TOWN OF CLARKSTOWN
Town Board Meeting

Town Hall 12/31/96 12:01 PM

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

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

On motion of Councilwoman Smith , seconded by Councilman Maloney and unanimously adopted, the public hearing re: Local Law, "Wireless Communication Facilities" was opened, time: 12:02 P.M.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing re: Local Law, "Wireless Communication Facilities" was closed, RESOLUTION ADOPTED, time: 1:20 P.M.

On motion of Councilwoman Smith , seconded by Councilman Mandia and unanimously adopted, the public hearing re: Local Law, "Amendment to Chapter 143 (Fire Prevention) of the Town Code of the Town of Clarkstown" was opened, time: 1:25 P.M.

On motion of Councilman Mandia, seconded by Councilwoman Smith and unanimously adopted, the public hearing re: Local Law, "Amendment to Chapter 143 (Fire Prevention) of the Town Code of the Town of Clarkstown" was closed, RESOLUTION ADOPTED, time: 1:27 P.M.

On motion of Councilman Mandia, seconded by Councilwoman Smith and unanimously adopted, the public hearing re: Local Law, "Amendment to Chapter 278 (Vehicles and Traffic) of the Town Code of the Town of Clarkstown" was opened, time: 1:28 P.M.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing re: Local Law, "Amendment to Chapter 278 (Vehicles and Traffic) of the Town Code of the Town of Clarkstown" was closed, RESOLUTION ADOPTED, time: 1:29 P.M.

Supervisor opened the public portion of the meeting.

Appearance: George Remelt
New City

Mr. Remelt spoke re: Item 9, review of blasting code.

Appearance: Lynn Nelson
New City

Ms. Nelson ask questions re: Item 9, review of blasting code.

Appearance: George Bolter, Environmental Manager for the NY Trap Rock Corporation, Valley Cottage

Mr. Bolter asked re: Item 9, review of blasting code to be apprised of any modifications of the Town Code.

Appearance: Shirley Lasker, Pres. of Rockland County Civic Association
West Nyack

Ms. Lasker spoke re: Toxicity at the Pyramid site.

RESOLUTION NO. (1115-1996)

Co. Smith offered and Co. Mandia seconded

WHEREAS, a proposed local law entitled:
"WIRELESS COMMUNICATION FACILITIES"

was introduced by Councilwoman Smith at a Town Board meeting held on December 10, 1996, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on December 10, 1996, directed that a public hearing be held on December 31, 1996, at 12:00 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on December 20, 1996, 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 December 17, 1996, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on December 31, 1996, and,

WHEREAS, the Town Board of the Town of Clarkstown has received a Short Environmental Assessment Form pursuant to SEQRA, from our consultant Robert Geneslaw, dated December 23, 1996, 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 local law shall not 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

FURTHER RESOLVED, that Local Law No. 17 - 1996, entitled:

"WIRELESS COMMUNICATION FACILITIES"

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:

Supvr. Holbrook stated that he would like to put forward the Local Law with a couple of minor changes. One relates to the "and" on page three which could be taken out. The other on page six related to antennas being placed on existing water tanks. Supervisor asked Mr. Geneslaw if it was possible to leave that subject to environmental review.

Mr. Geneslaw stated that he is not familiar with any cases.

Co. Maloney suggested that the height be brought back to fifty feet and one hundred feet.

Mr. Geneslaw said that it was an incentive to keep the towers as low as possible.

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RESOLUTION NO. (1115-1996) 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. (1116-1996

Co. Smith offered and Co. Mandia seconded

WHEREAS, a proposed local law entitled:
"A LOCAL LAW ENTITLED, "AMENDMENT TO CHAPTER 143 (FIRE PREVENTION) OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN"

was introduced by Councilwoman Smith at a Town Board meeting held on December 10, 1996, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on December 10, 1996, directed that a public hearing be held on December 31, 1996, at 12:05 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on December 20, 1996, and

WHEREAS, a copy of the proposed local law in final form was placed on the desks of the Supervisor and the Councilpersons at their office at the Clarkstown Town Hall, 10 Maple Avenue, New City, New York, on November 21, 1996, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on December 31, 1996;

NOW, THEREFORE, be it

RESOLVED, that Local Law No. 18 - 1996, entitled:
"A LOCAL LAW ENTITLED, "AMENDMENT TO CHAPTER 143 (FIRE PREVENTION) OF THE TOWN CODE OF 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:

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. (1117-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, a proposed local law entitled:
"A LOCAL LAW ENTITLED, "AMENDMENT TO CHAPTER 278 (Vehicles and Traffic) OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN"

was introduced by Councilwoman Smith at a Town Board meeting held on December 10, 1996, and

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RESOLUTION NO. (1117-1996) Continued

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on December 10, 1996, directed that a public hearing be held on December 31, 1996, at 12:10 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on December 20, 1996, and

WHEREAS, a copy of the proposed local law in final form was placed on the desks of the Supervisor and the Councilpersons at their office at the Clarkstown Town Hall, 10 Maple Avenue, New City, New York, on October 29, 1996, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on December 31, 1996;

NOW, THEREFORE, be it
RESOLVED, that Local Law No. 19 - 1996, entitled:

"A LOCAL LAW ENTITLED, "AMENDMENT TO CHAPTER 278 (Vehicles and Traffic) OF THE TOWN CODE OF 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:

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. (1118-1996)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that the Town Board minutes of December 10, 1996 are hereby accepted as submitted by the Town Clerk.

On roll call the vote was as follows:

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

****

RESOLUTION NO. (1119-1996)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that the Town Board of the Town of Clarkstown hereby authorizes RTC Gabucci Group to provide specifications for the renovations of the third floor of the Clarkstown Town Hall.

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. (1120-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that the Town's insurance plan with Arthur J. Gallagher & Co., Inc. is hereby amended to include snow insurance at a cost of $7,500.00 for the period from January 1, 1997 to April 30, 1997.

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. (1121-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, Stephen Iser and Axel Graf have furnished to the Town of Clarkstown an Owner's Performance Bond secured by Letter of Credit No. 1460 in the amount of $48,080.00 to cover the improvements and other facilities as shown on the Final Plat of NEW CLARKSTOWN ESTATES, which was filed in the Rockland County Clerk's Office on October 31, 1995, and

WHEREAS, the Director of the Environmental Control of the Town of Clarktown has recommended that said Performance Bond be reduced to $9,550.00, as much of the work has been completed to Town specifications;

NOW, THEREFORE, be it

RESOLVED, that upon receipt of an Owner's Performance Bond, together with security in a form acceptable to the Town Attorney in the amount of $9,550.00, the aforesaid Owner's Performance Bond and Letter of Credit No. 1460 in the amount of $48,080.00 may be released to the developers.

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. (1122-1996)

Co. Mandia offered and Co. Smith seconded

RESOLVED, that upon the recommendation of the Director of the Department of Environmental Control of the Town of Clarkstown, Letter of Credit No. F501025, dated April 12, 1995, in the amount of $200,000.00, furnished to the Town by Reynolds Aluminum Development Co. in connection with the Nyacks Corporate Park Site Plan (Bruce McGaw Graphics) is terminated; and the Letter of Credit may be released to the guarantor.

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RESOLUTION NO. (1122-1996) 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. (1123-1996)

Co. Smith offered and Co. Profenna seconded

WHEREAS, as a condition to the approval of the final map with regard to a subdivision known as Pelham West, the Planning Board of the Town of Clarkstown requested a 15' wide sanitary sewer easement from Nikola Vucinaj and Dila Vucinaj;

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Director of Environmental Control of the Town of Clarkstown, deed dated June 5, 1996 from Nikola Vucinaj and Dila Vucinaj to the Town of Clarkstown conveying a 15' wide sanitary sewer easement is hereby accepted and ordered recorded in the Rockland County 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. (1124-1996)

Co. Smith offered and Co. Profenna seconded

WHEREAS, as a condition to the approval of the final map with regard to a subdivision known as New Clarkstown Estates, the Planning Board of the Town of Clarkstown requested a sewer easement from New Clarkstown Estates, Inc.;

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Director of Environmental Control of the Town of Clarkstown, deed dated December 5, 1996 from New Clarkstown Estates, Inc. to the Town of Clarkstown gratuitously conveying a sewer easement is hereby accepted and ordered recorded in the Rockland County 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. (1125-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, an action was commenced against the Town of Clarktown by General Insurance Company of America, as Surety of Merritt-Meridian Construction Corp., to compel turnover of any net proceeds of public works contract known as Bid No. 56-1991, Clarkstown Police Court Facility, and

WHEREAS, settlement discussions have taken place between the parties; and subsequent to commencement of the action, Merritt-Meridian Construction Corp. has made a general assignment to General Insurance Company of America, as Surety, of any and all claims pursuant to said public works contract, and

WHEREAS, the parties have determined to settle all matters between them in such a manner as to guarantee payment to all subcontractors, reimburse the Town in the sum of $10,000.00 for unfinished items on the completion check list and provide for payment of the balance of the remaining funds to General Insurance Company;

NOW, THEREFORE, on the recommendation of the Town Attorney, it is

RESOLVED, that the Town Attorney is hereby authorized to settle the aforementioned action in accordance with the Settlement Agreement terms referred to above.

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. (1126-1996)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, a proceeding has been instituted against the Town of Clarkstown entitled, SUNSHINE ASSOCIATES, L.L.C. v. COUNTY OF ROCKLAND and TOWN OF CLARKSTOWN;

NOW, THEREFORE, be it

RESOLVED, that the Town Attorney is hereby authorized to take all necessary steps to defend said proceeding.

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. (1127-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, Dr. Yash Aggarwal has made a proposal for a review of the Town of Clarkstown Blasting Code, copy attached, and

WHEREAS, the Town Board feels that such proposal is meritorious;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown hereby authorizes Dr. Yash Aggarwal to review the Clarkstown Blasting Code, Local Law No. 2-1986, at a fee of $125.00 per hour, not to exceed $8,000.00.

