

**TOWN OF NORTH EAST
TOWN BOARD SPECIAL MEETING
MINUTES
April 18, 2019**

Councilman Present:

Supervisor Kaye
Councilman Fedele
Councilman Midwood
Councilman Chris Kennan

Councilman Absent:

Councilman John Merwin

Also in attendance were Town Attorney Warren Replansky and Highway Superintendent Bob Stevens.

Call to Order:

Supervisor Kaye called the meeting to order at 6:00 p.m.

Agenda:

Supervisor Kaye informed the Board that there were a few additional items that needed to be added to the agenda. Those items were two resolutions that needed approval by the Town Board in order to apply for a road grader with the Town of Milan and a dirt roller and trailer with the Towns of Clinton and Milan.

Appointment of Deputy Town Clerk and Deputy Registrar of Vital Statics

On a motion by Councilman Kennan, seconded by Councilman Fedele the following was:

ADOPTED – AYES – 4 (Kaye, Midwood, Fedele, Kennan)
NAYS – 0

RESOLVED, to amend the agenda to add the items discussed

A Special Meeting of the North East Town Board to Approve Resolutions on the Monroe Balancing Test:

Town Attorney Warren Replansky stated that at the last meeting the Board held a public hearing on April 11, 2019 to gather input from the public to determine if the Town Board was exempt from the Towns Zoning law and project review by the Planning Board and Zoning Board of Appeals, by reviewing the criteria of the Monroe Balancing Test. Attorney Replansky reviewed the criteria's that were needed to meet the Monroe Balancing Test. At the public hearing Bill Kish made a comment regarding keeping the Planning Board involved. This was added to the resolution. Town Clerk Cope mentioned that an email had been received from Meg and Michael Winkler regarding some concerns that they had with the project. They were concerned with the negative impacts to the surrounding area (light pollution, air quality, noise and traffic) Mr. & Mrs. Winkler asked that the resolution include some review by the planning board. Attorney Replansky stated that the resolution includes a paragraph about the Planning and Zoning Board being able to review the plans.

On a motion by Councilman Kennan, seconded by Councilman Fedele the following was:

ADOPTED BY ROLL CALL:

Supervisor Kaye –	AYE
Councilman Midwood -	AYE
Councilman Fedele -	AYE
Councilman Merwin -	ABSENT
Councilman Kennan -	AYE

RESOLVED, to approve the resolution regarding the Monroe Balancing Interest Test

TOWN BOARD OF THE TOWN OF NORTH EAST

**RESOLUTION ADOPTING MONROE BALANCING OF PUBLIC INTEREST TEST
DETERMINATION FOR PROPOSED TOWN OF NORTH EAST HIGHWAY
FACILITY ON NEW YORK STATE ROUTE 22**

WHEREAS, the Town of North East is a municipal corporation duly organized and existing pursuant to the laws of the State of New York and having such powers and responsibilities pursuant to the provisions of the New York State Town Law and the Highway Law in conjunction with the Town's Superintendent of Highways to provide for the care and maintenance of the Town's highways and bridges and to provide suitable places for the housing and storing of vehicles, machinery, tools and equipment owned by the Town for the effectuation of such purposes; and

WHEREAS, the Town of North East is the owner of a parcel of real property (Tax Parcel #133889-7171-00-950854), located on New York State Route 22, consisting approximately 3.7 acres of land that has been previously acquired by the Town and designated for municipal purposes ("subject premises"); and

WHEREAS, the Town of North East Highway Department currently has a Highway Garage site in the Village of Millerton that is located along a NYSDEC designated trout stream, which is grossly undersized, outdated and insufficient for the continuous use as a Highway Facility, and;

WHEREAS, the Town of North East Highway Department is in need of an adequate repair, storage, and administrative, Salt/Sand Storage, and Fuel Storage facility in order to meet the needs of maintaining the public roadways and bridges of the Town of North East, and

WHEREAS, the Town of North East after an extensive multi-year process of searching for property for the purposes of constructing a new Town Highway Garage Facility, recently acquired the subject parcel for the purposes of constructing a new Highway Garage Building facility for the storage, and operations needed by the Town of North East Highway Department, and;

