

Town Board Minutes
Town of North Castle
American Legion Hall
35 Bedford Road
Armonk, New York 10504

on
April 22, 2009

At 5:30 p.m. Supervisor Berman called the meeting to order 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, which was then closed at 7:15 p.m.

Supervisor Berman reconvened the regular meeting at 7:30 p.m. at the American Legion.

Councilman Weaver moved, seconded by Councilman Kittredge, approval of the minutes of the April 7, 2009 regular meeting.

The roll call vote was as follows:

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

Noes: None.

The following announcements were made:

- An update received from NYS Department of Transportation Regional Director Joan Dupont regarding paving of NYS Route 22 from Maple Avenue to Route 120 acknowledged the poor condition of the roadway and indicated that, due to concerns with the contractor's safety record, paving work has been delayed.
- An update from Carol DeLisa regarding a farmers' market reported that the market which was not approved in North Castle has found a new home in the Village of Scarsdale.
- Some Cablevision subscribers have experienced sound difficulties when viewing Channel 18. Cablevision is aware of the issue and is working to resolve it. System testing has determined that the lack of sound is not related to equipment at Town Hall.
- There are two new video segments currently airing several times a day on the Government channels. One is Supervisor Berman's report on the 2009 Town Budget and the second addresses the case for hiring a Town Administrator and is based on the work and report of the Administrator Review Task Force. These segments are both about eight minutes in length and are also available on the What's New page of the Town web site.
- Earth Day is officially celebrated today and was first celebrated in 1970.
- April 19-25 is National Volunteer Week.
- Armonk Restaurant Week begins April 26 and runs through May 1.
- Zero Waste Day will take place behind Town Hall on April 25. Town-wide Clean Up Day will also take place on April 25.
- The next meeting of the Town Board will be held on Tuesday, May 5 at 7:30 p.m.
- Armonk Sidewalk Sale and Street Fair will be held on May 9 from 10 a.m. to 4 p.m.
- The Rotary Club, Boy Scouts and North Castle Land Trust are joining together to sponsor *The Great Duck Race* on May 9 to raise money to maintain and build nature trails in North Castle. Call 273-5610 to volunteer and to purchase tickets.
- Westchester County Clerk Tim Idoni's Mobile Office will be in front of North Castle Town Hall in Armonk on Saturday, May 9 from 10 a.m. until 3 p.m. to process passport applications. Call Town Clerk Leber's office at 273-3321 for more information.

- Councilman Kittredge reminded residents that recycling is the law in North Castle. As of April 20, 2009 garbage that contains recyclable materials is not being collected, and repeated violators will be fined.

Supervisor Berman said that the Public Comment period, which is usually the last agenda item, was being moved to immediately follow Old Business to accommodate the large number of residents who wished to address the Board regarding the Planning Board process.

Supervisor Berman introduced Joel Seligman, President and CEO of Northern Westchester Hospital, who gave a presentation which highlighted the status of construction activities, programs and services at the hospital:

- Comprehensive Community Cancer Treatment and Wellness Center is fully operational.
- Information Technology Plan is now operational and includes the Meditech Information System, which is a system integrated with four other Westchester hospitals and includes coordination of care, medication verification and electronic medical records.
- Ken Hamilton Caregivers Center, named in memory of a North Castle resident, opened last year.
- NWHC received designation as a Planetree Patient-Centered Hospital, one of eight in the country.
- NWHC is dedicated to community wellness. Mr. Seligman showed a Stress Less poster created by teens which illustrates one hundred ways to reduce stress.
- NWHC established Vision 2012, a five-year strategic plan, including a state-of-the-art David and Mary Boies Emergency Department, which will be named after the North Castle residents.

Mr. Seligman said that Supervisor Berman has helped identify community leaders that have become involved with the hospital. Supervisor Berman and Councilman Weaver spoke about the quality care each of them received at Northern Westchester Hospital. Councilman Geist commended the Hospital for its service to the community.

Supervisor Berman opened the public comment period.

Frank Benish, Sterling Road North, stated his views that overregulation takes place at the Planning Board level, thus stifling development. He advocated for chain stores in Armonk. Mr. Benish also spoke of his previous recommendations for the Town to retain a new labor attorney and to outsource services provided by the Highway Department.

Supervisor Berman commented that the Board has been interviewing for labor counsel services for some time and will soon make an appointment.

Diane Dyer, Hobby Lane, asked who monitors compliance with the conditions of special permits and whether penalties are imposed if the conditions are violated. Supervisor Berman replied that the Building Department is responsible for monitoring and enforcement. Ms. Dyer commented that she and other adjacent residents were not notified of public hearings regarding the proposed rezoning of properties in the General Business zone in Banksville. The owners of two of these properties recently applied for special use permits. Supervisor Berman said that the proposed rezoning of the GB zone was part of a large number of land use local laws that were considered in 2005-06. She added that owners of property in the GB zone received notice by mail. Ms. Dyer also inquired about Gene Matusow's health benefits. The Supervisor said that Dr. Matusow has made other arrangements for health coverage and is no longer covered by the Town's policy. In response to Ms. Dyer's inquiry regarding the reason some employees take home Town vehicles, Supervisor Berman explained this is done largely for emergency purposes and agreed with Ms. Dyer's suggestion that the policy be reviewed. She added that several department heads had negotiated for their vehicles as part of their compensation package with the former supervisor.

Sara Doto, Hobby Lane, expressed her view that the Town can no longer afford legacy payments and recommended this issue be reexamined.

Dianna Heimann, Wright's Mill Road, said she was grateful to the Town for addressing the need for tree removal to prevent power outages, and she also commended the North Castle Police

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Department. Ms. Heimann expressed her frustration regarding the increases in Town taxes and said she had wanted to start her new business in North Castle but decided to establish it in White Plains.

April Gasperino, Green Valley Road, said she had a pool when she received her final certificate of occupancy for her residence, but now has been informed that she has an open pool permit. Ms. Gasperino also commented about the increase in taxes since her house was built.

Michael Fareri, Round House Road, spoke about the increases in town and school taxes which he claimed are the result of not having significant increases in assessables.

Steve DeLaurentis read a letter written by Lee Ann Davis, Wampus Lake Drive, detailing her experience obtaining approval from the Planning Board. She also said she had submitted her resume to be considered as a candidate for the Planning Board but has not been appointed to date.

Howard Arden, Cole Drive, asked that the Board make known its intentions regarding the hiring of a Town Administrator. Supervisor Berman replied that this matter will be discussed at an upcoming meeting, tentatively scheduled for May 5.

Don Gregg, Mead Road, member of the Administrator Review Task Force, spoke about the advantages of having a Town Administrator who would have oversight of all departments, and the savings the Town could realize. Mr. Gregg urged residents to work in harmony to improve government.

Sue Shimer, Pond Lane, agreed that it is important to work together and recognize the good in the Town. Ms. Shimer said there are empty store fronts wherever you go, not only in North Castle. She said that residents should not just blame the Planning Board, considering the current economy. Armonk Square has been approved by the Planning Board, and the requested zoning change for the historic district, which includes 20 Bedford Road, has been approved by the Town Board.

Dodie Mouldovan read a letter from a resident who expressed concerns regarding the site plan waiver for 559 Main Street which was approved by the Planning Board.

John Cronin, Bedford Road, asked how the Planning Board process might be improved in terms of the length of the approval process and suggested revisiting the Board's charter. Mr. Cronin asked how the Town Board measures the performance of the Planning Board. He also commented that he did not understand why digital building plans are not accepted. Mr. Cronin said that a recent change in procedures actually requires that building plans, which were created digitally for projects over \$15,000 in cost of construction, must be submitted digitally.

In response to Mr. Cronin's inquiries, Supervisor Berman said that, to streamline the approval process, meetings were held with the Architectural Review Board, Conservation Board, Planning Board, Councilman Weaver and herself which resulted in the creation of the Residential Project Review Committee (RPRC). The members of the RPRC are the Building Inspector, Town Engineer, Town Planner, one rotating member of the Architectural Review Board, and one rotating member of the Planning Board. The committee is charged with reviewing residential construction below the basic amount of land coverage and floor area. Director of Planning Kaufman explained that the aim of the RPRC is to reduce the number of applications requiring Planning Board approval. In further response to Mr. Cronin's questions, Mr. Kaufman explained that the mission of the Planning Board is the review of all commercial projects and residential subdivisions to ensure conformance with Town Code and the Comprehensive Plan and completion of an environmental review. Only residential projects of single family homes above basic gross land coverage and gross floor area require special use permit approval from the Planning Board. Mr. Kaufman commented that the County Department of Planning has found that North Castle has model land use ordinances, and that all of the County's recommended land use recommendations are incorporated in existing Town Code.

Councilman Weaver commented that the Board is continuing to look at ways to make the process go more smoothly and is considering increasing the size of projects that will not require Planning Board approval. Councilman Schiliro added that the process should be more

streamlined and made easier. Supervisor Berman said there needs to be a balance between making the process easier for residents and meeting the needs of the community.

Supervisor Berman said the agenda item regarding the Middle Income Units (MIUs) at Whippoorwill Hills would be discussed next.

Town Clerk Leber read aloud an e-mail from Geri Mariani which expressed her disappointment that a meeting was scheduled at an inaccessible location. Supervisor Berman apologized for the oversight and said she would speak with Ms. Mariani to assure her that accessibility would be taken into consideration for future meetings.

Several Whippoorwill Hills MIU owners expressed their concerns regarding the substantial increases to the common charges they are required to pay.

Annemarie Petti, said she thought the high common charges defeated the purpose of MIU housing. Ms. Petti said, with this increase, the common charges would be more than half of her mortgage payment. She added that there is no ceiling to the common charges and said there should be some regulation. Supervisor Berman suggested that having one management company for the market rate units and the MIUs be considered to reduce costs. Marc DiFiore said it was his understanding that the savings would be minimal.

Town Attorney Baroni said that MIUs are not subsidized housing, and the buyers receive a substantial discount in the purchase price and a guaranteed price when they sell. Mr. Baroni said it would not be fair for the market rate unit owners to pay the MIU owners' share of common area maintenance costs. He said that the common charges do not relate to the value of the unit but are based on square footage with the assumption that more people in a unit will result in greater use of common areas.

Councilman Schiliro asked if there were two separate budgets for the two managements companies. Gene Sidoti, president of the Whippoorwill Hills Homeowners Association, said that the MIU owners pay the same amount of common area maintenance charges as the market rate owners, and MIU owners also pay fees to their management company (McGrath Realty) to maintain their grounds, snow plow, etc.

Jack Cozza said that a middle ground was needed to keep the units affordable and for the common charges to be affordable as well.

Jane Ellen Gertz, vice president of the Whippoorwill Hills Homeowners Association, said they have looked through every line item with a representative of the MIU Board to reduce fees, but the association must follow its by-laws.

Elaine Zuewsky said there should be a range of common charges and suggested research be conducted of similar communities to see how they handle common charges.

Anita Cozza, who is not an MIU owner, asked if it were possible for the Town to take over the roads and handle the snow plowing. Mr. Sidoti said that, although the roads conform to Town standards, the Town could not accept them because the units were built too close to the road. Mr. Baroni asked if any thought has been given to limiting the work being done by the management company. He added that MIUs in North Salem have common charges at this cost level. Ms. Gertz suggested that the MIU Board might want to interview Hudson North Management.

Supervisor Berman asked Councilman Schiliro, who previously served on the Housing Board, to chair a small committee comprised of Anita Cozza and a representative of the Whippoorwill Hills Homeowners Association to research common charges.

Councilman Weaver moved, seconded by Councilman Kittredge, receipt of a letter from resident Peter Benzie commending the North Castle Police Department, specifically Officer Svendsen and Sergeant Barnett, for their response and assistance. Town Clerk Leber read the letter aloud.

The roll call vote was as follows:

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

Noes: None.

With regard to a proposed local law to amend Chapter 148 of Town Code, entitled "Peddling and Soliciting," Supervisor Berman thanked the members of the study committee, Councilman Kittredge, Chief D'Angelo, Lts. Fisher and Simonsen, Kristen Holt Cinque of Stephens Baroni Reilly & Lewis, and Town Clerk Leber, for their diligence in revising the existing local law. Town Clerk Leber added that Supervisor Berman was also a member of the study committee. Councilman Geist recommended that language be added to provide an exemption for any candidate running for office, or its representatives, or individuals to include supporting or opposing for referenda or propositions. Councilman Kittredge moved, seconded by Councilman Weaver, that a public hearing on the revised draft local law be scheduled for May 5, 2009.

The roll call vote was as follows:

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

Noes: None.

Pursuant to the recommendation of Superintendent Fon, Councilman Weaver moved, seconded by Councilman Schiliro, approval of the proposal from M & D Plumbing and Heating, the lowest bidder, for backflow prevention testing in the amount of \$750.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, receipt of a letter from Superintendent Futia citing the delays on the part of the North Castle South Fire District No. 1 commissioners in paying hydrant rental fees.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, receipt of the annual Permit to Operate a Public Water Supply from Westchester County Department of Health, valid until April 30, 2010.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a letter from Commissioner Anthony Sutton, Westchester County Department of Emergency Services, regarding the Special Needs Registry (SNR). The Commissioner asks for the Town's help in reaching out to residents who would not be able to leave their homes without help during a disaster, or who rely on special life-sustaining equipment. Residents can register by calling the County at 2-1-1, by accessing their web site www.westchetergov.com/specialneeds, or by calling (914) 864-5450 to request an application from the County Office of Emergency Management.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, approval of the request of General Foreman Useted for the release of \$11,750 of the \$50,000 highway bond to Cablevision for permits 665, 675, 678, 679, 680, 681, 682, 686, 690, 694, 695, 696, 698, 721, 722.

The roll call vote was as follows:

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

Noes: None.

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Councilman Geist moved, seconded by Councilman Schiliro, approval of the request of General Foreman Useted for the issuance of a license to Sani-Pro Disposal Services Corp. to collect and dispose of refuse.

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 letters from Cablevision pertaining to the elimination of additional analog channels and ABC Plus.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, approval of the following requests to place a sign under the eagle :

1. Armonk United Methodist Church to publicize Mother's Day Craft & Gift Bazaar, May 2
2. Armonk Players to publicize its production of *Pirates of Penzance*, May 15 – June 8.
3. Education Foundation to publicize annual event, April 29.
4. North Greenwich Nursery School to publicize Spring Fund Raiser, May 16.
5. BHHS Stage 2009 to publicize production of *Disco Inferno*, May 14 – 15.
6. BHHS Youth Against Cancer Club to publicize Relay for Life on May 8 – 9.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, acceptance of a \$1,600 donation from the Byram Hills Preschool Association for a permanent recycling bin for Town park and recreation facilities.

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 letter from Cablevision regarding the Live Well HD Network launch.

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 mortgage tax update for March 2009 from Comptroller Donovan. Supervisor Berman commented that the amount received, \$16,000 for March, was the lowest to date.

The roll call vote was as follows:

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

Noes: None.

The scheduling of a public hearing for the adoption of a sewer user ordinance for Quarry Heights was tabled.

In connection with the nitrogen removal project, Councilman Geist moved, seconded by Councilman Weaver, authorization for Comptroller Donovan to make Payment No. 1 to BMJ Construction in the amount of \$161,025 and Payment No. 1 to D.J. Heating and Air Conditioning in the amount of \$950.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, receipt of an e-mail from Ed Lobermann commending the Board members who voted against having a farmers market in Town. Town Clerk Leber read the letter aloud.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, approval of the request of Banksville resident Thomas Dunn to film a not-for-profit production for the *48 Hour Film Project* on Saturday, May 2 with the following conditions:

- Filming may not take place after 8:00 p.m.
- The bus stop on Route 128 near School Street will not be used as a location.
- Permission to film on private property will be obtained from the relevant property owners.

The roll call vote was as follows:

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

Noes: None.

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

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a Workers' Compensation Report on Robert Candrea, 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 Weaver, authorization for the Supervisor to sign the Prisoner Transportation Zone Rate Agreement with Westchester County, January 1, 2009 – December 31, 2010.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a letter from George Pouder announcing his resignation from the Road Naming Committee and declining consideration for reappointment to the Landmarks Preservation Committee at the end of his term, May 17, 2009. Sue Shimer commended Mr. Pouder's hard work, including the files he collected and the research he did.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, the appointment of Jerry March to the Library Board of Trustees for a term to expire on December 31, 2013.

The roll call vote was as follows:

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

Noes: None.

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The Town Board audited and approved payments totaling \$2,771,089.74 as indicated on Warrant #7.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:45 p.m. in memory of Frank DiPietro, Richard Rabinowitz, Louise Mantini and Margaret Kalsched.

Ann Leber, Town Clerk

Dated: May 1, 2009

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