

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
September 23, 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 at 7:30 p.m. The regular meeting reconvened at 7:40 p.m.

Supervisor:	Michael 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 Hearing which commenced at 8:00 p.m. follow at the end of these minutes.

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, approval of the minutes of the September 10, 2014 meeting.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman DiGiacinto, receipt of opinion letter from Town Attorney Baroni regarding the Ward System, stating that two of the three propositions were deemed valid and in accord with requirements of NYS Town Law Section 81. The third proposition which was deemed invalid is as follows:

To limit the total amount of annual compensation to be paid to the six Town Councilmen to the total amount of annual compensation paid to the Town's four Councilmen in fiscal year 2014.

Town Attorney Baroni's opinion letter stated that the above proposition, "is invalid on its face and should not be submitted to the Board of Elections nor to the electorate. It is well established that a municipality may not submit a proposition to referendum unless expressly authorized or required by state statute. Town Law Section 81 lists those specific questions which may upon town board motion, and shall, upon petition, be submitted to referendum. The imposition of a limit on the total amount of annual compensation paid to the Town's four councilmen in fiscal year 2014 is not one of the specifically listed questions provided in Town Law Section 81."

Vote: Unanimous

Following discussion about the appropriate language to be submitted to Westchester County Board of Elections, and pursuant to the opinion of Town Attorney Baroni, Councilman DiGiacinto moved, seconded by Councilman D'Angelo authorization for Town Clerk Curran to submit two propositions and accompanying abstracts to Westchester County Board of Elections for the November 4, 2014 Ballot:

Proposition 1:

To establish a ward system for the election of Councilmen in the Town of North Castle.

Proposition 2:

To increase the number of Councilmen from four to six in the Town of North Castle.

Vote: Unanimous

Anthony Veneziano, the attorney representing applicant Frank Madonna, presented a revised conceptual plan related to a Petition to rezone the 805-809 Route 128 for a proposed development named Wampus Mills.

Features of the revised plan include:

- Rezone the property from R-2A to R-MF- SCH (Senior Citizen Housing, age 55 and over).
- Develop 9 duplex buildings, each approximately 3,000 square feet.
- Bring sewer to the balance of Old Mt. Kisco Road and these units.
- Afford quality senior housing in a residential area that will not hurt the surrounding residential homes or housing market and will minimize the impact of school age children.

Mr. Veneziano requested that the Town Board refer the application to the Planning Board so that in depth discussion on environmental and traffic issues may be vetted.

Surrounding neighbors raised concerns to the Town Board, including the negative impact on property values from such a dense development, increased traffic, visual impacts for nearby properties; and several residents complained about the lack of information presented to surrounding property owners prior to this meeting.

Supervisor Schiliro said that the applicant has been entertaining several plans for senior housing on this property and he wanted the Town Board and the public to hear about the application and have an opportunity to participate in the discussion.

Town Board members cited their concerns about density, neighborhood character, traffic and the reaction from surrounding neighbors. Supervisor Schiliro thanked neighbors and the applicant, Frank Madonna, and said that at this time the Town Board would not refer the petition to the Planning Board. He also suggested that Mr. Madonna meet with Planning Director Kaufman to revisit options if he wishes to come back to the Board with an alternative concept in the future.

Councilman Reiter moved, seconded by Councilman D'Angelo, adoption of the following Public Comment Policy for Town Board meetings.

- Speakers should sign up by printing name, street name or hamlet.
- Speakers will be recognized in the order in which they signed up.
- Speakers should state name and street name or hamlet when called to speak.
- Speakers should address comments to Supervisor and Town Board.
- Speakers should limit comments to 5 minutes in an effort to conduct an orderly meeting and allow everyone a chance to speak.
- All speakers are expected to comment with respect and civility.
- Personal attacks on Town Employees and Town Consultants will not be permitted.
- The Supervisor reserves the right to stop a speaker's comments if they are not in accordance with this approved public comment policy.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, to establish an Ethics Task Force, comprised of up to eight members, to study the Code of Ethics and to provide recommendations to the Town Board.

