

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
March 26, 2008

Supervisor Berman called the meeting to order at 5:00 p.m. and the following persons were present:

Supervisor	Reese Berman
Councilmen	Rebecca A. Kittredge Gerald K. Geist William R. Weaver Michael J. Schiliro
Town Clerk	Ann Leber
Town Counsel	Roland A. Baroni

The meeting was immediately adjourned into Executive Session to discuss a personnel matter and litigation. The Executive Session was closed at 6:35 p.m.

The regular meeting was reconvened at 7:30 p.m.

The minutes of the Public Hearing which commenced at 7:35 p.m. follow at the end of these minutes.

Councilman Geist moved, seconded by Councilman Weaver, approval of the minutes of the Work Session of March 5, 2008, the joint Town Board/Planning Board Work Session of March 10, 2008 and the regular minutes of March 12, 2008.

The roll call vote was as follows:

Ayes: Councilmen Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Abstentions: Councilman Kittredge - from the March 5 Work Session.

Supervisor Berman made the following announcements:

- Bids for the North Castle portion of the Quarry Heights sewer project will be opened on May 7; the County's portion will also be opened on May 7.
- North White Plains resident and North Castle Public Library Trustee Patricia Fontanella has been named president of the Westchester Library System. Town Clerk Leber will send a letter of congratulations.
- The County will hold Household Recycling Days in FDR State Park on May 9 and 10; and at Westchester Community College on June 6 and 7.
- If residents are interested in volunteering to help the County monitor stream sites, they should call Susan Darling at 995-6535.
- Earth Day will be celebrated in North Castle on May 10. Also on that day are the Green Acres Garden Club Plant Sale and the Armonk Hamlet Sidewalk Sale. The County's Mobile Outreach Van will be stationed at Town Hall to issue or renew passports and dispense information.
- In addition, May 10 and 11 is Town-wide Clean Up Weekend. Collection bags for recyclables and trash will be available weekdays, beginning April 14, at the Highway Department, and on May 10 at the Community Center in North White Plains, the lobby of Town Hall, and the Banksville Fire House.

Supervisor Berman presented a plaque to Art Adelman in honor of his eight years on the Planning Board and in appreciation of his volunteer activities in the community. Mr. Adelman said it was a pleasure to serve the Town and that he looks forward to continued good development in North Castle.

With respect to a petition from Joron Associates, LLC, owner of property at 135 Bedford Road, Armonk, requesting a zone text amendment to permit animal hospitals in the Central Business

(CB) zone, Councilman Geist said he prefers that this use be allowed only in more industrial zones; Councilman Weaver asked that the Planning Board consider not restricting the use to the CB zone, that it may be appropriate in other zones as well. Supervisor Berman mentioned that the Town Board and the Planning Board had held a Work Session on March 10 to discuss the proposed amendment. Councilman Kittredge moved, seconded by Councilman Weaver, that the petition be referred to the Planning Board for its study and report; that the Town Board declare its intent to act as lead agency for environmental review under SEQRA; and that authorization be granted for circulation of a notice of intent to act as lead agency.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Weaver, Schiliro, Supervisor Berman.

Noes: Councilman Geist.

Councilman Geist moved, seconded by Councilman Kittredge, that an EAF and draft legislation to implement recommendations of the Approvals Review Task Force to streamline referrals to Town boards be received and forwarded to the Planning Board for its study and report; that the Town Board declare its intent to act as lead agency for environmental review under SEQRA; and that authorization be granted for circulation of a notice of intent to act as lead agency.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

With respect to a request from Fordham University's Louis Calder Biological Field Station for a zoning text amendment to amend Town Code, Section 213.33B, to permit student residential housing, Councilman Kittredge moved, seconded by Councilman Weaver, that a public hearing be scheduled for May 14, 2008. At its February 13, 2008 meeting, the Town Board had requested that the Planning Board act as lead agency.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that a letter from Director of Planning Adam Kaufman on behalf of the Planning Board regarding carry-out restaurant legislation be tabled.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro.

Noes: Supervisor Berman.

A petition for an extension of Sewer District No. 2 to include the Madonna Subdivision on Old Mount Kisco Road and letters from Director of Planning Kaufman on behalf of the Planning Board and from Supt. Anthony Futia were received on the duly adopted motion of Councilman Kittredge. Mr. Kaufman and Mr. Futia's letters expressed their concerns about the impact of the proposed extension on the capacity of the treatment plant and pump stations. Joe Cermele, Site Design Consultants, representing Frank Madonna, described the proposed expansion. Town Attorney Baroni said it is important to discover if the Madonna property was included in Kellard's latest calculations. Councilman Kittredge moved, seconded by Councilman Weaver, that the petition be tabled and that Mr. Cermele arrange to meet with Consulting Engineer John Kellard and representatives from Stearns & Wheler, PC, in an effort to determine if the Madonna properties were included in the final design for the sewer treatment plant.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Lt. Peter Simonsen appeared before the Board to discuss Chief D'Angelo's recommendation regarding Greenburgh Supervisor Paul Feiner's request for support of legislation to permit speed cameras in Westchester County. The Chief suggested supporting the legislation but not for smaller municipalities due to the costs of personnel and enforcement. Councilman Geist questioned whether the legislation authorizing speed cameras exists as Supervisor Feiner did not

specify. He said he would want to review the proposed law before supporting it, but that it is better to focus on issues that directly impact our Town. Town Clerk Leber will contact Mr. Feiner regarding the legislation.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of an application from Michael Fareri for a zone text amendment to allow conversion to professional office use of any additions to the main building within the RO Zoning District; and further moved receipt of a copy of a letter from the Landmarks Preservation Committee to Director of Planning Kaufman conveying the LPC's support of the proposed amendment. Discussion ensued, and it was the unanimous feeling of the Board that the width of driveways in the Historic District should be minimized to reduce their impact in the zoning district. Supervisor Berman expressed her support of the amendment, saying that it is necessary to maintain the economic viability of this district. Councilman Kittredge moved, seconded by Councilman Geist, that the application be referred to the Planning Board for its study and report. Town Attorney Baroni advised the Board that it cannot declare its intent to act as lead agency until an EAF is submitted by the applicant.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that a special use permit application from Robert A. Dean for outdoor display, sales and service for Naturescapes, 2A MacDonald Avenue, Armonk, be received and referred to the Planning Board for study and report; and further moved that a public hearing be scheduled for April 9, 2008. Town Clerk Leber will notify Westchester County.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Diane Roth, co-chair of the Armonk Hamlet Task Force and the North Castle Beautification Foundation; Diane Chickering, Suburban Carting; Toni Ann Rufeh, Beautification Foundation; and artist Michael Albert made a presentation to the Board regarding the recent increase in commercial recycling in the hamlet. They requested that the Town purchase tri-part recycling bins for paper, commingled cans and bottles, and waste. Michael Albert presented his collage created from recycled materials and donated it to the Town for display at the schools, Library and Town Hall. Supervisor Berman said she hoped that funds from the Foundation will cover the cost of the units. At this point, Michael Fareri, who was present at the meeting, offered to purchase and install six of the tri-part bins and donate them to the Town. The members of the Town Board thanked Mr. Fareri for his generous contribution.

With respect to estimates obtained by General Foreman Craig Useted to repair the fence on Nethermont Avenue, the Town Board tabled the matter on the duly adopted motion of Councilman Kittredge. She and Building Inspector Richard Fon will visit the site and report back. Town Clerk Leber will ask Mr. Useted to get a price from another vendor for both galvanized and plastic-coated fencing.

Councilman Kittredge moved, seconded by Councilman Geist, permission for the Green Acres Garden Club to place signs under the eagle to publicize its Plant Sale on May 10 and to recognize the Town of North Castle and Mariani Gardens, the Garden Club's co-contributors in the landscaping project to beautify the eagle site.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, permission for the Valhalla Ambulance Corps, Inc., to place a sign on the median in North White Plains to publicize its Health Fair on May 18. The Board asked Town Clerk Leber to determine where the Fair will be located.

The roll call vote was as follows:

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Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

A request from Town Clerk Leber to charge non-residents for notarizations was tabled upon the advice of counsel pending further research.

