

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

5/28/96

8:00 P.M.

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

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

RESOLUTION NO. (486-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that the Town Board Minutes of May 14, 1996 are hereby accepted as submitted by the Town Clerk.

On roll call the vote was as follows:

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

RESOLUTION NO. (487-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that the part of Resolution No. 426 which refers to the allocation by the Town Board of \$5,000.00 to Camp Venture to provide services for the residents of the Town of Clarkstown, be rescinded.

On roll call the vote was as follows:

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

RESOLUTION NO. (488-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, Michael Stempel, owner of property known as Map 126, Block C, Lot 12.7, has paid taxes in excess of the necessary amount for the road improvement project on Lenox Avenue, Congers, New York, because the road frontage of his property was incorrectly stated as 125 linear feet instead of 105 linear feet;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Town Comptroller to refund the amount of \$720.70 to Mr. Stempel, for overpayment of taxes, and be it

FURTHER RESOLVED, that the Town records shall reflect the road frontage for this property as 105 linear feet, and taxes shall be paid accordingly.

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RESOLUTION NO. (488-1996) Continued

On roll call the vote was as follows:

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

RESOLUTION NO. (489-1996)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that based upon the recommendation of the Traffic and Traffic Fire Safety Advisory Board, the Superintendent of Highways is hereby authorized to install:

A Double arrow sign (see Sec. 232.7 per MUTCD) on the north side of Old Mill Rd., directly across from Snake Hill Rd., West Nyack.

Also, reflectors be installed on the guide rail on Old Mill Rd. at the reservoir, directly across from Snake Hill Rd. (install the reflectors between the guide rail and the chain link fence.)

and be it

FURTHER RESOLVED, that the Town Clerk be directed to forward copies of this resolution to the Superintendent of Highways, John Mauro, for implementation.

On roll call the vote was as follows:

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

RESOLUTION NO. (490-1996)

Co. Maloney offered and Co. Profenna seconded

WHEREAS, Councilman Maloney, a member of the Town Board of the Town of Clarkstown, has introduced a proposed local law entitled,

"AMENDMENT TO CHAPTER 205 (NOISE) OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN"

NOW, THEREFORE, be it

RESOLVED, that a public hearing pursuant to Section 20 of the Municipal Home Rule Law, be had at the Auditorium of the Town Hall, 10 Maple Avenue, New City, New York, on June 11, 1996, at 8:25 P.M., or as soon thereafter as possible, relative to such proposed local law, and be it

FURTHER RESOLVED, that notice of the time, place and purpose of such hearing shall be published in the newspaper of general circulation and posted in the manner provided by law, and be it

RESOLUTION NO. (490-1996) Continued

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

On roll call the vote was as follows:

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

RESOLUTION NO. (491-1996)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement extending the contract between the Town of Clarkstown and Arthur Conklin, whereby Arthur Conklin agrees to provide services to the Building Department on an advisory and consultative basis, consistent with the terms of said contract, for the period from May 14, 1996 to November 13, 1996,

and be it

FURTHER RESOLVED, that this Resolution is hereby made retroactive to May 13, 1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (492-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, Section 18(b) of the Transportation Law provides for the appropriation of funds for the operation of bus transportation systems, and

WHEREAS, pursuant to Section 119-r of the General Municipal Law and Local Law No. 9-1974, the County of Rockland is authorized to contract for mass transportation services to be rendered to the people of the County of Rockland by a municipality for a fair and reasonable consideration;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown hereby authorizes the Supervisor to enter into an agreement with the County of Rockland, for the period April 1, 1996 to March 31, 1997, in a form satisfactory to the Town Attorney, to provide for the operation of public transportation routes within the Town of Clarkstown, and be it

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RESOLUTION NO. (492-1996) Continued

FURTHER RESOLVED, that this resolution is retroactive to April 1, 1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (493-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, the Town and Velzy/Weston (now known as Roy F. Weston of New York, Inc.) entered into an agreement dated August 21, 1989 and four subsequent amendments, to provide engineering consultant services, including planning, design and construction management services relating to the Clarkstown Sanitary Landfill and other services, and

WHEREAS, it is necessary to expand the scope of services set forth in the agreement and amendments;

NOW, THEREFORE, be it

RESOLVED, that that the Town Board hereby authorizes the Supervisor to enter into an agreement with ROY F. WESTON OF NEW YORK, in a form satisfactory to the Town Attorney, to provide for expanded engineering consultant services concerning remediation of the Clarkstown Sanitary Landfill.

On roll call the vote was as follows:

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

RESOLUTION NO. (494-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, the Town and Velzy/Weston (now known as Roy F. Weston of New York, Inc.) entered into an agreement dated August 21, 1989 and subsequent amendments, to provide engineering consultant services, including planning, design and construction management services relating to the Clarkstown Sanitary Landfill and other services, and

WHEREAS, it is necessary to expand the scope of services set forth in the agreement and amendments to now include professional services associated with the Hackensack River Natural Area Improvement Project;

NOW, THEREFORE, be it

RESOLVED, that that the Town Board hereby authorizes the Supervisor to enter into an agreement with ROY F. WESTON OF NEW YORK, in a form satisfactory to the Town

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RESOLUTION NO. (494-1996) Continued

Attorney, to provide for expanded engineering consultant services concerning the Hackensack River Natural Area Improvement Project.

On roll call the vote was as follows:

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

RESOLUTION NO. (495-1996)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with Phoenix Systems & Analysis, Inc., in a form acceptable to the Town Attorney, for computer consulting and technical services on an hourly basis, and be it

FURTHER RESOLVED, that said agreement shall commence on July 1, 1996, and shall expire on December 31, 1997, at the following hourly rates for:

August Stritmater, Jr. \$65.00 per hour

and for

Technicians: \$20.00 per hour

On roll call the vote was as follows:

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

RESOLUTION NO. (496-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, PYRAMID CONSTRUCTION COMPANY AND 17 SQUADRON ASSOCIATES v. THE ASSESSOR, THE BOARD OF ASSESSORS AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF CLARKSTOWN AND THE TOWN OF CLARKSTOWN, Index No(s). 3907/93, 3579/94 and 3650/95, affecting parcel(s) designated as Map 59, Block A, Lot 20.35 for the year(s) 1993/94, 1994/95 and 1995/96 , and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice and without costs, on the following terms and conditions:

1. That the premises owned by the petitioner(s) described on the assessment roll as Map 59, Block A, Lot 20.35 be reduced for the year(s) 1994/95 from \$1,863,300 to \$1,474,990;

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RESOLUTION NO. (496-1996) Continued

2. That the premises owned by the petitioner(s) described on the assessment roll as Map 59, Block A, Lot 20.35 be reduced for the year(s) 1995/96 from \$1,863,300 to \$1,282,600;

3. That the proceeding(s) commenced by the petitioner(s) respecting Map 59, Block A, Lot 20.35 be discontinued for the year(s) 1993/94;

4. That reimbursement for the year(s) 1994/95 and 1995/96 on the parcel described as Map 59, Block A, Lot 20.35 be made within 90 days through the Office of the Commissioner of Finance. If payment is made within 90 days, no interest will be charged; and

5. That all municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement.

WHEREAS, it appears to be in the best interest of the Town to settle such matter upon the terms and conditions aforesaid; and such settlement is recommended by the Assessor of the Town of Clarkstown, and the attorney for the Clarkstown Central School District has consented to such settlement.

NOW, THEREFORE, be it

RESOLVED, that the settlement of the aforesaid action is authorized upon the terms and conditions herein stated; and the Town Attorney is authorized to sign all documents necessary to effectuate such settlement.

On roll call the vote was as follows:

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

RESOLUTION NO. (497-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, KARAMANIS (FASA PARTNERS - REEF), Index No(s). 3977/95, affecting parcel(s) designated as Map 106, Block A, Lot 8.1, for the year(s) 1995/96, and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice and without costs, on the following terms and conditions:

1. That the premises owned by the petitioner(s) described on the assessment roll as Map 106, Block A, Lot 8.1 be reduced for the year(s) 1995/96 from \$519,400 to \$454,500;

2. That reimbursement for the year(s) 1995/96 on the parcel described as Map 106, Block A, Lot 8.1 be made within 60 days through the Office of the Commissioner of Finance. If payment is made within 60 days, no interest will be charged; and

RESOLUTION NO. (497-1996) Continued

3. That all municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement.

WHEREAS, it appears to be in the best interest of the Town to settle such matter upon the terms and conditions aforesaid; and such settlement is recommended by the Assessor of the Town of Clarkstown.

NOW, THEREFORE, be it

RESOLVED, that the settlement of the aforesaid action is authorized upon the terms and conditions herein stated; and the Town Attorney is authorized to sign all documents necessary to effectuate such settlement.

On roll call the vote was as follows:

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

RESOLUTION NO. (498-1996)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, a resident of the Town of Clarkstown has requested that street lighting be installed to improve the safety and welfare of the community, and

WHEREAS, a survey of the surrounding property owners directly affected by this proposed lighting was conducted by Patricia A. Betz, Utility Services Coordinator, and

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown hereby accepts a proposal from Orange and Rockland Utilities, Inc. for street lighting at the following location:

Carriage Lane, New City

Install one (1) 5800 lumen sodium vapor street light - existing utility pole number 58877/41472)

On roll call the vote was as follows:

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

RESOLUTION NO. (499-1996)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that based upon the recommendations of the Director of the Department of Environmental Control, the

Continued on Next Page

RESOLUTION NO. (499-1996) Continued

Town Board of the Town of Clarkstown hereby accepts proposal from Orange and Rockland Utilities, Inc., for street lighting at the following location:

Cottage Court
Valley Cottage, New York

On roll call the vote was as follows:

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

RESOLUTION NO. (500-1996)

Co. Maloney offered and Co. Profenna seconded

RESOLVED, that based upon the recommendation of the Director of Purchasing, that

BID #33-1996
CAST IRON CURB INLETS, CATCH BASINS, FRAMES & GRATES

is hereby awarded to

Campbell Foundry Co.
800 Bergen St.
Harrison, NJ 07029
Principals:
J. Robert Campbell, Jr.
John Campbell
Leigh V. Maynard

Expanded Supply Products, Inc.
RD 1, Box 93, Rt. 9
Cold Spring, NY 10516
Principals: Bruce Kehr
Donna Kehr

Andrews Metal Products, Inc.
745 Andrews Ave.
Youngstown, OH 44505
Principals: Charles J. Ramsey, William M. Thomas, Jr.
John H. Storey, Alfred J. Fleming, Edward J. Butcher

(Price schedule on file in Town Clerk's Office)

On roll call the vote was as follows:

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

RESOLUTION NO. (501-1996)

Co. Maloney offered and Co. Profenna seconded

RESOLVED, that based upon the recommendation of the Clerk of the Works and the Director of Purchasing that

BID #38-1996
SKID STEER LOADER

is hereby awarded to

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RESOLUTION NO. (501-1996) Continued

NORTH JERSEY BOBCAT INC.
53 Midland Avenue
Elmwood Park, NJ 07407
Principals: Vincent Ryan
Robert Woods

as per their low bid proposal of \$19,290.00.

On roll call the vote was as follows:

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

RESOLUTION NO. (502-1996)

Co. Maloney offered and Co. Mandia seconded

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

BID #43-1996
UNIFORMS FOR CLARKSTOWN AUXILIARY POLICE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 AM on June 24, 1996 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.

On roll call the vote was as follows:

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

RESOLUTION NO. (503-1996)

Co. Maloney offered and Co. Mandia seconded

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., Michael Peterson, 570 West Nyack Road, West Nyack, New York - Groundworker - Parks Board and Recreation - is hereby granted a Sick Leave of Absence - at one-half pay - effective and retroactive to May 20, 1996 to June 20, 1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (504-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that Resolution No. 467, adopted at the May 14, 1996 Town Board Meeting, appointing Robert Barucco to the position of Custodial Worker (Nights) is hereby amended to reflect a change in the starting date to May 24, 1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (505-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that the resignation (by retirement) of George Trumper, 14 Saddle Lane, New City, New York - Assistant Building Inspector - Building Department - is hereby accepted - with regret - effective and retroactive to May 23, 1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (506-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that the resignation (by retirement) of Ippolito Pellicano, 233 South Broadway, South Nyack, New York, Custodial Worker - Maintenance Department - is hereby accepted - effective and retroactive to May 19, 1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (507-1996)

Co. Maloney offered and Co. Profenna seconded

RESOLVED, that the Director of the Department of Environmental Control is hereby authorized to retain the services of Landmark Fence Company, 42 Green Road, West Nyack, New York 10994, to perform the following work: repair the damaged fence in the area of 66 South Rockland Avenue, Congers, New York for a sum not to exceed \$250.00 and shall be a proper charge of Account # A-8730-409; and be it

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RESOLUTION NO. (507-1996) Continued

FURTHER RESOLVED, that the sum of \$250.00 be transferred from contingency account to A-8730-409.

On roll call the vote was as follows:

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

RESOLUTION NO. (508-1996)

Co. Maloney offered and Co. Profenna seconded

RESOLVED, that the Director of Environmental Control of the Town of Clarkstown be and he hereby is authorized to retain the services of a private contractor to perform the following work:

Remove debris from the low flow channel, dredge channel to have free flow. Remove all vegetation from both sides of channel. Work to be done on the channel is located in the vicinity of Scandia Road, Congers; at a sum not to exceed \$700.00

On roll call the vote was as follows:

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

RESOLUTION NO. (509-1996)

Co. Maloney offered and Co. Profenna seconded

RESOLVED, that the Director of Environmental Control of the Town of Clarkstown be and he hereby is authorized to retain the services of a private contractor to perform the following work:

Clean up and remove all debris from Prospect Commuter Parking Lots; edge and weed all garden beds; trim and prune all shrubs; remove all dead growth from plantings; apply weed control to all garden beds. This work will be done as a weekly maintenance from June 1, 1996 until December 1, 1996 for this area; at a sum not to exceed \$4,375.00.

On roll call the vote was as follows:

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

RESOLUTION NO. (510-1996)

Co. Maloney offered and Co. Smith seconded

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, 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 §290-11A, General Use Regulations, Table 15A, PED District, Column 2, Item 1 by adding Item (o) as follows:

"1. (o) Retail uses in single buildings of not less than 20,000 square feet provided that any multi use contained therein is not less than 10,000 square feet per use."

and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEORA), 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.

On roll call the vote was as follows:

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

RESOLUTION NO. (511-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that the Town Board hereby authorizes the Superintendent of Highways to install a traffic sign at 372 New Hempstead Road, New City, New York, to read "Do Not Block Driveway."

On roll call the vote was as follows:

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

RESOLUTION NO. (512-1996)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that based upon the recommendation of the

Continued on Next Page

RESOLUTION NO. (512-1996) Continued

Traffic and Traffic Fire Safety Advisory Board, the Superintendent of Highways is hereby authorized to install:

A STOP SIGN on Green Avenue at Old Lake Road, Valley Cottage, N.Y., and be it

FURTHER RESOLVED, that the Town Clerk be directed to forward copies of this resolution to the Superintendent of Highways, John Mauro, for implementation.

On roll call the vote was as follows:

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

RESOLUTION NO. (513-1996)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that the Town Board hereby authorizes Pat Nazarro Disposal, Inc. to pick up debris from property located on the opposite side 15 Forest Glen Road, Valley Cottage, New York.

On roll call the vote was as follows:

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

RESOLUTION NO. (514-1996)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, the following has applied for a Certificate of Registration pursuant to Section 236-48 of the Code of the Town of Clarkstown:

JOHN M. DELIGNY, JR.
d/b/a DELIGNY EXCAVATING
107 Hudson View Terrace
Highland Falls, New York 10928

RESOLVED, that the following Certificate of Registration be issued:

No. 96-22 Deligny Excavating

On roll call the vote was as follows:

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

RESOLUTION NO. (515-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, by Resolution No. 444-1996, The Town of Clarkstown authorized the release of a Performance Bond for \$150,000 furnished to the Town by Joy Builders, Inc. in connection with the Long Meadow West Subdivision, upon receipt of an Owner's Performance Bond, together with security in a form acceptable to the Town Attorney, in the amount of \$100,000, and

WHEREAS, Joy Builders, Inc. has also furnished to the Town of Clarkstown a Performance Bond for \$28,500 in the form of an irrevocable Letter of Credit (No. 95-07061), to cover the improvements and other facilities as shown on the Final Plat of Long Meadow West Section VI, dated May 18, 1995, along with a Performance Bond for \$110,000 in the form of an irrevocable Letter of Credit (No. 1282), to cover the improvements and other facilities as shown on the Final Plat of Long Meadow West Sections III, V and VI, dated April 4, 1977 and revised through July 8, 1980, as well as a Performance Bond for \$20,000 in the form of an irrevocable Letter of Credit (No. 1281) to cover the improvements and other facilities as shown on the Final Plat of Long Meadow West Section IV B, dated April 14, 1977 and revised through April 3, 1985;

NOW, THEREFORE, be it

RESOLVED, that upon receipt of the aforesaid Owner's Performance Bond in the amount of \$100,000, Letters of Credit Nos. 95-07061, 1282 and 1281 may also be released to the developer, and be it

FURTHER RESOLVED, that this resolution supersedes Resolution No. 444-1996.

On roll call the vote was as follows:

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

RESOLUTION NO. (516-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that upon the recommendation of the Director of the Department of Environmental Control of the Town of Clarkstown, Performance Bond No. L01168, dated October 25, 1993, in the sum of \$338,000.00, in a subdivision known as Windham Park, is hereby terminated and may be released to the guarantor.

On roll call the vote was as follows:

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

RESOLUTION NO. (517-1996)

Co. Maloney offered and Co. Profenna seconded

RESOLVED, to increase Appropriation Account A-7610-301 (Program for the Aging - Food) by \$538.00 and to increase Revenue Account 01-002001 (Park and Recreation Charges) by \$538.00

On roll call the vote was as follows:

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

RESOLUTION NO. (518-1996)

Co. Maloney offered and Co. Profenna seconded

WHEREAS, additional plantings are required on the Ridge Road portion of the Amory Drive Drainage Project - Phase I; and

WHEREAS, the Department of Environmental Control has obtained a proposal for said additional planting; and

WHEREAS, the Department of Environmental Control has received said proposal and found it to be acceptable;

NOW, THEREFORE, be it

RESOLVED, that the Director of the Department of Environmental Control be authorized to retain the services of Coral Acres Nursery, Inc., 189 Strawtown Road, New City, New York 10956 to install said additional plantings as per their proposal for an amount not to exceed \$800.00; and be it

FURTHER RESOLVED, that this amount be a proper charge to account # H 8735-409-0-123.

On roll call the vote was as follows:

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

RESOLUTION NO. (519-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Town Board has previously awarded a contract to Hudson Canyon Construction, Inc. for the Amory Drive Drainage Project - Phase I; and

WHEREAS, existing field conditions and other factors necessitated the performance of additional work not contained in the original contract documents; and

WHEREAS, prices for this additional work were submitted by Hudson Canyon Construction, Inc. and approved by the Department of Environmental Control;

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RESOLUTION NO. (519-1996) Continued

NOW, THEREFORE, be it

RESOLVED, that payment for this additional work in the amount of \$5,298.35 be made to Hudson Canyon Construction, Inc.; and be it

FURTHER RESOLVED, that this amount be a proper charge to account # H 8735-409-0-123.

On roll call the vote was as follows:

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

RESOLUTION NO. (520-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Letchworth DDSO has requested use of the Town of Clarkstown showmobile on Wednesday, June 5, 1996 from 8:00 am to 4:00 pm at Letchworth - Hill Field, New York,

NOW, THEREFORE, be it

RESOLVED, that permission is hereby granted to the Letchweorth DDSO to use the Town of Clarkstown showmobile on Wednesday, June 5, 1996 from 8:00 am to 4:00 pm for the above purpose and subject to the provision of the necessary insurance policies.

On roll call the vote was as follows:

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

RESOLUTION NO. (521-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the plans for the Congers Lake Plaza site show the construction of a sidewalk on S.H. Route 303, Congers, New York, in the Town of Clarkstown, pursuant to Section 10, subdivision 22, Section 46, or Section 349-C of the Highway Law, as part of the development of this site, more particularly designated on the Clarkstown Tax Map as Map 126, Block A, Lots 20, portion of 21, 21.1, 21.2, 21.3, 22, 23 and 24;

NOW, THEREFORE, be it

RESOLVED, that the Town of Clarkstown approved the construction of sidewalks as shown on the plans relating to the Congers Lake Plaza project, and that the Town of Clarkstown will maintain or cause to be maintained the sidewalks, as above stated and shown on the plans, including the control of snow, ice and trimming of brush for safe passage, and be it

Continued on Next Page

RESOLUTION NO. (521-1996) Continued

FURTHER RESOLVED, that the Town Clerk of the Town of Clarkstown is hereby directed to transmit certified copies of the foregoing resolution to the State Department of Transportation.

On roll call the vote was as follows:

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

RESOLUTION NO. (522-1996)

Co. Smith offered and Co. Mandia seconded

WHEREAS, the organization of the Big Brothers/Big Sisters of Rockland County, Inc. is producing a journal to raise funds for its organization, and

WHEREAS, the Town Board of the Town of Clarkstown wishes to support this endeavor by placing an advertisement in the journal;

NOW, THEREFORE, be it

RESOLVED, that the Town Board is hereby authorizes the expenditure of \$150.00 to cover the cost of a full page advertisement in the Big Brothers/Big Sisters "Cruise Journal," and be it

FURTHER RESOLVED, that the fee for such advertising shall not exceed the sum of \$150.00, which shall be charged to Account No. A-6410-405.

On roll call the vote was as follows:

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

RESOLUTION NO. (523-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby authorizes the Superintendent of Highways to provide a road opening permit for Saxon Lane, West Nyack, New York, for the purpose of installing a water line and fire hydrant.

On roll call the vote was as follows:

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

RESOLUTION NO. (524-1996)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, Atzl, Scatassa & Zigler, Land Surveyors, on behalf of the contract purchaser Windham Development Corp., have made application for use of Town Law Section 278 in connection with the Windham Park II Subdivision, and

WHEREAS, the Planning Board of the Town of Clarkstown has recommended approval of the use of Town Law Section 278 in connection with this subdivision because the layout is a superior layout, and

WHEREAS, the Town Board of the Town of Clarkstown finds that it would be a benefit to the Town of Clarkstown if Town Law Section 278 authorization is granted for the development of the property shown on such proposed density layout map entitled, "Subdivision of Property for Windham Park-II, Town of Clarkstown, Rockland County, New York," dated August 4, 1995, last revised on May 14, 1996, prepared by Atzl, Scatassa & Zigler, P.C., Surveyors and Planners;

NOW, THEREFORE, be it

RESOLVED, that the Planning Board of the Town of Clarkstown is hereby authorized to use Town Law Section 278 for the proposed subdivision of Windham Park II described above, subject to the applicant complying with all rules, regulations and requirements of law, and requirements of the Clarkstown Planning Board and not inconsistent with the plan depicted on aforesaid proposed subdivision map.

On roll call the vote was as follows:

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

RESOLUTION NO. (525-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, Councilman Maloney, a member of the Town Board of the Town of Clarkstown, has introduced a proposed local law entitled,

"AMENDMENT TO CHAPTER 246 (SITE PLAN REVIEW)
OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN"

NOW, THEREFORE, be it

RESOLVED, that a public hearing pursuant to Section 20 of the Municipal Home Rule Law, be had at the Auditorium of the Town Hall, 10 Maple Avenue, New City, New York, on June 25, 1996, at 8:05 P.M., or as soon thereafter as possible, relative to such proposed local law, and be it

FURTHER RESOLVED, that the Town Attorney of the Town of Clarkstown prepare notice of such statutory hearing and that the Town Clerk cause the same to be published in the newspaper of general circulation and posted in the manner provided by law and file proof thereof in the Office of the said Clerk, and be it

RESOLUTION NO. (525-1996) Continued

FURTHER RESOLVED, that the proposed local law amending Chapter 246 of the Town Code of the Town of Clarkstown be referred to the Clarkstown Planning Board and the Rockland County Commissioner of Planning for their recommendation and report, 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.

On roll call the vote was as follows:

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

RESOLUTION NO. (526-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, JOY BUILDERS, INC. 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 R-40 and R-80 Districts to an R-22 District, and

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 23, Block A, Lots 4 and 5;

NOW, THEREFORE, be it

RESOLVED, that the petition is hereby referred to the Clarkstown Planning Board for report pursuant to Section 290-33(A) 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.

On roll call the vote was as follows:

Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Abstained

RESOLUTION NO. (527-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, ISRAEL HERSKOWITZ, JOSEPH HERSKOWITZ, and ELIEZER HERSKOWITZ have 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-80 District to an R-40 District, and

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 22, Block A, Lot 31;

NOW, THEREFORE, be it

RESOLVED, that the petition is hereby referred to the Clarkstown Planning Board for report pursuant to Section 290-33(A) 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 (SEORA), 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 SEORA review.

On roll call the vote was as follows:

Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Abstained

RESOLUTION NO. (528-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that the Supervisor is hereby authorized to enter into a lease agreement with the Private Industry Council of Rockland County, Inc., in a form approved by the Town Attorney, for rental of the vacant space in the former Clarkstown Police and Courts facility located at 10 Maple Avenue, New City, New York, for a one-year period commencing July 1, 1996, at a fee of \$16.00 a square foot, and be it

FURTHER RESOLVED, that said lease shall be renewable annually with the final lease expiring no later than June 30, 2001, with the rent adjusted upon each renewal to reflect any increase in the New York Metro area cost of living (COLA).

On roll call the vote was as follows:

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

RESOLUTION NO. (529-1996)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that the Town Board of the Town of Clarkstown hereby authorizes extension of the drainage system along Lexow Avenue, Nanuet, in accordance with the proposal submitted by Travcon, Inc., dated May 21, 1996.

FURTHER RESOLVED, that this extension is a joint venture between the Town of Clarkstown and the builder of the Katz & Patel Subdivision, Nanuet, as recommended by K. Luke Kalarickal, Director of Environmental Control, and be it.

FURTHER RESOLVED, that the fee for such services be for the amount of \$5,925.00 and be charged to Account # DB-5110-378.

On roll call the vote was as follows:

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

RESOLUTION NO. (530-1996)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, a proposed local law entitled:
"INTERIM DEVELOPMENT LAW CONCERNING THE PLACEMENT OR SITUS OF SIGNAL TOWERS PURSUANT TO THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 IN THE TOWN OF CLARKSTOWN"

was introduced by Councilman Maloney at a Town Board meeting held on May 28, 1996, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on April 23, 1996, directed that a public hearing be held on May 28, 1996, at 8:00 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on May 13, 1995, 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 April 19, 1996, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on May 28, 1996;

WHEREAS, the Town Board of the Town of Clarkstown has received a Short Environmental Assessment Form pursuant to SEQRA, from its consultant Robert Geneslaw, which the Board has discussed and considered such report in making their decision herein;

NOW, THEREFORE, be it

RESOLVED, that based upon the report of Robert Geneslaw, acting as staff to the Town Board as lead agency, the Town Board hereby determines that the change of zone shall not

RESOLUTION NO. (530-1996) Continued

have any significant impact on the environment and no further processing pursuant to the State Environmental Quality Review Act (SEQRA) is required, and be it

NOW, THEREFORE, be it

RESOLVED, that based upon the memorandum of Robert Geneslaw dated April 29, 1996, acting as staff to the Town Board as lead agency, the Town Board hereby determines that this is a Type II action and there will be no significant impact on the environment and no further processing pursuant to the State Environmental Quality Review Act (SEQRA) is required, and be it

FURTHER RESOLVED, that Local Law No. 8 - 1996,
entitled:

"INTERIM DEVELOPMENT LAW CONCERNING THE PLACEMENT OR SITUS OF SIGNAL TOWERS PURSUANT TO THE FEDERAL TELECOMMUNICATIONS ACT OF 1996 IN THE TOWN OF CLARKSTOWN"

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:

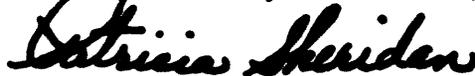
Charles E. Holbrook, Supervisor.....Yes
John R. Maloney, Councilman.....Yes
Ralph F. Mandia, Councilman.....Yes
Ann Marie Smith, Councilwoman.....Yes
Theodore R. Dusanenko, Councilman...Yes

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

The Town Board adjourned the meeting in memory of Michael Fauci of Bardonia who lost his life in the Italian Alps.

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 closed, time: 9:07 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

**TOWN OF CLARKSTOWN
PUBLIC HEARING**

Town Hall

5/28/96

8:10 P.M.

Present: Supervisor Holbrook
Council Members Maloney, Mandia, Profenna & Smith
Murray N. Jacobsen, Town Attorney
Patricia Sheridan, Town Clerk

Re: Interim Development Law Concerning the Placement or Situs of Signal Towers Pursuant to the Federal Telecommunications Act of 1996 in the Town of Clarkstown

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

Murray N. Jacobsen, Town Attorney: County Planning approved on 5/8; Town Planning Board approved 5/22; no SEQA required, type II action.

Supervisor Holbrook said this Public Hearing is being held at the behest of the Planning Board. There have been discussions with representatives, with people in the field. We are not looking to prevent the erection of towers but want to have better control over the siting of them. The Town Code is, in some respects, somewhat ambiguous on the issue and the Planning Board wants time to come up with a cogent policy for processing applications. This is not, in our view, adversarial but is done merely to bring order out of a situation which the Town Code does not do a good job of addressing. We would like to open it up to the public.

Appearance: Ira M. Emanuel, Esq., representing ATT Wireless Services.

ATT Wireless is one of three authorized cellular telephone service providers in the Town and, as such, is directly impacted by the proposed moratorium. We are distressed by the way in which this has come to pass. We have had an application for a cell site pending since January. It was only when we filed our formal application on May 17th that we learned of this proposal, and then only by an off-hand remark by Mrs. Schwartz.

The proposed moratorium law is based on the federal Telecommunications Act of 1996. The Act changes the landscape of the telecommunications field in general, and of cellular communications in particular. It impacts what municipalities can and cannot do. It also impacts what cellular providers can and cannot do. The advent of the Act should spur a reexamination of local controls. Some people argue that a lack of proper zoning controls has the effect of banning wireless communications, something that the Act prohibits. So, your zoning should be reviewed. But such a reexamination cannot be done in a vacuum or without the input of those affected. We recognize that issues must be examined but we do not believe a blanket moratorium for an arbitrary period of time is necessary for such an examination. The proposal before you covers every type of cellular installation and is too broad in scope. It adds delays which may not be necessary. It may even endanger lives or property by stopping the extension of cellular service to remote areas of the town where land lines are not available.

ATT Wireless wants to work with the Town to improve its zoning code and to that end we have already submitted copies of zoning provisions from nearby municipalities which address cell site placement. We want to help draw

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Re: Interim Development Law Concerning the Placement or Situs of Signal Towers Pursuant to the Federal Telecommunications Act of 1996 in the Town of Clarkstown

reasonable controls for Clarkstown that both we and the Town can live with. ATT will make its technical expertise available to the Town. This offer has only one condition: that you avail yourselves of our expertise and not try to impose a zoning code in a state of ignorance. Rudy Yacyshyn is a respected leader in the Rockland County Planning Federation. The Federation is the perfect forum to create a model zoning provision for all of the County's zoning jurisdictions. We would be pleased to work with the Federation. Let us not forget that it is the citizens of Clarkstown who will be affected by this moratorium. Please do not enact this moratorium law in its present form.

Appearance: Leslie J. Snider, Esq., representing Bell Atlantic NYNEX Mobile, Inc.

Bell Atlantic presently has pending before the Planning Board of the Town a site plan application for a public utility facility in property known as Laurel Manor located at 156 W. Clarkstown Road.

Bell Atlantic is opposed to the moratorium. First, the proposed law would prohibit Bell Atlantic from continuing to process its site plan application for Laurel Manor. This application was submitted on February 28th. The committee requested certain revisions which we addressed on April 17th. Now that a public hearing is tentatively scheduled for June, a six month moratorium is imposed. Prohibiting Bell Atlantic from further processing its application at this point is clearly inequitable and interferes with Bell Atlantic's FCC mandate to provide reliable cellular service. Second, to address the siting of public utility facilities, the Town already has in place site plan and special permit requirements and has, in fact, used such facilities throughout the Town. The new Federal Telecommunications Act requires no additional regulation of such facilities to be enacted, and further recommends each application be viewed on a case by case basis. In the event the Town is enacting this moratorium to streamline its process for these public utility facilities as the planner has indicated, The Town may do so without enacting a moratorium and thwarting the processing of Bell Atlantic's application. Indeed, a six month review is, in any event, excessive. Third, and most importantly, there is clearly a community need for Bell Atlantic's public utility facility at the Laurel Manor site. The New City Fire Engine Company No. 1 has voiced its need for cellular communication and its need to co-locate on the proposed tower in order to eliminate dead spots that the Fire Company now incurs for its communication system. As the Court of Appeals noted in *Cellular One v. Rosenberg*, 82 NY2d 264 (1993), cellular service is so essential to the public interest that the siting of cellular facilities must be accorded certain privileges in land use matters. Furthermore, in light of the Federal Telecommunications Act, more specifically Section 704 (B), a moratorium which does not permit the processing of Bell Atlantic's application will be deemed a prohibited ban under the law.

It is respectfully requested that the Town reconsider its enactment of the Interim Development Law and at a minimum, clarify the law to ensure it does not apply to Bell Atlantic's filed application. By so clarifying the law, the Town will indeed be enacting an Interim Development Law, one which allows the Town to modify its regulations if necessary without violating Bell Atlantic's rights and requiring it to seek remedies in another forum. I would like to submit to the Town Clerk for your formal record a copy of my letter to the Supervisor and the members of the Board and a letter from the Fire Department.

Re: Interim Development Law Concerning the Placement or Situs of Signal Towers Pursuant to the Federal Telecommunications Act of 1996 in the Town of Clarkstown

Councilwoman Smith: Realizing you may not be able to fully commit, I would like to think that your company, Bell Atlantic, would make an offer similar to ATT, as to offering your expertise to the Town.

Ms. Synder said they certainly would. They have done that with other communities provided they could effectively process their application. The one thing that the attorney for ATT Wireless noted is that this has been sprung on us. We've been working with the Town, complying with their requests. Now they suddenly say stop for six months. It's just a very long time period. We'd be more than happy to supply our staff and all our expertise to streamline future applications.

Councilwoman Smith said this has been on our agenda for about a month because some of us are not comfortable with actually going through with a moratorium and this is being offered for the first time tonight. My personal opinion is that it's reason enough to hold off and see what we can do on a reasonable basis without invoking a moratorium.

Councilman Mandia: one of the concerns the Planning Board had was that changing technology could wind up leaving us with abandoned equipment around the Town. That is obviously a concern. However, I also believe that what the Planning Board wanted was to gain some breathing room to research what we should be doing with the assistance of the companies that work with the equipment. I would recommend to the Board that we do not go forward with a moratorium at this point but that Rudy be given a chance to work with these people. We do want to continue the service. I can appreciate the problem of the airways getting crowded. I think we should seek a solution without stopping the process.

Supervisor Holbrook asked if anyone else wished to speak.

Appearance: Morton Leifer, Professor at RCC, Chairperson of Electrical Technology Department, residing in New City; serves as communication specialist for the Town of Clarkstown.

I would like to strongly recommend that the moratorium be put into effect for the following reasons: the cellular industry operating in Clarkstown has never presented the Town with a definitive plan of what constitutes minimum mandated coverage. The Town of Clarkstown has no knowledge of really what it is involved with in producing an equivalent of a land line communications system using cellular. The cellular industry has approached the Town on an individual basis requesting special permitting so that they can install their equipment. This is an open ended process. If indeed the new construction is to provide not basic minimum mandated coverage but extended capacity in order to accommodate the large number of users in our Town, then the number of requests of our Town will increase without limit. One merely has to look at any of the tall buildings in the Town of Clarkstown to see that there are many, many installed cellular sites already in existence and operating. The installed base of cellular communications is not just the number of towers that you have already permitted but all of the tall buildings in Clarkstown which have already been pretty much saturated. Now we have a proposal in front of the Planning Board which represents an installation of a commercial enterprise on residential property. One of the concerns I have is that if a commercial enterprise and construction of a 120 foot tower and the radiation of cellular on a 24 hour basis is approved by this Town Board, what criteria would the Town Board have to deny any future requests that will come for other

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Re: Interim Development Law Concerning the Placement or Situs of Signal Towers Pursuant to the Federal Telecommunications Act of 1996 in the Town of Clarkstown

residential areas. It will require that the Town basically stand aside and let an industry take over the Town. I'm concerned about the proliferation of 125 foot towers in my backyard and in the backyards of other people in residential areas. The second concern I have is based on the fact that these are transmitting towers. When the tower at Seeger Drive was installed I made some actual signal strength measurements as the result of the operation at that site and what I'm saying is not simulated data I extracted from my computer or extrapolated data from graphical analysis, but actual measured radiation, and I can tell you that the radiation within 1/4 mile of that tower is in excess of a thousand times the baseline radiation that exists if that tower weren't there; so the people working in that neighborhood are being exposed to at least 1000 times the radiation. I had the opportunity of going to the Bennigan building today to measure the radiation on the fifth floor - to Granik's office - I asked permission to make some measurements up there and I found that the radiation level in Granik's office is between 100,000 and 1 million times greater than the base level if that tower was not there. There is information regarding what ionizing radiation is and what ionization is not and that is low level and has no adverse effect. But I would like to say there are thousands of reports that indicate that low level radiation does have physiological effects. There was a recent report that cellular in particular effects the pacemakers in the heart and we have before us a proposal to build a site on a nursing home backyard where the people who reside in that home will be subject to this high level of radiation without any benefit for the risks they endure. It seems to me the Town has to stand back and look at these issues. In speaking to the Building Department, I was told the Town had no oversight whatsoever in the construction of Bennigans. No requests or special permits given. There is a good deal of cellular radiation occurring and if an industry came to a neighborhood and increased the dust, noise or any pollution by a million times, there would be a great todo but just because radiation cannot be seen or felt, it is nevertheless real. And no one in this room can say definitively that having a million times more radiation in your neighborhood, place of business or nursing home is something Town of Clarkstown should not consider and deliberate. I don't see that six months or any amount of time is a difficult issue to endure considering what's at stake.

Supervisor Holbrook asked if anyone else wished to speak.

Appearance: Leslie Snyder, Esq.

If I can just inform the board about a few of Mr. Leifer's comments. With respect to the plan, at least of Bell Atlantic NYNEX Mobile, that was actually one of the first things that the technical advisory committee asked us - to show a grid of our other sites and how we would cover Clarkstown. Let me make it clear, we are covering dead spots, places we have no coverage. We are not covering areas for excess capacity. That would be more applicable in a place like NYC where you have a dense amount of users. It would not be applicable to Clarkstown. With respect to the radiation issue, this application, the one at Laurel Manor -- there was a report done by Bell Laboratories. The report was sent by the Town to the Department of Health and I quote "to the design of these systems, their low power, and their elevation, no one is likely to be exposed to any level of radio frequency in excess of a very small fraction of the guidelines for exposure to the general public." Additionally, the Telecommunications Act made it very clear that the environmental effects of the radio frequency of these facilities was not in the purview of state or local governments but was to be governed by the FCC and as long as you complied with the FCC guidelines, that was the requirement of the government. Towns have examined the health issue. There have been court cases, etc., and all of them have concluded that there is not a scintilla of evidence that these facilities have any impact on health. I want to state that clearly for the

Re: Interim Development Law Concerning the Placement or Situs of Signal Towers Pursuant to the Federal Telecommunications Act of 1996 in the Town of Clarkstown

record - there is no health impact of these facilities. It has been studied and there is a report done by the Village of Tarrytown which concluded that multiple cell sites have very little impact and a baby monitor two feet from a baby's head had more power than these cell sites. They are very, very low power.

Councilman Maloney: I propose a 3 month moratorium before we do anything else, to allow the Planning Board to study this further.

Councilman Mandia: I prefer to have Rudy here and my first inclination is to delay a decision. On the other hand, I don't know if three months is going to make any difference in the business climate of getting the service to the people. I could go along with that but I have a procedural question. If the public hearing was published for the specific purpose of a 6 month moratorium, I ask the Town Attorney, can we just reduce the amount of time without scheduling another public hearing?

Murray Jacobsen: Yes, we can.

Councilman Mandia: In that case, I second.

Councilwoman Smith: I want to make a comment. I do not have a problem with going along with a 3 month moratorium, as long as during that time the offers to assist the Town are real and there's quite a lot of discussion between our consultant and the companies involved and any other future companies who may think they'll be coming into the Town of Clarkstown. I think what's very important is to state realities and not to conjure up fears. I don't think we should put everybody into a state of panic, that we're receiving radiation that isn't there. I also think it's important in this day and age of economy and the advance of technology, that we see a real working relationship between companies and municipalities. I will go along with the three months but during that time, I expect more than a moratorium. I expect a lot of communication.

There being no one else wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Mandia, and unanimously adopted, the public hearing was declared closed, RESOLUTION ADOPTED, time: 8:35 P.M.

Respectfully submitted,


PATRICIA SHERIDAN
Town Clerk

(RESOLUTION NO. [530-1996] ADOPTED)

**TOWN OF CLARKSTOWN
PUBLIC HEARING**

Town Hall

5/28/96

8:40 P.M.

Present: Supervisor Holbrook
Council Members Maloney, Mandia, Profenna & Smith
Murray N. Jacobsen, Town Attorney
Patricia Sheridan, Town Clerk

Re: Amendment to Chapter 250 (Streets and Sidewalks) of the Town Code of the Town of Clarkstown

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

Murray N. Jacobsen, Town Attorney: County Planning approved; Town Planning wants the permits and fees; no SEQA required, type II action.

Supervisor Holbrook said this is an attempt to make an amendment we can agree upon. That's why we're here. We've had some discussion with the utilities but I think what we must do here is agree upon something that makes sense.

Supervisor Holbrook asked if anyone wished to speak on this matter.

Appearance: John Mauro, Superintendent of Highways, Nanuet, NY

With regard to the first amendment you have, notwithstanding the foregoing, a permit shall not be required for any excavation, cut or breaking solely behind the curb but within a public right-of-way or easement. The problem we have with this particular amendment would be that the Town would not know where an excavation is taking place and we would not know who made the excavation. If an injury was sustained at that location, we would not know who to go after in regards to liability. The Town would be named in any action that takes place with regard to sustaining an injury. I think we need to protect the Town's interest and keep the provisions as they are and not change them.

Supervisor Holbrook asked what those provisions are now.

Mr. Mauro said anytime an opening is made within the Town's right-of-way, (if you take the definition of Town's right-of-way as being from property line to property line, owned by the Town) that portion of Town's right-of-way is controlled under section 136 of the Highway Law. Any opening made within that right-of-way requires a permit by state law.

Supervisor Holbrook inquired what we charge for that permit.

Mr. Mauro said that comes into the second portion. I think we have to address that particular issue before we go further. We must have control and we have to require a permit so we know who is opening any of the grounds within a right-of-way. If it's not properly restored to its original condition, we are liable for any injuries sustained there. Regarding the permit fee, the charge is for any excavation less than 100 feet in length shall be \$50, any excavation in excess of 100 feet in length shall be \$100. Excavation associated with a single continuous project shall be concerned with excavation. For purposes of this section, unless the Town has agreed to an alternative building arrangement, the applicable permit fee shall accompany each application and shall be nonrefundable.

Re: Amendment to Chapter 250 (Streets and Sidewalks) of the Town Code of the Town of Clarkstown

Supervisor Holbrook: For the sake of argument, Orange and Rockland is replacing a gas main on Jockey Hollow Road and there are 13 hookups so they go into the street and put the pipe in at the same time -- what would the permit fee be for that 13 hookup replacement?

Mr. Mauro: That would be \$100 for the initial line permit fee and another permit fee for each of those openings. What happens is, they come in to do a main replacement they'll put in the main line and come back at a later date, and we may not know they're there if they don't notify us, and they'll make those 13 openings and make those connections.

Supervisor Holbrook asked if they put the main in and hook people up at the same time, is it still \$100 and a \$50 fee? This is part of the controversy.

Mr. Mauro: There you have a variable which is not spelled out in the Town Code itself. It does mention that for each opening there should be a separate permit.

Supervisor Holbrook: It would seem to me that if they put the line in and hook everybody up at the same time that's one permit. If they come back 3 weeks later and dig 13 separate holes after the road's been restored, that's another problem. So, in order to encourage them to do line and hook ups all at once, that would be one fee and if they came back they would have to pay individual fees.

Mr. Mauro: I think we could accomplish that by instituting the inspection fees. If you want one set fee for an opening, they can run 5000 feet of line for \$100. I think that's ludicrous. It's costing the Town money to send the inspectors out there all the time to check on what they're doing. Often we call many times for them to come back to do a proper restoration. We are constantly at loggerheads with them and often with the water company.

Councilman Mandia: Are you saying if it's a 5 foot opening or a 5000 foot opening, it's still one hole, one fee?

Mr. Mauro: That's the way it had been and if you read this - this is saying they can go 5000 feet for a \$100 permit.

Councilman Mandia: That's what has to change. On the other hand, when we're talking about a line and 13 holes as the example used, a \$100 basic fee, 13 holes at \$750 and come back two weeks later if they can't hook up homeowners on same day, that another \$750 must be paid, and the homeowner will end up paying for that one way or the other. We can do better than that.

Mr. Mauro: You could use other methods. You could charge a \$10 permit fee, so much per foot. I think that's reasonable and I think that should be addressed by the Board and possibly change the Code to read as such. We must take into consideration that Orange & Rockland Utilities and United Water Co. both have placed a letter of credit with the Town in the amount of \$50,000 which reduces this fee amount. If we're going to implement the changes written here, does that \$50 now become \$25 and the \$100 go back to \$50? That's not clear here. Unless the Town has agreed to an alternative billing arrangement.

Councilwoman Smith: We charge for a permit, but even though we have an inspection fee in place we never charge for that?

Re: Amendment to Chapter 250 (Streets and Sidewalks) of the Town Code of the Town of Clarkstown

Mr. Mauro: We have not charged for that.

Councilwoman Smith: You do not have a problem with multiple hook ups for a reduced rate?

Mr. Mauro: No, I do not.

Councilwoman Smith: Maybe we can go back to the drawing board on this because we can't shortchange ourselves if they're going to open for 3000 feet for \$100. If it's not possible when they open the first main to hook up all 13, but if they come back within a limited time, you offer them a multiple reduced rate. Because for the people it's easier for them not to have that construction going on for weeks.

Supervisor Holbrook: Also, we want Orange & Rockland and United Water to replace the mains that need to be replaced.

Councilman Mandia: I think it's in the people's best interests to continue the inspection but maybe change the fee schedule.

Mr. Mauro: We must take into consideration that this does not only apply to Orange and Rockland Utilities but to other utilities as well that have their facilities behind the curb line. The greatest part of TKR's electrical work is buried behind the curb and if we're going to allow them to come in and rip and tear at their pleasure we're going to have serious problems.

Councilwoman Smith: We can't afford to do that economically or esthetically because the roads are in bad enough shape.

Mr. Mauro: As of now, I do not have enough inspectors to go around and handle what we have. I would like to yield to Howard Lampert because I have asked him to investigate this further.

Appearance: Howard Lampert, Traffic & Highway Engineering Consultant for the Town of Clarkstown; Traffic & Highway Consultant for other municipalities

Mr. Mauro asked me to give my insights into how other municipalities have dealt with this. I have written a report which I believe you have and I am impressed by this discussion and insights I've heard from council because you've hit the nail on the head in this area. We need a charge that is not excessive, such as, if there 13 hook ups in one or two days we should have one inspection. We should not be charging 13 inspection fees. By the same token, the 5000 foot conduit is going to take a lot more than one inspection and will cost the Town a lot of money. I believe what is most appropriate is a reasonable permit fee to take care of processing, perhaps \$25, and then an inspection fee. This has two advantages: one, it encourages the contractor to do the work properly the first time so that if the account has to come back to correct work, the contractor has to do what he should have done in the beginning but has an additional permit fee to pay. The second part is that we want these connections to be done as quickly as possible and with one or two inspections. Yet, if we're charging 13 inspection fees what's the incentive for any utility to go faster. I think the best solution takes into account actual cost to the Town for the initial permit fee and then a fee per inspection and, as John Mauro pointed out, if we get more inspection fees in we can hire more people.

Re: Amendment to Chapter 250 (Streets and Sidewalks) of the Town Code of the Town of Clarkstown

Supervisor Holbrook: Let's say you go with \$25 to take out an application and turn it into the Town and go out and do the work. What are you recommending for the fees to come out and perform the inspection?

Mr. Lampert: I haven't analyzed the specific costs in detail.

Supervisor Holbrook: If there's a \$25 fee for an application, then we have to figure out a scale for what it would be for the inspection but I think the point you make which I've tuned into is the one where you want the utility to have the incentive to do it properly the first time and have it move along rather than charging \$50 for 13 holes, and they could take forever to do it. Maybe we can ask you to come up with a reasonable sliding scale which we can implement and tie it into actual costs so that the incentive is to get the work done right the first time. This is a salient point.

Mr. Lampert: Absolutely. I do want to deal with the first part. I believe it's absolutely necessary for the Town to continue to collect a permit fee for work outside the roadway but within the roadway right-of-way outside the pavement area. We must keep control. If we don't charge a permit fee, we're losing control. We won't know when or where they're being done. If the work is not backfilled properly and starts to cave and additional fill is necessary, we do not know who is responsible.

Supervisor Holbrook: I would like to charge that you come up with something we can enact with the idea of giving utilities the incentive of doing it right the first time and as quickly as possible.

Councilman Mandia: We're checking the fact that who ever has opened up has closed it properly. We don't inspect their work?

Mr. Mauro: We do not inspect their work with regard to structures. We inspect that they do a proper restoration of the trench itself to as near original condition if not better.

Supervisor Holbrook: We need to have Howard come up with structure or hold a public hearing to implement or just a resolution.

Councilwoman Smith: If we close this with a motion to establish a fee structure, is that good enough?

Mr. Mauro: We have a provision for the inspection fee.

Supervisor Holbrook: Howard draft something as quickly as possible so we can implement it by the end of June.

There being no one else wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Mandia, and unanimously adopted, the public hearing was adjourned sine die to June 11, 1996: time 9:00 P.M.

Respectfully submitted,

Patricia Sheridan
PATRICIA SHERIDAN
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

5/28/96

9:00 P.M.

Present: Supervisor Holbrook
Council Members Maloney, Mandia, Profenna & Smith
Murray N. Jacobsen, Town Attorney
Patricia Sheridan, Town Clerk

Re: Property Maintenance of Jodi-Lynn Washomatic, Inc., Lady
Godiva Way and Long Meadow Lane

On motion of Councilman Mandia, seconded by Councilwoman Smith and
unanimously adopted, the public hearing was declared open.

Supervisor Holbrook asked Luke Kalarickal the status of the retention basin of
Jodi-Lynn in Long Meadow. Besides the junk and debris, one of the concerns was
the restoration of the retention basis.

Luke K. Kalarickal, Director of Environmental Control will let the Town Board
know.

There being no one else wishing to be heard, on motion of Councilman
Maloney, seconded by Councilman Mandia, and unanimously adopted, the public
hearing was adjourned sine die to June 11, 1996: time 9:02 P.M.

Respectfully submitted,


PATRICIA SHERIDAN
Town Clerk

**TOWN OF CLARKSTOWN
PUBLIC HEARING**

Town Hall

5/28/96

9:03 P.M.

Present: Supervisor Holbrook
Council Members Maloney, Mandia, Profenna & Smith
Murray N. Jacobsen, Town Attorney
Patricia Sheridan, Town Clerk

Re: Violation Hearing -- Property Maintenance of 29-31
Old Middletown Road, Nanuet (Sappah)

On motion of Councilman Mandia, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared open.

Appearance: Adolph Milich, Jr., Building Inspector

Mr. Milich gave the following report: As per your request, an inspection of the above mentioned property was made on Monday, May 20, 1996 by Irene Saccende, Code Enforcement Officer and myself and the following conditions must be complied with in order to rectify the existing violation:

- 1) All illegal tenants that are using the premises for outdoor storage of equipment and construction supplies must be removed from the premises.
- 2) Remove all storage and equipment within the required 25 ft. buffer area along all property lines.
- 3) Remove unlicensed vehicles, disabled equipment not being repaired and all equipment parts that are in no condition to be used for immediate repairs.
- 4) Designate a separate screened-in area on the property for any useable repair parts that cannot be stored in an enclosed storage trailer.
- 5) Repair or install adequate screening on the perimeter of the property in accordance with the Town Zoning Code.

Appearance: Joseph Churgin, Esq. representing Sappah

My firm was retained today. We were advised he had received violations and the area had been cleaned up.

Supervisor Holbrook: Basically, there are 5 points in Mr. Milich's report. We want to bring this to closure and I am glad he has hired an attorney to do this. We must have a schedule of compliance drawn up - a reasonable schedule for compliance. A schedule we can live with rather than us hauling the stuff out and putting a lien on the property. If you can come up with a timetable, that's what we're looking for. Dolph has outlined 5 specific items that need to be addressed to bring this property into compliance. If you work with our attorneys to consent to comply, the Town and your client, then we know we're making progress.

It's a monumental task but a long journey starts with the first step. Let's have an agreement for ratification at our next meeting, We will not put this on the agenda but we'll look for an agreement for ratification at our next meeting -- something we can ratify and establish a Consent Order relative to this violation.

PH - 5/28/96

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Re: Violation Hearing - Property Maintenance of 29-31 Old Middletown Rd.,
Nanuet (Sappah)

There being no one else wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Mandia, and unanimously adopted, the public hearing was adjourned sine die to June 11, 1996: time 9:07 P.M.

Respectfully submitted,

Patricia Sheridan
PATRICIA SHERIDAN
Town Clerk