra, receipt of revised proposal by Brynwood Partners LLC and receipt of revised preliminary FEIS in connection with same.

Vote: Unanimous

Discussion was held concerning the authorization by the Town Board at the November 3, 2014 Special Meeting for the Supervisor to execute a Conservation Easement to the Town and approval for the Town to utilize \$500,000 of open space funds in connection with the purchase of the 73 acre Levene property by the Mianus River Gorge. Supervisor Schiliro explained that ten years ago the Town approved a \$3 million bond referendum to acquire open space. Prior to this opportunity, two properties were secured with this funding: the Dubois property, adjacent to Byram Lake, and a small parcel in North White Plains. Since the ten-year window to use this open space bonding was due to expire last Monday, November 3, 2014, the Town Board held a Special Meeting and authorized the execution of a Conservation Easement to the Town and use of open space funds. Supervisor Schiliro requested all those involved to appear tonight at a regular meeting so any concerns and questions could be addressed.

Rod Christie, Executive Director of Mianus River Gorge pointed out the Levene property on a large map and described it as a very high priority parcel within the Piping Brook watershed, which drains to the Mianus River. The Mianus River Gorge holds other land parcels and he emphasized the importance of making corridor connections between the other open space parcels and the unique benefits of this property in protecting wetlands and the watershed.

The following statement was read by Kerri Kazak, Chairman of the Open Space Committee:

I am very excited to speak tonight about a wonderful preservation opportunity for the Town of North Castle.

Ten years ago, the voters of North Castle overwhelming voted in support of the Open Space Preservation Bond Referendum which authorized the Town of North Castle to spend up to \$3 Million Dollars to buy land or conservation easements as a way of preserving parcels of open space. These parcels play an important role in protecting our environmentally sensitive areas, our water quality, our wildlife and our town character. They give us our sense of place.

Since that time, the Open Space Committee has carefully monitored important parcels of land in our town and evaluated them against specific criteria.

However, while a particular parcel may meet our criteria, most are not for sale. So it's a question of being ready to act when the perfect opportunity finally arises. And, that time is now.

The property for your consideration consists of 73 acres on East Middle Patent Road. It meets all of the Open Space Committees Criteria for acquisition.

- 1. First, the property lies between the main Mianus River Gorge Preserve lands and those in the Mianus Castlebrook parcel. Therefore it provides a vital link between these already existing pieces of open space. The Mianus River Gorge Preserve is the oldest and largest nature preserve in North Castle.*
- 2. The Town's Comprehensive Plan identifies specific areas in North Castle as "Critical Environmental Areas" under SEQR. Both the Mianus River and the Mianus Gorge Preserve are identified as two such Critical Environmental Areas. So this property is in two Critical Environmental Areas.*
- 3. The property contains important wetlands, vernal pools and a permanent stream, which is the headwaters for Piping Brook. Piping Brook is a very pristine and important tributary to the Mianus River. North Castle's Open Space Study and Comprehensive Plan recommend that the Town preserve areas adjacent to Mianus River Gorge and preserve the Piping Brook corridor. This property is right on target with those guidelines.*
- 4. From a wildlife perspective, this is a large, ecologically intact parcel. It functions as a very significant wildlife corridor between the Mianus River Gorge's main preserve and the Castlebrook parcel.*

5. *In addition, the most westerly portion of the property has very steep slopes. These steep slopes are greater than 25% and must be protected by the Town of North Castle.*
6. *From a recreational perspective, there is the potential to connect trails put on the property with the already existing five miles of trails at Mianus River Gorge Preserve or to make an independent trail system.*
7. *In terms of historical significance, the area of North Castle where the property is located has a special rural and historic nature that defines this area of Town and should be preserved.*
8. *Finally, the property has significant scenic value as it contains a beautiful scenic vista from East Middle Patent Road.*

This is the perfect open space parcel for the Town to use open space funds to help preserve. Not only is this property remarkable from an open space perspective, but the opportunity to preserve it before the Town tonight is also remarkable. By expending \$500,000 to purchase a conservation easement on the property, the Town is participating in preserving 73 acres that have a sale price of \$2.8 million dollars. The opportunity to leverage our open space funds in this way does not come along very often. This is a rare opportunity and one that the Open Space Committee urges the Town of North Castle to act on.

I wanted to say a special thank you to everyone for working so hard to make the preservation of the Levene Property a reality. It's been a crazy week but everything has come together because of everyone's hard work.

