

Town Board Minutes
Town of North Castle
Whippoorwill Hall
19 Whippoorwill Road East
Armonk, New York
on
October 23, 2013

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. Four Town Board members (Diane DiDonato Roth did not attend), the Town Attorney and Town Administrator were present for the executive session which closed at 7:25 p.m. The Town Clerk joined the regular meeting which reconvened at 7:30 p.m. and the following persons were present:

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
Town Administrator	Joan Goldberg

With regard to the pending Cablevision settlement regarding an audit (for the period of 7/2004-6/2009) and underpayment of franchise fees, Supervisor Arden announced that the Town has received payments from Cablevision (for Northern and Southern franchise agreements) for a sum total of \$71,577.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the minutes of the October 9, 2013 meeting.

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, approval for the Town of North Castle Court to submit an application to the Unified Court System for a Justice Court Assistance Program grant to upgrade the court room facility and security.

The roll call vote was as follows:

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

Noes: None

Supervisor Arden moved, seconded by Councilman D'Angelo, receipt of GHD Amendment No. 1 to the Sewer District No. 2 Capacity Study Agreement, dated May 21, 2013, and further moved approval of the Amendment, at a cost not to exceed \$36,900, for additional scope of services to increase the permitted capacity of the wastewater treatment plant.

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 waiver (\$2,310.05) and credit (\$660) for consulting fees to NYC DEP regarding Old Route 22 off-street parking lot (former bowling alley site).

Subsequent to the meeting, the above waivers and credits were placed on hold as the Town was advised by NYC DEP that it may not proceed with the construction of the off-street parking lot.

The roll call vote was as follows:

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

Noes: None

Town Attorney Baroni said that the Keane & Beane opinion letter regarding the Brynwood PAC is a privileged communication which is why it has not been made available to the public. Mr. Baroni read the following excerpt from the letter:

The expenditures by the Committee were “independent expenditures” as defined under the NYS Election Law and the regulations of the NYS Board of Elections. Such expenditures are a protected form of political speech under the First Amendment, and therefore the Committee’s independent expenditures supporting the Town Board incumbents were legitimate notwithstanding that the Committee received donations from Brynwood.

Mr. Baroni said the focus of this assignment for Special Counsel was to review whether Brynwood’s formation of the Committee and the funding of that Committee were legal under applicable law and Special Counsel found that the Brynwood actions in all respects conformed to the law.

Supervisor Arden read the following statement, which was duly adopted on his motion:
“The Town Board is of the opinion that even though Special Counsel has opined that the actions of Brynwood in forming an independent expenditure committee were accomplished in accordance with law an ethical cloud has been placed over the application pending before this Town Board. Therefore, this Town Board finds it necessary to table the continued review of the Brynwood application until a new Town Board takes office in January 2014 at which time the application review process will be continued.”

*The following item was removed from the agenda:
Receipt of proposal on behalf of Vito and Robin Errico regarding the exchange of 60+ acres of property on Byram Lake Road for a one acre Town owned parcel on Old Route 22 with a zone text amendment proposal to change the parcel’s zoning classification from the R-10 Zoning District to the RB Zoning District.*

Councilman DiDonato Roth moved, seconded by Councilman Cronin, approval to award the bid for tree and brush removal at Wampus Brook Park South to Gentile Construction Corp., the lowest bidder, for a total cost of \$64,100, pending compliance with the Town insurance requirements.

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 for the Supervisor to make the budget transfers that follow at the end of these minutes, as requested by Comptroller Berland.

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 a CCA support resolution regarding Northern Westchester Energy Action Coalition. (Community Choice Aggregation programs allow municipalities to aggregate the energy purchases of residents and small businesses resulting in overall energy cost savings.)

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, ratification of expenditure of \$1,150 to Peacock Memorials for repairs at Fisher Cemetery in North White Plains.

The roll call vote was as follows:

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

Noes: None

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Councilman D'Angelo moved, seconded by Councilman DiDonato Roth, approval of request from Director Misiti, Water and Sewer Operations to purchase one 2014 pickup truck with plow from New York State Bid for \$29,069.31 to be funded from 2013 operating budget, with the cost of vehicle shared by the special districts.

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, authorization for the Supervisor to sign agreement with Kellard Sessions Consulting, in the amount of \$10,400, regarding oversight of Town Highway Department during median removal and roadway improvement project on Business Park Drive.

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, authorization for the Supervisor to sign agreement with Kellard Sessions Consulting, in the amount of \$18,000, for preparation of grant proposal and associated preliminary plans and documentation for the School Street bridge renovation.

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 letters from Joseph Palotta and Bruce Wuebber regarding personal references and commendation of Michael Giaccio, Highway Department employee. Town Clerk Curran read both letters aloud as requested by the authors.

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 and approval of Stipulation of Settlement with regard CSEA vs. Town of North Castle whereby CSEA has agreed to withdraw the instant improper practice charge, considering that the Respondent (the Town) "...shall begin deducting dues/fees from the paycheck of Lori Zawacki, Intermediate Clerk in the Building Dept., and, to the extent she continues to regularly work seventeen or more hours per week, treat her as a bargaining unit member pursuant to the terms of the collective bargaining agreement."

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, ratification to hire Karen Proft, part-time Librarian I, effective October 16, 2013.

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 request from Gerardo DiFeo for two weeks of 2013 vacation pay.

The roll call vote was as follows:

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

Noes: None

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Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, the consensus agenda as follows:

- Approval of request from General Foreman Norris for release of bonds as follows:
 - o Manor Paving – Permit 0808 in the amount of \$500 for driveway alteration at 40 Woodcrest Drive, Section 1, Block 01, Lot 4.-18.
 - o Pigan Landscaping – Permit 0813 in the amount of \$500 for driveway alteration at 6 Henkers Farm Lane, Section 1, Block 01, Lot 6.-8.
- Receipt of Notice of Claim and referral to Town Attorneys for:
 - o James Stead vs. North Castle Police Department
 - o Steven Fink vs. Town of North Castle

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 \$8,039,220.88 as indicated on Warrant #19

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 8:35p.m. in memory of residents Anne Boris, Dr. Arnold Wald and Leon Cairo; Ruth Foster, former Town of North Castle employee, and former resident Alice Cully.

Anne Curran, Town Clerk

Dated: November 4, 2013

Budget Transfers Oct 23, 2013

General Fund from:

A.1620.0413	Uniforms	(400.00)
A.3120.0840	Health Ins	(3,000.00)
A.3510.0492	Vehicle Repair	(300.00)
A.7110.0432	Cont Prof Svc	(1,300.00)
A.7144.0120	Sal Part Time	(4,126.00)
A.1010.0411	Supplies	(1,150.00)

SW2 Increase:

SW2.1000.8021	Appropriated	11,115.00
	Fund Balance	

General Fund to:

A.1620.0411	Supplies	400.00
A.3120.0850.01	Dental	3,000.00
A.3510.0491	Vehicle Fuel	300.00
A.7110.0431	Cont Equip	1,300.00
A.7143.0434	Cont Other	4,126.00
A.8810.0432	Cont Prof Svc	1,150.00

SW2 Increase:

SW2.8310.0432	Cont Prof Svc	11,115.00
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