WHEREAS, the Town has been awarded a Municipal Innovation Grant which has been approved by Dutchess County in the sum of \$240,000 to be used, in part, for procurement of architect/engineering services to develop design and construction plans for a highway garage facility to be used jointly with the Village of Millerton's Highway Department, on the subject property; and

WHEREAS, the Town has, in accordance with the request for proposals, selected CPL Architecture, Engineering, Planning and Surveyor of 64 Green Street, Hudson, New York (“CPL”) to prepare the required plans for a highway garage and fuel storage facility to be constructed on the subject property which will be shared, in part, with the Village of Millerton pursuant to terms set forth in a Memorandum of Agreement between the Town and the Village of Millerton; and

WHEREAS, CPL has prepared preliminary plans for said facility which will be constructed in three phases, with Phase 1 consisting of construction of a joint 4,800 square foot, four bay storage building and fuel storage facility including space for an aquatic feeder harvester shared in part by the Village of Millerton; Phase 2 consisting of the construction of a 3,200 square foot sand/salt storage shed with mixing pad that will store approximately 2,000 tons of material; and Phase 3 consisting of the construction of a 15,000 square foot joint highway garage facility, including, but not necessarily limited to, administrative offices, break room, vehicle storage, maintenance and parts storage; and

WHEREAS, the subject property is located in the Town’s A5A zoning district in which such a highway facility is not a permitted, or specially permitted, use and it further, appears that some of the required construction for the facility on the site will not be in accordance with certain of the setback requirements for structures and improvements within the A5A zoning district (“Bulk Regulations”), as set forth in the Town of North East Zoning Code; and

WHEREAS, pursuant to the decision of the New York State Court of Appeals in the *Matter of County of Monroe*, 72 N.Y.2d 338 (1988), a “balancing of public interests analysis” (“Monroe Balancing Test”) is required to determine whether and to what extent, this project shall be exempt from the Town’s Zoning Code and use and bulk regulations and administrative approval from the Town of North East Planning and/or Zoning Boards; and

WHEREAS, the Town of North East Town Board held a public hearing on April 11, 2019 for the purpose of describing the project to be undertaken at the subject premises, conducting an analysis of the potential environmental and other impacts of the project pursuant to SEQRA, and to receive inquiry and comment from the public regarding the criteria to be considered by the Town Board in conducting the requisite Monroe Balancing Test analysis; and

WHEREAS, upon a review of the preliminary plans for the proposed construction of a new Garage Facility on the subject premises; testimony at the public hearing; a review of the project pursuant to SEQRA; and after due deliberation thereon;

NOW, THEREFORE, BE IT

RESOLVED, that the North East Town Board has analyzed, considered and discussed the following criteria as required by *Matter of County of Monroe* in relation to the construction associated with the new Highway Garage facility on the subject premises, and the Town of North East's land use regulations, and hereby finds as follows with regard to each of the nine Monroe Balancing Test criteria:

1. The nature and scope of the instrumentality seeking immunity.

The Town of North East Town Board is the municipal body solely responsible for the legislative and executive functions of the Town of North East. The Town of North East Planning Board and Zoning Board are administrative boards of the Town of North East, whose members are appointed by the North East Town Board.

2. The kind of function of land use involved and the extent of the public interest to be served.

(a) The construction associated with the new highway garage facility as a repair, storage, and administrative facility for the Town of North East and Village of Millerton Highway Departments is a non-proprietary, governmental function which will serve the public interest by ensuring the continued and improved maintenance of public roadways and bridges under the jurisdiction of the Town of North East's and the Village of Millerton's Highway Departments for the benefit of members of the public using said public roadways and the citizens of the Town of North East and Village of Millerton.

(b) The maintenance of public roadways and bridges under the jurisdiction of the Town and Village Highway Departments are statutory governmental functions and obligations of the Town of North East and Village of Millerton's Highway Departments.

