

PUBLIC HEARING

July 22, 2015

At 8:10 p.m. Supervisor Schiliro stated that a Public Hearing would be held in accordance with the Order that follows:

At a meeting of the Town Board of the Town of North Castle at the Hergenhan Center, Maple Avenue, Armonk, New York in the Town of North Castle, Westchester County, New York, on the 24<sup>th</sup> day of June, 2015, at 7:30 p.m.

P R E S E N T :

Hon. Michael J. Schiliro  
Stephen D'Angelo  
Barbara DiGiacinto  
Barry Reiter  
Guy Mezzancello

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In the Matter of the Application of  
VARIOUS PROPERTY OWNERS

of Taxable Real Property in an Unincorporated Portion  
of the Town of North Castle, Westchester County,  
New York to Establish, Pursuant to Article 12 of the  
Town Law, a Park District to be known as the Long Pond  
Park District in the Town of North Castle

**ORDER CALLING FOR  
PUBLIC HEARING**

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WHEREAS, an amended petition and map, plan and report have been prepared and received by the Town Board of the Town of North Castle in such manner and in such detail as has heretofore been determined by the Town Board relating to the establishment of a park district in the Windmill Farm area of the said Town, and

WHEREAS, said petition and map, plan and report, as amended and revised, have been duly filed in the office of the Town Clerk of said Town, said amended petition having been reviewed for sufficiency and accuracy by the Town Tax Assessor in and for said Town, and

WHEREAS, said map, plan and report, as amended and revised, have been prepared by an engineer duly licensed by the State of New York, showing the boundaries of the proposed park district and a general plan of the park district improvements, including its financial impact on petitioner's real property within the proposed district, and

WHEREAS, the boundaries of the proposed district to be known as "Long Pond Park District" are as follows:

**SEE EXHIBIT "A"**

WHEREAS, the improvements proposed are as set forth in the petition, and

WHEREAS, the cost of the improvements, including professional fees, will be paid for by the district, and

WHEREAS, the maximum amount proposed to be expended for said improvements is Three Hundred and Thirty Five Thousand (\$335,000.00) Dollars, all as set forth in **Exhibit "B"** attached hereto, and

WHEREAS, the cost of the district to the typical residential property is Nine Hundred (\$900.00) Dollars per year, and

WHEREAS, said map, plan and report describing said improvements are on file in the Town Clerk's office for public inspection during normal business hours.

NOW, on motion of Councilman D'Angelo, seconded by Councilman Reiter, it is hereby

ORDERED, that the Town Board of the Town of North Castle shall meet and hold a public hearing at the Town Hall, 15 Bedford Road in said Town on the 22<sup>nd</sup> day of July, 2015, at 7:30 p.m. in that day to consider said petition, map, plan and report and to hear all persons interested in the subject thereof concerning the same and to take such action thereon as is required or authorized by law.

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The adoption of the foregoing order was duly put to vote, and on a roll call the vote was as follows:

Hon. Michael J. Schiliro	voting <u>Aye</u>
Stephen D'Angelo	voting <u>Aye</u>
Barbara DiGiacinto	voting <u>Aye</u>
Barry Reiter	voting <u>Aye</u>
Guy Mezzancello	voting <u>Aye</u>

and the order was thereupon declared duly adopted.

Dated: North Castle, New York  
June 24, 2015

I, Anne Curran, Town Clerk of the Town of North Castle, do hereby certify that the above resolution was duly adopted at a regularly scheduled meeting of the Town Board of the Town of North Castle held on June 24, 2015, and that the above resolution is a true and correct transcript thereof.

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Anne Curran, Town Clerk  
Dated: June 24, 2015  
Armonk, New York

**EXHIBIT A: AMENDED - DISTRICT BOUNDARY**

The district boundary is proposed to include those properties surrounding Lond Pond which have a direct beneficial use of the lake. There are eighteen (18) parcels which directly front onto the pond or across the street from the pond. The boundary is depicted on the Long Pond Dam District Map, prepared by Kellard Sessions Consulting, P.C. and dated (last revised) June 11, 2015 (Appendix A). A list of the tax designation, address, present owner and assessed value of each parcel follows:

<u>Tax Lot Designation</u> <u>Value</u>	<u>Owner</u>	<u>Address</u>	<u>Assessed</u>
101.04/3/14	Ahmed Asif	5 Oak Ridge	\$30,000.00
101.04/3/13	Stephen & Amy Berman	7 Oak Ridge	\$22,400.00
101.04/3/9	June B. Greenspan	6 Oak Ridge	\$25,600.00
101.04/3/8	Robert & Susan Klein	14 Pond Lane	\$20,900.00
101.04/3/7	Susan R. Shimer	16 Pond Lane	\$19,400.00
101.04/3/6	Murray & Kay Leffler	18 Pond Lane	\$17,000.00
101.04/3/5	Joseph & April Paresi	20 Pond Lane	\$36,600.00
101.04/3/4	Jeannette & Morton Loring	22 Pond Lane	\$19,800.00
101.02/4/28	Tracey & Andrew Davies	43 Windmill Road	\$32,000.00
102.01/1/52	Peter Weiller	45 Windmill Road	\$24,600.00
102.03/1/1	Paul & Rebecca Eisenberg	47 Windmill Road	\$18,600.00
102.03/1/83	Kenneth & Teresa Gleicher	4 Long Pond Court	\$25,500.00
102.03/1/78	Amy & Joel Dworetzky	43 Long Pond Road	\$19,100.00
102.03/1/76	Arturo & Victoria Maceira	41 Long Pond Road	\$31,200.00
102.03/1/72	Aaron & Jennifer Katz	38 Long Pond Road	\$30,500.00
102.03/1/71	Adam & Stefanie Gershuny	36 Long Pond Road	\$26,200.00
102.03/1/70	Russell & Melissa Katz	34 Long Pond Road	\$23,350.00
102.03/1/69	Jeffrey & Elaine Allen	32 Long Pond Road	\$34,000.00

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<b>Total Assessed Value</b>	<b>\$456,750.00</b>
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**EXHIBIT B: AMENDED - PROJECTED COSTS AND FINANCING**

Project costs consist of capital construction costs, engineering costs and annual operation and maintenance costs. Capital construction costs include improvements required to bring the dam into compliance with present Dam Safety Regulations, which would include Phase I tree removal improvements and projected Phase II improvements.

Engineering costs represent initial costs to assess the dam, preparation of plans and specifications and the preparation of an Inspection and Maintenance Plan and Emergency Action Plan. Operation and maintenance costs include ongoing inspections and assessments, updating programs and plans and annual maintenance of the dam and appurtenances. Estimated costs are outlined as follows:

**Capital Improvement Costs**

**Phase I**

Tree Removal ..... \$100,000.00

**Phase II**

Repair spillway outlet culvert: repair spalling walls..... \$7,500.00

and replace bottom slab

Enlarge and stabilize discharge channel ..... \$8,000.00

Topsoil, seed and stabilize downstream slope ..... \$25,000.00

Fill top of dam: raise crest elevation approximately 1.5 feet..... \$20,000.00

Install rip rap protection upstream slope of dam..... \$30,000.00

Control of seepage, install filter blanket and drain at seep ..... \$8,000.00

Low level discharge: extend drain, repair sluice gate,  
locate intermediate valve and clean pipe ..... \$10,000.00

Capital Improvement Costs..... \$208,500.00

20% Construction Contingency ..... \$41,700.00

**Total Capital Construction Costs ..... \$250,200.00**

**Engineering Costs**

Modification of Previously Prepared Phase I Services ..... \$6,875.00

Hydrologic Analysis ..... \$9,800.00

Dam Stability Analysis..... \$9,800.00

Spillway Capacity Analysis ..... \$3,500.00

Geotechnical Services ..... \$12,350.00

I&M Plan and Emergency Action Plan..... \$3,850.00

Diver Inspection/Confined Space Entry ..... \$6,200.00

Bathymetric Survey/Monitoring Seep ..... \$3,850.00

Design Plans and Specifications ..... \$6,000.00

Engineering Report/Permit Applications ..... \$6,200.00

Construction Administration and Monitoring..... \$5,000.00

**Total Engineering Costs ..... \$73,425.00**

**Capital Costs**

Repair & Improvement Costs ..... \$250,200.00

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Engineering Services..... \$73,425.00

Legal Services ..... \$ 10,000.00

Projected Total Improvement, Engineering & Capital Costs ..... \$333,625.00

Maximum Bond Amount.....\$335,000.00

**Annual Indebtedness**

The annual bonding costs calculated based on a 20 year bond at an annual interest rate of 4% would be approximately \$24,360.00 per year.

The Order Calling for Public Hearing 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:

- NYSDEC Notice of Violation dated April 29, 2015 Re: Long Pond Dam, DEC ID# 2321094:232-0194, Class B (Intermediate Hazzard Dam).
- Updated proposal from GEA Engineering, P.C. dated May 26, 2015 based on NYSDEC requirements in Notice of Violation.
- Supplemental Report to Map, Plan and Report for the Dam Maintenance District from Kellard Sessions as amended June 11, 2015.
- Letter from Town Attorney Baroni to NYSDEC informing of actions taken to bring Long Pond Dam into conformance with dam safety requirements.
- Amended Petition to Establish a Park District, signed by property owners within the proposed District, which was received by the Town Board on June 24, 2015.
- Memo from Assessor Sirota, dated June 24, 2015, with verification that the Amended Petition was signed by property owners representing 68% of the total taxable assessed value of the proposed district.
- Order Calling for Public Hearing on July 22, 2015, adopted by the Town Board on June 24,2015.
- Letter from NYSDEC dated June 26, 2015 requesting formal schedule for completing the engineering assessment and implementing any remedial work for rehabilitation by August 14, 2015.
- Limited proposal from GEA Engineering, P.C. dated July 2, 2015, for services pertaining to NYSDEC requirements as specified in its June 26, 2015 letter.
- Letter from Town Attorney Baroni to Long Pond Dam Owners: Teresa & Kenneth Gleicher – 4 Long Pond Court; Amy & Joel Dworetzky – 43 Long Pond Road; Victoria & Arturo Maceira – 41 Long Pond Road requesting signed permission to permit GEA Engineering to enter their properties to formulate the plan as required by NYSDEC.
- Signatures denoting permission to permit GEA representatives on property from Teresa & Kenneth Gleicher, Amy & Joel Dworetzky; Victoria & Arturo Maceira.
- Letter from Town Clerk Curran to property owners within the proposed Long Pond District, with NYSDEC letter dated June 26, 2015; Limited proposal from GEA Engineering, P.C. dated July 2, 2015, and Order Calling for Public Hearing on July 22, 2015.
- Agreement for Professional Services from GEA Engineering, dated July 14, 2015 to provide services detailed in Limited Proposal dated July 2, 2015.

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Town Attorney Baroni explained the purpose of the Public Hearing is to establish the Park District. The Hearing will be adjourned until August 5<sup>th</sup> with the hope that the GEA Engineering preliminary assessment can be received by that date and presented to the Town Board and the public. In addition, he will prepare the preliminary findings and determination for the Town Board to consider adopting. The Public Hearing would close and the Town Attorney would be directed to respond to NYS DEC by the prescribed August 14, 2015 date with the required information and an update of the steps being taken.

At that time Mr. Baroni would prepare the application to NYS Comptroller including detailed financial information regarding borrowings and the impact to the 18 residential property owners in the District. Approval of the application by State Comptroller should take about three months and there are often questions and additional information requested. Once approval allowing the formation of the District is received, the Town Board would adopt a Final Order and the District would be in place, hopefully by the end of the year.

Jeffrey Allan, 32 Long Pond Road, stated he has a problem with the way the assessment has occurred. He believes he is being assessed significantly higher than other properties and asked for the 18 homes to be reassessed for the purposes of forming this district. He does not have pond access and believes that other properties are not properly assessed because they have not been updated in many years.

Town Attorney Baroni stated that the Town is not permitted to reassess on resale nor can the Town reassess properties by neighborhood or for a special purpose. New York State does not allow a Park District to be formed on a per parcel basis but rather must be on assessed valuation.

Mr. Allan requested that the Town Board consider prioritizing Town wide re-valuation. The Supervisor stated that this is a topic that has been considered and discussed; it is a costly project but it is possible.

Tony Futia, resident of North White Plains, asked to see the Town as owner of the dam on a tax parcel map. He stated his belief that the Town's payment is a gift of public funds which is illegal and he will seek more clarification from the County.

Town Attorney Baroni stated that NYS DEC is claiming that the Town and three residential property owners are all owners of the impoundment structure that extends all along Long Pond Road where the right of way exists and is therefore part of the impoundment structure. To a query from Mr. Futia, he answered that the Town will pay 47% of the cost (with the 18 residential owners paying the balance). The terms of this will be in a contract between the Long Pond Park District and the Town, once the District is formed.

To Mr. Allan's question of how the 18 properties were selected for the Park District, Town Engineer John Kellard stated that the proposed district was based on a list of properties that fronted on the lake and those that are across the street from the lake.

Susan Shimer, Pond Lane, expressed concern about tree cutting that NYS DEC seems to emphasize and asked that the Town work with NYS DEC to minimize the tree cutting. Mrs. Shimer also raised a suggestion to appoint an advisory committee consisting of at least one neighbor in the District and other appropriate individuals. Town Attorney Baroni said that an advisory committee of three might be appropriate and that should be considered after the District is set up. The Supervisor stated that there is time to consider this and it could be helpful.

John Kellard stated that the GEA Engineering will prepare a revised plan for the removal of trees. The extent of tree removal will probably be less on the southwest portion of the dam as NYS DEC has the greatest concern with the bottom third of the downhill slope. The discussion will be ongoing with DEC regarding preliminary tree cutting in the short term and then monitoring trees and management of the dam over time.

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After all persons were heard who desired to be heard, Councilman DiGiacinto moved, seconded by Councilman D'Angelo, that the Public Hearing be adjourned at 8:48 p.m.

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Anne Curran, Town Clerk

Dated: July 31, 2015