

Town of North East

Town Board Regular Meeting

April 13, 2023
7pm

Call to Order, Pledge of Allegiance

Roll call

SUPERVISOR KENNAN	HERE
COUNCILWOMAN MORRISON	HERE
COUNCILMAN FEDELE	HERE
COUNCILMAN MIDWOOD	HERE
COUNCILWOMAN WINKLER	HERE

Acceptance of Agenda

Three additions made by supervisor to the Agenda: a Resolution designating April as Parkinson's Disease Awareness Month, a report from the Communications Committee, and a status update on the property sale to Habitat for Humanity of Dutchess County.

A motion was made by Councilman Midwood and seconded by Councilwoman Morrison to accept the revised agenda.

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)

NAYS- 0

Supervisor Comments

April 22 will be Earth Day Celebrations in the Town and village. Activities are outlined on the ClimateSmartMillerton.org website.

May 6th is our Annual Bulk Trash day at the Old Highway Garage on South Center Street, from 9-12. We are grateful to Bob Stevens, Highway Superintendent, for his time and labor.

Department and Committee Reports

Highway- Bob Stevens reported that the Highway Department had been using the Shared Towns bucket for the month of April. The Emerald Ash borer beetle damage is evident. Work is also being done on drainage and brush control. In May they anticipate undertaking gravel road maintenance. The new highway garage construction is progressing. Workers are removing excess material from the foundation. The footings are complete.

Supervisor Kennan mentioned that the pace has evidently picked up and there is a tentative date of April 24th for the building to go up.

Assessor- no report

Planning, Zoning, & Building Department- Monthly Reports sent to the Town Board members prior to meeting

Town Clerk and Tax Collector-

Monthly Reports sent to the Town Board members prior to the meeting. Tax collection has reached 89% of parcels paid in full. Supervisor Kennan told the Board that the Clerk would be attending the upcoming NYSTCA convention. She has received a \$450 scholarship towards the cost of attending the event in Syracuse.

Board Committee Activity

Cemetery Committee- Councilman Fedele reports that they are in the process of writing solicitation letters and creating the site map. The monuments that were sprayed with D2 last fall are looking clean this spring. It is a long process. Kennan added that it was an ambitious and a worthy project.

Communications Committee- Councilwoman Winkler reports that they are focusing on ways of improving access to information. There may be a possible redesign of the website down the road. A goal is to get people to sign up for the Supervisor email and connect to calendar listings. In order to reach residents without internet, a mailing and series of public community conversations may be undertaken. Supervisor Kennan expressed enthusiasm for the idea, and said he hoped to plan something like a "coffee with the Supervisor" at the Library Annex after Earth Day and Bulk Trash day. Possibly early June.

Public Hearing regarding Monroe Balancing Test for site approval of the New Town Hall

Town Attorney Warren Replansky introduced the subject. The Town is under contract to purchase property located in an R3A district, in which a municipal building is not permitted use. Though, in fact, there is not any district in the Town that permits municipal use. The Monroe Balancing Test allows a municipality to make a determination that is whole or part exempt of the zoning. The Town can supersede its own zoning laws. Replansky has prepared a resolution that addresses the nine factors that must be weighed in the Monroe Balancing Test.

First there must be a Public Hearing. Councilman Fedele made a motion to open the Public Hearing, and the motion was seconded by Councilwoman Winkler.

Vote taken
SUPERVISOR KENNAN AYE
COUNCILWOMAN MORRISON AYE
COUNCILMAN FEDELE AYE
COUNCILMAN MIDWOOD AYE
COUNCILWOMAN WINKLER AYE

The Public Hearing was opened.

There were no comments.
Warren Replansky read the resolution.

RESOLUTION #222023

**RESOLUTION ADOPTING MONROE BALANCING OF PUBLIC INTEREST
TEST DETERMINATION FOR PROPOSED TOWN OF NORTH EAST TOWN
HALL FACILITY PROPERTY ACQUISITION AT 5603 ROUTE 22, NORTH
EAST, NEW YORK**

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 to provide a Town Hall for conduct of Town municipal operations; and

WHEREAS, the Town of North East is under contract to purchase a parcel of real property (Tax Parcel #7170-00-633229), from the Rhinebeck Congregation of Jehovah’s Witnesses (“subject premises”), located at 5603 Route 22 in the Town of North East, consisting of approximately 3.01 acres; and

