

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

1/23/90

8:03 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

Supervisor declared Town Board Meeting open.
Assemblage saluted the Flag.

Supervisor opened the Public Portion of the meeting.

Appearance: Mr. Lester Schwartz
57 Tree Top Circle
Nanuet, New York 10954

Mr. Schwartz presented a petition signed by 436 residents of the hamlets of Rockland who are requesting a zone change of the property (from LIO to R-10) incorporating the proposed Bradco Realty Company warehouse (Agenda Item #17). He read a letter pertaining to this matter which is on file in the Town Clerk's Office.

Supervisor noted that the Town Board would be referring this matter this evening to the Clarkstown Planning Board.

Appearance: Mr. Elliot L. Greenberg
7 Rusten Lane
Spring Valley, New York 10977

Mr. Greenberg presented additional petitions with regard to this proposed zone change. He also read a letter which is on file in the Town Clerk's Office.

Appearance: Mr. John Lodico
2 Birch Lane
New City, New York

Mr. Lodico spoke regarding the contract for the transfer station. He stated that he had spoken with the senior councilperson in Orangetown (Charles McLiverty) and there has been no discussion in the Town of Orangetown as to what part they would play in a contract. Supervisor Holbrook said there have been discussions between the Town and the Supervisor and their consultants, their Coordinator of Recycling, and their Superintendent of Highways. He said our Town Attorney has also been involved in that and there have been various proposed drafts which have gone back and forth between the two towns. He stated that in his most recent conversations with Supervisor Pellegrini, it seems to be moving along in a positive direction. He said we will approve the findings tonight and we will hold off on signing that until such time as Orangetown agrees to become part and parcel of our operation. He said he does expect them to be a partner with our Town.

Mr. Lodico said some twenty suggested safeguards proposed to the Town should be reviewed and be a part of the contract as well as four or five additional ones which he would propose tonight. Mr. Lodico said there should be a tentative contract drafted and all four councilpersons privy to it before it is awarded. Mr. Lodico spoke at length about various details in the contract.

Appearance: Mr. Stan Pajewski
representing the Southern Clarkstown
Civic Association,
West Nyack, New York

Mr. Pajewski spoke regarding toxic emanation from the proposed garbage transfer station noting that four of the five

Continued on Next Page

councilpersons live miles from the site. Supervisor Holbrook stated that the transfer station will be designed to handle refuse from the Towns of Clarkstown and Orangetown. When it is in operation the Clarkstown Landfill will be closed and a remediating program installed there which will totally remediate that site. He said he did believe that in the course of time it will be better for the environment certainly and is the environmentally sound thing to do to remediate the landfill site. The transfer station will be a daily operation which will involve the transporting of garbage to a permanent landfill. It will be cleaned every day. In terms of overall operation it will be a much more efficient and clean operation than exists there today. He said we are cognizant of that and he felt it will be an improvement in the environment in West Nyack as opposed to the landfill operation which is much more difficult to control with all the elements of weather and topography that we have to deal with.

At this point Councilman Maloney expressed his thanks to the members of the Town Board, to so many people in Town Hall, and to the many people in the Town for their expressions of sympathy and for the cards and flowers on the passing of his mother a few days ago. He said he and the members of his family deeply appreciate everyone's sympathy.

RESOLUTION NO. (73-1990)

ACCEPTING MINUTES OF TOWN BOARD MEETINGS OF JANUARY 2, 1990, JANUARY 9, 1990 AND THE PUBLIC HEARING OF JANUARY 16, 1990

Co. Smith offered the following resolution:

RESOLVED, that the minutes of the Town Board Meetings of January 2, 1990 and January 9, 1990, and the minutes of the Public Hearing of January 16, 1990 are hereby accepted as submitted by the Town Clerk.

Seconded by Co. Maloney

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (74-1990)

AUTHORIZING SUPERVISOR TO ENTER INTO AGREEMENT WITH COUNTY OF ROCKLAND REGARDING DRUG ENFORCEMENT

Co. Maloney offered the following resolution:

WHEREAS, the County of Rockland wishes to financially assist the Town of Clarkstown in its drug law enforcement activities, and

WHEREAS, the Town wishes to provide the Rockland County Narcotics Task Force with a member of its police department for drug fighting activities, and

WHEREAS, the County of Rockland wishes to provide, for the year 1990, the sum of \$25,000.00 to the Town of Clarkstown for

RESOLUTION NO. (74-1990) Continued

partial reimbursement of the compensation of one police officer, and the sum of \$7,500.00 for partial reimbursement of overtime expenses for one police officer of the Town of Clarkstown assigned to the Rockland County Narcotics Task Force;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor of the Town of Clarkstown is hereby authorized to execute an agreement with the County of Rockland accepting financial assistance for the Town of Clarkstown's law enforcement activities whereby the Town would provide the Rockland County Narcotic Task Force with a member of the Town of Clarkstown Police Department for drug fighting activities, and in return the County of Rockland would partially reimburse the Town for one police officer in the amount of \$25,000.00, and the sum of \$7,500.00 for partial reimbursement of overtime expenses for one police officer of the Town of Clarkstown assigned to the Rockland County Narcotics Task Force, in a form satisfactory to the Town Attorney, for the year 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (75-1990)

APPOINTING SPECIAL COUNSEL FOR POLICE COMMISSION IN PROSECUTION OF DISCIPLINARY MATTER (ARTHUR J. FERRARO, ESQ.)

Co. Maloney offered the following resolution:

WHEREAS, Ronald A. Longo, Deputy Town Attorney for labor matters, has been disqualified from prosecuting a disciplinary action before the Clarkstown Police Commission, due to a conflict of interest, and

WHEREAS, said conflict of interest would extend to any other attorney in the Town Attorney's Office;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby appoints Arthur J. Ferraro, Esq., as Special Counsel for the Police Commission, in the prosecution of a disciplinary matter to be compensated at an hourly rate of \$110.00 an hour.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (76-1990)

GRANTING PERMISSION FOR USE
OF TOWN OF CLARKSTOWN SHOW-
MOBILE TO ANCIENT ORDER OF
HIBERNIANS

Co. Smith offered the following resolution:

WHEREAS, the Ancient Order of Hibernians has requested use of the Town of Clarkstown showmobile on Sunday, March 18, 1990, for the Annual St. Patrick's Day Parade to be held in Pearl River, New York,

NOW, THEREFORE, be it

RESOLVED, that permission is hereby granted to the Ancient Order of Hibernians to use the Town of Clarkstown showmobile on Sunday, March 18, 1990, for the above purposes and subject to the provision of the necessary insurance policies.

Seconded by Co. Maloney

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (77-1990)

AUTHORIZING SUPERVISOR TO
EXECUTE AGREEMENT WITH
CLARK HILL DEVELOPMENT
CORP. RE WATER SERVICE
CHARGES FOR MARIANNE HILL
SUBDIVISION - MAP 123,
BLOCK A, LOTS 5 AND 6

Co. Maloney offered the following resolution:

WHEREAS, a hydrant investigation has been made by Spring Valley Water Company for premises located in an approved subdivision known as Marianne Hill Subdivision, designated on the Clarkstown Tax Map as Map 123, Block A, Lots 5 and 6, and

WHEREAS, it has been recommended that two (2) fire hydrants be installed within the said approved subdivision for the protection of future residents, and

WHEREAS, said property is private property and the hydrants shall be installed at the owner's expense, but the water charges shall be billed to the Town of Clarkstown;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor of the Town of Clarkstown is hereby authorized to execute an agreement with CLARK HILL DEVELOPMENT CORP., as owner, in the form of a Declaration of Covenant which shall run with the land, as approved by the Town Attorney, whereby Clark Hill Development Corp., or its successor(s) in interest shall pay the water service charges of Spring Valley Water Company, Inc., rendered yearly to the Town of Clarkstown on a per hydrant basis in connection with the dwelling units to be located on such property presently owned by Clark Hill Development Corp. located in the Hamlet of Valley Cottage, designated on the Clarktown Tax Mill as Map 123, Block A, Lots 5 and 6, and the Comptroller is hereby authorized and directed pursuant to such covenant to provide periodic statements to Clark Hill Development

RESOLUTION NO. (77-1990) Continued

Corp. or the future owner(s) of the premises for payment of the water service charges imposed, plus 10% as a handling fee, and be it

FURTHER RESOLVED, that the amounts to be billed shall be prorated against the several tax parcels in accordance with the applicable assessment values.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (78-1990)

AUTHORIZING ATTENDANCE AT ATHLETIC FIELD MAINTENANCE SEMINAR (FOUR STAFF MEMBERS OF RECREATION AND PARKS) - CHARGE TO APPROPRIATION ACCOUNT NO. A 7140-414

Co. Maloney offered the following:

RESOLVED, that Edward J. Ghiazza, Superintendent of Recreation and Parks, is hereby authorized to designate four staff members to attend the Athletic Field Maintenance Seminar to be held on February 28, 1990, in Park Ridge, New Jersey, and be it

FURTHER RESOLVED, that all necessary expenses be allocated against Appropriation Account A 7140-414.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (79-1990)

AUTHORIZING ATTENDANCE AT NATIONAL RECREATION AND PARK ASSOCIATION SWIMMING POOL AND AQUATIC CONFERENCE (MARTIN SILVERBERG) - CHARGE TO APPROPRIATION ACCOUNT NO. A 7180-414

Co. Maloney offered the following resolution:

RESOLVED, that Martin Silverberg, Aquatic Director, is hereby authorized to attend the National Recreation and Park Association Swimming Pool and Aquatic Conference to be held March 2-7, 1990 in Scottsdale, Arizona, and be it

FURTHER RESOLVED, that all necessary expenses be allocated against Appropriation Account A 7180-414.

Seconded by Co. Smith

RESOLUTION NO. (79-1990) Continued

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (80-1990)

AUTHORIZING ATTENDANCE AT
CONFERENCE ON SOLID WASTE
MANAGEMENT AND MATERIALS
POLICY (LESLIE F. BOLLMAN)
- CHARGE TO APPROPRIATION
ACCOUNT A 1010-414

Co. Maloney offered the following resolution:

RESOLVED, that Leslie F. Bollman, Director, Department of Environmental Control, is hereby authorized to attend a conference on Solid Waste Management and Materials Policy to be held January 31 through February 2, 1990 at the New York Penta Hotel, 7th Avenue & 33rd Street, New York, New York, and be it

FURTHER RESOLVED, that all proper charges be charged against Appropriation Account # A 1010-414.

Seconded by Co. Smith

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (81-1990)

AUTHORIZING ATTENDANCE AT
CONFERENCES - COUNSELING
CENTER (SUSAN ROTH BEERMAN)
- CHARGE TO ACCOUNT NO.
4210-414

Co. Maloney offered the following resolution:

RESOLVED, that Susan Roth Beerman, C.S.W. attend conference on Saturday, February 10, 1990 - "Managing Erotic and Aggressive Feelings in Treatment: Transference and Counter-transference Issues"; and Saturday, March 3, 1990 - "Counter-transference" and "The Acting Out Patient." Registration Fee - \$55.00.

Seconded by Co. Smith

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (82-1990)

AUTHORIZING SUPERVISOR TO
ENTER INTO AGREEMENT WITH
VISIGRAPHICS, INC. - CHARGE
TO ACCOUNT NO. A 6411-409

Co. Maloney offered the following resolution:

WHEREAS, Joseph A. Carleo, President of Visigraphics, Inc., has presented a proposal to the Town Board, attached as Schedule "A," to prepare a video tape and brochure with respect to promoting the commercial and industrial development of Clarkstown;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with Visigraphics, Inc., for the preparation of a video tape and brochure with respect to promoting the commercial and industrial development of Clarkstown, and be it

FURTHER RESOLVED, that the cost of the video tape and brochure shall not exceed the sum of \$18,000.00, and shall be charged to Account No. A-6411-409.

(Schedule A on file in Supervisor's Office.)

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (83-1990)

AUTHORIZING RELEASE OF
ESCROWS FOR DEDICATED
SUBDIVISION (SOUTH OF THE
MOUNTAIN III)

Co. Maloney offered the following resolution:

RESOLVED, that upon the recommendation of the Department of Environmental Control, maintenance bond secured by a Certificate of Deposit in the sum of \$6,050 furnished to the Town of Clarkstown in connection with dedication of the road(s) and public improvements on April 7, 1987, in a subdivision known as South of the Mountain, Sec. III, together with escrows for incomplete items in the sum of \$3,000 secured by a Certificate of Deposit may be released to the guarantor.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (84-1990)

AUTHORIZING RELEASE OF
PERFORMANCE BOND AND
SUBSTITUTING CERTIFICATE OF

RESOLUTION NO. (84-1990) Continued

DEPOSIT (SOUTH OF THE MOUNTAIN VILLAGE, LTD.)

Co. Maloney offered the following resolution:

RESOLVED, that Performance Bond No. 940732 issued by Republic Insurance Company to SOUTH OF THE MOUNTAIN VILLAGE, LTD. in connection with a subdivision known as South of the Mountain, Sec. IV, is hereby released and said bond substituted with a Certificate of Deposit in the sum of \$7,000.00.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (85-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO PROCURE VEHICLE FOR CLARKSTOWN YOUTH COURT - INCREASE APPROPRIATION ACCOUNT NO. A 1120-203 (MOTOR VEHICLES) AND DECREASE APPROPRIATION ACCOUNT NO. A 1990-505 (CONTINGENCY)

Co. Maloney offered the following resolution:

WHEREAS, the Clarkstown Youth Court desires to purchase a vehicle to transport juveniles for its program,

NOW, THEREFORE, be it

RESOLVED, that the Director of Purchasing is authorized to procure said vehicle, and be it

FURTHER RESOLVED, to increase Appropriation Account No. A 1120-203 (Motor Vehicles) by \$17,538.38 and decrease A 1990-505 (Contingency) by \$17,538.38.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (86-1990)

PURCHASING AUTHORIZING DIRECTOR OF/ TO READVERTISE FOR BIDS FOR BID #76A-1989 - STREET COMMUNITY CENTER REHABILITATION - MECHANICAL

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to readvertise for bids for:

Continued on Next Page

RESOLUTION NO. (86-1990) Continued

BID #76A-1989
STREET COMMUNITY CENTER REHABILITATION - MECHANICAL

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 2:00 P.M. on Wednesday, February 7, 1990, 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 Clarkstown Director of Purchasing.

Seconded by Co. Kunis

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (87-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #16-1990 -
POLICE UNIFORMS

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #16-1990
POLICE UNIFORMS

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Wednesday, February 21, 1990 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 Clarkstown Director of Purchasing.

