

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

on
November 9, 2009

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

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

Councilman Gerald K. Geist was absent.

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

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

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the minutes of the regular meeting of October 21, 2009; and Special Meetings of October 23, 26 and 28, 2009.

The roll call vote was as follows:

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

Noes: None.

The minutes of the Public Hearing which commenced at 7:45 p.m. follow at the end of these minutes.

Supervisor Berman made the following announcements:

- The timeframe dictated by NYS law for all local governments with regard to budget planning, evolution and adoption is as follows. By October 30th a tentative budget must be filed with the Town Clerk. The tentative budget is based primarily on requests from Department Heads and does not reflect the inevitable reductions by the Town Board. The Town is required to prepare a preliminary budget by December 10th and adopt a final budget by December 20th. The adoption of the budget is scheduled for the December 16th Town Board meeting. The objective of the Town Board is always to decrease the tentative budget figures which are presented as working numbers on October 30.
- A two-bedroom Middle Income Unit is for sale at Whippoowill Commons. For further information go to Town's Web Site and click on What's New or call the Housing Board Office at 273-4329. Applications are available at the Town Clerk's Office.
- Fall leaves are a County-mandated recyclable. Organic yard waste may not be mixed with garbage or placed in plastic bags.
- Thank you to Brendan Molloy for helping one of our elderly neighbors last Saturday with raking and bagging her leaves. His volunteerism is to be commended.

Councilman Weaver thanked residents for voting for him, saying he is looking forward to serving.

Karen Parrish, co-leader with Tracy Lander of Girl Scout Troop 1156, introduced girl scouts Marie Fazio and Laney Fazio who spoke about their troop's plan to attain the Gold Award which is the highest award in Girl Scouting. In response to their request to have an annual Town Clean Up, Supervisor Berman explained that Councilman Kittredge coordinates the Town's Clean Up event each year and asked the troop to work with her to help publicize the event, get the schools involved, and include an educational component on how to use the three part trash receptacles on Main Street.

With regard the Sewer District #2 Sewerage Treatment Plant Final Report, Supervisor Berman thanked the members of the Sewer Capacity Task Force, Councilmen Geist and Schiliro, Director of Planning Adam Kaufman, Town Attorney Baroni, Superintendent Anthony Futia, Assistant Superintendent Sal Misiti, Planning Board member John Delano and Consulting Engineer John Kellard, for their work.

John Kellard of Kellard Sessions reviewed the Task Force's mission statement as established by the Town Board:

- To review the capacity of the Sewer District #2 treatment plant taking into consideration its current gallons per day and the gallons per day needed for planned development in the sewer district.
- Capacity needed for those residents in downtown Armonk that might have to come into the district.
- Should the Task Force conclude that the plant, pump stations, etc. need additional expansion capabilities, it should look at which components would need to be upgraded, the relative costs to do so, the impact on the typical user and the likelihood of successfully navigating through the permitting process.

Mr. Kellard said that the conclusions presented in the memo from the Task Force were arrived at based on data provided by the Town's Sewer & Water Department and the report prepared by Stearns & Wheler, LLC, entitled "Evaluation to Assist Sewer Capacity Task Force," dated January 2009.

In response to the Board's question regarding the plant's capacity and required capacity to service the existing district, Mr. Kellard said that the treatment plant has a permitted discharge limit of 450,000 gpd and present average monthly usage is 332,000 gpd which is 74% of capacity. The present usage at IBM, which since the inception of the district in the 1980's has paid for a reserve allocation of 135,000 gpd, is 42,000 gpd. If IBM's future occupancy and expansion utilize their full allocation and the remaining properties within the district develop in conformance with present use projections, an average monthly flow of 454,000 gpd would be expected. Therefore, the sewer plant can accommodate projected flows for the district, but there is no surplus capacity available for expansion of the district or for changes in use within the district which may generate significant increases in sewer needs.

In response to the Board's question regarding the capacity needed to service out of district residents located adjacent to the sewer district who might need service in the future, the Task Force concluded that 20,000 gpd would be required to service those residents in 67 homes in the neighborhoods of Annadale Street/Old Orchard Drive and Old Mt. Kisco Road. In addition, the Task Force recommended that an additional 30,000 gpd of capacity be provided as a reserve which would allow properties presently in the district the ability to expand or permit changes in usage which may generate additional usage. Mr. Kellard said that from a cost benefit perspective a 50,000 gpd plant expansion appears to be the most efficient expansion that can be expected.

In response to the question regarding the components of the plant needing to be upgraded and the cost to expand plant capacity, Mr. Kellard said that it was determined that the hydraulic capacity of the plant could be upgraded to meet the 500,000 gpd design. Stearns & Wheler has indicated that, if the work were to be performed at this time during the nitrogen removal upgrades, that the cost to expand the plant capacity, \$250,000 to \$300,000, would be less than previous estimates. With regard to the impact on the typical user, the additional \$250,000 to \$300,000 expenditure represents a 5%-6% increase in the cost of the de-nitrification process or approximately \$30-\$40 per year. With regard to the likelihood of successfully navigating through the permitting process, Mr. Kellard explained that NYSDEC does not have an issue with the hydraulic upgrade component, but its approval could not be expected until the plant's de-nitrification upgrades are operational.

Mr. Kellard presented the consensus of the Task Force that:

- The Town Board authorize the Sewer & Water Department to obtain proposals to upgrade the hydraulic components of the plant to increase its capacity to 500,000 gpd

Town Board Meeting
November 9, 2009

and that such work be performed with the present nitrogen upgrade improvements to obtain the most economic benefit.

- The Town Board authorize Stearns & Wheler to prepare an application to NYSDEC to expand the present discharge limits from its present 450,000 to 500,000 gpd.
- The Sewer & Water Department should expand its efforts to educate customers in the benefits of conservation, and if necessary, mandate the conservation of water usage in the district.

Councilman Weaver moved, seconded by Councilman Kittredge, receipt of the *Sewer District #2 Sewage Treatment Plant Final Report and Evaluation to Assist Sewer Capacity Task Force*, prepared by Stearns & Wheler, LLC.

The roll call vote was as follows:

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

Noes: None.

In response to Lydia Rippstein's query whether residents in the district will have the opportunity for input about the sewer plant expansion, Town Attorney Baroni said that, if and when the district is extended, the public would have an opportunity to comment at a public hearing. Supervisor Berman added that at this time the Board is only authorizing the Sewer & Water Department to obtain proposals to upgrade the plant to increase its capacity.

Upon the recommendation of Superintendent Fon, Councilman Kittredge moved, seconded by Councilman Schiliro, award of the base bid for replacement of the existing boiler in Town Hall and Options B and C to Thuesen Mechanical Corp., the low bidder. The total contract price is \$21,029.99.

The roll call vote was as follows:

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

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, the scheduling of a public hearing for December 1, 2009 to consider the Special Use Permit application of Citigroup to permit unaffiliated business entities and professional organizations to use the Weill Center for conferences, planning and training purposes.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a copy of a letter from John Heimerdinger, chairman of the Ad Hoc Committee for Residential Sprinkler Ordinance, to NYS Division of Code Enforcement and Administration expressing concerns with the decision of the Code Council not to approve the Town's residential sprinkler ordinance. Town Clerk Leber read Mr. Heimerdinger's letter aloud.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of the 2010 Town and Special District Tentative Budgets, and that a public hearing be scheduled for December 1, 2009.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, acceptance of the offer from Crabapple Properties, LLC, represented by Veneziano & Associates, for the dedication of the water and sewer systems constructed in the Cider Mill Property.

The roll call vote was as follows:

Town Board Meeting
November 9, 2009

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

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a performance bond from Larry Massaro for the Massaro Subdivision, North White Plains, to ensure completion of a private roadway, sewer and water main extensions, and stormwater management systems.

The roll call vote was as follows:

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

Upon the request of General Foreman Craig Useted, Councilman Weaver moved, seconded by Councilman Kittredge, that the following highway bonds be released:

- Cablevision, Permit #804, with permission to return \$1,000 of the \$50,000 bond.
- Cablevision, Permits #829, 841, 842, 844, 845, 848, 849, 856, 857, 858, 859, 860, 864, 865, 866, 867, 868, 870, 877, 878, 879, 880, 881, 882, 883, 884 with permission to return \$19,500 of the \$50,000 bond.
- Cross County Asphalt, Permit #897 in the amount of \$500.
- Cross County Asphalt, Permit #918 in the amount of \$500.
- Barry Blattman, Permit #899 in the amount of \$500.
- Charles Balascio, Permit #916 in the amount of \$500.
- Alfredo Santucci, Permit #919 in the amount of \$500.

The roll call vote was as follows:

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

Councilman Weaver moved, seconded by Councilman Schiliro, authorization for Comptroller Donovan to make Payment No. 5 to BMJ Construction Company, in the amount of \$371,212.50, and Payment No. 3 to A & R Electric, Inc., in the amount of \$103,122.50, in connection with the wastewater treatment plant nitrogen removal project.

The roll call vote was as follows:

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

Councilman Weaver moved, seconded by Councilman Schiliro, receipt of a memo from Assessor Anna Maria Marrone informing the Board that letters were sent to several property owners whose parcels abut small pieces of Town-owned property asking if they had any interest in purchasing the property. Five property owners responded in the affirmative. Ms. Marrone submitted a proposal from the Appraisal Services Group for both appraisals and letters of value. Councilman Schiliro expressed his opinion that the fees seemed high. The Board asked Town Clerk to contact Assessor Marrone and ask her to solicit proposals from other companies.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a sales tax update from Comptroller Dawn Donovan. The Town received \$338,190 for the third quarter of 2009.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of an email from Susan Shimer, chair of the Landmarks Preservation Committee, informing the Board that a Certificate of Appropriateness had been granted to Bedford Road, LLC, with regard to the garage at 20 Bedford Road. The project will include demolition of the existing two-car garage and the construction of a one-bedroom apartment, utilizing the existing footprint of the garage.

The roll call vote was as follows:

Town Board Meeting
November 9, 2009

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

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of the Town Clerk's report for October, 2009.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of Workers Compensation Reports for Gregory Wilson, Recreation & Parks Department, and Matthew Harisch, Highway Department.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign an agreement with SPCA of Westchester, Inc., in the amount of \$4,919,74 for shelter services for the year 2010.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Schiliro, ratification of the Supervisor's executing a Memorandum of Agreement with CSEA Unit 1 regarding compensatory time. Councilman Kittredge complimented the union for its assistance during this time of financial crisis.

The roll call vote was as follows:

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

Councilman Weaver moved, seconded by Councilman Schiliro, approval of a proposal in the amount of \$43,375 from Leggette, Brashears & Graham, Inc., for bid specifications for a new well boring and test well installation program for Water District #4.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign a proposal in the amount of \$11,061.80 from Sullivan Data Management to replace the existing main server in the Recreation Department.

The roll call vote was as follows:

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

Councilman Schiliro moved, seconded by Councilman Weaver, receipt of a letter of resignation from Stephen Dougherty, Highway Department, effective November 1, 2009. Mr. Dougherty had taken a leave of absence from January 2009 to December 2009 to train to become a police officer in another community.

The roll call vote was as follows:

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

Councilman Kittredge moved, seconded by Councilman Schiliro, ratification of the permanent appointment of Megan Caley to the position of Librarian II, Step 3.

Town Board Meeting
November 9, 2009

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for Comptroller Donovan to pay terminal leave to retirees Glenn Thomas and Ruth Barrett, who took advantage of the Town's early retirement incentive.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro, that the public hearing to consider the Whippoorwill Stream Stabilization project be reconvened on November 18, 2009.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, acceptance, with regret, of a letter of resignation from Caryl Hahn from the Global Warming Task Force, effective immediately.

The roll call vote was as follows:

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

Noes: None.

Sue Shimer expressed her concern regarding the number of political signs in Town prior to the election. Supervisor Berman agreed and commented that it wastes taxpayers' money to have those signs removed by Town employees. She added that many of the signs were placed illegally. Mrs. Shimer asked that the Board fill the vacancy on the Landmarks Preservation Committee which she chairs. Supervisor Berman said that this would be done as soon as possible. Mrs. Shimer said the Town may be eligible for NYS grant money if the Landmarks Preservation Committee ordinance is revised.

Joanne Miller, Seymour Place West, said she has been disposing of leaves on her property, but due to its sloping topography, some leaves have drifted into the road making it slippery for vehicles and pedestrians. Supervisor Berman said that the roads will be swept by the Highway Department. Councilman Schiliro added that, due to the change from leaf vacuuming to bagged leaf collection and blowing leaves into the woods, the Highway Department has been able to accomplish additional tasks in a shorter time period.

