

TOWN OF CLARKSTOWN  
JOINT TOWN BOARD MEETING WITH TOWN  
OF CLARKSTOWN AND VILLAGE OF SPRING VALLEY

Town Hall

6/30/85

8:20 P.M.

Present: Representing Town of Clarkstown:  
Supervisor Dusanenko  
Councilmen Carey and Holbrook  
Councilmen Lettre and Maloney absent  
John Costa, Town Attorney  
Patricia Sheridan, Town Clerk

Representing Village of Spring Valley:  
Mayor Joel Rosenthal  
Trustees Rosenberg, Friedman, Simon and Darden  
Sammy Diament, Assistant Village Attorney  
Anita Westervelt, Village Clerk

Supervisor declared meeting open. Assemblage saluted the Flag. It was decided that Supervisor Dusanenko would chair the meeting. There was a motion to open the hearing for Village of Spring Valley by Trustee Rosenberg, seconded by Trustee Darden and all voted Aye. There was a similar motion to open the hearing for Town of Clarkstown by Councilman Holbrook, seconded by Councilman Carey and all voted Aye.

Town Attorney stated that a notice of this hearing was published as required by law on July 1, 1985. There is also an affidavit of service of notice of the public hearing in connection with the annexation of territory described in the publication and indicates that on June 27, 1985 the notice of public hearing was served on various town clerks and agencies within the County of Rockland. There is also an affidavit of service of notice by mail indicating that on July 8, 1985 notice of this public hearing was served upon Mr. Walter Key, Fire Chief of the Spring Valley Hook & Ladder Company No. 1 at the mailing address of 7 West Furman Place, Spring Valley, New York and in addition there is an affidavit dated July 3, 1985 of the secretary to Mr. Sam Diament indicating that notice of this hearing was served by mail upon the East Ramapo Central School District and Nanuet Union Free School District, East Spring Valley Fire District, Clarkstown Town Attorney and Clarkstown Town Clerk.

(The entire proceedings were taken by a Court Reporter (Miss Ellen Guardiano - Orange & Rockland Reporting) and her transcript is made a part of the official proceedings of this meeting and is on file in the Town Clerk's Office.)

There was a motion to close the hearing made by Trustee Darden, seconded by Mayor Rosenthal and all voted Aye for the Village of Spring Valley. There was a similar motion to close the hearing made by Councilman Holbrook, seconded by Councilman Carey and all voted Aye for the Town of Clarkstown, time: 9:35 P.M.

There was a motion made on behalf of the Village of Spring Valley by Trustee Darden, seconded by Trustee Simon. It was suggested that Findings of Fact be made a part of the resolution. There was lengthy discussion with comments by Trustee Rosenberg, Mayor Rosenthal, Trustee Darden, Trustee Simon and Trustee Friedman.

Supervisor Dusanenko noted that it was agreed that the comments made for the record by Trustee Rosenberg and Mayor Rosenthal would be accepted as the findings of facts for the resolution which will be considered by the officials of the Village of Spring Valley.

There was a roll call vote taken as follows:

Trustee Rosenberg.....Yes  
Trustee Simon.....Yes  
Trustee Friedman.....Yes  
Trustee Darden.....Yes  
Mayor Rosenthal.....Yes

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Supervisor Dusanenko then stated that he was prepared to take action this evening but he asked the Councilmen present for the Town of Clarkstown what their pleasure was?

There were extensive comments from Councilman Holbrook and he made a motion to reserve decision with specific questions he wanted answered within a reasonable length of time.

Question 1. What are the taxes?

Question 2. Is that parcel on the tax rolls at the present time? If not, why not?

Question 3. With regard to sewers - will that sewer facility in Hopf Drive or vicinity be adequate?

Question 4. Councilman Carey questioned the validity of the petition for the hearing?

Councilman Carey said he wanted input from the Town Engineer, the Assessor and he felt the Town Highway Superintendent should be involved as well.

Supervisor called for a motion to Reserve Decision. Town Attorney said they would like to have the information requested in the above questions as part of the record of this hearing. It would then be appropriate to adjourn this hearing and statute so provides that it may be adjourned for as long as ten days.

Supervisor said the officials of the Town of Clarkstown and the officials of the Village of Spring Valley closed the public hearing already. Town Attorney said yes but then there was mention that further comments from town officials were anticipated. Supervisor asked Town Attorney if he was suggesting that they reserve decision and recess this rather than adjourning it? Town Attorney said yes, for a term not more than ten (10) days in the future.

Supervisor reiterated that we would reserve decision and we are recessing for a period of not more than ten (10) days. Our next Town Board Meeting is August 12th. Supervisor Dusanenko asked if the petitioners would consent to a recess until August 12th?

Attorney Jerome Johnson said they would not consent to anything. He said the referrals were to people who had already done their jobs. He said he saw no justification for holding them back by reason of this attitude. He stated they will not consent to any kind of an adjournment.

Councilman Carey said he was getting the impression that Mr. Johnson was hustling him. Mr. Johnson said they were being hustled.

Supervisor said the suggestion was made by Town Attorney Costa that we reserve decision and recess this meeting up to a period of ten (10) days in order to obtain answers to certain questions. He said on the other hand Mr. Johnson, speaking for his fellow petitioners, has indicated his unwillingness to grant an extension of two or three days to this Town Board until our next regularly scheduled meeting of August 12th. Supervisor asked if he could prevail upon the petitioners, so that we do not have to have an extra meeting because certain officials are on vacation already and perhaps others would like to take some type of break, if they would reconsider only up to August 12, 1985? Mr. Johnson said he would and he would talk to the other parties but he stated that this petition was filed on May 22nd. He said they have been moving expeditiously and they had to plead and cajole to get the hearing for this evening. He said, of course, two days will not make that much of a difference.

Supervisor said he was not asking for any other concession or delay but only to the meeting of August 12th.

Mr. Johnson said they agreed to that with the understanding that they will not be present at that meeting and he said he expected that no more evidence would be introduced.

Supervisor said that Trustee Friedman had raised a question as to whether or not it was necessary that the Trustees of the Spring Valley Village Board be present at that time? Village Attorney Diament stated that the Spring Valley Board had already closed the public hearing and already voted on this. There is no point in their being present.

Village Attorney said there is no legal requirement for a joint public hearing in the first place. He said he would consider that the Village has had their public hearing and he did not see any legal requirement to have another one. Town Attorney Costa said he believed there was a statutory provision that if one of the Boards did not attend at the time a hearing is called and he felt that would include an adjournment of that hearing, their appearance is waived and it would not affect the validity of the proceedings.

Town Attorney reiterated, in response to a question from Trustee Friedman, that if the Village Board of Spring Valley does not attend the adjourned date, they are waiving their right to attend and the subsequent act by the Town Board in coming to a determination would bind both boards.

Councilman Holbrook asked if it was possible for a person to make a decision without having an adjournment if you find out the answers to those questions just by asking those particular officials referred to? Town Attorney said he would caution the Board from doing anything that would not be on record. Trustee Friedman stated that Town Attorney John Costa is saying that if we don't attend we waive our right and the decision of the Clarkstown Town Board is binding, is that correct? Town Attorney said he was not saying that but he is saying that you waive your right to be in attendance at the continuation of the hearing. The action taken by the Spring Valley Board tonight stands or falls on its own. Any subsequent action by the Town Board of the Town of Clarkstown would have to conform to the requirements of Section 711 of the General Municipal Law.

Supervisor Dusanenko stated that he wanted the record to show that there was a motion to close the public hearing and he said he did not know if a public hearing could be reopened legally because the motion was specifically for the Village officials to close the public hearing followed by a motion from Councilman Holbrook and seconded by Councilman Carey and voted upon unanimously to close the public hearing. After that fact it was suggested by council that we not close, that we not adjourn, that we recess instead. That question may very well be mute.

Town Attorney Costa said his advice to the Town Board of the Town of Clarkstown is that if they chose to reopen the hearing for purposes of recessing it until August 12th as stipulated to by the petitioner that would not cause any infirmity with respect to any future action of the Board.

Supervisor said then would it now be appropriate to have a motion to open it for the purpose of recessing until the time of August 12th until that additional information is obtained? Town Attorney said that would be correct.

Councilman Holbrook made the motion and it was seconded by Councilman Carey to reopen, recess until the evening meeting of August 12th and to obtain the input from the five departments or elected officials previously referred to.

(There followed extensive dialogue which is included in the transcript of the proceedings on file in the Town Clerk's Office.)

Supervisor Dusanenko then stated that we are on a roll call vote now on a motion made by Councilman Holbrook, seconded by Councilman Carey which he was ready, willing and anxious to vote on. Supervisor reiterated that this was a motion to reopen the public hearing and recess until the evening of August 12th, the regularly scheduled meeting, and to await the arrival of the five reports which he wished Mrs Sheridan or someone in her office to communicate to those elected or appointed officials, so that we have those reports in our presence prior to that meeting.

On roll call the vote was as follows:

Councilman Carey.....Yes  
Councilman Holbrook.....Yes  
Supervisor Dusanenko.....Yes

Supervisor Dusanenko said it might be in order to have the Spring Valley Village officials have a motion to adjourn.

Trustee Darden moved to adjourn, seconded by Mayor Rosenthal. At this point Trustee Rosenberg stated that he had a question. Supervisor Dusanenko said on a motion to adjourn or table, it is never debatable. Trustee Rosenberg asked: "No points of order?" Supervisor Dusanenko said: "Not even for God." At this point Mrs. Westervelt polled the Spring Valley Village officials and the resolution to adjourn was unanimously passed.

The public hearing was declared closed at 10:10 P.M.

Respectfully submitted,

*Patricia Sheridan*  
PATRICIA SHERIDAN,  
Town Clerk