

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
June 25, 2014

The meeting was called to order at 5:00 p.m. on the duly adopted motion of Councilman D'Angelo and immediately adjourned to an executive session. All Town Board members, the Town Attorney and the Town Administrator were present for the executive session which adjourned to a work session at 6:15 p.m. The regular meeting reconvened at 7:40 p.m.

Supervisor	Michael J. Schiliro
Councilmen:	Stephen D'Angelo
	Barbara DiGiacinto
	Barry Reiter
	José Berra

Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni
Town Administrator	Joan Goldberg

The minutes of the Public Hearings which commenced at 8:30 p.m. follow at the end of these minutes.

Councilman Berra moved, seconded by Councilman D'Angelo, approval of the minutes of the June 11, 2014 meeting.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, approval of request from St. Nersess Armenian Seminary for one-year extension of Special Use Permit, to expire July 11, 2015.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, receipt of Edge of Dance Special Use Permit application to operate a dance studio at 7 North Greenwich Road, Armonk.

Vote: Unanimous

Regarding the Special Use Permit application from Edge of Dance to operate a dance studio at 7 North Greenwich Road, Armonk, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, to schedule a Public Hearing on July 9, 2014.

Vote: Unanimous

Tim Doyle, partner of the Bonadio Group, presented a preliminary report on the 2013 audit. He noted some outstanding bank reconciliations and recommended improvement to oversight and processes based on the financial snapshot as of the second week in January, 2014. He noted that some segregation of duties and internal controls should be improved, commenting that the turnover in the past two years of two Comptrollers in the Finance Department had likely contributed to this finding. The Comprehensive Annual Financial Report includes financial statements that Bonadio will opine on. The General Fund and Highway Fund through end of 2013 were determined to have no material misstatements and therefore an unmodified opinion was issued. Administrator Goldberg said she has been working with the Finance Department to institute tighter procedures with less variance and thereby eliminate potential errors; she requested that the final Audit Report be sent back to the Town in the next few weeks.

Highway General Foreman Jamie Norris presented an update on plans for 2014 road maintenance and repairs. Mr. Norris noted that several areas have been slated for work, based on road conditions following a difficult winter and findings within the Pavement Management Report. Mr. Norris named the following roads as those scheduled for repair:

Jackson Road subdivision in Banksville, specifically Jackson Road, Piping Brook Lane, Peppercorn Place and Stillwater Place;

Clove Road and Intervale Avenue in North White Plains;

Ilana Court and Sniffen Road in Armonk; and

following the completion of the water main in Windmill: Pond Lane, North Lake Road and Evergreen Row in Armonk.

Mr. Norris said that the remainder of the budgeted funds will be used for preventative maintenance, crack sealing, and mill and fill process. Supervisor Schiliro stated that this work is only what is in the budget for 2014, and the Board is looking at what other road repair work may be planned going forward using the fund balance and also planning for a 5-10 year program to catch up on road maintenance. Administrator Goldberg stated that the work is already bid and that this work will total approximately one million dollars. General Foreman Norris said the work should start in mid-July.

Councilman D'Angelo moved, seconded by Councilman Berra, the award of bids for the following highway machinery:

- One Oil-Jacketed Hot Pour Crack Sealer to the sole bidder, Sealmaster, Allentown, PA., for \$45,750
- One Tink Claw to Hoffman International, Inc., the lowest bidder, for \$17,677

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, approval of request from General Foreman, Norris, to purchase the following vehicles, and to authorize payment from the Highway fund balance:

- One combination Vac All/Sweeper - \$270,370
- Three new pick-up trucks – total cost of \$67,866.61

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, approval to issue licenses to collect and dispose of refuse in Town through March 31, 2015 to the following:

- Sani-Pro Disposal Services
- City Carting

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, receipt of Article 78 Petition from Cynthia L. Kauffman, Jennifer D. Ahrenberg & Donald R. Ahrenberg vs. the Town, the Planning Board of North Castle and Anthony and Kristine Patti, and referral to Town Attorneys.

Vote: Unanimous

Pursuant to a memo from Recreation Superintendent Matt Trainor, Councilman D'Angelo moved, seconded by Councilman Reiter, approval of extension of lease agreement with Armonk Baseball League, dated January 1, 2012, for use of the building at 85 Cox Avenue through August 31, 2014, under the current terms.

Vote: Unanimous

At the Supervisor's request, Town Attorney Baroni explained that while Morano Bros. Corp. was the apparent low bidder on the construction project for Water District No. 2 Distribution System Replacement, Morano immediately realized that there was a defect in the bid they submitted, and as according to the bid specification and General Municipal Law, a withdrawal of a bid maybe be accepted by the Town Board allowing the Town to move to the next lowest bidder.

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, receipt of letter from Morano Bros. Corp. and acceptance of withdrawal of their bid for the construction of Water District No. 2 Distribution System Replacement.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman DiGiacinto, the award of bid for construction of Water District No. 2 Distribution System Replacement to Bilotta Construction Corp., the lowest bidder, for \$9,935,194, and further authorized the Supervisor to sign the contract for same.

Vote: Unanimous

Regarding 61 and 67 Old Route 22, Armonk, NY, Councilman Berra moved, seconded by Councilman D'Angelo, receipt of \$14,182.25 as payment for the inspection fee and \$312,009.50 to be held in escrow as security for the performance of the subdivision site work, and further moved authorization for the Supervisor to sign the escrow agreement.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, authorization for the Supervisor to sign the agreement with Reclamation, LLC for leasing of equipment and vehicle operator to reconstruct and resurface Town roads, with Highway Department supervision.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, authorization for the Supervisor to sign CSEA labor contracts for Unit I and Unit II.

Vote: Unanimous

Town Administrator Goldberg stated that the contractor working on the repair of the Gazebo in Wampus Brook Park reported to her today that the supports failed and the roof of the Gazebo collapsed. It was decided that the Town Board would discuss the matter in Executive Session at the end of the agenda items. Subsequent to a brief discussion in Executive Session, and on the duly adopted motion of Supervisor Schiliro, the change order for repair of the Armonk Gazebo was tabled, pending further research. It was also noted that Councilman Reiter will take the lead on the work to restore the Gazebo based on the original design.

Councilman D'Angelo moved, seconded by Councilman Berra, authorization for the Supervisor to sign the agreement with Ricoh regarding copier replacements and maintenance of same.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, receipt of retirement letter from Scott Benedict, Highway Dept., effective July 30, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, ratification of the following seasonal appointments:

- Thomas Baroni, Jr. as Seasonal Parks Laborer, effective May 28, 2014
- Shalini Hathurusinghe, Seasonal Page, effective June 16, 2014

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, approval of the following appointments to change status from part time to full time:

- Michael Procopis, Highway MEO, Step 1, effective June 26, 2014
- Evan Cicale, Parks Laborer, effective June 26, 2014
- Diamantino Valente, Parks Laborer, effective June 26, 2014

Vote: Unanimous

The Town Board audited and approved payments totaling \$979,397.60 as indicated on Warrant #12.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 12:10 a.m. in memory of former resident, John Niebuhr.

Anne Curran, Town Clerk

Dated: July 9, 2014

R E S O L U T I O N

Action:	Special Use Permit Approval for a Religious or Charitable Institution – Extension of Time
Application Name:	St Nersess Armenian Seminary
Applicant:	St. Nersess Armenian Seminary, Inc.
Owner:	Congregation B'Nai Yisrael
Zone:	R-2A Zoning District
Location:	486 Bedford Road
Date of Original Approval:	July 11, 2012
Extension of Time Approval:	June 25, 2014
Expiration Date:	July 11, 2015 (1 year)

WHEREAS, the Town of North Castle Town Board previously approved a special use permit application for the renovation and adaptive reuse of the existing buildings and the construction of a new 8,400 square foot, one-story theological center which includes a library and private chapel on the 5.55 acre property known as Promise Farm and located within the R-2A Zoning District; and

WHEREAS, the original resolution of approval required that all construction be completed within two years of the issuance of the special use permit; and

WHEREAS, the construction has been progressing on the site; however, construction will not be completed within the two-year time frame; and

WHEREAS, the Applicant is seeking a one-year extension to complete all site work; and

WHEREAS, on June 25, 2014 the Town Board reviewed said request and determined that there were no reasons to deny the requested extension of time; and

NOW, THEREFORE, BE IT RESOLVED, that the request for a one year extension of time to complete all site work is granted; and

BE IT FURTHER RESOLVED, that all conditions of the original resolution dated July 11, 2012 shall remain valid and in full force and effect.

PUBLIC HEARING
June 25, 2014

At 8:30 p.m. Supervisor Schiliro 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 June 25, 2014, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY, 10504, for the purpose of considering the special event permit request to benefit the No Kid Hungry campaign special event and to hold approximately 100 people on Thursday, September 18, 2014. The property is located at Restaurant North - 386 Main Street and known on the North Castle Tax Maps as 108.03-1-6 and located within the CB Zoning District.

The special event permit application is available in the Town Clerk's office during regular business hours. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

By Order of the North Castle Town Board
Anne Curran, Town Clerk

Dated: June 12, 2014
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 following were marked Exhibit "D" for the record:

- The application documents, including Short Environmental Assessment Form, dated June 8, 2014.
- Email from Acting Armonk Fire Chief, Paul Burns, dated June 16, 2014 which noted that he finds no problems with the application. Email from Fire Inspector/Assistant Building Inspector, William Richardson, dated June 18, 2014 stating that a fire watch is not necessary since all cooking will be inside the restaurant.

- Letter from the property owner (John Poniros) dated June 19, 2014 permitting use of property for the special event.
- Certified mail receipts denoting mailing of Notice of Public Hearing to adjacent property owners.
- Negative Declaration for consideration.
- Proposed Resolution of approval of Special Event.

Restaurant North owners Stephen Mancini and Eric Gabrynowicz appeared before the Town Board. Mr. Mancini described the purpose of the event which is the first annual dinner to benefit Share Our Strength, a not-for profit organization whose mission is to end childhood hunger in the U.S. Stephen and Eric were chosen to be the founder members of the Hudson Valley chapter for the No Kid Hungry campaign. The not-for-profit event will include an art gallery of photography in the restaurant and dinner service in a tent in the Olive Branch Plaza parking lot.

Director of Planning Adam Kaufman said that the resolution for the Board's consideration includes his recommendation that overflow parking for the event be provided at Town Hall, rather than in the parking lots on the west side of Main Street and in Armonk Square, as proposed in the application. Supervisor Schiliro noted that the event will take place after work hours. In response to a query from Councilman Berra, Mr. Kaufman confirmed that the parking at Town Hall would be for ancillary parking which could not be accommodated at the restaurant parking lot.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be closed at 8:38 p.m.

The roll call was as follows:

Ayes: Councilmen

Noes: None.

Councilman D'Angelo moved, seconded by Councilman Berra, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman Reiter moved, seconded by Councilman D'Angelo, approval of the Special Event Permit application of Restaurant North to benefit the Share Our Strength No Kid Hungry campaign on Thursday, September 18, 2014, subject to the conditions in the resolution.

The roll call was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes:

The Resolution follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: July 3, 2014

Action:	RESOLUTION
Application Name:	Special Event Permit
Owner:	Restaurant North Share Our Strength
Applicant:	Olive Branch Plaza Corp
Designation:	Restaurant North
Zone:	Section 2, Block 14, Lot 10
Acreage:	CB
	Approx. 0.69-acres

Location: 386 Main Street
Date of Approval: June 25, 2014
Term of Special Event Permit: September 18, 2014 from 5 PM to 10:30 PM

WHEREAS, an application dated May 30, 2014 was submitted by Restaurant North to operate a special event at 386 Main Street pursuant to Chapter 83 of the Town Code; and

WHEREAS, Restaurant North is requesting permission to conduct a special event that is not open to the public and will hold not more than 100 people at any one time; and

WHEREAS, seating for the event will occur within a tent that is to be erected on the parking lot; and

WHEREAS, all food preparation will occur within the Restaurant North kitchen within the building; and

WHEREAS, the restaurant space will be converted into an art gallery; and

WHEREAS, the operation of the special event would not require any permanent construction; and

WHEREAS, overflow parking for the event will be provided at Town Hall; and

WHEREAS, the site plan was forwarded to the Chief of Police and Building Department so that they may make any pertinent recommendations to the Town Board including, but not limited to, the designation of no-parking zones, emergency vehicle access or any other issues deemed important to providing emergency services; and

WHEREAS, the 0.69-acre property is located in the CB Zoning District and is designated on the Tax Maps of the Town of North Castle as Section 2, Block 14, Lot 10; and

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on June 25, 2014 and closed on that date at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Town Board is familiar with the nature of the site and surrounding area;

WHEREAS, the Town Board has requested, received and considered comments from the Town Attorney, the Town Engineer and Town Planner regarding the proposed special event; and

WHEREAS, the proposed action is an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Board determined to conduct an uncoordinated SEQRA Review; and

NOW, THEREFORE, BE IT RESOLVED, that in accordance with Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617, the Town Board hereby makes a determination that the proposed action will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared; and

BE IT FURTHER RESOLVED, that the special event permit is approved for September 18th, 2014 from 5 PM to 10:30 PM, subject to the conditions identified below; and

BE IT FURTHER RESOLVED, that this permit shall be deemed to authorize only the particular use or uses specified, and shall expire if the site is not maintained and if all conditions and standards are not complied with throughout the duration of the use; and

Prior to the Issuance of the Special Event Permit:

(The Town Clerk's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)

- _____1. The property owner of 386 Main Street shall submit documentation authorizing the special event on the property.

- _____2. The Applicant shall obtain a tent permit from the Town of North Castle Building Department.
- _____3. Pursuant to Section 83-4.F of the Town Code, a certificate of insurance from an insurance company licensed to do business in New York State with the following minimum coverages to the satisfaction of the Town Clerk:
 - (1) Bodily injury: \$300,000, one person.
 - (2) Bodily injury: \$1,000,000, one accident.
 - (3) Property damage: \$100,000, one accident.

In addition, the Town shall be identified as additionally insured to the satisfaction of the Town Attorney.
- _____4. Pursuant to Section 83-4.I of the Town Code, the Applicant shall post a cash bond of \$500 to guarantee cleanup by the exhibitor after the special event, except where the special event is conducted on premises owned by the person making the application.
- _____5. A pre-permit site meeting shall be held with the Applicant and with the Building Inspector, Fire Marshal, Fire Department, and Police Department to discuss the operation of the special event. Once all issues have been adequately addressed to the satisfaction of the Building Inspector, Fire Marshal, Fire Department and Police Department, the Building Department shall transmit a letter stating such to the Town Clerk.

Other Conditions:

1. Overflow parking for the special event shall be provided at Town Hall.
2. Pursuant to Section 83-3.A of the Town Code, all special events shall require the provision of a "fire watch" by the local Fire Department and/or North Castle Fire Marshal, the cost of which shall be paid for by the applicant. The Fire Marshal may also approve other fire-protection measures to the satisfaction of the North Castle Fire Marshal, the cost of which shall be paid for by the applicant.
3. Pursuant to Section 83-3.B of the Town Code, all special events shall require the provision of security and/or traffic control by the Town of North Castle Police Department, the cost of which shall be paid for by the applicant. The Chief of Police may also approve other security and/or traffic control measures to the satisfaction of the Chief of Police, the cost of which shall be paid for by the applicant.
4. This special event permit is not assignable.
5. This special event permit is revocable for a violation of the Town Code or any other ordinance or law, pursuant to Chapter 83-6 of the Town Code.
6. The Applicant shall observe all state, county and Town laws, rules and regulations as to health, safety and general welfare and shall be subject to reasonable regulations of the Building Department, Fire Marshal, Police Department and Highway Department of the Town of North Castle.
7. The special event shall not be conducted prior to 5 PM or after 10:30 PM.
8. The tent shall only be erected on September 18, 2014. Full use of the parking lot at 386 Main Street shall be available on September 17th and after the September 18th event.

9. All rubbish from the premises and from any parking area must be gathered and deposited in closed containers by no later than 6:00 p.m. of the day following and removed from the premises by 6:00 p.m. of the next day following.
10. The Applicant shall not permit any unnecessary or unreasonable noise by means of loudspeakers, power amplifier devices or any other means which would create or tend to create a public nuisance.

PUBLIC HEARING

June 25, 2014

At 8:40 p.m. Supervisor Schiliro 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 June 25, 2014 at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering a local law to Amend Section 213-21 Part I of the Town of North Castle Town Code to permit Fine Arts Instruction School as a permitted principal use via Town Board special permit within the PBO Zoning District.

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: June 12, 2014
Armonk, New York

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.

Letter from Kristen Jones and Dante DiFabrizio, The Edge of Dance, received May 23, 2014 was marked Exhibit "D" for the record.

Numerous letters from Edge of Dance students and parents of students received June 11, 2014 was marked Exhibit "E" for the record.

Letters from Director of Planning, Adam Kaufman dated June 4, 2014 regarding the proposed local law, and June 24, 2014 regarding positive recommendation from the Planning Board were marked Exhibit "F" for the record.

Letter from Westchester County Planning Board dated June 16, 2014 stating that the action was a matter for local determination was marked Exhibit "G" for the record.

Certified mail receipts denoting mailing to adjacent property owners were marked Exhibit "H" for the record.

Short Environmental Assessment Form.

Negative Declaration for consideration.

Proposed Local Law.

Director of Planning Adam Kaufman said that his concern with the proposed change was the compatibility between fine arts instruction schools and professional offices. Mr. Kaufman said the solution was to create special requirements. One requirement is that a fine arts instruction school be located in a single tenanted building to eliminate potential conflicts with other types of businesses

since the entire building would be used by the school. The other requirement is that the use be located on a state or county road to address any increase with surge traffic associated with the school.

Talia Deutsch, a dance student from The Edge of Dance, asked the Board to consider the change to enable the school to be relocated to Armonk.

In response to a query from Councilman Berra regarding traffic patterns and safety, Mr. Kaufman said that there is an existing parking lot which will be utilized at the dance studio.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be closed at 8:45 p.m.

The roll call was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman Reiter, the adoption of Local Law 2 of 2014 to amend Section 213-21, Part I of the Town of North Castle Town Code to permit Fine Arts Instruction School as a permitted principal use via Town Board special permit within the PBO Zoning District.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

The Local Law follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: July 7, 2014

TOWN OF NORTH CASTLE

Local Law No. 2 of the year 2014 Adopted June 25, 2014

A local law to Amend Section 213-21 Part I of the Town of North Castle Town Code to permit Fine Arts Instruction School as a permitted principal use via Town Board special permit within the PBO Zoning District.

Section 1. Amend Section 213-21 Part I of the Town of North Castle Town Code to add the following permitted special permit principal use to the PBO Zoning District:

*Fine Arts Instruction School

Section 2. Add the following new section, in proper alphabetical order to Section 213-33 of the Town Code:

V. Fine Arts Instruction School. In the PBO zone, a Fine Arts Instruction School shall be subject to the following additional requirements:

- (1) A Fine Arts Instruction School shall be located in a single tenanted building.
- (2) A Fine Arts Instruction School shall be located on a parcel of land fronting on a State or County Road.

Section 3. 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 4. 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 5. Effective Date.

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

PUBLIC HEARING
June 25, 2014

At 8:50 p.m. Supervisor Schiliro 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 June 25, 2014 at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering a local law to amend Chapter 10 of the Town of North Castle Town Code to add language regarding the establishment of inspection fees and inspection fee escrow accounts.

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: June 12, 2014
Armonk, New York

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.

Memo from Director of Planning Kaufman dated June 4, 2014 regarding proposed local law was marked Exhibit "D" for the record.

Short Environmental Assessment Form.

Negative Declaration for consideration.

Proposed Local Law.

Town Administrator Joan Goldberg explained that escrow accounts are currently established only for applications before the Planning Board. The Planning Department has the authority, under Town Code, to establish escrow accounts and require applicants to provide funds into the account. Funds are withdrawn from accounts to reimburse the Town for the cost of professional review services. Remaining funds are refunded to the applicants upon Planning Board approval of the project. Ms. Goldberg said because the Town Code is specific that escrow accounts can only be utilized for Planning Board project reviews, the escrow money can't be utilized for the next phase of project construction inspection. This results in the refund from the Planning Department and the mailing of invoices from the Building Department for inspection of a non-residential or multi-family project. The proposed amendment would allow the Town to use remaining escrow funds from the Planning review as payment for inspections of construction and building permit activity, and thereby streamline the process.

Acting Building Inspector Michael Cromwell said it was his understanding that the proposed change in the billing procedure would be handled in the Finance Department. Mr. Cromwell said that he, working with the Town Engineer, could put a value on the inspection work to be done.

Michael Fareri expressed his opposition regarding escrow accounts which require an require an applicant to pay for professional services before receiving an invoice. Mr. Fareri said it is not necessary to establish escrow accounts for construction inspection fees and doing so would make it more difficult for applicants. He recommended that the Town send invoices for inspection fees to applicants for payment. He said if an applicant does not pay, the Town would be protected because it would not issue a final certificate of occupancy.

In response to a query from Supervisor Schiliro regarding whether the professional is paid after the work has been done, Ms. Goldberg detailed the current procedure for payment to professionals for inspections. The Town's engineering consultant submits a voucher to the Building Department professional for review and sign off; voucher is forwarded to Finance which processes payment to consultant and sends invoice to applicant for reimbursement. Ms. Goldberg said she could see Mr. Fareri's point about being able to review the vouchers prior to payment, but said the professionals work for the Town, not for the applicant, to protect the Town's interest and to ensure work is done properly. She added that applicants are able to receive copies of documentation for both planning escrows and construction fees upon request.

In response to a query from Councilman Berra whether the Town is having problems collecting payments, Ms. Goldberg said if a project stops, the Town does not have the ability to collect payments. She said there have been instances when certificates of occupancy were issued when there were payments due on the properties and said new procedures have been instituted for better communication between departments. Ms. Goldberg added that billing back to applicants involves more work for a lean employee pool and, depending on the length of a project; invoices may need to be sent to the same applicant every two weeks.

In response to queries from Councilman D'Angelo whether applicants receive copies of vouchers and if amounts are questioned, Director of Planning Adam Kaufman said the Planning Department sends applicants back up information from the consultant along with escrow account activity. Mr. Kaufman said questions are usually resolved by phone and more complicated issues are rare.

Councilman Berra asked if it would practical to send invoices to applicants, wait two weeks to see if there are any objections before the Town pays the invoice. Ms. Goldberg said payments may be delayed due different timeframes on multiple escrow accounts. In response to a query from Councilman D'Angelo regarding bookkeeping required for these accounts, Ms. Goldberg said there are approximately thirty vouchers per month which must be reviewed and invoiced for payment.

In response to a query from Town Attorney Roland Baroni regarding the inspection fees which would be covered by the escrow accounts, Mr. Kaufman clarified that the escrow would cover the fees for inspection of construction of the exterior work to ensure work is done per the site plan. He said these fees are separate from bonded inspection fees for right of way and streetscape improvements.

Mr. Fareri recommended that the Town consider hiring its own engineer to receive the benefit of engineering fees rather than acting as a billing agent.

Supervisor Schiliro said the proposed change would eliminate the Town using its funds to pay engineering consultants and ensure all invoices are paid. Invoices would be allocated to the proper accounts; and imbalances in accounts and burden of collection would be avoided. Mr. Schiliro said this is similar to tax escrow accounts and construction loans. In response to a query from the Supervisor, Mr. Cromwell and Mr. Kaufman confirmed that there are no chronic issues with applicants disputing invoices.

Ms. Goldberg noted that additional escrow accounts would not be established; the proposed change is to expand the use of the escrow accounts, which are already established by the Planning Department, for commercial inspections.

Anthony Futia said he agreed with Mr. Fareri that the Town receives payments due; and funds should not be required up front. He said the issue should be further reviewed.

In response to a query from Mario Ruggiero, Town Attorney Baroni said that the Kellard Sessions, the Town's engineering consultant, could not directly bill the applicant because they work for the Town, not the applicant.

Mr. Fareri suggested that the charges from the engineer for inspection of non-residential and multi-family projects be a percentage of the building permit fee, as is done for residential projects, and therefore no billing would be needed. He said the building permit fee could be increased as needed with the review of the 2015 Master Fee Schedule. Ms. Goldberg agreed that this could be considered as part of the review of the Master Fee Schedule, but said the mechanism to use escrow accounts is already in place and she would like to start the procedure now to increase efficiencies at this time.

Mr. Baroni recommended that Kellard Sessions be asked if their level of inspection is the same for commercial projects as for residential projects. Other questions were raised regarding engineering fees.

Supervisor Schiliro recommended that the public hearing be adjourned pending further research.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded Councilman DiGiacinto, that the Public Hearing be adjourned at 9:38 p.m.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None.

Anne Curran, Town Clerk

Dated: July 3, 2104