

Town Board Minutes  
Regular meeting  
Town of North Castle  
15 Bedford Road  
Armonk, New York  
on  
February 25, 2015

The Town Board meeting was called to order at 5:00 p.m. and immediately adjourned into Executive Session on the duly adopted motion of Councilman D'Angelo. All Town Board members, the Town Attorney and the Town Administrator were present for the executive session which adjourned to a Work Session. The Town Clerk joined the Work Session which convened at 6:05 p.m. The regular meeting reconvened at 7:30 p.m. and the following persons were present:

Supervisor:	Michael J. Schiliro
Councilmen:	Stephen A. D'Angelo
	Barbara W. DiGiacinto
	Barry S. Reiter
	Guy A. Mezzancello

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

The minutes of the Public Hearing that commenced at 8:07 p.m. follow at the end of these minutes.

Councilman Reiter moved, seconded by Councilman D'Angelo, approval of the minutes for the January 14, 2015 and January 28, 2015 meetings.

Vote: Unanimous

Edward Lobermann commented about the Decision, Order and Judgment: Article 78 Petition, Weaver et al vs. Town of North Castle, challenging the Town's determination in 2012 to reduce and in some instances eliminate paid medical, dental and vision insurance benefits to current and former employees and elected officials of the Town, which was received by the Town Board as a late addition at the February 11, 2015 meeting. Mr. Lobermann suggested that the current Town Board review the decision and resolve inequities in the decision that he feels was unfair to long-serving full time retirees.

With regard to the receipt of Zoning Petition from New King Street Associates to amend principal permitted uses in the IND-AA Zoning District to add personal training facilities regarding 4 New King Street, Supervisor Schiliro said on the advice of counsel he is recusing himself on this matter due to a business relationship with one of the property owners.

Councilman DiGiacinto moved, seconded by Councilman Reiter, receipt of the Zoning Petition to amend the principal permitted uses in the IND-AA Zoning District to add personal training facilities regarding 4 New King Street, and further moved that the Town Board declare its intent to be Lead Agency.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Mezzancello

Noes: None

Abstained: Supervisor Schiliro

Councilman Reiter moved, seconded by Councilman DiGiacinto, referral of the Zoning Petition to amend the principal permitted uses in the IND-AA Zoning District to add personal training facilities to the Town Planning Board and County Planning Board.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Mezzancello

Noes: None

Abstained: Supervisor Schiliro

Pursuant to a letter of recommendation from Sal Misiti, Director of Water and Sewer Operations, Councilman Reiter moved, seconded by Councilman D'Angelo, approval of Payment Application

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#7 in the amount of \$323,894.81 to Bilotta Construction Corp. regarding the Water District No. 2 Water System Replacement Project, for work completed through January 23, 2015, and authorization for the Supervisor to sign the payment application.

Vote: Unanimous

Pursuant to a letter of recommendation from Sal Misiti, Director of Water and Sewer Operations, regarding the rehabilitation of School Street Well No. 2, Councilman DiGiacinto moved, seconded by Councilman Reiter:

- To award the sole bid of \$28,185.00 to Layne Christensen Company,
- To appropriate funding from Water District No. 4 fund balance, and
- To authorize the Supervisor to sign the necessary agreements related to the project.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Reiter, to reject the bid from North Castle Pool and Tennis Club to provide swimming pool rental to the Town for use by its summer day camp. It was determined that the bid submitted did not meet the bid specifications.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, approval of student license for filming at the Windmill Club and property behind Smith's Tavern on February 28-March 1, or March 7-March 8, as weather permits.

Vote: Unanimous

Pursuant to a letter from Tax Receiver Colombo regarding a Final Order and Judgment for BGB Realty, LLC, 33 Virginia Road, North White Plains, Councilman DiGiacinto moved, seconded by Councilman Reiter, authorization to issue a refund for tax years 2014 - 2015 in the total amount of \$1,579.99.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, receipt of the following Bonadio & Co. LLP reports in connection with 2013 FEMA funds and State CHIPS funds received for super storm Sandy recovery:

1. 2013 OMB A-133 Single Audit
2. 2013 NYS DOT Single Audit

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, authorization for the Town Attorneys to execute a Consent Judgment in the Tax Certiorari matter of FAC 755 North Broadway LLC as Tenant Obligated to Pay Taxes vs. Town of North Castle – Index Nos. 24194/10 et al.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, authorization for the Town Attorneys to execute a Consent Judgment in the Tax Certiorari matter of Southway Investco, LLC vs. Town of North Castle – Index No. 21894/08 et al.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, authorization for the Town Attorneys to execute a Consent Judgment in the Tax Certiorari matter of Susan Maounis vs. Town of North Castle – Index No. 67154/14.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, receipt of notification from Crown Atlantic Co., LLC regarding extension of the lease agreement regarding the telecommunications facility, located at 15 Business Park Drive, Sewer District No. 2, for five-year term: August 1, 2015 to August 1, 2020.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, authorization for the Supervisor to sign an agreement with USI consulting Group for actuarial valuation of post-employment benefits for 2014 and 2015, at a cost of \$6,600.

Vote: Unanimous

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Councilman D'Angelo moved, seconded by Councilman DiGiacinto, receipt of work-related injury/illness report for a Police Department employee.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, the reappointment of Dr. Martin Rube to the Landmarks Preservation Committee, for a term to expire May 17, 2017.

Vote: Unanimous

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

1. Receipt of 4<sup>th</sup> quarter 2014 Cable TV franchise fee payments:
  - a. Cablevision in amount of \$32,041.00 and Southern Westchester for \$9,326.00.
  - b. Verizon FIOS in the amount of \$34,759.57.
2. Receipt of letter from LaCrémallière Restaurant regarding notification of renewal of retail liquor license.

Vote: Unanimous

The Town Board audited and approved payments for \$818,541.25 as indicated on warrant #3.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 9:56 p.m. in memory of former resident Louis Larca.

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Anne Curran, Town Clerk

Dated: March 9, 2015

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PUBLIC HEARING  
February 25, 2015

At 8:07 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 in Town Hall, 15 Bedford Road, Armonk, NY, 10504, on February 25, 2015 at 7:30 p.m. or as soon thereafter, to consider a local law to amend the mailing requirements for Public Hearings.

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: February 11, 2015  
Armonk, NY

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 November 14, 2014, was marked Exhibit "D" for the record.

Letter from the Westchester County Planning Board, dated February 23, 2015, stating that the action is a matter for local determination was marked Exhibit "E" for the record.

Proposed Local Law

Negative Declaration for consideration

Director of Planning Kaufman said the recommendation to revise Town Code regarding mailing requirements for public hearings came from the Planning Board. Mr. Kaufman explained that currently notifications of public hearings must be sent by certified mail return receipt requested to all property owners within specified distances of the application property. The Planning Board Secretary has found that a significant number of mailings are not received because neighbors are often not home to sign for certified mail, a notice of attempted delivery is left in the mailbox, and people often do not pick up the mail at post office. The Planning Board recommendation is to change the mailing requirement to first class mail, which would be received in the normal course of delivery, with proof of mailing demonstrated by providing the Town with an official Certificate of Mailing form which would verify that the required mail pieces were entered into the mail system.

Councilman DiGiacinto, Christopher Carthy, Planning Board member, former Councilman José Berra, and resident Brendan Malloy spoke about pros and cons of several mailing options including priority mail, certified mail without return receipt requested, and first class mail.

Following discussion, the Board decided to change the notification requirement for public hearings from certified mail return receipt requested to first class mail with proof of mailing provided to the Town with a Certificate of Mailing (PS Form 3817 or 3877). The Town Board further decided that applicants should be provided with official envelopes from the Town as recommended by Mr. Kaufman, and that the envelopes be specially marked with a meeting notification stamp as recommended by Councilman D'Angelo. Councilman D'Angelo said this first class mail option with the Certificate of Mailing form would provide applicants with a less costly mailing alternative as well as provide the Town with proof of mailing.

After all persons were heard who desired to be heard, Councilman DiGiacinto moved, seconded by Councilman D'Angelo, that the Public Hearing be closed at 8:35 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, the adoption of Local Law 2 of 2015, as amended, to amend the mailing requirements for Public Hearings.

The roll call vote was as follows:

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

Noes: None

The Local Law follows at the end of these minutes.

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Anne Curran, Town Clerk

Dated: March 6, 2015

## **TOWN OF NORTH CASTLE**

### **Local Law No. 2 of the Year 2015 Adopted February 25, 2015**

A local law to amend the mailing requirements for Public Hearings.

**Section 1.** Amend Section 80-5.D of the Town Code as follows:

Notice of hearing shall be sent by first class mail to all property owners within a distance of two hundred fifty (250) feet of the property lines on both sides of the street on which the property fronts and to adjoining property owners or owners to the rear of the property affected. In addition, the Town Board shall give any other notice required by law. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 2.** Amend Section 83-4.L(3) of the Town Code as follows:

Notice of hearing shall be sent by first class mail to all property owners within a distance of 250 feet from all sides of the property. In addition, the Town Board shall give any other notice required by law. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 3.** Amend Section 126-13 of the Town Code as follows:

Upon receipt of a nomination report of the LPC, the Town Board shall call a public hearing to consider whether or not the Town Board should, by resolution, establish a designation. Such public hearing shall be held within 60 days from the receipt of the LPC's report, which hearing shall be advertised in a newspaper having general circulation in the Town at least 20 days prior to the date of such hearing. Written notice of such hearing shall be sent, by first class mail to the present owner(s) of the property directly affected by such hearing and to all property owners, as appear on the latest tax roll of the Town, within a two-hundred-foot distance from the boundary of the property affected by the proposed designation. The latest assessment roll on file in the office of the Assessor shall be conclusive as to the name(s) of the owner(s) of the property. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 4.** Amend Section 209-7 of the Town Code as follows:

No sooner than 30 days and not later than 60 days after receipt of a complete application by the Planning Board, the Planning Board shall hold a public hearing on such application. Where the approval authority is the Building Inspector in consultation with the Town Wetland Consultant, then no public hearing shall be required. Notice of such hearings shall be given in the same manner as prescribed for the approval of plats under § 276 of the Town Law, and in addition, the Applicant shall notify all abutting property owners of record. Such service shall be made by first class mail. Such mailing shall be made at least five business days before the date set for hearing. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877). All Applicants, maps and documents relating thereto shall be open for public inspection at the offices of the Planning Department. At such hearing, any person or persons having an interest may appear and be heard.

**Section 5.** Amend Section 213-22.2.H(2)(b) of the Town Code as follows:

Following receipt of the Architectural Review Board's report and recommendations, the Planning Board shall schedule the application for discussion at a public meeting. The Applicant shall be responsible for sending notice of such meeting, by first class mail to all owners of neighboring

properties within 250 feet if located in an R-3/4A or smaller minimum lot size zoning district and within 500 feet if located in an R-1A or larger minimum lot size zoning district. Such notice shall indicate the street address and tax lot number of the subject premises; the nature of the proposed application (including height and gross floor area of the proposed dwelling, lot area and any variances which will be required); the date, time and place of the Planning Board meeting; and the name, address and telephone number of the Applicant. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 6.** Amend Section 213-29.C of the Town Code as follows:

Notice of hearing shall be sent by first class mail to all property owners within a distance of 250 feet of the property lines on both sides of the street on which the property fronts and to adjoining property owners or owners to the rear of the property affected. In addition, the Board shall give any other notice required by law. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 7.** Amend Section 213-33.K(13)(a) of the Town Code as follows:

A public hearing shall be held by the Planning Board in accordance with the same requirements as set forth in § 213-39. The Applicant shall be responsible for the publication of notice in official Town newspapers and shall mail to all other required recipients a copy of the public hearing notice by first class mail. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877). The notice of public hearing shall bear the signed approval of the Building Inspector and shall be maintained as part of Town records of the accessory apartment application. Following approval of the public hearing notice text, the Building Inspector shall be responsible for publication in official Town newspapers. Following the close of such public hearing, the Planning Board shall approve, conditionally approve or disapprove on the special permit application, in accordance with the schedule and requirements of § 213-30. The Applicant may grant extensions of any review period to the Planning Board.

**Section 8.** Amend Section 213-35.1.B of the Town Code as follows:

Notice of hearing shall be sent by first class mail to all property owners within a distance of 250 feet of all property lines. In addition, the Board shall give any other notice required by law. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 9.** Amend Section 213-66.B(2) of the Town Code as follows:

Notice of hearing shall be sent by first class mail to all property owners within a distance of 250 feet of the property lines of the Applicant. In addition, the Board shall give any other notice required by law. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877).

**Section 10.** Amend Section 213-68.E(2) of the Town Code as follows:

If a petitioner exists, notice of the hearing shall be sent by first class mail to all property owners within a distance of 250 feet of the property lines on both sides of the street on which the property fronts and to adjoining property owners or owners to the rear of the property affected. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877). In those instances where the Town Board is acting on its own motion and without petition and the proposed action is in accord with the Town's adopted Comprehensive Plan, the Town Board shall determine whether the mailing of notices shall be required.

**Section 11.** Amend Section A216-15.G(1) of the Town Code as follows:

Notice of the public hearing shall be advertised at least once in the official Town newspaper(s) at least five days before such hearing if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith, and all property owners of record within a distance of 500 feet from the boundary of the property proposed to be subdivided (200 feet when measured completely within the R-10, R-5 and R-2F Districts) shall be mailed by first class mail. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877) along with a separate typewritten list of all such required recipients prior to the date of the public hearing. The notice of public hearing shall bear the signed approval of the Planning Board Secretary and shall be maintained as part of the Town's records of the proposed subdivision.

**Section 12.** Amend Section A216-16.E(4) of the Town Code as follows:

The Applicant shall be responsible for the publication notice in the official Town newspaper and shall mail to all other required recipients a copy of the public hearing notice by first class mail. Notice of hearing shall be mailed by the Applicant in official envelopes provided by the Town of North Castle. Proof of mailing to all required property owners shall be demonstrated by providing the Town with a Certificate of Mailing (PS Form 3817 or 3877) along with a separate typewritten list of all such required recipients at least 12 days prior to the date of the public hearing. The notice of the public hearing shall bear the signed approval of the Applicant or the Applicant's appointed representative and shall be maintained as part of the Town records for the proposed subdivision. Following approval of the public hearing notice text, the Applicant shall be responsible for publication in the official Town newspaper.

**Section 13.** 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 14.** 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 15.** Effective Date.

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

Dated: February 25, 2015