WHEREAS, the subject premises are currently improved by a church facility constructed in 1992 pursuant to building permits and certificates of occupancy issued to the Church by the Town’s Building Department; and

WHEREAS, the Town of North East current Town Hall is located in a building located at 19 N. Maple Avenue, Millerton, New York, which had been converted from a single family residence to a Town Hall; and

WHEREAS, the current Town Hall is grossly inadequate and dated and has significant constraints and deficiencies including, but not limited to, the fact that the there is no adequate handicap access to the second floor of the Town Hall; and

WHEREAS, the Town of North East Town Board has conducted an extensive search for suitable vacant property on which to construct a Town Hall or improved properties which could be rehabilitated and retrofitted for Town Hall use and has been

unable to locate any such suitable properties either within the Village of Millerton or the Town of North East; and

WHEREAS, the subject property is located in the Town’s R3A zoning district in which a Town Hall is not a permitted or specially permitted use; 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

WHEREAS, the Town of North East Town Board held a public hearing on April 13, 2023 for the purpose of describing the acquisition and retrofitting of the Church structure to be undertaken at the subject premises, 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, the Town has engaged the services of an architect to examine the Church building to determine if the same is suitable for conversion to a Town Hall and has retained the services of an engineer/building inspector to examine the premises to also determine if there are any deficiencies in the building which would prevent or impair the ability of the Town to convert the same to a Town Hall in a commercially reasonable manner; and

WHEREAS, the Town has determined on the basis of such inspections that the property is suitable for conversion to Town Hall use; and

WHEREAS, the Town Board has reviewed the nine factors which are required to be weighed by the Town in conducting the Monroe Balancing Test.

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 acquisition of the subject premises and proposed conversion of the same to a Town Hall, 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. As such, the Town is charged with the responsibility of maintaining a Town Hall suitable for the municipal operations of the Town and its offices.

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

(a) The Town Board is authorized, pursuant to the provisions of Town Law Section 220(2) “Purchase, lease, construct, alter or remodel a Town Hall...or any other necessary building for Town purposes...acquire necessary lands therefor, and equip and furnish buildings for such purposes...”. In this regard, the Town is vested with the responsibility and obligation to own and maintain a Town Hall which is suitable in size and means for the location of the Town’s municipal operations and its offices. Such a building must be handicapped accessible in accordance with the Americans with Disabilities Act. The Town has been diligently searching for suitable properties on which to construct a new Town Hall or properties within the Town or Village which are suitable for conversion to a Town Hall and has been unable to locate any such properties. Moreover, the Town Board has determined that the purchase price of this property and the anticipated price of retrofitting the same for Town Hall use makes economic sense and is in the best interests of the citizens of the Town and its taxpayers.

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

If the Town of North East Zoning Code was to be applied to the acquisition of this property and conversion of the same to Town Hall use, the Town would be prohibited from siting its Town Hall on the subject premises unless a use variance could be obtained from the Town’s Zoning Board of Appeals, which process would be expensive, time consuming, with the outcome uncertain at best.

4. Applicant’s legislative grant of authority.

See response to number 2.

5. Alternate locations for the Town Hall in less restrictive zoning areas.

In fact, given the provisions of the current Town Code, there are no zoning districts within the Town of North East in which a Town Hall could be constructed in compliance with the requirements of the zoning code.

6. The impact upon legitimate local interests.

Pursuant to the State Environmental Quality Review Act (“SEQRA”), the Town Board has reviewed an Environmental Assessment Form with respect to the proposed action. Upon reviewing all relevant information, as well as the factors listed in SEQRA’s implementing regulations, the Town Board determined that the proposed action will not have significant adverse environmental impacts. The Town Board also held a public hearing at which the public was afforded an opportunity to comment on the proposed action.

7. Intergovernmental participation in the project development process.

(a) The conversion of the subject premises to a new Town Hall will be overseen by members of the Town Board of the Town of North East, its engineers and other retained professional consultants.

(b) The development of plans for this Town Hall conversion will be fully vetted, discussed and considered by the members of the Town Board and its legal, planning and engineering consultants and the Town of North East 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 Town and Village of Millerton municipalities.

8. Opportunity to be heard

(a) The North East Town Board provided 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 13, 2023, 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.

RESOLVED, that the Town Board hereby declares that the proposed Town acquisition of the subject premises shall be exempt from provisions of the Town of North East Zoning Code; and be it further

RESOLVED, that the Town of North East Planning Board shall be permitted to review all plans and specifications for the retrofitting of this property by the Town’s engineers and architects and may submit comments to the Town Board concerning aspects of the project such as screening, signage, 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 Fedele and was seconded by Town Board member Midwood.

MOTION: Councilman Fedele
SECOND: Councilman Midwood

SUPERVISOR KENNAN	Voted AYE
COUNCILMAN FEDELE	Voted AYE
COUNCILMAN MIDWOOD	Voted AYE
COUNCILWOMAN MORRISON	Voted AYE
COUNCILWOMAN WINKLER	Voted AYE

The Resolution was carried by a 5-0 vote of the Town Board members on April 13, 2023.

Discussion shifted to SEQRA.
In the aim to reach a negative SEQR determination, using the short form, Replansky read the questions to the Board aloud. The Board agreed on the answers to all the questions.

Bill Kish, Town resident, spoke of his appreciation for including the Planning Board in the process- after we have plans for retrofitting the building. He asked if the zoning exemption went with the land use or with the land. Replansky answered that it went with the use.

Motion to close the Public Hearing was made by Councilwoman Morrison, and seconded by Councilman Fedele.

Votes taken.	
SUPERVISOR KENNAN	AYE
COUNCILWOMAN MORRISON	AYE
COUNCILMAN FEDELE	AYE
COUNCILMAN MIDWOOD	AYE
COUNCILWOMAN WINKLER	AYE

Supervisor Kennan said this was a great opportunity and thanked Jeanne Vanecko for her work on the plans to retrofit the building.

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Formation of Town of North East Wastewater District

Supervisor Kennan said establishment of a Wastewater system is the #1 priority for the future growth of the community. It has been an ongoing effort of the Town of North East and the Village of Millerton. He explained the basic concept, and the need to move forward on fundraising for Federal and State monies. The establishment of a wastewater district would apply to the commercial Boulevard properties between the current CVS and the Connecticut border. The Town hosted an informational meeting on the subject on March 29, at the Library Annex. Kennan invited Replansky to summarize the steps taken and steps ahead in the process to form a Special District. After the summarization, Replansky recommended that the Board use the petition method, (Article 12). Replansky offered to prepare a petition that could be circulated to property owners in the proposed district. This draft would be ready for the Town Board to review at a Special meeting April 24th.

At that time we would need a resolution formerly adopting the Map Plan Report.

There was a motion to approve the Article 12 process and call for a special meeting on April 24th made by Councilwoman Morrison and seconded by Councilwoman Winkler.

Roll Call:

SUPERVISOR KENNAN	Voted AYE
COUNCILMAN FEDELE	Voted AYE
COUNCILMAN MIDWOOD	Voted AYE
COUNCILWOMAN MORRISON	Voted AYE
COUNCILWOMAN WINKLER	Voted AYE

The Town Clerk will post notices of the Special Town Board meeting April 24th, 6pm

Approval of Mobile Home Park and Junkyard permits

August Associates, (dba Benwood Knolls), Scenic View, and Thomsen & Graham Metals Inc. have submitted applications to renew their permits. The Building Department has confirmed the site inspections.

A motion was made by Councilman Midwood and seconded by Councilwoman Morrison to approve the annual permits.

A vote taken:

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

The permits are renewed.

**RESOLUTION #232023
Renewal of Bond Anticipation Note**

A Bond Anticipatory Note (BAN) held at the Salisbury Bank is coming up for renewal on the 21st of April. We have attained bids from three neighboring banks. The interest rates have risen.

RESOLVED, to accept the Bank of Green County’s offer of 3.96%

A vote taken:

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

We will accept the offer and renew the BAN with the Bank of Green County.

Appointment to Board of Assessment Review

We have had two resignations from the Board of Assessment Review (BAR). The BAR reviews grievances around assessments. The vacancies were posted on the website and noted in the newspaper. We received two applicants. Members of the Town Board met with Liz Barrett, (for a 3 year remaining term), and Delora Brooks, (for a one year term). We appreciate the fresh faces and volunteer initiative. Both Ms. Brooks and Ms. Barret have met with the Assessor. A motion to approve the appointments was made by Councilman Fedele and seconded by Councilwoman Morrison.

A vote taken:

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

Ms. Barrett and Ms. Brooks are appointed to be BAR members.

