

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
February 9, 2011

Supervisor Weaver called the meeting to order at 5:30 p.m. and the following persons were present:

Supervisor	William R. Weaver
Councilmen	Rebecca Kittredge
	Michael J. Schiliro
	Diane Roth
	John J. Cronin

Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni

The meeting was immediately adjourned into a work session, which was then closed at 6:30 p.m. The work session was adjourned into an executive session which was then closed at 7:30. The regular meeting was reconvened at 7:40 p.m.

Assemblyman Robert Castelli presented a proclamation to Dr. Frank Lattarulo in recognition of this work in Haiti following the devastating earthquake which struck in January 2010.

On behalf on the Town Board, Supervisor Weaver presented certificates of appreciation to retiring employees Douglas Ross and Antonio Sanchez and thanked them for their many years of service to the Town and the Highway Department.

Councilman Roth moved, seconded by Councilman Schiliro, approval of the minutes of the January 27, 2011 regular meeting.

The roll call was as follows:

Ayes: Councilmen Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Abstain: Councilman Kittredge abstained since she was absent from the meeting.

Emergency Management Officer David Lander provided information regarding the Town's receipt of FEMA Federal Disaster Reimbursement funds for the severe March 2010 Nor'easter storm. Officer Lander reported that the Town received a total of \$182,335, which was 87.5% of the actually submitted costs of \$207,917, which provided reimbursement for repair of washed out roads and curbing, debris removal and emergency protective measures. Supervisor Weaver stated that an extraordinary amount of time was spent by Office of Emergency Management and Department Heads to compile the cost information needed to apply for the funds, and expressed appreciation for a job well done to secure reimbursement for the Town. Officer Lander encouraged residents to register to use Nixle to receive public safety and emergency communications.

The decision regarding the special use permit application for North Castle Landscaping & Tree Service, Inc., 7 Round House Road, Banksville, for storage of contractor's equipment (Section 1, Block 12, Lot 8) was tabled to March 9, 2011 at the applicant's request.

With regard to the status report on the application submitted for a supermarket on Business Park Drive and consideration of a follow-up request to the Planning Board for a report and recommendation, Supervisor Weaver asked Director of Planning Adam Kaufman to provide an update. Mr. Kaufman said the Board had been working with a developer for the past several years to improve the A&P property on Main Street, but the applicant has withdrawn its application. He said that the owner of 99 Business Park Drive has submitted a petition for a supermarket at this location which is in the Planned Light Industry (PLI) Zoning District. The Board had concerns about the impact on Main Street businesses and contracted BFJ Planning to analyze the potential impact. Mr. Kaufman said the conclusion from the BFJ analysis was that

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there would be no significant impact on Armonk's Main Street businesses. He said the Planning Board had discussed the proposed assisted living across the street from the location and wanted a better understanding of the water, sewer and traffic impacts if both projects were developed. He said the next step would be for the Town Board to advise if they were interested in the petition.

In response to Supervisor Weaver's question regarding the traffic analysis regarding the assisted living facility, Mr. Kaufman said the analysis indicated improvements would be needed for the 99 Business Park entrance.

Michael Fareri, owner of 99 Business Park Drive and applicant of the petition, said that the 24,000 square foot space is vacant and he has not been able to lease it as office space for some time and therefore submitted the petition to permit a supermarket in the PLI Zoning District. He expressed his frustration in not getting a decision on his application which was submitted in January, 2010. Mr. Fareri said he has spoken with approximately 15 supermarket companies and said he has received a letter of intent from DeCiccio Family Markets to lease the existing 24,000 square foot location. He said that he could provide 7 parking spaces per 1,000 square feet of retail space.

Councilman Schiliro said he did not think the BFJ study was complete and while he was not in favor of moving forward with the request for a supermarket in the business park in the past, he is willing to look at the issue again.

Town Attorney Baroni clarified that the petition is for the allowance of a permitted use, not a change of zoning at this location. Mr. Baroni said that the applicant is looking for an expression of support from the Town Board.

Councilmen Roth and Cronin expressed support for the petition to be reviewed by the Planning Board. The Town Board agreed to direct Mr. Kaufman to ask the Planning Board to agendize the petition and report back to the Town Board so that a public hearing could be scheduled.

Councilman Roth moved, seconded by Councilman Schiliro, adoption of the Public Interest Orders and bond resolutions for increased borrowing for improvements of facilities for Water Districts No. 1 and No. 2. There is an increase of \$400,000 over the previous estimated maximum cost in each of the water districts. The Public Interest Orders and bond resolutions follow at the end of these minutes.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro approval to extend a market license to George Bridge to sell plant materials at 23 Bedford Banksville Road from April 1 through November 30, 2011.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of a Notice of Claim from Frank T. Trapani vs. the Town of North Castle, and further moved that the matter be referred to the Town Attorney.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, to authorize payment of \$1,000 in the matter of Cassone vs. the Town of North Castle.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

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Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of the Town Clerk's monthly report for January, 2011.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth authorization to release monthly retainage in the amount of \$14,822.15 to Suburban Carting.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of a sales tax update from Comptroller Diane Jacobson. The Town received \$360,665 for the fourth quarter of 2010. The total for the year 2010 was \$1,428,861 which is \$228,861 over the budgeted amount of \$1,200,000.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of budget transfers for year end 2010 from Comptroller Jacobson.

The roll call was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, receipt of a letter, with regret, from Fabio Giordani announcing his retirement from the Police Department, effective February 26, 2011.

The roll call was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None

Councilman Cronin moved, seconded by Councilman Roth, the probationary appointment of Susan Snyder to the position of Superintendent of Recreation, effective February 23, 2011, at the budgeted salary.

The roll call was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None

Councilman Roth moved, seconded by Councilman Schiliro, approval of the following:

Request of General Foreman Useted for the release of Highway bonds as follows:

Cablevision – Permits 573 and 574 and 579 in the amount of \$2,250 for right of way openings at 5 Limestone Rd, 39 Woodcrest Drive and 10 Sterling Road North to be reinstated to the \$50,000 bond provided by them.

Allen Cohen – Permit 709 for driveway alteration at 13 Meadow Hill Place in the amount of \$500 to be returned to bond holder as no work was done at said location.

Letter from William T. Skelley recognizing Superintendent Richard Fon and the Highway Department for their efforts regarding snow removal in North White Plains.

Letter from Idelle Skiroff complimenting the Highway Department and advising of visibility limitations due to snow piles in Huntwood.

The Town Board audited and approved payments totaling \$332,793.15 as indicated on Warrant # 2.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 9:25 p.m. in memory of Walter Roth, Sr., father-in-law of Councilman Roth, George R. Bardorf, and Vincent Embrendo, father of Lisa Larsen, Recreation Department.

Anne Curran, Town Clerk

Dated: February 15, 2011

At a regular meeting of the Town Board of the Town of North Castle, Westchester County, New York, held at the Town Hall, 15 Bedford Road, in Armonk, New York on February 9, 2011, at 7:30 o'clock P.M., Prevailing Time.

PRESENT:

- William R. Weaver, Supervisor
- Rebecca A. Kittredge, Councilman
- Michael J. Schiliro, Councilman
- Diane Roth, Councilman
- John J. Cronin, Councilman

-----	:	
	:	
	:	
In the Matter	:	
of	:	
the Increase and Improvement of the	:	PUBLIC INTEREST ORDER
Facilities of Water District No. 1	:	
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 previously considered the increase and improvement of the facilities of the Water District No. 1 in said Town, consisting of the painting of a water storage tank, and related and incidental improvements and expenses in connection therewith; and

WHEREAS, the Town Board of said Town has duly caused to be prepared a map, plan and report, including an estimate of cost relating to said increase and improvement of facilities of such Water District No. 1, pursuant to an engineering report prepared by Charles A. Manganaro Consulting Engineer, P.C., professional engineers; and

WHEREAS, the estimated maximum cost to such Water District No. 1 of such increase and improvement of facilities was determined to be \$730,000; and

WHEREAS, on January 10, 2007, the Town Board held a public hearing and thereafter adopted an order determining the aforesaid increase and improvement, at an estimated maximum

cost of \$730,000, to be in the public interest, and adopted a bond resolution authorizing \$730,000 bonds to pay the cost thereof;

WHEREAS, it has since been determined, following the receipt of bills and certain change orders, that the estimated maximum cost should be increased to \$1,130,000;

WHEREAS, at a meeting of said Town Board duly called and held on December 15, 2010, an order was duly adopted by it and entered in the minutes specifying that the said Board would meet to consider the increase and improvement of the facilities of Water District No. 1 in said Town at an estimated maximum cost of \$1,130,000, an increase of \$400,000 over the previous estimated maximum cost, and to hear all persons interested in the subject thereof concerning the same at the Town Hall, in North Castle, New York, in said Town, on January 12, 2011, at 7:30 o'clock P.M., Prevailing Time; and

WHEREAS, the said order duly certified by the Town Clerk was duly published and posted as required by law, to-wit: a duly certified copy thereof was published in the official newspaper of this Town, on December 31, 2010, and a copy of such order was posted on December 31, 2010, on the signboard maintained by the Town Clerk of the Town of North Castle, pursuant to Section 30, subdivision 6 of the Town Law; and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; NOW, THEREFORE, BE IT

ORDERED, by the Town Board of the Town of North Castle, Westchester County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to increase and improvement of the facilities of the Water District No. 1 in said Town, consisting of the painting of a water storage tank, and related and incidental improvements and expenses in connection therewith, at a estimated maximum cost of \$1,130,000, an increase of \$400,000 over the previous estimated maximum cost.

Section 2. This order shall take effect immediately.

The question of the adoption of the foregoing order was duly put to a vote on roll, which resulted as follows:

Supervisor Weaver	VOTING	Aye
Councilman Kittredge	VOTING	Aye
Councilman Schiliro	VOTING	Aye
Councilman Roth	VOTING	Aye
Councilman Cronin	VOTING	Aye

The order was thereupon declared duly adopted.

* * * *

STATE OF NEW YORK)

) ss.:

COUNTY OF WESTCHESTER)

I, the undersigned Clerk of the Town of North Castle, Westchester County, New York,
DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town Board of said Town, including the order contained therein, held on February 9, 2011, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

<u>Newspaper and/or Other News Media</u>	<u>Date Given</u>
Town of North Castle Website	Feb. 4, 2011

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

<u>Designated Location(s) of Posted Notice</u>	<u>Date of Posting</u>
Town Hall Bulletin Board	Feb. 4, 2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town, on February 9, 2011.

Anne Curran, Town Clerk

(SEAL)

At a regular meeting of the Town Board of the Town of North Castle, Westchester County, New York, held at the Town Hall in North Castle on February 9, 2011, at 7:30 o'clock P.M., Prevailing Time.

The meeting was called to order by Supervisor William R. Weaver, and upon roll being called, the following were

PRESENT: Supervisor William R. Weaver
Councilman Rebecca A. Kittredge
Councilman Michael J. Schiliro
Councilman Diane Roth
Councilman John J. Cronin
ABSENT: None

The following resolution was offered by Councilman Roth, who moved its adoption, seconded by Councilman Schiliro, to-wit:

BOND RESOLUTION DATED FEBRUARY 9, 2011.

A RESOLUTION AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$400,000 BONDS OF THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK, TO PAY PART OF THE \$1,130,000 ESTIMATED MAXIMUM COST OF THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF WATER DISTRICT NO. 1 IN AND FOR SAID TOWN.

WHEREAS, all conditions precedent to the financing of the capital purposes hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act to the extent required, have been performed;

WHEREAS, the Town Board has determined that is in the public interest to increase and improve the facilities of Water District No. 1 of the Town of North Castle, Westchester County, New York at a estimated maximum cost of \$1,130,000, an increase of \$400,000 over the previous estimated maximum cost, and it is now desired to authorize financing for said increase;

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

Section 1. For the specific object or purpose of paying part of the cost of the increase and improvement of the facilities of the Water District No. 1 in said Town, consisting of the painting of a water storage tank, including incidental expenses in connection therewith, there are hereby authorized to be issued \$400,000 bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of said specific object or purpose is \$1,130,000, and that the plan for the financing of the aforesaid specific object or purpose is by the issuance of the \$400,000 bonds of said Town authorized to be issued pursuant to this bond resolution, together with the \$730,000 bonds authorized to finance said specific object or purpose by the bond resolution dated January 10, 2007.

Section 3. It is hereby determined that the aforesaid painting will substantially extend the useful life of said storage tank and the preparation therefore will require the partial reconstruction and improvement thereof. Accordingly, the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision one of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of North Castle, Westchester County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. To the extent not paid from the collection of assessments against benefited property in Water District No. 1, an annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the Town of North Castle, Westchester County, New York, by the manual or facsimile signature of the Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the Town Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he or she shall deem best for the interests of the Town; provided, however, that in the exercise of these delegated powers, he or she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the

Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Supervisor shall determine.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 11. This resolution, which takes effect immediately, shall be published in summary form in *The Journal News*, the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Weaver	VOTING	Aye
Councilman Kittredge	VOTING	Aye
Councilman Schiliro	VOTING	Aye
Councilman Roth	VOTING	Aye
Councilman Cronin	VOTING	Aye

The resolution was thereupon declared duly adopted.

* * * *

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, the undersigned Clerk of the Town of North Castle, Westchester County, New York,
DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town Board of said Town, including the resolution contained therein, held on February 9, 2011, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

<u>Newspaper and/or other news media</u>	<u>Date given</u>
Town of North Castle Website	Feb 4, 2011

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

<u>Designated Location(s) of Posted Notice</u>	<u>Date of posting</u>
Town Hall Bulletin Board	Feb. 4, 2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on February 9, 2011.

Anne Curran, Town Clerk

(SEAL)

LEGAL NOTICE OF ESTOPPEL

NOTICE IS HEREBY GIVEN that the resolution, a summary of which is published herewith, has been adopted by the Town Board of the Town of North Castle, Westchester County, New York, on February 9, 2011, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which said Town is not authorized to expend money, or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

A summary of the aforesaid resolution is set forth below. The resolution provides as follows: that the faith and credit of the Town of North Castle, Westchester County, New York (the "Town"), are irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable; that an annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year; that the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds authorized by such resolution, including renewals of such notes, is delegated to the Supervisor; that all other matters, except as provided in such resolution, relating to the bonds authorized, including the date, denominations, maturities and interest payment dates, within the limitations prescribed in such resolution and the manner of the execution of the same and also including the consolidation with other issues, and the authority to issue such obligations on the basis of substantially level or declining annual debt service, is delegated to and shall be determined by the Supervisor; and that this LEGAL NOTICE shall be published.

The summary of the bond resolution follows:

BOND RESOLUTION DATED FEBRUARY 9, 2011.

A RESOLUTION AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$400,000 BONDS OF THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK, TO PAY PART OF THE \$1,130,000 ESTIMATED MAXIMUM COST OF THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF WATER DISTRICT NO. 1 IN AND FOR SAID TOWN.

The period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision one of paragraph a of Section 11.00 of the Local Finance Law.

THE FULL TEXT OF THIS BOND RESOLUTION IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE TOWN CLERK LOCATED AT 15 BEDFORD ROAD, ARMONK, NEW YORK, DURING NORMAL BUSINESS HOURS.

Dated: North Castle, New York
February 9, 2011

Anne Curran, Town Clerk

At a regular meeting of the Town Board of the Town of North Castle, Westchester County, New York, held at the Town Hall, 15 Bedford Road, in Armonk, New York on February 9, 2011, at 7:30 o'clock P.M., Prevailing Time.

PRESENT:

William R. Weaver, Supervisor

Rebecca A. Kittredge, Councilman

Michael J. Schiliro, Councilman

Diane Roth, Councilman

John J. Cronin, Councilman

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	:	
In the Matter	:	
of	:	
the Increase and Improvement of the	:	PUBLIC INTEREST ORDER
Facilities of Water District No. 2	:	
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 previously considered the increase and improvement of the facilities of the Water District No. 2 in said Town, consisting of the construction of a new water storage tank and well, together with related facilities, and incidental improvements and expenses in connection therewith; and

WHEREAS, the Town Board of said Town has duly caused to be prepared a map, plan and report, including an estimate of cost relating to said increase and improvement of facilities of such Water District No. 2, pursuant to an engineering report prepared by Stearns & Wheler, professional engineers, entitled "Windmill Farms Water Storage Tank" and dated December, 2005, and by Leggette, Brashears & Graham, Inc., professional engineers, dated May 23, 2006; and

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WHEREAS, the estimated maximum cost to such Water District No. 2 of such increase and improvement of facilities was determined to be \$1,650,000; and

WHEREAS, on January 10, 2007, the Town Board held a public hearing on the same, which was adjourned until January 24, 2007, to permit additional comments to be heard, and thereafter adopted an order determining the aforesaid increase and improvement, at an estimated maximum cost of \$1,650,000, to be in the public interest, and adopted a bond resolution authorizing \$1,650,000 bonds to pay the cost thereof;

WHEREAS, it has since been determined, following the receipt of bills, that the estimated maximum cost should be increased to \$2,050,000;

WHEREAS, at a meeting of said Town Board duly called and held on December 15, 2010, an order was duly adopted by it and entered in the minutes specifying that the said Board would meet to consider the increase and improvement of the facilities of Water District No. 2 in said Town at an estimated maximum cost of \$2,050,000, an increase of \$400,000 over the previous estimated maximum cost, and to hear all persons interested in the subject thereof concerning the same at the Town Hall, in North Castle, New York, in said Town, on January 12, 2011, at 7:30 o'clock P.M., Prevailing Time; and

WHEREAS, the said order duly certified by the Town Clerk was duly published and posted as required by law, to-wit: a duly certified copy thereof was published in the official newspaper of this Town, on December 31, 2010, and a copy of such order was posted on December 31, 2010, on the signboard maintained by the Town Clerk of the Town of North Castle, pursuant to Section 30, subdivision 6 of the Town Law; and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; NOW, THEREFORE, BE IT

ORDERED, by the Town Board of the Town of North Castle, Westchester County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to increase and improve the facilities of Water District No. 2 in the Town of North Castle, Westchester County, New York, consisting of the construction of a new water storage tank and well, together with related facilities, including incidental expenses in connection therewith, at a maximum estimated cost of \$2,050,000, an increase of \$400,000 over the previous estimated maximum cost.

Section 2. This order shall take effect immediately.

The question of the adoption of the foregoing order was duly put to a vote on roll, which resulted as follows:

Supervisor Weaver	VOTING	Aye
Councilman Kittredge	VOTING	Aye
Councilman Schiliro	VOTING	Aye
Councilman Roth	VOTING	Aye
Councilman Cronin	VOTING	Aye

The order was thereupon declared duly adopted.

* * * *

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, the undersigned Clerk of the Town of North Castle, Westchester County, New York,
DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town Board of said Town, including the order contained therein, held on February 9, 2011, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom

and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

<u>Newspaper and/or Other News Media</u>	<u>Date Given</u>
Town of North Castle Website	Feb. 4, 2011

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

<u>Designated Location(s) of Posted Notice</u>	<u>Date of Posting</u>
Town Hall Bulletin Board	Feb. 4, 2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town, on February 9, 2011.

Anne Curran, Town Clerk

(SEAL)

At a regular meeting of the Town Board of the Town of North Castle, Westchester County, New York, held at the Town Hall in North Castle on February 9, 2011, at 7:30 o'clock P.M., Prevailing Time.

The meeting was called to order by Supervisor William R. Weaver, and upon roll being called, the following were

PRESENT:	Supervisor William R. Weaver
	Councilman Rebecca A. Kittredge
	Councilman Michael J. Schiliro
	Councilman Diane Roth
	Councilman John J. Cronin
ABSENT:	None

The following resolution was offered by Councilman Roth, who moved its adoption, seconded by Councilman Schiliro, to-wit:

BOND RESOLUTION DATED FEBRUARY 9, 2011.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$400,000 BONDS OF THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK, TO PAY PART OF THE \$2,050,000 ESTIMATED MAXIMUM COST OF THE

INCREASE AND IMPROVEMENT OF THE FACILITIES OF WATER
DISTRICT NO. 2 IN AND FOR SAID TOWN.

WHEREAS, all conditions precedent to the financing of the capital purposes hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act to the extent required, have been performed;

WHEREAS, the Town Board has determined that it is in the public interest to increase and improve the facilities of Water District No. 2 of the Town of North Castle, Westchester County, New York at a estimated maximum cost of \$2,050,000, an increase of \$400,000 over the previous estimated maximum cost, and it is now desired to authorize financing for said increase;

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

Section 1. For the specific object or purpose of paying part of cost of the increase and improvement of the facilities of Water District No. 2 in the Town of North Castle, Westchester County, New York, consisting of the construction of a new water storage tank and well, together with related facilities, including incidental expenses in connection therewith, there are hereby authorized to be issued an additional \$400,000 bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of said specific object or purpose is \$2,050,000, and that the plan for the financing of the aforesaid specific object or purpose is by the issuance of the \$400,000 bonds of said Town authorized to be issued pursuant to this bond resolution, together with the \$1,650,000 bonds authorized to finance said specific object or purpose by the bond resolution dated January 24, 2007.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision one of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of North Castle, Westchester County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. To the extent not paid from the collection of assessments against benefited property in Water District No. 2, an annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the Town of North Castle, Westchester County, New York, by the manual or facsimile signature of the Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the Town Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he or she shall deem best for the interests of the Town; provided, however, that in the exercise of these delegated powers, he or she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or

exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Supervisor shall determine.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 11. This resolution, which takes effect immediately, shall be published in summary form in *The Journal News*, the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Weaver	VOTING	Aye
Councilman Kittredge	VOTING	Aye
Councilman Schiliro	VOTING	Aye
Councilman Roth	VOTING	Aye
Councilman Cronin	VOTING	Aye

The resolution was thereupon declared duly adopted.

* * * *

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, the undersigned Clerk of the Town of North Castle, Westchester County, New York,
DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town Board of said Town, including the resolution contained therein, held on February 9, 2011, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

<u>Newspaper and/or other news media</u>	<u>Date given</u>
Town of North Castle Website	Feb. 4, 2011

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

<u>Designated Location(s) of Posted Notice</u>	<u>Date of posting</u>
Town Hall Bulletin Board	Feb. 4, 2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on February 9, 2011.

(SEAL)

Anne Curran, Town Clerk

LEGAL NOTICE OF ESTOPPEL

NOTICE IS HEREBY GIVEN that the resolution, a summary of which is published herewith, has been adopted by the Town Board of the Town of North Castle, Westchester County, New York, on February 9, 2011, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which said Town is not authorized to expend money, or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

A summary of the aforesaid resolution is set forth below. The resolution provides as follows: that the faith and credit of the Town of North Castle, Westchester County, New York (the "Town"), are irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable; that an annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year; that the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds authorized by such resolution, including renewals of such notes, is delegated to the Supervisor; that all other matters, except as provided in such resolution, relating to the bonds authorized, including the date, denominations, maturities and interest payment dates, within the limitations prescribed in such resolution and the manner of the execution of the same and also including the consolidation with other issues, and the authority to issue such obligations on the basis of substantially level or declining annual debt service, is delegated to and shall be determined by the Supervisor; and that this LEGAL NOTICE shall be published.

The summary of the bond resolution follows:

BOND RESOLUTION DATED FEBRUARY 9, 2011.

Town Board Minutes
February 9, 2011

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$400,000 BONDS OF THE TOWN OF NORTH CASTLE, WESTCHESTER COUNTY, NEW YORK, TO PAY PART OF THE \$2,050,000 ESTIMATED MAXIMUM COST OF THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF WATER DISTRICT NO. 2 IN AND FOR SAID TOWN.

The period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision one of paragraph a of Section 11.00 of the Local Finance Law.

THE FULL TEXT OF THIS BOND RESOLUTION IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE TOWN CLERK LOCATED AT 15 BEDFORD ROAD, ARMONK, NEW YORK, DURING NORMAL BUSINESS HOURS.

Dated: North Castle, New York
February 9, 2011

Anne Curran, Town Clerk