Seconded by Co. Kunis

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (88-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #15-1990 -
RECYCLING BOXES

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

Continued on Next Page

RESOLUTION NO. (88-1990) Continued

BID #15-1990
RECYCLING BOXES

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Friday, February 9, 1990 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 Clarkstown Director of Purchasing.

Seconded by Co. Kunis

(Councilman Kunis asked Mr. Bollman, Director of Environmental Control if the recycling boxes were the same blue boxes we now use? Mr. Bollman said yes. Councilman Kunis asked how many we were ordering? Mr. Bollman said 2,000 to start with.)

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (89-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #19-1990 -
FIRST AID SUPPLIES

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #19-1990
FIRST AID SUPPLIES

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Wednesday, February 28, 1990 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 Clarkstown Director of Purchasing.

Seconded by Co. Kunis

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (90-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #18-1990 - CRUSHED
STONE

TBM -1/23/90
Page 11

RESOLUTION NO. (90-1990) Continued

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #18-1990
CRUSHED STONE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Wednesday, February 14, 1990 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 Clarkstown Director of Purchasing.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (91-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #17-1990 - BITUMINOUS CONCRETE

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #17-1990
BITUMINOUS CONCRETE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Tuesday, February 13, 1990 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 Clarkstown Director of Purchasing.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (92-1990)

AWARDING BID FOR BID #76 - STREET COMMUNITY CENTER REHABILITATION (HUDSON VALLEY SAFETY ASSOCIATES, INC. AND ALL BRIGHT ELECTRIC) - AUTHORIZING

| | | | | |
|------------------------------------|-------------------|----------------|-------------------|---------|
| RESOLUTION NO. (92-1990) Continued | CHANGE CAPITAL | ORDERS FUND | CHARGE ACCOUNT | TO H |
| | 7141-01-409 | | AND | H |
| | 1989-01-409 | | | |

Co. Maloney offered the following resolution:

RESOLVED, based upon the recommendations of Edward J. Ghiazza, Supt. of Recreation and Parks; Lawrence Kohler, Director of Purchasing and Henry Horowitz, Inc., Engineer; that

BID #76
STREET COMMUNITY CENTER REHABILITATION

is hereby awarded as follows:

ASBESTOS MITIGATION/INSULATION to Hudson Valley Safety Associates, Inc., Patrick E. Cochrane, Arnold Bernstein and Jerry Bernstein, Principals, 31D Prospect Street, Nanuet, New York 10954, at a total of \$74,111.00

ELECTRICAL to All Bright Electric, Howard Hellman, President, 71 High Avenue, Nyack, New York 10960, at a total of \$48,645.00

TOTAL AWARD: \$122,756.00

and be it

FURTHER RESOLVED, that the Superintendent of Recreation and Parks is hereby authorized to execute any necessary change orders on behalf of the Town of Clarkstown, based upon the recommendation of Henry Horowitz, Inc., not to exceed \$138,750.00 to be allocated against Capital Fund Account H 7141-01-409 and H 1989-01-409.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

| | | | | |
|--------------------------|---------------------|---------------|-----------------|-----|
| RESOLUTION NO. (93-1990) | AWARDING | BID | FOR | BID |
| | #80-1989 | - | TRAILER MOUNTED | |
| | SEWAGE PUMP | (FLEET PUMP & | | |
| | SERVICE GROUP INC.) | | | |

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the Deputy Director of DEC and the Director of Purchasing that

BID #80-1989
TRAILER MOUNTED SEWAGE PUMP

is hereby awarded to

FLEET PUMP & SERVICE GROUP INC
100 CALVERT STREET
HARRISON NY 10528
PRINCIPALS: GREG FRICKE, SR
JULES LEIBMAN

as per their low bid proposal of \$13,200 for an ITT Marlow Portable Sewage Pump Model 4DR4.

RESOLUTION NO. (93-1990) Continued

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (94-1990)

AWARDING BID FOR BID
#11-1990 - FIREARMS AND
ACCESSORIES FOR THE
CLARKSTOWN POLICE
DEPARTMENT (STANDARD LAW
ENFORCEMENT SUPPLY CO.,
RICHARD A. SHERBURNE, INC.,
AND RAY'S SPORT SHOP, INC.)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Chief of Police and the Director of Purchasing that

BID #11-1990
FIREARMS AND ACCESSORIES FOR THE
CLARKSTOWN POLICE DEPARTMENT

is hereby awarded to:

STANDARD LAW ENFORCEMENT SUPPLY CO
957 WILLIS AVE
ALBERTSON NY 11507
PRINCIPALS: JOHN J. HARRIGAN JR
LEONARD WEINTRAUB

RICHARD A. SHERBURNE INC
SOUTH SHELBURN ROAD
PO BOX 182
GREENFIELD MA 01302
PRINCIPALS: RICHARD A. SHERBURNE
GWENDOLYN H. SHERBURNE
WILLIAM J. SHERBURNE
PHILLIP B. SHERBURNE

RAY'S SPORT SHOP INC.
559 U.S. HIGHWAY 22
NORTH PLAINFIELD NJ 07060
PRINCIPAL: R.P. LOEDDEKE

as per the attached item/price schedule.

(Item/Price Shedule on File in Purchasing Department)

Seconded by Co. Mandia

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (95-1990)

AUTHORIZING SUPERVISOR TO
ENTER INTO AGREEMENT WITH

Continued on Next Page

RESOLUTION NO. (95-1990) Continued

GARDEN STATE PAPER COMPANY,
INC.

Co. Smith offered the following resolution:

WHEREAS, Garden State Paper Company, Inc. has submitted an agreement for the marketing of a maximum of 300 tons per month of sorted paper with an initial price of \$10.00 per ton;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is authorized to execute subject agreement.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (96-1990)

AUTHORIZING DIRECTOR OF ENVIRONMENTAL CONTROL TO SURVEY AND DESIGN ROAD IMPROVEMENT PROJECT FOR PORTION OF DUSTMAN LANE, BARDONIA (MAP 33, BLOCK B, LOTS 3.01, 4.02, 30.02, 30.03, 30.04, 33.01 AND PORTION OF 31.01)

Co. Maloney offered the following resolution:

WHEREAS, the Town Board wishes to consider a road improvement project for an unimproved and undedicated portion of Dustman Lane, Bardonia, New York, which abuts a Town maintained portion of said road, upon its own motion;

NOW, THEREFORE, be it

RESOLVED, that the Director of the Department of Environmental Control is hereby authorized and directed to survey and design a road improvement project for a portion of Dustman Lane, Bardonia, abutting Tax Map 33, Block B, Lots 3.01, 4.02, 30.02, 30.03, 30.04, 33.01, and a portion of 31.01, and be it

FURTHER RESOLVED, that the Director of the Department of Environmental Control is hereby authorized and directed to prepare definite plans and specifications and to make a careful estimate of the expense of the road improvement.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (97-1990)

SETTING PUBLIC HEARING RE
CHANGE ON ZONE FROM R-15 TO
PO DISTRICT - MAP 36, BLOCK
D, LOT 2 (FASMAN)

Co. Kunis offered the following resolution:

WHEREAS, DENNIS N. FASMAN, has petitioned the Town Board of the Town of Clarkstown that the Zoning Ordinance of the Town be amended by redistricting property of the petitioner described from an R-15 District to a PO District;

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 36, Block D, Lot 2;

NOW, THEREFORE, be it

RESOLVED, that a public hearing pursuant to Sections 264 and 265 for the Town Law be held at the Auditorium of the Town Hall of the Town of Clarkstown, at 10 Maple Avenue, New City, Rockland County, New York, in the Town of Clarkstown, on the 27th day of February, 1990, at 8:05 P.M., relative to the proposed amendment, and be it

FURTHER RESOLVED, that the Town Attorney prepare notice of such statutory hearing and that the Town Clerk cause the same to be published in the official newspaper of the Town as aforesaid and file proof thereof in the Office of the Town Clerk.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (98-1990)

SETTING PUBLIC HEARING RE:
CHANGE OF ZONE FROM R-15 TO
PO - MAP 36, BLOCK D, LOTS
1, 8 AND 9 (PLOTKIN)

Co. Kunis offered the following resolution:

WHEREAS, ELLEN V. PLOTKIN, has petitioned the Town Board of the Town of Clarkstown requesting that the Zoning Ordinance of the Town be amended by redistricting property owned by the petitioner, from an R-15 District to a PO District, and

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 36, Block D, Lots 1, 8 and 9;

NOW, THEREFORE, be it

RESOLVED, that a public hearing pursuant to Sections 264 and 265 for the Town Law be held at the Auditorium of the Town Hall of the Town of Clarkstown, at 10 Maple Avenue, New City, Rockland County, New York, in the Town of Clarkstown, on the 27th day of February, 1990, at 8:10 P.M., relative to the proposed amendment, and be it

FURTHER RESOLVED, that the Town Attorney prepare notice of such statutory hearing and that the Town Clerk cause the same to be published in the official newspaper of the Town as aforesaid and file proof thereof in the Office of the Town Clerk.

Continued on Next Page

RESOLUTION NO. (98-1990) Continued

Seconded by Co. Maloney

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

| | | | |
|--------------------------|--------------------------|-----------|--------|
| RESOLUTION NO. (99-1990) | REFERRING | AMENDMENT | TO |
| | ZONING | ORDINANCE | TO |
| | CLARKSTOWN | PLANNING | BOARD |
| | AND | ROCKLAND | COUNTY |
| | COMMISSIONER OF PLANNING | | |

Co. Maloney offered the following resolution:

WHEREAS, a comprehensive amendment to the Zoning Ordinance of the Town of Clarkstown was adopted on June 30, 1967, and further amended from time to time, and

WHEREAS, the Town Board of the Town of Clarkstown is considering to further amend said Zoning Ordinance;

NOW, THEREFORE, be it

RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review, and be it

FURTHER RESOLVED, that the following proposed amendment to the Zoning Ordinance be referred to the Clarkstown Planning Board and the Rockland County Commissioner of Planning for their recommendation and report:

Amend §106-10A of the General Use Regulations, CS District, Table 11, Column 3, Item B-5(b), by Deleting Item B-5(b)

Seconded by Co. Kunis

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

| | | | |
|---------------------------|----------------------------|----------|--------|
| RESOLUTION NO. (100-1990) | REFERRING | PETITION | FOR |
| | CHANGE | OF | ZONE |
| | CLARKSTOWN | PLANNING | BOARD |
| | AND | ROCKLAND | COUNTY |
| | COMMISSIONER OF PLANNING - | | |
| | MAP 165, BLOCK A, LOT 3.02 | | |
| | (BRADCO REALTY CORP.) | | |

Co. Maloney offered the following resolution:

Continued on Next Page

RESOLUTION NO. (100-1990) Continued

WHEREAS, the Town Board of the Town of Clarkstown, on its Own Motion, has recommended that the Zoning Ordinance of the Town be amended by redistricting property herein described from an LIO District to an R-15 District, and

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 165, Block A, Lot 3.02;

NOW, THEREFORE, be it

RESOLVED, that this matter is hereby referred to the Clarkstown Planning Board for report pursuant to Section 106-32 of the Zoning Ordinance of the Town of Clarkstown and to the Rockland County Commissioner of Planning and the other municipalities and governmental bodies as required by Sections 239-1 and 239-m of the General Municipal Law and other applicable provisions of law, and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (101-1990)

REFERRING PETITION FOR
CHANGE OF ZONE TO
CLARKSTOWN PLANNING BOARD
AND ROCKLAND COUNTY
COMMISSIONER OF PLANNING -
MAP 17, BLOCK A, LOT 2
(FRANCIS X. FOLEY CORP.)

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown, on its Own Motion, recommends that the Zoning Ordinance of the Town be amended by redistricting property herein described from a PO District to an R-15 District, and

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 17, Block A, Lot 2;

NOW, THEREFORE, be it

RESOLVED, that this resolution is hereby referred to the Clarkstown Planning Board for report pursuant to Section 106-32 of the Zoning Ordinance of the Town of Clarkstown and to the Rockland County Commissioner of Planning and the other municipalities and governmental bodies as required by Sections 239-1 and 239-m of the General Municipal Law and other applicable provisions of law, and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw,

RESOLUTION NO. (101-1990) Continued

Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

Seconded by Co. Kunis

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (102-1990)

GRANTING CERTIFICATES OF REGISTRATION PURSUANT TO SECTION 83-65 OF TOWN CODE (PHOENIX EXCAVATORS CORP. - 90-2; MANNY'S BACKHOE SERVICE, INC. - 90-6; VICTOR P. & MARIE ZUGIBE AND VICTOR P. ZUGIBE, INC. - 90-11; KEVIN STOKES EXCAVATING, INC. - 90-14; AND HICKS EXCAVATING CO., INC. - 90-15)

Co. Maloney offered the following resolution:

WHEREAS, the following have applied for Certificates of Registration pursuant to Section 83-65 of the Code of the Town of Clarkstown:

PHOENIX EXCAVATORS CORP.
62 Rose Road
West Nyack, N.Y. 10994

MANNY'S BACKHOE SERVICE, INC.
495 Country Club Lane
Pomona, New York 10970

VICTOR P. & MARIE ZUGIBE
and VICTOR P. ZUGIBE, INC.
66 Railroad Avenue
Garnerville, N.Y. 10923

KEVIN STOKES EXCAVATING, INC.
Box 812
Pearl River, New York 10965

HICKS EXCAVATING CO., INC.
Chester Avenue
Congers, New York 10920

NOW, THEREFORE, be it

RESOLVED, that the following Certificates of Registration be issued:

- No. 90-2 to PHOENIX EXCAVATORS CORP.
- No. 90-6 to MANNY'S BACKHOE SERVICE INC.
- No. 90-11 to VICTOR P. ZUGIBE, INC.
- No. 90-14 to KEVIN STOKES EXCAVATING, INC.
- No. 90-15 to HICKS EXCAVATING CO., INC.

Seconded by Co. Smith

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (103-1990)

DECLARING EMERGENCY
SITUATION AND AUTHORIZING
DIRECTOR OF PURCHASING TO
EFFECT ACQUISITION AND
INSTALLATION OF CLOSED
CIRCUIT TELEVISION
SURVEILLANCE EQUIPMENT -
POLICE DEPARTMENT

Co. Mandia offered the following resolution:

WHEREAS, a situation exists in the Clarkstown Police Department which requires the immediate acquisition and installation of Closed Circuit Television Surveillance equipment,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby declares an emergency to exist and authorizes the Director of Purchasing to effect said acquisition and installation as soon as possible.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (104-1990)

REJECTING BIDS FOR BID
#72-1989 - STEEL TOE WORK
SHOES

Co. Maloney offered the following resolution:

RESOLVED, that all proposals received for

BID #72-1989
STEEL TOE WORK SHOES

are hereby rejected.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (105-1990)

RESTRICTING SOLICITING ON
TOWN PROPERTY

Co. Smith offered the following resolution:

WHEREAS, the Town Board believes it will improve efficiency and be in the best interests of Town employees, and

WHEREAS, the Town Board wishes to protect the merchants of the Town of Clarkstown from unfair competition,

Continued on Next Page

RESOLUTION NO. (105-1990) Continued

NOW, THEREFORE, be it

RESOLVED, that employees and all other persons are prohibited from soliciting money for raffle tickets, donations, subscriptions or purchases of any kind on Town premises. Exceptions will be made for charitable, non-profit community organizations, but approval must first be granted by the Town Supervisor.

Seconded by Co. Kunis

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (106-1990)

| | | |
|-------------|--------|----------|
| AMENDING | 1990 | SALARY |
| SCHEDULE RE | ANNUAL | SALARY |
| FOR JOHN | R. | MALONEY, |
| COUNCILMAN | AND | DEPUTY |
| SUPERVISOR | | |

Co. Maloney offered the following resolution:

RESOLVED, that the 1990 Salary Schedule, adopted at the January 2, 1990 Town Board Meeting, is hereby amended to reflect that the annual salary for John R. Maloney, Councilman and Deputy Supervisor is \$21,000.00 for the year 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (107-1990)

| | | |
|----------------------------|-------------|----|
| ACCEPTING | RESIGNATION | OF |
| POLICE RADIO DISPATCHER - | | |
| POLICE DEPARTMENT (TIMOTHY | | |
| SHEAHAN) | | |

Co. Maloney offered the following resolution:

RESOLVED, that the resignation of Timothy Sheahan, 7 Robin Place, West Nyack, New York - Police Radio Dispatcher - Police Department - is hereby accepted - effective and retroactive to January 11, 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (108-1990)

GRANTING LEAVE OF ABSENCE
TO MEMBER - TRAFFIC AND
TRAFFIC FIRE SAFETY
ADVISORY BOARD (SHEILA
DEUTSCH)

Co. Maloney offered the following resolution:

RESOLVED, that Sheila Deutsch, 9 Pelham Avenue, Nanuet,
New York, is hereby granted a leave of absence, without pay, from
the position of Member - Traffic and Traffic Safety Advisory Board -
pursuant to Section 92 of the General Municipal Law - effective and
retroactive to January 1, 1990 to April 23, 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (109-1990)

APPOINTING TO POSITION OF
YOUTH COMMISSION MEMBER
(STUDENT) - MARJORIE JOSEPH)

Co. Maloney offered the following resolution:

RESOLVED, that Marjorie Joseph, 447F Mountainview
Avenue, Valley Cottage, New York, is hereby appointed to the
position of Youth Commission Member (Student) - to serve without
compensation - term effective January 24, 1990 and to expire on
December 31, 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (110-1990)

GRANTING A SICK LEAVE OF
ABSENCE TO MOTOR EQUIPMENT
OPERATOR I - HIGHWAY
DEPARTMENT (JOHN KELLY)

Co. Maloney offered the following resolution:

RESOLVED, that in accordance with Article XVIII,
Section 3 (k) of the Labor Agreement between the Town of Clarkstown
and the Clarkstown Unit of the C.S.E.A., John Kelly, 47 Hall Avenue,
New City, New York - Motor Equipment Operator I - Highway Department
- is hereby granted a Sick Leave of Absence - at one-half pay -
effective January 26, 1990 to February 26, 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

Continued on Next Page

RESOLUTION NO. (110-1990) Continued

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (111-1990)

RECOGNIZING APPOINTMENT BY
SUPERINTENDENT OF HIGHWAYS
OF MOTOR EQUIPMENT OPERATOR
I - HIGHWAY DEPARTMENT
(PETER BALKO)

Co. Maloney offered the following resolution:

RESOLVED, that the Town Board hereby recognizes the appointment by the Superintendent of Highways of Peter Balko, 4 Lori Place, New City, New York, to the position of Motor Equipment Operator I - Highway Department - at the current annual salary of \$28,219.00, effective and retroactive to January 2, 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

| | |
|--------------------------|-----|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (112-1990)

APPOINTING SPECIAL
PROSECUTOR TO DEFEND PEOPLE
V. ELLEN GREIS

Co. Maloney offered the following resolution:

WHEREAS, there is a matter pending in the Justice Court of the Town of Clarkstown entitled, People v. Ellen Greis, where the responsibility for prosecution rests in the Town Attorney's Office of the Town Clarkstown, and

WHEREAS, the Defendant in that matter, Ellen Greis, is the niece of Town Board Member Ann Marie Smith, and

WHEREAS, the Town Board is the appointing authority for each and every member of the Town Attorney's Office;

NOW, THEREFORE, be it

RESOLVED, that the District Attorney of the County of Rockland is hereby authorized to appoint an Assistant District Attorney as a Special Deputy Town Attorney to prosecute said matter only.

Seconded by Co. Kunis

On roll call the vote was as follows:

| | |
|--------------------------|---------|
| Councilman Kunis..... | Yes |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Yes |
| Councilwoman Smith..... | Abstain |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (113-A-1990)

BOND RESOLUTION AUTHORIZING
PURCHASE AND INSTALLATION
OF TOWN WIDE COMPUTER SYSTEM

Co. Maloney offered the following resolution:

BOND RESOLUTION OF THE TOWN OF CLARKSTOWN, NEW YORK, ADOPTED JANUARY 23, 1990, AUTHORIZING THE PURCHASE AND INSTALLATION OF A TOWN WIDE COMPUTER SYSTEM, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$525,000.00, APPROPRIATING SAID AMOUNT THEREFOR, INCLUDING THE APPROPRIATION OF \$26,250.00 CURRENT FUNDS TO PROVIDE THE REQUIRED DOWN PAYMENT, AND AUTHORIZING THE ISSUANCE OF \$498,750.00 SERIAL BONDS OF SAID TOWN TO FINANCE THE BALANCE OF 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 "Town"), is hereby authorized to purchase and install a new central computer system to integrate all Town Departments, including the hardware and software incidental thereto. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$525,000.00 and said amount is hereby appropriated therefor, including the appropriation of \$26,250.00 current funds to provide the down payment required by the Law, as hereinafter defined. The plan of financing includes the expenditure of said current funds and the issuance of \$498,750.00 serial bonds of the Town to finance the balance of 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. Serial bonds of the Town in the principal amount of \$498,750.00, 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 "Law") to finance the balance of said appropriation not provided by said current funds.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness of said specific object or purpose for which said \$498,750.00 serial bonds authorized pursuant to this resolution are to be issued, within the limitations of Section 11.00 a. 53(a) of the Law, is ten (10) years.

(b) Current funds are required by the Law to be provided prior to the issuance of the bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof and such current funds in the amount of \$26,250.00 will be provided from moneys now available therefor in the current budget of the Town under the heading "Capital Fund." The Supervisor is hereby authorized and directed to set aside said current funds and to apply same solely to said specific object or purpose herein described.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. 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

Continued on Next Page

RESOLUTION NO. (113-A-1990) Continued

of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. 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 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00 and Sections 56.00 to 60.00 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, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. 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 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.

Section 7. This bond resolution is subject to permissive referendum.

* * *

The adoption of the foregoing resolution was seconded by Co. Smith and duly put to a vote on roll call, which resulted as follows:

AYES: Supervisor Holbrook, Councilmen Maloney, Kunis, and Mandia and Councilwoman Smith

NOES: None

The resolution was declared adopted.

RESOLUTION NO. (113-B-1990)

TOWN CLERK TO PUBLISH BOND
RESOLUTION FOR COMPUTER
SYSTEM

Co. Maloney offered the following resolution:

THE TOWN BOARD OF THE TOWN OF CLARKSTOWN, IN THE COUNTY
OF ROCKLAND, NEW YORK, HEREBY RESOLVES AS FOLLOWS:

Continued on Next Page

RESOLUTION NO. (113-B-1990) Continued

Section 1. The Town Clerk of said Town of Clarkstown, shall within ten (10) days after the adoption of this resolution cause to be published, in full, in "THE JOURNAL NEWS," a newspaper published in West Nyack, New York, having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

TOWN OF CLARKSTOWN, NEW YORK

PLEASE TAKE NOTICE that on January 23, 1990, the Town Board of the Town of Clarkstown, in the County of Rockland, New York, adopted a bond resolution entitled:

"Bond Resolution of the Town of Clarkstown, New York, adopted January 23, 1990, authorizing the purchase and installation of a Town wide computer system, stating the estimated maximum cost thereof is \$525,000, appropriating said amount therefor, including the appropriation of \$26,250 current funds to provide the required down payment, and authorizing the issuance of \$498,750 serial bonds of said Town to finance the balance of said appropriation,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, is as follows:

FIRST: AUTHORIZING said Town to purchase and install a new central computer system to integrate all Town Departments, including the hardware and software incidental thereto; and STATING the estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$525,000; APPROPRIATING said amount therefor, including the appropriation of \$26,250 current funds to provide the down payment required by the Law, as hereinafter defined; STATING the plan of financing includes the expenditure of said current funds, the issuance of \$498,750 serial bonds of the Town to finance the balance of said appropriation, and the levy of a tax upon all the taxable real property within the Town to pay the principal of said bonds and interest thereon;

SECOND: AUTHORIZING the issuance of \$498,750 serial bonds of the Town pursuant to the Local Finance Law of the State of New York (the "Law") to finance the balance of said appropriation not provided by said current funds;

THIRD: DETERMINING and STATING the period of probable usefulness of the specific object or purpose for which said \$498,750 serial bonds are to be issued is ten (10) years; current funds are required by the Law to be provided prior to the issuance of the bonds or any notes in anticipation thereof and such current funds are available therefor in the amount of \$26,250 in the current budget of the Town; and DIRECTING the Supervisor to set aside said current funds and apply the same solely to said specific object or purpose; and the proposed maturity of said \$498,750 serial bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Town and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

Continued on Next Page

RESOLUTION NO. (113-B-1990) Continued

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: January 23, 1990

Patricia Sheridan
Town Clerk

SECTION 2. After said bond resolution shall take effect, the Town Clerk is hereby directed to cause said bond resolution to be published, in full, in the newspaper referred to in Section 1 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

Section 3. This resolution shall take effect immediately.

* * *

The adoption of the foregoing resolution was secoded by Councilwoman Smith and duly put to a vote on roll call, which resulted as follows:

AYES: Supervisor Holbrook, Councilmen Maloney, Kunis and Mandia and Councilwoman Smith

NOES: None

The resolution was declared adopted.

RESOLUTION NO. (114-1990)

RESOLUTION AND FINDINGS
PURSUANT TO GENERAL
MUNICIPAL LAW SEC. 120-w -
AWARDING CONTRACT FOR SOLID
WASTE TRANSFER STATION
(CLARKSTOWN RECYCLING
CENTER, INC.)

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown on October 10, 1989, issued a "request for proposals for solid waste transfer station and disposal services," pursuant to General Municipal Law § 120-w, and

WHEREAS, said request for proposal was duly advertised pursuant to law, and

WHEREAS, two pre-proposal conferences related to the project were duly held with prospective proposers on November 2, 1989 and November 13, 1989, and

WHEREAS, said proposals were returnable on the 24th day of November, 1989, and

WHEREAS, eleven (11) proposals pursuant to the request for proposals were submitted to the Town, and

WHEREAS, subsequently the Town conducted investigations and interviews for the purposes of determining an applicant's ability to provide the design, construction and operating services necessary to satisfactorily complete the proposed transfer station and provide the necessary disposal sites, to discuss indemnification and insurance provisions, to identify the principals of each proposer, and to evaluate the proposers ability to meet the Town's

RESOLUTION NO. (114-1990) Continued

urgent schedule for the completion of construction and operation of the facility, and

WHEREAS, after careful evaluation, the Town Board of the Town of Clarkstown on December 29, 1989, by Resolution No. 1151, accepted the proposal made by Clarkstown Recycling Center, Inc., and

WHEREAS, General Municipal Law § 120-w (4) permits the municipality to make a contract award based on its determination that the selected proposal is the most responsive to the request for proposals; and further, that where the proposal selected does not provide the lowest net cost, the municipality shall adopt a resolution after Public Hearing, which includes particularized findings relevant to factors evaluated by the municipality, indicating that the municipality's requirements are met by such award and such action is in the public interest, and

WHEREAS, Clarkstown Recycling Center, Inc.'s proposal does not result in the lowest net cost, therefore a public hearing was held by the Town Board of the Town of Clarkstown on January 16, 1990 as required by General Municipal Law §120-w(4) and the Town Board makes the following findings:

FINDINGS

The Town Board of the Town of Clarkstown has reviewed in detail the proposal of Clarkstown Recycling Center, Inc., dated November 24, 1989, prepared by Garfinkel & Gerecke Consulting Engineers and conducted interviews with the principals, and finds as follows:

FIRST: That the principals of Clarkstown Recycling Center, Inc., Joseph Miele and Richard Pisicane are well experienced in the solid waste transfer field, that Joseph Miele has long been engaged in the sanitation industry in the Clarkstown and Orangetown area and presently operates a transfer station in Closter, New Jersey.

SECOND: That the transfer method (both baling and top loading), site layout, facility capacity, primary and secondary disposal facilities, capital costs, hauling and disposal costs, station operating costs and profits, initial yearly cost per ton (\$81.00), yearly increases (CPI only), bonding requirements, (applicant has agreed to furnish a construction performance bond), indemnification agreement, completion schedule, and the overall operational plan of Clarkstown Recycling Center, Inc., best meets the demands of the municipality as set forth in the request for proposals.

THIRD: That Clarkstown Recycling Center, Inc., has available disposal capacity for this project of 600 tons per day at Valley Landfill, 200 tons per day at Fairfield Sanitary Landfill, and 1000 tons per day at Kimstan Landfill. That in addition, other alternate sites are available to Clarkstown Recycling Center, Inc., all as set forth in their proposal.

FOURTH: That the initial yearly cost per ton of \$81.00 was higher than only one other proposer of the eleven proposals received by the amount of \$5.48 per ton, nine of the other proposals having a higher initial yearly cost per ton.

FIFTH: That the proposer has indicated a backup system of "open top loading" to supplement the "baler" method of loading, thus providing a suitable backup system.

SIXTH: The proposer has agreed to provide the Town with a performance bond for the construction of the transfer station

Continued on Next Page

RESOLUTION NO. (114-1990) Continued

and further indemnify the Town of Clarkstown and others against claims, lawsuits and judgments as set forth in the request for proposals.

SEVENTH: The proposer has met all the requirements of the Town as set forth in its request for proposals.

EIGHTH: The award to Clarkstown Recycling Center, Inc. is in the public interest.

NOW, THEREFORE, be it

RESOLVED, that a contract award for the construction and operation of a solid waste transfer station and disposal services is hereby made to Clarkstown Recycling Center, Inc, and be it

FURTHER RESOLVED, that after the Town of Clarkstown enters into an agreement with either the Town of Orangetown or one or more other municipalities, which agreement shall provide that said municipalities shall use the proposed transfer station and supply a minimum of 50,000 tons of garbage and refuse per year at such transfer station, the Supervisor is hereby authorized to sign a contract with Clarkstown Recycling Center, Inc., in a form acceptable to the Town Attorney, for the design, construction and operation of a solid waste transfer station to be located on a portion of the present Clarkstown Sanitary Landfill site located at Route 303, West Nyack, New York, together with transportation of the solid waste, delivered to the transfer station, to an approved landfill for final disposal, and be it

FURTHER RESOLVED, that notice of this official action shall be published in full by the Town Clerk in the Journal News, the New York Times, the State Register and the Environmental Notice Bulletin, said notice in the form as follows:

"On January 23, 1990, the Town of Clarkstown awarded a contract to Clarkstown Recycling Center, Inc., pursuant to § 120-w of the General Municipal Law for the construction and operation of a solid waste transfer station and disposal services. The validity of this contract or the procedures which led to its award may be hereafter contested only by action, suit or proceeding commenced within sixty (60) days after the date of this notice and only upon the ground or grounds that: (1) such award or procedure was not authorized pursuant to that section, or (2) any of the provisions of that section which should be complied with at the date of this publication have not been substantially complied with, or (3) a conflict of interest can be shown in the manner in which the contract was awarded; or by action, suit or proceeding commenced on the grounds that such contract was awarded in violation of the provisions of the Constitution."

Seconded by Co. Smith

Before the vote Councilman Kunis asked what if the Town of Orangetown doesn't agree to come in with this arrangement with Clarkstown to produce 50,000 tons of solid waste? He noted that the resolution says that we are not going to sign a contract so what are we doing passing the resolution tonight? Is it premature if we don't have a companion to go in on this joint venture with us? Supervisor said it demonstrates to the State Department of Environmental Conservation that we are moving forward. In their meetings with us in the last couple of weeks (and we have a meeting with them on Thursday) they want to see specific progress in this

Continued on Next Page

RESOLUTION NO. (114-1990) Continued

regard. Secondly, while Orangetown has certainly indicated their willingness to go along, he thinks that if we were to hold back on this we would be sending them the wrong message. On those two specific points the Supervisor felt it was valid for us to proceed with this. Obviously, if they do not come in with us we will not be signing the contract. We will have to go with another alternative but this shows good faith both to the State and to the Town of Orangetown.

Councilman Kunis asked what other municipalities we had in mind? Supervisor said that remains to be seen but he fully expects us to be associated with the Town of Orangetown as every indication is that they will proceed with us. Their consultants are recommending that they align themselves with the Town of Clarkstown. We have had a number of meetings with their consultants who have recommended the Clarkstown proposal as the best and most environmentally sound way to handle solid waste for their Town as well as ours.

Councilman Kunis said he was going to vote no. He stated that he was elected to this Board in November of 1987 and upon taking office one of his pet projects was running the Landfill as a business. At the time we were collecting a \$25.00 per ton tipping fee from the Town of Ramapo. He said he worked hard and the Board, he believed on his convincing, raised that tipping fee to \$55.00 per ton which was fair. The Landfill is a revenue producer for the Town. It should have been for twenty years and it didn't produce what it should have. Then it started to produce what it should have.

Councilman Kunis said he had also asked for a minimum amount of tonnage from the Town of Ramapo, that tonnage being 40,000 tons when they were bringing in 60,000 tons. The Board didn't agree to that and we didn't accept a minimum of 40,000 tons from the Town of Ramapo. In the middle of last year the Town of Ramapo pulled out of the Clarkstown Landfill and went to the Alturi Landfill in Goshen, Orange County, New York. We were left with a revenue shortfall because we didn't have a minimum. We were left where we had to take sludge into our Landfill and left without a sludge plant that was supposed to be built in the Town of Ramapo. That's two promises that were broken. Now we are considering entering into a contract with a transfer agent. The transfer agent and the Town have agreed to accept 120,000 tons of solid waste in this transfer station. We generate approximately 70,000 tons of solid waste in the Town of Clarkstown. We plan on recycling 33% of this waste. That gives us about 50,000 tons left over of our own. We don't have a contract with Orangetown. What I hear is contrary to what other people are hearing. They have not made a decision and that we know. He said several people he has spoken to indicate that Orangetown is considering building their own transfer station.

Councilman Kunis said he believes that the Landfill was a revenue producer. It was there for twenty years and that was the time for this Town to make money on garbage and keep the taxes down. For one reason or another the Town didn't do that. It's too late in the game to make money with garbage now. We no longer control our own destiny. We will be in the hands of a transfer agent. Private enterprise - private business - they are there to make a dollar. They are there to make a profit. They are there to do what the Town should have been doing for twenty years. He said he would not put the cart before the horse tonight and vote to accept a contract with a transfer agent based on 120,000 tons. That's 50,000 tons of garbage that we might not have and we're not contracted for yet. The 50,000 tons could cost the Clarkstown taxpayer \$1.8 million dollars per year over a five year contract. We are talking about a potential loss of \$9,000,000.00. Ladies and gentlemen, as a business person in this Town, as a taxpayer in this

Continued on Next Page

RESOLUTION NO. (114-1990) Continued

Town, he did not see any reason to put the cart before the horse tonight. He said he could wait a week, two weeks, or three weeks for the Town of Orangetown. He noted that the transfer agent who has submitted this proposal indicates that he would be willing and able to carry our garbage away in a 48 hour period of notice. Why are we jumping tonight when we only need 48 hours?

Councilman Kunis went on to say that as far as the DEC is concerned we've shown good will. We've done our job and we've worked hard and have accomplished a lot. He said he saw what the DEC did to the Town of Haverstraw this week with their landfill and he said he could see what the DEC is doing. He said it is incumbent upon this Board to vote as business people and wait and not put the cart ahead of the horse especially since we've had other proposals that would only accept a minimum of 60,000 tons which would be absolutely no risk to the Town. The only risk would be if we had to pay that firm an additional \$4.00 or \$5.00 per ton for everything over 60,000 tons. He said he would rather take and pay \$4.00 or \$5.00 per ton for any garbage over 60,000 tons and have a \$300,000.00 to \$400,000.00 paid for insurance policy, as opposed to paying \$1.8 million annually with garbage that we are not going to generate and have to commit ourselves to. He stated that he was voting no.

Councilman Mandia said he supports the Board's effort to go forward with the transfer station. He said he also endorses some of the things that were said. He felt it was tragic that the County has basically let us down and in many ways, so has the State. He said he endorses this as we do need a transfer station. He said, however, he views this as possibly the most important vote that he could cast in his newly elected position. He said he had spent as much time and energy in the last several days gathering as much information as he could. He said he did not spend as much time as his colleagues did interviewing and talking to the applicants or to the people that put in proposals. After giving this as much consideration as he could his conscience tells him that the best thing he could do at this point is to abstain from this vote and that is his vote.

Supervisor Holbrook said he was voting yes. He said with regard to the contract obviously if Orangetown is not a participant we will not sign the contract. However, he reiterated that without substantial progress of the transfer station the Town of Clarkstown would not have gotten an extension on the Landfill. It is possible that if this transfer station is not completed on time by May 1st and the Town is showing good faith, we may get some additional time. That is problematical but we must be moving forward in regard to this. We are not going to enter into any contracts that are going to expose the Town to a \$9,000,000.00 loss. It is obviously easier to dump the garbage on a slab and cart it away. He said in his conversations with the Town of Orangetown, they have indicated a willingness to be a participant. Historically, they have been and it makes sense. If we don't move forward with solid waste in this County at some point in time we are all going to be consumed by our own garbage. Supervisor stated that his vote is to move forward and it is yes.

On roll call the vote was as follows:

| | |
|--------------------------|---------|
| Councilman Kunis..... | No |
| Councilman Maloney..... | Yes |
| Councilman Mandia..... | Abstain |
| Councilwoman Smith..... | Yes |
| Supervisor Holbrook..... | Yes |

RESOLUTION NO. (115-1990)

AUTHORIZING SUPERVISOR TO
ENTER INTO AGREEMENT WITH
COUNTY EMS, INC. (D/B/A
NYACK HOSPITAL EMERGENCY
MEDICAL SERVICES) TO
EMERGENCY MEDICAL/PARAMEDIC
SERVICES TO TOWN OF
CLARKSTOWN

Co. Kunis offered the following resolution:

WHEREAS, the Town has heretofore allocated in its 1990 budget the sum of \$806,591.00 for the provision of Emergency Medical/Paramedic Services, and

WHEREAS, Section 122b of the General Municipal Law of the State of New York authorizes the Town government to provide in its discretion for emergency medical services for the purposes of providing emergency care to sick and injured persons found within the municipality, and for that purpose a Town may enter into contracts with one or more associations, corporations, or organizations for the furnishing of emergency medical services to such persons, and

WHEREAS, the Town desires that the emergency medical services provided within its jurisdiction be at the level of care provided by Advanced Emergency Medical Technicians, to wit, Paramedics, as defined by New York State Public Health Law, Section 3001(7), and

WHEREAS, County EMS is a paramedic ambulance service capable of providing an "Advanced Life Support System" (as defined by New York State Public Health Law, Section 3001(12)), "Advanced Life Support Services" (as defined by Public Health Law Section 3001(11)), and "Advanced Life Support System" (as defined by Public Health Law Section 3031) and desires to provide such services to the Town, and

WHEREAS, the Town desires to obtain the services of County EMS to provide twenty-four (24) hour per day Paramedic Services as need by the Town's residents and transient population and has appropriated funds to defray the operational expenses of County EMS;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized and directed to enter into an agreement, in a form approved by the Town Attorney, with County EMS, Inc., in order to provide for Emergency Medical/Paramedic Services to the Town of Clarkstown for the calendar year 1990, and be it

FURTHER RESOLVED, that the sum of \$806,591.00, for the provision of Emergency Medical/Paramedic Services to the Town of Clarkstown by County EMS, Inc., shall be charged to Account No. A-4540-406.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

On motion of Councilman Maloney, seconded by Councilman Kunis and unanimously adopted, the public hearing re: Amendment to the Zoning Ordinance re: Home Occupation, was opened, time: 8:58 P.M.

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing re: Amendment to the Zoning Ordinance - Home Occupation, was closed, time: 8:58 P.M.

RESOLUTION NO. (116-1990)

AMENDING ZONING ORDINANCE
OF TOWN OF CLARKSTOWN RE:
HOME OCCUPATION

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 9th day of January, 1990, provided for a public hearing on the 23rd day of January, 1990 at 8:00 P.M., to consider the adoption of the following proposed amendment(s) to the Zoning Ordinance of the Town of Clarkstown, and

WHEREAS, notice of said public hearing was duly published and posted as required by law, and said public hearing was duly held at the time and place specified in said notice;

NOW, THEREFORE, be it

RESOLVED, that the Zoning Ordinance of the Town of Clarkstown be and it hereby is amended as follows:

Amend Section 106-3 B. Defined Words - Home Occupation

from: "(1)(d) - The Keeping of goods for sale."

"(2) - "Home occupations" do not include animal hospitals, morticians, limousine services, automotive-repair services, barbershops, beauty parlors or restaurants."

to:" "(1)(d) - The keeping of goods for sale or rent."

"(2) - "Home occupations" do not include animal hospitals, morticians, limousine services, automotive-repair services, barbershops, beauty parlors, restaurants, animal breeding or kennel."

Amend Section 106-10(A) of the General Use Regulations, R-80 District, Table 1, Column 3, by revising Item A-11

from: "A-11. Special Permit for home occupation: may allow use to be in accessory building. The Board of Appeals shall make appropriate findings with respect to location, intensity of use, parking and any other factors that may affect neighboring properties.

(a) May allow up to 25% of habitable floor areas of principal building even if exceeds 250 sq. ft.

(b) More than 1 employee may be permitted.

(c) An affidavit shall be provided in accordance with Section A above.

(d) Off-street parking shall be shown on a site plan and provided on the site and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties.

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

- (e) The home shall be the actual place of residence of the person conducting the home occupation.
- (f) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions and any pollution standards that may be applicable."

to:

"A-11. Home Occupations subject to the following:

- (a) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.
- (b) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
- (c) May utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet.
- (d) No more than two employees may be permitted.
- (e) The applicant shall provide an affidavit setting forth the scope of operations proposed.
- (f) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.
- (g) The home shall be the actual place of residence of the person conducting the home occupation.
- (h) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable."
- (i) Any "home occupation," which came into lawful existence on or before May 24, 1988 shall be deemed a valid nonconforming use and shall be exempt from any permit requirements to maintain its status as a nonconforming use.
- (j) The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.

Amend Section 106-10(A) of the General Use Regulations, R-80 District, Table 1, Column 4, by adding Item 7(p) as follows:

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

"7(p). The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use."

Amend Section 106-10(A) of the General Use Regulations, R-40 District, Table 2, Column 3, by revising Item A-11

from: "A-11. Special Permit for home occupation: may allow use to be in accessory building. The Board of Appeals shall make appropriate findings with respect to location, intensity of use, parking and any other factors that may affect neighboring properties.

- (a) May allow up to 25% of habitable floor areas of principal building even if exceeds 250 sq. ft.
- (b) More than 1 employee may be permitted.
- (c) An affidavit shall be provided in accordance with Section A above.
- (d) Off-street parking shall be shown on a site plan and provided on the site and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties.
- (e) The home shall be the actual place of residence of the person conducting the home occupation.
- (f) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions and any pollution standards that may be applicable."

to: "A-11. Home Occupations subject to the following:

- (a) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.
- (b) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
- (c) May utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet.
- (d) No more than two employees may be permitted.
- (e) The applicant shall provide an affidavit setting forth the scope of operations proposed.
- (f) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.

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RESOLUTION NO. (116-1990) Continued

- (g) The home shall be the actual place of residence of the person conducting the home occupation.
- (h) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable."
- (i) Any "home occupation," which came into lawful existence on or before May 24, 1988 shall be deemed a valid nonconforming use and shall be exempt from any permit requirements to maintain its status as a nonconforming use.
- (j) The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.

Amend Section 106-10(A) of the General Use Regulations, R-40 District, Table 2, Column 4, by adding Item 7(p) as follows:

"7(p). The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use."

Amend Section 106-10(A) of the General Use Regulations, R-22 District, Table 3 Column 3, by revising Item A-11

- from: "A-11. Special Permit for home occupation: may allow use to be in accessory building. The Board of Appeals shall make appropriate findings with respect to location, intensity of use, parking and any other factors that may affect neighboring properties.
- (a) May allow up to 25% of habitable floor areas of principal building even if exceeds 250 sq. ft.
 - (b) More than 1 employee may be permitted.
 - (c) An affidavit shall be provided in accordance with Section A above.
 - (d) Off-street parking shall be shown on a site plan and provided on the site and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties.
 - (e) The home shall be the actual place of residence of the person conducting the home occupation.
 - (f) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions and any pollution standards that may be applicable."

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

to:

"A-11. Home Occupations subject to the following:

- (a) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.
- (b) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
- (c) May utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet.
- (d) No more than two employees may be permitted.
- (e) The applicant shall provide an affidavit setting forth the scope of operations proposed.
- (f) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.
- (g) The home shall be the actual place of residence of the person conducting the home occupation.
- (h) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable."
- (i) Any "home occupation," which came into lawful existence on or before May 24, 1988 shall be deemed a valid nonconforming use and shall be exempt from any permit requirements to maintain its status as a nonconforming use.
- (j) The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.

Amend Section 106-10(A) of the General Use Regulations, R-22 District, Table 3, Column 4, by adding Item 7(p) as follows:

"7(p). The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use."

Amend Section 106-10(A) of the General Use Regulations, R-15 District, Table 4, Column 3, by revising Item A-11

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

- from: "A-11. Special Permit for home occupation: may allow use to be in accessory building. The Board of Appeals shall make appropriate findings with respect to location, intensity of use, parking and any other factors that may affect neighboring properties.
- (a) May allow up to 25% of habitable floor areas of principal building even if exceeds 250 sq. ft.
 - (b) More than 1 employee may be permitted.
 - (c) An affidavit shall be provided in accordance with Section A above.
 - (d) Off-street parking shall be shown on a site plan and provided on the site and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties.
 - (e) The home shall be the actual place of residence of the person conducting the home occupation.
 - (f) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions and any pollution standards that may be applicable."

- to: "A-11. Home Occupations subject to the following:
- (a) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.
 - (b) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
 - (c) May utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet.
 - (d) No more than two employees may be permitted.
 - (e) The applicant shall provide an affidavit setting forth the scope of operations proposed.
 - (f) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.
 - (g) The home shall be the actual place of residence of the person conducting the home occupation.
 - (h) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable."

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

- (i) Any "home occupation," which came into lawful existence on or before May 24, 1988 shall be deemed a valid nonconforming use and shall be exempt from any permit requirements to maintain its status as a nonconforming use.
- (j) The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.

Amend Section 106-10(A) of the General Use Regulations, R-15 District, Table 4, Column 4, by adding Item 7(p) as follows:

"7(p). The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use."

Amend Section 106-10(A) of the General Use Regulations, R-10 District, Table 5, Column 3, by revising Item A-8

from:

"A-8. Special Permit for home occupation: may allow use to be in accessory building. The Board of Appeals shall make appropriate findings with respect to location, intensity of use, parking and any other factors that may affect neighboring properties.

- (a) May allow up to 25% of habitable floor areas of principal building even if exceeds 250 sq. ft.
- (b) More than 1 employee may be permitted.
- (c) An affidavit shall be provided in accordance with Section A above.
- (d) Off-street parking shall be shown on a site plan and provided on the site and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties.
- (e) The home shall be the actual place of residence of the person conducting the home occupation.
- (f) May allow the use of equipment not a customary household appliance or light office equipment.

The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions and any pollution standards that may be applicable."

to:

"A-8. Home Occupations subject to the following:

- (a) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

- (b) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
- (c) May utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet.
- (d) No more than two employees may be permitted.
- (e) The applicant shall provide an affidavit setting forth the scope of operations proposed.
- (f) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.
- (g) The home shall be the actual place of residence of the person conducting the home occupation.
- (h) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable."
- (i) Any "home occupation," which came into lawful existence on or before May 24, 1988 shall be deemed a valid nonconforming use and shall be exempt from any permit requirements to maintain its status as a nonconforming use.
- (j) The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.

Amend Section 106-10(A) of the General Use Regulations, R-10 District, Table 5, Column 4, by adding Item 7(p) as follows:

"7(p). The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use."

Amend Section 106-10(A) of the General Use Regulations, R-160 District, Table 18, Column 3, by revising Item A-7

from: "A-7. Special Permit for home occupation: may allow use to be in accessory building. The Board of Appeals shall make appropriate findings with respect to location, intensity of use, parking and any other factors that may affect neighboring properties.

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

- (a) May allow up to 25% of habitable floor areas of principal building even if exceeds 250 sq. ft.
- (b) More than 1 employee may be permitted.
- (c) An affidavit shall be provided in accordance with Section A above.
- (d) Off-street parking shall be shown on a site plan and provided on the site and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties.
- (e) The home shall be the actual place of residence of the person conducting the home occupation.
- (f) May allow the use of equipment not a customary household appliance or light office equipment.

The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions and any pollution standards that may be applicable."

to:

"A-7. Home Occupations subject to the following:

- (a) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.
- (b) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
- (c) May utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet.
- (d) No more than two employees may be permitted.
- (e) The applicant shall provide an affidavit setting forth the scope of operations proposed.
- (f) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.
- (g) The home shall be the actual place of residence of the person conducting the home occupation.
- (h) May allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable."
- (i) Any "home occupation," which came into lawful existence on or before May 24, 1988 shall be deemed a valid nonconforming use and shall be exempt from any permit requirements to maintain its status as a nonconforming use.

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

- (j) The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.

Amend Section 106-10(A) of the General Use Regulations, R-160 District, Table 18, Column 4, by adding Item 6(p) as follows:

"6(p). The lawful use of any premises as a home occupation existing on May 24, 1988, shall be continued although neither such use nor bulk conforms to the current regulations.

Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use."

Amend General Use Regulations, RG-1 District, Table 6, Column 4, Item 6

"Delete Item 6. Home occupations."

Amend General Use Regulations, RG-2 District, Table 7, Column 4, Item 6

"Delete Item 6. Home occupations."

Amend Section 106-10(A) of the General Use Regulations, R-80 District, Table 1, Column 4, Items 7(j) and 7(m)

add to 7(j): "7(j). This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors."

from: "7(m). Instructional services shall be limited to no more than 2 students at a time."

to: "7(m). Instructional services or sales meetings shall be limited to no more than two participants, including visitors, at a time."

Amend Section 106-10(A) of the General Use Regulations, R-40 District, Table 2, Column 4, Items 7(j) and 7(m)

add to 7(j): "7(j). This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors."

from: "7(m). Instructional services shall be limited to no more than 2 students at a time."

to: "7(m). Instructional services or sales meetings shall be limited to no more than two participants, including visitors, at a time."

Amend Section 106-10(A) of the General Use Regulations, R-22 District, Table 3, Column 4, Items 7(j) and 7(m)

add to 7(j): "7(j). This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors."

Continued on Next Page

RESOLUTION NO. (116-1990) Continued

from: "7(m). Instructional services shall be limited to no more than 2 students at a time."

to: "7(m). Instructional services or sales meetings shall be limited to no more than two participants, including visitors, at a time."

Amend Section 106-10(A) of the General Use Regulations, R-15 District, Table 4, Column 4, Items 7(j) and 7(m)

add to 7(j): "7(j). This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors."

from: "7(m). Instructional services shall be limited to no more than 2 students at a time."

to: "7(m). Instructional services or sales meetings shall be limited to no more than two participants, including visitors, at a time."

Amend Section 106-10(A) of the General Use Regulations, R-10 District, Table 5, Column 4, Items 7(j) and 7(m)

add to 7(j): "7(j). This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors."

from: "7(m). Instructional services shall be limited to no more than 2 students at a time."

to: "7(m). Instructional services or sales meetings shall be limited to no more than two participants, including visitors, at a time."

Amend Section 106-10(A) of the General Use Regulations, R-160 District, Table 18, Column 4, Items 6(j) and 6(m)

add to 7(j): "7(j). This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors."

from: "6(m). Instructional services shall be limited to no more than 2 students at a time."

to: "6(m). Instructional services or sales meetings shall be limited to no more than two participants, including visitors, at a time."

and be it

FURTHER RESOLVED, that the Town Attorney is hereby authorized and directed to prepare notice of this Amendment to the Zoning Ordinance and that the Town Clerk cause the same to be published in the official newspaper of the Town and file proof thereof in the Office of the Town Clerk, as required by law.

Seconded by Co. Mandia

On roll call the vote was as follows:

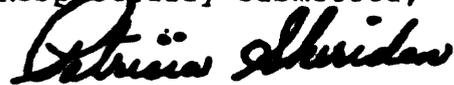
- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing re: Zone Change from LO to PO - Map 60, Block A, Lot 7 - Clemensen, was opened, time: 9:13 P.M.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing re: Zone Change from LO to PO - Map 60, Block A, Lot 7 - Clemensen, was closed, DECISION RESERVED, time: 10:55 P.M.

There being no further business to come before the Town Board and no one further wishing to be heard on motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Town Board Meeting was declared adjourned, time: 10:56 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

1/23/90

8:58 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: AMENDMENT TO ZONING ORDINANCE - HOME OCCUPATION

On motion of Councilman Maloney, seconded by Councilman Kunis and unanimously adopted the public hearing was declared open. Town Clerk read notice calling public hearing and testified as to proper posting and publication.

Mr. Robert Geneslaw, Planning Consultant, was asked to give a synopsis of the proposed amendment.

Mr. Geneslaw gave a detailed explanation of the proposed amendment to the Zoning Ordinance re: Home Occupation. He noted that there is presently a provision in the code for home occupations, both as accessory use as permitted by right in a single family district and as special permit in the single family district. He said there are a series of changes which are being proposed, some of which clarify the language which is presently in the code without changing the meaning. Some of them reorganize the material in a clearer way within the columns of the Code and there are several substantive changes.

Mr. Geneslaw said the definition of home occupations has changed slightly to include several specific activities that are not considered to be home occupations. In other words they would not be covered by the amendments. Those include barber shops, beauty parlors, restaurants and animal breeding or kennels. The amendment would allow home occupations in an accessory building such as a barn or garage on a single family property if all the yard requirements are met for the accessory building. No more than two employees will be permitted. Off street parking would have to be shown on a site plan and would have to be provided on the site without adversely affecting the neighborhood character. The Board of Appeals in issuing a special permit would have to make findings along those lines. Home occupations which were in lawful existence before May 24, 1988 would be deemed to be valid, non-conforming uses and could be continued. In other words they would not be affected by the changed regulations. Those would apply to all of the single family residential districts.

Mr. Geneslaw said in addition, in the RG-1 and RG-2 districts, home occupations would not be permitted and finally there is a provision in the code now having to do with the limitation to light household equipment and customary machinery used in the home that would not apply to doctors, dentists and chiropractors, who because of the nature of their activities require such things as drills, x-ray equipment, examining tables, oxygen, etc.

Mr. Geneslaw said finally instructional services and sales meetings would be limited to no more than two participants, including visitors, at a time. Mr. Jacobson, Town Attorney, said we should add that if it was in existence on May 24, 1988 it could be continued even though the bulk does not conform to the current regulations. Mr. Geneslaw said if it was valid before May 24, 1988 it would be permitted to continue as a non-conforming use even if it didn't meet the new requirements that came into existence. Councilwoman Smith asked would that be in all zonings or just single family? Mr. Geneslaw said only in the single-family residential districts and not in any multi-family.

Supervisor asked if anyone from the public wished to make a comment or ask a question?

Continued on Next Page

Appearance: Mr. Russ Wooley
317 Phillips Hill Road
New City, New York 10956

Mr. Wooley asked if that only carries on before May 24, 1988 for the present home owner or would it continue for the dwelling? Is it for the owner or for the dwelling? Mr. Geneslaw said it would continue. Mr. Wooley said even if the property is transferred? Town Attorney said as long as it is for the same use. Mr. Geneslaw said, for example, if it was for a doctor before, it would have to be for a doctor afterward. Mr. Wooley asked then it is not just for the current occupant, it is for the dwelling? He was told that was correct.

Appearance: unidentified gentlemen

He asked could a dentist with a home occupation permit sell to a podiatrist? Could the podiatrist use that home as an office? Mr. Geneslaw said a podiatrist would have to come in and get a special permit from the Board of Appeals. He gentleman asked could a dentist sell to a medical doctor? Mr. Geneslaw said the way it is set up in the code now it would be dentist to dentist, doctor to doctor, chiropractor to chiropractor. The gentleman asked what would a potential purchaser, who is of a different occupation, have to do to then purchase that same home? What would the purchasing medical doctor have to do to purchase a home office from a dentist? What is the formality? Mr. Geneslaw said he would have to get a special permit from the Board of Appeals in order to get the approval to use the kind of equipment that would be anything beyond the normal household appliances. Mr. Geneslaw said, for example, a surgeon doing consultations at the house, but no treatment, he would not need anything. A doctor providing services with x-ray equipment, examining tables or things of that nature would need approval. The gentleman said then a doctor who has an x-ray unit and he sells to a different type of practitioner who also uses an x-ray unit - so the equipment remains the same - then there is no problem, is that correct? Mr. Geneslaw said that would be correct.

Appearance: Mr. John Lodico
2 Birch Lane
New City, New York

Mr Lodico said he has a permit application for home occupation. He stated that his son and his daughter-in-law are both chiropractors. He said now we are talking about them as partners and owners and therefore - two employees in this building would be a total of four. Would that be correct? He was answered in the affirmative. Mr. Lodico then asked about an attendant and/or accountant? Mr. Geneslaw said if they are both living in the house, they could practice and there could be two employees in addition - non-residential employees.

Mr. Geneslaw said the amendment would include not more than two employees that are not residents of the house. If you have more than that now, and you did before May 24, 1988, and it was valid then, you are okay now. Supervisor said if you had a lawful home occupation as of the 24th of May, 1988 it would be non-conforming and still valid.

Appearance: Dr. Jack Boshes, Chiropractor

Dr. Boshes said he has an existing home office with a valid home office CO prior to May of 1988. He asked does that mean he could sell his home office to another chiropractor since he is a chiropractor? Mr. Geneslaw said that was correct. Dr. Boshes said with the same existing square feet? He was again told yes. Dr. Boshes asked does it also mean that he could sell his home office to a medical doctor, let's say who is an allergist, with the same existing square feet and similar equipment other than his kind of

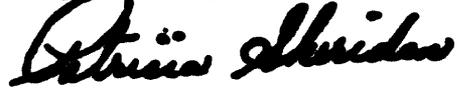
treatment tables? Mr. Geneslaw said if he is using equipment that is beyond what would normally be found in the home he would need a special permit. Dr. Boshes said he did not understand that. He said no equipment is found in a home. Do you mean in the office portion of the home? Mr. Geneslaw said the home occupation provision in the ordinance covers much more than medical professionals. The intent of the Town Board was to ensure that in a residential area if the intensity of the use or the kind of equipment that is being used is unusual for a residential area that there be some approval by a town agency and in this case that would be the Board of Appeals. If the allergist who is considering buying your home is using equipment that is unique to his speciality and is not the kind of equipment found in a home, then he would require a permit from the Board of Appeals.

Appearance: Irene Saccende
New City, New York

Mrs. Saccende said she would like a clarification with regard to 7(p) where it says the lawful use of any premises as a home occupation existing on May 24, 1988 shall be continued although neither such use nor bulk conforms to the current regulations. She said at that time you were allowed one employee outside the house. Now does that mean it is grandfathered in as one employee? Town Attorney said it has to be a lawful use. If he was allowed one employee and he had three, obviously that wasn't a lawful use.

There being no one further wishing to speak on motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing was closed, RESOLUTION ADOPTED, time: 9:12 P.M

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

Resolution No. (116-1990) ADOPTED

TOWN OF CLARKSTOWN
PUBLIC HEARING

339

Town Hall

1/23/90

9:13 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE FROM LO TO PO - MAP 60, BLOCK A, LOT 7 - CLEMENSEN

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing was declared open. Town Clerk read notice calling public hearing and testified as to proper posting and publication.

Town Attorney stated that SEQRA showed no adverse environmental impact. Town Planning Board approves with conditions. County Planning Board approves. The subject of this hearing is the change from LO to PO.

Supervisor said the purpose of this hearing is a motion on the Town Board's own motion to reconsider this particular change of zone. A year or so ago there was a hearing held here for the very same subject. At that time the Town Board turned it down. The Town Board subsequently held a public hearing for an R-10 designation which was the subject of a public hearing in December. At that time the Town Board reserved decision on that R-10 designation. He went on to state that at that time there were a number of Town Board members, himself included, who were not comfortable with the R-10 designation. We thought about that and we wanted to hold another hearing on the PO to rethink that position. That was the purpose of having this hearing here tonight. The Town Board was not prepared to vote either yes or no for the R-10 at its previous meeting. We wanted to reconsider this particular section - the LO to PO section - and that is the reason the Town Board is doing this on its own motion.

Supervisor said the applicant at that time and the people present at that time were perfectly willing to go with the R-10 designation but a number of Town Board members felt that designation in that area was fraught with some problems and they wanted some time to think it over. He wanted to make that statement as to why we are going through this again. It gives the Town Board the opportunity to weigh again both of these proposals and to make an intelligent decision.

Mr. Robert Geneslaw, Planning Consultant, said the Planning Board has recommended in favor of the PO district. Their feeling is that it is more compatible with the development that is on North Main Street and they are also concerned that a change to R-10, which is one of the alternatives being considered, might set a precedent for additional R-10 development on the south side of Phillips Hill Road and on the east side of North Main Street. There are substantial holdings owned by developers in both of those areas which are conducive physically to that kind of development. The Board felt that the PO would be the most appropriate zoning for that reason and we concurred. The Planning Board did suggest that there be an additional buffer along the westerly side of the property to provide some additional protection for the residents if the zone change to PO is granted. Supervisor asked what specifically was that? Mr. Geneslaw said they suggested a buffer of 25 feet within which there would be no parking or driveway.

Supervisor asked if any Town Board members had any questions?

Councilman Kunis said at the last meeting R-22 was proposed. He asked Mr. Geneslaw what his feeling were in regard to R-22 in that area?

Continued on Next Page

Mr. Geneslaw said the R-22 would be more compatible with the zoning pattern that is in the area generally to the west and northwest.

Supervisor asked if there was any member of the public who would like to make a comment or ask a question?

Appearance: Mr. Louis Fishlin, President
Tarry Hill Homeowners Assn.
Crum Creek Road
New City, New York

Mr. Fishlin said the Board seems to have insisted on a PO designation for this particular lot and the residents strongly reject it. He mentioned the meeting of November 15, 1988 and noted that by a 5 to 0 vote the zoning for a PO designation was rejected by the Town Board and the residents strongly supported that position. There was a resolution proposed at that time seconded by Councilman Maloney in which you asked the Planning Board whether or not that area could be designated residential. We have no idea what, if anything, the Planning Board did with respect to that. Supervisor said the R-10 was the genesis of that last public hearing. Mr. Fishlin said the R-10 came about in a November meeting when Mr. Clemensen and his people approached some people in Tarry Hill and we agreed to discuss the matter at length. He said they worked out a proposal which seemed to be giving something to everybody. It gave him a scaled down building. It gives residential areas surrounding the building providing a buffer for us and again being consistent with the area which is entirely R-22 with the exception of the Georgetown property further up on Main Street. There are a couple of small homes and the Chabbad which are not within the development but not part of the R-22 arrangement.

Mr. Fishlin said you agreed 5 to 0 to ask the Planning Board whether or not there should be a residential designation and now you are renegeing on what you thought was a very good idea. He said they still think it is a good idea and strongly support it. In fact he stated that they demand the zone change be for an R-22. He said the Board has shown such disdain for north New City that there are many people in northern New City who have considered talking seriously about the formation of a village.

Supervisor said the purpose of the hearing was to reconsider. He said we do consider what had been worked out before and the Town Board is not going to do anything precipitous in this. The Town Board is not callous to the feelings of people in the area. We did this on our own motion. He said we wanted to try it again before we made a final decision on this as to what is going on. You are telling us your input and we are cognizant of that.

Mr. Fishlin said pursuant to a previous conversation he had with the Supervisor he felt there would be a resolution presented including an R-22 possibility. Yet, that possibility has been curtailed. It is not even one of the options left to you. Supervisor said there are options left to the Town Board. The subject of this particular hearing doesn't happen to be that option at this time. What is before the Town Board now are three options. One is to do nothing with regard to either of the zone change requests and leave the property as it is, part LO and PO. Another option would be for the Town Board to change it to R-10 because we only reserved decision on that. We didn't reject that out of hand and we did that purposely. The third option is the subject of this hearing tonight. If we were just going to discount something out of hand we would have dealt with that at the last public hearing. We just felt that we wanted to bring this particular option back to reconsider it again. Those are the three options before us tonight. It does not necessarily preclude a fourth option down the road but that would be up to the Town Board at another public hearing maybe to decide.

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Mr. Fishlin asked how could you foreclose that other option? There might be yet another option and yet by the vote you had last time you seem to have excluded that possibility. Supervisor said informally among the members of the Board we did not want to pursue it at that particular time. We wanted to stick with this particular designation. Mr. Fishlin asked can you propose a resolution to consider that also? Supervisor said we will take that as part of the input of this particular zone change and take that under consideration. He said the Town Board members are not necessarily prepared to make a decision tonight because we want to listen to what you have to say representing the other people in the area. Mr. Fishlin asked for a proposal to incorporate a possibility of modifying the zone to an R-22 which he felt was a reasonable request.

Councilman Maloney asked then does that mean that you are not interested in the R-10, because that is what we discussed the last time and that is what you wanted? Mr. Fishlin said that is correct. We had met with the builder and for reasons that he was uncertain about it met rather strong opposition and wound up being tabled. Mr. Fishlin said he does not want to invite more commercial development into this area. He said to add another commercial piece to what is a residential area is wrong and entirely inconsistent with the master plan.

Supervisor said in getting back to Councilman Maloney's question with regard to the R-10 what are your feelings about that? Mr. Fishlin said in his personal opinion R-22 is preferable because all of the land contiguous to this parcel is R-22 and therefore it is not out of the ordinary and doesn't invite other builders to come in and ask for commercial zoning as opposed to the R-10.

Councilman Kunis asked if you had a choice of R-10 or PO what would you prefer? Mr. Fishlin said if he could get an R-22 he would prefer that. Councilman Maloney said what would you chose if you had your choice of R-10 or PO? Councilwoman Smith asked did you previously support R-10? Mr. Fishlin said absolutely. Councilman Maloney said we have not voted on this yet and he is keeping an open mind. He said he had the feeling that most of the people wanted to go along with the compromise that had been worked out with the builder. They felt that this was the first time that the people in the community and the builder had worked out something and that was an R-10 and a PO. He said he wanted to make that clear. Was that right? He said that was the basic premise of why we considered the R-10 and PO because for the first time people came and said we worked out something with the builder. They said they were very happy with the R-10 and the PO and they hoped the Town Board was happy with it also. But instead of voting that night and it might have gone that night R-10/PO we decided out of deference to a couple of people to hold back on it. That was the original agreement - that the people felt that they worked out something great with this builder and everybody seemed happy with it. Mr. Fishlin said Councilman Maloney's memory served him well. He is absolutely right.

Councilman Mandia asked Mr. Fishlin if he honestly felt that installing an R-10 designation in that area is better than a PO? He said R-22 is there now and there is no R-10 anywhere in sight. He stated that if he lived in that area he would be more concerned about the downzoning of the residential area. That entire strip is PO or LO. It has been. It was there when you bought it. He said he would be more concerned about an R-10 - quarter acre zoning - and the kinds of homes that could be built there with respect to the rest of the area. Councilman Mandia said that would be a larger threat to him - protecting the integrity of the area - than PO on that particular site.

Mr. Fishlin said that while R-10 is not the greatest in the world it appeared to the people that the Board had completely

rejected the R-10 so we looked for alternatives. He mentioned R-22 as such an alternative. It would be contiguous with the other parcels. There is already a house there. The Fitch property is located on this piece. There are people occupying the premises. He said a residential designation is consistent but certainly not a PO zone.

Appearance: Mr. Joseph Hirshfield, Pres. of
Little Tor Homeowners Assn. and
North Clarkstown Coordinating Council
96 Susan Drive
New City, New York 10956

Mr. Hirshfield said it is all summed up by the question what is the most consistent use of the property in question? He said that Mr. Geneslaw, Planning Consultant, admitted that the most consistent use is R-22. This is a residential area.

Councilman Maloney asked Mr. Geneslaw if he had said that? Mr. Geneslaw said in land use terms the R-22 would be most consistent because the area to the west and the northwest was R-22. The areas to the east are PO and LO. Councilman Kunis said the areas to the east are R-22. Mr. Geneslaw said not immediately. Councilman Kunis said Mr. Rapkin's property is. He said you have the one they are considering building on and you have Main Street and across the street is all R-22. Mr. Geneslaw said as he recalls that was approved under average density and so the lot sizes vary. Portions are R-22 and portions may be R-15. He said he wanted to add that it is important to try to preserve the Fitch house. That needs to be taken into account with whatever the Board does.

Mr. Hirshfield said what they are very concerned about is the spread of commercialism up Main Street. He said if you recall when we discussed the problem with the post office Mr. Supervisor, you told me and other people in our group that you were in favor of a change of use for the simple reason that if you had a change of use you could then retain the residential designation. The Supervisor said that was correct. Mr. Hirshfield said but now, if you were to approve a change to PO, you would be going against what you told us at that time. You would be going against your own considerations of November of 1988. Mr. Hirshfield said he must say that they are very concerned in north New City.

Supervisor said we are concerned too. Otherwise we would not be spending so much time on this. It is not an easy problem. Mr. Hirshfield said you have told me your concern but when the resolution was brought before us for a hearing tonight it was not a proposal and this was not on the builder's side. We are not at all blaming the builder. This was on the resolution brought by the Board. The Town Board is the moving party. The proposal wasn't to change the LO area to R-22. Your own resolution was to change the proposed LO area to PO. This seems to indicate that your concern is not the same concern that we share.

Supervisor said since I was one of the people to suggest it let me reiterate the purpose of this. This was to allow the Town Board as well as the residents who obviously would have to be notified as a result of this public hearing to think about it again and to then give their input to the Town Board. That was the reason that was stated at the hearing. Mr. Hirshfield said why didn't you just make the proposal from LO to R-22? He said you must also understand if we get a continuing feeling that we in North New City are being ignored and neglected you will find a situation which is similar to what has come to exist in the neighboring town of Ramapo - you will have a village. He said to avoid that please consider their viewpoint. This area must remain residential.

Supervisor said the Town Board is cognizant of the concerns you have raised here and will take the considerations of

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the residents here and weigh them very heavily. We are not going to make a precipitous decision. He wanted to assure them of that.

Appearance: Mrs. Andrea Weiss
2 Brookline Circle
New City, New York

Mrs. Weiss said the Town Board is going to have to stop and look at who you are going to protect - the individual business man or the community. She said Mr. Clemensen and his investors took their excess money and purchased a piece of land and we assume that they were intellectual buyers. She said Mr. Clemensen is an attorney and has dealt with real estate. She said when he purchased the land he knew very well that by buying a piece of land designated LO with an area of 20,000 square feet he was not able to build his dream of an office building because he was in need of 40,000 square feet to fulfill the requirements of this zoned property. From that point, Mr. Clemensen went and purchased a second piece of property which belonged to the Chabad now giving him approximately 40,000 square feet. Now he had a piece of property that was PO. From here, he went and got investors. She said from what she understands several of his investors are physicians and she would also make the assumption that they are intellectual buyers who are taking their excess money and trying to make additional money from it. She said there is nothing wrong with that concept. It is a good business strategy but they were knowledgeable enough to know that they were taking risks. They had one piece of property that they could build on and build the office building they wanted. They had a second piece of property that was not zoned for what they wanted. They came to you in November of 1988. You rejected this proposal. They were back at the beginning again, starting all over again. She said she did not understand why you could go back to square one with PO and not consider the R-22. She said she would request the Town Board to throw out the PO and seriously consider the R-22.

Appearance: Mrs. Zipporah Fleisher
443 Buena Vista Road
New City, New York

Mrs. Fleisher stated that she represented the West Branch Conservation Association whose biggest purpose is land use. She said in 1951 there was a zoning ordinance in the area which made all the land there one acre. The Town Board voluntarily made the land into half acre - Buckley Farms and north. She noted that Miss Eleanor Fitch's property was left in LO. The LO was a piece that West Branch objected to from the start and it wasn't just that piece. It was made so that Mr. Nemeroff could sell off some land, get some cash, so that he could leave the rest of this property in larger pieces. Miss Fitch's piece of LO was a mistake and she stated she was calling it not Laboratory Office but Left Over and that's what it is. She said the Board said somebody owns it and that person thinks they'll have LO there. We can't do it involuntarily without giving that person a chance to develop it the way he bought it.

Mrs. Fleisher said the builder says he wants to put up either R-10 or a three story office building. She said the Planning Board did not accept that. She noted that the Planning Board told him at the time he asked for a three story that they would never allow it. She said Mr. Clemensen is now stuck in a time of conditions that aren't as good as they were when he bought the property and he has to face the fact that we cannot guarantee him a fat return for what he originally spent on that piece of property. She said she could only urge the Board to vote no tonight. She said they are very much disturbed by the fact that they had already missed the boat when it comes to the post office and too many professional office buildings. It is time to assert that that is the end of the commercialization of Main Street.

Continued on Next Page

Appearance: Mr. Martin Bernstein
20 Woodglen Drive
New City, New York

Mr. Bernstein said he goes back to 1957 in this question. This land was one acre zoning then. It was turned into LO because of Mr. Nemeroff and subsequently, when they rezoned Nemeroff's land back to acre zoning for some reason it was left over and forgotten. Since that happened there have been major changes in northern New City which he always believed were wrong. This is a very important point because if this is not handled properly there will be a lot more major changes made. He said he did not think we should be discussing the question of the immediate area. He said he did not believe in the business that just because it's not in my backyard, therefore, that's what should be done.

Mr. Bernstein said the question of zoning for this property has to do with northern New City in general. He felt the Town Board had allowed the post office to go in and that started additional changes in northern New City. If this property gets built as heavy office then you are going to find, and properly so, people who have property contiguous across the street, have a right to come before this Board and ask for additional changes. The court most probably would give it to them. He said there are other people who live in northern New City and if this were quarter acre other properties will come in for quarter acre. It should be turned into half acre and then you would be telling the public and anyone who owns property that you have drawn the line and you are not going to make any changes in the future.

Appearance: Mr. David Krantz
9 Tarry Hill Drive
New City, New York

Mr. Krantz said he lives in the area and has come to these meetings but was never aware that they would take the R-10 and make a smaller office building. He noted that he lives there and said it is life or death on that road. He said he did not think it was the right thing to do with the post office and it should have been placed where the MRI building is. He said commercialism should stop at Squadron Boulevard. What is the sense of moving to the suburbs and seeing trees and having nice scenery when people are going to come and remove what is left. It is not right and it doesn't make sense.

Appearance: Mr. Howard Katz
4 Tarry Hill Drive
New City, New York

Mr. Katz said that his property backs into the property in question. He read from the summary of the Town's Development Plan as delivered to the Town Board of the Town of Clarkstown August 17, 1966. He said as far as he knows this is still in effect. He read that the plan takes account of the desires of the residents to preserve the amenities which lead them to Clarkstown in the first place, to prevent ugly or wanton development of the remaining vacant land which applies to the property under discussion tonight. He said there would be attractive space for new residents. He doubted that more office space would make New City more attractive.

Mr. Katz read on stating that the town has developed over the last few decades as a predominantly residential community and the plan calls for continuance of residential development as the prime land use of the town. He asked why is the town proposing more commercialization? He said if the Town Board can take it on their own accord to change it to PO why can't it be changed to residential?

Mr. Katz went on to state that on November 15, 1988, when you voted to deny LO to PO, he had handed the Board a petition

Continued on Next Page

545

signed by 217 residents. He said he had asked that residential be included in the discussion but that was not done. He asked that they listen to the residents and allow them to discuss what they want.

Supervisor said we are attempting to do that by having a public hearing. We are not trying to take an adversary position on this. He said the Board hears what you are saying but at that particular point in time the Town Board did not pursue the avenue of the R-22. He said people are mentioning that today. We have to consider it but we have before us this consideration of the PO.

Mr. Katz asked the Supervisor to tell him what was happening. He said when he called the Supervisor's office and a number of other people called his office a motion was read to him at 2:30 in the afternoon but by the time of the meeting that evening it was gone. Supervisor said a majority of the Town Board at that time decided not to include it and that was the reason why it was not referred. Mr. Katz said please tell me why you decided not to include it? Supervisor said it had not been discussed at a workshop at that time. Mr. Katz asked then why is it coming to a vote tonight? Supervisor and Councilman John Maloney said nothing is coming to a vote tonight.

Councilman Maloney said when this started way back he got the impression that a number of people had stated that an agreement had been worked out with the builder to go R-10/PO. He said that sounded like a good idea and was the first consideration. Then we held off on that because some people thought if we went R-10/PO it would be three stories instead of two. He said never was there any talk about all PO. It was R-10 which everybody seemed to think was good at one time. Mr. Katz said no one here could imagine that this council would take it upon itself to make a motion to change the zoning, not the builder but this Town Board. Supervisor Holbrook said we readily admit that. Mr. Katz said then make a motion to go R-22. Supervisor said if that is what you are recommending to us it is very possible. Councilman Maloney said what he is hearing is forget about the R-10/PO that had been worked out some time ago. Is that correct? Mr. Katz said we moved to this town because we thought it was residential. Never did we think we would have to come here and tell you to stop commercializing it. Councilman Maloney said we still have the first option. We came back with this to find out more information.

Councilman Maloney said when this builder came in someone thought PO was a great thing to consider. We did not vote on it. He said he asked that question tonight and one gentleman said yes, it looked like a good idea at that time but now maybe it isn't. So maybe it's not a good idea. We have not voted on the PO. He said I would have been ready to vote on the R-10 if that's what people had wanted but we held off. He said he asked that three times and if he had heard straight some people did say yes. There was that plan because someone said why did the Town Board interfere with a nice thing that they worked out with a builder for R-10/PO. That is what I heard tonight and that is why we held off last week. Mr. Katz said I stood up here and said that I would prefer to see R-22 but that didn't seem to be in the cards. Now what seems to be in the cards, because you folks can change the zoning to PO, so go ahead and change it to R-22. Council Maloney said if you would only listen, as Supervisor Holbrook has said four times, this is a hearing to get input. We could change it to R-22, R-40 or R-80 if we want. We haven't made any vote.

Councilman Kunis said we voted down PO a year ago November. The community got together with the builder and they did work out an agreement. For some reason that agreement was upset. The Board decided to bring up the PO again. R-10 was the lesser of the two evils - PO or R-10. At the time it was the lesser of the two evils to the residents of the community and to the residents of

north New City. Now, we're hearing another option, R-22. If that is a viable option let the Board consider it. On Item No. 17 of our Agenda we're referring a petition for zone change on Bradco tonight. That petition was a change from LIO to R-15. If the Board is going to do that there is no reason why the Board can't move to consider R-22 for this piece of property.

Councilman Kunis said the post office was approved prior to his election to the Town Board. The post office and the Town Board at one time wanted Squadron Boulevard. Squadron Boulevard was an ideal location for a post office in north New City. It made common sense. The United States Postal Department said that the location on Squadron Boulevard was in the 100 year flood plain. One year later this Board decided to spend approximately \$18,000.00 with a private developer to do a study and take that property out of a flood plain. We could do it and pay to do it for a private developer and reap the benefits of that property but we couldn't do it a year before to reap the benefits for the residents and put the post office on that piece of property. He said that was poor planning. We have a situation here where we can have planning and we have a developer who worked out a situation and a solution with the community. For some reason the Board decided to upset it and to this day he still cannot understand why. There were a few people who didn't approve of it in the surrounding area and with good reason. They are large property owners and they have investments too. Work something out and arrive at a solution and R-22 should be part of a possible solution now that we have gone this far.

Supervisor said if we had wanted to reject that prior proposal we would have voted it down at the meeting in December. We chose not to do that.

Councilwoman Smith said to Mr. Katz that he had asked at the last meeting why we did not include an R-22 in the resolution. The reason we did not was because the application was already in progress and the applicant had asked for a PO or an R-10 when he had come to a solution with the neighborhood. Had we at that time put in an R-22 it may have been considered confiscatory and therefore not permissible for the Town Board to do. She said we have thought very much about this application because we are concerned about north New City. For one reason we have bonded \$15,000,000.00 to keep north New City and Street School green. The R-10, even though most of you thought it may be good or some of you thought it may be good, is the most dense and the most intense zoning that could go up there. We did not say no because we thought okay if you want it but we were trying to protect you from anything surrounding and coming in.

Mr. Katz said he understood that and he had that concern and he shared that with the community. He said he had spoken with Mr. Jacobson about that. Whether that would constitute a viable precedent for anybody else to take advantage of, he did not feel it would constitute any grounds for any other owner to do the same. This is a postage stamp sized piece of land that was miszoned to begin with and you are merely correctly a miszoning situation. Supervisor Holbrook had the concern that multiple dwellings would go in there and the builder was willing to write that into any kind of deal so there wouldn't be multiple dwellings. Councilwoman Smith said that is why we didn't close that out. That is why we are hesitating because we don't want to do anything that would bring more to your area. We are trying to keep it less.

Councilwoman Smith said as far as changing it from LO to PO we would like to protect the Fitch House. We would like to have it buffered and she said she certainly did not want to see a three story office building on that piece. If you leave it the way it is, LO, it is possible that they could build the office building and use the adjacent parcel for parking. If they have the right

height, depth and everything else they could build a three story office building. We don't want that. Mr. Katz asked "the Planning Board notwithstanding, they could do that?" Supervisor said the Planning Board would have the control over the site plan. Councilwoman Smith said if they had the right bulk and all it would be a court matter. Yes, the Planning Board could say it is not in the best interest of the Town. She said what she is trying to tell them is that this is a puzzle. We have looked at every zoning very seriously. We are not trying to just please either the builder or you. We are trying to do what is right for the section.

Mr. Katz said if you are not simply trying to please the builder then why when I asked Mr. Holbrook - I didn't say forget about PO in the public discussion - I said PO or R-22. Councilwoman Smith said because that would be considered confiscatory as that was not part of the original application. Councilman Maloney said R-22 never appeared on that and that is the reason why. Supervisor said when you (Mr. Katz) called my office, I put it on the resolution at that time. The Board decided not to put it up for a public hearing at that time. Councilman Kunis said the original application by the applicant was for PO. The Board applied for PO again so could the Board apply for R-22 like we applied for PO? Supervisor said the Board has the right to set a public hearing for any specific zone.

Mr. Katz said in the meantime can the Board do anything to prevent any action on the part of the builder that would preclude or make academic any zone change because they have already started on something? Mr. Katz said by right they could start to build a three story building. Supervisor asked if their was approval from the Planning Board and was told no. They have not applied yet so they have no approval. Supervisor said as Mrs. Smith has said there is a puzzle to this that we are trying to work out. At the risk of being repetitive the reason for the hearing was to rethink that position - to allow people in the area to rethink the position on the PO. That doesn't mean the Town Board is in favor of doing it.

Mr. Katz said there is a long history of your own Planning Board recommending R-22. In addition, on December 12, 1989 the County of Rockland Department of Planning also recommended either PO or the lowest residential density required to bring about a solution to this zoning dilemma. He said this is your chance to do it right. Supervisor said that is what we are trying to do.

Appearance: Ms. Susan Gerber
92 Susan Drive
New City, New York

Mrs. Gerber stated that she has been a resident there for 16 years and has seen many changes in north New City. She said the Phillips Hill Road and Main Street area has been going from bad to worse. She thought this was the wrong thing for the area. She said she spoke to Mr. Kunis about it and was told that an agreement was made with the residents in the community and the builder. Those residents in the community fought very hard together against the post office. We were asked not to rock the boat. Let this development for which a deal had been worked out go its way. We did not come to the first meeting that was held because we felt they had worked out a plan which was the way it should be. She said she was very glad that the Board did table a decision that night and brought it up again because in further consideration neither is a good choice for the community at large - R-10 or PO. It should either be R-22 - the same way the rest of the area is - or remain the way it is and not give in to a builder. She said for the safety of our children and ourselves who have to drive and walk that road constantly the Town Board really must consider what is best for that corner.

Appearance: Ms. Eileen Forte
40 Old Phillips Hill Road
New City, New York

Continued on Next Page

Ms. Forte said she represents the children who go to the elementary school on Phillips Hill Road, who walk to school five days a week when the increase in traffic will go on if you change this to a PO zone. She said she did not know if there was widening proposed. She stated right now there are not even ample sidewalks for the children who walk to school. She said if you put PO in there the kind of traffic that is going to increase is even more threatening to the safety of the children at this school. She said also right there on Phillips Hill Road is the entrance to Kennedy Park where the children go and hike and play. She asked the Town Board to consider what you are doing to them and to the area that they play in when you consider what you are going to change the zone to on that parcel.

Appearance: Mr. Richard Weiss
2 Brookline Circle
New City, New York

Mr. Weiss said Councilman Maloney has asked us whether we preferred R-10 to PO? He said speaking for himself and probably for most of his neighbors who are down here he thought he could unequivocally say that R-10 is absolutely the worst alternative here. He said if you ask us to put it in order of priority we would absolutely want R-22 as our first priority. He said leaving it as it is would be our second priority. PO with severe height restrictions would be our third priority. He said that underlying this puzzle was a very risky investment decision made by several people who are looking for the Town to bail them out by making the wrong decision as to the zoning on this property. He said no one has really talked about the whole approach to this area and what is happening up there. He said every year we are faced with a new challenge to the integrity of this area. We have had the post office. We have had the Chabad which is definitely a nonresidential use. We have had the Georgetown office condominiums. Now you are asking us to allow probably a three story office building on this corner. Councilwoman Smith said no one here has ever said they wanted a three story office building. Mr. Weiss said what he is really driving at is the pattern here that we get to what amounts to basically lip service as to the integrity of the area and the desire to keep it that when everytime we turn around there is a new commercial development springing up this way. He said he is questioning whether we are turning north Main Street into Route 59.

Supervisor said in terms of Main Street the problem here on this corner as someone alluded to before is one that goes back in history in terms of what was a plan to develop the area in the 1960's and was dismembered and there are some vestiges of that remaining. For example, the ARC building which also has a LO designation and should have been addressed by the Town Board ten years ago. It was attempted but there wasn't enough support to do it at that time. He said the Town Board is committed in terms of zoning uses in this area. Basically, it is R-22 and then it goes to R-40, R-80 and then R-160. Dellwood Country Club is R-160. The Parklands that we have purchased, Street School which we have purchased and are going to renovate have all been done with a desire to try to keep the semi-rural atmosphere of north New City intact. This is a zoning problem. You have presented us with three alternatives basically. You have to weigh them and that is what we are going to try to do. We are not going to make a decision on this. We are going to bring it back to Workshop and discuss it and consider all the options that we have before us. We are not going to race into a decision. We wanted to get input and we are getting it.

Mr. Weiss said the Town Board must come up with a plan for the whole north Main Street area. He said a post office, a synagogue or school, an office condominium complex doesn't sound like commitment to residential housing. Supervisor said when you have a residential zone, schools or churches are permitted by

Continued on Next Page

PH - Zone Change - LO to PO - Map 60, Block A, Lot 7 (Clemensen)
Page 11

right. Mr. Weiss said it is a permitted use but it is a part of the whole pattern we have been seeing over the past four years.

Supervisor said Buckley Farms is zoned R-15 or R-22. The land on the other side of the street is R-22. Rapkin's parcel has an approved subdivision on it which actually goes back to the mid 1970's. Beyond that it is essentially parkland on the west side of the road. Then you have the Dellwood Country Club which is R-160 and then you get to South Mountain Road which for most of the mountainside is R-160 as well. Concentric zoning probably conforms more to northern New City than to any other part of the town and we are committed to that concept of zoning.

Mr. Weiss said if this office building were to be approved here how will you respond to the next developer who comes along and says listen I just bought Buckley Farms and now I want to put up a 40,000 square foot building. Supervisor said he would respond the same way he did when Mr. Katz raised the question and Mr. Jacobson gave him the answer that the Town Board would have the right and discretion to make their own decision on every piece as it would come up. Otherwise, we just operate by the domino theory and all our decisions would be made by fate. Mr. Weiss said he urged the Board to draw the line here.

Appearance: Ms. Francine D'Allosa
32 The Promenade
New City, New York

She said she represents Charter Oak Development, Croyden Lane and many people who are not present, and their children. She said that this part of north New City has always been meant for one thing - residential - R-22. Now we talk about R-10. She said the word out on this Town Board is that it is the one that has downzoned north New City. She questioned the need for more office space. She asked is there a revision of the Master Plan in the works that we know nothing about or things that we would like brought to our attention? She asked what about the vacant land surrounding us? She said we now have commercial zoning, LO and PO in New City. What about other zoning? What can we expect? What can our children expect? She said if anything happens to a child on this street she said she was telling them right now, this Town Board is going to be held responsible.

Appearance: Mr. Harvey Budkofsky
12 Fairhaven Drive
New City, New York

He said he would like to change pace for a minute. He said he would like to thank the councilmen and people here on the Board for what they have done for his family and he is sure for what they have done for many of the families here in the room tonight. He said he would like to take a positive approach and was sure that the Board hears as he hears from the community what they are looking for out there now. He said something should be done about the corner of Phillips Hill Road and north Main Street before a fatality occurs. Safety has got to be an issue in the consideration of any further development along north Main Street.

Appearance: Mr. Jeffrey Manoff
16 Tarry Hill Drive
New City, New York

Mr. Manoff said for many of the reasons that his neighbors have stated tonight he moved to New City. He said he came here in November of 1988 and listened to the Town Board and listened to the vote and he cheered with his neighbors when you voted to leave it as residential or leave it as it was zoned which said to us in the spirit of the vote meant residential. We weren't anticipating many changes. He said he could not see what has

Continued on Next Page

changed in the past fifteen months to bring this to a vote again and to make any changes that would affect his family personally and his neighbors. He said he was unaware of the negotiations that took place with the developer and some of his neighbors. He said if his input counts for anything he wants the zoning to be R-22.

Appearance: Mr. Arghwal(?)
New City, New York

He said he was on the Board of the Association of Asian Americans of Rockland. He said the question before this Board ought to be what is the most appropriate use of this land. It should be obvious to the Board by this time that as far as the feelings of the community are concerned that there is no other appropriate use of this property other than R-22. He said he believed that the Town Board was here to protect the interest of the community and if that is the case he believed they should go home, search their conscience and see what you want to do.

Councilman Mandia referred to the application that was turned down in November of 1988 and said he had heard two confusing things. What was the application for then? He was told it was LO to PO. He asked was it then LO and PO and the application was to change it all to PO? He was told yes. He said and was it turned down? He was told yes. Councilman Mandia said then it never was residential? He was told that it had been residential ten years ago. He said was that along with all the other property going north? He was told that was correct.

Appearance: Robert Clemensen, Esq.,
principal

Mr. Clemensen quoted from a reference from the Technical Advisory Committee meeting of February 25, 1987. This meeting was held on behalf of the Chabad when it was contemplating its own subdivision prior to our acquiring the corner parcel. He noted the consultants present. He said they recommended that the improvements at this intersection be discussed and that a two lot subdivision is proposed. There was reference to the corner parcel, the parcel which is not the subject matter of the subdivision application tonight but to which we have acquired title. He said this really is the heart of the confusion because the reference is at that point and he quoted "a four story building can be supported on this site." He reiterated "a four story building." He offered to make copies of those minutes available for anyone who wanted it. He said we are completely aware of the fact that a four story office building would be within the discretionary rights of the Planning Board to consider but as Councilwoman Smith appropriately pointed out, if in all other respects in terms of parking, side yards, set back, bulk and side yard to height ratios - these are met - if becomes a court decision if, in the absence of approval by the Planning Board, permission is not granted.

Mr. Clemensen said there is precedent in the Town of Clarkstown for four, five and six story buildings. He said he did not want to be part of that. He said people keep referring to how long they have been here. He said he has been here since 1947, a product of the school system, etc. He said he is not interested in leaving a landmark in this community that he would have to be ashamed of or afraid of. The problem is there is a built-in cynicism to a developer to start with but how can we honestly preserve appropriately what ought to be. He said bluntly put, they did not have to be here for this application. He stated they could have gone in with their application for the building on the corner parcel since the Fitch parcel is zoned LO. Section 103, Subsection 6 of the Town Law specifically provides that the parking requirements can be met on an adjacent parcel if that parcel is not zoned residential. This is not zoned residential. Miss Fitch's parcel is zoned LO. So, by law and by right, we had the privilege

Continued on Next Page

of being able to build up to a four story building by the TAC Committee's own reference, which we elected not to do.

Mr. Clemensen went on to say that if we had gone to the Planning Board with our application for the building on the corner parcel, with the parking on the Fitch parcel, we would never have had to come before this Board. We would never have had to come before anything but the Planning Board but we elected not to infect the community and what happened is now we have waited over two years from our original application and original recommendations and we are not any further than we were when we started. He said we have no intention of defacing the community. We have no intention of doing anything to the community that is inconsistent with appropriate planning.

He said, on the other hand, we are not going to be able to sit and consider the implications of R-22 because as Councilwoman Smith pointed out we do deem that to be confiscatory, at least at this point. The proper development of the parcel, we felt, was PO not unrestricted or without conditions. It would be PO with the absolute condition that significant buffers would be provided between the parcel development and the adjacent land owners. He said the reason they felt PO would be appropriate and the reason we came in for PO was because we wanted a low widely distributed building as opposed to a high imposing building, something that did not intrude upon the area visibly or disfunctionally in terms of esthetics. That is the sole reason we came in for the application.

Mr. Clemensen said they are also concerned about the traffic on Phillips Hill Road. He said their proposal would result in all of the traffic having to do with the professional building using North Main Street. No exit or entrance would be on Phillips Hill Road. He said with regard to the R-10 zoning we didn't seek R-10 as the zone. R-10 just happened to be the zone which was in compliance with our recommendation of the additional homes and the single driveway as opposed to the two driveways that would be with R-22 coming out on the westerly portion of the lands on Phillips Hill Road.

Appearance: Mr. John Lodico
 2 Birch Lane
 New City, New York

Mr. Lodico said there are a couple of questions that came before the Board and several of them scared him. He said first of all, the worst thing that could ever happen in this Town was to revert back to the old Boston Improvement Map which had the R-10. He stated that he thought we got rid of that in 1973. He said the second thing was the veiled threat of a village. He said you understand the cost of government of another village would be another bad thing - fracturing a town. He said the questions he had here which the petitioner mentioned was in reference to what could the builder develop in this property. He said the neighborhood definitely would have no legal right to object to what the petitioner could do by right. He said what is important is the cooperative effort of the petitioner and the general property owners around there as to what they could acquire without wrangling. The fact that a subdivision is filed doesn't mean that a guy doesn't have the right to repetition for that in the future.

Mr. Lodico said to take his property away from him at this time after two years of proposal and then try to zone it with something else, you would end up with another law suit of confiscatory action against private property. Mr. Lodico said his point was getting a conciliatory recommendation that is appropriate. He said the Town Board is political. They are going to weigh by how things are going and you may end up in a law suit yourself. He thought the best approach is to totally forget about R-10 and bury it back where it was in 1973 and try to work out a

Continued on Next Page

conciliatory thing so that the property owner who can develop some monster, by right, can develop something to utilize his property to its best and appropriate use and meet the area's needs.

Appearance: Mr. Tony Baletta,
principal

Mr. Baletta said he is a principal in Kings Builders, the applicant. He said he still feels that there is not a total understanding. He said if he thought that a builder or an investor purchased a piece of property that was a very risky investment and then found out that he was in trouble and looked to the Town Board to bail him out that is not a good reason for the Town Board to sympathize with an investor. He said just to confirm what Mr. Clemensen said when the applicant purchased the LO piece he also purchased the PO piece on the corner. When the applicant looked at the Town Code and looked at what he was entitled to by right, not what he would have to go and petition for a zone change for, he found out that the LO piece where the Dutch Cottage is can be left alone. We don't have to touch that piece and the applicant found out that he was entitled to build an office building on the corner PO piece. However, that office building would be imposing. It would be multi stories and when we looked at the height requirements although all the requirements are met and Mr. Boswell drew a map just so we could demonstrate that all the height requirements could be met, that's why we were interested in buying the piece. Not because it was a risky investment because we knew that this was at least a fail safe position. We could always go and put our fate in the hands of the Planning Board and say to the Planning Board whatever is the code please interpret it. That is what we want to be entitled to.

Mr. Baletta said we don't have to come before the Town to ask for a zoning change. We don't have to come before the Town to ask for LO to PO and we don't have to come before the Town to ask them for LO to R-10. We are here because we feel that PO would be a lower two story office building stretched over two parcels and would look a lot better than a three story office building on one parcel. When there was negative reaction to that we further went along with meeting with some neighborhood representatives.

He said Mr. Katz said he had spoken to many of the people in the neighborhood. He said he believed it was David Krantz who said he wasn't informed and he felt that the builder was trying to make a deal with just a portion of the neighborhood in an effort to divide and conquer. He said that was never our motivation. We met on several occasions and so far as he was concerned many people knew that they were meeting and discussing with the neighborhood in an open manner for many months. He said the reason why they said maybe we could come up with an equitable solution that was a compromise - because the applicant will not accept an R-22 and cannot live with an R-22 because it is not economically feasible - is that the property was not purchased with R-22 in mind. The property is not zoned R-22. He said they considered a little bit of residential and a smaller office building on the corner. With that, we did strike up a reasonable compromise and we shook hands back in May. He said we thought we had a compromise.

Mr. Baletta said we tried our best with the compromise. It might not have been good planning. The Planning Board did not think it was good planning. Some other people from the neighborhood felt maybe it would set up a domino effect and the Apfelbaum property and the Rapkin property might come in for a downzoning. He said actually what we would be doing with R-10 would be upzoning. It would create less yield than if we built a bigger office building on the corner, if you added up all the total square footage. The applicant has been trying to put together a more beneficial job for the applicant but also more beneficial to the neighborhood if in fact the trade off is a lower office building

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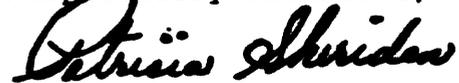
compared to a higher office building. The reason why the Town Board didn't vote on R-10 was because there was a lot of people who still needed to further understand. The reason why the Town Board felt it would be a good idea to bring up the PO again was because the PO was the original petition from the applicant. The applicant petitioned for PO and it went through all the boards. Therefore, it could be brought up again. The R-10 went through all the boards. Therefore, it could be brought up again here.

Mr. Baletta said R-22 was not something that ever was looked upon nor was it something that the applicant ever asked for or applied for or is economically feasible. It would obviously be confiscatory and it would be like a declaration of war and then everyone would be winding up in a courtroom. You can ask the attorneys what the outcome would be. The outcome always comes out to be confiscatory. We have all checked it out. The applicant is in a situation where we didn't buy this property feeling that we needed help to develop it. We can today tell the Town Board don't vote for the R-10. Don't vote for the PO. As a matter of fact he said he heard a couple of people come up here from the neighborhood and say why don't you leave it alone and he heard applause. That is an option. We could leave it alone and not ask the Town Board to vote on either one of the two issues and just simply develop the corner PO and use the LO piece not to develop it but just to park on which is as per Town Code.

He noted that the Town Code says as long as the piece is within 1,000 feet and we adjoin it and as long as the piece is owned by the same owner or a twenty year lease and we have that, and as long as it is commercial, it could be used for parking to support a larger building which you need extra parking for on the corner PO piece. We are not here because we have to be here. He said if he was wrong on that he wanted to be corrected. He stated that they could put in a by right application tomorrow that would just develop the corner PO using the LO for parking. We are here because we feel there is a more beneficial solution. He said he did not know what the outcome was going to be here. He said no one in this room knows what the outcome will be but we are trying to all get together to figure out what is equitable. He said he did not want the people in the audience to feel that the applicant has busted in and is insisting on zoning changes that he doesn't deserve. He said if I don't deserve a zoning change then don't give it to me but don't blame him if he goes and develops the property which is his right by law and code to develop. He said if he is not permitted to develop the property with the way the code is then it becomes a law suit. Everyone loses another six months but the neighborhood needs to investigate what the entire outcome will be. That is why when Councilwoman Smith says we have a puzzle here it is a puzzle and we are all trying to solve it in the best way we can. He said he really does not like to feel that we are trying to muscle our way in here and ask for something we are not entitled to equally as much but not as esthetically as beautiful a job as if we went in there by right.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared closed, DECISION RESERVED, time: 10:55 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk