

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

12/13/2011

8:00 P.M.

Present: Supervisor Alexander J. Gromack
Council Members Shirley Lasker, Frank Borelli, George
Hoehmann & Stephanie Hausner
Amy Mele, Town Attorney
Joanne Castaldo, Deputy Town Clerk

The Supervisor declared Town Board meeting opened. Assemblage saluted the flag. The Town Clerk read the roll call.

SPECIAL PRESENTATION: Police Youth Academy Graduation

Clarkstown Police Sgt. Lafasciano recognized the following graduates from the Police Youth Academy class of 2011:

| | | |
|-----------------|-------------------|--------------------|
| Jon Brown | Dylan Sierpinski | Daniel Rivera |
| Aaron Jones | John Carozza | Kyle Rogoff |
| Brian Kemper | Lucas Burger | Raphael Valladares |
| Kevin Leonard | Craig Ferguson | James Campolo |
| Le'Oul Makonnen | Dylan Ferguson | Chris Montera |
| Jake Pfeifer | Lavdrim Gjonbalaj | |
| James Shupe | Erin Peters | |

The members of the Town Board congratulated all of the students and their families and commended the Police Department for a great program.

SPECIAL PRESENTATION: Capt. Jason Lukasiewicz, Clarkstown Auxiliary Police

Police Chief Michael Sullivan introduced Daryll Draper, who will be taking over the Clarkstown Auxiliary Police. He spoke about Mr. Draper's family and his background in community service. He congratulated and welcomed him into his new position.

He then introduced current Auxiliary Police Captain, Jason Lukasiewicz, and spoke about his family and his long history of service to the community. He thanked him for his service and presented him with an engraved clock in appreciation for his time and dedication to the Clarkstown Police Department.

Mr. Lukasiewicz thanked the Fire Departments, Ambulance Corps and his fellow auxiliary police officers for all that they do and he thanked his family for allowing him the freedom to volunteer for all of these years.

The Town Board thanked Mr. Lukasiewicz for all of his years of service. He has made Clarkstown a better place and he is a wonderful role model for his children. They also thanked Mr. Lukasiewicz's family for the sacrifices they've made and all of the Auxiliary Police for their service. They wished Mr. Draper good luck in his new position.

On motion of Co. Hausner seconded by Co. Lasker, Public Hearing re: Continued Proposed Local Law Amending Chapter 290 (Zoning) with Respect to the Hamlet Commercial District was opened, time: 8:30.m.; closed 8:35 p.m.

RESOLUTION NO. (630-2011) ADOPTED

Supervisor opened the meeting for public comments on the agenda items.

Amy Durbin, Congers

Asked for an explanation of Item # 5, Authorizing Change Order to Bid No. 39-2008, and Item #17 funds for Real Property Tax Refunds.

Supervisor Gromack explained that Item #5 had to do with some close out items regarding the Congers Lake trail, and that Item #17 was funding for various tax certioraris that came over from the County .

Frank Grandel, New City

Asked about Item #3b, Drug & Alcohol Testing Program; Item #3d, Payment in lieu of taxes; Item #4, Share of the cost of legal services and Item #5, Authorizing change order to bids.

Town Attorney Mele explained that Item #3b applies to safety-sensitive employees only. Item #3d is a PILOT agreement which is basically if someone wants to occupy a piece of vacant property that hasn't been generating taxes, the Rockland Industrial Development Agency can intervene and take a property interest in the property to help the proposed new owner with sales tax if they are creating new jobs. Item #5 as stated above, has to do with finishing the Congers Lake trail. Item # 4 has to do with retaining a firm who has represented several other municipalities in challenging O & R's rate increases.

RESOLUTION NO. (630-2011)

Co. Hoehmann offered and Co. Borelli seconded

WHEREAS, a proposed local law entitled,

"A LOCAL LAW AMENDING CHAPTER 290 (ZONING) OF THE LOCAL LAWS OF THE TOWN OF CLARKSTOWN WITH RESPECT TO THE HAMLET COMMERCIAL DISTRICT"

was introduced by Councilperson Hoehmann, at a Town Board meeting held on October 18, 2011, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on October 18, 2011, directed that a public hearing be held on November 22, 2011, at 8:00 p.m., or as soon thereafter as possible, relative to such proposed local law, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on November 22, 2011 and continued on December 13, 2011, and

WHEREAS, notices of said hearing and continuation of hearing were duly prepared and published in the Journal News on November 16, 2011 and December 2, 2011 respectively, and

WHEREAS, by resolution adopted October 18, 2011, the Town Board referred the proposed local law to the Clarkstown Planning Board for their comment, pursuant to §290-33 of the Zoning Local Law of the Town of Clarkstown, and to the Rockland County Commissioner of Planning, pursuant to General Municipal Law §§239-l & m, and

WHEREAS, a copy of the proposed local law was placed on the desks of the Supervisor and the Councilpersons at their office at the Clarkstown Town Hall, 10 Maple Avenue, New City, New York, on November 14, 2011, and

WHEREAS, a copy of a revised proposed local law in final form was placed on the desks of the Supervisor and the Councilpersons at their office at the Clarkstown Town Hall, 10 Maple Avenue, New City, New York, on December 5, 2011, and