3. The effect local land use regulation would have upon the enterprise concerned and the impact upon legitimate local interests.

(a) That if the Town of North East Zoning Code was to be applied to this project, the Town would be prohibited from siting its highway garage on the subject property

unless a use variance could be obtained from the Town's Zoning Board of Appeals, which process would be expensive and time consuming, with the outcome uncertain, at best.

(b) The facility, as preliminarily designed, could not be sited on the subject property in a manner fully compliant with the setback requirements of the Town of North East Zoning Code for A5A District and would require an area variance application and approval from the Zoning Board of Appeals, a process which would be expensive and time consuming, with the outcome uncertain.

(c) Subjecting the siting and construction of the new facility to site plan review by the North East Planning Board and/or special permit approval of the Zoning Board of Appeals will unnecessarily delay the project, jeopardize grant funding for the project and will result in prohibitive cost increases for the project.

(d) Subjecting the project to the review processes normally required for site plan and special permit approval by the Town's Zoning Board of Appeals and Planning Board could result in required modifications to, or restrictions imposed on, the project which could result in a highway facility which does not adequately meet the needs of the Town of North East and Village of Millerton Highway Departments, with resulting adverse impacts upon the Town and Village's ability to maintain and improve their municipal highway and bridge systems in accordance with the requirements of New York State law, resulting in possible dangers and other adverse impacts to the citizens of the Town and Village and those travelling on the Town and Village highways and bridges.

4. Applicant's legislative grant of authority.

(a) New York State Town Law and Highway Law authorize and require the Town of North East and Village of Millerton to provide adequate facilities for the Town of North East Highway Department in aid of its responsibility to maintain those public roadways and bridges utilized by members of the general public which fall under the jurisdiction of the Town and Village Highway Departments.

(b) Article 7 of the Highway Law specifically vests the Town and Village Highway Superintendents with jurisdiction over the care of the town highways and bridges.

5. Alternate locations for the Highway Department storage facility in less restrictive zoning areas.

(a) The subject premises is the only Town owned parcel located within the Town of North East suitable for the construction and maintenance of the facility and represents the most reasonable and efficient use of Town owned property in furtherance of the objectives of providing the Town of North East and Village of Millerton Highway Departments with a consolidated highway facility location within the Town.

(b) In the Past, the Town has had public meetings and has evaluated several potential alternative sites for a new highway garage. The North East Town Board had previously determined that there are no feasible alternate locations which meet the necessary objectives of the Town of North East and Village of Millerton Highway Departments.

(c) Given the provisions of the current Town Code, there are no zoning districts within the Town of North East in which a highway facility could be constructed in full compliance with the requirements of the Town Zoning Code.

6. Alternate methods of providing the improvement.

The construction of new highway garage facility as proposed represents the minimal infrastructure improvements necessary to promote increased use of the subject premises as a centralized highway department facility. There are no viable alternative methods of providing these improvements.

7. Intergovernmental participation in the project development process.

(a) The construction of the new highway facility will be overseen by members of the Town Board of the Town of North East, its engineers and other retained professional consultants.

(b) The project will also require the review and approval of several outside jurisdictional agencies including the New York State Department of Transportation, New York State Department of Environmental Conservation, Army Corps of Engineers and Dutchess County Department of Health.

(c) The development of plans for this facility will be fully vetted, discussed and considered by the members of the Town Board and its legal, planning and engineering consultants and the Village of Millerton and its citizens and boards in open sessions and the Town Planning Board and the Zoning Board of Appeals members for the Town of North East will be permitted to offer comments and suggestions upon the review and development of this project, as will the citizens of both municipalities.

8. Opportunity to be heard

(a) The North East Town Board gave legal notice of a public hearing to hear statements and gather evidence as to the interests of the North East Planning and Zoning Boards to exercise regulatory authority over this project as set forth in *Matter of County of Monroe* and to provide an opportunity for public input.

(b) On April 11, 2019, the North East Town Board conducted a public hearing at which time public comment was received and the Monroe Balancing Test criteria were discussed and evaluated by the Town Board members.