Public Comments at 8pm

Bill Kish commented on the Board’s use of Executive sessions being for Attorney Client issues only, in matters of Open Government Law.

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Parkinson's Disease Awareness Month

RESOLUTION #242023
Parkinson's Awareness Month Proclamation

WHEREAS, Parkinson's disease is a progressive neurological movement disorder of the central nervous system, which has a unique impact on each patient; and

WHEREAS, according to the Parkinson's Foundation, the American Parkinson's Disease Association and the National Institutes of Health, there are over one million Americans diagnosed with Parkinson's disease; and

WHEREAS, symptoms include slowness, tremor, difficulty with balance and speaking, rigidity, cognitive and memory problems; and

WHEREAS, although new medicines and therapies may enhance life for some time for people with Parkinson's, more work is needed for a cure; and

WHEREAS, increased education and research are needed to help find more effective treatments with fewer side effects and ultimately a cure for Parkinson's disease; and

WHEREAS, a multidisciplinary approach to Parkinson’s disease care includes local wellness, support, and caregiver groups; and

WHEREAS, April has been proclaimed as World Wide Parkinson's Awareness Month for all to recognize the need for more research and help in dealing with the devastating effects of Parkinson's disease,

NOW, THEREFORE, WE, the Town Board of North East, do hereby proclaim April as Parkinson's Awareness Month. A motion was made by Councilwoman Morrison and seconded by Councilman Fedele

A Vote was taken:

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)

NAYS- 0

April is proclaimed Parkinson's Awareness Month in North East.

Habitat for Humanity of Dutchess County land purchase update

Supervisor Kennan explained that the 60 day period provided Habitat for Humanity in the contract of sale as a “due diligence” period has expired. We would like to offer them another 60 days to complete due diligence. A motion to extend the time was made by Councilwoman Winkler and seconded by Councilman Midwood.

A Vote was taken:

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)

NAYS- 0

Attorney Replansky will notify Habitat for Humanity of Dutchess County about the extension of time.

Supervisor's Report

RESOLUTION #252023
Budget Adjustment #2 for 2023

A FUND-General Town Wide: An expense increase of \$43,000, less a revenue increase of \$43,000, for a net change of \$0

RESOLVED, to accept the Budget Adjustment #2 of 2023

Motion made by Councilwoman Morrison and seconded by Councilman Fedele

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)

NAYS-0

The Budget Adjustment was approved.

RESOLUTION #262023
Special Abstract dated March 10, 2023

A Special Abstract dated March 10, 2023 totaling \$43,000.00 broken down as follows:

A FUND	\$43,000.00
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A motion was made by Councilman Fedele and seconded by Councilwoman Winkler to approve the Special Abstract.

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

The Special Abstract was approved.

RESOLUTION #272023
Special Abstract dated March 27, 2023

A Special Abstract dated March 27, 2023 totaling \$17,727.64 broken down as follows:

A FUND	\$ 3,805.62
B FUND	\$ 354.75
DB FUND	\$13,567.27

A motion was made by Councilwoman Winkler and seconded by Councilwoman Morrison to approve the Special Abstract.

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

The Special Abstract was approved.

RESOLUTION #282023
Abstract dated April 13, 2023

An Abstract dated April 13, 2023 totaling \$765,080.14 broken down as follows:

A FUND	\$264,499.88
B FUND	\$ 3,004.95
DB FUND	\$ 72,795.89
Capital Projects H1	\$424,145.69
Water District SW1	\$ 150.00
T&A2 Escrow	\$ 227.50
Payroll T&A	\$ 256.23

A motion was made by Councilman Fedele and seconded by Councilwoman Morrison to approve the Abstract.

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

The Abstract was approved.

Voucher Committee for May 2022: Fedele & Winkler

Approval of Minutes from Meeting of 3/9/2023

A motion was made by Councilwoman Winkler and seconded by Councilwoman Morrison to approve the minutes from March 9th. Councilman Midwood missed the previous meeting.

AYES- 4 (Kennan, Morrison, Fedele, Winkler)
NAYS- 0
ABSTAIN- 1 (Midwood)

Adjournment at 8:10

A motion was made by Councilwoman Morrison and seconded by Councilman Midwood

AYES- 5 (Kennan, Morrison, Fedele, Midwood, Winkler)
NAYS- 0

Meeting Adjourned.

DRAFT: 4/20/2023
APPROVED: 5/11/2023

/s/: Tilly Strauss, Town Clerk