

Town Board Minutes
Town of North Castle
Whippoorwill Hall
19 Whippoorwill Road East
Armonk, New York
on
August 15, 2012

The meeting was called to order at 6:00 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 7:15 p.m. The Town Clerk joined the regular meeting which reconvened at 7:35 p.m. at 19 Whippoorwill Road East, Armonk.

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 July 25, 2012 meeting.

The roll call was as follows:

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

Noes: None.

Brian Kaminer, Co-Chair of Sustainable North Castle, introduced Tom Bregman, Director, Energize New York, who gave a presentation regarding residential energy efficiency.

The minutes of the public hearings that commenced at 7:40 p.m. follow at the end of these minutes.

Regarding Mark Real Estate (Mariani), 45 Bedford Road, the following were received on the duly adopted motion of Councilman DiDonato Roth:

- Revisions to Applicant's petition.
- Memo from Director Planning Adam Kaufman regarding NB Zoning District Amendments and Planning Board site development approval.
- Planning Board notification of positive recommendation.

The roll call vote was as follows:

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

Noes: None

Pursuant to the request from Mark Real Estate (Mariani), 45 Bedford Road, Councilman D'Angelo moved, seconded by Councilman DiDonato Roth, the scheduling of a public hearing for October 10, 2012 to consider a petition to expand the uses in the NB Zoning District to allow social functions and additional retail sales.

The roll call vote was as follows:

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

Noes: None

Councilman Roth moved, seconded by Councilman D'Angelo, receipt of letter from Sprint Nextel regarding notification of intent to renew lease agreement at 115 Business Park Drive for the period January 1, 2013 – December 31, 2017.

The roll call vote was as follows:

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

Noes: None

Town Board Minutes
August 15, 2012

Councilman DiDonato Roth moved, seconded by Councilman Schiliro, receipt of renewal notice from North Castle Sports Association LLC regarding license for Armonk Indoor Sports Center at Community Park. Town Attorney Baroni said the renewal requires negotiation and the Board should consider forming a committee to handle it.

The roll call vote was as follows:

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

Noes: None

Pursuant to the request from Assistant Superintendent Sal Misiti, Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval to accept proposal from Peak Power Systems for annual emergency generator service in the amount of \$5,476.30.

The roll call vote was as follows:

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

Noes: None

Pursuant to a request from Town Clerk Curran, Councilman DiDonato Roth moved, seconded by Councilman Schiliro, approval to accept proposal and award the contract to Virtual Towns and Schools for redesign and hosting of the Town's website in the amount of \$20,745 to be paid over five years.

The roll call vote was as follows:

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

Noes: None

Councilman DiDonato Roth, seconded by Councilman D'Angelo, receipt of Notice of Claim and referral to Town Attorney regarding former and current town employees/elected officials vs. the Town regarding modifications to benefits.

The roll call vote was as follows:

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

Noes: None

Michael Richardson, Labor Consultant for the Town, reported on the Compensation and Benefits Manual that was adopted on June 27, 2012.

Councilman Schiliro moved, seconded by Councilman Cronin, receipt of Notice of Claim and referral to Town Attorney regarding Susan Shimer vs. the Town regarding modifications to health insurance benefits to current and former employees and elected officials of the Town.

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 Notice of Claim and referral to Town Attorney regarding Tracy Kelly vs. the Town, et al, regarding damage to driveway.

The roll call vote was as follows:

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

Noes: None

Pursuant to a letter from Kellard Sessions Consulting, Councilman Schiliro moved, seconded by Councilman D'Angelo, authorization to pay \$57,442.57 for Requisition #10 to Bilotta Construction Corp. for work completed to repair town roadways through the period ending July 31, 2012.

The roll call vote was as follows:

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

Noes: None

Town Board Minutes
August 15, 2012

Councilman D'Angelo moved, seconded by Councilman DiDonato Roth, approval for the Supervisor to make the budget transfers that follow at the end of these minutes.