(c) At the April 11, 2019 Town Board hearing there was only one comment from a member of the public, who is a member of the Planning Board, who requested that the Planning Board be permitted to comment on certain aspects of this project as the plans for this facility are developed and approved by the Town Board. There were no other comments concerning the Monroe Balancing Test at the public hearing from members of the public or other boards of the Town of North East or the Village of Millerton; and be it further

RESOLVED, that the Town Board hereby declares that the proposed Town highway garage facility shall be constructed on the subject property located at State Route 22, having parcel access no.133889-7171-00-950854 and shall be exempt from the use and bulk requirements and restrictions of the Town of North East Zoning Code; and be it further

RESOLVED, that the proposed highway facility shall be deemed to be a use permitted, constructed and maintained on the subject property, subject to the approval of the North East Town Board; and be it further

RESOLVED, that the Town of North East Bulk Regulations for the A5A District to the extent that they may restrict or prohibit the proposed facility shall not apply to this project; and be it further

RESOLVED, that the Town of North East Planning Board shall be permitted to review all plans and specifications for this facility by the Town's engineers and architects and may submit comments to the Town Board concerning aspects of the project such as screening and lighting and other aesthetic considerations provided that such process does not delay or interfere with the project. However, nothing herein shall be construed or interpreted as requiring the Town Board to implement the Planning Board's comments or to seek approval, from the Planning Board for any aspect of this project.

This motion was offered by Town Board member Chris Kennan and was seconded by Town Board member Ralph Fedele.

MOTION: Chris Kennan
SECOND: Ralph Fedele

SUPERVISOR KAYE	Voted AYE
COUNCILMAN FEDELE	Voted AYE
COUNCILMAN KENNAN	Voted AYE
COUNCILMAN MERWIN	Voted ABSENT
COUNCILMAN MIDWOOD	Voted AYE

The Resolution was carried by a 4-0 vote of the Town Board members on April 18, 2019.

Lisa Cope, Town Clerk, Town of North East

Resolution Declaring the Town Lead Agency for Highway Garage Construction Project:

Attorney Replansky said the next resolution was to declare the Town Lead Agency for SEQRA review of the Highway Garage Construction Project. The resolution discusses possible impacts on the project and why the board feels that there are no environmental impacts for this project.

TOWN BOARD OF THE TOWN OF NORTH EAST

RESOLUTION DETERMINING THAT THE TOWN OF NORTH EAST HIGHWAY GARAGE FACILITY PROJECT WILL NOT RESULT IN ANY SIGNIFIGANT ADVERSE ENVIRONMENTAL IMPACTS AND THAT A DRAFT ENVIRONMENTAL IMPACT STATEMENT SHALL NOT BE REQUIRED FOR SAID PROJECT

WHEREAS, the Town of North East is the owner of a parcel of land located on the east side of New York Route 22, having tax parcel number: 133889-7171-00-950854, consisting of approximately 3.7 acres; and

WHEREAS, the subject property was recently purchased by the Town of North East, specifically for the purpose of construction, and maintaining, a highway garage facility on said property; and

WHEREAS, the preliminary plans for said project indicate that the facility will be constructed in three phases; with Phase 1 consisting of construction of a joint 4,800 square foot, four bay storage building and joint fueling facility, including space for an aquatic feeder harvester for the Town and Village of Millerton; Phase 2 consisting of the construction of a 3,200 square foot sand/salt storage shed with mixing pans that will store approximately 2,000 tons of material; and Phase 3 consisting of the construction of a 15,000 square foot joint highway garage facility, including administrative offices, break room, vehicle storage, maintenance and parts storage; and

WHEREAS, the Town Board, by Resolution dated March 28, 2019, declared itself lead agency for the project, declared this to be an Unlisted Action pursuant to State Environmental Quality Review Act (“SEQRA”) regulations, accepted a Part 1 of a Short Environmental Assessment Form as prepared by the Town’s Engineer, and determined that an uncoordinated SEQRA review will be performed for this project; and