WHEREAS, the Town Board of the Town of Clarkstown has reviewed the Environmental Assessment Form and proposed Negative Declaration, prepared by the Deputy Director of the Department of Environmental Control, as agent for the Town Board, pursuant to SEQRA, and which the Board has discussed and considered in making its decision herein, and

RESOLUTION NO. (630-2011) continued

WHEREAS, the Rockland County Planning Department provided their written report on November 16, 2011 finding the proposed local law will have no adverse impacts on any County-wide interests, and remanding the matter for local determination, and

WHEREAS, Jose Simoes, Town Planner, by memo dated November 9, 2011, found that the proposed local law, in concept, is consistent with the aims and principles of the Zoning Code and the Comprehensive Plan in that it encouraged pedestrian and business activity, and

WHEREAS, by resolution dated November 9, 2011, the Town of Clarkstown Planning Board found that the proposed local law, as drafted, conflicts with the intentions of the Comprehensive Plan and in that the law contained no mechanism for determining a pre-existing legal use, and that the waiver of the requirement that the applicant obtain any Board approval may deprive the Town of the opportunity to seek architectural and/or site enhancements, and

WHEREAS, the proposed local law has been revised to address the Planning Board's concerns;

NOW, THEREFORE, BE IT RESOLVED, that based upon the EAF prepared by the Deputy Director of the Department of Environmental Control, acting as agent to the Town Board as lead agency, it is hereby determined that (1) the proposed action is an unlisted action under SEQRA, and (2) the proposed action shall not have any significant impact on the environment in that it requires review and verification of any legal pre-existing use status by the Building Inspector and there is no change to the requirement for site plan review for new residential uses within this district, and be it

FURTHER RESOLVED, that the Town Board has reviewed and hereby accepts the attached Negative Declaration, and directs that same be filed, distributed and published pursuant to 6 NYCRR Part 617.7(b), and be it

FURTHER RESOLVED, that Local Law No. 8 – 2011 entitled:

"A LOCAL LAW AMENDING CHAPTER 290 (ZONING) OF THE LOCAL LAWS OF THE TOWN OF CLARKSTOWN WITH RESPECT TO THE HAMLET COMMERCIAL DISTRICT"

is hereby ADOPTED and passed by an affirmative vote of the Town Board of the Town of Clarkstown, the vote for adoption being as follows:

On roll call the vote was as follows:

Co. LaskerYes
Co. BorelliYes
Co. HoehmannYes
Co. Hausner Yes
Supervisor Gromack Yes

The Clerk of the Town of Clarkstown was directed to file the local law pursuant to Section 27 of the Municipal Home Rule Law.

RESOLUTION NO. (631-2011)

Co. Hausner offered and Co. Lasker seconded

RESOLVED, that the Town Board Minutes of November 10, 2011 and November 22, 2011 are hereby accepted as submitted by the Town Clerk.

On roll call the vote was as follows:

Co. LaskerYes
Co. BorelliYes
Co. HoehmannYes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (632-2011)
Co. Hoehmann offered and Co. Hausner seconded

RESOLVED, that the Town Board meetings and the Town Board Workshop meetings, for the year 2012, shall be held at the Clarkstown Town Hall on Tuesday nights, except where noted, on the following days:

*WORKSHOP MEETINGS
7:30 P.M. - Room 301

TOWN BOARD MEETINGS
8:00 P.M. – Auditorium
(Except where noted)

| | |
|-------------------------------------|------------------------------------|
| | January – 3 (Reorganization) |
| | January - 24 |
| January - 31 | February - 7 |
| March - 6 | March - 20 |
| April - 3 | April - 17 |
| May - 1 | May - 15 |
| June - 5 | June - 19 |
| July - 10 | July - 24 |
| July - 31 | August - 21 |
| Sept. – 4 | October - 2 |
| October - 16 | |
| **November – 8 (Thursday @ 7:30 pm) | **November - 8 (Thursday @ 7 pm) |
| | November - 20 |
| December – 4 | December - 11 |
| | December - 27 (Thursday @ 12 Noon) |

* Police Department matters will be discussed at the Workshop Meetings.

** The November 8, 2012 Meeting will be a combination of Town Board Meeting and Workshop.

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (633-2011)
Co. Hausner offered and Co. Borelli seconded

WHEREAS, Chief of Police Michael Sullivan has recommended renewing an agreement with Rev. David Lothrop, to provide services to the Clarkstown Police Department as Police Chaplain for the calendar year 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is authorized to enter into an agreement with Rev. David Lothrop, in a form satisfactory to the Town Attorney, for the period January 1, 2012 to December 31, 2012, and be it

FURTHER RESOLVED, that compensation for said services shall be \$10,360 per year, and compensation for mileage at the approved rate for the calendar year 2012, all of which shall be charged to Account No. A 3120-409.

