

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

10/9/90

8:02 P.M.

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

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

Supervisor stated that the Public Portion of the meeting was open. No one appeared.

RESOLUTION NO. (893-1990) AUTHORIZING RETURN OF MAINTENANCE BOND WITH REGARD TO DEDICATED SUBDIVISION (COUNTRY RIDGE)

Co. Maloney offered the following resolution:

RESOLVED, that upon the recommendation of the Department of Environmental Control of the Town of Clarkstown, maintenance bond secured by a Money Market Account in the sum of \$3,600 furnished to the Town in connection with dedication of the road(s) and improvements on June 28, 1988, in a subdivision known as COUNTRY RIDGE is terminated and the sum of \$3,600 may be released to the guarantor.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (894-1990) AUTHORIZING FIRE LANE DESIGNATIONS AT NYACK HIGH SCHOOL (MAP 136, BLOCK C, LOT 8)

Co. Maloney offered the following resolution:

WHEREAS, the Building Inspector and the Fire Inspector of the Town of Clarkstown recommend implementing certain provisions of Local Law No. 9-1971, as amended, known as the VEHICLE AND TRAFFIC LOCAL LAW, more particularly designated as Chapter 102, Sec. 14, of the Code of the Town of Clarkstown, at

Nyack High School (136-C-8)
Christian Herald Road, Valley Cottage, NY 10989

by the installation of fire lane designations, and

WHEREAS, Roberta R. Zampolin, the owner and/or person in general charge of the operation and control of the parking area located in the Town of Clarkstown, has authorized that the Town of Clarkstown install said fire lane designations;

NOW, THEREFORE, be it

RESOLVED, that pursuant to said Local Law No. 9-1971, as amended, the Town Board hereby directs that the aforementioned recommendations of the Building Inspector and the Fire Inspector with regard to the installation of certain fire lane designations

RESOLUTION NO. (894-1990) Continued

shall be installed by the Superintendent of Highways upon the review and approval of the Traffic and Traffic Fire Safety Advisory Board of the Town of Clarkstown.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (895-1990)

DESIGNATING "SCHOOL STREET"
(CHRISTIAN HERALD ROAD FROM
ROUTE 303 TO ROUTE 9W AND
PORTION OF ROUTE 9W FROM
CHRISTIAN HERALD ROAD SOUTH
TO BORDER OF VILLAGE OF
UPPER NYACK, NEW YORK

Co. Maloney offered the following resolution:

RESOLVED, that pursuant to the request of the Nyack Public Schools, the Town Board hereby designates Christian Herald Road, from Route 303 to Route 9W, and the portion of Route 9W from Christian Herald Road south to the border of the Village of Upper Nyack, as a "School Street."

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (896-1990)

AMENDING RESOLUTION NO.
665-1990 RE: DISTRIBUTION
OF 1989 COMMUNITY
DEVELOPMENT FUNDS

Co. Maloney offered the following resolution:

RESOLVED, that Resolution No. 665, adopted by the Town Board on July 17, 1990, shall be amended as follows:

NOW, THEREFORE, BE IT

RESOLVED, that the Clarkstown's share of the 1989 Community Development Funds shall be allocated as follows:

\$17,500 toward sidewalk improvements in the Hamlet of Central Nyack;

\$17,500 toward street paving in the unincorporated section of Spring Valley;

\$5,000 toward playground equipment at the Waldron Terrace Apartment in Central Nyack.

Seconded by Co. Smith

RESOLUTION NO. (896-1990) Continued

On roll call the vote was as follows:

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

RESOLUTION NO. (897-1990)

GRANTING PERMISSION TO
CONGERS-VALLEY COTTAGE
ROTARY CLUB TO DISPENSE
ALCOHOLIC BEVERAGES

Co. Maloney offered the following resolution:

WHEREAS, Section 22-2A of the Code of the Town of Clarkstown provides that permission may be granted by the Town Board to an organization desiring to dispense alcoholic beverages on public property in the Town of Clarkstown,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby grants permission to the Congers-Valley Cottage Rotary Club to dispense alcoholic beverages in accordance with and subject to Section 22-2A and 2B of the Town Code at the following event:

Congers/Valley Cottage Rotary Club Art Auction
Congers Community Center
Sunday, November 18, 1990

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (898-1990)

DECREASING APPROPRIATION
ACCOUNT NO. DB 5110-387
(CONCRETE, SIDEWALKS) AND
INCREASING APPROPRIATION
ACCOUNT NO. DB 5110-199
(HIGHWAY-VACATION BUYBACKS)

Supv. Holbrook offered the following resolution:

WHEREAS, Appropriation Account No. DB 5110-199 (Highway-Vacation Buybacks) requires additional funding,

NOW, THEREFORE, be it

RESOLVED, to decrease Appropriation Account No. DB 5110-387 (Concrete, Sidewalks) and increase DB 5110-199 by \$4,800.00.