On roll call the vote was as follows:

Councilman Maloney.....Yes
Councilman Mandia.....No
Councilman Profenna.....No
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

****

RESOLUTION NO. (1128-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that Resolution No. 1097-1996, dated December 10, 1996, is hereby amended to read Letter of Credit No. 96-0528-1 instead of Letter of Credit No. 1344.

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. (1129-1996)

Co. Mandia offered and Co. Profenna seconded

RESOLVED, that John F. Mauro, Superintendent of Highways, is hereby authorized to install the following sign to facilitate snow removal:

LOCATION	LEGEND	NYS SIGN #
West Side Smith St., Nanuet (at spur trunaround, approx. 160' south of dead end of Smith Street)	"No Parking Anytime"	P1-1

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. (1130-1996)

Co. Mandia offered and Co. Profenna 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:

"NO PARKING ANYTIME" signs on the southside of Smith Road from Middletown Road West for a distance of 250 ft. on Smith Road, Nanuet, 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. (1131-1996)

Co. Mandia offered and Co. Profenna 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:

Curve warning signs with advisory speed limit 20 MPH panels beneath at the curve North of #31 Pennsylvania Avenue, 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. (1132-1996)

Co. Profenna offered and Co. Maloney seconded

RESOLVED, Emily Feiner, CSW Director, Clarkstown Counseling Center, attend "Eye Movement Desensitization and Reprocessing" conference on February 7-9, 1997 in New York City. Registration fee: $385.00

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. (1133-1996)

Co. Smith offered and Co. Profenna seconded

RESOLVED, that pursuant to the provisions of Local Law No. 9 of 1996, the Town Board of the Town of Clarkstown find that Police Officers James Quinn, Michael Mahoney and Gregory Miele were acting in the proper discharge of their duties and within the scope of their employment in the matter entitled ROBERT MODESTIN, FARRAH AUGUSTIN and STEPHANE LAGUERRE, YANICK CHARLES and YANEL PAUL RENE CHARLES v. JAMES QUINN, MICHAEL MAHONEY, GREGORY MIELE, ROBERT SICK, SHIRLEY KAULF, THE TOWN OF CLARKSTOWN, THE COMEDY LOFT, INC. and THE NANUET INN, Index No. 5863/96, and therefore, the Town will indemnify and hold such officers harmless from an award of damages, inclusive of punitive or exemplary damages, from any negligent act or other tort allegedly committed with respect to this case.

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. (1134-1996)

Co. Smith offered and Co. Maloney seconded

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

BID #7-1997
WORK CLOTHING

is hereby awarded to

EASTCO INDUSTRIAL SAFETY CORP.
130 W. 10th Street
Huntington Sta., NY 11746
PRINCIPAL: CORPORATION

ASSOCIATED SUPPLY CO. INC.
329 W. 18th Street
Chicago, IL 60616
PRINCIPALS: Ron Frank
Jack Frank
Delores Frank

THE MAGSON COMPANIES, INC.
279 New Britain Road
Kensington, CT 06037
PRINCIPALS: Nathan E. Mag
Greg Mag
Henry Mag

BLISS TIRE & RUBBER CORP.
175-12 Route 9W
Congers, NY 10920
PRINCIPAL: Edward Columbia

TRI COUNTY POLICE SUPPLY CO., INC.
76-68 South Franklin Street
Nyack, NY 10960
PRINCIPAL: Harold R. Hill

H.TEXIER GLOVE COMPANY INC
HWY 22 at Mountain Ave.
North Plainfield, NJ 07061
PRINCIPALS:Edgar L.Stauffer
W.Randall Stauffer
Jeffrey R.Stauffer

(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. (1135-1996)

Co. Smith offered and Co. Maloney seconded

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

BID #5-1997
CUSTODIAL AND JANITORIAL SUPPLIES

is hereby awarded to:

E.A. MORSE COMPANY
11-25 Hardin Street
Middletown, NY 10940
PRINCIPALS: Winifred V. Morse
Emerson A. Morse II
Johanne N. Cortright

CLEANING SYSTEMS/SUPPLY
44A Secor Lane
Pelham Manor, NY 10803
PRINCIPALS: BARBARA TRISTER
Edward Cullen

MT. ELLIS PAPER, INC.
P.O. Box 4083, Wembly Road
New Windsor, NY 12553
PRINCIPALS: Seymour Kaplowitz
Clifford Kaplan

AETNA JANITORIAL
137 North Main Street
Spring Valley, NY 10977
PRINCIPALS: Harry Friedman
Fay Friedman

ZEP MANUFACTURING
P.O. Box 299
Springfield, NJ 07082
PRINCIPAL: Public Corporation

(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. (1136-1996)

Co. Maloney offered and Co. Smith seconded

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

BID #11-1997
CUSTODIAL SERVICES 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 AM on January 27, 1997 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. (1137-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Town of Clarkstown is the owner of premises which is located between the properties known as Map 74, Block A, Lots 31 and 43, Cardinal Court, West Nyack, New York, and

WHEREAS, Ronald Silver, 17 Cardinal Court, and A. James Allan, 21 Cardinal Court, are agreeable to sharing the subject premises between them at no cost to the Town of Clarkstown;

NOW, THEREFORE, be it

RESOLVED, that the property between Map 74, Block A, Lots 31 and 43, Cardinal Court, West Nyack, New York, shall be hereby deeded to the above parties equally at the appraised value, and be it

FURTHER RESOLVED, that this shall be subject to permissive referendum.

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. (1138-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that the resignation of Joan Grund, 25 Lafayette Drive, New City, New York - Registry Clerk Stenographer - Town Clerk's Office - is hereby accepted - effective and retroactive to December 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. (1139-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #96001 Receptionist - which contains the name of Sonia A. Arthur.

NOW, THEREFORE, be it

RESOLVED, that Sonia A. Arthur, 96 Lake Drive, Nanuet, New York - is hereby appointed to the (permanent) position of Receptionist - Town Justice Department - at the current 1996 annual salary of $20,533.00, effective and retroactive to December 30, 1996.

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RESOLUTION NO. (1139-1996) 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. (1140-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #96001 Receptionist - which contains the name of Lisa M. Cea.

NOW, THEREFORE, be it

RESOLVED, that Lisa M. Cea, 132 Congers Road, Congers, New York, is hereby appointed to the (permanent) position of Receptionist - Solid Waste Facility - at the current 1996 annual salary of $20,533.00, effective and retroactive to December 30, 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. (1141-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Rockland County Personnel Office has certified on December 20, 1996 that the position of (temporary) Clerk - Consolidated Lighting District - can be created.

NOW, THEREFORE, be it

RESOLVED, that the position of Clerk (temporary) is hereby created - effective and retroactive to December 20, 1996 for a period not to exceed 3 months.

On roll call the vote was as follows:

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

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RESOLUTION NO. (1142-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that Deborah M. Golemba, 3 Muller Drive, New City, New York is hereby appointed to the position of Clerk

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RESOLUTION NO. (1142-1996) Continued

(temporary) - Consolidated Lighting District - at the current 1996 hourly rate of $6.00 - effective and retroactive to December 20, 1996 - for a period not to exceed 3 months.

On roll call the vote was as follows:

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

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RESOLUTION NO. (1143-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, Daniel Coyne has requested a leave of absence, without pay, and

WHEREAS, Article XIX, Section 1 of the Labor Agreement between the Town of Clarkstown and the Clarkstown Unit of the C.E.S.A. provides for leave of absence, without pay,

NOW, THEREFORE, be it

RESOLVED, that Daniel Coyne, 6 Brookside Avenue, New City, New York - Court Attendant - Town Justice Department - is hereby granted a leave of absence, without pay, effective and retroactive to December 23, 1996 subject to the canvassing of the Certification of Eligibles for the position of Court Attendant.

On roll call the vote was as follows:

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

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RESOLUTION NO. (1144-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that Jacqueline M. Bambauer's request for medical leave with half pay, pursuant to the agreement between the Town of Clarkstown and the Civil Service Employees Association, is hereby denied.

On roll call the vote was as follows:

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

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RESOLUTION NO. (1145-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that Gregory J. Tobin, 31 Benson Avenue, West Nyack, New York, is hereby appointed to the position of Emergency Management Coordinator (Town of Clarkstown Comprehensive Emergency Management Plan) - to serve without compensation - term effective December 31, 1996 - and to expire at 12:01 a.m. on January 1, 1998.

On roll call the vote was as follows:

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

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RESOLUTION NO. (1146-1996)

Co. Profenna offered and Co. Maloney seconded

THE TOWN BOARD OF THE TOWN OF CLARKSTOWN, IN THE COUNTY OF ROCKLAND, NEW YORK HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to prepare plans and specifications for construction of a golf course on Town-owned land located in the Town of Ramapo. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $500,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of $500,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Serial bonds of the Town in the principal amount of $500,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (referred to herein as the "Law"), to finance said appropriation.

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

(a) The period of probable usefulness of the specific object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 62. of the Law, is five (5) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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RESOLUTION NO. (1146-1996) Continued

(c) The proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and nay notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in full, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the "THE JOURNAL-NEWS," a newspaper published in Nyack, New York, having a general circulation in the Town and hereby designated the official newspaper of said Town for such publication.

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RESOLUTION NO. (1146-1996) 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. (1147-1996)

Co. Mandia offered and Co. Profenna seconded

RESOLVED, that Resolution No. 1106-1996, adopted by the Town Board on December 10, 1996, is hereby amended as follows:

RESOLVED, that Charles E. Holbrook, is hereby designated as delegate to the Association of Towns Convention, and be it

FURTHER RESOLVED, that Councilman Maloney is hereby designated as alternate delegate to the Association of Towns Convention, and be it

FURTHER RESOLVED, that the following:

Supervisor	Town Comptroller
Councilmen	Director of Finance
Town Assessor	Superintendent of Highways
Town Attorney	Receiver of Taxes
Town Clerk	Personnel Assistant
Clerk of the Works I	

are hereby authorized to attend the Association of Towns Convention to be held in New York City on February 16, 1997 through February 19, 1997, and reasonable expenses incurred by the aforementioned be made proper Town charges, and be it

FURTHER RESOLVED, that the following:

Deputy Town Attorneys and Paralegal Specialists, as designated by the Town Attorney
Town Comptroller's designees
Building Inspector or his designee
Director Environmental Control or his designee
Town Justices
Members of the Planning Board
Director of Purchasing
Superintendent of Recreation and Parks
Members of the Zoning Board of Appeals
Justice Court Clerk

are hereby authorized to attend the Association of Towns Convention to be held in New York City, on February 18, 1996 through February 21, 1996, for trips during their regular work hours, and the daily expenses incurred by the aforementioned during these work hours be made proper Town charges, and be it

FURTHER RESOLVED, that these officials are encouraged to car pool to reduce mileage expenses, and the respective vouchers submitted for this purpose shall not only reflect miles traveled, but also passengers within the vehicle.

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RESOLUTION NO. (1147-1996) 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. (1148-1996)

Co. Mandia offered and Co. Smith seconded

WHEREAS, the following have applied for Certificates of Registration pursuant to Section 236-48 of the Code of the Town of Clarkstown:

CAL MART CONSTRUCTION CORP.
Cal Mart Enterprises, Inc.
357A Route 59

TRAVCON, INC.
370 Kings Highway
Valley Cottage, N.Y. 10989

RESOLVED, that the following Certificates of Registration be issue:

No. 97-3 - Cal Mart Construction Corp.
No. 97-6 - Travcon, Inc.

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. (1149-1996)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, the following have applied for Certificates of Registration pursuant to Section 236-48 of the Code of the Town of Clarkstown:

TIGER EQUIPMENT CO.
Joseph Gershon
Box 304ute 59
Monsey, New York 10952

ENVIRONMENTAL CONSTRUCTION, INC.
P. O. Box 563
Stony Point, New York 10980

VICTOR P. ZUGIBE, INC.
66 Railroad avenue
Garnerville, New York 10923

RESOLVED, that the following Certificates of Registration be issued:

No. 97-4 - Tiger Equipment Co.
No. 97-5 - Environmental Construction, Inc.
No. 97-7 - Victor P. Zugibe, Inc.

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. (1150-1996)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that upon the recommendations of the Director of Environmental Control and the Superintendent of Highways of the Town of Clarkstown, the following road(s) and other public improvements as shown on the Final Plat of Long Meadow West Section IV A & B shall be conveyed to the Town of Clarkstown, subject to receipt of a Maintenance Guaranty in the amount of $14,300 or Maintenance Bond in the amount of $28,600; deeds; title reports, all in acceptable legal form, and any other legal documents as required by the Town Attorney:

Bush Court	840 L.F.
Ridgefield Drive	1,325 L.F.
Cranford Drive	1,185 L.F.
Dix Lane	170 L.F.

and be it

FURTHER RESOLVED, that such deeds shall be ordered recorded in the Rockland County 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. (1151-1996)

Co. Maloney offered and Co. Smith seconded

WHEREAS, an adverse ponding condition exists behind a curb across from Link School on the Town's Right-of-Way; and

WHEREAS, the Department of Environmental Control investigated the site and found that remedial action is necessary to eliminate such ponding; and

WHEREAS, the Department of Environmental Control has obtained a proposal from K.J.S., 95 Maple Avenue, New City, New York, to perform the corrective drainage work;

NOW, THEREFORE, be it

RESOLVED, that the Director of the Department of Environmental Control is authorized to hire K.J.S. to perform the corrective work in accordance with the requirements of the Department of Environmental Control; and be it

FURTHER RESOLVED, that the cost of said corrective work is to be performed and not to exceed $2,200.00 and all of which shall be a proper additional charge of H 1994-400 409-0-14-4.

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. (1152A-1996)

Co. Smith offered and Co. Maloney seconded

WHEREAS, following preparation of a general map, plan and report relating to the Lake Lucille Aquatic Plant Growth Control District (herein called "District"), heretofore established in the Town of Clarkstown (herein called "Town"), in the County of Rockland, New York, and after a public hearing duly called and held, the Town Board of the Town determined that the notice of such hearing was published and posted, as required by law, and is otherwise sufficient, that all property and property owners within the District are benefited thereby, and that all property and property owners benefited are within the District, that it is in the public interest to establish the District and construct improvements therein, and approved the establishment of the District and the construction of such improvements; and

WHEREAS, following submission of an application by said Town Board, the State Comptroller granted permission to establish the District by Order dated June 13, 1994, which Order was duly filed with the Town Clerk and presented to said Town Board at its first meeting held after said Order was so received; and

WHEREAS, said Town Board duly adopted an Order on June 28, 1994, establishing the District, therein designated the Lake Lucille Aquatic Plant Growth Control District, in the Town of Clarkstown, and authorized construction of improvements therin, at a cost not to exceed $1,500,000;

NOW, THEREFORE, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF CLARKSTOWN, IN THE COUNTY OF ROCKLAND, NEW YORK (by favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of $1,500,000 for the establishment of the Lake Lucille Aquatic Plant Growth Control District, in the Town, as referred to in the Recitals of this resolution and in the Final Order Establishing District adopted June 28, 1994, and in accordance with the map, plan and report prepared by Carpenter Environmental Associates, Inc., on file in the office of the Town Clerk and heretofore approved by the Town Board of the Town. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is $1,500,000. The plan of financing includes the issuance of serial bonds of the Town in the principal amount of $1,500,000 to finance said cost, and the levy and collection of special assessments upon he parcels of land in the District which the Town Board shall deem benefitted by said improvements, so much upon and from each as shall be in just proportion to the amount of benefit which the improvements shall confer upon the same, to pay the principal of an interest on said bonds and the cost of operation, maintenance and repair of the District.

Section 2. Serial bonds of the Town in the principal amount of $1,500,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

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RESOLUTION NO. (1152A) Continued

Section 3. The following additional matters are hereby determined and stated

(a) The period of probable usefulness of said specific object or purpose for which the bonds authorized by this resolution are to be issued, within the limitations of Section 11.00 a. 3. of the Law, is thirty (30) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse th Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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

Section 4. Each of the serial bonds authroized by this resolution and any notes issued in anticipation of the sale of said bonds or the renewals of said notes shall contain the recital of validity prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of said bonds or the renewals of said notes, and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds having substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 50.00 and Sections 56.00 to 60.00 and Section 168.00 of the Law, the powers and duties of the Town Board relative to authorizing the issuance of any notes in anticipation of the sale of serial bonds herein authorized or the renewals of said notes and relative to prescribing the terms, form and contents and as to the sale and issuance of the serial bonds herein authorized, and of any bond anticipation notes issued in anticipation of the sale of said bonds, and the renewals of said notes, and relative to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of said bonds, may be contested only if:

(a) Such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

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RESOLUTION NO. (1152A) Continued

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commended within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This resolution shall take effect immediately.

On roll call the vote was as follows:

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

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RESOLUTION NO. (1152B-1996)

Co. Smith offered and Co. Maloney seconded

RESOLVED BY THE TOWN BOARD OF THE TOWN OF CLARKSTOWN, IN THE COUNTY OF ROCKLAND, NEW YORK, AS FOLLOWS:

Section 1. The Town Clerk of the Town of Clarkstown, in the County of Rockland, New York, is hereby directed to publish the foregoing bond resolution, in full, in "THE JOURNAL NEWS," a newspaper published in Nyack, New York and hereby designated as the official newspaper of the Town for such publication, together with the Town Clerk's statutory notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York

Section 2. This resolution shall take effect immediately.

On roll call the vote was as follows:

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

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There being no further business to come before the Town Board and no one further wishing to be heard, on motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the Town Board Meeting was declared closed, time: 1:46 P.M.

Respectfully submitted,
Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall 12/31/96 12:02 P.M.

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

RE: Local Law - Wireless Communication Facilities

On motion of Councilwoman Smith, 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.

Rudolph Yacyshyn, Planning Consultant, stated that this is an opportunity that we welcome in anticipation of drafting this Law. It is clear that the Federal Act of 1996 in telecommunications preempted what was the concerns of many municipalities throughtout the Country certainly in Clarkstown when the technology advanced to the extent that we have to have the sitings of the monopoles and the antennas in order to implement this advanced technology. It is apparent that with the Federal Act codifying the many things that were left to chance, it is now in a position to be more formerly adhered to or acted on. As a result thereof, it left the local municipalities such as Clarkstown with an area that is somewhat limited and restricted as to what we can do, however, it does enables us to site regulate the various physical structures which is essentially the main concern of this new technology.

Bob Geneslaw, Planning Consultant, stated that this is a fairly complicated subject. The municipalities still have the ability to regulate the locations. Before the moratorium was adopted, our public utility right of ways, powers, structures and lines were subject to a Special Permit in a residential area from the Board of Appeals. The Federal provision applied in some of the non-residential areas. The moratorium came about because there were two applications before the Town. One for towers for a cellular provider in a Residential Zoning District on West Clarkstown Road. Second for a tower for another cellular provider off Route 303 in Congers. Presently, there are three cellular providers in the Town. Two conventional and one providing something similar to a police antenna operation. There will probably be two to three PCS providers in the future. Antennas will be generally lower and closer together because they are lower power. What we may end up with in Clarkstown is six separate networks, cellular and PCS providers. Each with its own system. There is something in the order of a half dozen locations in the Town that is being shared or used indivdually by the various providers. The potential is for several pole increases. We don't know how many because the industry people have not been willing to make that information available to us. The proposal that is before you should be adopted as a separate Local Law outside the zoning. Some of the zoning for this provision will be adopted separately. It will call for the issuance of a Special Permit by the Planning Board in a residential area where there is an antenna, a tower or a monopole and in a commercial area where there is a tower or a monopole. An antenna in a non-residential area would be allowed by Building Permit alone. The basic intention is to encourage the industry to provide the facilities in non-residental areas. Since so much of the Town is residential in nature, the feeling is that we cannot prohibit them from residential areas, but the restrictions should be tougher. As an example, as it is proposed in the residential areas, the facilities would have to meet the yard requirements of the Residential Zone. It could not be between the building and the street. It could not be in any required

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buffers or conservation areas. In non-resident areas, the same will apply except that they could be in required yards. Both in the rear and the side yards, but not between the building and the street. We have met on several occasions with representatives of the industry. We have met with the Planning Board. What we have before you is a compromise which probably nobody is happy with. In the end, the question before the Town Board is whether you protect the residential communities in the Town or whether you provide a license to the industry to place towers wherever they want? It will be clouded by all sorts of arguments and claims. We are also suggesting in the Local Law that any property that has the facility placed on it, not increase any non-conforming and not be brought into any non-conformity with the Zoning Code. In other words, the property would have to meet all provisions of the Zoning Code before the facility is provided. It would have to meet the requirements of the Local Law. One of the major sticking points is height. We originally recommended the maximum height of fifty feet in residential areas and the maximum height of one hundred feet in non-residential areas with the Planning Board permitted to increase it by 50% if in a particular situation, the applicant can make the case that fifty or one hundred didn't work and there would be no provision for a field. We have heard from a number of technical representatives of the industry after issuing the draft and the draft before you changes the fifty to eighty-five and the one hundred to one hundred twenty-five. We have heard from a number of people that we should go back to the fifty and the one-hundred. The industry needs a certain amount of height in order to make the systems work. If they go too high, they have a problem. There needs to be some relationship between one and ten elevations in the net because they are connected and transmitting to one another. Most technology is adaptable. There is a lot more room for interpretations by the Town.

Co. Mandia asked if he understood Mr. Geneslaw correctly in that the conservation easements or buffers would not be allowed under the proposed law? There could be an area that has a lot of property that is under the conservation easement and is nowhere near any house.

Mr. Geneslaw said that the purpose of the conservation is to prevent either through a visual prospective or because there are ski slopes. Introducing something man made is contrary to the intent of establishing a conservation easement. The industry has two kinds of questions. One is coverage. They get minimum coverage throughout the Town and County and one is capacity. Capacity is when they need more and more facilities, and then they need more and more locations. A great deal of the cellular traffic is going to be vehicle based. Along the Thruway, coverage is good. Capacity, going up along the PIP is not nearly as good. The terrain is worse and most of it is residentially zoned. Those are the kinds of areas that the industry is interested in. The PCS providers are just getting started.

Supervisor asked if there was any questions or comments from the public.

Appearance: Ira M. Emanuel, Esq.
ATT Wireless Service

Mr. Emanuel stated that ATT is one of the established cellular providers in Rockland County and Clarkstown. The other is NYNEX Mobile. Despite the fact that there are many

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areas in this Law that we are not thrilled about. It's a livable Law. We can live with most of what's in the Law. We have a significant improvement over what we had. Their concerns are over typographical errors in the draft. There are numerous areas where the singular word antenna is used and they believe it should be plural, antennas. There are areas where the districts are referred to as commercial districts as opposed to non-residential districts. The concern they have is that something may be permitted in all non-residential districts because the word commercial is used. They are concerned with the stand alone nature of this Law. It should be part of the Zoning Code. Residents might be interested in the issue, look to the Zoning Code to see where the information is, what restrictions are there and what can or cannot be done. Other providers were coming in who are not part of this process. If it were part of the Zoning Code, they would know what to do and not waste a lot of time. Mr. Emanuel questioned whether or not the powers granted the Planning Board can be granted under the Stand Alone Law outside of the Zoning Code. It sounds like a Zoning Code, so why isn't it in the Zoning Code? There is a lack of any kind of administrative relief made available within the code. There are no variances allowed other than a waiver for certain height restrictions and that is somewhat limited. We can live with the height restrictions and the waivers. We understand that we have to prove our case in order to get above the maximum height restrictions. We are prepared to do that. We are concerned that there is no way around any of the other restrictions and requirements that are existing in the Zoning Code. You could have a situation where you would have a plate which is optimal, away from residential districts and which can barely be seen from residences. It would not require an extremely high tower, but because it encroaches in a buffer or into a front yard or side yard, it can't be built. No relief. We understand conservation easements. There are places that are subject to those restrictions which may be available to us, may be optimal for us, but we would be restricted from going into. There is a water tower in Garnerville which is on a irregular shaped piece of property. It is in an Industrial Zone. It borders on a residential district. The place where the water tower is located is sort of a peninsula and is surrounded on three sides by a residential district. It is a little under one hundred feet wide. The West Haverstraw Code says that you cannot put any structure such as this within fifty feet of a residential district. There is no place to go even though a water tower is a good place for one of these facilities. In West Haverstraw, variances are available to us. If this were in the Town of Clarkstown, we would not be able to build on a water tower which is a preferred site. Mr. Emanuel suggested the removal of the provision barring variances and incorporate this Local Law into the Zoning Code. His second suggestion is to remove the provision and put in a provision allowing for variances. Allowing them to go to those areas where it may be appropriate for them to be, but would otherwise be prevented.

Appearance: Leslie Snyder, Esq.
Bell Atlantic NYNEX Mobil

Ms. Snyder stated that she believed that the Board acknowledged the need for wireless communication when a moritorium was enacted in May. One of the issues is the location, fact that there are other carriers and the need not to have multiple towers in the community, but try to co-locate the carriers. The law is very detailed in encouraging co-location, however, by prohibiting variances, it takes away the very point that its objective was. If you have a tower built and you have the equipment shelter that goes with the tower on the site, and you say you cannot have any variances, then you would forbid someone from coming to that location.