On roll call the vote was as follows:

Co. Lasker Yes
Co. Borelli Yes
Co. Hoehmann Yes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (634-2011)
Co. Hausner offered and Co. Borelli seconded

WHEREAS, PARTNERS IN SAFETY, INC. has submitted a proposal for the renewal of an agreement with the Town of Clarkstown, to provide alcohol and drug testing of safety-sensitive employees, including transportation employees and those holding commercial driver’s licenses, and

WHEREAS, John W. Coyle, Safety Manager, has recommended acceptance of said proposal;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into a renewal agreement, in a form satisfactory to the Town Attorney, with Partners in Safety, Inc., 800 Route 17M, Middletown, New York, for the period commencing January 1, 2012 and terminating on December 31, 2012, to provide alcohol and drug testing of safety-sensitive employees, including transportation employees and those holding commercial driver’s licenses, and be it

FURTHER RESOLVED, that the agreement shall provide for contract indemnification and professional and other liability insurance coverage, as required by the Town Attorney, and be it

FURTHER RESOLVED, that the fee for the year 2011, for such services, shall be \$3,550.00, with additional hourly fees in accordance with said proposals dated November 14th and 21st 2011, which fees shall be charged to Account No. A 9000-409.

On roll call the vote was as follows:

Co. Lasker Yes
Co. Borelli Yes
Co. Hoehmann Yes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (635-2011)
Co. Hausner offered and Co. Borelli seconded

Whereas, the County of Rockland, through its Department of Public Transportation, is desirous of entering into an agreement with the Town of Clarkstown for maintenance and upkeep of park and ride lots located at:

1. Exit 12 – Lot 1
2. Exit 12 – Lot 2
3. Exit 14 – East Lot
4. Exit 14 – West Lot
5. Exit 14 – North Lot
6. Municipal/Commuter Lot – Downtown Valley Cottage
7. Nanuet Railroad Station – Lot 2
8. North Middletown Road
9. Smith Street
10. Middletown Road Park and Ride
11. New Highway 304 Park and Ride Lot

and

WHEREAS, the County of Rockland agrees to pay the Town the sum of \$307,374.00 in connection with maintenance of the park and ride lots;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Clarkstown hereby authorizes the Supervisor to enter into such agreement with the County of Rockland, in a form approved by the Town Attorney, for the period January 1, 2011 and terminating December 31, 2011, to provide maintenance and upkeep of park and ride lots located at sites referred to herein, and be it

FURTHER RESOLVED, that the County of Rockland agrees to reimburse the Town of Clarkstown for said work in a sum not to exceed \$307,374.00.

On roll call the vote was as follows:

- Co. LaskerYes
- Co. BorelliYes
- Co. HoehmannYes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (636-2011)
Co. Hausner offered and Co. Borelli seconded

WHEREAS, by Resolution No. 260-2011, adopted May 17, 2011, the Town Board authorized the Supervisor to enter into a PILOT agreement with DER SPECIALITY PRODUCTS, LLC, D & E REALTY CO., THE CLARKSTOWN CENTRAL SCHOOL DISTRICT, THE COUNTY OF ROCKLAND, AND THE COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY with respect to payment in lieu of taxes for property known on the Clarkstown Tax Map as 59.18-1-12, and located at 200 North Route 303, West Nyack, New York, and

WHEREAS, the original agreement called for D&E Realty Co. and DER Specialty Products, LLC to provide a Letter of Credit to secure the PILOT payments, and

WHEREAS, D&E Realty Co. and DER Specialty Products, LLC have requested that the affected taxing jurisdictions waive the requirement of providing a Letter of Credit and in place thereof establish an escrow account for PILOT payments with the Rockland County Industrial Development Agency and the Rockland Economic Development Corporation, and

RESOLUTION NO. (636-2011) continued

WHEREAS, the Comptroller finds no objection to this change;
NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an amended agreement with DER SPECIALITY PRODUCTS, LLC, D&E REALTY CO., THE CLARKSTOWN CENTRAL SCHOOL DISTRICT, THE COUNTY OF ROCKLAND, AND THE COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY with respect to payment in lieu of taxes for property known on the Clarkstown Tax Map as 59.18-1-12, located at 200 North Route 303, West Nyack, New York..

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (637-2011)
Co. Hoehmann offered and Co. Hausner seconded

WHEREAS, the Town of Clarkstown has joined the Municipal Consortium in Support of Reasonable Electric Rates in connection with Orange and Rockland’s 2010 Rate Case 10-E-0362 before the Public Service Commission, and

WHEREAS, Daniel P. Duthie, Esq. has submitted a proposal dated November 29, 2011 to represent and provide legal services to the Town of Clarkstown as part of its share in connection with the case before the Public Service Commission, and

WHEREAS, the Town Attorney finds said proposal to be reasonable in terms of scope and price, and recommends the hiring of Daniel P. Duthie, Esq.;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an agreement with Daniel P. Duthie, Esq., in a form approved by the Town Attorney, to provide legal services pursuant to his proposal dated November 29, 2011, and be it

FURTHER RESOLVED, that the fee for said work shall not exceed \$4,000 for the Town of Clarkstown’s share of the fee, and said fee will be charged to Account No. A 1420-409.

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (638-2011)
Co. Hoehmann offered and Co. Borelli seconded

WHEREAS, by Resolution No. 380-2010 adopted by the Town Board on July 20, 2010, Bid No. 39-2008 was awarded to Let It Grow, Inc. (the “Contractor”) for Congers Lake Earthen Dam and Gilchrest Road Dike Improvements for a total contract price of \$2,395,000.00, and

WHEREAS, said resolution was amended by Resolution No. 152-2011 adopted on March 15, 2011 to increase the total price for additional work to be performed in the amount of \$70,238.76, and

WHEREAS, certain unforeseen field conditions require additional work by the Contractor, extra material for the sub surface for Earthen Dam additional excavation and fencing, and

RESOLUTION NO. (638-2011) continued

WHEREAS, change orders for said work have been submitted by the Contractor in the total amount of \$47,551.23, and

WHEREAS, the change orders have been reviewed by the Superintendent of Recreation and Parks, as well as the project engineer, who have deemed them acceptable in terms of scope and price;

NOW, THEREFORE, BE IT RESOLVED, that the allowance for this project be increased from the original bid in the amount of \$2,395,000.00 to the new amount of \$2,512,789.99, which includes the prior change orders, and be it

FURTHER RESOLVED, that this shall continue to be a proper charge to Account No. H-8741-400-409-0-23-2, and be it

FURTHER RESOLVED, that it is the intent of the Town Board that the additional funds allocated for this project shall be funded with the issuance of Serial Bonds.

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (639-2011)

Co. Hoehmann offered and Co. Lasker seconded

WHEREAS, Chapter 626 of the Laws of 1991 (General Municipal Law, Article 13BB), authorizes and empowers towns to enter into "Adopt a Municipal Park, Shoreline or Roadway Programs" with volunteers or groups in an effort to reduce and remove litter from parks, shoreline, roadways and other public lands, and

WHEREAS, the following group wishes to continue to adopt the below segment of town road for an additional period of two (2) years, continuing from December 12, 2011 to December 12, 2013, as follows:

Sponsor: Circle Collision Center
1 Orchard Street
Nanuet, NY 10954

Roads: .6 mile segment of Prospect Street from
intersection of Main Street to Grandview Avenue
Nanuet, NY 10954

and

WHEREAS, it is anticipated that Town money will be saved through the implementation of the volunteer program in that said Circle Collision Center will continue to perform a public service in removing trash from above roadway that would otherwise require Town employees to perform such work;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Clarkstown authorizes the Supervisor to enter into a renewal agreement, for a period of two (2) years continuing from December 12, 2011 to December 12, 2013, in a form approved by the Town Attorney, and Wayne T. Ballard, P.E., C.S.P., Superintendent of Highways, to adopt above segment, and to provide and coordinate services by Circle Collision Center to remove trash from the roadway.

RESOLUTION NO. (639-2011) continued

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (640-2011)

Co. Hoehmann offered and Co. Borelli seconded

WHEREAS, Jeff A. Weinberger, President of Palisades Lodging Corp., has advised the Town Clerk by letter dated November 28, 2011, pursuant to Section 64-2(a) of the Alcoholic Beverage Control Law, that Palisades Lodging Corp. has applied for an on-premises liquor license at the Comfort Inn & Suites, 425 East Route 59, Nanuet, New York, and

WHEREAS, to expedite processing said corporation's license application, Jeff A. Weinberger has requested that the Town Board waive the thirty day waiting period provided by law, and

WHEREAS, the Town Board does not intend to comment upon such application; NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby waives the thirty day notice requirement contained in Section 64 of the Alcoholic and Beverage Control Law, and states that it does not intend to offer any comments regarding the application of Palisades Lodging Corp. for a license at premises located at the Comfort Inn & Suites, 425 East Route 59, Nanuet, New York.

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (641-2011)

Co. Hausner offered and Co. Hoehmann seconded

WHEREAS, Town Board Resolution #552 authorized the Director of the Department of Environmental Control to retain the services of Danny Clapp Landscaping, Inc. to install a proposed earthen berm on Town property in order to mitigate a flooding condition on Hereford Lane; and

WHEREAS, the Department of Environmental Control has substantially altered the scope of work for the proposed berm since the work was originally awarded by the Town Board; and

WHEREAS, Town Board Resolution #552 authorizing the Director of the Department of Environmental Control to retain the services of Danny Clapp Landscaping, Inc. to install said earthen berm for the amount of \$18,750.00 is hereby rescinded.

RESOLUTION NO. (641-2001) continued

On roll call the vote was as follows:

Co. LaskerYes
 Co. BorelliYes
 Co. HoehmannYes
 Co. Hausner Yes
 Supervisor Gromack Yes

RESOLUTION NO. (642-2011)

Co. Lasker offered and Co. Hoehmann seconded

RESOLVED, based upon the recommendation of the Authorized Purchasing Agent and in concurrence with Recreation and Parks, that the bid furnishing athletic and recreation supplies is hereby awarded to the following low bidders who have met the specifications:

Bid#1-2012 Athletic and Recreation Supplies

Flaghouse, 601 Flaghouse Drive, Hasbrouck Heights, NJ 07604 for items # 1, 7, 9, 22, 23, 32, 33, 35, 37, 38, 39, 47, 51, 52, 61, 62, 63, 65, 66, 70, 72, 80, 81, 83, 89, 97, 100, 101, 105 and 106 as per specifications at a net bid price of \$ 3,012.39

The Lifeguard Store ,2012 W. College Avenue, Normal, IL 61761 for items # 53, 104, 120, 121, and 122 as per specifications at a net bid price of \$7,187.00

Passon's Sports (Sports Supply Group) P.O. Box 49, Jenkintown, PA, 19046 for items # 3, 4, 5, 8, 10, 12, 13, 14, 15, 17, 18, 19, 21, 24, 26, 27, 34, 36, 40, 45, 46, 48, 57, 58, 59, 60, 67, 69, 71, 73, 74, 75, 78, 102, and 103 as per specifications at a net bid price of \$6,050.79

S&S Worldwide, 75 Mill Street, Colchester, CT 06415 for items # 2, 11, 16, 20, 25, 30, 31, 41, 42, 43, 44, 49, 54, 55, 56, 68, 77, 79, 82, 85, 86, 87, 88, 90, 91, 92, 94, 95, 96, 98 and 99 as per specifications at a net bid price of \$2,059.87.

Gross total for all items: \$18,310.05

Further resolved, that this amount \$18,310.05 be charged against accounts:

| | |
|---------------|--------------------|
| 7140-222 | \$ 2,412.48 |
| 7140-307 | -0- |
| 7141-222 | 653.83 |
| 7141-307 | -0- |
| 7141-329 | 1,031.15 |
| 7180-307 | 5,840.00 |
| 7180-329 | 154.17 |
| 7180-219 | 897.00 |
| 7310-222 | 2,283.66 |
| 7310-307 | -0- |
| 7310-329 | 4,989.76 |
| 7610-329 | 48.00 |
| TOTAL: | \$18,310.05 |

RESOLUTION NO. (642-2011) continued

On roll call the vote was as follows:

- Co. LaskerYes
- Co. BorelliYes
- Co. HoehmannYes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (643-2011)

Co. Lasker offered and Co. Hoehmann seconded

RESOLVED, that based upon the recommendation of the Authorized Purchasing Agent and the Superintendent of Recreation and Parks that

RFP #7-2012 – LICENSE TO OPERATE FOOD AND REFRESHMENT CONCESSION STANDS AT TOWN PARKS

is hereby awarded to: RJENS
 16 CHESTER AVENUE
 CONGERS, NY 10920

PRINCIPAL: JUNE RUCKEL

as per their proposed annual fee, payable to the Town of Clarkstown, of \$10,500.00 and be it

FURTHER RESOLVED, that said award is subject to the receipt by the Purchasing Department of the following:

- a) Signed Contract Documents – four sets
- b) Certificate of Commercial Liability
- c) Certificate of Commercial Automobile Liability Coverage
- d) Certificate of Worker's Compensation insurance coverage

The Town of Clarkstown must be named as additional insured by way of policy endorsement on all liability policies, as they pertain to the project awarded and be it

FURTHER RESOLVED, that this project shall be under the supervision of the Superintendent of Recreation and Parks

On roll call the vote was as follows:

- Co. LaskerYes
- Co. BorelliYes
- Co. HoehmannYes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (644-2011)

Co. Hoehmann offered and Co. Borelli seconded

RESOLVED, that based upon the recommendation of the Traffic and Traffic Fire Safety Advisory Board, the Superintendent of Highways is hereby authorized to install:

An intersection sign W2-2R sign per the Traffic Sign Handbook for Local Roads, install a panel beneath to read “Driveway” per the MUTCD Sec. 235.10. Erect the sign in the area of house number 427 Storms Road, Valley Cottage, NY;

RESOLUTION NO. (644-2011) continued

and be it

FURTHER RESOLVED, that the Town Clerk be directed to forward a copy of this resolution to the Superintendent of Highways, Wayne Ballard, for implementation.

On roll call the vote was as follows:

Co. Lasker Yes
 Co. Borelli Yes
 Co. Hoehmann Yes
 Co. Hausner Yes
 Supervisor Gromack Yes

RESOLUTION NO. (645-2011)

Co. Lasker offered and Co. Hausner seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, Home Depot USA, Inc. # 1261 v. Town of Clarkstown, its Assessor and Board of Assessment Review of the Town of Clarkstown, Index No(s). 6983/09, 7359/10 and 030613/11, affecting parcel designated as Tax Map No. 57.20-1-5.4, and more commonly known as 44 Hutton Avenue, Nanuet, New York for the year(s) 2009/10/, 2010/11 and 2011/12; and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice pursuant to Section 727 of Real Property Tax Law of the State of New York and without costs on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Tax Assessor, Tax Certiorari Counsel for the Town of Clarkstown and the attorneys for the Nanuet Union Free School District, who believe the best interests of the Town and the School District are being served;

NOW, THEREFORE, BE IT RESOLVED, that:

1. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Tax Map 57.20-1-5.4 be reduced for the year(s) 2010/11 from \$4,506,500.00 to \$4,326,200.00 at a cost to the Town of \$4,252.55;
2. Reimbursement for the year(s) 2010/11 on the parcel described as Tax Map 57.20-1-5.4, as stated above, be made within sixty (60) days, without interest, through the Office of the Commissioner of Finance; and such payment shall be adjusted by the Commissioner of Finance and the Town as a deficiency added to the next county levy;
3. The proceedings commenced by the petitioner(s) respecting Tax Map 57.20-1-5.4 be discontinued for the years 2009/10 and 2011/12 at no cost to the Town;
4. All municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement, and be it

FURTHER RESOLVED, that the settlement of the aforesaid action is authorized upon the terms and conditions herein stated; and Tax Certiorari Counsel for the Town of Clarkstown is authorized to sign all documents necessary to effectuate such settlement.

On roll call the vote was as follows:

Co. Lasker Yes
 Co. Borelli Yes
 Co. Hoehmann Yes
 Co. Hausner Yes
 Supervisor Gromack Yes

RESOLUTION NO. (646-2011)
Co. Lasker offered and Co. Hausner seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, Home Depot USA, Inc. #6157 v. Town of Clarkstown, its Assessor and Board of Assessment Review of the Town of Clarkstown, Index No(s). 006687/09, 007363/10 and 030615/11, affecting parcel designated as Tax Map 57.20-1-5.3 and more commonly known as 47 Hutton Avenue, Nanuet, New York for the year(s) 2009/10/, 2010/11 and 2011/12, and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice pursuant to Section 727 of Real Property Tax Law of the State of New York and without costs on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Tax Assessor, Tax Certiorari Counsel for the Town of Clarkstown and the attorneys for the Nanuet Union Free School District, who believe the best interests of the Town and the School District are being served;

NOW, THEREFORE, be it

RESOLVED, that:

1. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Tax Map 57.20-1-5.3 be reduced for the year(s) 2010/11 from \$3,898,600.00 to \$3,742,700.00 at a cost to the Town of \$3,677.05;

2. Reimbursement for the year(s) 2009/10 and 2011/12 on the parcel described as Tax Map 57.20-1-5.3, as stated above, be made within sixty (60) days, without interest, through the Office of the Commissioner of Finance; and such payment shall be adjusted by the Commissioner of Finance and the Town as a deficiency added to the next county levy;

3. The proceedings commenced by the petitioner(s) respecting Tax Map 57.20-1-5.3 be discontinued for the years 2009/10 and 2011/12 at no cost to the Town;

4. All municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement, and be it

FURTHER RESOLVED, that the settlement of the aforesaid action is authorized upon the terms and conditions herein stated; and Tax Certiorari Counsel for the Town of Clarkstown is authorized to sign all documents necessary to effectuate such settlement.

On roll call the vote was as follows:

Co. LaskerYes
Co. BorelliYes
Co. HoehmannYes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (647-2011)
Co. Hoehmann offered and Co. Hausner seconded

RESOLVED, that the resignation of Sean T. Mannix, 950 Sierra Vista Lane, Valley Cottage, New York – Police Officer – Clarkstown Police Department - is hereby - accepted effective and retroactive to December 7, 2011.

On roll call the vote was as follows:

Co. LaskerYes
Co. BorelliYes
Co. HoehmannYes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (648-2011)
Co. Hoehmann offered and Co. Hausner seconded

RESOLVED, that the resignation by (retirement) of Douglas B. Harle, 20 Dickens Street, Stony Point, New York Police Officer – Clarkstown Police Department - is hereby accepted effective and retroactive to November 30, 2011.

On roll call the vote was as follows:

Co. Lasker Yes
Co. Borelli Yes
Co. Hoehmann Yes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (649-2011)
Co. Hoehmann offered and Co. Hausner seconded

WHEREAS, THE Rockland County Personnel Office has furnished Certification of Eligibles #11132 (NCP T&E) Principal Account Clerk – Office of the Town Comptroller which contains the name of Victoria McDermott,

NOW, therefore, be it

RESOLVED, that Victoria McDermott, 19 Hillside Drive, New City, New York – is hereby appointed to the (promotional) (permanent) position of Principal Account Clerk – Office of the Town Comptroller – at the current 2011 annual salary of \$50,100., effective December 13, 2011.

On roll call the vote was as follows:

Co. Lasker Yes
Co. Borelli Yes
Co. Hoehmann Yes
Co. Hausner Yes
Supervisor Gromack Yes

RESOLUTION NO. (650-2011)
Co. Hausner offered and Co. Borelli seconded

WHEREAS, by Resolution No. 553-2011 adopted October 18, 2011, the Town Board approved a zone change request from Wolfe Landing, LLC redistricting premises designated on the Clarkstown Tax Map as 64.07-1-9.2 located at 2 Medical Park Drive, West Nyack, New York from the LO District to the AAR District, subject to certain conditions, and

WHEREAS, there was a typographical error in the third RESOLVED clause where said conditions were outlined which inadvertently omitted one of the units that was required to be designated as “Affordable Units;”

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby amends Resolution No. 553-2011 by changing the third RESOLVED clause, condition Number 3 to read:

“3. Seven (7) of the units, specifically Unit Nos. 12, 27, 30, 33, 36, 39 and 42 as indicated on the preliminary site plan, shall be “Affordable Units” as defined in Section 290-3 and shall comply with Section 290-7.1I(8);”

RESOLUTION NO. (650-2011) continued

On roll call the vote was as follows:

Co. LaskerYes
 Co. BorelliYes
 Co. HoehmannYes
 Co. Hausner Yes
 Supervisor Gromack Yes

RESOLUTION NO. (651-2011)

Co. Lasker offered and Co. Hoehmann seconded

RESOLVED, that at the recommendation of Robert S. Berdy, Insurance and Claims Manager, the Supervisor is hereby authorized to purchase through CLG Insurance, insurance coverage including Commercial General and Automobile Liability, Excess Liability, Property, and Excess Workers Compensation, for a period of one year, commencing on January 1, 2012 and expiring December 31, 2012, and be it

FURTHER RESOLVED, that the cost of insurance policies shall not exceed \$1,125,000 and be it

FURTHER RESOLVED, that at the recommendation of Robert S. Berdy, Insurance and Claims Manager, the Supervisor is hereby authorized to enter into a claims-administration agreement with PMA Management Corporation, for a period of one year, commencing on January 1, 2012 and expiring December 31, 2012, and be it

FURTHER RESOLVED, that the cost of said agreement shall not exceed \$75,000.