Councilman Geist moved, seconded by Councilman Kittredge, that a summons from Seven Springs, LLC, against the Town of North Castle be received and forwarded to the Town Attorney.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, receipt of a mortgage tax update from Finance Director Dawn Donovan.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Pursuant to a memo from Supt. Bruce Barnard, Councilman Geist moved, seconded by Councilman Kittredge, permission to transfer \$8,000 from the Recreation Subdivision Fee account to A 7140.432 for improvements to the field house at North Castle Community Park.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

The Board received an e-mail from East Middle Patent School graduate and resident Tony Godino requesting permission to move a stone from the former school property to three quarters of a mile north and relocate another stone on the school property. The latter stone is shaped like a book and would memorialize the school and its longtime teacher Geraldine Lanfair. Mr. Godino was present and explained that the Landmarks Preservation Committee had landmarked the property last year and requested that a marker be placed at the site. The schoolyard property belongs to the Town of Bedford, which has no objection to the stone's being placed on North Castle property. He added that the Highway Department is reluctant to place the stone on the Town right-of-way. Supervisor Berman confirmed that the stone would be in the Town right-of-way, but noted that other stones are located there already. Councilman Geist moved, seconded by Councilman Weaver, authorization for the Highway Department to assist Mr. Godino in moving the stones and placing the book-shaped one in such a way as to minimize its intrusion on the Town right-of-way.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Pursuant to a memo from the North Castle Housing Board and draft legislation prepared by Director of Planning Kaufman to provide additional regulation regarding fixed improvements within Town-regulated Middle Income Units, Councilman Schiliro moved, seconded by Councilman Geist, that the draft legislation be referred to the Planning Board for its study and report, that the Town Board declare its intent to act as lead agency for environmental review under SEQRA; and that authorization be granted for circulation of a notice of intent to act as lead agency.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor be authorized to make the budget transfers that follow at the end of these minutes.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a Workers Compensation Report on Ken Gaska, Highway Department.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that the Supervisor be authorized to sign the letter of agreement with Antares Cider Mill, LLC, for the release of its cash bond in the amount of \$366,954 in exchange for a Letter of Credit in the same amount.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that the Supervisor be authorized to sign an application to NYSDEC for Approval of Plans for Wastewater Disposal System and to NYS Department of Health for Approval of Plans for Public Water Supply Improvement.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, that the Supervisor be authorized to sign the agreement with Artmonk Studios, Inc. to provide fine art programs and instruction for 2008 in the Community Park field house.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, that the Supervisor be authorized to sign the proposal from Kellard Sessions Consulting, P.C., in connection with the proposed highway garage project in the amount of \$36,100 for Phase I – Preliminary Phase (Pre-Bond Determination) and \$57,700 for Phase II – Final Design Phase; and further moved receipt of the the Full Environmental Assessment Form, Parts 1 and 2, and that the Town Board declare its intent to act as lead agency for environmental review under SEQRA; and that authorization be granted for circulation of a notice of intent to act as lead agency.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, permission for General Foreman Useted to attend Highway School in Ithaca, NY, on June 1-3.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Supt. Futia informed the Board that rodent control in the vicinity of the Water Department building on Lafayette Avenue needs to be improved.

Michael Fareri requested that he be on the April 23 Town Board agenda to discuss the results of his research regarding mitigation of future town tax increases.

The Town Board audited and approved payments totaling \$933, 757.52 as indicated on Warrant #6.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 9:40 p.m. in memory of Highway Department employee Joseph Massaro's father; Michael and Kathy Clarner's daughter and Kay and Bob Anderson's granddaughter, Ava; and longtime resident Lucy Rodgers.

Ann Leber, Town Clerk

Dated: March 27, 2008

PUBLIC HEARING

March 26, 2008

At 7:35 p.m. Supervisor Berman 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 March 26, 2008, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering the adoption of a Local Law to amend Town Code of the Town of North Castle, Chapter 183, entitled "Taxation" to provide Cold War Veterans with a real property tax exemption.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: March 13, 2008
Armonk, New York

The Public Notice read by the Town Clerk 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.

Memos from Assessor Marrone dated November 19, 2007, February 5, 2008 and March 12, 2008 were marked Exhibit "D" for the record.

Supervisor Berman explained that the proposed tax exemption would be granted for a ten year period to Cold War veterans who served on active duty during the time period of September 2, 1945 to December 26, 1991. The exemption would apply to those Cold War veterans who are not currently receiving another veteran's exemption. Westchester County has adopted Cold War veterans tax exemption legislation.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Geist, that the Public Hearing be closed at 7:37 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, the adoption of Local Law 3 of the year 2008, for the purpose of considering the adoption of a Local Law to amend Town Code

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of the Town of North Castle, Chapter 183, entitled "Taxation" to provide Cold War Veterans with a real property tax exemption. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Ann Leber, Town Clerk

Dated: March 27, 2008

TOWN OF NORTH CASTLE

LOCAL LAW NO. 3 FOR THE YEAR 2008 (Adopted March 26, 2008)

A Local Law amending Chapter 183 of the Code of the Town of North Castle by adding a new Article V to provide Cold War Veterans with a real property tax exemption authorized by Section 458-b of the Real Property Tax Law.

Be It Enacted by the Town Board of the Town of North Castle as follows:

Section 1. Chapter 183 of the Code of the Town of North Castle is hereby amended by adding a new Article V to read as follows:

ARTICLE V EXEMPTIONS PURSUANT TO REAL PROPERTY TAX LAW SECTION 458-b

Section 184-15. Purpose.

The purpose of this Article is to grant Cold War veterans who meet the requirements set forth in Section 458-b of the New York State Real Property Tax Law with a real property tax exemption.

Section 184-16. Definitions.

As used in this Article:

1. **ACold War veteran@** means a person, male or female, who served on active duty in the United States Armed Forces, during the time period from September 2, 1945 to December 26, 1991, was discharged or released therefrom under honorable conditions and satisfies any other requirements set forth in Section 458-b(1)(a) of the New York State Real Property Tax Law.

2. **AArmed Forces@** means the United States army, navy, marine corps, air force, and coast guard.

3. **AActive duty@** means full-time duty in the United States Armed Forces, other than active duty for training.

4. **AService connected@** means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty on active military, naval or air service.

5. AQualified owner@ means a Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

6. AQualified residential real property@ means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran; unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization subject to such time limitations, if any, as are set forth in Section 458-b(1)(f) of the New York State Real Property Tax Law.

7. ALatest state equalization rate@ means the latest final equalization rate established by the New York State Board of Property Tax Services pursuant to Article 12 of the New York State Real Property Tax Law.

8. ALatest class ratio@ means the latest final class ratio established by the New York State Board of Real Property Tax Services pursuant to Title 1 of Article 12 of the New York State Real Property Tax Law for use in a special assessing unit as defined in Section 1801 of the New York State Real Property Tax Law.

Section 184-17. Amount of Exemption; Limitations.

1. Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent (15%) of the assessed value of such property; provided however, that such exemption shall not exceed twelve thousand dollars (\$12,000.) or the product of twelve thousand dollars (\$12,000) multiplied by the latest state equalization rate of the assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less.

2. In addition to the exemption provided by subdivision A1" of this Section where the Cold War veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service related disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by fifty percent of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed forty thousand dollars (\$40,000.) or the product of forty thousand dollars (\$40,000) multiplied by the latest state equalization rate of the assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less.

3. If a Cold War veteran receives either a veterans=exemption under Article 1 of this Chapter, authorized by Section 458 of the Real Property Tax Law, or an alternative veterans=exemption under Article II of this Chapter, authorized by Section 458-a of the Real property Tax Law, the Cold War veteran shall not be eligible to receive an exemption under this Article.

Section 184-18. Duration of Exemption.

The exemption provided by subdivision A1" of Section 473.321 of this Article shall be granted for a period of ten years. The commencement of such ten year period shall be governed pursuant to this section. Where a qualified owner owns qualifying

residential real property on the effective date of this Article, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this Article, or such date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law. Where a qualified owner does not own qualifying residential real property on the effective date of this Article, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least sixty (60) days after the date of purchase of qualifying residential real property; provided, however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status date occurring within sixty (60) days after the date of purchase of residential real property, such ten year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such ten year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this Section for the unexpired portion of the ten year exemption period.

Section 184-19. Application for Exemption.

Application for the exemption set forth in this Article shall be made by the qualified owner, or all of the qualified owners, of the property on a form prescribed by the New York State Board of Real Property Tax Services. The owner or owners shall file the completed form in their local assessor's office on or before the first appropriate taxable status date. The owner or owners of the property shall be required to refile at such times and under such circumstances as may be set forth in Section 458-b(4) of the New York State Real Property Tax Law. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the New York State Penal Law.

Section 2. This Local Law shall take effect upon filing of same with the Secretary of State of the State of New York.