Seconded by Co. Maloney

On roll call the vote was as follows:

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

RESOLUTION NO. (899-1990)

DECREASING APPROPRIATION
ACCOUNT NO. A 1355-463
(DATA PROCESSING CHARGES)
AND INCREASING
APPROPRIATION ACCOUNT NO. A
1355-203 (ASSESSOR-MOTOR
VEHICLES)

Supv. Holbrook offered the following resolution:

WHEREAS, Appropriation Account No. A 1355-203
(Assessor-Motor Vehicles) requires additional funding,

NOW, THEREFORE, be it

RESOLVED, to decrease Appropriation Account No. A
1355-463 (Data Processing Charges) and increase Appropriation
Account No. A 1355-203 by \$14,000.00.

Seconded by Co. Maloney

Councilman Kunis said they had discussed this vehicle at the last meeting and it was tabled. He asked if that money was coming from the computer account? Mr. Schofield, Comptroller, stated that last year money was put into the budget, not encumbered essentially, to pay New York State Equalization and Assessment. The money for the motor vehicle is not really and technically in that account, per se in the Assessor's budget, but there seems to be a need or a desire on his part to purchase the vehicle at this year's price but the money is not in the budget right now. Supervisor said but the funds were transferred from that one account to cover that line, is that correct? Comptroller said in a technical sense, no. Essentially, we would have to do it through Contingency; but it is just a lapse in the encumbrance that is actually involved here. Councilman Kunis asked if the vehicle was being purchased through the state contract? Mr. Schofield said he believed so but he would have to talk to the Purchasing Director, Larry Koher. Councilman Kunis said that Mr. Kohler had indicated to him that the state contract has expired this year. Supervisor said he thought it was being continued and that a member of the police department had told him that the Chevrolet contract was being extended. Councilman Maloney said this is a 1991 car being bought at 1990 price.

Councilman Kunis inquired as to the use of this vehicle? Mr. Longo stated that it will be placed in the motor pool used by the Data Property Collectors. Councilman Kunis asked where this vehicle would remain? Mr. Longo said it would stay right here on town property. Councilman Kunis reiterated that it would stay here on town property and there would be an Assessor's motor pool to use this vehicle? Mr. Longo said right now they are using police cars as they lost one car to an accident. Councilman Kunis asked what kind of car they used before the accident? He was told a Horizon. Councilman Kunis asked the year of that car? Mr. Longo said an '81 or and '82, he did not recall. Mr. Longo then stated that this vehicle would not be used for anyone's personal use. Once again Councilman Kunis reiterated that this car would stay on town property and not be used for commutation. Mr. Longo said it would not be used for commutation.

On roll call the vote was as follows:

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

RESOLUTION NO. (900-1900)

INCREASING ESTIMATED
REVENUE ACCOUNT NO.
01-002130 AND INCREASING
VARIOUS OTHER APPROPRIATION
ACCOUNTS; DECREASING
APPROPRIATION ACCOUNT NO. A
9710-610 AND APPROPRIATION
ACCOUNT NO. A 9710-409

Supv. Holbrook offered the following resolution:

WHEREAS, various Appropriation Accounts require additional funding,

NOW, THEREFORE, be it

RESOLVED, to increase Estimated Revenue Account No. 01-002130 by \$866,000.00 and increase the following Appropriation Account Numbers:

A 9550-910.....	\$750,000.00
A 8160-413.....	80,000.00
A 1950-503.....	8,000.00
A 1315-111.....	25,000.00
A 1315-114.....	3,000.00

Seconded by Co. Maloney

Before roll call Councilman Kunis questioned the above transfers and Comptroller Paul Schofield gave a detailed explanation of them stating that basically they involved procedures mandated by the State regarding the Landfill.