Vote: Unanimous

Pursuant to a letter from Kellard Session, Councilman DiGiacinto moved, seconded by Councilman Reiter, approval of recommendation for CVS to provide a Construction Performance Bond in the amount of \$200,675 regarding the utility pole relocation for work at 450 Main Street, Section 2, Block 13, Lot 7A & 10A.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Berra, approval of Change Order No. 1 to Bilotta Construction Corporation, for Water District No. 2 Water System Replacement Project, and authorization for the Supervisor to sign the document, which represents a credit to the Town.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, approval of Alcohol Permit Application from Hudson Stage Company for use at the North Castle Library, Armonk, on October 11 and October 25, 2014.

Vote: Unanimous

The award of architectural services for rebuilding of the Gazebo in Wampus Brook Park, Armonk, was tabled.

Councilman Berra moved, seconded by Councilman DiGiacinto, receipt of a donation in the amount of \$50 to the Beautification Committee, North White Plains, from Current Solutions Professional.

Vote: Unanimous

Pursuant to a letter from Superintendent of Recreation & Parks, Matt Trainor, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, receipt of two donations to the Recreation and Parks Dept.:

- \$500 from Sam Morell, Small Town Theatre, Company
- \$850 from the Byram Hills Preschool Association for preschool scholarships

Vote: Unanimous

Pursuant to a letter from resident Mario Ruggiero requesting Ethics Committee review of Town Clerk Curran's actions surrounding the funeral of Former Councilwoman Becky Kittredge and communications about the former Town Board's decisions regarding airing of the funeral on NCTV, Town Attorney Baroni said that this is a judgment call about the efficacy of the allegations and that the Board is under no obligation to refer every letter requesting review to the Board of Ethics. Supervisor Schiliro said that he counted 16 or more falsehoods and inaccuracies in Mr. Ruggiero's letter and that it was indecent at best. Other Town Board members remarked about inaccuracies in the allegations and the Supervisor concluded by saying that it is a simple decision for him not to refer this to the Ethics Board because he was not going to waste their time on it.

Councilman Reiter moved, seconded by Councilman DiGiacinto, not to refer this request to the Board of Ethics.

The roll call vote was as follows:

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

Noes: None

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, approval for the removal of an additional (third) 1,500 gallon underground storage tank which was discovered during ongoing tank removal and cleanup activities at 533-535 Main Street, Armonk, at a cost of \$6,267.50, plus per gallon disposal fees.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, approval of request from Planning Director Kaufman to attend the 2015 New York Planning Federation Conference in Lake George, from April 12 – April 14, 2015, contingent upon approval of the 2015 budget.

Vote: Unanimous

Councilman Reiter moved, seconded by Councilman D'Angelo, the probationary appointment of Elizabeth Thomas to Senior Recreation Leader-Senior Citizens, effective September 21, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, ratification of the appointment of Kevin Keneally, part-time Assessment Aide, up to 16.5 hours per week, effective September 15, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, authorization for the Supervisor to sign a Separation Agreement with Sal DiVitto, Highway Dept.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman DiGiacinto, the appointment of Elizabeth Lombardi to Communications Committee, to serve at the pleasure of the Board.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, ratification of a salary increase for Gabrielle Madera, Library Page, effective September 1, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, ratification of the following part-time availability appointments, effective September 11, 2014:

- Annamarie Conte, Library Page
- Cynthia Genovese, Library Page
- Eric Madsen, Librarian

Vote: Unanimous

The Town Board audited and approved payments totaling \$414,485.12 as indicated on Warrant #17.

After all persons were heard who desired to be heard, the Supervisor closed the regular meeting at 10:40 p.m. in memory of resident, Carmela Cambareri, and former resident, Gale Ross.

Anne Curran, Town Clerk

Dated: October 5, 2014

PUBLIC HEARING
September 23, 2014

At 8:00 p.m. Supervisor Schiliro reconvened the Public Hearing which was adjourned on September 10, 2014 for the purpose of considering a local law to amend the Code of the Town of North Castle by adding Chapter 161 entitled Property Maintenance to provide a method whereby vacant lots, improved properties and public lands within the Town are kept clean, properly maintained and kept free from vermin, nuisances, hazards, debris and litter.

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

The following correspondence was received since September 10, 2014.

Revised draft Local Law

Two emails received from Sandra McMahon were marked Exhibit "E" for the record.

