

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York 10504

on
January 27, 2010

At 5:30 p.m. Supervisor Weaver called the meeting to order and the following persons were present:

Supervisor	William R. Weaver
Councilmen	Rebecca A. Kittredge Michael J. Schiliro Diane Roth John J. Cronin
Town Clerk	Anne Curran
Town Counsel	Roland A. Baroni

The meeting was immediately adjourned into executive session, which was then closed at 7:25 p.m..

The regular meeting was reconvened at 7:35 p.m.

Supervisor Weaver led the Pledge of Allegiance.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the minutes of the regular meeting of December 16, 2009.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Supervisor Weaver.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the minutes of the meeting of January 4, 2010 during which newly elected and reelected Town officials were sworn into office.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Schiliro moved, seconded by Councilman Roth, approval of the minutes of the organizational meeting and the regular meeting of January 13, 2010.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Kittredge abstained.

Supervisor Weaver presented a proclamation to Gene Matusow, outgoing Planning Board member and former Town Board member in appreciation of his many years of service to the Town. Dr. Matusow thanked the Town Board and the people of North Castle for giving him the opportunity to serve. He said that after thirty years of public service it was time to step aside for new Board members with new ideas. Supervisor Weaver also thanked the rest of the Planning Board for their exceptional efforts and time devoted to our community.

Supervisor Weaver introduced Father Joshua Condon, Rector of St. Stephen's Episcopal Church in Armonk, who has been serving at the Church since last summer and who will be formally installed as Rector on February 4, 2010. Father Condon welcomed all to St. Stephen's.

Town Clerk Curran made the following announcements:

Town Board Minutes
January 27, 2010

- The next tax payment deadline date is receipt of the second half of school taxes on or before January 31, 2010. However, there is a bonus day extension this year to February 1 because January 31 falls on a Sunday.
- The Board of Education for Byram Hills School District will be holding three public discussion meetings for the 2010-2011 school budget on Thursday, January 28th.
- Joan Krantz, President of the North Castle Historical Society, is asking for residents' participation in sharing their favorite recipe for printing in the Society's cookbook. Recipes are due no later than February 26, 2010. Contact one of the Trustees of The Society or mail your recipe to Historic Smith's Tavern, 440 Bedford Road, Armonk.
- There will be a special election on February 9, 2010 for the NYS 89th Assembly District seat which was vacated by Adam Bradley. The candidates are Peter Harckham and Robert Castelli.

Councilman Kittredge announced that Supervisor Weaver was presented with a certificate of appreciation from the Green Acres Garden Club commending the Town for its Main Street holiday decorations.

Councilman Schiliro announced that the North Castle Citizen Corp Council (NC4) has pamphlets available about emergency preparedness kits and plans which can be obtained by contacting NC4 Chair Jane Cahn or the Town Clerk's office. In addition, the American Red Cross is offering a Disaster Reserve Training program on Saturday, February 27, 2010 from 9 a.m. to 5 p.m. to provide Red Cross training for those interested in becoming part of a reserve group to be called on in the event of a disaster. Contact Jane Cahn for more information.

Supervisor Weaver announced there are openings on several Boards and Committees and the Town Board is asking residents to consider applying to serve on one of the following: Architectural Review Board, Communications Committee, Financial Review Task Force, Housing Board, Library Board, Parks and Recreation Board, Recycling Committee, and Zoning Board of Appeals. All interested residents should complete a volunteer service application and return it to the Town Clerk's office by February 9th for consideration at the next Town Board meeting.

With regard to the consideration of a resolution and issuance of a market license to George Bridge to sell plant materials at 23 Bedford-Banksville Road, Director of Planning Adam Kaufman said, as requested by the Board at the January 13, 2010 meeting, he prepared a resolution incorporating the agreed upon conditions. Town Attorney Baroni said that since a curb cut currently exists on the property which is located on a county road, it will not be necessary for the applicant to provide a surety bond. When resident Jeff Brown asked if the Board had prior business with Mr. Bridge, Supervisor Weaver replied that the Board had not. In response to inquiries from Denise O'Connor, Mr. Kaufman said that the market would operate until sunset and no lighting would be used; and the portable toilet would be located behind plant materials, out of site from the right of way.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the issuance of a market license to George Bridge to sell plant materials for a term beginning April 1, 2010 and ending June 30, 2010, subject to the conditions in the resolution, as amended. The resolution follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Roth recused herself from the discussion of the Environmental Assessment Form (EAF) for the 7 Round House Road special use permit application. Director of Planning Kaufman said that on August 4, 2009 the Planning Board sent a letter of recommendation regarding the application to the Town Board. During the summer, the Town Board requested that he prepare Parts 2 and Part 3 of the EAF for their consideration. He stated that if the Board determines that additional impacts are classified as a Potential Large Impact, then Part 3 of the EAF would need to be revised to provide additional narrative information regarding those impacts and to determine if any impacts are Significant which would require the preparation of an Environmental Impact Statement (EIS). Conversely, if the Board determines that the project

would not have a significant impact on the environment, as currently drafted in the EAF, the Board could adopt a Negative Declaration and the preparation of an EIS would not be required.

Mr. Kaufman proceeded to review each impact question listed in Part 2 of the EAF. With regard to the Impact on Water, Roundhouse Court resident, Eric Birnbaum, requested information regarding the quantity and labeling of petroleum and chemical products. Mr. Kaufman said there would be no fueling station at the location and the 1,100 gallon NYS threshold identified in the EAF would not be exceeded. With regard to chemicals, he said that the applicant was not proposing to store any chemicals in the warehouse. Bob Roth, John Meyer Consulting, PC, said since the Planning Board had requested that the proposal for a wood burning furnace be eliminated, a conventional oil burner with an oil tank equivalent to residential size would be used.

Thomas Whyatt, Oxman Tulis Kirkpatrick Whyatt & Geiger, LLP, representing Eric and Nancy Birnbaum and Ed Sagesse, said that the proposed landscaping operation would involve the use and transportation of various chemicals in an area surrounded by residential lots with wells and septics and in close proximity to a critical environmental area (CEA) - the Mianus River. Mr. Kaufman said that it would depend upon the type and quantities of chemicals stored on the site as to whether the storage of chemicals would be considered to be a potentially significant impact. He later added that although the project as proposed would not require petroleum and chemical storage above the NYS thresholds, the issue of storage would need to be addressed by the Board based on information supplied by the applicant.

Mark Miller, Veneziano & Associates, representing the applicant, North Castle Landscaping & Tree Service, Inc., 7 Round House Road, said he wanted to clarify that the project site is not a residential lot and is located in the General Business (GB) zoning district. In response to an inquiry from David Lowrey, the applicant, regarding what is considered storage, Supervisor Weaver said that if it is on the property it is considered storage, and requested that Mr. Lowrey provide information about the type and quantity of chemicals to be stored and the length of time they would be stored. Steven O'Connor said water contamination is studied in parts per million and per billion and expressed concern about possible future contamination of groundwater in the Banksville area. Mr. O'Connor said the EAF does not sufficiently address the issue of water safety. The Town Board concurred with Mr. O'Connor concern and asked for additional information from the applicant with respect to the storage of chemicals on the property.

With regard to the Impact on Air, Mr. Birnbaum asked for clarification on the number of parking spaces at the proposed site, Mr. Miller said there would be nine parking spaces for cars, and seven bays for trucks which would be housed inside the building. Mr. Birnbaum said he found inconsistencies between Parts 1 and 2 of the EAF regarding this issue, and stated that the process does not consider potential future use of the property.

Mr. Whyatt said that the special use permit being considered is not for a particular owner, but would set a precedent as a right of use by any future owners. He said the property was intended to be rezoned as residential, but this issue has been on hold pending a study by the Planning Board. Mr. Kaufman said that the Town Board had made a determination not to fund the study and that based upon the inaction of the Town Board, the current plan is consistent with the Town's Zoning. When Mr. O'Connor expressed disagreement with Mr. Kaufman's statement, Town Attorney Baroni said that since the Planning Board did not get approval to conduct the study, the zoning remains consistent with the 1996 Comprehensive Plan. Mr. Kaufman was directed to evaluate the Comprehensive Plan issues in a revised Part 3. Mr. O'Connor said it was his understanding that the intention was to have a less intensive use of the property.

Mr. Miller said that the Board had an opportunity to study the area during the moratorium, but it made a determination not to, and again decided not to study the area last year. With regard to the photographs that Mr. Birnbaum showed to the Board regarding Mr. Lowrey's current landscaping operation in Somers, Mr. Miller said that the Somers location was not large enough to store trucks, and therefore Mr. Lowrey is considering a new location for his business. Hobby Lane resident, Sara Doto, said the applicant should not be issued a special use permit and instead be required to operate within the regulations of the GB zoning district. Mr. Kaufman said that there are some permitted uses that require the applicant to demonstrate that conditions of the special use permit can be met. Mr. O'Connor said if a special use permit is granted for this

project it would set a precedent for other properties in the immediate area. Mr. Miller said the benefit of a special use permit process is that the application must stand on its own merit.

Following the review and discussion, Supervisor Weaver requested that Mr. Kaufman revise Parts 2 and 3 of the EAF as discussed during the meeting. Mr. Kaufman said he would prepare the revisions for the next meeting.

Steve Russell, Cable Advisory Committee member, gave a presentation on the management and objectives the Town's cable television operations, and identified the proposed mission of NCTV to: "Improve the awareness of town residents by communicating information related to town life and promoting town resources and events that are regularly available to residents."

Summarizing the efforts of the ad hoc group in researching operations of other local municipalities and developing a strategy, Mr. Russell asked the Town Board to formally appoint the committee, consider service applications from the members of the current working group, and to approve the objectives as proposed:

- Provide a platform for the town government to communicate with residents through broadcast of Town Board meetings as well as any other meetings the Town Board deems useful.
- Communicate information that will be useful for residents and help to achieve policy that has been set by the town government.
- Promote regular use of town sponsored resources such as the library and the recreation center.
- Promote and broadcast events that are sponsored by the town or local organizations.
- Raise awareness of special achievements completed by town residents or groups.

Mr. Russell emphasized that the group intends to develop NCTV operating policy and procedures and to complete a one-year plan while mastering two or three programming concepts, within the town approved budget.

Councilman Cronin requested that the group working on NCTV also consider parallel development of content on the Town web site, including web casting of Town meetings. Mr. Cronin suggested that the NCTV volunteer group expand the focus and become more of Communications Committee.

Councilmen Roth, Schiliro and Supervisor Weaver all complimented the groups' efforts and encouraged the development of NCTV operations as described.

Councilman Roth moved, seconded by Councilman Schiliro, approval of the formation of the NCTV steering committee and accepted the service applications for consideration of appointment.

The roll call vote was as follows:

Ayes: Councilmen Roth, Schiliro, Cronin, Kittredge, Supervisor Weaver.

Noes: None.

Councilman Kittredge moved, seconded by Supervisor Weaver receipt of a letter from Police Chief Robert D'Angelo regarding the recommendation to amend the Town Code to establish "No Parking Any Time" zones on several areas of Washington Avenue, Washington Place East and Hillandale Avenue; and further moved that a public hearing be scheduled for February 24, 2010.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Resident Christopher Carthy asked the Board to consider his proposal for a farmers' market based on the plan he distributed several weeks prior. Highlights include: building a high quality market within a non-profit status so that donations and proceeds may be used to promote good nutrition and health and highlight cooking demonstrations involving the merchants in the

Armonk hamlet. Mr. Carthy said that the Friends of North Castle Farmer's Market ask the Town Board to consider a vote to approve the plan.

Supervisor Weaver stated that the market's location is very important and hoped that the spill-over of visitors could help local businesses.

D.C. Becker, Café Norma, and Julie Dickens, Beascakes, voiced their support of the farmers' market, but oppose the possible location behind Town Hall and prefer a location on or behind Main or Maple Streets.

Lydia Rippstein, School Street, stressed that expenses related to the farmer's market, including cleaning up after hours of operation and use of personnel should not be a financial burden to the Town.

Carol DeLisa stated that she proposed a farmer's market nine months ago to the Town Board and now time is of the essence in approving the market and in moving forward to secure the best quality vendors. Ms. DeLisa spoke of her experience in running the Scarsdale farmer's market and said that she would love the opportunity to be the market manager for North Castle. In answer to Councilman Cronin's query, Ms. DeLisa said she would prefer a location on or close to Main Street.

Councilman Schiliro reiterated his concern for the potential impact to small businesses.

Councilman Roth moved, seconded by Councilman Kittredge to conceptually approve a farmer's market in the Armonk hamlet, subject to agreement on a suitable location and time of operation, and market license.

The roll call vote was as follows:

Ayes: Councilmen Roth, Kittredge, Cronin, Supervisor Weaver.

Noes: None.

Councilman Schiliro abstained.

Town Clerk Curran read a letter from Ed Lobermann expressing opposition to the farmer's market.

A memo from Comptroller Dawn Donovan regarding a budget amendment to 2010 Capital Fund and an e-mail from Foreman Craig Useted regarding truck specifications were tabled on the duly adopted motion of Councilman Kittredge.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of a memo from Comptroller Donovan regarding the Moody's Investor Services Rating Report.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Supervisor Weaver said the Board has taken steps to improve in the three areas recommended by Moody's to upgrade the Town's rating. Mr. Weaver said that the mortgage recording tax income is currently \$43,000 above the estimated amount. Councilman Schiliro said that the Town 2010 budget is structurally balanced.

Upon the recommendation of Kellard Sessions Consulting, P.C., Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the award of the proposal for surveying services for a Town owned parcel at Old Route 22 and Route 128 (Section 2, Block 16, Lots 2 and 4) to Thomas C. Merritts Land Surveyors, P.C., the lowest bidder, in the amount of \$5,200.00.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Town Board Minutes
January 27, 2010

Councilman Kittredge moved, seconded by Councilman Schiliro, the appointment of Michael DiFiore to the position of Student Helper, Building Department, 8 hours a week, \$10 per hour, effective February 2, 2010.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Roth, the following:

Approval of the request General Foreman Craig Useted for the release of a highway bond to Mark Schuster, Permit #887, in the amount of \$500.

Approval of the request of Kerri Kazak, Chairman, North Castle Land Trust, for its members to enter Byram Lake Preserve to plan and build trails on the Preserve.

Approval of the request of Byram Hills High School to place a sign under the eagle to publicize its production of *Joseph and the Amazing Technicolor Dreamcoat* on March 4– 6, 2010.

Receipt of a mortgage tax update for December 2009 from Comptroller Dawn Donovan. The projection for December 2009 is \$53,000.

Authorization for the Supervisor to make the Budget Transfers that follow at the end of these minutes.

Receipt of Workers Compensation Reports for Scott Svendsen, Police Department; and Thomas MacInnes and Marc DiFiore, Highway Department.

Receipt of a letter from Director of Planning Kaufman informing the Board that all five Planning Board members have completed their mandated 2009 training pursuant to Section 30-3 of the North Castle Town Code.

Receipt of letter of commendation from Vito Castellano thanking General Foreman Useted and the Highway Department staff for their outstanding service. Town Clerk Curran read the letter aloud.

Receipt of an email from Allen Blum reporting that the Highway Department did a great job in addressing the lighting situation at the Town's commuter parking lot at the North White Plains station.

Receipt of a letter from John Nolon, Counsel, Pace University School of Law, regarding an invitation to Chief Elected Officials to attend a meeting scheduled for February 19, 2010 on the Westchester County Housing Settlement Agreement.

Receipt of a letter from John Delano, Chairman, Board of Fire Commissioners, North Castle South Fire District No. 1, in support of North Castle's proposed residential fire sprinkler ordinance.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Supervisor Weaver, seconded by Councilman Roth, a receipt of a letter from Giocondo DiPietro, 54 Old Mt. Kisco Road, granting Michael Fareri sole authority and exclusive right to take all actions necessary to obtain site plan and municipals approvals for 170 Bedford Road (a.k.a. 162 Bedford Road), Armonk, New York.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, receipt of a NYS Department of Environmental Conservation Notice of Complete Application, dated January 20, 2010, for Congregation B’Nai Yisrael, 2 Banksville Road, Armonk for permit 1 – Article 24 Freshwater Wetlands.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, to authorize the town attorneys to execute the Stipulation of Settlement in the Matter of the Application of Congregation B’Nai Yisrael of Armonk, Index No. 75006/2009.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

With regard to the January 13, 2010 organizational meeting, Tony Futia asked Supervisor Weaver why a Deputy Supervisor was not appointed, considering that anyone from Town could be appointed to this position. Supervisor Weaver said that the Board would be looking at different task forces and asking residents to volunteer to serve. Mr. Weaver said that he had previously conferred with the Board and decided he would not be appointing a Deputy Supervisor as the duties, including authorization to run Board meetings in absence of the Supervisor, was not needed.

Michael Fareri expressed concerns about the Town’s assessables over the last ten years and the Town’s practices regarding longevity payments, terminal leave pay, stipends, salaries and health coverage for retired Board members. Supervisor Weaver said that the Town will be conducting a salary and staffing organization study in the near future.

The Town Board audited and approved payments totaling \$10,532,935.27 as indicated on Warrant #2.

The Supervisor closed the meeting at 11:25 p.m. in memory of Town Clerk Anne Curran’s father, James Lynch.

Anne Curran, Town Clerk

Dated: February 9, 2010

F:\Clerk\AMELIA\MINUTES\2010\January 27-2010.doc

RESOLUTION

Action:	Market License
Application Name:	Bridge Market License
Owner:	Banmonk Realty, LLC
Applicant:	George Bridge
Designation:	Section 1, Block 11, Lot 9C-24-A
Zone:	CB-B
Acreage:	Approx. 4-acres
Location:	23 Bedford Banksville Road
Date of Approval:	January 27, 2010
Term of License:	April 1, 2010 – June 30, 2010

WHEREAS, an application dated January 4, 2010 was submitted by George Bridge to operate a market at 23 Bedford Banksville Road pursuant to Chapter 131 of the Town Code; and

WHEREAS, Mr. Bridge is requesting permission to sell plant material out of doors in the parking lot of the former Banksville Hardware store; and

WHEREAS, the operation of the proposed market would not require any construction since the sales area will occur in the former hardware store's parking lot; and

WHEREAS, the site plan was forwarded to the Chief of Police, Fire Inspector and the Banksville Fire Chief so that they may make any pertinent recommendations to the Planning Board including, but not limited to, the designation of no-parking zones, emergency vehicle access or any other issues deemed important to providing emergency services; and

WHEREAS, the Police Department indicated that they did not have any issues of concern with the operation of the market; and

WHEREAS, the proposed market sign would require approval of the Architectural Review Board; and

WHEREAS, the 4-acre property is located in the CB-B Zoning District and is designated on the Tax Maps of the Town of North Castle as Section 1, Block 11, Lot 9C-24-A; and

WHEREAS, the Town Board is familiar with the nature of the site and surrounding area;

WHEREAS, the Town Board has requested, received and considered comments from the Town Attorney, the Town Engineer and Town Planner regarding the proposed development; and

WHEREAS, the proposed action is a Type II Action which has been determined not to have a significant impact on the environment and are otherwise precluded from environmental review under Environmental Conservation Law, article 8 under the State Environmental Quality Review Act (SEQR); and

NOW, THEREFORE, BE IT RESOLVED, that the market license is approved for a term beginning April 1, 2010 and ending June 30, 2010, subject to the conditions identified below; and

BE IT FURTHER RESOLVED, that this license shall be deemed to authorize only the particular use or uses specified, and shall expire if the site is not maintained and if all conditions and standards are not complied with throughout the duration of the use.

Prior to the Issuance of the Market License:

(The Town Clerk's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)

- _____ 1. The Applicant shall submit documentation demonstrating that the proposed sign received the approval of the Architectural Review Board and the Building Department.
- _____ 2. The plans shall be revised to depict the location of portable sanitary facilities to the satisfaction of the Town Planner.
- _____ 3. Pursuant to Section 131-8 of the Town Code, the applicant is required to furnish a comprehensive general liability insurance policy to the town, or evidence thereof, in an amount of not less than \$1,000,000 combined single limit coverage for bodily injury or property damage liability, which also names the Town of North Castle as an additional insured landlord.
- _____ 4. Pursuant to Section 131-10 of the Town Code, the Town Clerk shall collect a fee in the amount of \$500 for each calendar year or \$50 for a monthly license or any part thereof.

Other Conditions:

1. No sales shall be conducted after sunset.
2. Parking of motor vehicles for patrons attending the said business shall be maintained off-street only. Traffic shall be regulated in the area immediately adjacent to the premises, and parking must be maintained in good order with adequate supervision thereof at the expense of the licensee as prescribed by the Chief of Police.
3. The regulations of the Police Department, local Fire Department and Building Inspector must be adhered to.
4. All rubbish from the premises where business is conducted, and from any parking area used by said licensee in connection therewith, must be gathered and deposited in closed containers by no later than 6:00 p.m. of the day following and removed from the premises by 6:00 p.m. of the next day following.
5. Concessions serving food or drink for human consumption shall not be permitted.
6. The licensee shall not permit any unnecessary or unreasonable noise by means of loudspeakers, power amplifier devices or any other means which would create or tend to create a public nuisance.
7. Each vendor shall have a sign conspicuously placed where same may be visible, containing the name and address of the person conducting said concession.
8. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.