WHEREAS, the Town Board scheduled a public hearing on April 11, 2019 for purposes of receiving the comments and input from the general public, the Town Board and the Town’s consultants with regard to the potential environmental impacts of this project; and

WHEREAS, the Town Board opened the public hearing on April 11, 2019 and received no comments whatsoever from the general public concerning any potential environmental impacts of this project; and

WHEREAS, the Town Board determined that the project will require review and approval of the New York State Department of Transportation with regard to the driveway access; the Army Corps of Engineers for nationwide permit for stream disturbance; the Dutchess County Department of Health approval for the well and septic; and the development of a Stormwater Pollution Prevention Plan (“SWPPP”) by the Town’s engineers; and

WHEREAS, the project includes the relocation of a portion of the Saw Mill Brook water course which is a New York State DEC Class C intermittent stream that does not require a Stream Disturbance Permit, but will require review by the Army Corps of Engineers; and

WHEREAS, the project will be designed in accordance with all applicable codes, rules and regulations for such facilities in a state of the art fashion and the facility will be operated in a manner that will have the least amount of disturbance to the community; and

WHEREAS, the facility is located on Route 22, a major highway artery for the Town of North East, which can easily accommodate any traffic flow to be generated by this facility and its construction; and

WHEREAS, the Town Board has determined that the relocation of the highway facilities on this site will, in fact, reduce the traffic impacts of the existing Town and Village highway garages on the Village of Millerton; and

WHEREAS, the Town board has determined that the current Town highway garage and salt storage facilities are badly outdated and in need of replacement and are located adjacent to a protected trout stream, which could result in future negative impacts to that stream; and

WHEREAS, the Town Board has determined that the relocation of the Village facilities to this site will remove the current Village facility and its salt storage components from a location near a major well head for the Village water supply; and

WHEREAS, the Town Board has determined that the location of this highway facility in a relatively non-residential area is a perfect location for such a facility, which will have the least impact on community character; and

WHEREAS, the Town Board has determined that the site does not contain any threatened or endangered species, or important archaeological resources which would be adversely affected by the construction of this facility and operation of the same; and

WHEREAS, the Town Board has determined that any impacts from the construction of the facility will be short term and minimized pursuant to the phasing plan for the same; and

WHEREAS, the Town Board, at its April 11, 2019 meeting, carefully reviewed and considered the Part 2 of the Short Form Environmental Assessment Form with the assistance of its consulting Engineer and Attorney to the Town; and

WHEREAS, the Town Board has determined that any impacts which could result from this project will be positive rather than negative impacts to the environment.

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby accepts the Part 2 Impact Assessment Analysis conducted by the Town Board at its public hearing which indicates that no, or only small, impacts may occur as a result of this project; and be it further

RESOLVED, that the Town Board determines that, based upon the information and analysis as set forth above, and in the Town's review of the Environmental Assessment Form and all supporting documentation and information for the proposed facility, that the action will not result in any significant adverse impacts and that a Draft Environmental Impact Statement need not be prepared for this project; and be it further

RESOLVED, that the Town Supervisor is hereby authorized to sign the Part 3 of the Short Form EAF constituting the Town's SEQRA Negative Declaration.

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This motion was offered by Town Board member John Midwood and was seconded by Town Board member Ralph Fedele.

MOTION: Councilman John Midwood
SECOND: Councilman Ralph Fedele

SUPERVISOR KAYE	Voted AYE
COUNCILMAN FEDELE	Voted AYE
COUNCILMAN KENNAN	Voted AYE
COUNCILMAN MERWIN	Voted ABSENT
COUNCILMAN MIDWOOD	Voted AYE

The Resolution was carried by a 4-0 vote of the Town Board members on April 18, 2019.

Lisa Cope, Town Clerk, Town of North East

Resolution and letter of support for Dirt Roller and Trailer:

Supervisor Kaye said that the Towns of Milan and Clinton would like the Town of North East to be a co-applicant to apply for the 2019 Municipal Innovation Grant Program and a letter of support to apply for a Dirt Roller and Trailer.