I'd also like to say a special thank you to John Fava, who's tireless dedication to protecting and preserving the environment of North Castle has always been an inspiration to me and many others. It is John Fava who has meticulously mapped every natural feature above ground and below of this town and worked for decades to protect them. He has made the open space inventory lists for years, and is the source of knowledge on every parcel. He spearheaded the Town's 2003 Open Space Study Committee Report and as the Chair of the Conservation Board has been the guiding light for the Open Space Committee since our formation in August 2003. It is an honor to learn from him and to work with him. The participation of the Town of North Castle in the preservation of the 73 acre Levene Property is truly a testament to John and one many years in the making.

John Fava, Chair of the Conservation Board, read the following letter of recommendation:

An Open Space Study Committee Report was submitted to the Town Board in July 2003 after a two year effort of reviewing 130 parcels of 10 or more acres in size. Many parcels of unprotected open space were identified within environmentally sensitive areas and natural corridors that included the 73 acre Levene parcel. The committee felt that protecting lands related to water resources was one of the most important goals for future open space preservation in the Town.

The Levene site is part of the two-mile long Piping Brook corridor and large associated wetlands. In addition, this stream and wetlands are connected by sub-surface lineaments or major fractures to important water supply facilities including the Windmill Farm water supply system and other areas as shown on the Water Resources Map prepared by the Conservation Board. The site also protects nearly 2000 feet of road frontage and is contiguous to lands of the Mianus River Gorge Preserve. Also, it is in the vicinity of a Town conservation easement connected to the Piping Brook wetland complex.

The Open Space Preservation Bond Referendum of 2004 authorized the Town to spend up to \$3 million Dollars to buy land or conservation easements as a way of preserving important open space. It is believed that to date a total of about \$300,000 has been obligated for a parcel located in Quarry Heights and the Dubos Preserve within the watershed of Byram Lake Reservoir.

The Conservation Board strongly supports the proposal by the Open Space Committee, the Town of North Castle and others to participate in the purchase of this 73 acre property for open space conservation and for the protection of important water resources.

Councilman D'Angelo moved, seconded by Councilman Berra, approval of request from the Edge of Dance for an extension to January 15, 2015 to submit property owner authorization for a Special Use Permit at 7 North Greenwich Road.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, receipt of 2015 Town and Special Districts Tentative Budgets and further moved the scheduling of public hearings on November 19, 2014.

Vote: Unanimous

Pursuant to a letter from Sal Misiti, Director of Water and Sewer Operations, Councilman D'Angelo moved, seconded by Councilman Reiter, authorization of Payment Application #4 in the amount of \$678,145.28 to Bilotta Construction Corp. regarding the Water District No. 2 Water System Replacement Project, for work completed through October 15, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, authorization for the Supervisor to execute the Stormwater Management Easement and Maintenance Agreement for 8 Terrace Circle.

Vote: Unanimous

Pursuant to request from General Foreman Norris, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, authorization for the Supervisor to execute an agreement with Absolute Auctions & Realty, Inc. regarding disposal of Town vehicles that are no longer in use. There is no fee to the Town for this service.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, a resolution for the adoption of the amended disciplinary charges submitted by the Chief of Police against Employee No. 3257, resulting in his suspension without pay, pending the outcome of the disciplinary proceedings. The Resolution follows.

Vote: Unanimous

RESOLUTION

WHEREAS, the Chief of Police has preferred disciplinary charges, dated September 18, 2014, against Employee No. 3257; and

WHEREAS, the Chief of Police has preferred amended disciplinary charges, dated October 9, 2014, against Employee No. 3257; and

WHEREAS, the Town Board has determined that it is appropriate to adopt the amended disciplinary charges, dated October 9, 2014, against Employee No. 3257; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of North Castle hereby adopts the amended disciplinary charges, dated October 9, 2014, against Employee No. 3257, and any amendments thereto, pursuant to Chapter 104 of the laws of 1936 (the "Westchester County Police Act") and Town law Section 155; and

BE IT FURTHER RESOLVED, that Employee No. No. 3257 is hereby suspended without pay pursuant to the Westchester County Police Act, effective immediately, pending the outcome of the disciplinary proceedings.

Councilman D'Angelo moved, seconded by Councilman Berra, the appointment of James Cianci, Highway Mechanic, Unit I, starting step, effective November 17, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, ratification of the appointment of Michelle Harvey Stratman, part-time Librarian, at the hourly rate of \$23.00 per hour, effective October 27, 2014.

Vote: Unanimous

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

1. Pursuant to a request from General Foreman Norris, approval for the release of the following Highway bond:
 - a. Taconic Paving Construction – Permit 0834 in the amount of \$500 for driveway alteration at 38 Custis Avenue, Section 6, Block 05, Lot 8.
2. Receipt of Performance Bond in the amount of \$117,650 from Vernon Hills Contracting regarding sidewalk construction and maintenance.
3. Receipt of Adopted 2015 Budget: North Castle Fire District No. 2

Vote: Unanimous

The Town Board audited and approved payments totaling \$601,993.63 as indicated on Warrant #20.

After all persons were heard who desired to be heard, the Supervisor closed the regular meeting at 10:00 p.m. in memory of North White Plains resident, William Duane.

Anne Curran, Town Clerk

Dated: December 17, 2014

PUBLIC HEARING
November 5, 2014

At 8:10 p.m. Supervisor Schiliro reconvened the Public Hearing which was adjourned on October 22, 2014 for the purpose of considering 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, 2014
Armonk, New York

The following correspondence was received since October 22, 2014.

Letter from the Westchester County Planning Board dated November 3, 2014 stating that the action is a matter for local determination.

Letter from Director of Planning Adam Kaufman dated November 4, 2014 with Planning Board revised definition of fence for Town Board consideration, and Planning Board recommendation of approval of revised zoning amendment.

Revised draft Local Law.

Director of Planning Adam Kaufman said that at the October 22, 2014 public hearing the Town Board referred the proposed draft legislation to the Planning Board. Subsequently, Mr. Kaufman spoke with residents who expressed concerns about the proposed definition. He provided the Planning Board several alternative definitions along with proposed legislation referred by Town Board. At the November 3, 2014 meeting, the Planning Board proposed an alternative definition for Town Board consideration which includes specific examples of materials used in the construction of

a fence; a catchall for materials which might not be typically found; and language regarding the purposes of a fence. The last sentence of the definition states that a fence shall not be constructed of tarpaulins or sheets.

Councilman DiGiacinto asked if the language ‘or any other unconventional fencing material’ could be added to the last sentence of the definition, rather than limiting it to tarpaulins or sheets. Mr. Kaufman said this language could prohibit legitimate fences which might be considered acceptable by the Town Board. He said the definition includes usual materials or other manufactured material, adding if someone were to create a fence of tires, for example, it would be regulated by the Town and hopefully denied. Supervisor Schiliro said he was concerned with how to define “unconventional.”

Mr. Kaufman said the Planning Board recommended a three month sunset period for the removal of any non-conforming tarpaulin or sheet fence which lawfully existed at the time the local law was adopted. The Town Board agreed with the recommendation.

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 8:20 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 D’Angelo moved, seconded by Councilman Reiter, the adoption of Local Law 6 of 2014 to revise Section 213-3 of the Town Code to include a definition of fence and to amend Section 213-14.G(2) of the Town Code to prohibit tarp fences and require the amortization of tarp fences.

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.

Anne Curran, Town Clerk

Dated: December 17, 2014

TOWN OF NORTH CASTLE

Local Law No. 6 for the Year 2014 Adopted November 5, 2014

A local law to revise Section 213-3 of the Town Code to include a definition of fence and to amend Section 213-14.G(2) of the Town Code to prohibit tarp fences and require the amortization of tarp fences.

Section 1. Revise Section 213-3 of the Town Code to include the following new definition in proper alphabetical order:

FENCE -- A visible or tangible barrier enclosing, bordering or delineating a yard, field or other portion of land for the purpose of providing a boundary or a means of protection, or to prevent uncontrolled access, or for

decorative purposes, or to provide screening, usually made of posts and wire, wood, iron, masonry, stone, metal, wind sheets for sports courts or other manufactured material or combination of such material(s), not including hedges, shrubs, trees or other natural growth. A fence shall not be constructed of tarpaulins or sheets.

Section 2. Revise Section 213-14.G(2) as follows:

- (2) No barbed wire fence or similar fence shall be erected in a residential district, nor shall such a fence be erected without site plan approval subject to Subsection G(6) and (7) of this section. No tarpaulin or sheet fence or similar fence shall be permitted to be erected. Any nonconforming tarpaulin or sheet fence or similar fence which lawfully existed at the time this local law became effective shall be removed within three (3) months from the date of its passage.

Section 3. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 4. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 5. Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.