On roll call the vote was as follows:

Co. LaskerYes
 Co. BorelliYes
 Co. HoehmannYes
 Co. Hausner Yes
 Supervisor Gromack Yes

RESOLUTION NO. (652-2011)

Co. Lasker offered and Co. Hausner seconded

WHEREAS, a number of residents have come forward and requested that advisory and controlling signage be installed to notify drivers and highlight the speed limits and cautions to be exercised in the residential neighborhoods of **Newport Drive, Nanuet, Fairhaven Drive, New City and Durant Road, New City,** and

WHEREAS, the Supervisor, the Police and the Community Liaison have interviewed the residents and performed investigative and survey work to determine the need for advisory and controlling signage and the Town Board is desirous of curtailing any potential hazards and improving the traffic safety conditions in the areas, and

NOW, THEREFORE, be it **RESOLVED,** that the Town Board hereby authorizes the Superintendent of Highways to install the following signage:

FAIRHAVEN DRIVE, NEW CITY

Stop Signs and Stop Lines at the following intersections:

- Fairhaven Drive @ Doral Court
- Bontecou Lane @ Fairhaven Drive
- Berkshire Road @ Fairhaven Drive
- Curve Chevrons and Advisory 20 MPH Curve signs between # 8 & # 10 Fairhaven Drive

RESOLUTION NO. (652-2011) continued

DURANT ROAD, NEW CITY

Curve Chevrons @ #'s 18, 20, 22 & 24 (both directions)

NEWPORT DRIVE, NANUET

Stop Signs and Stop Lines at the following intersections:

- Enterprise Court @ Newport Drive
- Saratoga Court @ Newport Drive
- Essex Court @ Newport Drive
- Loeser Drive @ Newport Drive
- Samuel Road @ Newport Drive

Children at Play signs, both sides of Newport Drive vicinity of 15 Newport Drive
 Curve Chevrons @ #9's, 11, 13 & 15 Newport Drive (both directions)
 Re-establish existing curve warning & Advisory 20MPH signs, and be it

FURTHER RESOLVED, that the Town Clerk shall forward copies of this resolution to the Chief of Police for enforcement and the Traffic & Traffic Safety Advisory Board for information.

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (653-2011)

Co. Hoehmann offered and Co. Lasker seconded

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

**BID#8-2012 – PUMP STATION UPGRADES
GREENBUSH/VAN DOREN/LONG CLOVE**

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

On roll call the vote was as follows:

- Co. Lasker Yes
- Co. Borelli Yes
- Co. Hoehmann Yes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (654-2011)
Co. Hoehmann offered and Co. Lasker seconded

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

BID#9-2012 – SEWER REHAB – FORCE MAINS AND GRAVITY SEWERS

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

On roll call the vote was as follows:

- Co. LaskerYes
- Co. BorelliYes
- Co. HoehmannYes
- Co. Hausner Yes
- Supervisor Gromack Yes

RESOLUTION NO. (655-2011)
Co. Hausner offered and Co. Borelli seconded

BOND RESOLUTION OF THE TOWN OF CLARKSTOWN, ROCKLAND COUNTY, NEW YORK, ADOPTED DECEMBER 13, 2011, AUTHORIZING THE PAYMENT OF REAL PROPERTY TAX REFUNDS PURSUANT TO TAX CERTIORARI PROCEEDINGS BROUGHT UNDER ARTICLE SEVEN OF THE REAL PROPERTY TAX LAW, STATING THE ESTIMATED TOTAL COST THEREOF IS NOT TO EXCEED \$335,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$335,000 BONDS TO FINANCE SAID APPROPRIATION

THE TOWN BOARD OF THE TOWN OF CLARKSTOWN, IN THE COUNTY OF ROCKLAND, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called the “Town”) is hereby authorized to make real property tax refund payments in the aggregate amount of \$335,000, pursuant to judicial proceedings brought under Article Seven of the Real Property Tax Law, in the specific amounts and to the entities specified in the list attached hereto as **Exhibit A**, and to pay preliminary costs and costs incidental thereto and the financing thereof. The estimated total cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is not to exceed \$335,000 and said amount is hereby appropriated therefore. The plan of financing includes the issuance of not to exceed \$335,000 serial bonds of the Town to finance said appropriation and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of not to exceed \$335,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the “Law”), to finance said appropriation.