Sally Moran, Seymour Place West, expressed concern about the number of coyotes in the area. Supervisor Berman confirmed that the Town Clerk had given Ms. Moran a contact number at the NYSDEC and said she would also phone that agency regarding Ms. Moran's concern.

The Town Board audited and approved payments totaling \$2,073,053.51 as indicated on Warrant #19.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 8:55 p.m. in memory of Bruce Barnard's father-in-law, Raymond Turner.

Ann Leber, Town Clerk

Dated: November 18, 2009

PUBLIC HEARING

November 9, 2009

At 7:45 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 November 9, 2009, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering the adoption of a local law to amend Sections 213-21, 213-24(A)(7), 213.24 F, 213-3, and 213-5 to create a new Office Business Hotel zoning district on a portion of existing Office Business zoned IBM property, and to amend the Town Comprehensive Plan to be consistent with the zoning change.

By Order of the Town Board
Ann Leber, Town Clerk

Dated: October 23, 2009
Armonk, NY

The Public Notice 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 green cards denoting mailing to and receipt of certified mail by adjoining property owners were received and marked Exhibit "D" for the record.

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

- Letters from IBM, dated July 31 and August 14, 2009.
- Notice of Intent, dated August 6, 2009.
- A letter to the Planning Board and Town Board from Director of Planning Adam Kaufman, dated September 11, 2009.
- A letter from Director of Planning Kaufman to the Town Board on behalf of the Planning Board, dated September 23, 2009.
- Two proposed resolutions, one revised resolution and a local law in connection with the IBM application.

Edward Nolan, Windels Marx Lane & Mittendorf, LLP, appeared on behalf of IBM regarding its application for a zoning amendment to create a new Office Hotel Business (OHB) District on a 32 acre parcel at its headquarters at 1 New Orchard Road in North Castle. Mark Gratz, Divney Tung Schwalbe LLP, provided background on IBM's previous subdivision of its 367.93 property, and its proposed subdivision which would involve a realignment of two lots to create a total of three lots (A-3, A-4 and A-5) and a transfer of density. The proposed hotel, if approved, would be sited on Lot A-4. Mr. Gratz explained that tonight the applicant is asking the Town Board for approval of the transfer of density rights, adoption of the local law to create an Office Business Hotel Zoning District and an amendment to the Town Comprehensive Plan.

Resident Lydia Rippstein asked if the greater density would be limited to the IBM lot. Supervisor Berman responded that the density would remain the same.

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 Schiliro, that the Public Hearing be closed at 7:50 p.m.

The roll call vote was as follows:

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

Noes: None

Town Board Meeting
November 9, 2009

Director of Planning Adam Kaufman explained that the Comprehensive Plan already suggests that the DOB-20A permit hotels and conference centers. The Applicant was asking that the Town Board amend the Comprehensive Plan slightly to expand that language to the OB District as well. He continued, stating that the draft local law would also create specific bulk standards for the newly created OBH District that is very similar to the OB District and create standards for hotels that are modeled after existing language in the Town Code relating to motels. Mr. Kaufman also explained that the Town Board is also considering a resolution that would transfer development rights to the newly subdivided parcels, but that it would not result in an increase in the total amount of development permitted on the entire IBM campus.

Supervisor Berman added that up to 300 hotel rooms would be permitted, but the actual number would be limited by the availability of water and sewer.

When Sue Shimer, Pond Lane, asked about the implications of amending the Comprehensive Plan, Mr. Kaufman responded that the suggested change in the Comprehensive Plan would permit the Town Board to create the proposed OBH District. He stated that the Town Board still has the legislative control to map that district where it sees fit. Under the proposed action, the OBH district will be mapped to only the newly created lot within the IBM subdivision.

Councilman Weaver moved, seconded by Councilman Kittredge, adoption of 1) the resolution to amend Section IV.B.3.b.i.5 of the Town Comprehensive Plan to expand potential uses in the DOB-20A and OB districts to include hotels, and 2) Local Law 13 to amend Town Code, Section 213, to include a definition of hotel, create the Office Business Hotel Zoning District and create standards for that district and for hotels.

The roll call vote was as follows:

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

Noes: None

The resolution and the local law follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Weaver, adoption of a resolution permitting 478,600 square feet of development rights to be allocated to Lot A-3; 208,900 square feet of development rights to Lot A-4; and 861,500 square feet of development rights to Lot B-1.

The roll call vote was as follows:

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

Noes: None

The resolution follows at the end of these minutes.

Supervisor Berman said that IBM has always been a good neighbor and that the Town Board looks forward to continuing to work together with it on future projects.

Ann Leber, Town Clerk

Dated: November 17, 2009

RESOLUTION

Action: Town Comprehensive Plan Amendment, amendment to Section 213-3 of the Town of North Castle Town Code to include a new definition of HOTEL; amendment to Section 213-24(A)(7) of the Town Code to add multiple references to the OBH District; amendment to Section 213-5 to create a new Zoning District to be known as Office Business Hotel (OBH); amendment to Section 213-21 of the Town Code to create standards for the OBH District; and amendment to create a new Section 213-24.F.1 containing standards and conditions for Hotels

Application Name: International Business Machines Corporation (IBM)

Date of Approval: November 9, 2009

WHEREAS, an application dated July 15, 2009 for Zoning Text Amendment was submitted to the Town Board by IBM to amend the Town Code as described above; and

WHEREAS, IBM's petition to the Town Board is to amend the Zoning chapter to create a new Office Business Hotel District on a portion of the existing OB Zoned IBM property; and

WHEREAS, IBM is also seeking Planning Board approval to subdivide existing Lot A into two separate parcels – Lot A-3 (81.6 acres that contains the Former Corporate Headquarters) and Lot A-4 which would contain 32.5 acres and could support a new 208,900 square foot hotel or office building and the creation of an 18.2 acre lot which would be added to existing Lot B; and

WHEREAS, the Applicant is proposing to amend the Town Comprehensive Plan so that the Comprehensive Plan would be consistent with the proposed zoning text amendments. It is noted that the Town Comprehensive Plan in Section IV.B.3.b.i.5 recommends the following:

Consideration should be given to expanding the range of potential uses in the DOB-20A district, possibly to include hotel/conference facilities, particularly where such diversification would have different peak hour traffic generation characteristics than office buildings.

WHEREAS, given that the DOB-20A and the OB Zoning Districts are both campus office development districts and the fact that IBM has demonstrated that any proposed hotel would create different peak hour traffic generation characteristics, the Planning Board recommended to the Town Board that the above referenced section of the Town Comprehensive Plan be amended to also include the OB District; and

WHEREAS, while the Applicant is not petitioning the Town Board to add hotel/conference facilities to the totality of the OB District, the creation of the proposed OBH Zoning District would be consistent with the revised language in the Comprehensive Plan Update; and

WHEREAS, the proposed action does not involve any physical construction; and

WHEREAS, under existing and proposed zoning for the IBM Campus, the combined development potential of all lots will remain without change at its present day level of approximately 1,545,000 SF; and

WHEREAS, the lot size, setback and bulk regulations proposed under the OBH zoning match those of the existing OB, Office Business District, including permitted floor area and building heights; and

WHEREAS, the transfer of development rights from Lot A-5 will not result in an increase in development floor area; and

WHEREAS, further, any new structure built on IBM lands will be limited by the permissible Floor Area Ratio and the size of any new structure on Lot A-4 would be no more than 208,900 SF regardless of its use; and

WHEREAS, the proposed Zoning Amendment limits the size of a potential Hotel development under the proposed Office Business Hotel (OBH) zoning to a maximum of 300 rooms by requiring not less than 4,700 SF of lot area for each guest sleeping room; and

WHEREAS, the Planning Board, in a communication to the Town Board, determined that the proposed density would be compatible with the existing character of the OB Zoning District and surrounding properties; and

WHEREAS, with respect to sewer capacity, the most critical information can be found on Table 6H of the Water and Sewer Analysis prepared by the Applicant. Table 6H indicates that if the existing IBM office buildings and learning center were fully occupied and a new 300 room hotel were constructed, potential sewer demand would exceed IBM's reserve capacity of 135,000 GPD; and

WHEREAS, IBM has acknowledged that if additional development is proposed, the Town may or may not be able to accommodate additional flows over and above IBM's 135,000 GPD reserve capacity; and

WHEREAS, therefore, it is understood that it is possible that a future 300 room hotel may not be able to be constructed given the existing capacity of the Town's infrastructure and that a reduced size hotel may need to be proposed for construction, unless alternative solutions are found; and

WHEREAS, meetings have been held between the Applicant, Town Engineer and Planning Department at which the Applicant has been advised that, depending on its size, adequate water supply may not be available to meet the projected demands of a theoretical Hotel Use as presented in the Applicant's application; and

WHEREAS, it is noted that Water District No. 4 has begun the process of exploring alternative well sites to develop an additional water supply source for the Town and expects that in a few years this may no longer be a limiting factor; and

WHEREAS, it is the conclusion of the Town's traffic consultant that the Hotel Use alternative development scenario would result in an approximate 30% reduction in peak hour traffic and as a result "traffic added to area roads during peak hours would be substantially reduced, which would result in a significant reduction in impact to area roads;" and

WHEREAS, the applicant submitted a Full Environmental Assessment Form (EAF) in connection with the application dated July 10, 2009; and

WHEREAS, the Planning Board declared its intent to act as Lead Agency in connection with the proposed action and circulated such Notice of Intent and the EAF to all involved and interested agencies as required under SEQRA; and

WHEREAS, in accordance with Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617 and the North Castle Environmental Quality Review Law, the Planning Board on October 26, 2009 made a determination that the proposed action will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared; and

WHEREAS, the Planning Board adopted a motion at its September 30, 2009 meeting by a vote of 5 to 0 recommending that the Town Board approve the above-referenced actions; and

Town Board Meeting
November 9, 2009

WHEREAS, the Town Board conducted a public hearing on November 9, 2009 to receive comments regarding the proposed amendments to the Comprehensive Plan amendment and the Town of North Castle Zoning Code; and

WHEREAS, the Town Board has requested, received and considered comments from the Town attorney, the Consulting Town Engineer and Consulting Town Planner regarding the proposed development.

NOW, THEREFORE, BE IT RESOLVED, that the Town of North Castle Town Board does hereby amend Section IV.B.3.b.i.5 of the Town Comprehensive Plan to state the following, "Consideration should be given to expanding the range of potential uses in the DOB-20A and OB districts, possibly to include hotel/conference facilities, particularly where such diversification would have different peak hour traffic generation characteristics than office buildings;" and

BE IT FURTHER RESOLVED, that the Town of North Castle Town Board does hereby adopt the proposed local law entitled "A local law to amend Section 213-3 of the Town of North Castle Town Code to include a new definition of HOTEL; to amend Section 213-24(A)(7) of the Town Code to add multiple references to the OBH District; to amend Section 213-5 to create a new Zoning District to be known as Office Business Hotel (OBH); to amend Section 213-21 of the Town Code to create standards for the OBH District; and to create a new Section 213-24.F.1 containing standards and conditions for Hotels."

TOWN OF NORTH CASTLE

Local Law No. 13 For The Year 2009 Adopted November 9, 2009

A local law to amend Section 213-3 of the Town of North Castle Town Code to include a new definition of HOTEL; to amend Section 213-24(A)(7) of the Town Code to add multiple references to the OBH District; to amend Section 213-5 to create a new Zoning District to be known as Office Business Hotel (OBH); to amend Section 213-21 of the Town Code to create standards for the OBH District; and to create a new Section 213-24.F.1 containing standards and conditions for Hotels.

Section 1. Amend Section 213-3 of the Town of North Castle Town Code to include the following definition in proper alphabetical order.

HOTEL – A "building" or portion thereof, containing rooms, with or without individual kitchen facilities, occupied by transient guests who are lodged, with or without meals, which rooms have primary access from public halls, and in which "building" or portion thereof there are certain public rooms and halls for the use of all guests, and in which are provided such services as are incidental to the "use" thereof as a temporary residence.

Section 2. Amend Section 213-24(A)(7) as follows.

- (7) Density transfer from sites in Office Business (OB) and Office Business hotel (OBH) Districts.
 - (a) Transfer of density as set forth below in this Subsection A(7) between a transferor site in the OB or OBH Districts and a transferee site within the OB or OBH Districts or the Designed Office Business 20A (DOB-20A) District may be permitted by the Town Board on application by the owner or owners of said sites, for the purpose of encouraging the preservation and enhancement of recreational areas, scenic vistas, wooded areas and open spaces, residential neighborhoods, the creation of conservation easement areas to preserve open space, the enhancement of the area's environment and the promotion of the construction of new low-density office space with minimum lot coverage and site disturbance on appropriate sites in accord with the Town Development Plan.
 - (c) The density of the transferor site that may be transferred is computed as set forth below. The density, in whole or in part, may be conveyed or transferred to any other property, site or parcel within the OB or OBH Districts or the DOB-20A District. The density of development permitted on the transferee site is the sum of the maximum permitted

density of the transferee site plus the maximum permitted unused density of the transferor site. While the resultant density on the transferee site will exceed the otherwise permitted floor area ratio, the overall density permitted on the transferee site shall not exceed a floor area ratio of 0.25. In computing the density to be transferred from two or more transferor sites, fractional results from individual properties may be added to produce whole numbers. Results may not, however, be rounded to the next higher number.

- (e) Density, or development rights from a transferor site in an OB or OBH Districts, may be transferred or conveyed directly to a transferee site only within the OB or OBH Districts or the DOB-20A District and to no other property. A proposed transferor site or a proposed transferee site may be owned by one or more persons, corporations and entities, but application for such transfer shall be presented as a single application by the owner(s) of the transferor and transferee sites affected thereby. The transferor or transferee sites may include lands which are not contiguous and which are divided or separated by streets or other property; provided, however, that all transferee sites must be located within the OB or OBH Districts or the DOB-20A District to qualify for such transfer. Where a transfer of density and development rights is approved pursuant to the procedures set forth herein, buildings or structures may be located and approved on the transferee site pursuant to an overall development concept plan without requiring a separate lot for each building or structure located thereon, and, without limiting the generality of the foregoing, the limitation of § 213-13A, entitled "Lot for every building," shall not apply.
- (f) For the purpose of determining the dimensions of minimum yards and frontage in the OB or OBH Districts provided for in §213-21, Schedule of Office and Industrial District Regulations, Part 1, contiguous transferor and transferee sites will be treated as a single lot.

Section 3. Amend Section 213-5 of the Town Code to create a new Zoning District to be known as Office Business Hotel (OBH) and place lot 2/16/4.2A within the OBH District.

Section 4. Amend Section 213-21 Schedule of Office and Industrial District Regulations Part 1 so that columns 1-14 for the OBH District shall be the same as for the OB District, except for the following amendments.

<u>Permitted Principal Uses</u>	<u>Permitted Accessory Uses</u>	<u>Other Standards and Requirements</u>
<u>2</u>	<u>3</u>	<u>14</u>
Hotels, on a lot with not less than 4,700 square feet of lot area for each guest sleeping room	Uses customarily located in hotels such as facilities for conferences, banquets, fitness and restaurants which are open to the public	As to Hotels, see §213-24.F.1

Section 5. Create new Section 213-24.F.1

F.1 Hotels. Hotels are subject to the following standards and conditions:

- (1) Use. Use of a hotel site and any buildings or structures thereon shall be limited to the usual hotel activities, as defined herein, and accessory uses incidental to the operation of a hotel, and of the same general character, including but not necessarily limited to the following, provided that all accessory uses shall be planned as an integral part of the hotel and located on the same site therewith:
 - (a) One house or apartment with or without kitchen facilities for the use of the hotel manager and caretaker and his family.
 - (b) Restaurants and lounges, serving either hotel guests exclusively or the general public, provided that no music or other sound shall be audible beyond the boundaries of the lot on which the use is conducted.
 - (c) Fitness and sport facilities, including swimming pools, children's playgrounds, tennis or other game courts and game recreation rooms.

- (d) Automobile parking garages or carports and off-street parking spaces.
- (e) Office and lobby
- (2) Hotel rooms.
 - (a) Hotel sleeping rooms shall not be interconnected by interior doors in groups of more than two.
 - (b) Each sleeping room shall have an area, inclusive of bathroom and closet space, of at least 225 square feet.
- (3) Access and service roads. Access and service roads shall be properly related to easement driveways or streets, public streets and highways so as to avoid unsafe conditions and traffic congestion. Points of ingress and egress shall be limited to a total of two on any street. No backing of cars into any highway shall be permitted.
- (6) Off-street parking. As required by Article IX. Where a hotel includes a restaurant, lounge or other eating and drinking facilities, required parking space shall be provided for such facilities, in addition to required parking spaces for sleeping rooms and other floor space.
- (7) Signs. Signs shall be subject to the same provisions as are applicable to motels as contained in Section 213-15F.9.

Section 6. 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 7. 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 8. Effective Date.

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

Dated: November 9, 2009

RESOLUTION

Action: Approval of Density Transfer
Application Name: International Business Machines Corporation (IBM)
Designation: Section 2, Block 16, Lot 4.1
Location: North Castle Drive and New York State Route 22
Date of Approval: November 9, 2009

WHEREAS, by resolution dated October 5, 1995, as amended by resolution dated February 13, 1997, the Town Board approved a density transfer of 123,141 square feet of development rights from Lot A-1 and A-2 to Lot A resulting in buildable floor area on Lot A of 681,588 square feet; and

WHEREAS, Lot A-1 containing 24.26 acres was dedicated to the Town of North Castle for park and recreation purposes on December 24, 1996 and Lot A-2 containing .23 acres was dedicated to Town Water District No. 4 for water supply purposes on August 23, 1998; and

WHEREAS, an agreement limiting development of Lot A-1 and A-2 and the transfer of development rights to Lot A was recorded in the Office of the Westchester County Clerk, Division of Land Records on May 28, 1997 in Liber 11731, page 53; and

WHEREAS, by application filed July 13, 2009, IBM has requested the Town Board to reallocate the developments rights on Lot A to Lots A-3 and A-4; and

WHEREAS, preliminary subdivision approval was granted by the Planning Board on October 26, 2009 permitting realignment of the lots to create Lot A-3 and A-4 and enlarge Lot B to create Lot B-1 without any increase in development potential of Lot B-1 since that development lot potential is proposed to be transferred to Lot A-3 and Lot A-4; and

WHEREAS, a table explaining the reallocation follows:

	<u>10/5/95 and 2/13/97 Town Board Resolutions</u>	<u>2009 Amendment of Town Board Resolutions</u>
Lot A	132.3348 ac.	132.4315 ac.
Permitted floor area on Lot A after deduction for wetlands and steep slopes.	558,447 sf. (106.8 ac.*)	564,359 sf. (107.73 ac.*)
* Net Lot Area.		
Transfer from A-1 and A-2.	<u>123,141 sf.</u>	<u>123,141 sf.</u>
Buildable floor area on Lot A.	681,588 sf.	687,500 sf.
Allocation to Lot A-3.		478,600 sf.
Allocation to Lot A-4.		208,900 sf.

After such transfer, the development status of the Lots A-3, A-4 and B-1 will be as follows:

Lot	Size (acres)	Net Lot Area * (acres)	Development Rights (square feet)	Floor Area Ratio	Existing Improvements (square feet)	Unused Development Rights (square feet)
A-3	81.64	67.04	478,600	.1639	391,720	86,880
A-4	32.55	27.25	208,900	.1760	0	208,900
B-1	<u>229.34</u>	<u>178.24</u>	<u>861,500</u>	.1116	<u>495,089</u>	<u>366,411</u>
	343.53	272.53	1,549,000		886,809	662,191

* After deduction for steep slopes and wetlands.

Town Board Meeting
November 9, 2009

WHEREAS, a detailed analysis of existing conditions and development potential for the IBM site can be found on a plan entitled "Application for Preliminary Subdivision Approval," dated July 10, 2009, prepared by Divney Tung Schwalbe, LLP, which was submitted to the Planning Board;

NOW THEREFORE, BE IT RESOLVED that 478,600 square feet of development rights be allocated to Lot A3; 208,900 square feet of development rights be allocated to Lot A4; and, 861,500 square feet of development rights be allocated to Lot B-1, subject to the following:

1. The preparation of an agreement in a form approved by the Town attorney confirming the allocation which agreement shall be recorded in the Office of the Westchester County Clerk, Division of Land Records.
2. Payment of any required application and consulting fees.