

TOWN BOARD MEETING

May 14th, 1948

Town Clerk's Office

8:00 P.M.

- Present: Mr. Schmersahl
- Mr. Fibble
- Mr. Welchman
- Mr. Eberling
- Mr. Dillon

Mr. Dillon called the meeting to order.

Mr. Leon Dornbush of Bardonia appeared before the Board and advised them that a complete victory has been won in the fight for water in Bardonia, as the Public Service Commission has ordered that the water mains are to be extended to Bardonia. He told the Board that in order to get water quicker, it is necessary to form a water district, and that he was appearing on behalf of the people of Bardonia to ask the Board to create a water district for Bardonia. He then read portions of the testimony taken at the meeting held by the Public Service Commission.

Mr. Dillon then advised Mr. Dornbush that the water district could be formed after the proper petition was presented to the Board. The first step, he stated, would be to have an attorney who would cooperate with the Town Attorney. A survey would be necessary, and 50% of the property owners, both resident and non-resident, must consent to the formation of the district. The petition must be presented to the Town Board, and notice will then have to be given for a public hearing.

Mr. Dornbush then told the Board that he understood there was a possibility of New City joining with Bardonia in the proposed water district.

In this regard, Mr. Roepe, Town Attorney, stated that Mr. Irion, who is President of the New City Business Mens Association, had spoken to him about this matter. Mr. Roepe said he would like to first examine the decision of the Public Service Commission. He said that as far as New City joining with Bardonia, it would be necessary for the two groups to get together, as the first thing that must be done is to determine the proposed boundaries.

Mr. Dillon then complimented Mr. Dornbush on the splendid fight he made to get water for the people of Bardonia.

Mr. Herbert Scott then presented a resolution from the New City Business Mens Association, requesting that Maple Ave. in New City from 2nd Street to Congers Rd. be changed to business. He stated that most of the property owners in this section are in favor of this change in zoning. He told the Board he hoped they would grant favorable action on the proposed change.

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Mr. Dillon then told Mr. Scott that a proper resolution would have to be passed, setting a date for a public hearing on the matter, and the Town Attorney was requested to prepare the resolution.

Mr. Schmersahl moved the following resolution:-

WHEREAS, it is considered in the public interest that the Building Zone Ordinance of the Town of Clarkstown be amended by redistricting the following described property:

ALL that certain property situate, lying and being at New City, in the Town of Clarkstown, County of Rockland and State of New York, bounded and described as follows:-

BOUNDED on the South by the center line of Second Street as the same runs Easterly from Route 304 to the present Industrial area as shown on the Building Zone Map of the Town of Clarkstown; bounded on the East by the present Industrial and Business B areas as shown on said map; bounded on the North by the present Business B area as shown on said map as it extends Southerly from the New City-Congers Road, and bounded on the West by the present Business B area as shown on said map as it extends Easterly from Route 304.

from Residence C to Business B as recommended by a Resolution of the New City Business Men's Association.

BE IT RESOLVED, that a public hearing pursuant to Sections 265 and 264 of the Town Law be had at the Office of the Town Clerk, Main Street, New City, New York, on the 11th day of June, 1948 at 8:00 P.M. relative to such proposed amendment, and it is

FURTHER RESOLVED, that notice of the time, place and purpose of such hearing shall be posted and shall be published in the Journal-News at Nyack, New York, in the manner provided by law, and it is,

FURTHER RESOLVED, that the Town Attorney prepare notices of such statutory hearing and that the Town Clerk cause the same to be posted and published as aforesaid and file proof thereof in the office of the said Clerk.

Seconded by Mr. Welchman

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. George Kern appeared on behalf of the various Veterans organizations in the county and told the Board that he understood a question was raised at the last Board meeting about the legality of the title of Veterans Welfare Officer. He asked if a ruling had been determined on it.

Mr. Roepe, Town Attorney, then stated that he had gone into the matter very thoroughly, and that he found the matter of Veterans relief administration

is covered in the Social Welfare Law under Sections 168 to 173, Article 5. He then quoted the various sections. Mr. Roepe stated that to sum it up, the matter of Veterans Relief is given to the various posts of the various Veterans Organizations. It is their sole charge to authorize the assistance to veterans. The Town must provide for and raise the funds, but the expenditure of the funds is solely in the hands of the posts. In order for a post to engage in the burden of extending relief they must file a statement showing the names of the people who are going to administer the relief, and a proper bond must be also filed.

Mr. Kern told the Board that originally the various organizations went before the Board and a man was named, who was appointed by the Town Board, and who has since administered the Veterans affairs. He asked where the question arose that the appointment isn't legal.

Mr. Dillon then told Mr. Kern that the question arose not by the Town Board but by someone who objected to the appointment. In his opinion, Mr. Dillon said that the question seems to be in the name of the officer. Instead of Veterans Welfare Officer, it should be Chairman of the Veterans Relief Committee. He said that the whole question was brought up when the Attorney General raised the question in the Town of Haverstraw by saying there was no such office as Veterans Welfare Officer.

Mr. Dillon then told the Veterans group that there is no question in the mind of the Town Board that Mr. Harrison has done a wonderful job as Veterans Welfare Officer. He said that during his term of office as Justice of the Peace and as Supervisor he knew that Mr. Harrison did a marvelous job.

Mr. Dillon then read letters from the eight Veterans Posts in the Town, recommending that John J. Harrison be appointed as Chairman of the Assistance Committee.

The matter was referred to the Town Attorney for a further check of the law and conference with the Veterans Welfare Officer before action is taken.

Mrs. Mabel Gordon of Central Ave., Spring Valley, then appeared regarding a zoning violation on the property now owned by Jack Blumfield but originally owned by Minner. She stated that Mr. Minner erected a three wall structure which he says is a retaining wall near the boundary line. She said that Mr. Mutinsky never issued a permit, but that Mr. Murdock did put on a violation which was later taken off.

Mr. Dillon then read the letter which was written to the Board by Mrs. Gordon, in which she outlined the case in question.

Mr. Dillon then told Mrs. Gordon that the Board would check the matter to ascertain if the wall is a violation of the Zoning Ordinance.

Mr. Louis Heydeman appeared before the Board regarding the starting of

a U.S. Naval Reserve Unit in Rockland County, and he asked the Board to go on record as favoring it.

Mr. Schmersahl moved the following resolution:-

RESOLVED, that the Town Board go on record as favoring the location in Rockland County of an Organized United States Naval Reserve Unit.

Seconded by Mr. Fibble

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Roepe, Town Attorney, reported on First Ave. in Nanuet. He said that in checking the matter, records were found in the Town Clerk's office which recognized First St. as a public road. In the year 1893, the Commissioners of Highways made an order for the lay-out of a highway called First St. and they attached to it a very particular survey. They laid First St. out as a street 60 feet wide, and it runs from Main St. east to well east of College Ave. Mr. Roepe told the Board that all the Town gets in a dedication after long useage is an easement. Where the Town has an easement for a public road as of necessity, they have the right to lay the poles for illuminating the street. He then quoted the following sections of the law.

Rule laid down by Village of East Rochester vs. Rochester Gas and Electric Corporation 262 Appellate Division 556, affirmed 289 N.Y. 391 and 292 N.Y. 156

The Town Clerk was then directed to advise the Rockland Light & Power Company of the report submitted by the Town Attorney, and request that the installation of the lights be completed as soon as possible.

Mr. Roepe then reported on the Hantmann case. He told the Board that the police department assisted him in serving a certified copy of the injunction judgment on Mr. Hantmann. He further told the Board that Judge Young in his decision enjoined the use of the building for any purpose other than a 1-family dwelling, but he did not issue an order to tear the building down. Mr. Roepe said that there is a continuing problem of enforcing the judgment.

The Chief of Police was requested to make periodic inspections of the Hantmann premises together with Mr. Murdock, Building Inspector, to see that the injunction judgment is enforced.

Mr. Roepe reported that the case of Rossi vs. Klein is expected to be placed on the Supreme Court calender for June.

* Mr. Roepe reported on the case of the Town of Clarkstown vs. Rite-way

Built Homes, Inc. He said that at the suggestion of the Board of Appeals he served an injunction on them, which Judge Bailey denied. Mr. Roepe told the Board that these people are engaged in building sections for prefabricated houses, and that they are also building some other things that do not come within the terms of the variance. He then asked the Board what they wished him to do.

Mr. Dillon then told Mr. Roepe that the injunction was originally commenced without the Board's knowledge and that they never authorized that the action be brought in the first place.

Mr. Roepe then told the Board that it was his understanding the Board of Appeals believed they had the right to institute litigation.

Mr. Dillon then advised Mr. Roepe that it has not been the practice of the Board of Appeals to do this, at least not during his term as Supervisor. He then asked Mr. Roepe if there was a cause of action against the Rite-way Built Homes, Inc. and when he replied that there was, Mr. Dillon stated the case should be continued. The Board also agreed on this.

Mr. Welchman moved the following resolution:-

RESOLVED, that the Town Attorney be authorized to continue the action of Town of Clarkstown vs. Rite-way Built Homes, Inc. and Anna Weinberg.

Seconded by Mr. Schmersahl

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Fibble moved the following resolution:-

RESOLVED, that the Town Clerk notify the Board of Appeals it is the feeling of the Town Board that if any legal actions are to be brought in future on the enforcement of the Zoning Ordinance that the matter be first submitted to the Town Board by the Board of Appeals, and the Town Board will give authority to the Town Attorney to institute the necessary litigation.

Seconded by Mr. Schmersahl

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

In regard to the certorari proceeding now pending, Mr. Roepe told the Board he has made a motion to dismiss it on a technicality. However, he has not heard anything definite from Mr. McDermott as yet.

In regard to the Taxi Cab Ordinance, Mr. Roepe told the Board that he has had several conferences with Chief Liebert about the proposed code for Clarkstown.

Chief Liebert then told the Board that since Morris was arrested, he has sold his business to a responsible citizen, and that things are much better now. He said that the other taxi drivers are not anxious to have the ordinance now.

The Board were still of the opinion that the taxi ordinance would be a good thing, and the Town Attorney was requested to proceed with the ordinance.

In regard to the New York Trap Rock case, Mr. Roepe told the Board that he couldn't report much, as he has not received a review of the case from Mr. Stickles of New York who is special attorney.

In regard to the Congers Election Dist., Mr. Roepe reported that he had prepared the resolution to divide the present district into two districts, to be known as No. 7 and No. 14.

Mr. Fibble moved the following resolution:-

WHEREAS, it appears that it is in the public interest and desirable that Election District No. 7 of the Town of Clarkstown be divided into two districts, such division to be made along the center of the right of way of the West Shore Railroad,

NOW, THEREFORE, BE IT RESOLVED that Election District No. 7, as now constituted, be divided to form two districts to be known as District No. 7 and District No. 14, and,

BE IT FURTHER RESOLVED that Election District No. 7 shall comprise and consist of all that part of the Town of Clarkstown lying and being within the following boundaries, viz:

Commencing at a point in the division line between the Towns of Clarkstown and Haverstraw where the same is intersected by the center of the right of way of the West Shore Railroad;

thence running easterly along said division line between the Towns of Clarkstown and Haverstraw to the Hudson River;

thence running southerly along said River to a point in line with the westerly line of the Martha Smith Farm;

thence in a southerly direction along the westerly bounds of said farm to the west bank of Rockland Lake;

thence southerly along the west bank of said lake to the Dweyer Farm;

thence westerly along said farm;

thence running in a north westerly direction north seventy-three (73) degrees west four thousand twenty-five (4025) feet to the

Kill Von Beast Creek;

thence down said stream four hundred fifty-eight (458) feet to the center line of Gilchrest Road;

thence along the center line of said Gilchrest Road to its intersection with the center of the right of way of the West Shore Railroad;

thence northerly and along the center line of said railroad right of way to the point or place of beginning.

BE IT FURTHER RESOLVED that Election District No. 14 shall comprise and consist of all that part of the Town of Clarkstown lying and being within the following boundaries, viz:

Commencing at the bridge on the top of the Short Clove, it being the division line between the Towns of Clarkstown and Haverstraw;

thence running easterly along said line to the center of the right of way of the West Shore Railroad;

thence in a southerly direction and along the center of said railroad right of way to its intersection with the center line of Gilchrest Road;

thence westerly and along the center line of Gilchrest Road to its intersection with Kings Highway;

thence through the center of said Kings Highway northerly one thousand seventy-three (1073) feet to the northeast corner of the land now or formerly of Christopher Kley (Anna Polhemus) and the south corner of the land now or formerly of Jacob Wesmuller;

thence excluding the latter north seventy-three (73) degrees west four hundred and eighty (480) feet to a brook;

thence north twenty-one (21) degrees thirty (30) minutes east four hundred and eighty (480) feet to the north line of property now or formerly of Christopher Kley (Anna Polhemus);

thence north eighty-seven (87) degrees thirty (30) minutes west to the northwest corner of same and continuing in the same course about three thousand one hundred and twenty (3120) feet to the Hackensack River;

thence northerly along said River its various courses to the junction of said River and Toms Brook;

thence in a northerly course along Toms Brook to the point or place of beginning.

Seconded by Mr. Welchman

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

In regard to the \$25.00 fee for a change in the Zoning Ordinance, Mr. Roope reported that he had drawn this resolution was requested.

Mr. Schmersahl moved the following resolution:-

WHEREAS, it is required pursuant to law that a notice of hearing on a change of the zoning ordinance be published and if adopted that notice

of change of zoning ordinance be also published and,

WHEREAS, in the opinion of the Town Board, the owner or owners of the property affected petitioning for or desiring such changes in said zoning ordinance should bear a portion of the costs imposed upon the Town.

NOW THEREFORE, BE IT RESOLVED that any application for a change in the Building Zone Ordinance of the Town of Clarkstown shall be accompanied by a fee of Twenty-five (\$25.00) Dollars, payable to the Supervisor of the Town of Clarkstown, except when said change is proposed on the Town Board's own motion, and,

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon adoption.

Seconded by Mr. Fibble

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Klein, Supt. of Highways, reported that water is still running down Storms Rd. as Mr. Winstedt has again blocked up the drain. He said he felt the neighbors should straighten it out themselves. Both Mr. Locke and Mr. Garrison have complained about the matter.

Mr. Klein reported that he had talked with Mr. Philip Klein regarding the roads in Valley Cottage. He said that Forest Glen Road is 24 feet wide. To widen it will be expensive, and some trees will have to come out. It is 20 feet wide through the business section. 60 feet of pipe will be put in there, and it will be real wide.

Mr. Klein then told the Board that he needed a mower, and that he wished the Board would take action on it, as he has enough money in his budget to take care of it.

Mr. Eberling moved that the Town Supt. of Highways be authorized to get bids on a Highway mower.

Seconded by Mr. Schmersahl

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Roepe then informed the Board that he had received word from Lexow & Jenkins that they would like to receive payment in the action of the Village of Spring Valley against the Town of Clarkstown.

Mr. Schmersahl moved the following resolution:-

RESOLVED, that the Supervisor be authorized to pay the judgment and costs in the matter of the application of Village of Spring Valley for a writ of certiorari, the amount being \$133.80.

Seconded by Mr. Eberling

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Chief Liebert told the Board that he received a letter from the Valley Cottage Civic Association regarding parking in Valley Cottage. He said that drivers park cars in front of the stores, and if spoken to abuse the cops. If you give them a ticket, then you're a bum. He said that the organization would like 1-hour parking, and that he would recommend it from Green Ave. on Lake Rd. around the corner to the Railroad Station on Kings Highway.

Mr. Roepe then pointed out that the Town ordinances gives authority to the Chief of Police to designate parking limitations in the Town.

Mr. Dillon then read a letter from the New York Central Railroad in which they advise that they will investigate the complaint of smoke nuisance at Congers, and do everything possible to keep it under control.

Mr. Dillon read a letter from the Nanuet National Bank in which they advise they are agreeable to renewing the lease for the police headquarters at the same rental, and that they will take care of the termites and the plumbing difficulties.

Mr. Eberling moved that the Town Attorney be authorized to draw the lease for the Police headquarters, and that the Supervisor be authorized to execute the same.

Seconded by Mr. Schmersahl

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Roepe then brought to the Board's attention the fact that it is almost impossible to hear the bell ring at the Congers Railroad Station during the hours the gate is unguarded when approaching from either direction. He said that it has been especially bad during the winter months when car windows have been closed.

The Town Clerk was directed to write the New York Central Railroad and advise them that the Board requests a flasher light, to be operated when the gate man is not on duty, and also to advise them that there has been one serious accident at this point already.

Mr. Dillon read a letter from the State Traffic Commission advising that a bus stop will be established on the West side of Main St. in Nanuet and that 30MPH speed restrictions has been ordered. The proper signs will be installed by the Dept.

Mr. Dillon then read a Notice from the Public Service Commission, advising a Public Hearing on May 20th, 1948 for general fare increases for two companies, namely, Tappan and Nyack Bus, Inc. and Rockland Transit Corp.

Mr. Dillon then presented a letter from Rose M. Leo, landlord of the Rec. of Taxes office in which she advised that beginning April 1st, 1948 the rent of the office would be \$50.00 per month. The letter was dated Feb. 13th, which gave the Town the required 30 day notice of an increase in rent.

Mr. Dillon read a letter from Stephen Doig, in which he advised that the West Nyack School Board recommended the appointment of Thomas Rudden as School Attendance Officer.

Mr. Schmersahl moved that Thomas Rudden be appointed School Traffic Officer for West Nyack School, his compensation to be at the rate of \$2.00 for each school day.

Seconded by Mr. Eberling

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

The Town Clerk was requested to write the Civil Service Commission and ask when the list will be published on the recent examination for police patrolman in the Town of Clarkstown.

Mr. Welchman moved that \$90.00 be transferred from Current Surplus to Town Board, Town Hall & Offices.

Seconded by Mr. Eberling

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Eberling moved that Elmer DeFlaun be re-appointed a Member of the Board of Appeals for a term of five years, beginning June 11th, 1948.

Seconded by Mr. Welchman

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Fibble moved that W. Reginald Herdman be re-appointed Chairman of the Board of Appeals for a term of one year, beginning June 19th, 1948.

Seconded by Mr. Welchman

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Dillon read a letter from Fred Engels suggesting that the Town Board adopt an ordinance to remove and store automobiles parked on the road. It was referred to the Town Attorney, and he was requested to report at the next meeting.

Mr. Dillon read a letter from Mr. R. E. Jahr, Sec. of New City Park Club, Inc. enclosing approximately 70 signatures of property owners in New City Park, requesting that a water district be formed for the New City Park section. He then asked the cooperation of the Board in this matter.

Mr. Dillon then told the Board that if the people in New City Park want water, they should take the initiative and have the proper petitions drawn.

In regard to the Furno application, Mr. Roope told the Board that he had advised him that he needed an attorney, and that Mr. Furno then wanted him to continue as his attorney. Mr. Roope told the Board that if they do not wish him to do this because he is Town Attorney, he would like to know, so that he can tell Mr. Furno to get counsel elsewhere. Mr. Roope said that he wanted a frank expression from the Board as to how they felt. He said he knows that the Town Attorney can serve in a special district and get paid for

if approved, to apply subsequently to the State of New York for partial reimbursement of funds expended on said project, as provided by Chapter 556 of the Laws of 1945, as amended; now, therefore, be it

RESOLVED, that such application is in all respects approved and IRVIN F. DILLON, Supervisor of the Town of Clarkstown, is hereby directed and authorized to duly execute and to present said application to the New York State Youth Commission for its approval. This resolution shall take effect immediately.

Seconded by Mr. Welchman

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Eberling moved that \$500.00 be transferred from Current Surplus account to Nanuet Youth Project account as of July 1st, 1948.

Seconded by Mr. Welchman

On roll call, the vote of the Board was as follows:-

| | |
|----------------|-----|
| Mr. Schmersahl | Yes |
| Mr. Fibble | Yes |
| Mr. Welchman | Yes |
| Mr. Eberling | Yes |
| Mr. Dillon | Yes |

Mr. Dillon then invited the Board to attend the Luncheon at Bear Mountain on May 27th, 1948 at 12 Noon, given by the Palisades Interstated Park Commission.

Bills Nos. 364 to 448 on Warrant No. 5 were audited and ordered paid, amounting to \$12,301.20.

There being no further business, Mr. Eberling moved the meeting be adjourned.

Seconded by Mr. Schmersahl

Carried

Meeting adjourned.

Core [Signature]
Town Clerk of Clarkstown