

PUBLIC HEARING

September 13, 2017

At 8:26 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 September 13, 2017, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY, 10504, to consider a local law to amend Chapter 233 entitled Peddling and Soliciting, Section 233-13 Restrictions and prohibited acts, to extend the hours wherein peddling, soliciting or canvassing is permitted from 7:30 p.m. to 8 p.m. and to eliminate the restriction that these activities must be concluded by sunset, to the Code of the Town of North Castle.

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

By Order of the Town Board  
Alison Simon, Town Clerk

Dated: August 29, 2017  
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.

The following documents were received:

Memo from Town Clerk Alison Simon, dated August 1, 2017, was marked Exhibit "D" for the record.

Letter from Russ Haven, General Counsel, NYPIRG (New York Public Interest Research Group) dated July 19, 2017 was marked Exhibit "E" for the record.

The Town Clerk noted there was a proposed Local Law for consideration.

Town Attorney Roland Baroni explained that upon filing a Canvassing Registration application with the Town Clerk and learning of the time and sunset restrictions for such activities imposed by the Town Code, NYPIRG representatives challenged the Constitutionality of the Town Code. This challenge was supported by case law which Mr. Baroni found to be persuasive. Mr. Baroni said ordinances of other towns were reviewed; and there were some variances among surrounding towns' time restrictions. He said that the sunset provision in North Castle's Code, which would limit activities in winter months to about 4:15 p.m., seemed to be the most objectionable and supported removing it from the Code. Mr. Baroni said the 8 p.m. time range was found in other communities and a revision to extend the permitted hours from 7:30 p.m. to 8 p.m. is included in the proposed law for the Board's consideration; he noted that NYPIRG prefers the restriction to be set at 9 p.m.

Brenden Colling, Statewide Outreach Director, NYPIRG addressed the Board and noted that NYPRIG raised the constitutional issues which he thought led to the revision. Mr. Colling said NYPIRG does not view the revision to an 8:00 p.m. curfew of curing the Town Code of its constitutional defect and NYPERG fears that it would unfairly and improperly interfere with First Amendment rights.

Mr. Colling said NYPIRG has been contacting New Yorkers door to door, with a face to face campaign for forty years and they have learned that they have the greatest success by far in the

evening hours. He said this has been documented by other parties who rely on reaching residents at home when they are able to respond in a similar way. He read aloud from the U.S. Census Bureau handbook which instructs its enumerators to work evenings; and noted that the Census Bureau's hour by hour study *Who's Home When* demonstrated that enumerators were most successful in the hour of 8 p.m. to 9 p.m. Mr. Colling said that NYPIRG's normal hours of operation are between 4 p.m. and 9 p.m., and in their experience the time between 8 p.m. and 9 p.m. is the most important and effective hour to reach residents. In response to a query from Councilman D'Angelo, Mr. Colling said he did not have statistical hour by hour data for NYPIRG. He said that their work in North Castle is usually done in the summer months; it is advantageous to them when there are the longest daylight hours. He said the American Time Use Survey by the Bureau of Labor Statistics demonstrated that people are minimally engaged between 8 p.m. and 9 p.m. Mr. Colling said to impose a blanket prohibition of all door to door contact after 8 p.m. may accommodate the interests of some residents who do not prefer a visit after that time, but denies the First Amendment rights of NYPIRG and other groups by restricting their ability to reach residents at the time they are most able to be reached. He also said this denies the First Amendment rights of the residents who are precluded from receiving a message that in many cases they are willing to receive at that hour.

In response to a query from Councilman DiGiacinto, Mr. Colling said that NYPIRG prefers to reach residents person to person, rather than by phone or email; and they will follow up by phone if residents are not reachable in person.

In response to a query from Councilman D'Angelo, Mr. Baroni said that the 8 p.m. time was chosen as a possible time that all parties hopefully would accept. He said one of the alternatives for the Board is perhaps to legislate a no solicitation registry in the Town which would mean that NYPIRG would reach fewer people.

Mr. Baroni noted that the Town Clerk has received recent complaints from residents who were contacted by NYPIRG at times earlier than 8 p.m. Mr. Colling said that notes are made regarding time preferences expressed by residents. Mr. Baroni said a NYPIRG representative was in his driveway upon his arrival at his residence at about 6 p.m.; he asked that representative not to return, but the representative returned anyway. Mr. Colling said that he does his best to keep their notes carefully recorded.

Councilman DiGiacinto said she also has received complaints from residents; and has not received any comments in support of extending the hours.

Supervisor Schiliro said this is a quality of life issue. The Supervisor said that each community is different and the extension of hours to 9 p.m. could conflict with quality of life issues for some residents, such as homes with young children and older residents. Mr. Schiliro said he thought it is hard to fully control the curfews.

Councilman D'Angelo said that the legislation does not apply only to NYPIRG, but to other organizations which, unlike NYPIRG, may be in Town during the months when it becomes dark much earlier.

Theresa Lobermann, North White Plains, said she did not like anyone soliciting at her home at any time, day or night. Mrs. Lobermann said she would prefer that someone call first and come to her home by invitation, and this is a privacy issue.

Edward Lobermann, North White Plains, said he thought soliciting at night was disconcerting and he was not in favor of it. Mr. Lobermann said he thought it was a burden for residents to put up a no soliciting sign and this should be handled by the Town through a registry.

The Board members present expressed general agreement that the proposed revisions to extend the hours to 8 p.m. and to eliminate the sunset provision were a good faith negotiation and fair resolution to protect the quality of life of the residents, and that the revisions should move ahead at this time.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Berra, that the Public Hearing be closed at 9:17 p.m.

Town Board Minutes  
September 13, 2017

The roll call vote was as follows:

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

Noes: None

Absent: Councilman Reiter

Councilman D'Angelo moved, seconded by Councilman Berra, the adoption of Local Law 6 of 2017 to amend Chapter 233 entitled Peddling and Soliciting, Section 233-13 Restrictions and prohibited acts, to extend the hours wherein peddling, soliciting or canvassing is permitted from 7:30 p.m. to 8 p.m. and to eliminate the restriction that these activities must be concluded by sunset, to the Code of the Town of North Castle. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

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

Noes: None

Absent: Councilman Reiter

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Alison Simon, Town Clerk

Dated: September 25, 2017

**TOWN OF NORTH CASTLE**

**Local Law No. 6 for the Year 2017  
Adopted September 13, 2017**

A local law to amend Chapter 233 entitled Peddling and Soliciting, Section 233-13 Restrictions and prohibited acts, to extend the hours wherein peddling, soliciting or canvassing is permitted to the Town Code.

§ 233-13. Restrictions and prohibited acts.

- A. Peddling, soliciting or canvassing (with a permit or without in the case of canvassing) shall be undertaken only between the hours of 10:00 a.m. and 8:00 p.m., and such permit shall not be valid for use by the holder on Sundays or federal holidays.

§ 233-14 Severability.

If any provision of this article, or the application thereof to any Person or circumstance, is held invalid, the remainder of this article, and the application of such provision to other Persons or circumstances, shall not be affected thereby.

§ 233-15 Effective Date.

This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.