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, receipt of letter of retirement from Highway worker, Robert Schupp, effective September 28, 2012.

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, receipt of letter of retirement from Highway worker, Robert Candrea, effective August 24, 2012.

The roll call vote was as follows:

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

Noes: None

The appointment of Faith Berland to Town Comptroller was tabled.

The abolishment of the Senior Office Assistant - Office Manager part-time position in the Building Department was tabled.

Councilman Schiliro moved, seconded by Councilman D'Angelo, the appointment of John Naclerio to the Library Board of Trustees for a term to expire December 31, 2017.

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 D'Angelo, the consensus agenda as follows:

- Receipt of Town Clerk's report for the month of July 2012
- Approval of request of General Foreman Norris for release of bonds as follows:
 - Roccies Asphalt – Permit 0776 in the amount of \$500.00 for driveway alteration at 5 Bayberry Road, Section 2, Block 01G, Lot 2.A.
 - Cablevision – Permits 1002, 1010, 1011, 1013, 1016, 1019, 1020, 1022 and 1023 for right of way work at various locations in the amount of \$6,750 to be reinstated to the \$50,000 bond.

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 \$524,519.34 as indicated on Warrant #15.

After all persons were heard who asked to be heard, the Supervisor closed the meeting at 11:55 p.m. in memory of Frank Contacessa, grandfather of Dr. Frank Contacessa, Gerard Johnson, father of Mary Johnson (Library employee), and Fay Cohen, mother of Dr. Donald Cohen.

Anne Curran, Town Clerk

Dated: September 7, 2012

PUBLIC HEARING
August 15, 2012

At 7:45 p.m. Supervisor Arden stated that a Public Hearing would be held in accordance with the Public Notice that follows:

**ORDER CALLING PUBLIC
HEARING TO BE HELD ON
August 15, 2012**

WHEREAS, the Town Board of the Town of North Castle (herein called "Town Board" and "Town", respectively), in the County of Westchester, New York, on behalf of the Town of North Castle Water District No. 2 (the "District"), and has directed GHD Consulting Engineers, LLC, a professional engineering firm licensed in New York, to prepare a map, plan and report for the District water system improvements, including but not limited to, the reconstruction and improvement to the District water mains; and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto; and pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such map and plan for said improvement of facilities of the District, where the same are available during regular office hours for examination by any persons interested in the subject matter thereof, including the estimated cost thereof;

WHEREAS, the maximum estimated cost of the Improvements is \$ 9,640,000;

WHEREAS, the proposed method of financing the cost of the Improvements consists of the issuance of not to exceed \$ 9,640,000 serial bonds of the Town maturing in annual installments over a period not exceeding twenty-five (25) years, which will be payable in the first instance from an annual assessment upon the several lots or parcels of land in said District which the Town Board shall determine and specify to be specially benefitted thereby in proportion to the benefit derived therefrom, in the manner provided by law, in an amount sufficient to pay the principal and interest on said bonds as the same become due, but if not paid from such source, all the taxable real property in said Town shall be subject to the levy of ad valorem taxes, subject to applicable statutory limitations, sufficient to pay the principal of and interest on said bonds as the same shall be due and payable; and

WHEREAS, the estimated cost of said District to the typical property, being a single family home therein, is \$ 2,903.01 in the first year in which operation, maintenance, debt service and other charges and expenses are to be paid;

NOW, THEREFORE, BE IT ORDERED that a meeting of the Town Board of the Town of North Castle will be held at Whippoorwill Hall, 19 Whippoorwill Road East, Armonk, New York, on August 15, 2012 at 7:30 p.m. o'clock P.M. (Prevailing Time) for the purpose of a public hearing to consider said improvement of the facilities of the District and to consider the map, plan and report filed in relation thereto, and to hear all persons interested in the subject matter thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in The Journal News, a newspaper designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

DATED: August 1, 2012

TOWN BOARD OF THE
TOWN OF NORTH CASTLE

The Order calling the Public Hearing 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.

GHD Consulting Engineers, LLC proposal for professional services re: water system improvements, dated June 5, 2012, was marked Exhibit “D”.

Agreement between Town of North Castle and GHD Consulting Engineers dated June 21, 2012 was marked Exhibit “E”.

Letter dated June 14, 2012 from Town Supervisor Arden to Westchester County Dept. of Health requesting that the Town be lead agency for the coordinated SEQRA review was marked Exhibit “F” for the record.

Letter dated June 14, 2012 from Town Supervisor Arden to NYSDEC-Region 3 requesting that the Town be lead agency for the coordinated SEQRA review was marked Exhibit “G”.

Map, Plan and Report for Water Distribution Improvements prepared by GHD Consulting Engineers dated July 2012, was marked Exhibit “H”.

Sal Misiti, Asst. Supt of Sewer and Water Department, gave a presentation about the Water District No. 2. Excerpts of key points follow:

Water District History

- The water district originally started out as a private farm-estate back in the 1920s. During the 1940s it was sold to developers who began selling lots and building custom homes. Drinking water was supplied to these early homeowners from wells powered by windmills through what was then a very small distribution system. Hence, the community was named Windmill Farm. Over time, the wells in the windmills were converted to an electrically powered hydro pneumatic system. As the community reached full development during the 1950s and early 1960s the distribution system was modified, storage was added, and new wells were installed. At that point, the windmills became strictly ornamental.
- The Water District was formed by the town in 1973 with input from the residents. Town operations began in late 1976. The district is known today as North Castle Water District No.2.
- When the district was created the residents established the method of payment for any capital improvements by choosing to pay per lot as opposed to an assessment based calculation. Capital costs, include the paying back of the bond for the initial district purchase and any future capital improvements to the infrastructure, i.e. new water tank. There are 379 lots who are part of the district calculation.
- Residents proposed that any outside district users would pay double the inside water rate because the properties are not subject to capital improvement costs and are not geographically located within the district boundaries (i.e. Coman Hill School & Brynwood).

Recent Improvements to the Water District Include:

- New 600,000 gallon water storage tank (2006)
- New production well (online 2011)
- New booster pumps (2011)
- New controls (2011)
- Federal Groundwater Rule continuous chlorine monitoring (2011)

Existing Conditions Water District No. 2 -- Why a Modeling Study?

In late November, 2011, the Town Board approved going ahead with a distribution system modeling study. The purpose of the study was to confirm and identify potential weak points in the distribution system, due to the consistent water breaks experienced over the years. The study utilizes distribution system characteristics, pipe lengths, pipe type, valve locations, etc. The information is entered into a computer modeling program where the performance of the system can be evaluated. The information derived from the model would produce a plan for areas of concern for ultimate replacement.

Purpose of the Study:

- Identify problem areas – find the “weak links” of the system
- Develop conceptual level alternatives and costs for solutions
- Provide a planning basis – a “road map” to implement improvements
- Support the most efficient use of funds – best “bang for the buck

Model/Study Evaluations:

Fire Flow:

- Test fire hydrants to determine available flow during peak demands
- Modify model and re-test until acceptance criteria is met
- Criteria is minimum 500 gpm during peak demand with at least 20 psi for all system users

Line Breaks:

- Identify pipes with a high consequence of failure
- Simulate line breaks in selected pipes
- Quantify number of users with less than 20 psi

Pressure and Flow:

- Identify and rank pipes with a high likelihood of failure
- Rank pipes by pressure and resistance to flow

Historical Evaluation

- Frequent failures
- Known construction issues

Model/Study Results:

- The existing system was identified as having undersized mains, uneven pressure distribution, and low carrying capacity, corroded pipes, poor construction materials and techniques and a history of numerous line breaks and spot repairs.
- The existing system can meet demand requirements for average daily, maximum day and peak hour demand conditions
- The existing system cannot provide fire flow of 500 gpm to all hydrants while maintaining 20 psi during the peak hour demand simulation.
- The pipe along Evergreen Row south of the storage tank connection has a high consequence of failure, in that about half of the system would lose adequate pressure during a line break event
- High pressure, which causes high internal pipe stress, was identified in Long Pond Road, Thornwood Road, and Windmill Road. These pipes are asbestos cement and are considered to have a higher likelihood of failure due to their material of construction and high pressure.

Prioritization and Ranking of Pipe Replacements:

To assist the district in developing a capital improvement plan to improve the distribution system, the study assigns a replacement priority to each pipe segment. In order to mitigate the budgetary impact of extensive system upgrades, improvements may be implemented over a period of time and through sequential capital projects. The cost benefit achieved by a capital improvement project can be maximized by limiting the scope of the near-term project to higher priority pipes. To provide a basis for this prioritization, the following criteria was developed:

- Provide fire flow of 500 gpm during peak hour demand for each hydrant in the system, while maintaining minimum residual pressure at all system nodes greater than or equal to 20.0 psi.
- Based on information provided by the Owner, identify lines that are known to have reliability issues due to poor construction methods and materials (e.g. Pond Lane)
- Identify lines that have a high consequence of failure. This assessment is based on simulations of pipe breaks.
- Identify lines with the apparent greatest likelihood of failure.

Using these criteria, each pipe segment was assigned Priority 1, 2 or 3.

Recommendations

The District should plan to design and construct the Priority 1 and Priority 2 replacements in the near term. The Priority 1 upgrades are anticipated to improve available fire flow.

Implementation of Priority 2 replacements is anticipated to improve system reliability and reduce the incidence of line breaks and unplanned outages.

The district should develop a long-term plan to replace the Priority 3 pipes in the system. Sal Misiti displayed a map of the District delineating Priority 1, 2 and 3.

Mr. Misiti stated that asbestos cement (AC) pipe material accounts for approximately 70% of the piping within the district. He said that asbestos cement (AC) was introduced into the U.S. market in the late 1940s and approximately 15% of all water mains throughout the Country are asbestos cement. The EPA monitors the levels of contaminants in drinking water and sets maximum contaminant level goals. The safety of AC pipe material has been studied and there appears to be no concern for health of consumers receiving water through this pipe material.

Description of Proposed Project and Financing:

The general consensus at a preliminary ROWI meeting was to get the work done and to replace most or all of the 44,000 linear feet of existing pipe. The project cost is estimated at \$9,640,000, proposed to be financed through the Town's issuance of municipal funding. There are two contingency amounts of \$1,400,000, built in to the total and Mr. Misiti said that while he believed that the contingency amounts are conservative, costs could not be more precise until after funding was secured, then an RFP for design engineering can be developed and construction bids would be received.

Public Comments:

Steve Buschel, Fox Ridge Ct. asked what the Town has done to research grant money, what is the Town's current bond rating, what the admin cost is for getting the funding in place and if the ultimate decision rests with the Town Board. In response, engineering consultant Jan Salzman explained that grant funding would not be applicable as North Castle would not qualify for government funding and he said that costs estimates are conservative as the cost can fluctuate based on the amount of rock that will need to be removed. Mr. Salzman stated that it was better to plan for a high cost and hope that the project would come in lower.

Supervisor Arden stated that the last bond rate was just under 3% and the administration costs will be included in the borrowing. Mr. Arden said that ultimately the Town Board will decide on the project based on feedback from residents in the district, and he hoped that ROWI would assist in polling residents.

Peter Coviello, Valley Lane, commented that the meeting on June 12 was initiated by the Town Board and many people, through a show of hands, wished to replace all the piping based on the concern about asbestos cement piping. He stated that the process seems to be moving quickly and he urged the Board to get feedback from all users in the district before making a decision.

Town Attorney Baroni said that a questionnaire could be developed to gain feedback, but ultimately if the Town Board wishes to move ahead, the Board would have to adopt a Public Interest Order and a Bond Resolution; the matter would not be subject to a public referendum.

Michael Fareri, Bedford Road, said that he believes the water main should be replaced. He questioned the paving project in Windmill, including why curbing was not consistent and why road paving was started if there will be the need to open the roads for pipe replacement. He encouraged the Board to consider going out to bid to repave the entire Windmill area.

Jeffrey Allen, Long Pond Road, questioned if water distribution efficiency and pressure to dead end roads would improve and Mr. Misiti confirmed that the piping and connections would be larger and hydrants would be added. In response to questions concerning financing, Mr. Misiti and Supervisor Arden confirmed that prepaying the loan, and/or not expending the full amount borrowed is possible and figures will be more accurate when the Town goes out to bond the project. Mr. Allen asked the Board to look into getting Con Edison to bury power lines while roads were opened as a means to eliminate power outages during storms.

Mary Ann Koenig, Spruce Hill Road, questioned if residents in the water district would be paying for water in the proposed development at Byrnwood. Supervisor Arden confirmed that Byrnwood pays double the inside rate for water.

In response to queries from Gregory Weinhoff, Maple Way, concerning how capital improvements may be charged and how they will appear on a bill, Town Attorney Baroni explained that capital improvements are shared on a per unit basis. Operating and Maintenance charges, based on water usage, are billed 4x per year. In addition, in April on the Town and County tax bill there is a separate line for capital costs, currently about \$400, and due to soon come off. The new charge of about \$1200 would appear on that bill.

Sam Morrell, Birdsall Farm Drive, questioned the condition of piping in other areas of Town. Mr. Misiti replied that other older areas of Town have cast iron pipe that can last for one hundred plus years. In Windmill, developers used the AC material which was popular during that era of construction, and has deteriorated due to age, rock and the installation and use of undersized piping.

Nick Cerullo, Oregon Road, questioned how quickly the asbestos cement piping would deteriorate and if the EPA would allow the piping to remain abandoned in the ground. Mr. Misiti stated that leaving the pipe in ground is the most economical way to proceed and that he would confirm that this will be acceptable to the EPA.

In response to queries from Steve Berman, Oak Ridge Ct., Mr. Misiti confirmed that the proposal is to consider all three phases of the project and that the cost for the next several years based on figures available now, would be \$1600 per year to each homeowner. Mr. Berman suggested that work being done on gas mains be coordinated as the various projects in Windmill are very disruptive to residents. Mr. Misiti said that the Highway Dept. is trying to find out what work Con Ed has planned going forward.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman DiDonato Roth moved, seconded by Councilman Schiliro, that the Public Hearing be adjourned at 9:00 p.m.

The roll call vote was as follows:

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

Noes: None.

Anne Curran, Town Clerk

Dated: September 10, 2012

PUBLIC HEARING

August 15, 2012

At 9:00 p.m. Supervisor Arden 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 August 15, 2012 at 7:30 PM, or as soon thereafter, at Whippoorwill Hall, 19 Whippoorwill Road East,

Town Board Minutes
August 15, 2012

Armonk, NY 10504, for the purpose of considering an amendment of the Town of North Castle Town Code to permit fine arts education facilities within all industrial zoning districts, and an amendment of the Town Code to include a definition of recreation centers and to permit recreation centers in all industrially zoned districts.

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: July 27, 2012
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 application documents from John Meyer Consulting, including Short Environmental Assessment Form, dated May 17, 2012 was marked Exhibit "D" for the record.

Letters to Interested and Involved Agencies from Director of Planning Adam Kaufman dated July 12, 2012 and revised July 16, 2102 Re: Notification of Intent of Town Board to act as Lead Agency, including Full Environmental Assessment Form were marked Exhibit "E" for the record.

Letters from Westchester County Planning Board to Mr. Kaufman dated June 25, 2012 and August 15, 2012 stating the action is a matter for local determination were marked Exhibit "F" for the record .

Green cards denoting receipt of certified mail by adjoining property owners.

The proposed Local Law.

Director of Planning Adam Kaufman provided a brief history of the proposed local law which would permit fine arts education facilities and recreation centers within all industrial zoning districts. Mr. Kaufman said the proposed changes began with a petition to the Town Board to permit a dramatic arts studio in the Research, Electronic and Light Industrial Park (RELIP) Zoning District located on Labriola Court. Mr. Kaufman, when the request was taken under consideration by the Town Board and Planning Board, suggested that rather than looking at these uses narrowly in the RELIP District, a more global review should be conducted. Mr. Kaufman noted that the types of uses being proposed appeared to be compatible with other industrial districts as well. Mr. Kaufman went on to note that industrial districts are suffering rather high vacancy rates, and made a recommendation to Town Board and Planning Board to give consideration to allow this type of use in all industrial zoned districts and potentially expand it to fine arts institutions and not only dramatic arts institutions. The local law would include a new permitted principal use of Fine Arts Instruction School within the PLI, RELIP, IND-AA and IND-A Zoning Districts.

Mr. Kaufman said recreation centers are already a permitted use in the Planned Light Industry (PLI) Zoning District. He said the same logic which would allow dramatic arts facilities in all industrial districts would allow recreation centers currently permitted in the PLI to be permitted in all industrial districts. He said the Town has received requests for small training facilities or boxing facilities in the North White Plains Industrial-A district which this local law would allow.

Mr. Kaufman said the draft law also provides a proposed definition of recreations centers, with particular interest to children's activities which in many communities require a significant amount of floor area not found in the Town's retail or commercial districts and which could be easily adaptable to industrial or warehouse uses.

Michael Fareri, one of the owners of 99 Business Park Drive, said it was important for the Town to allow other uses not only in the RELIP, but in the PLI as well. He referenced his January 2010 zoning petition to the Town Board to allow a supermarket as a principal special permit use within the PLI. He said the study conducted by BFJ Planning concluded that a supermarket in Business Park Drive would not have a negative impact and the Planning Board subsequently adopted a positive recommendation. He said now that the Town Board is considering other uses in other zoning districts, it is an appropriate time to consider setting a public hearing for his petition to allow a supermarket in the business park.

Mr. Kaufman said he wanted to provide context to the comments of Mr. Fareri about a supermarket in the business park. Mr. Kaufman said the Planning Board recommendation letter to the Town Board regarding the original petition stated that the most appropriate location for a supermarket was the Armonk hamlet, not the business park. However, given the lack of ability to locate the supermarket in the hamlet at that time, the business park was viewed as an acceptable alternative. Mr. Kaufman said if the Town Board were to consider permitted retail uses in the business park, additional study would be warranted. He noted that such a change is beyond the scope of uses being considered.

Neal Bauman, Glendale Avenue, asked the Town Board to think carefully about potential recreation uses which could include multiplex cinemas and billard halls. Mr. Bauman said the Town would have more flexibility with the requirement of special use permit approval by the Town Board, rather than adopting a blanket change. He said expanding uses in the business park to include retail uses would have a negative impact on downtown Armonk.

Councilman D'Angelo asked Mr. Kaufman what authority the Town would have to control a multiplex cinema, for example, if the law was adopted. Mr. Kaufman said the Town would have site plan review authority, and environmental review including whether the roads were capable to accept traffic, that intersections would not be adversely affected, and construction would be environmentally acceptable within the use category. Mr. Kaufman said that if the Town Board has concern with types of uses that could be permitted under the recreation center definition, it could remove those uses if determined to be incompatible or require a special use permit if the Board thought the operation of those uses could have a negative impact on other uses. In response to a query from Mr. D'Angelo whether the Town Board would have control without the requirement of special use permit approval, Mr. Kaufman said the Town Board would not if it took the legislative action to allow recreation centers in industrial districts as drafted.

Linda Trummer, Agnew Farm Road, recommended that multiplex cinemas be excluded and said the definition of recreation centers was quite broad. Ms. Trummer said zoning laws in other communities specifically exclude cinemas due to concerns with size of crowds, safety and lighting.

In response to a query from Barbara DiGiacinto, Stony Brook Place, regarding whether a special use permit would be required to allow a skating rink in the PLI at this time, Mr. Kaufman said it would not be required. Ms. DiGiacinto said that she agreed that requiring a special use permit would give the Town Board more control over any new recreation uses being proposed.

In response to a query from Lydia Rippstein, School Street, regarding changes to off street parking requirements for recreation centers, Mr. Kaufman said the proposed law would not amend these requirements which are already codified, but would include the parking requirement of one space for each 250 square feet of gross floor area for fine arts instruction schools.

Councilman D'Angelo said skating rinks, bowling alleys, swimming pools and movie theaters, which are once in a lifetime projects, should require special use permit approval from the Town Board. Mr. D'Angelo said in Westchester County there are a total of nine skating rinks, three are at private schools, three are run by government agencies and only three are privately owned; and there are seven bowling alleys. He said the Town Board should be approving recreation centers as the elected officials and not just allowing them with site plan approval. He said allowing fine arts education facilities is a good idea, but would prefer to deal with recreation centers as a special issue at another time and remove the definition from the proposed law.

Councilman Cronin said property owners of business parks contribute significant taxes to the

Town and the Board should allow them to maximize the flexibility of vacant buildings. Mr. Cronin said he does not support requirements for special use permit approval and public hearings for all specific applications.

Councilman Schiliro said zoning are a large part of the Town Board's responsibilities. Referring to the Comprehensive Plan, Mr. Schiliro said it cannot be any clearer regarding limiting retail and service business development to existing hamlet centers. He said there are caution flags in the Comprehensive Plan not to expand centers beyond those which currently exist and that creating retail in the business park could have severe negative impact on the Armonk retail center.

Mr. Schiliro said he was in agreement with the language regarding the current application and was in favor of permitting fine arts facilities in industrial districts. He recommended the Board begin with requiring the special use permit process to review proposed recreation uses to ensure they would not harm existing businesses and investors. He cited the success of the Residential Project review Committee (RPRC) which has streamlined the residential approval process and said perhaps the special use permit requirement could be removed at some time, but that the Board should have approval authority at this point. In response to a his query to Mr. Kaufman regarding any concerns with expanding uses without Town Board approval, Mr. Kaufman said he viewed the uses as compatible with those already in the industrial districts. He said the Planning Board would have the ability to review the development proposals. He added that the Town Board would need to determine the appropriate uses and that the definition of recreation centers could be written to exclude specific uses such as movie theaters. He said currently recreation centers are permitted in the PLI without the benefit of a definition and he recommends that the Town Board adopt a definition for this use.

Councilman Cronin said he agreed that the Town should not blindly approve uses. In reference to the Comprehensive Plan, Mr. Cronin said it has data which is over twenty years old. Mr. Cronin said that business parks are outmoded and he believed that property owners in the business park pay as much taxes as those on Main Street. He said business park owners should be given some flexibility and the Town should foster this.

Mr. Schiliro said he agreed that flexibility is important and cited the assisted living facility proposal as a good repurposing in a business park which complements the Town and provides a service which does not have a detrimental effect.

Councilman DiDonato Roth said the intent is to try to connect what already exists in the PLI to the RELIP. Ms. DiDonato Roth said she is not in favor putting applications through the special use permit process. She said if the Town Board decides to permit recreation uses, the Board should not be picking and choosing which application is good and which is not. She cited the success of the RPRC condensed approval process, as well as the success of the dance studio and baseball instruction facility, and said supply and demand will determine the uses, not the Town Board.

Councilman D'Angelo said he did not have an issue with children's activities, but did with skating rinks, bowling alleys, movie theaters and swimming pools which are not found in every town and which the Town Board should control. Councilman Roth said they are not found in every town because the supply is not there, and they are large and expensive to build.

Ed Woodyard, Windmill Road, said the definition of a recreation center is wide open and the Board needs special use permit authority.

Steve Leber, Evergreen Row, said he agreed that the Board cannot think of all recreation uses and would lose control without a special use permit process.

Mr. Kaufman said when proposing this legislation to both Boards, he looked for uses which seemed not to be allowed in the commercial districts, which the community would welcome and which would be a missed opportunity if the Town does not address it. He said that some concerns with the potentially larger applications would be addressed by the Planning Board which would not allow projects which would have a significant negative impact.

Supervisor Arden said he wanted to approve the application for the dance studio and not delay it.

Mr. Arden said the Town Board agreed that the Comprehensive Plan for commercial districts is probably outdated. He said that the projects being discussed have a 50 year life span, and would be here a long time and require careful consideration to where they are placed.

Mr. Kaufman said the Board could go back to the original petition and remove Section 4, which includes a new permitted principal use of recreation centers, and Section 5, which include the a new definition of recreation center, from the proposed law.

Supervisor Arden said that in light of changes in commercial property everywhere, he recommends a work session be held to further study the issue.

Discussion ensued among the Board as to whether certain recreation uses, especially children's activities, should be included. Town Attorney Baroni said the language "includes, but not limited to" would need to be removed. Mr. Baroni recommended that the issue be dealt with more comprehensively at the work session.

Councilman Schiliro said it would be helpful for the Town Board in conjunction with other appropriate Boards to review the Comprehensive Plan, agree on which sections should be considered for review, determine costs and determine as a Board if this should be done.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman DiDonato Roth moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 9:45 p.m.

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 adoption of Local Law 4 of the year 2012, with the deletion of Section 4, regarding a new permitted principal use of recreation centers, and Section 5, regarding the a new definition of recreation center, to amend the Town of North Castle Town Code to permit fine arts education facilities within all industrial zoning districts. Further moved was the approval of an application to establish a 6,000 square foot fine arts education facility and a 2,500 square foot language and occupational therapy suite within the building at 1 Labriola Court and a new one way access drive from Labriola Court to provide vehicular access to the proposed dramatic arts school and provide for a student drop off area.

The roll call vote was as follows:

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

Noes: None

The local law follows at the end of these minutes.

Note: The Town Board adopted a negative declaration regarding this action at its August 28, 2012 meeting. The Town Board acted a second time on the adoption of the local law at the same meeting, and therefore the effective date of Local Law 4a is August 28, 2012.

Anne Curran, Town Clerk

Dated: September 7, 2012

TOWN OF NORTH CASTLE
Local Law No. 4a for the Year 2012
Adopted August 28, 2012

A local law to permit fine arts education facilities within all industrial zoning districts.

Section 1. Amend Section 213-21 of the Town Code to include a new permitted principal use: Fine Arts Instruction School within the PLI, RELIP, IND-AA and IND-A Zoning Districts.

Section 2. Amend Section 213-3 of the Town Code to include the following new definition:

Fine Arts Instruction School -- An establishment that teaches skills in the visual arts and performing arts, including, but not limited to painting, sculpture, collage, decollage, assemblage, installation, calligraphy, music, dance, theatre, architecture, film, photography, conceptual art, and printmaking.

Section 3. Amend Section 213-45.A of the Town Code to include the following new off-street parking requirement:

Fine Arts Instruction School – 1 space for each 250 square feet of gross floor area.

Section 4. 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 5. 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 6. Effective Date.

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