On roll call the vote was as follows:

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

RESOLUTION NO. (901-1990) (FAILED)

AMENDING RESOLUTION NO.
887-1990 RE: REIMBURSEMENT
OF ACTUAL AND NECESSARY
EXPENSES INCURRED AT
CONVENTIONS, CONFERENCES OR
SCHOOLS

Co. Smith offered the following resolution:

BE IT RESOLVED, that Resolution No. 887-1990 adopted on September 19, 1990 be hereby amended to read:

WHEREAS, the General Municipal Law authorizes reimbursement of actual and necessary expenses incurred while attending a convention, conference or school conducted for the betterment of the municipality, and

WHEREAS, the Town Board deems it within the best interest of the municipality to establish limitations for the expenditures at the conferences,

NOW, THEREFORE, be it

RESOLVED, that the following limitations are in effect immediately:

- 1) Meals within New York City are set at a maximum of \$45.00 per day with receipts,

RESOLUTION NO. (901-1990) Continued

- 2) Meals outside New York City are set at a maximum of \$35.00 per day with receipts,
- 3) Meals for day trip conferences are set at a maximum of \$16.00 per day with receipts,
- 4) The IRS per diem allowance for meals and incidental expenses of \$26.00 and \$34.00 depending on the locality of travel, provided that the Town pays for the cost of the lodging directly, may be substituted for the above, and be it

FURTHER RESOLVED, that there be no reimbursement for

- 1) Alcoholic beverages,
- 2) Sales tax for hotels within New York State,
- 3) Any additional cost for a spouse's lodging or meals at a conference, and be it

FURTHER RESOLVED, that travel arrangements should be made by the Secretary to the Council members, and that there be appropriate back-up receipts or other documentation presented to the Comptroller's office before reimbursement will be approved, and be it

FURTHER RESOLVED, that this resolution be deemed to be effective immediately.

Seconded by Supv. Holbrook

There was considerable discussion regarding the foregoing resolution during which Councilman Kunis stated that he felt it was not a prudent way to do business and he was voting no. Councilwoman Smith said she felt that they had capped the misuse of funds by putting in minimums and maximums and this system is IRS approved for many places. Councilman Maloney said he liked the idea of being reimbursed for the actual amount that you have spent and he was voting no. Councilwoman Smith voted no. Supervisor Holbrook said he would vote no only because the resolution fails but he really saw no problem with the resolution.

On roll call the vote was as follows:

Councilman Kunis.....	No
Councilman Maloney.....	No
Councilwoman Smith.....	No
Supervisor Holbrook.....	No

RESOLUTION NO. (902-1990)

GRANTING PERMISSION TO
INSTALL SIGNS AT
METRO-NORTH COMMUTER
RAILROAD STATION IN NANUET

Co. Maloney offered the following resolution:

RESOLVED, that the Town Board hereby grants permission to the Metro-North Commuter Railroad to install signs at the commuter railroad station in Nanuet, New York.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (903-1990)

AUTHORIZING SUPERINTENDENT
OF HIGHWAYS TO RECLAIM AND
PAVE SHETLAND DRIVE, NEW
CITY FROM MARION COURT TO
GABLE ROAD - CHARGE TO
APPROPRIATION ACCOUNT NO.
CAPITAL 2

Co. Maloney offered the following resolution:

BE IT RESOLVED, that the Town Highway Superintendent is authorized to reclaim and pave Shetland Drive, New City, from Marion Court to Gable Road, for a total cost of \$49,700.00 (including manhole risers, equipment rental, labor and materials) and be it

FURTHER RESOLVED, that all proper charges be allocated against Appropriation Account No. Capital 2.

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. (904-1990)

AWARDING BID FOR BID
#49-1990 - ELKS DRIVE
STREAM MAINTENANCE PROJECT
(JOSEPH DELLA PENNA
CONSTRUCTION CO., INC.)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the Superintendent of Highways and the Director of Purchasing that

BID #49-1990
ELKS DRIVE STREAM MAINTENANCE PROJECT

is hereby awarded to

JOSEPH DELLA PENNA CONSTRUCTION CO., INC.
Argyle Road PO Box 67
Haskell, N.J. 07420
PRINCIPALS: THOMAS G. DELLA PENNA
JOSEPH J. DELLA PENNA
MARIE A. DI MEGLIO

as per their proposed project cost of \$33,900.00, and be it

FURTHER RESOLVED, that said award is subject to the execution of the formal agreement between the Town and the successful contractor and posting of required bonds as outlined in bid specifications.

Seconded by Co. Smith

On roll call the vote was as follows:

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

RESOLUTION NO. (905-1990)

AWARDING BID FOR BID #65-A-1990 - TOWN HALL ALTERATIONS AND RENOVATIONS - HVAC (TROJAN REFRIGERATION, INC.) - CHARGE TO CAPITAL FUND ACCOUNT H-1690-409 AND H-1680-409

Co. Maloney offered the following resolution:

RESOLVED, based upon the recommendations of Edward J. Ghiazza, Administrative Director, Building Department; Lawrence Kohler, Director of Purchasing and Bertram J. Cross, Architect, P.C., that

BID #65-A-1990
TOWN HALL ALTERATIONS AND RENOVATIONS - HVAC

is hereby awarded as follows:

HVAC - TROJAN REFRIGERATION, INC.
57 South Main Street
Pearl River, N.Y. 10965
PRINCIPALS: Everett Trojan, Sr.,
Marion Trojan
Joseph Longo

at a total of \$24,900.00, and be it

FURTHER RESOLVED, that the Administrative Director, Building Department is hereby authorized to execute any necessary change orders on behalf of the Town of Clarkstown, based upon the recommendation of Bertram J. Cross, Architect, P.C. for all contracts on Town Hall alteration and renovations not to exceed \$180,000.00 be allocated against Capital Fund Account H-1690-409 and H-1680-409.

