

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
August 13, 2008

Supervisor Berman called the meeting to order at 7:35 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

Councilman Kittredge moved, seconded by Councilman Weaver, approval of the minutes of the July 23, 2008 work session and regular meeting and the August 6, 2008 work session.

The roll call vote was as follows:

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

Noes: None.

Abstentions: Councilman Schiliro, who was absent from the July 23 meetings.

Supervisor Berman welcomed her grandchildren, Samantha and Emily Berman, as interested observers at the meeting. She then made the following announcements:

- Joken Development began construction on August 11 on the Quarry Heights sewer project. A groundbreaking ceremony was held and attended by town, county, state and federal officials.
- Governor Paterson signed legislation that will allow the Towns of Bedford, Lewisboro, North Castle and Pound Ridge to set speed limits on local roads.
- Residents can subscribe at northcastleny.com to receive E-News Updates on Town Board and Planning Board agendas and minutes, public safety announcements and Going Green news.
- Due to the technical expertise of Director of Planning Adam Kaufman, all volumes of North Castle History and some older maps are accessible online through the Planning Department page of the Town's web site.
- Reminders of on-going construction in connection with reconstruction projects on I-287 and Bronx River Parkway.
- Ask for identification from door-to-door solicitors. They should be licensed by or registered with the Town Clerk's office. Do not invite a stranger into your home. Call the Police Department if you are concerned.

Councilman Weaver moved, seconded by Councilman Geist, receipt with regret of Councilman Schiliro's resignation as chair of North Castle Citizen Corps Council. Mr. Schiliro gave a brief overview of the work of NC4, a subset of the American Red Cross.

The roll call vote was as follows:

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

Noes: None.

Pursuant to the recommendation of Councilman Schiliro, Councilman Kittredge moved, seconded by Councilman Schiliro, the appointment of Jane Cahn as chair of NC4. Ms. Cahn thanked Mr. Schiliro for his leadership under which the group has grown to 72 volunteers. She urged community members to participate.

The roll call vote was as follows:

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

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Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, that a special use permit application from Murray Kessler to construct a 3,552 square foot stable and allow more than two horses on the 12 acre property at 14 Middle Patent Road be received and forwarded to the Planning Board for study and report.

The roll call vote was as follows:

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

Noes: None.

The Town Board then discussed with General Foreman Craig Useted the spreadsheet he had prepared containing the cost of the current leaf pickup program as well as the projected costs taking into account increases in the price of gasoline and in the cost of grinding and hauling the leaves. Mr. Useted stated that significant cost savings could be realized by eliminating the leaf vacuuming program and increasing pickup of bagged leaves to 12 months per year. Mr. Useted added that the time that is normally devoted to the vacuuming program could be used for such things as sweeping, drainage work, mowing, cleaning catch basins, etc.

Supervisor Berman made the following statement:

“We will have a public discussion of our leaf pick up program and possibly take action regarding the program at our next meeting on September 10. We expect to receive and to consider reports regarding our current program and alternatives that are available to us.

“Some time before the September 10 meeting, I will send a Town wide letter to residents notifying them of the public discussion and possible action and outlining the issues. I will briefly tell you about some of the considerations now. I do not want to get into details because we do not yet have all the information we should consider, and the time to discuss details will be after the public is notified that the leaf pick up program will be an agenda item and can arrange to attend if they wish to do so.

“Our present leaf pick up program is an unusual luxury. Most municipalities in the area do not pick up and dispose of leaves which residents are permitted to leave in piles in front of their properties. Unfortunately, this luxury is very expensive, takes up a lot of employee time, and negatively impacts the environment. The Town Board feels that it is necessary to consider whether we can justify continuing the program in its present form or whether it would be in the Town's best interests to look into less expensive alternatives, to free up Highway Department employees for other important work, and to reduce the negative environmental impact of runoff from leaf piles and clogged storm drains.

“The economic impact of the current program is very significant. The leaf vacuums consume large quantities of diesel fuel. They require two trucks, one to tow the vacuum and another to transport workers and warn off and control traffic. The impact on the Highway Department budget has become extremely burdensome due to huge increases in fuel costs. In addition, the equipment is old and, in all likelihood, will have to be replaced soon at substantial expense. Finally, our contract for grinding leaves runs out next year, and the Highway Department projects that future contracts will be much more expensive.

“We expect to have more detailed information available on September 10 and also to have information as to the availability of alternatives, such as requiring that leaves to be picked up be placed in bags. However, I want to emphasize that while we can predict generally that less expensive alternatives are available, we do not expect to be able to predict with a high degree of accuracy what the cost differences will be; only experience will give an accurate answer to that question. We feel it is more important than speculating about precise savings to face the broad issue of whether to continue the present program when it is certain that fuel costs have become and are going to remain very high, that equipment must be replaced, and that grinding will become significantly more expensive.

“We will also have more information regarding the negative environmental impact of leaving loose leaves by the road side. This is an issue that has been partially addressed in new federal storm water regulations which will prohibit the piling up of leaves by the road side in small

sections of Town. We must consider whether we should take the same issues into consideration out of environmental concerns throughout the Town.

“Interested members of the public will have the opportunity to speak regarding these issues at the September 10 meeting.”

Councilman Geist moved, seconded by Councilman Weaver, that the Supervisor and Director of Planning Kaufman be authorized to sign a letter to the Westchester County Board of Legislators expressing the Town’s concerns about the possibility of some large parcels in North Castle being placed in the County’s agricultural district.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Kittredge, a resolution to enter into an agreement with the Town of Mount Pleasant under which the Town of North Castle would pay a portion of the annual costs of the Service Award Program for volunteer members of the Valhalla Ambulance Corp, Inc. The resolution is subject to referendum and the proposition will appear on the ballot in November. The resolution follows:

In the matter of entering into an agreement with
the Town of Mount Pleasant under which
the Town of North Castle would pay a portion
of the annual costs of the Service Award Program
for volunteer members of the Valhalla Ambulance Corp, Inc.

Whereas, the Town Board of the Town of Mount Pleasant shall adopt the attached resolution to seek Town of Mount Pleasant resident voter approval of the attached proposition authorizing the adoption of a Defined Contribution Service Award Program for volunteer ambulance worker members of the Valhalla Ambulance Corp, Inc. in accordance with Article 11-AA of the New York State General Municipal Law, and,

Whereas, Article 11-AA authorizes other political subdivisions who contract with the Valhalla Ambulance Corp, Inc. to enter into an agreement with the Town of Mount Pleasant to apportion the cost of the Service Award Program between the Town of Mount Pleasant and such other political subdivisions.

Now, Therefore, Be It Resolved That:

Section 1 By the affirmative vote of at least sixty percent of it’s members, the Town of North Castle Town Board shall adopt this resolution to enter into an agreement with the Town of Mount Pleasant to apportion the cost of such Service Award Program and to seek Town of North Castle voter approval of a proposition authorizing the Town of North Castle to enter into such agreement at a referendum of Town of North Castle residents served by the Valhalla Ambulance Corp, Inc. in an election to be held on November 4, 2008.

Section 2 Under such agreement, the apportionment of the annual costs of the Valhalla Ambulance Corp, Inc. Service Award Program between the Town of North Castle and the Town of Mount Pleasant shall be negotiated by the Towns.

Section 3 The terms of such agreement shall be governed by Article 11-AA of the General Municipal Law as it is amended from time to time.

Section 4 Under this agreement, unless and until the agreement shall be amended by mutual consent of both Towns, the Town of North Castle will pay one third of the program costs and the Town of Mount Pleasant shall pay two thirds of the program costs.

The appropriate officials of the Town of North Castle are authorized to and shall take the necessary actions to carry out this resolution.

The roll call vote was as follows:

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

Noes: None.

Valhalla Ambulance Corps Service Award Program Point Accumulation System

Point Accumulation Activity: **Attendance at Training Sessions**

Maximum Annual Points for this Activity: 25

This Activity is for Training of Certified Courses, such as CPR, EMT, CEVO, Defensive Driving, CFR, etc.

How points are credited: Based on duration of training course.

1. Under twenty hours: one point per hour with no more than 5 points per course
2. Twenty to forty-five hours: five points plus one point per hour for each hour over twenty hours. No more than 10 points per course.
3. Over 45 hours: fifteen points.

Point Accumulation Activity: **Attendance at Drills**

Maximum Annual Points for this Activity: 15

This Activity is for Drills, such as Driver's Drills, Ambulance Drills, outside CME drills that do not have certifications.

How points are credited:

1. One point per drill session (minimum two hours)

Point Accumulation Activity: **Participation of On Call Time**

Maximum Annual Points for this Activity: 20

This Activity is for Members who are on schedule for Drivers, EMT's, and Thirds.

1. For every hour that a member is "on call", they will earn 1/12th of a point. Ex. 12 hours on call = 1 point
2. For every hour that a member is "on call" on a weekend or holiday (Friday 6pm to Monday 6 am), they will earn 1/6th of a point. Ex. 6 hours on call = 1 point
3. For every hour that a member is "on call" during inclement weather and required to remain in headquarters, they will earn 1/6th of a point.

Point Accumulation Activity: **Holding a Specified Elected or Appointed Position**

Maximum Annual Points for this Activity: 20

Captain and Lieutenant: 20. Board of Directors (who are members): 15. Project Coordinators: 12

How Points are credited for this Activity:

Twenty points are earned for the completion of a one year term as a line officer. Fifteen points are earned for the completion of a one year term as a member on the Board of Directors of the Corps. Twelve points are earned as a Project Coordinator at the completion of one year.

Point Accumulation Activity: **Attendance at Meetings**

Maximum Annual Points for this Activity: 10

This Activity is for attendance to an official meeting of all members of the ambulance company

How points are credited for this Activity:

One point earned per meeting.

Point Accumulation Activity: **Participation in Response of EMS calls**

Maximum Annual Points for this Activity: 25

This Activity is for all members that respond to a 911 EMS call that is paged out.

How points are credited for this Activity:

1. For each EMS call that you are on the ambulance responding to a 911 call = 1/2 point
2. For each EMS call that you respond but do not respond with the ambulance for a 911 call = 1/4 point

Point Accumulation Activity: **Miscellaneous Activities**

Maximum Annual Points for this Activity: 20

This Activity is for all members that participate in scheduled stand by's for football games, baseball games, Kensico Dam activities, parades, Health Fair, Fund raising activities, House

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Duties, Spring and Fall Cleaning duties, etc. This activity is also for committee members who sit on an ad hoc committee. Elected officers can not receive points when sitting on a committee.

How Points are credited for this Activity:

One point per activity for participation in the scheduled activity.

Pursuant to a memo from Town Clerk Leber, Councilman Geist moved, seconded by Councilman Kittredge, that the fee for six month permits in the Fisher Lane commuter parking lot be increased to \$200 from \$165 and in the Virginia road lot to \$155 from \$130, effective with the September 1, 2008 – March 31, 2009 term.

The roll call vote was as follows:

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

Noes: None.

With respect to Town Clerk Leber's e-mail regarding her conversation with Detective Mark Thomas about placing surveillance cameras in the Fisher Lane lot, Councilman Kittredge will discuss the matter further with Det. Thomas and report back to the Town Board.

With regard to a memo from General Foreman Useted, Councilman Kittredge moved, seconded by Councilman Weaver, approval of the amended bid award for construction of new sidewalks in North White Plains to ELQ Industries, the low bidder. Based on the table below, the total bid price is \$56,638 for 4,373 sq.ft. of sidewalk at \$8 per sq. ft. and 802 linear feet of concrete curb at \$27.00 lf.

Estimated 100 linear feet of concrete curb	\$27.00 lf
Up to an estimated 1,000 sq. ft. of concrete sidewalk	9.00 sf
Up to an estimated 2,000 sq. ft. of concrete sidewalk	8.50 sf
More than 2,000 sq. ft. of concrete sidewalk	8.00 sf

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, approval of the following policy with respect to releasing agenda documents to the public:

“Documents in the possession of the Town Clerk pertaining to a matter on the Town Board's public meeting agenda will be available to persons interested in that particular subject at the time the public agenda is finalized and meeting packets made available to the Town Board for review.”

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 donation in the amount of \$500 from Byram Hills Preschool Association to the Police Department DARE Program; and a donation in the amount of \$100 from Erica-Kathy Enders to the Police Department for miscellaneous use.

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 highway bonds in the amount of \$750 to Awesome Landscaping, Permit #587, and Legacy Development, Permit #632; and in the amount of \$500 to Granado's General Contracting, Permit #710.

The roll call vote was as follows:

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

Noes: None.

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Supervisor Berman moved, seconded by Councilman Weaver, receipt of a letter from Howard Permut, the newly appointed president of Metro-North Railroad, assuring his commitment to providing customers with safe, reliable and quality service and his desire to keep lines of communication open.

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 memorandum from NYC Department of Environmental Protection with its initial response to comments and suggestions regarding the Kensico Dam Road Closure project made during the March 5, 2008 public meeting with the Town of North Castle and the March 12, 2008 public meeting with the Town of Mt. Pleasant.

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 copy of a letter from Supervisor Berman to the NYS Department of Transportation expressing the Town's concerns and disappointment about the State's postponing the scheduled repaving of Route 22 from Maple Avenue to Route 120. Mrs. Berman read the letter aloud.

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 letter from Cablevision announcing 15 newly available HD channels.

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 franchise fee check from Cablevision for the first half of 2008 in the amount of \$14,982.

The roll call vote was as follows:

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

Noes: None.

Pursuant to letters from Tax Receiver Colombo regarding Orders of Judgment, Councilman Geist moved, seconded by Councilman Schiliro, that Finance Director Donovan be authorized to issue refunds the following refunds:

- In the amount of \$944.96 to Getty Petroleum Marketing, Inc., property located at 660 N. Broadway for tax years 2005 and 2006
- In the amount of \$949.66 to 121 Lafayette Avenue Associates, LLC, property located at 120 Lafayette Avenue for tax year 2008
- In the amount of \$830.96 to 121 Lafayette Avenue Associates LLC, property located at 121 Lafayette Avenue for tax year 2008
- In the amount of \$678.33 to Michael Bellantoni, property located at 142 Lafayette Avenue for tax year 2008
- In the amount of \$509.95 to Robert Arcieri, property located at 57 Hillandale Avenue for tax year 2005-2007

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, receipt of a letter from the Landmarks Preservation Committee recommending an historic designation for 481 Bedford Road; a public hearing was scheduled for September 24, 2008.

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 memo from Finance Director Donovan regarding receipt of the second sales tax payment for 2008.

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 Change Order No. 4 for Natgun Corporation in connection with Windmill Farms Water Storage Tank project. The change order represented a reduction of \$22,600 to the contract price.

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 a special use permit application from Jack DiPietro to construct a garage, convert an existing residence to office space, and store trucks and contractor's equipment on the site at 20 Banksville Avenue be received and referred to the Planning Board for study and report.

The roll call vote was as follows:

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

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, notification that Governor Paterson signed bill number A.3100, Town Speed Limits, to permit the Towns of Bedford, Lewisboro, North Castle and Pound Ridge to establish speed limits on their local roads. The Bill was sponsored by Assemblymen Adam Bradley and Vincent Leibell.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, receipt of the Town Clerk's report for the month of July, 2008.

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 Workers Compensation Report for Roger Zepp, Recreation and Parks 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, receipt of a letter of resignation from Police Officer James Knapp, effective August 10, 2008.

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 Kittredge, authorization for Supervisor Berman to sign the Consent Order from the New York State Department of Environmental Conservation in connection with violations of the Environmental Conservation Law at the New King Street pump station; and further moved authorization to pay a penalty in the amount of \$250.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, 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.

Pursuant to a memo from Anne Curran, chair of the Recycling Committee, Councilman Weaver moved, seconded by Councilman Geist, authorization to purchase 12 portable recycling receptacles to be placed in the Town parks. Contingency funds will be used to pay for the purchase while the Committee seeks donations to reimburse the Town.

The roll call vote was as follows:

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

Noes: None.

The Town Board audited and approved payments totaling \$834,994.21 as indicated on Warrant #15.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:55 p.m. in memory of Phyllis Augenblick.

Ann Leber, Town Clerk

Dated: August 18, 2008

PUBLIC HEARING

August 13, 2008

At 7:40 p.m. Supervisor Berman reconvened the Public Hearing which was adjourned from July 23, 2008 for the purpose of considering a local law to establish a new “veterinary specialist & emergency center” permitted Town Board special use principal use in the CB, IND-A, IND-AA, RELIP AND PLI Zoning Districts, create associated special use permit requirements, create a definition for “veterinary specialist & emergency center” and create an off-street parking requirement for “veterinary specialist & emergency center.”

The following correspondence was marked Exhibit “H” for the record:

Memos from Supt. Anthony Futia, dated August 8 and 13, 2008, regarding Proposed Animal Hospital, 135 Bedford Road.

Memo from Town Engineer John Kellard, dated August 13, 2008, regarding Bright Heart, 135 Bedford Road.

Supervisor Berman made the following statement:

“Tonight we are deciding whether it is appropriate to permit an animal hospital as a special use within the CB (Central Business), PLI (Business Park) and IND AA (Airport) zones. This public

hearing is about a legislative decision; we are not talking about a specific location tonight. Should the Town Board support this position, and should BrightHeart submit an application for a specific location, such as 135 Bedford Road, then there will be another public hearing or hearings to address the site-specific issues such as traffic, noise, and the impact on Wampus Close.

“Councilman Geist has raised several important issues over the past several months. Most of his issues are site specific. The issue of sewer capacity, however, is not site specific because two of the three zones – CB, PLI—are in the same sewer district. As I have said at other meetings, sewer capacity is the key issue. Much of tonight’s discussion by the Town professionals should and will focus on that issue.

“At our last Town Board meeting, the Town Board asked our engineer, John Kellard, to prepare a report for us, which compares the potential sewer usage of the proposed BrightHeart facility with other animal hospitals, particularly Veterinary Emergency Services in Norwalk, CT. Additionally, I asked John Kellard to compare the potential sewer usage with office and medical office building usage in the CB and PLI zones. Those are relevant and important measurements to compare because those uses are already permitted in the CB and PLI zones. We should consider the comparative impact of presently permitted uses and this proposed new use. Water & Sewer Superintendent Tony Futia, has also prepared a report.”

Attorney Mark Miller of Veneziano and Associates, representing the applicant, said that over the course of several months documents on various issues have been submitted to the Town Board and Planning Board by the applicant and by the Town’s consultants. Tonight he would like to address anticipated sewer and water use.

Mr. Miller referenced the Sewer and Water Department’s memo, dated March 26, 2008, that included a spreadsheet of properties in Sewer District #2 that are not yet connected to the treatment plant or are connected with an anticipated change of use. According to that memo, an anticipated sewage flow of 4,500 gallons per day (gpd) was assigned to 135 Bedford Road. Mr. Miller said that the anticipated flows were calculated using the Ten State Standard which resulted in higher and more conservative estimates. Based on the calculations listed, the additions and changes of use would result in a sewer flow of 477,599 gpd which would exceed the 450,000 gpd capacity of the upgraded plant by 6.13%. He said that if the proposed animal hospital used 6.13% below their allocated 4,500 gpd, the resulting use of 4,224 gpd would not contribute to the plant’s being over capacity.

Mr. Miller also referenced the Sewer and Water Department memo, dated July 23, 2008, which compared projected water usage at the proposed facility in Armonk to that of similar facilities located in Westchester. The memo stated that the “information came from the actual water history of each facility from its associated municipality.” Mr. Miller said BrightHeart’s Katonah Bedford Veterinary Center, which reported the highest water usage of 3,760 gpd, when scaled up to the square footage of the proposed facility, is not similar to the proposed facility because the Katonah facility handles well care and the proposed facility would handle specialty care by referral only and emergency services. He said the Mount Kisco Veterinary Center and the Yonkers Animal Specialty Center have the same reported “scaled up” water usage of 2,820 gpd. Mr. Miller then referenced the Town engineer’s report, dated August 13, 2008, which investigated water usage at the Veterinary Emergency Center in Norwalk, CT, and estimated sewage flows for the 23,634 sq. ft. building of 3,634 gpd for a veterinary referral service, 3,313 gpd for a group office medical building, and 700 for a dry office building. Mr. Miller calculated an average water usage of 3,250 gpd for the four veterinary centers, and stated that this average did not come close to the 4,224 gpd fair share allocation which would not bring the plant over capacity, and was less than the 3,313 gpd estimated by the engineer for a group medical building which is currently a permitted use in the CB Zone. He said he understood the Board’s concerns about sewer and water capacity and offered two suggestions: 1) Prohibiting the use of on-site laundry services at the facility, since recent information indicated that three-quarters of the water used at the Yonkers facility is from washing machines. 2) Place a cap on water usage at 3,000 gpd. Mr. Miller said they would need to talk with the Town Attorney to implement either of the options and that the choice of which option they would choose would be made at the time of the site specific special use permit discussion.

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John Kellard, Kellard Sessions Consulting, explained that his firm conducted its investigation based on winter water use when little or no outside water is being used in order to simulate typical sewage use. He said the Yonkers facility, which only opened in April 2008, has limited water records which do not include a winter season, and therefore was not included in the evaluation.

Anthony Futia said that total water usage should be reported, not only winter water use; that off-site laundry services are not practical; and that pages one through eight of the BrightHeart catalog are missing. He also expressed concern about the treatment plant's exceeding capacity and the effect that this could have on water pressure needed for fire fighting. Mr. Futia also stated that the five million dollar bond for the sewer treatment expansion is now going to be reflected on the tax bills in addition to expense for the NYS mandate for nitrogen removal. He read from his memo to the Town Board, dated August 13, 2008, in which he stated that the only data presented by the engineer which comes close is that for the Norwalk facility, and that a 24/7 operation will use significantly more water than a dry office or group medical building. He questioned if 3,000 gpd was an accurate estimate of anticipated water use for the proposed hospital and if this number could actually go as high as 6,000 gpd based on obtaining more complete data from the Norwalk facility.

Councilman Kittredge questioned Mr. Futia as to why he had made no comments in the past regarding water consumption for The Gym and the spa facility in the business park. Mr. Futia said that at the time the proposed size and use of The Gym were not known. He added that the Town now has better water metering. With respect to the spa, Mr. Futia said that at the time the code did not address water use in a spa.

Councilman Geist asked Mr. Futia if the Ten State Standard which had allocated 4,500 for 135 Bedford Road is an appropriate standard today. Mr. Futia expressed his opinion that it was not.

Supervisor Berman asked why summer water usage was not used. Mr. Kellard stated that winter readings were used because we are dealing with sewer usage, not water usage. Mr. Kellard said the only way to get an accurate reading of sewer usage is to use winter water usage and that this measure was used for the design of the sewer plant and for the Madonna subdivision. Councilman Weaver agreed that the Town has always used winter water usage as a benchmark to measure sewer usage.

Councilman Schiliro asked Mr. Futia if an office building use at 135 Bedford Road would tax the sewage plant. Mr. Futia replied that this use would be within the code, but the Town needed to be careful with out-of-district additions. When Mr. Schiliro asked if a medical office would tax the plant, Mr. Futia replied that the more successful a business is the more water they will use. He said he recently checked medical offices in North White Plains which reported water use at .04 and .05 gpd/sq. ft.

Town Attorney Baroni advised the members of the Board that they were considering the zone text amendment to permit the use in the CB, PLI and IND-AA districts and that, if the amendment were adopted, some of the issues being discussed tonight would be addressed at the time of the site specific application.

Sue Berenson, Town resident for 41 years and resident of Wampus Close for nine years, said it is the duty of the Board to serve and protect the public. She asked if residents in the district would pay for any future sewer expansions.

Barbara DiGiacinto asked the Board if it really had the ability to enforce the cap or the no on-site laundry condition. She said there are serious sewage and water capacity issues and that the Board should consider amending the zoning to be more restrictive right now because the residents of the district would have to pay for additional expansions. She also urged the Board to serve the people of the Town.

Mr. Miller said that if all proposed out-of-district additions were included, the sewer capacity would be exceeded by 9 ½%. If the applicant's 4,500 gpd allocation was reduced by 9 ½%, the result would be a 4,075 gpd allocation which would have an even lesser impact on capacity, than the 6% reduction discussed earlier tonight.

Councilman Geist posed the question, "Is this application appropriate for North Castle?" Mr. Geist said that the longer the application is discussed, the more questions need to be answered, and the Board must scrutinize the answers and the impact of the reports received before a decision can be rendered. He then enumerated a list of questions that he said still need to be addressed, including whether the sewer plant has the capacity to accept the flows that would be generated by the proposed application, what would occur if the authorities did not agree to approve an increase to capacity limits, and who would bear the costs of new infrastructure and any penalties or assessments if the plant were to exceed capacity. Mr. Geist read from Mr. Futia's August 8, 2008, memo in which he stated, "In my professional opinion supported by overwhelming amounts of factual data that introducing a facility of this type into the district would have serious adverse effects on the financial and operational well being of the sewer treatment plant and downtown Armonk water supply." In addition, Mr. Geist submitted that if the proposed text change is approved, it would open the door for other potential zone changes. He said that as the steward of this community the Board must be held accountable for decisions that affect our vision of the downtown for years to come. He further commented that as a Commissioner of the Water and Sewer Department, he has a fiduciary responsibility to ensure that our infrastructure can meet the demands of the district. Mr. Geist asked Mr. Futia and Mr. Kellard several questions regarding the sewer and water usage statistics they had provided as well as those provided by the applicant's engineer.

Sharon Reiner, resident of Sewer District #2, agreed with the comments of Barbara DiGiacinto and Councilman Geist, and said she hoped the Board would make the right decision.

Mr. Miller thanked the Board and Town consultants for their time and said he believed that the data provided by the applicant supported the zone text amendment.

Alan Singer, town resident, said the Board should take into account water usage in terms of the amounts that would be used by type of business as well as parking and traffic issues.

Councilman Schiliro said there appears to be a larger problem in terms of sewer capacity, rather than the usage issues of this particular application. Mr. Schiliro asked Mr. Futia, if the 135 Bedford Road building were to be used as a regular office building, would there still be an issue in terms of water use and sewer capacity. Mr. Futia replied that the Town could deal with additional water needs with a new well which would be an expense, but that it would be very expensive to expand sewer capacity. Mr. Schiliro commented that if a veterinary center were permitted, the estimated water use is only 321 gpd over the estimated use for a medical office building which is currently a permitted use, and that he did not see this project as the tipping point in exceeding the plant capacity. Mr. Futia said the Town needs to look at all potential development and suggested that development be kept to a minimum until the sewer plant is fully operational and the nitrogen removal project is complete. In response to Mr. Schiliro's comments regarding this application's not being the tipping point, Mr. Geist said the Board is being asked to amend a zoning ordinance that would permit a new use in three zoning districts which could compound the sewer capacity problem.

Steve Rosen, owner of 145 Bedford Road, said that quality of life for the residents is the issue and that it is being lost sight of due to all the discussion regarding water and sewer use.

Mr. Miller said that he believed it was not fair to say that this application is the tipping point and that, if all properties in the sewer district were built out, the plant could go over capacity. He said the applicant is prepared to make reductions to the water use allocation and live within these constraints. When Councilman Kittredge asked Mr. Miller what would occur if the applicant exceeded the reductions, he said they would change operations to comply to the cap if one were imposed.

Barbara DiGiacinto commented that no other building in the CB Zone fits the criteria of the proposed local law and questioned the likelihood of a similar application in the other two zoning districts. She suggested that the local law has been tailored for one applicant and expressed her concerns that, if approved, it would set a precedent for other applicants to apply for zone text amendments.

Town Board Minutes
August 13, 2008

Councilman Weaver said that this application is not about water and sewer capacity, but about making an amendment to the zoning district and the impact it could have on the growth in our community. Mr. Weaver said he has been aware of water and sewer issues for the past ten years, and that this project will not tip the scales. He said he does not agree with Mr. Futia that the Town should keep development to a minimum for the next two or three years. He said the Board's job is to protect the community and that he would not support the zone text change.

Town Attorney Baroni said that, in order to complete the SEQR process, a negative declaration must be adopted before the Board can vote on the text amendment.

Councilman Kittredge moved, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration. The motion did not receive a second and therefore failed.

Town Attorney Baroni recommended that the Board not vote and that the public hearing be closed.

Councilman Weaver moved, seconded by Councilman Schiliro, that the public hearing be closed at 9:45 p.m.

The roll call vote was as follows:

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

Noes: None.

Supervisor Berman asked Mr. Baroni if the Board should schedule a discussion regarding the proposed text amendment for September 10, 2008. Mr. Baroni said a myriad of things could occur including the applicant's withdrawing the application or providing solutions for the Board's consideration. Mrs. Berman asked Mr. Baroni the steps required for the Board to resolve the Positive Declaration issue. He said that the Board would need to make environmental findings in order to vote for a Positive Declaration, and that this could create another step in the environmental process that could continue for many months.

Mr. Miller requested that the discussion regarding the proposed text amendment be placed on the September 10, 2008 agenda and said he will work with the Town's consultants and the applicant over the next several weeks.

No other correspondence or comments were entered for the record.

Ann Leber, Town Clerk

Dated: August 31, 2008

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Note:

Public Hearing:	June 25, 2008	Adjourned to: July 9, 2008
Reconvened Public Hearing:	July 9, 2008:	Adjourned to July 23, 2008
Reconvened Public Hearing:	July 23, 2008:	Adjourned to August 13, 2008
Reconvened Public Hearing:	August 13, 2008:	Closed

PUBLIC HEARING

August 13, 2008

At 10:00 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 August 13, 2008 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering amending Section 213-21, Part 2 of the Town of North Castle Town Code to permit off-street parking as a permitted principal use within the IND-A Zoning District.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: July 29, 2008

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.

The following correspondence was marked Exhibit "D" for the record:

The application for a zone text amendment dated June 5, 2008

Letters from the North Castle Planning Board dated July 11 and 16, 2008

Notice of Intent and Environmental Assessment Form, mailed July 31, 2008

Letter from Westchester County Department of Planning dated August 11, 2008

Town Clerk Leber noted that the green cards indicating mailing to and receipt of certified mail by adjoining property owners had not been submitted by the applicant. After Mr. Putnam responded that he had the green cards and would bring them to the Town Clerk's office, Town Attorney Baroni said the public hearing could be held.

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 Weaver, that the Public Hearing be closed at 10:01 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 Weaver, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, the adoption of Local Law 15 of 2008 to permit off-street parking as a permitted principal use within the IND-A Zoning District. The Local Law follows:

Local Law No. 15 of 2008

A Local Law to amend IND-A District Amendments to permit off-street parking as a permitted principal use.

Section 1. Amend Section 213-21, Part 2 of the Town Code to add the following permitted principal use within the IND-A Zoning District:

Off-street parking facility

Section 2. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 3. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 4. Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: August 13, 2008

The roll call vote was as follows:

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

Noes: None.

Ann Leber, Town Clerk

Dated: August 18, 2008