Supervisor Schiliro said the local law being considered would enable the Town to address properties, sometimes referred to as 'zombie properties', which are in disrepair or in foreclosure by working with the owner of the property. If the owner will not maintain the property, the Town would be able to make the repairs and place a lien against the property to recoup the costs.

Referring to Section 161-7 of the revised draft of the law, John Diaconis, Orchard Drive, asked why a hearing would be held by the Town Board following a violation, and why the matter would not be referred to the Town Court for prosecution by the Town prosecutor. Town Attorney Roland Baroni explained that this procedure would follow a notice of violation to the property owner and subsequent failure of the owner to comply with the order of the Board. The Town would then perform the work needed and levy a charge on the property taxes to recoup Town funds expended. Mr. Baroni said the Court would not be involved in this part of the process, but would be involved in the penalty process as detailed in Section 161-6. He clarified that the matter would not be referred to the Court on the basis of a violation, but would be referred to the Court on the basis of a summons. It was agreed that the law would be revised to clarify that the penalty phase would be heard by the Town Court.

Ann Danzig said she agreed with the proposed law in terms of health and safety, such as large holes on the property and broken doors and windows. Ms. Danzig said she strongly disagreed with parts of the law which address a subjective view of how an individual property looks which is personal taste in terms of landscaping maintenance, such as tall flowers and decorative grasses, as well as old vehicles. Ms. Danzig said she believes the Town Board is overstepping its bounds when they go beyond consideration of health and safety issues.

Councilman Berra said he thought that the “zombie properties” could be easily addressed, but other parts of the proposed law require more revision.

Neal Baumann, Armonk, said that if a house is allowed to be dilapidated, it will affect the value and sale of other properties in the neighborhood.

Councilman D’Angelo recommended that the five day remedy period should be increased, perhaps to 30 days, to address situations when owners may be on vacation. He asked if Section 161-4, Landscaping maintenance, could be revised to be more objective in terms of what is permitted. Mr. D’Angelo said the purpose of the law is to address the problems at houses which are not being taken care of and are negatively impacting neighboring properties. With regard to emails received regarding tarps as fences, he asked how the law could be revised to address this.

Councilman DiGiacinto said there is an issue with a resident who is using blue tarps as fencing which is unsightly, but not currently prohibited in Town Code. When Ms. DiGiacinto asked if there should be a Building Department procedure to take photos to support violations, Mr. Baroni said he thought this has already been instituted. She said she has received complaints from residents about commercial and residential properties with broken windows and doors being covered with cardboard, plywood, plastic and newspapers, adding that there is nothing in the Code to prevent this. Ms. DiGiacinto expressed concern about building permits issued and then expiring before buildings are completed adding that some of those sites look abandoned. She said there is nothing in the Code to prohibit this. In other cases, building permits are issued and then the work stops for months. Mr. Baroni said it seems that permits are being renewed when the builder is not indicating that he is coming back to the site in the near future. He said this is a procedure to be addressed with the Building Department, rather than addressed in this law. Ms. DiGiacinto said there is an issue with broken gates, which are therefore useless, surrounding dumpsters and she said a change is needed in the Code to require that all trash be placed in dumpsters and not permitted on the ground.

In response to a query from Ann Danzig on how the Town would address a blue tarp being used to cover a wood pile if it deemed to be unsightly, Councilman DiGiacinto said the issue should be specific to tarps being used as fences.

Ed Woodyard asked where the limit of responsibility would be drawn, because if there are overgrown areas in Town which are State property, he asked if the Town would have to address this with State.

Supervisor Schiliro said although the fee structure has been reduced in the revised draft law, he is concerned with the subjectivity of the phrase “up to” as two owners with the same violation can be fined different amounts. Mr. Schiliro said there are many municipalities which have implemented

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property maintenance legislation without too much hardship on residents. He said the Town Board will continue to work on the proposed legislation.

After all persons were heard who desired to be heard, Councilman DiGiacinto moved, seconded by Councilman Reiter, that the Public Hearing be adjourned at 8:20 p.m.

The roll call was as follows:

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

Noes: None

Anne Curran, Town Clerk

Dated: October 7, 2014