

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
January 28, 2009

Supervisor Berman called the meeting to order at 5:15 p.m. and the following persons were present:

Supervisor	Reese Berman
Councilmen	Gerald K. Geist
	William R. Weaver
	Michael J. Schiliro
Town Clerk	Ann Leber
Town Counsel	Roland A. Baroni

Councilman Rebecca A. Kittredge was absent.

Councilman Geist moved, seconded by Councilman Weaver, that the meeting be immediately adjourned into Executive Session. The Executive Session was closed at 7:15 p.m.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Supervisor Berman reconvened the regular meeting at 7:40 p.m.

Councilman Weaver moved, seconded by Councilman Schiliro, approval of the minutes of the work session of January 12, 2009, and of the organizational and regular meetings of January 14, 2009.

The roll call vote was as follows:

Ayes: Councilmen, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Abstentions: Councilman Geist.

The minutes of the Public Hearings which commenced at 7:42 p.m. follow at the end of these minutes.

Supervisor Berman warned residents to check photo identification of Con Edison employees when they come to the door.

Supervisor Berman moved, seconded by Councilman Geist, receipt of a check in the amount of \$960 from North Castle Sports Associates, LLC, to cover the cost of three portable recycle bins that are in use at the bubble in North Castle Community Park.

Councilman Weaver moved seconded by Councilman Schiliro, receipt of a memo from Kellard Sessions Consulting regarding wetland/SWPPP flood plain activity permit/tree removal application review, NYCDEP, Kaysal Court. In the memo, Kristina Burbank and Ryan Coyne explain that “the DEP is proposing wetland creation and buffer enhancements within North Castle as part of a remediation plan associated with the construction of an ultraviolet light disinfection facility within the Town of Mt. Pleasant. The UV facility project requires impact to 3.1 acres of wetlands within the Towns of Mt. Pleasant and Greenburgh, most of which has been mitigated for within the affected towns. However, as the NYCDEP was unable to reach the desired 4:1 replacement ratio in the affected Towns, the balance of the wetland mitigation has been proposed within the Town of North Castle on the Kaysal Court properties.” The Councilmen further moved receipt of a memo from Conservation Board Chairman John Fava in connection with the DEP’s wetland permit application whereby that agency is proposing “to remove existing vegetation and soils and re-grade approximately 4.6 acres to provide offsite wetland mitigation for the Catskill/Delaware ULDF.”

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Following a PowerPoint presentation, discussion ensued with representatives of the DEP and its consultant Hazan & Sawyer. The UV disinfectant facility is necessary to comply with state and federal regulations. The DEP mitigation, on DEP-owned property, would restore a former wetland that had been eliminated due to extensive filling at Kaysal Court. The proposed removal of 30 trees on the parcel triggers the need for a tree permit. The Town Board expressed its concerns about:

- The extent of the impact on local roads
- Repair of any damage once the project is complete
- Plans for temporary or permanent fencing on the site
- Size of replacement trees
- Disposition of clean fill

Ryan Coyne explained that the DEP had submitted its application which was reviewed by Kellard Sessions. The applicant is now asking for Town input so that it can revise its plans in accordance with the Kellard Sessions and Conservation Board memos and Town Board comments. The revised plan will be reviewed, and then a public hearing can be scheduled.

Town Attorney Baroni asked for previously prepared documents which the Town Board should have received as an involved agency, including the EIS and circulation lists.

Mr. Coyne reiterated that once the applicant responds in detail to the Kellard Sessions and Conservation Board memos and the Town Board's concerns, the application may be resubmitted for review before a public hearing is scheduled. Hazan and Sawyer said the Town will have a response within ten days.

Councilman Weaver moved, seconded by Councilman Schiliro, receipt of a letter from Steven O'Conner, Esq., with regard to the application of DiPietro Construction Corp., 20 Banksville Avenue, to construct a garage and store construction vehicles on the site.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, authorization to pay Requisition #4 in the amount of \$43,209.66 to Joken Development Corp. in connection with the Quarry Heights sewer project.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Consideration of the acceptance of the dedication of Dellwood Farm Way and Hammond Ridge Road was tabled pending receipt of additional documentation, on the duly adopted motion of Supervisor Berman.

Town Clerk Leber read aloud a letter from Laura Bush, Honorary Chair of Preserve America, congratulating the Town on its designation as a Preserve America community.

Councilman Weaver moved, seconded by Councilman Schiliro, receipt of an e-mail from resident Art Elias regarding control of the deer population in North Castle.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Comptroller Dawn Donovan containing a mortgage tax update for 2009. The amount continues to be low with the projection for December 2008 at \$40,000.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Cablevision and payment of the first installment of the PEG grant, in the amount of \$32,200 and a franchise grant in the amount of \$1,000.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, adoption of the revised Town policy governing placing temporary signs on Town property, as follows:

Permission to place a freestanding sign on Town property must be submitted in writing to the Town Board for its approval at a Town Board meeting. Only requests from not-for-profit organizations based in North Castle will be considered. Political signs promoting a position or a candidate are not permitted.

Permission can be granted for a freestanding signs to be placed at the following locations:

- Under the “eagle” in Armonk
- On the grass median between North Broadway and Route 22 in North White Plains approximately 30 feet from south end of median

Once a request is approved by the Town Board, the applicant must contact Michael Giaccio in the Highway Department (cell 403-3974) regarding the installation of a sign.

Freestanding signs must be no more than 4 feet high and 6 feet in length and may be erected no more than two weeks prior to the event and taken down immediately thereafter. Unauthorized signs, signs erected more than two weeks before the event, or signs erected without contacting Michael Giaccio will be removed and brought to the Highway Department in Armonk.

No one is authorized to move or remove any signs already posted under the “eagle” except for Michael Giaccio.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, acknowledgement of a NYS Association of Conservation Commissions 2008 Special Project Award given to the Conservation Board for its Mianus River Preservation Project.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, permission for Byram Hills High School to place a sign under the eagle to publicize its production of *42nd Street*, March 5, 6 and 7.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

A letter from Robert Hamilton, Milford, CT, commending the Police Department on its response to an emergency situation was received and read aloud on the duly adopted motion of Councilman Geist.

Councilman Geist moved, seconded by Councilman Schiliro, receipt of a memo from Supt. of Public Works Richard Fon informing the Board that two CDBG matching grants have been received. One is for the exterior grounds improvements at the North Castle Community Center (\$60,000) and one for Washington Avenue improvements, Phase II (\$60,000).

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

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Mr. Fon then reported that the Residential Project Review Committee's work continues to run smoothly and efficiently. Of the 37 applications seen by the RPRC, only one was referred to the Planning Board and two to the ARB. Both were subsequently approved. Of the three applications for new homes, one is being built, another is approved, and the third applicant is addressing concerns and will come back before the committee. The Board asked Mr. Fon to report quarterly.

Mr. Fon also spoke of the cooperative effort of the Highway and Parks Departments, John Madera and Steve Gallo to clear the roads and sidewalks during the recent snow storm.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a Workers' Compensation Report on Police Officer Kevin Finateri.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that a Notice of Claim from Jo-Ann Donohoe for damage to her mailbox be received and referred to the Town Attorney.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for the Supervisor to sign the letter granting permission to NYCDEP to enter upon Town property on George Smith Place for the purpose of appraising a .3 acre parcel adjacent to the bowling alley property. The DEP may be interested in purchasing this parcel from the Town.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Pursuant to the request of the Zoning Board of Appeals, Councilman Geist moved, seconded by Councilman Schiliro, that the Supervisor be authorized to sign a proposal from Frederick P. Clark Associates to review an application at 56-70 Lafayette Avenue. The fee for the review is \$1,500. Director of Planning Adam Kaufman explained that F. P. Clark would like the Town to enter into an agreement whereby if Clark is not able to recoup its expenses for reviewing an application, the Town will pay.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, approval of the ASCAP fee schedule for 2009.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to sign the contract with Weatherworks for 2009. Councilman Schiliro asked Supt. Fon to look into the possibility of sharing this service with other municipalities.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to sign the contract with Foley Laboratory Services for Highway Department drug and alcohol compliance programs for 2009.

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The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

A letter from Westchester County Department of PRC informing the Town that the rental fee for the Fisher Lane commuter lot will increase by 5% for the 2010 contract was received on the duly adopted motion of Councilman Geist. The fee, payable in April of 2010, will be \$23,625.

Supervisor Berman said she was not successful in her effort to convince the County not to raise the fee.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, acceptance, with regret, of the letter of retirement from Pietro Monteleone, Highway Department, effective February 28, 2009.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Regarding the bids for the nitrogen removal upgrade project at the sewer treatment plant, a letter, dated January 19, 2009, was received from consultants Stearns & Wheler in which they note deficiencies in the bid forms submitted by BMJ Construction Company, Inc. (General Contracting) and A&R Electric, Inc. (Electrical). However, they note, the contract documents specify that the "OWNER also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder."

Town Attorney Baroni said that, after reviewing and researching the irregularities in the bid forms from BMJ Construction and A&R Electric, he determined that they can clearly be classified as informalities and the Town may award the bids to both companies.

Pursuant to the January 28, 2009 recommendation of Stearns & Wheler, Councilman Geist moved seconded by Councilman Schiliro, the award of the bids for the nitrogen removal upgrade project to the lowest bidders as follows:

Contract 1 – General Construction	BMJ Construction Co., Inc.	\$3,213.350
Contract 2 – Electrical	A&R Electric, Inc.	685,000
Contract 3 – Heating & Ventilating	DJ Heating & AC, Inc.	38,200
Contract 4 – Plumbing	S&L Plumbing & Heating Corp.	34,813

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

The Town Board audited and approved payments totaling \$6,853,042.86 as indicated on Warrant #1.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:00 p.m. in memory of Rose Pace, Bob Lowery, Warren Donahue, and Ryan Maher, a 21 year old North White Plains resident.

Ann Leber, Town Clerk

Dated: February 6, 2009

PUBLIC HEARING

January 28, 2008

At 7:42 p.m. Supervisor Berman 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 January 28, 2009, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York 10504 to consider an open space acquisition using previously approved bond proceeds: said parcels being known and described as the Rene Dubos Center parcels located at 1 Baldwin Road, Armonk and described as Section 2, Block 08, Lot 1; and 2 Baldwin Road, Armonk and described as Section 2, Block 09, Lot 1.C on the tax assessment maps of the Town of North Castle.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: January 15, 2009
Armonk, New York

The Public Notice read by the Town Clerk 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 draft contract of sale was marked Exhibit "D" for the record.

All of the following correspondence was received in support of the Town's purchase of the Dubos property: an e-mail from resident Bridget Thorne, dated January 12, 2009, a letter from resident Susan Shimer, received January 22, 2009, an e-mail from resident Steve Karl, dated, January 26, 2009 and an e-mail in response from Mt. Kisco Village Manager Jim Palmer, dated January 27, 2009, a letter from the Croton Watershed Clean Water Coalition, Inc., dated January 27, 2009, and letters from the North Castle Conservation Board, the Westchester Land Trust, residents Jeffrey and Leslie Klein, and resident Susan Olivo, all dated January 28, 2009, were marked Exhibit "E" for the record.

Town Clerk Leber read aloud the letters from Susan Shimer, Jeffrey and Leslie Klein, and Susan Olivo per their requests.

Howard Arden, Chairman of the Open Space Committee, said that the Dubos property has been high on the acquisition list of the committee, which has supported the preservation of this parcel for at least three years or four years. Mr. Arden thanked everyone involved with the acquisition project, which has been a long battle for well over ten years, and especially thanked the Village of Mt. Kisco, its attorney, Whitney Singleton, and mayor, Michael Cindrich for their efforts in spearheading the final phase. Mr. Arden said there was probably no better value than buying 30 acres for \$7,500 per acre. He added that since the property has been owned by a foundation, the Town would not be losing any tax revenue. Mr. Arden said the purchase would provide many benefits, including the preservation of fresh water in Byram Lake, and urged the Board to vote in favor of it.

Kerri Kazak, member of the North Castle Land Trust, read her letter in which she thanked the Village Trustees of Mt. Kisco and Mayor Cindrich for fighting for so long to protect the Dubos property; the Westchester Land Trust for its hard work and its contribution of \$15,000 toward the purchase of the property; and the North Castle Town Board for its leadership in protecting the environment. Ms. Kazak's letter referenced the 2004 North Castle open space bond referendum, which was passed by a 68% majority, and enumerated her many reasons for asking the Board to vote in favor of using open space funds to help purchase the Dubos property.

Mayor Cindrich commended the Board for considering the proposition to purchase the property. He reviewed the history of the property back to the 1970s and said the original owners, Dewitt Wallace, the Wallace family and the Meyer Foundation, had intended that the property be preserved. He said

that it was ironic that Mt. Kisco has had to fight with environmentalists who had made a pledge to protect the land. He added that in 1997 Mt. Kisco tried to buy a restrictive covenant from the Esposito Building Group who wanted to develop the land. Mount Kisco has spent about \$150,000 in legal fees to preserve the property which abuts its water supply. Mr. Cindrich said that if the sale does not take place that the property could still be sold to developers because it has been used as collateral by the Rene Dubos Foundation. Last summer he petitioned the Westchester County Planning Board and other County representatives to consider putting the property on their high priority list, but the County declined, saying the property was sufficiently encumbered. Mayor Cindrich said it was at that point that he decided to pursue a collaborative effort between North Castle and Mt. Kisco.

Mayor Cindrich said that upon the Board's approval to purchase the land, a restrictive covenant would be crafted with North Castle and the Westchester Land Trust to ensure that the Town, its residents and the Mt. Kisco's water supply would be protected. He added that there was much more work at Byram Lake that needed to be done. Mt. Kisco has made a commitment to use Byram Lake as their water supply and has spent close to \$25 million dollars on a water filtration system. He said that he would not ask the Board to vote in favor of the project but added that Mt. Kisco, with its eleven churches and synagogues and Northern Westchester Hospital, benefits its surrounding communities. He hoped that the joint venture would be the beginning of an effort to share services and ideas. He added that Superintendent Tony Futia had recently helped Mt. Kisco save money in its water department.

Tom Andersen, Acting Executive Director of the Westchester Land Trust, said that he thought it was a very good idea for the Town to purchase the property and urged the Board to vote yes. He said it would be the first time that WLT has given cash of its own for a land acquisition. Mr. Andersen added that because the land drains into Byram Lake anything that comes off the property would go directly into Mt. Kisco's water supply. He said the Dubos property is a priority area in the NYS Open Conservation Plan, as well as close to an important biodiversity location as identified by the Wildlife Conservation Society.

After all persons were heard who desired to be heard, Councilman Weaver moved, seconded by Councilman Schiliro, that the public hearing be closed at 8:00 p.m.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, approval of the open space acquisition using \$230,000 of previously approved bond proceeds: said parcels being known and described as the Rene Dubos Center parcels located at 1 Baldwin Road, Armonk and described as Section 2, Block 08, Lot 1; and 2 Baldwin Road, Armonk and described as Section 2, Block 09, Lot 1.C on the tax assessment maps of the Town of North Castle.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist said that it was an historic time for the Town and thanked the Open Space Committee, the North Castle Land Trust, the Westchester Land Trust and the Village of Mount Kisco and Mayor Cindrich. Mr. Geist said this project was a model for what can be accomplished when municipalities work together for a common goal of protecting open space for all residents. He said he was voting in favor of the purchase.

Councilmen Schiliro thanked all those involved for seeing the project through to the end. Mr. Schiliro said he was voting in favor of the purchase.

Councilman Weaver also thanked everyone involved in the long fight. Mr. Weaver added that thankfully the judge had found in favor of preserving the land as open space. He said he was also voting in favor of the purchase.

Supervisor Berman made the following statement:

"I support North Castle's splitting with Mt. Kisco the remaining cost of the Dubos property after the Westchester Land Trust contribution for the following reasons:

“The property and part of Byram Lake are in North Castle, and I believe that we should have control of what happens to property in our Town, whenever possible. One possible use for the property that I have discussed with both Tom Anderson of the Westchester Land Trust and Mayor Cindrich of Mt. Kisco is to deposit our leaves on a portion of the land. We currently do not have a good location, and there could be some savings because we would not have to pay for trucking leaves out of town. Howard Arden, chair of the North Castle Open Space Committee, also supports that idea. This is important even if we discontinue leaf vacuuming sometime in the future and require residents to bag their leaves. We need to take collected leaves somewhere, whether they’re vacuumed or bagged.

“North Castle residents overwhelmingly voted to spend \$3,000,000 to protect open space in the November 2004 referendum. Aside from the small parcel we recently purchased in Quarry Heights, we have not spent that money. It will be bonded as needed and will not be part of the regular budget. Having almost 30 acres protected as open space in North Castle for \$230,000 is a very good price.

“It is the environmentally appropriate action to take. We need to protect Byram Lake and the Byram Lake watershed not only to demonstrate regional and community support for our Mt. Kisco neighbors’ water supply, but also because it is an area that was singled out to protect for its biodiversity by the Wildlife Conservation Society/Metropolitan Conservation Alliance in a study that we authorized in 2007.

“There is one request, suggested to me by a resident, that North Castle residents be permitted to pay the same reduced rates as Mt. Kisco residents for boating and fishing permits in Byram Lake. Currently that is not the practice. I have spoken to Village Manager Jim Palmer and Mayor Cindrich about this request, and they have said that they will bring it before their Village Board unless there are some legal restrictions.

“Finally, in this time of economic stress, it is all too easy to say that we should not spend money to protect Open Space. But I feel it is incumbent upon us to protect the character of our Town for future generations, and we can not pass up this opportunity.”

Supervisor Berman said that her vote of yes vote now made the vote unanimous.

Therefore, the vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

With regard to the request that North Castle residents pay the same reduced rates as Mt. Kisco residents for boating and fishing permits at Byram Lake, Mayor Cindrich said the Village Trustees have adjusted fees accordingly in the past and they would consider doing it at this time. Mr. Cindrich said that they would ask Town residents using the lake to be their eyes and ears to assist with protecting the lake. He added that the language of the restrictive covenant could address this issue. He said that Mt. Kisco’s attorney Whitney Singleton would contact Town Attorney Baroni to draw up the restrictive covenant with North Castle and Tom Anderson. Mayor Cindrich thanked the Board for its willingness to work with Mt. Kisco and said they could all be proud of what has been accomplished.

Supervisor Berman said the Town is very willing to work with Mt. Kisco and hoped that the language that would be crafted in the restrictive covenant includes the possibility of a leaf composting site on the property. In response to Supervisor Berman’s question regarding next steps to finalize the sale, Town Attorney Baroni replied that an assignment of the contract, giving North Castle fifty percent of the interest, would be prepared. Mr. Baroni added that approval of the Supreme Court judge may be required and then the title report would be prepared. He said that the conservation easement or restrictive covenant should be prepared to go into effect at the same time as the deed.

Ann Leber, Town Clerk

Dated: February 6, 2009

PUBLIC HEARING

January 28, 2009

At 8:08 p.m. Supervisor Berman 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 January 28, 2009, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York for the purpose of considering the adoption of a Local Law to revise Section 213-14.G of the Town Code to permit 8-foot high deer fencing and limit fencing in the front yard to four feet.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: January 2, 2009
Armonk, New York

The Public Notice read by the Town Clerk 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.

A letter from Zoning Board of Appeals Chairman Robert Schmidt dated November 24, 2008, including information regarding the management of white tail deer, and an e-mail from Mr. Schmidt dated January 21, 2009, were marked Exhibit "D" for the record.

A letter from the Westchester County Planning Department dated January 13, 2009, stating that the action was a matter for local determination was marked Exhibit "E" for the record.

The proposed local law was marked Exhibit "F" for the record.

Director of Planning Adam Kaufman said that the Zoning Board of Appeals has been inundated with requests for deer fencing higher than the six foot height currently permitted by Town Code. At the request of the ZBA, Mr. Kaufman prepared the revised local law under consideration tonight which would permit mesh deer fencing to reach a height of eight feet except in the front yard setback where it could be no higher than four feet. Non-deer fencing and walls, currently permitted up to a height of six feet, would be limited to no more than four feet within the front yard setback. The latter revision is in response to many requests received by the Planning Board for six foot high stone walls at the front property line.

Supervisor Berman said that she did not think the language in the proposed law is clear enough and suggested that the words non-solid be removed and that only mesh deer fencing be permitted.

Councilman Weaver agreed with the Supervisor's suggestion to delete the words non-solid. Mr. Weaver expressed the opinion that residents should continue to be permitted to have six foot fencing in the front yard as it offered protection from the road, particularly for those homes that are very close to the road. Mr. Kaufman said that only applicants requiring Planning Board site plan approval would have their fencing requests considered by the Planning Board. Most of the requests for fencing and walls would be handled through the building permit process.

Councilman Geist asked Mr. Kaufman for clarification regarding the language in the proposed law and thought the language should be consistent for both fences and walls. He also asked if it were necessary to indicate that eight feet would be the cumulative height permitted for any combined wall and fencing, and Mr. Kaufman replied that the Code has always been interpreted to mean cumulative height. He added that a fence higher than four feet in the front yard setback would require a variance.

Supervisor Berman asked if a variance is currently needed for eight foot deer fencing, and Mr. Kaufman confirmed that it was now handled as an exception to allow fences up to eight feet in height.

Councilman Schiliro said that he was not a fan of deer fencing and that deer were part of living in a rural area, but that it is the right of residents to have fencing. He urged residents not to rush into putting up fencing because if everyone has it, a mouse in a maze situation would be created with deer having to figure out how to traverse the fences.

Resident Frank Benish asked if a six foot fence is currently permitted in the front yard. Mr. Kaufman explained that it is permitted within the front yard setback which is defined as fifty feet from the edge of the property or the Town's right-of-way.

Supervisor Berman explained that the proposed local law has not been considered by the Planning Board; therefore the public hearing will be adjourned and the matter referred to the Planning Board for its review and recommendation back to the Town Board.

Councilman Weaver reiterated that he thought the proposed law should not limit fencing within the front yard setback to four feet. With respect to this issue, Councilman Geist said that he preferred to hear the Planning Board's recommendation before making a decision regarding front yard fence height.

The Board decided that the language "non-solid" would be removed from the proposed law which would be reviewed by the Planning Board for their recommendation.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Weaver moved, seconded by Councilman Geist, that the Public Hearing be adjourned at 8:20 p.m. and the matter be referred to the Planning Board for their study and review.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Ann Leber, Town Clerk

Dated: February 9, 2009

PUBLIC HEARING

January 28, 2009

At 8:21 p.m. Supervisor Berman 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 January 28, 2009, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York for the purpose of considering the adoption of a Local Law to amend Section 213-22.2C(1) of the Town Code to be consistent with the approval type required in Section 213-22.2.B of the Town Code to require Planning Board special permit approval for gross land coverage permits.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: January 2, 2009
Armonk, New York

The Public Notice read by the Town Clerk 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.

A letter from the Westchester County Planning Department dated January 13, 2009, stating that the action was a matter for local determination was marked as Exhibit "D" for the record.

The proposed local law was marked Exhibit "E" for the record.

Director of Planning Adam Kaufman explained that the Planning Department has become aware of an inconsistency in how gross land coverage and gross floor area permits are issued by the Planning Board. The Town Code currently states that gross land coverage permits are issued via Planning Board site plan approval and gross floor area permits are issued via a Planning Board special use permit. The Planning Department has been operating with the understanding that both of these permits required special use permit approval from the Planning Board. Mr. Kaufman further explained that since the Town Board has generally eliminated the need for residential site plan approval, it would be more appropriate to address gross land coverage via Planning Board special use permit approval. He added that each of the permits would continue to have provisions requiring a notification to neighbors and a public hearing.

Supervisor Berman added that this revision to the Code would provide better consistency and record keeping in the issuance of these permits. Supervisor Berman said that the proposed local law has not been considered by the Planning Board; therefore the public hearing will be adjourned and the matter referred to the Planning Board for its review and recommendation back to the Town Board.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Geist moved, seconded by Councilman Schiliro, that the Public Hearing be adjourned at 8:24 p.m. and the matter be referred to the Planning Board for their study and report.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Ann Leber, Town Clerk

Dated: February 9, 2009