RESOLUTION NO. (655-2011) continued

Section 3. The period of probable usefulness applicable to the purpose for which said \$335,000 serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 33. of the Law, is five (5) years; provided, however, that pursuant to Section 11.00 a. 33-a of the Law, if the total amount of tax refunds to be paid by the Town pursuant to court orders in the fiscal year in which any of such refunds are paid is (i) more than one per centum but less than three per centum of the Town's tax levy for such year, then the period of probable usefulness relative to the bonds issued to finance such refund(s) shall be ten (10) years, or (ii) more than three per centum but less than five per centum of the Town's tax levy for such year, then the period of probable usefulness relative to the bonds issued to finance such refund(s) shall be fifteen (15) years, or (iii) more than five per centum of the Town's tax levy for such year, then the period of probable usefulness relative to the bonds issued to finance such refund(s) shall be twenty (20) years.

Section 4. The proceeds of the bonds herein authorized, and any bond anticipation notes issued in anticipation of said bonds, may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 5. The proposed maturity of the bonds authorized by this resolution will not exceed five years.

Section 6. Each of the bonds authorized by this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds, and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and the powers and duties relative to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 8. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

RESOLUTION NO. (655-2011) continued

Section 9. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "THE JOURNAL-NEWS," a newspaper having a general circulation within said Town and hereby designated as the official newspaper of the Town for such publication.

* * *

EXHIBIT A

| <u>Assessed Owner</u> | <u>Years</u> | <u>Property ID</u> | <u>Amount of Refund</u> |
|-----------------------|--------------|--------------------|-------------------------|
| Normandy Village | 2009-2011 | 64.9-1-3 | \$77,845.21 |
| | | 64.9-1-8 | |
| Sear Roebuck & Co. | 2007-2011 | 63.8-3-2 | 255,276.09 |
| Gisondi Associates | 2004-2006 | 59.20-1-2 | 1,534.92 |
| Manoonpol | 2011 | 64.12-1-28 | 343.87* |

* The total amount of refund due to this assessed owner is \$368.00. The \$24.13 difference is to be paid from budgetary appropriations of the Town.

On roll call the vote was as follows:

- Co. LaskerYes
- Co. BorelliYes
- Co. HoehmannYes
- Co. Hausner Yes
- Supervisor Gromack Yes

Supervisor opened the meeting for general public comments.

Guy Gervasi, W. Nyack
 Questioned why 2012 raises were not included in the budget and expressed support for consolidation of the three Town garages.

Bozena Fishbein
 402 S. Mountain Rd, New City
 Spoke of problems with drainage in her area and the need for remedial work..

Frank Grandel, New City
 Spoke about expensive leaf pick up program. Does not feel this should be the Town's responsibility.

Steve Levine, Congers

Spoke about a fictional kingdom where subjects were treated unfairly.

Patrick Rocco, Congers

Inquired as to the status of property remediation at 139 Massachusetts Avenue.

Marge Hook, New City

Complimented the Superintendent of Highways on the clean up of debris after the recent storms.

Richard Clark

South Mountain Road, New City

Spoke about an incident years ago when a young man was killed by a falling tree on his property. Feels this was due to the ground being saturated due to drainage problems.

Highway Superintendent Ballard addressed the issue of leaf pickup. He stated that since the Town owns the equipment for brush and snow removal, as well as the employees trained to utilize that equipment, we might as well use them for leaf pickup. He stated that owning that equipment enabled them to reopen 104 closed roads in the aftermath of recent storms.

Town Attorney Mele stated that the Town has been in constant contact with Wells Fargo, the owner of 139 Massachusetts Avenue, and that they are aware of the need for remediation.

In response to South Mountain Road drainage issues, Supervisor Gromack stated we will have our DEC go out and take a look and come back with a report.

There being, no one further wishing to speak, on motion of Co. Lasker, seconded by Co. Hausner and unanimously adopted, the Town Board moved into Executive Session, time: 8:45 pm.

The Town Board returned from Executive Session and on motion of Co. Hoehmann, seconded by Co. Lasker and unanimously adopted, the Town Board meeting was closed, time: 9:30 p.m.

Respectfully submitted,

Joanne Castaldo
Deputy Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

12/13/11

8:30 P.M.

Present: Supervisor Alexander J. Gromack
Council Members Shirley Lasker, Frank Borelli,
George Hoehmann & Stephanie Hausner
Amy Mele, Town Attorney
Joanne Castaldo, Deputy Town Clerk

Continuation . . . Proposed Local Law Amending Chapter 290 (Zoning) of the Local Laws of the Town of Clarkstown with Respect to the Hamlet Commercial District

. On motion of Co. Lasker seconded by Co. Hoehmann, the public hearing was declared open.

Town Attorney Mele explained that the purpose of this local law was to exempt certain prior non-conforming uses from the requirement that they obtain Planning Board approval. The Planning Board had some issues with the proposed local law in that it did not have a mechanism for determining a preexisting legal use and that there is no requirement that the applicant obtain any board approval. We have since revised this to address the Planning Board’s concerns. The Deputy Director of the DEC, acting as agent to the Town Board, determined that the proposed action is an unlisted action under SEQRA, and that there is no additional review required. Therefore, we are in a position to adopt this local law should the Board chose to do so.

Supervisor Gromack asked if there was anyone present wishing to speak on this matter. No one appeared.

There being no one further wishing to speak, on motion of Co. Hoehmann, seconded by Co. Borelli and unanimously adopted, the Public Hearing was closed, time: 8:35 p.m.

RESOLUTION NO. (630-2011) ADOPTED

Respectfully submitted,

Joanne Castaldo
Deputy Town Clerk