

PUBLIC HEARING

December 11, 2019

At 8:33 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 December 11, 2019, at 7:30 p.m., or as soon thereafter as practical, at Town Hall, 15 Bedford Road, Armonk, NY to consider a Local Law to amend Town Code, Chapter 27, Code of Ethics regarding eliminating Section 27-6.E. concerning disclosure forms.

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  
Alison Simon, Town Clerk

Dated: November 30, 2019  
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 Town Clerk noted there was a proposed Local Law for consideration.

Supervisor Schiliro noted that the topic of the disclosure forms has been discussed at several meetings including a Town Board Work Session (on November 20, 2019) with the Board of Ethics, and a Board of Ethics meeting (on December 2, 2019) which he and Councilman Berra were invited to attend. The Supervisor explained that rather than eliminating the language in Section 27.6.E. of the Code of Ethics which currently states: Municipal officers and employees, other than seasonal employees, shall complete a Town of North Castle disclosure form upon election or appointment and thereafter on an annual basis; the Town Board will consider revising this section of the Code with the following language: Elected officials shall complete a Town of North Castle disclosure form upon election or appointment and thereafter on an annual basis.

David Simonds, Chairman of the Board of Ethics, provided background information regarding the adoption of a new Code of Ethics by the Town Board in June, 2016. Mr. Simonds said that the Ethics Task Force members appointed by the Town Board in February 2015 drafted a proposed Code of Ethics using the State's model code of ethics. Following a public hearing held over several Town Board meetings, the Town Board adopted the new Code of Ethics. Members of a new Board of Ethics were appointed by the Town Board in October 2016.

Mr. Simonds noted that the current Code of Ethics has an annual obligation for Town officers and employees, as defined in the Code to encompass volunteer members of Boards and Committees, and Town employees, to complete an Annual Disclosure Statement form. He noted that it has become clear that this obligation has added an administrative burden, especially for the Town Clerk's Office, and for the Board of Ethics, to implement and secure the disclosure form obligation. Recognizing that it is an administrative burden, the consensus view of the Board of Ethics is that this obligation should not apply as broadly as it currently does, and that in addition to elected officials, it should apply to members of Boards with true decision making authority, specifically the Zoning Board of Appeals, the Planning Board, and the Board of Ethics, and to all Department Heads. In response to a request from Councilman Berra, Mr. Simonds read aloud the three questions included on the Annual Disclosure Statement form.

Ed Lobermann, member of the Board of Ethics, said that he has not been a supporter of the section of the Code of Ethics regarding disclosure forms. Mr. Lobermann said that he did not

think that the end result justifies the additional work that this form entails. He expressed support for elected officials to complete a disclosure form, adding he did not see any compelling reason or benefit that would be gained by other employees, including supervisory and management employees, completing the form.

Brett Summers, Secretary of the Board of Ethics, read aloud the written comments of Board of Ethics member Susan Shimer. Ms. Shimer's comments expressed her support for a mandatory disclosure by all officers and employees, and said that the Town Board should, at a minimum, require an annual disclosure by those who make decisions in the Town, decisions that she noted are commonly only subject to review by court proceedings, including members of the Town Board, Planning Board, Zoning Board of Appeals, and Department Heads.

Mr. Summers read aloud his written comments which expressed his support for the completion of the annual disclosure form by elected officials, employees, and volunteers, with the exception of union employees, and said the disclosure form should not be restricted to elected officials.

Councilman D'Angelo commented that he was not in agreement with the Mr. Summers's comments. Mr. D'Angelo said that in the three and half years (*since the new Code of Ethics was adopted*) there has not been one issue regarding ethics that has had to come before the Board of Ethics.

Supervisor Schiliro commented on the challenges of having different employees fulfill different requirements. The Supervisor noted that members of other Boards, including the Zoning Board of Appeals, Planning Board, and Board of Ethics are appointed, not elected officials. The Supervisor said that everyone will receive an annual reminder regarding adherence to the Code of Ethics.

Councilman DiGiacinto and Councilman Reiter said they agreed with the points raised by Supervisor Schiliro and Councilman D'Angelo. Ms. DiGiacinto said that she viewed the disclosure forms as a burden on the Town Clerk and her staff; adding that as a municipality with a population of less than 50,000, the Town is not required to have employees complete disclosure statements. She expressed support of holding elected officials to the annual disclosure obligation.

Councilman Berra said he was in support of Board and Committee members signing a disclosure statement when they are reappointed, and of Department Heads signing it on an annual basis, and due to timing with a new year about to begin, this issue could be revisited at a future time.

Residents Ann Dantzig said that all employees should be required to complete the disclosure form on an annual basis. Tony Futia said that certain individuals, based on their positions, should be required to complete the form on an annual basis.

Supervisor Schiliro clarified that everyone who volunteers or works for the Town receives the Code of Ethics and signs that they have received it; and they are expected to adhere to it. When there is an amendment to the Code, it is distributed to all Board and Committee volunteers, and to Town employees, who must acknowledge receipt in writing.

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 10:06 p.m.

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 DiGiacinto, the adoption of Local Law 8 of 2019, as amended, amending Section 27-6.E. as follows: Elected officials shall complete a Town of North Castle disclosure form upon election or appointment and thereafter on an annual basis. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

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

Noes: None

Town Board Minutes  
December 11, 2019

*Note: Local Law 8 of 2019 was adopted by the Town Board on December 11, 2019. The Local Law was filed with the Secretary of State as Local Law 1 of 2020.*

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Alison Simon, Town Clerk

Dated: December 31, 2019

**TOWN OF NORTH CASTLE**

**LOCAL LAW NO. 8 OF 2019**  
**Adopted December 11, 2019**

A LOCAL LAW to amend Chapter 27, Section 6 of the Code of the Town of North Castle, concerning disclosure forms.

BE IT ENACTED by the Town Board of the Town of North Castle as follows:

**Section 1.** Section 27-6 of the Code of the Town of North Castle entitled “Disclosure of interest in legislation and other matters” is hereby amended as follows:

**§ 27-6 Disclosure of interest in legislation and other matters.**

- A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall immediately disclose in writing, including by electronic means, the nature of the interest.
- B. No municipal officer shall, without prior disclosure, vote on any matter which materially and directly benefits a political supporter who, in the election just prior to when that matter came before the board, contributed more than \$500 to that board member's election campaign or gave that board member a contribution of goods or goods and services valued at more than \$500.
- C. The disclosure, including the nature of the interest, shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- D. The disclosure shall be filed as follows:
  - (1) In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board.
  - (2) In the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and shall be included in the minutes of the meeting.
  - (3) In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer or employee or the board having the power to appoint to the person's position.
- E. Elected officials shall complete a Town of North Castle disclosure form upon election or appointment and thereafter on an annual basis.

**Section 2.** Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 27, Section 6 of the Code of the Town of North Castle are otherwise to remain in full force and effect and are otherwise ratified, readopted and confirmed.

**Section 3.** Numbering for Codification

It is the intention of the Town of North Castle and it is hereby enacted that the provisions of

this Local Law shall be included in the Code of the Town of North Castle; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

**Section 4. Severability**

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

**Section 5. Effective Date**

This local law shall take effect immediately upon filing with the Office of the Secretary of State.