**TOWN OF NORTH EAST
TOWN BOARD
Resolution #9 of 2019**

Councilman Ralph Fedele offers the following and moves its adoption:
Seconded by: Councilman Chris Kennan

WHEREAS, the Highway Department requires well-functioning equipment to carry out the roadwork requirements of that department;

WHEREAS, the Highway Department's maintenance schedule is ongoing; and will utilize this equipment for compacting dirt roads during the course of the year; and

WHEREAS, the Highway Department has identified equipment that would greatly improve operations and efficiencies within the department; and

WHEREAS, Dutchess County is offering a 2019 Municipal Innovation Grant Program, pursuant to which municipalities may be awarded grant money to improve efficiencies, and streamline government service; now therefore be it

RESOLVED, that the Supervisor is hereby authorized, as co-applicant, to join with the Town of Clinton, as lead applicant, and the Town of Milan, for an Application to the 2019 Municipal Innovation Grant Program for the procurement of a dirt roller and trailer, and to execute all related application documents.

ROLL CALL VOTE:

Supervisor George Kaye	AYE
Councilman John Merwin	ABSENT
Councilman John Midwood	AYE
Councilman Christopher Kennan	AYE
Councilman Ralph Fedele	AYE

Dated: April 18, 2019

The Resolution was carried by a 4-0 vote of the Town Board members on

Lisa Cope,
Town Clerk, Town of North East

Resolution for Road Grader:

Supervisor Kaye said that the Town of Milan has asked the Town of North East to be a co-applicant in an application to apply for the 2019 Municipal Innovation Grant Program for the procurement of a road grader with attachments.

**TOWN OF NORTH EAST
TOWN BOARD
Resolution 8 of 2019**

Councilman Chris Kennan offers the following and moves its adoption:
Seconded by: Councilman John Midwood

WHEREAS, the Highway Department requires well-functioning equipment to carry out the roadwork requirements of that department;

WHEREAS, the Highway Department's maintenance schedule is ongoing; and will utilize this equipment for maintaining dirt roads and cutting shoulders on blacktop roads during the course of the year and for moving large amounts of snow in the winter; and

WHEREAS, the Highway Department has identified equipment that would greatly improve operations and efficiencies within the department; and

WHEREAS, Dutchess County is offering a Municipal Innovation Grant Program, pursuant to which municipalities may be awarded grant money to improve efficiencies, and streamline government service; now therefore be it

RESOLVED, that the Supervisor is hereby authorized, as co-applicant, to join with the Town of Milan, as lead applicant, for an Application to the 2019 Municipal Innovation Grant Program for the procurement of a road grader with attachments, and to execute all related application documents.

ROLL CALL VOTE:

Supervisor George Kaye	AYE
Councilman John Merwin	ABSENT
Councilman John Midwood	AYE
Councilman Christopher Kennan	AYE
Councilman Ralph Fedele	AYE

Dated: April 18, 2019

The Resolution was carried by a 4-0 vote of the Town Board members on April 18, 2019

Lisa Cope,
Town Clerk, Town of North East

Appointment of Deputy Town Clerk and Deputy Registrar of Vital Statistics:

Supervisor Kaye informed the Board that Town Clerk Lisa Cope would like to appoint Holli Dunleavy as Deputy Town Clerk and Deputy Registrar of Vital Statistics.

On a motion by Councilman Fedele, seconded by Councilman Midwood the following was:

ADOPTED – AYES – 4 (Kaye, Kennan, Midwood, Fedele)
NAYS – 0

Town of North East
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RESOLVED, to approve upon the recommendation of the Town clerk the appointment of Holli Dunleavy as Deputy Town Clerk and Deputy Registrar of Vital Statistics.

ADJOURNMENT:

On a motion by Councilman Fedele, seconded by Councilman Merwin the following was:

ADOPTED – AYES – 4 (Kaye, Kennan, Midwood, Fedele)
NAYS – 0

RESOLVED, to adjourn the meeting at 6:30 PM

Respectfully submitted,

Lisa Cope
Town Clerk