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On motion made by Mr. Renken, seconded by Mr. Danko and unanimously carried, the meeting was adjourned.

Signed,

Mildred F. Magai
Mildred F. Magai, Town Clerk.

PUBLIC HEARING
March 11, 1959.

Rossi Building,
Route 59, E. of Spring Valley, N. Y.

8:00 P.M.

Present: Joseph Welchman, Councilman
Alastair Jeffrey "
Stephen Danko "
John H. Renken, Jr. "
Everett J. Johns, Esq., Town Attorney

Absent: John W. Coyle, Supervisor.

Present and representing the Village of Spring Valley and petitioners was Moe Mendelsohn, Esquire.

Present and representing objectors was Jerome Tobias, Esquire.

Councilman Welchman called the hearing to order explaining that Supervisor Coyle would not be able to attend because of illness in his family.

Notice of Hearing to consider petition for the Annexation to Spring Valley of Territory in Clarkstown adjoining the Village of Spring Valley was made pursuant to Section 348 of Village Law was read.

Town Attorney Johns placed on file as Exhibit I, filed affidavit Phillip Graziano as to posting of notices in five public places within the area proposed to be annexed, as required by Section 348 of Village Law.

Attorney Jerome Tobias stated for the record that he objected to the time and place of filing.

The Town Attorney showed Attorney Mendelsohn a petition and asked if it was the original petition filed with the Supervisor of the Town of Clarkstown. Mr. Mendelsohn stated "That is correct".

Town Attorney Johns asked "Would you introduce that as Exhibit II at this meeting?" Mr. Mendelsohn replied "I do".

Upon examination of the survey accompanying the petition, Mr. Mendelsohn advised that a boundary line that ran diagonally across Route 59 had been straightened out at the request of the Supervisor and Town Attorney of the Town of Clarkstown.

Jerome Tobias, Esq. stated that he represented as objectors, Joseph Judge, Zenith Construction Company, John Bach, George Armston, Eagle Council - a fraternal organization, and Antonio Bianco.

Mr. Tobias stated that with reference to the notices that were posted one that was posted in Judge's establishment was unsigned and he understood that none were signed and by form alone were not proper.

The Town Attorney stated that the original notice was signed by John W. Coyle and that the affidavit of publication was attached thereto. Mr. Johns added that all of the people he represented were present and any objections to the notice were waived

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by their appearance.

Mr. Tobias then objected on the grounds that Mr. Coyle was not present to testify to his signature. The Town Attorney stated he was willing to testify to the authenticity of Mr. Coyle's signature on the notice for the record. Mr. Tobias stated he would then withdraw his objection on that point.

Mr. Tobias then stated his first reason for objection, referring to sub-section A of Section 348 of Village Law was that as far as sub-section A is dependent upon sub-section B insofar as "persons signing do not constitute the majority of persons residing within such territory qualifying to vote for Town Officers", I contend that none of the people or at least a majority of the people who have signed this petition are not qualified to vote for the Town Officers in the Town of Clarkstown. I think an examination of the registration records, and I have examined them, would disclose that the majority of the people who signed this petition are qualified to vote for Town officers in the Town of Clarkstown. Since this is so, it naturally holds that sub-section A has been abrogated in that sub-section A states that several persons who have signed the original petition are not and were not qualified to do so. Since the signers of the petition were and are not qualified to vote for Town officers in the Town of Clarkstown, it naturally follows that they are not persons qualified to sign the petition.

Town Attorney Johns stated "that objection is also invalid for the reason in either, "or" does not have to comply with sub-section B because it complied with sub-section C, 'Persons do not represent the owners of a majority of value'. There is no qualification under sub-section B."

Town Attorney Johns stated that if it qualified under sub-section C, the person signing the petition would be qualified, if under C. He informed Mr. Tobias that if he knew sub-sections A, B, C and D under Section 348 of Village Law, it was in the "or". Mr. Tobias stated he could not agree, that if one could not qualify under B, one could not under A. Mr. Johns then read verbatim the aforementioned sub-sections.

Mr. Tobias moved against the petition itself because he stated it did not comply with the statute in that the notice as filed for reading of supposing objections ends with "or". Section C and Section D are not connected with "ors". The Town Attorney stated the notice substantially complied with Section 348 of Village Law.

Mr. Tobias then contended that the entire petition in itself was incorrect because it had map setting forth certain boundaries at Pascack Road and Route 59 changed since the signing of the petition and people who signed without full knowledge of the boundaries involved.

The Town Attorney asked if there were any other objections. He added that the Supervisor and he had requested the change and certainly the change required was so insignificant that there was nothing prejudicial to parties concerned even though done after signing of petition.

Mr. Tobias then stated that every petitioner who signed swore to what he saw on the map and petition. Mr. Johns stated the change was made by agreement of petitioners' counsel, the Supervisor and himself.

Mr. Tobias asked what day changes in petition and boundaries were made, that if after June 20, 1958, he held that every one of the signatures was invalid, since the petition was changed and not as sworn to.

Mr. Mendelsohn stated he had the authority to speak for the petitioners as their representative.

Mr. Tobias requested that each petitioner be questioned as to what the changes were. Mr. Mendelsohn objected.

The Town Attorney maintained that the petition complied substantially with Section 348 of Village Law. Mr. Tobias argued that it could not comply with law after the petition was changed after signing.

Councilman Renken stated that the affidavits of petitioners bore different dates from June of 1958 to January of 1959.

Mr. Tobias contended again that the signers of the petition did not own the majority of the valued property under Section C. He stated, "I hold further that the introduction of the Town of Spring Valley, New York itself is not proper because the Mayor does not have the power to move for the Town and there is nothing in the petition that indicates that the Mayor of Spring Valley signed for Spring Valley into another area. There is nothing that indicates that a majority or minority of the Board of Trustees has voted on this matter or has given the Mayor of the Town of Spring Valley authority to speak for them. There is nothing to indicate that any referendum of the voters of Spring Valley has given to the Mayor this authority and I hold it is an improper and illegal extension of the powers of the Mayor of Spring Valley. I hold further that without the introduction of this particular property, that the assessed valuation of the people who have signed does not meet or conform with 51% of the valued property owners - that is objection C."

Mr. Tobias continued, "Now so far as the form of Section 348 is concerned, I contend that everything I have set forth in this record indicates clearly that the petition does not conform; that the persons who have signed were not qualified to do so under Section A; the persons who have signed do not represent a majority of persons qualified to vote under Section B; that the persons who have signed do not represent a majority in value of the property in question under Section C; and under Section D that in view of the fact that I pointed out all these formerly, the petition does not comply in form or content with Section D. Since there was no evidence that it was Mr. John Coyle who signed the petition, I ask that the record note that Mr. Coyle is not here to attest to his own signature and that no one bears any authorization from him to so attest. I state further that the petition on its face and by admission fails to comply with Section D in that signatures were placed upon the petition prior to changes made in the petition and hence the petition cannot set forth the wishes or desires of the parties who signed it prior to the change. I have no other objections."

The Town Attorney stated for the record that there are no admissions made by the Town Attorney that the petition does not comply with A, C, or D of Section 348

of Village Law.

Councilman Renken addressed Mr. Tobias and stated, "You questioned the right of the Mayor of Spring Valley, New York signing the petition. Are there any others not qualified to sign?". Mr. Tobias stated, "Yes, all here". Mr. Renken asked, "On what basis?". Mr. Tobias said "They do not vote in the Town of Clarkstown".

Mr. James Babcock asked to see the names of the people who signed the petition and was shown the names. He asked if it went by names or value of property. He was told by value of property.

Mr. Johns, Town Attorney asked if there were any other objections as to contents of the notice, and stated for the record that the Town Attorney read Section 348, Subdivision 2 - A, B, C & D to the persons in attendance at the meeting. He advised those present they could object to A, B, C, or D.

Mr. Mendelsohn stated he objected to everything said by Mr. Tobias and that it be stricken from the record on the ground that they were not in writing. He stated that no objections stated were objections in writing. What is purported to be objections is merely as set forth in Section 348 of Village Law and therefore invalid.

Mr. Mendelsohn in his rebuttal stated, "As to objection of the notice being unsigned, I cannot add anything to what Mr. Johns has already said in connection therewith. In connection with the petition it is correct in every respect. As to boundary changes that had been made, by the language of the petition of the petitioner each one signed and here in the petition they have really signed that they are the majority of owners of value of property. They have put down their signatures and the value of their properties. As far as the map is concerned, I as their attorney, had full authority from my clients, who are the petitioners, to make whatever changes on the petition or on the map or any part of the petition for the fulfillment of my obligations to them. Mr. Tobias objected under subsection 348-A, "that a person is not qualified therefor". I do not find any notation as to any actual objection stated in reference to that one point as in sub-division A, because every signature there is acknowledged. There are no exceptions. As far as Subdivision B of Section 348 of Village Law, and I quote, "that the persons signing such petition do not constitute a majority of persons residing within said territory qualified to vote for Town Officers", I agree. This is not a petition by tenants. It is a petition by land owners. There is nothing in the Law saying the land owners must be residents of the Town of Clarkstown to make their petition valid. However, Subdivision C, which applies to a petition made by landowners, does in this case apply and that every signature represents a majority in assessed valuation upon the last preceding assessment roll in the Town of Clarkstown. As to sub-section D, I again say the petition does substantially comply as stated in the statute. I would like to say something else, Section 348 of Village Law makes provision for the annexation of property within a Township to a Village in two cases - 1. By tenants, people not property owners in the territory to be annexed; 2. the property-owners

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themselves - and I respectfully submit that the petition is in conformance in every respect. Mr. Mendelsohn stated that "In the acknowledgment is the authority for the Mayor of the Village of Spring Valley to sign this petition".

Mr. Tobias stated that since all the objections had been covered by Mr. Mendelsohn, he had just one point for calification and which concerned the petition for objections by the objectors. There were only two petitions available, neither of which was it possible for the objectors to obtain or examine until tonight. The statute sets forth that the objectors will be heard on testimony, evidence and objections. Mr. Tobias stated he applied at the Supervisor's Office and then in the Assessor's and the Tax Assessor stated the petition was in transit back to whomever was to get it.

Town Attorney Johns stated there were two copies of the petition filed with the Supervisor of Clarkstown; one had been sent to the Town Attorney who referred it to the Assessor for examination and report; the original had been on file in the Supervisor's office since Feb. 24, 1959.

Mr. Tobias asked if the petition had been sent back for correction thereafter and was told by Mr. Johns that it was sent back prior thereto.

Mr. Tobias stated Mr. Mendelsohn's objection was without merit insofar as the statute itself sets forth what the objection ought to consist of and the objection petition of the objectors sets it forth in great clarity.

The Town Attorney asked if any other persons wished to object to these sections of 348 of the Village Law, stating they were limited as to objections A, B, C, and D. He stated other than that, the Board could only act in a ministerial capacity and they had no discretion.

Mr. Tobias stated "I move that the statements of Mr. Mendelsohn and objections be stricken from the record since they do not conform with 348, which sets forth the four bases of objection and most of Mr. Mendelsohn's had no relevancy or connection with those four sections."

Town Attorney Johns stated "The petitioner has the opportunity to be heard and rebut and does not have to comply only with Section 348".

Mr. Tobias stated "I object since Mr. Mendelsohn's statement was factual."

Mr. Welchman stated the Board had no alternative but to determine whether the petition was in proper form.

Mr. Tobias stated "For the record, nowhere on the map shown does the property of the Junior Order of American Mechanics show up."

Upon examination of the map it was found that the property of the Jr. Order of American Mechanics was shown within the boundary lines of the map.

Mr. Welchman asked if there were any further objections. None were made.

On motion made by Mr. Renken, seconded by Mr. Jeffrey and unanimously carried, the hearing was closed.

Signed,

Mildred F. Magai

Mildred F. Magai,
Town Clerk

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