Seconded by Councilwoman Smith

On roll call the vote was as follows:

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

RESOLUTION NO. (906-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #74-1990 - TRUCKS FOR HIGHWAY DEPARTMENT

Co. Maloney offered the following resolution:

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

BID #74-1990
TRUCKS FOR HIGHWAY DEPARTMENT

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, October 31, 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.

RESOLUTION NO. (906-1990) Continued

Seconded by Co. Smith

On roll call the vote was as follows:

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

RESOLUTION NO. (907-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #2-1991 -
CUSTODIAL/JANITORIAL
SUPPLIES

Co. Maloney offered the following resolution:

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

BID #2-1990
CUSTODIAL/JANITORIAL 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 Thursday,
November 1, 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. Smith

On roll call the vote was as follows:

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

RESOLUTION NO. (908-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #75-1990 -
WING PLOWS

Co. Maloney offered the following resolution:

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

BID #75-1990
WING PLOWS

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,
November 2, 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. Smith

RESOLUTION NO. (908-1990) Continued

On roll call the vote was as follows:

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

RESOLUTION NO. (909-1990)

ACCEPTING DEED FOR ROAD
WIDENING PURPOSES ALONG
GREENBUSH ROAD, WEST NYACK,
NEW YORK (CARSALON)

Co. Maloney offered the following resolution:

WHEREAS, as a condition to the approval of the final map with regard to a site known as CARSALON, the Planning Board of the Town of Clarkstown requested a deed for road widening purposes along Greenbush Road, West Nyack, New York;

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Director of the Department of Environmental Control of the Town of Clarkstown, deed dated August 9, 1990, from Carsalon, Inc. to the Town of Clarkstown gratuitously conveying a strip of land along Greenbush Road, West Nyack, New York, is hereby accepted and ordered recorded in the Rockland County Clerk's Office.

Seconded by Co. Smith

On roll call the vote was as follows:

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

RESOLUTION NO. (910-1990)

GRANTING AUTHORIZATION TO
SUPERVISOR TO FILE
APPLICATION FOR COUNTY
RECYCLING FUNDS

Co. Maloney offered the following resolution:

WHEREAS, the County of Rockland has established a Recycling Incentive Program and a Recycling Program Policy for the County of Rockland (Resolution N:o. 85 of 1988),

NOW, THEREFORE, be it

RESOLVED, by the Town Board of the Town of Clarkstown that the Town of Clarkstown be a participant in the program, and be it

FURTHER RESOLVED, authorization is hereby granted to file the Application for the County Recycling Funds and Supervisor, Charles E. Holbrook, is hereby authorized to sign same.

Seconded by Co. Smith

On roll call the vote was as follows:

Continued on Next Page

RESOLUTION NO. (910-1990) Continued

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

RESOLUTION NO. (911-1990)

ACCEPTING RESIGNATION OF
MOTOR EQUIPMENT OPERATOR I
- TOWN HIGHWAY DEPARTMENT
(ANTHONY PAGLIUCA)

Co. Maloney offered the following resolution:

RESOLVED, that the resignation of Anthony Pagliuca, 111 College Road, Suffern, New York - Motor Equipment Operator I - Town Highway Department - is hereby accepted - effective and retroactive to September 25, 1990.

Seconded by Co. Smith

On roll call the vote was as follows:

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

RESOLUTION NO. (912-1990)

ACCEPTING RESIGNATION OF
SENIOR GROUNDWORKER -
PARKS BOARD AND RECREATION
DEPARTMENT (WILLIAM STEVENS)

Co. Maloney offered the following resolution:

RESOLVED, that the resignation of William Stevens, 295 Maple Road, Valley Cottage, New York - Senior Groundworker - Parks Board and Recreation Department - is hereby accepted - effective and retroactive to October 5, 1990.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (913-1990)

ACCEPTING RESIGNATION (BY
RETIREMENT) OF POLICE
OFFICER - POLICE DEPARTMENT
(GERALD FLEMING)

Co. Maloney offered the following resolution:

RESOLVED, that the resignation (by retirement) of Gerald Fleming, 39 Franklin Drive, Stony Point, New York - Police Officer - Police Department - is hereby accepted - effective and retroactive to September 29, 1990.

Seconded by Co. Kunis

Continued on Next Page

RESOLUTION NO. (913-1990) Continued

On roll call the vote was as follows:

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

RESOLUTION NO. (914-1990)

ACCEPTING RESIGNATION (BY
RETIREMENT) OF POLICE
OFFICER - POLICE DEPARTMENT
(WARREN J. LAWRENCE)

Co. Maloney offered the following resolution:

RESOLVED, that the resignation (by retirement) of
Warren J. Lawrence, 69 New Valley Road, New City, New York - Police
Officer - Police Department - is hereby accepted - effective and
retroactive to October 5, 1990.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (915-1990)

ACCEPTING RESIGNATION OF
POLICE OFFICER - POLICE
DEPARTMENT (THOMAS
MCKIERNAN)

Co. Maloney offered the following resolution:

RESOLVED, that the resignation of Thomas McKiernan, 26
Jeffrey Court, West Nyack, New York - Police Officer - Police
Department - is hereby accepted - effective and retroactive to
September 22, 1990.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (916-1990)

RECOGNIZING APPOINTMENT BY
POLICE COMMISSION OF
(SUBSTITUTE) CROSSING GUARD
- POLICE DEPARTMENT (EILEEN
E. PEYTON)

Co. Maloney offered the following resolution:

RESOLVED, that the Town Board hereby recognizes the
appointment by the Police Commission of Eileen E. Peyton, 15 Avon
Lane, New City, New York, to the position of (Substitute) Crossing
Guard - Police Department - at the rate of \$8.59 per crossing

RESOLUTION NO. (916-1990) Continued

covered - effective and retroactive to September 24, 1990.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (917-1990)

RECOGNIZING APPOINTMENT BY
POLICE COMMISSION TO THE
POSITION OF CLERK TYPIST -
POLICE DEPARTMENT (MARGARET
M. RASCOLL)

Co. Maloney offered the following resolution:

WHEREAS, the Rockland County Personnel Office has
furnished Certification of Eligibles #90086 Clerk Typist which
contains the name of Margaret M. Rascoll,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby recognizes the
appointment by the Police Commission of Margaret M. Rascoll, 7
Ludvigh Road, Nanuet, New York, to the position of Clerk Typist -
Police Department - at the current 1990 annual salary of \$17,894.00,
effective and retroactive to October 5, 1990.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

RESOLUTION NO. (918-1990)

APPOINTING TO POSITION OF
MEMBER - FIRE BOARD OF
APPEALS (TO FILL UNEXPIRED
TERM OF JOSEPH SORCE)
(ROBERT JOHNSON)

Co. Maloney offered the following resolution:

RESOLVED, that the Robert Johnson, 689 Cottage Lane,
Valley Cottage, New York, is hereby appointed to the position of
Member - Fire Board of Appeals - (to fill the unexpired term of
Joseph Sorce) - to serve without compensation - effective October
10, 1990 and to expire on February 27, 1992.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing re: Petition to Modify Restrictive Covenants - Map 129, Block A, Lot 5.02 (DePaulis) was opened, time: 8:25 P.M.

On motion of Councilman Maloney, seconded by Councilman Kunis and unanimously adopted, the Public Hearing re: Petition to Modify Restrictive Covenants - Map 129, Block A, Lot 5.02 (DePaulis) was closed, RESOLUTION ADOPTED ADJOURNING TO NOVEMBER 13, 1990, time: 8:40 P.M.

RESOLUTION NO. (919-1990)

ADJOURNING PUBLIC HEARING
RE: MODIFICATION OF
RESTRICTIVE COVENANTS (MAP
129, BLOCK A, LOT 5.02) -
DePAULIS TO NOVEMBER 13,
1990

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on September 11, 1990, provided for a public hearing on October 9, 1990, at 8:00 P.M., to consider Modification of Restrictive Covenants with regard to the change of zone for property owned by Giuseppe DePaulis. The property which is the subject of the application is located on the west side of Route 9W and east side of Route 303, Congers, in the Town of Clarkstown, and designated on the Clarkstown Tax Map as Map 129, Block A, Lot 5.02, and

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

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby adjourns the public hearing to November 13, 1990 at 8:00 P.M.

Seconded by Co. Kunis

On roll call the vote was as follows:

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

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted the Public Hearing re: Local Law No. 5-1990 - Repealing Homebuyers Protection Law, was opened, time: 8:40 P.M.

On motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted the Public Hearing re: Local Law No. 5-1990 - Repealing Homebuyers Protection Law, was closed, RESOLUTION ADOPTED, time: 8:50 P.M.

RESOLUTION NO. (920-1990)

ADOPTING LOCAL LAW NO.
5-1990 - REPEALING
HOMEBUYERS PROTECTION LAW

Co. Smith offered the following resolution:

WHEREAS, a proposed local law entitled:

"REPEAL OF LOCAL LAW NO. 3-1967, DEALING WITH PROTECTION OF CONTRACT DEPOSITS MADE BY BUYERS OF NEW HOMES"

RESOLUTION NO. (920-1990) Continued

was introduced by Councilwoman Smith at a Town Board meeting held on September 11, 1990, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 11th day of September, 1990, directed that a public hearing be held on the 9th day of October, 1990, at 8:05 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on September 24, 1990, and

WHEREAS, a copy of the proposed local law in final form was placed on the desks of the Supervisor and the Councilmen at their office at the Clarkstown Town Hall, 10 Maple Avenue, New City, New York, on August 24, 1990, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on October 9, 1990;

NOW, THEREFORE, be it

RESOLVED, that Local Law No. 5 -1990, entitled:

"REPEAL OF LOCAL LAW NO. 3-1967, DEALING WITH PROTECTION OF CONTRACT DEPOSITS MADE BY BUYERS OF NEW HOMES"

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

Charles E. Holbrook, Supervisor.....	Yes
Steven C. Kunis, Councilman.....	Yes
John R. Maloney, Councilman.....	Yes
Ann M. Smith, Councilwoman.....	Yes

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

Seconded by Co. Kunis

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Deposits for New Homes was opened, time: 8:40 P.M.

On motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted, the Public Hearing re: Deposits for New Homes was closed, RESOLUTION ADOPTED, time: 8:50 P.M.

RESOLUTION NO. (921-1990)

ADOPTING LOCAL LAW NO.
6-1990 - DEPOSITS ON
CONSTRUCTION OF NEW HOMES

Co. Smith offered the following resolution:

WHEREAS, a proposed local law entitled:

"DEPOSITS ON CONSTRUCTION OF NEW HOMES"

was introduced by Councilwoman Smith at a Town Board meeting held on September 11, 1990, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 11th day of September, 1990, directed that a public hearing be held on the 9th day of October, 1990, at 8:10 P.M., and

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RESOLUTION NO. (921-1990) Continued

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on September 24, 1990, and

WHEREAS, a copy of the proposed local law in final form was placed on the desks of the Supervisor and the Councilmen at their office at the Clarkstown Town Hall, 10 Maple Avenue, New City, New York, on August 24, 1990, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on October 9, 1990;

NOW, THEREFORE, be it

RESOLVED, that Local Law No. 6-1990, entitled:

"DEPOSITS ON CONSTRUCTION OF NEW HOMES"

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

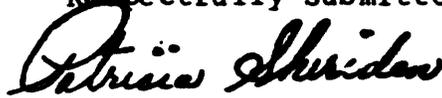
Charles E. Holbrook, Supervisor.....	Yes
Steven C. Kunis, Councilman.....	Yes
John R. Maloney, Councilman.....	Yes
Ann M. Smith, Councilwoman.....	Yes

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

Seconded by Co. Kunis

There being no one further wishing to be heard and no further business to come before the Town Board, on motion of Councilwoman Smith and seconded by Councilman Maloney and unanimously adopted, the Town Board Meeting was declared closed, time: 8:51 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

307

Town Hall

10/9/90

8:25 P.M.

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

RE: PETITION TO MODIFY RESTRICTIVE COVENANTS - MAP 129, BLOCK A,
LOT 5.02 - DePAULIS

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

Town Attorney stated that the SEAR had not been completed; therefore, rather than close this hearing it should be adjourned to another date. Town Attorney stated that the County Planning Board approved:

"(1) A comprehensive analysis of the Route 9W area be done prior to granting the relief from the restrictive covenant to determine what types of uses are preferred along this growing area of Route 9w. This same condition was placed on a previous application for a zone change from LO to MF-2 in the immediate area for Mountain Shadows, Inc. (Joseph Mitlof, applicant) and decided by the Rockland County Planning Commissioner on November 13, 1989."

Town Attorney went on to state that the Clarkstown Planning Board will meet on October 10, 1990 so we have no report from them on this matter as yet. The SEQR will not be completed until approximately October 22, 1990.

Supervisor called upon the applicant or his representative to make a presentation.

Appearance: Henry Horowitz, Esq.
55 Virginia Avenue
West Nyack, New York 10994

Mr. Horowitz said this property was the subject of a zone change in 1985. The parcel of property is owned by Mr. DePaulis and is contiguous to his present operation. It runs from Route 9W to Route 303. It involves a little over four acres. At the time the zoning was LO the requested zone change was from LO to LS and the Board did see fit in 1985 to grant the zone change to LS subject to certain conditions. The condition that this Board placed at that time was that the property be restricted in use to that for offices and for retail sales.

Mr. Horowitz said in connection with the retail sales the Board further restricted the specific retail sales to primarily building materials: hardware, home appliances, energy and solar energy devices, firewood and bagged coal. He said in all fairness the Board put those restrictions on because he believed that at the time the applicant made the restrict for the zone change he believed he (the applicant) had indicated that he wanted to continue a similar business to what he had next door. The business that he has next door did include these particular retail uses although they are somewhat restricted.

Mr. Horowitz added that in 1988 the applicant went before the Planning Board and obtained a subdivision. He received two lots - one on Route 9W and the other on Route 303. The lot on Route 9W is a little under one acre and is the one we are concerned about. The covenant modification we are looking for is really just for this one lot which is somewhat under one acre. The covenant would still run for the balance of the property which the Board saw

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fit and this request is not being made to change it so the covenants as enacted would still be the same for the balance of the three acres.

Mr. Horowitz said after receiving the subdivision, the applicant processed the site plan approval, obtained site plan approval, commenced construction and, in fact, is presently constructing a 9,000 square foot building. The concrete has been poured and the steel is in place. Because of the changes in the entire economy, etc. between 1985 and the present, the applicant is requesting that he be allowed to put in a restaurant of approximately 1,200 square feet.

Mr. Horowitz noted that in his letter to the Supervisor requesting the change he had used the terminology of a limited menu restaurant. The reason for that term was that he just wanted to indicate to the Board that this is not going to be a diner with a large menu. He said the zone does allow restaurants and "limited menu" is merely a generic term. The LS zone does permit restaurants by right. The only definition in the zoning ordinance which exists is relative as to whether it is a restaurant for fast food or what they call the standard restaurant. He stated that he has not been able to determine what this restaurant is. He cannot determine what any restaurant would be based on the definitions in our code. He said that was really immaterial. The restaurant is permitted. The only issue we would have is how much parking would be needed but that is not an issue right now. That will be an item for the Building Inspector to interpret.

Mr. Horowitz left copies of the ordinance which refers to "Restaurant, Fast-Food" and "Restaurant, Standard". He asked if anyone in their wisdom could indicate what the definition of a fast food or a standard is, he would appreciate knowing that. Town Attorney asked Mr. Horowitz if he was aware that the way this was published was for a "limited menu restaurant?" Mr. Horowitz said he was aware of that. Mr. Horowitz said we could have asked for a "fine" restaurant or a "large" restaurant. It really has no bearing whether it is a limited menu or what have you. This just happens to be what he thinks of as a "limited menu restaurant." It is a restaurant which is permitted in the LS zone.

Mr. Horowitz said the reason they are confining its space to 1,200 square feet is that with a 1,200 square foot restaurant the balance of the 9,000 square feet could be used for retail sales and we would comply with the full parking requirements. That is based on one space for 100 square feet. He asked why would the Board even consider a restaurant? He said the reason it has come up is because of the proximity of the MRC complex, the proximity of the Brenner Drive complex, the impending AVNET building which the Board is aware of, as well as the development of some 100,000 square feet in the 66 acre Goldkirch Project. The restaurant owner is anticipating a fairly large amount of people who would be available there so far as lunches are concerned.

Mr. Horowitz said the closest eating place to this particular site is Bully Boy. Whether or not these people will go to Bully Boy at lunchtime is a question. Certainly having that kind of restaurant in that area will not hurt. The restaurant itself will be serving pizza and other Italian dishes. The hours of operation are anticipated to be from 10:00 a.m. to 10:00 p.m. He said he imagined there would be a heavy take-out period from about 10:30 to about 1:30 and then in the evening there would be a sit down. They do anticipate having seating in there for about 50. This has been checked out with the Building Department.

Mr. Horowitz said he understood that the Board cannot make a decision tonight because of the SEQR. He stated that he

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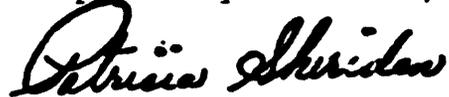
had received a letter from Mr. Geneslaw requesting certain information. He got the letter several days ago and he will forward that information to him. What he is looking for is the percentage of take-out, sit-down, how many spaces we anticipate will be required, seating capacity, etc. He said he would furnish that information to him. He said as far as the Planning Board is concerned they will be meeting on this tomorrow evening so the Board has no recommendation from them. The Town Board, therefore, cannot render a decision this evening.

Councilman Kunis questioned the size of the restaurant stating that he felt it was not possible to fit 50 seats and a kitchen and two bathrooms in that space. Mr. Horowitz said that has been checked out with the Building Department and he could have a capacity for 50. Councilman Kunis again questioned how he could fit that much into a 1,200 square foot area. Mr. Horowitz said he did not know how the requirements of space would work inside as that was a job for the Building and Fire Inspectors but that it would conform to the parking requirements.

Supervisor asked if anyone present wished to ask a question or make a comment. No one appeared.

There being no one wishing to be heard on motion of Councilman Maloney, seconded by Councilman Kunis and unanimously adopted, the public hearing was adjourned to November 13, 1990.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

311

Town Hall

10/9/90

8:40 P.M.

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

RE: LOCAL LAW NO. 5 - 1990 - REPEALING HOMEBUYERS PROTECTION LAW

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.

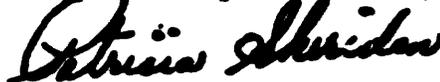
Town Attorney said basically we have had for many years a local law having to do with deposits on the construction of new homes to safeguard that. We are talking about one and two family dwellings. However, he stated, that we have realized recently that the only effective sanction was to revoke the building permit. Based on an enabling statute we have redone the homebuyers protection statute regarding the deposits on construction of new homes and so are repealing Local Law No. 3-1967, Dealing with Protection of Contract Deposits Made by Buyers of New Homes.

Supervisor asked if the Board members had any questions. No one did.

Supervisor asked if anyone from the public had any questions or wished to make a comment. No one did.

There being no one wishing to be heard, on motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted, the Public Hearing was declared closed, RESOLUTION ADOPTED, time: 8:50 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

10/9/90

8:40 P.M.

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

RE: LOCAL LAW NO. 6 - 1990 - DEPOSITS FOR NEW HOMES

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 based on an enabling statute we have redone the homebuyers protection statute regarding the deposits on construction of new homes. It applies to one and two family residences and the sanctions now include revocation of building permit. The violation of the local law is a misdemeanor and this has tightened up the enforcement practices.

The options by the builder are (a) he can post the money as an escrow with his attorney, (b) he can furnish a bond and in that regard he would like the Board to consider adding "bond or letter of credit" because from our viewpoint it is much preferable to have a letter of credit. You don't have to go against the bonding company. You've got the cash right there. What this does is that when a person puts their money up to purchase a new home - this is new construction we are talking about - not resales - it may either be under construction or a vacant lot or a completed house - but that money is safeguarded. This is the amount posted prior to any construction being commenced or if it has already been commenced - the 10%.

Supervisor asked if there was a percentage or just what the amount is? Town Attorney said it is the entire amount before construction is commenced. This is right out of the state statute which is Article 37, Section 779 of the General Business Law. Supervisor said then essentially we now can prosecute the violations here in the Town as opposed to relying on the District Attorney's office to prosecute. Town Attorney said that was correct. We found that the District Attorney's office could only prosecute for filing false statements. Whereas, here, a violation of this would be a misdemeanor. What has characteristically happened is if a person is building on spec he would file an affidavit in which he says that in case he does get a buyer that he would hold their money in relation to the terms of this local law. If he already has a purchaser he states that fact in the affidavit and agrees to hold the money in escrow or furnish a bond whereas he (the Town Attorney) is suggesting he furnish a letter of credit.

Town Attorney said he would like the Board to consider that change before the adoption. Supervisor asked if that would have to be republished. Town Attorney said no. Supervisor said then we will add that to the resolution. Town Attorney noted that we will change to read "or letter of credit." Town Attorney said if it is the pleasure of the Board to approve it that way then the final version would include that. Supervisor said then we can prosecute this under our local law. Town Attorney replied in the affirmative. He explained that we had amended the penalties and brought it into line with the State Enabling Statute which the old one was not.

Supervisor asked if the Board members had any questions. No one did.

Supervisor asked if anyone from the public had any questions or wished to make a comment. No one did.

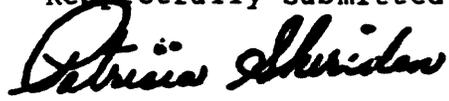
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PH -Re: Local Law No. 5 - 1990 - Repealing Homebuyers
Protection Law

10/9/90

There being no one wishing to be heard, on motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted, the Public Hearing was declared closed, RESOLUTION ADOPTED, time: 8:50 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk