

Town Board Minutes  
Town of North Castle  
10 Clove Road  
North White Plains, NY 10603  
on  
June 27, 2012

The meeting was called to order at 5:00 p.m. at 15 Bedford Road on the duly adopted motion of Councilman D'Angelo and immediately adjourned into executive session. All Town Board members and the Town Attorney were present for the executive session which closed at 7:10 p.m. The Town Clerk joined the regular meeting which reconvened at 7:40 p.m. at 10 Clove Road.

Supervisor	Howard B. Arden
Councilmen:	Michael J. Schiliro Diane DiDonato Roth John J. Cronin Stephen D'Angelo
Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the minutes of the June 13, 2012 meeting.

The roll call was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden.

Noes: None.

Councilman DiDonato Roth moved, seconded by Councilman Cronin, to table the discussion on the progress of the special use permit of St. Nersess Armenian Seminary, Inc. for the renovation and adaptive reuse of existing buildings and construction of a new theological center located at 486 Bedford Road.

The roll call vote was as follows:

Ayes: Councilmen DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: Councilman Schiliro

With regard to the application for a zoning text amendment for a dramatic arts school at 1 Labriola Court, Director of Planning Adam Kaufman said the applicant is requesting to amend the Code to permit dramatic arts schools with the Research, Electronic and Light Industrial Park (RELIP) Zoning District.

Supervisor Arden said there are many empty corporate parks throughout Westchester which are being studied to repurpose for other uses.

Mr. Kaufman said the Planning Board has no specific objection to having dramatic arts schools, and it recommends that the Town permit additional fine arts education facilities in all industrially zoned districts. In addition, the Planning Board recommends that the Town Board include a definition of recreation centers in the Code that clearly permits a full range of family recreational activities. He said the Comprehensive Plan includes several recommendations that would relate to the proposal.

There was discussion among the Board as to whether the legislation should be drafted to be limited to Fine Arts Instruction as a new permitted principal use, or if it should be expanded to permit a full range of family recreational uses. Supervisor D'Angelo recommended that the Board have the authority to issue special use permits for larger buildings such as ice rinks. It was subsequently determined that Mr. Kaufman would draft legislation to amend the Code to include a full range of recreational uses.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of two memos from Director of Planning Kaufman: 1) zone text amendments for a Dramatic Arts School at 1

Labriola Court, 2) notification of intent of the Planning Board to act as lead agency; and further moved the scheduling a public hearing for August 15, 2012.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Supervisor Arden invited comments regarding the proposed Compensation and Benefits Manual.

Susan Shimer, resident and retired Town Justice, read a statement that included her beliefs that: In governing a Town, fairness is more important than the bottom-line. She urged the Board to consider the human factor in this difficult economic time as the proposed changes will cut compensation by requiring existing non-union employees to pay more for health and dental & vision. She added that the savings realized by changes to this small group of employees will amount to little across the Town's population and any expectation that unions will agree to similar reductions will not happen without salary increases. Addressing the proposed requirement that retirees pay towards insurance premiums, Ms. Shimer stated that she believed that it was simply not fair; retirees counted on these benefits and the provisions were acknowledged in letters to them upon retirement. She warned that adopting these changes will invite litigation and that short term savings will only create longer term problems and monumental legal expenses.

Ronald Dunn, Esq. of Gleason, Dunn, Walsh & O'Shea, stated that he is representing more than two dozen current employees, retirees and retired elected officials regarding the Town Board's consideration of dramatically altering health and dental & vision benefits. Mr. Dunn requested that his letter to the Board dated June 6, 2012 be made part of the record. He said that the basis of attempting to make benefit changes in this way is illegal and that under NYS law when there is a schedule of benefits based on "x" number of years of service, those retiree benefits become vested benefits and therefore a contract, and it is one that requires both parties to agree before modification. In reply to the Supervisor's suggestion that he was referring to union member protection under law, Mr. Dunn said that there is law at the Supreme Court level and also at the higher level appellate division, which addresses precisely the same facts as presented here. The Courts found that a Town could not legally modify vested health and dental & vision benefits that were received according to a schedule of years of service. In addition, he said that each of the retirees received a letter outlining their coverage, thus confirming the contract, and the Town Board cannot unilaterally take those benefits away. He concluded by stating that he represents a highly motivated group of people that will take steps to protect those benefits because the potential consequence to them and their families is too important.

Anthony Futia, resident and retiree from Sewer & Water Dept., stated that the Town Board was going in the right direction.

Note: At the July 25, 2012 Town Board meeting, Councilman Roth moved, seconded by Councilman Cronin, approval of the minutes of the June 27, 2012 meeting to include the Supervisor's addendum (italicized below).

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

*Kerry Lutz, Birdsall Farm Drive, stated his strong opposition to providing lifetime medical benefits to part-time workers. He felt government workers retiring with a substantial tax free pension can afford to pay a major portion of their health benefits and the Board did not go far enough. He stated a major cause of high taxes and lower credit rating within the State is the high cost of benefits. While he thanked current employees for their dedicated service, he stated everyone needs to contribute to their benefits. Mr. Lutz stated that Councilman D'Angelo who is receiving health benefits from the town, 70% is paid for by the tax payers, has a conflict of interest and should not vote on the matter. He stated he felt this plan was a first step to bring costs under control.*

John Junker, North White Plains resident, urged the Town Board to think about changes to benefits for new hires and making changes going forward rather than to current employees, many of whom took jobs years ago at low salaries with the promise of benefits into retirement.

Charlene Jacobi, resident and business owner, cited an example of a private business that does provide full benefits to part time workers, and she commented that some individuals who would like to serve may not be able to consider Town employment if benefits are not provided.

Councilman Schiliro stated that he does not accept health insurance coverage from the Town. He said that Town Board members agreed to a 10% pay cut in 2009 and Department Heads have not had a raise in four years, during a recession when they were depended on to work hard and find ways to save more money. He stated that he was not comfortable asking retirees to pay towards health benefits, and he believed that taking away dental & vision benefits is fundamentally unfair. He enumerated other concerns, including: presumed litigation against the Town, alienating current employees, and the negatively impacting the ability to attract new employees. He said that this action is a dangerous path to go down. He stated that he believes that Councilmen do not need to qualify for health benefits while the Supervisor should qualify for health benefits, because that is a full time position, though the premium could be higher, perhaps at 40-50%. Citing that those retirees affected by the proposed changes worked a collective 567 years, he said he cannot be comfortable with requiring them to pay health premiums and eliminating dental & vision coverage.

Councilman DiDonato Roth stated she didn't take health benefits because she doesn't believe that a part-time elected official should be allowed this benefit. Stating that these are the types of tough decisions that government must make every day in our state and municipalities in order to not to put the burden of our lives on the future of our children, she said that the Board must correct prior practices because we will not be able to sustain current costs. Ms. DiDonato Roth said that she does care about our employees that work hard but cares about the future more and she is sorry that it has taken three years to get these changes done.

Councilman Cronin stated that the benefit policy changes have been discussed for two years and should have been adopted much earlier. This Board, he said, worked with a paid consultant to develop the manual and had it vetted by outside legal counsel. He said that while he shares concern for retirees with many years of service who will now be required to pay health premiums, he said this is first step and he hoped that alternative health plans could be investigated that would offer lower costs. Mr. Cronin expressed agreement with the Supervisor that everyone should be pulling together in sharing the burden and that this is a better solution than laying people off, not hiring police officers or not continuing with Town projects.

Councilman D'Angelo stated that he will be paying 100% of his health insurance coverage under the policy and he has no problem with that. He said that he has looked at the numbers based on the proposed policy and changes for the coming year would yield modest savings. Mr. D'Angelo stated the potential savings by personnel category:

Current employees - \$21,500 as he said it only affects 6 people.

Current Retirees -- \$31,500 from 15% premium pay; half of the 22 people are 80+ years old.

TB Retirees -- \$37,000 realized from cancelling their coverage.

Total Savings: \$90,000

Mr. D'Angelo compared this potential one year savings to the Town Administrator salary of, at minimum \$125,000, and said there goes the savings. He said that while there are good things in the manual he believes that requiring a higher health premium payments of 30% should be in place for new employees, not current employees and that he cannot vote to tell retirees, some very elderly, that the Town can't afford to pay benefits that they were promised. He likened the practice to balancing the Town budget on the backs of retirees and current employees and said that he would vote against it.

Supervisor Arden stated that the one difficult issue is the 15% contribution to be required of retirees. He said that the contribution was brought down to the lowest amount feasible and it would amount to approximately \$60 per month and that he believes that it is important for everyone to have some "skin in the game". He said that the new policy is enforceable as an outside attorney confirmed that the Town Board has the right to alter terms and conditions for non-union employees. The changes for health benefits can be accomplished while there is nothing that can be done regarding pension benefits. Mr. Arden said that this is how the Town will get back to a Triple A rating and it's important to recognize that every dollar of tax saving increases property values. He concluded that this is a fair and reasonable attempt to make

changes and that the Town Board can come back and change policy at any time but he believes that the Board must make a decision and move ahead.

Councilman DiDonato Roth moved, seconded by Councilman John Cronin, the adoption of the Town of North Castle Compensation and Benefits Manual.

The roll call vote was as follows:

Ayes: Councilmen DiDonato Roth, Cronin, Supervisor Arden

Noes: Councilmen Schiliro, D'Angelo

With regard to discussion of a Town Administrator position, Supervisor Arden said a resolution to establish the position of Town Administrator was adopted in 2009, and ratification of that resolution was being considered by the current Town Board. Former Town Supervisor, Reese Berman, said the position was established at the end of her term, but the Board did not fund it at that time and purposely left it to a future Town Board to consider. She said that Supervisor Arden told her that a search committee would be appointed, and she suggested two candidates: Steve Altieri, Mamaroneck Town Administrator, and Jerry Faiella, retired New Castle Town Administrator, as both individuals assisted the Administrator Review Task Force in 2009. With the Supervisor's permission, Ms. Berman stated that she contacted them and both Mr. Altieri and Mr. Faiella have agreed to be members of the committee.

Councilman Schiliro requested more time for review and approval of the job description in the 2009 resolution before proceeding with the ratification. Mr. Schiliro said the job description is geared to managing day to day operations and is a boilerplate of the New Castle description which is about 15 years old. He said the Board needs to ensure the duties to be covered by the position and the job skills needed are clearly defined. He said the Budget and Finance Review Task Force, formed in 2010, spent a great deal of time reviewing the Town's operations and finances, and in 2011 reported that the items which need to be addressed relate to a Chief Financial Officer type of position, rather than an Administrator who would function as a Chief Operating Officer. He emphasized that while he believes the position should be filled he would like to get input from the previous Task Forces and put together a more comprehensive resolution regarding the job description.

Councilman DiDonato Roth said the hiring of an Administrator should move ahead and she did not want to hyper focus on the job description.

Councilman Cronin said he did not agree with the Budget and Finance Task Force 2011 findings and he viewed the position as more of an operational role than a finance position.

Supervisor Arden said he has expertise in this area and said the job description could be fine-tuned during the process by members of the search committee which will include members from the two Task Forces, as well as Ms. Berman, Mr. Altieri and Mr. Faiella. Mr. Arden said finance activities are done by the Comptroller and the Town Board, and that he had fundamental disagreements with Councilman Schiliro on the functions of a Town Administrator.

Councilman D'Angelo said when he ran for Town Board he was against the idea of a Town Administrator and he is undecided about it. Mr. D'Angelo said that he first saw the description at last Friday's Work Session and said the process should not move so fast. Mr. D'Angelo said the recommendations of the Task Force to hire someone with more financial skills should be reviewed, and the job description should be refined.

Supervisor Arden stated that he would see that the job description was reviewed by the search committee.

Councilman Schiliro moved, seconded by Supervisor Arden, to ratify the Town Board resolution establishing the position of Town Administrator, with the provision that a review of the job description by the new Town Administrator search committee is conducted before the job is posted.

The roll call vote was as follows:

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Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, Supervisor Arden  
Noes: Councilman D'Angelo

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the GHD proposal for preparation of the Map, Plan and Report only for Water District No. 2 improvements at a maximum cost of \$4,900.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of report from Tax Receiver Colombo regarding Small Claims Assessment Review settlements and the Board approved refunds as follows:

<u>Name</u>	<u>Parcel I.D.</u>	<u>Reduction</u>	<u>Refund</u>
Kerpel	1-02-7.-8	3,350	576.57
Wymbs	1-02-13.B	3,700	636.80
Apton	1-04-10.-319	2,000	308.05
Friedlander	1-04-10.-380	3,080	474.40
Hertz	1-04-10.-486	1,000	154.03
Gordon	1-04-10.-500	2,450	377.36
Jafri	1-04-10.-523	1,550	238.74
Colello	1-04-23.-7	3,500	602.39
Morris	1-05-1-E-7	6,900	1,187.57
Goodman	1-11-11.-32	2,508	431.66
Samaha	2-01G-3	3,480	536.01
Liu	2-02-3.-1	11,000	1,694.28
Segatti	2-02-9.-7	4,500	700.85
George	2-08-13-A-3	3,200	492.88
Gold	2-08-13-24	2,150	331.15
Hoffmeister	2-10-1.-14	3,590	552.95
Brodsky	2-10-1.-15	2,100	323.45
Laub	2-11-3-G12	1,900	295.92
Walker	2-16-17-B19	2,250	350.43
Stopnik	2-17-2-E	2,200	342.63
Reibeinsen	2-17-4-D01	2,900	446.67
Sanders	.2-17-6	2,200	338.85
Hecker	3-07-1-A02-5	1,400	262.96
Rinaldi	3-07-6.-14	1,200	225.40
Aguilar	.6-03-20	1,700	319.33
Carlock	.6-05-4	3,000	563.50
Massaro	6-05-17-A-4	3,500	657.42
De Rojas	.6-05-41	600	112.69
Gonzalez	.7-02-27	1,900	356.88
Bucci	7-04-1-A1D	1,300	244.18
		86,108	\$13,829.72

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden  
Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of memo from Tax Receiver Colombo for a Stipulation of Settlement regarding XMBMS, 11 Labriola Court, Section 2, Block 11, Lot 13.-2, and the Board approved a refund in the amount of \$5,372.23.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden  
Noes: None

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Pursuant to a letter from Tax Receiver Colombo, Councilman DiDonato Roth moved, seconded by Councilman D'Angelo authorization for the Town's Attorneys to execute a Consent Judgment in the matter of Paolo Cardarelli vs. Town of North Castle, Index No. 15990/11.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, authorization for the Supervisor to sign the bus agreement with Byram Hills School District for Town Camp transportation.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman Cronin, the appointment of Dawn Donovan, hourly consultant to Finance Department.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the request from Chief D'Angelo to hire two police officers effective July 14, 2012.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman Schiliro moved, seconded by Councilman DiDonato Roth, the re-appointment of Susan Shimer as Chairman, Landmarks Preservation Committee, for a term to expire May 17, 2015.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman Schiliro moved, seconded by Councilman DiDonato Roth, the re-appointment of Jodi Pember Burns to the Landmarks Preservation Committee, for a term to expire May 17, 2015.

The roll call vote was as follows

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman Schiliro moved, seconded by Councilman DiDonato Roth, the re-appointment of Christine Eggleton to the Landmarks Preservation Committee, for a term to expire May 17, 2015.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman Schiliro, the appointment of Sean Ryan to the Library Board of Trustees for a term to expire December 31, 2015.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

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Councilman Cronin moved, seconded by Councilman D'Angelo, approval of terminal leave pay for Frank Sampogna, Recreation and Parks Department.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman D'Angelo moved, seconded by Councilman DiDonato Roth, approval of assignment of new street addresses as follows:

New Parcels on Byram Ridge Road and Hunter Drive

<u>Section, Block, Lot #</u>	<u>Address</u>
Section 2, Block 5C, Lot 10	62 Byram Ridge Road (Existing)
Section 2, Block 5C, Lot 10A	1 Hunter Drive (New)
Section 2, Block 5C, Lot 10B	60 Byram Ridge Road (New)
Section 2, Block 5C, Lot 10C	58 Byram Ridge Road (New)
Section 2, Block 5C, Lot 10D	3 Hunter Drive (New)
Section 2, Block 5C, Lot 10E	5 Hunter Drive (New)

New Address Assignments for Hunter Drive

<u>Section, Block, Lot #</u>	<u>Existing Address</u>	<u>Proposed Address</u>
Section 2, Block 5C, Lot 16.3	2 Hunter Drive	2 Hunter Drive
Section 2, Block 5C, Lot 16.1	10 Hunter Drive	4 Hunter Drive
Section 2, Block 5C, Lot 1.-2.B	6 Hunter Drive	6 Hunter Drive
Section 2, Block 5C, Lot 1.-2.A	7 Hunter Drive	8 Hunter Drive
Section 2, Block 5C, Lot 1.-2.C	8 Hunter Drive	11 Hunter Drive
Section 2, Block 5C, Lot 13	5 Hunter Drive	7 Hunter Drive
Section 2, Block 5C, Lot 13.-1	9 Hunter Drive	9 Hunter Drive

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

The Town Board audited and approved payments totaling \$454,029.35 as indicated on Warrant #12.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 9:45p.m. in memory of Walter Sturmer, husband of Edith Sturmer, former employee in Assessor's office.

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Anne Curran, Town Clerk

Dated: July 9, 2012