Continued on Next Page

If they had to put their equipment shelter down, then they may be in a rear yard by a foot or an inch. It would basically foreclose that site for co-location. If you read through the law, you will see that its main objective is to encourage co-location, however by denying any variances, you are basically taking away what you intended to promote. It must be part of your Zoning Ordinance. The Planning Board is empowered by New York State Town Law to address zoning issues. To treat this out of the Zoning Ordinance and not making it part of the Ordinance, she believes it would be a violation of that Law. The Zoning Board has statutory powers providing that relief and that should not be taken away for this type of facility just like it would not be taken away for any other public utility facility. In cellular I v. Rosenberg, New York State Court of Appeals ruled that cellular communication is an essential public utility and could be treated as a public utility. Those two points to the law need to be incorporated. There are a few typographical errors. That includes the use of the term commercial and the term non-residential. There is one other point to consider and that is existing sites. The way the law is written, existing sites are deemed to be non-conforming sites, but they are also subject to restrictions in law. They should be treated like all other facilities and encourage other carriers to use the existing site. Some of those sites have some type of area variance that they have already acquired. If another carrier goes to an existing site, he probably will need an additional variance. By prohibiting the variances, you would be discouraging co-location. The Board should keep in the back of their minds the intent of the carriers to use existing structures. It is not their intent to build unnecessary towers. Keeping that in mind again is the need for relief. I think you would want them to use the existing water tank and existing structure.

Appearance: Mary Wallace
Central Nyack

Ms. Wallace is very concerned about the legislation and the effect it will have on her community. She requested that the word "and" be omitted on page 3, Section A and replace it with "in".

Co. Mandia stated that you really cannot make the law that restrictive. If there were an ideal site in an acceptable residential location, he wonders if we would be able to use that building.

Ms. Wallace hopes that the main objective is to protect residential areas. She asked how many feet this structure should be from a residence?

Mr. Geneslaw stated that there is no specific number. It would at least be the distance of the required side or rear yard. If the Town Board wishes to, an amendment could be put in to include the specific minimum distance from a home on adjourning property.

Ms. Wallace said that it seems to favor people with large tracts of land. There seems to a preference to put these structures in non-residential areas.

Co. Mandia said that if an application were to be made to put a structure on a residential piece, he thinks showing cause as to why there are no commercial options should be part of the process.

Ms. Wallace stated that she opposes the request for the variances.

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Supvr. Holbrook asked, the reason why, relative to the Planning Board having the authority and being incorporated, is it separate and apart from the Zoning Ordinance.

Mr. Yacyshyn stated that it is clear that it has been the intent of this Town Board over many years to try to consolidate procedures wherever we could. At the present time, we may have an application presented to the Town for a tower or a pole and have to go to the Planning Board for the approval of site plans. If there are variances, you go to the Zoning Board of Appeals. That causes time, confusing, money, etc. We suggest to you that the proper vehicle here would be the Planning Board. We are only talking about where it is sited, the nature of the structure and its composition. We cannot get into the other issues. All of us agreed that this is preempted by the Telecommunications Act. Much as we would like to address some of these issues, they are no longer within our providence. The issue as to whether or not there should be a variance means that some other body would have to address it. It is clear to the extent that we can consolidate and codify this to the extent that we are permitted to under the Federal Act is appropriate. Ultimately, it would come to the Planning Board.

Mr. Geneslaw said that when someone wants to use their property and do not reach the requirements of the Zoning Code, they have that avenue available because the property is an irregular size or some other characteristic that sets it apart from other properties within that district and relief is necessary. The antennas, monopoles and towers very often are the second use on the property. They do not effect the property owner to use the property for something in accordance with the zoning. Many of the structures that are already here are on properties that are already developed. There is no need for relief from the Zoning Code to provide the ability to use the property when it is already there. All of the permitted uses in the Code remain. They are all subject to an application to the Board of Appeals for relief. In many cases this will be the equivalent of a second permitted principal use of the property. He sees no reason to give an additional form of relief particularly when we are trying to control it in residential neighborhoods.

Co. Smith asked Mr. Genelsaw if he had any problem taking out the word "and".

Mr. Geneslaw replied, not really.

Appearance: Mr. Morton Liefer
Communication Specialtist for Clarkstown

Mr. Liefer has been involved in this process prior to the moratorium. He met many times with industry. He worked closely with the Planning Board. His concern is more than merely professional. He feels very strongly about the development of technology. We have here an industry whose growth potential is so unbelievable that unless you are in the industry, it is hard to realize just how great a development is in the immediate offering. Cellular and personal communications represents a potential that far outstrips anything that we have ever seen before. We are not limited to mobile communications. The fact that we have the thruway or the Palisades Parkway is really of no significance considering that every person walking will have some type of a wireless device on them. We are not dealing with one carrier or two. The potential can be for eight individual networks developed within our Town. If each individual network provider were to have six, eight, ten

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antennas, multiply that by eight carriers and you are talking about eighty towers. The industry is unwilling to give the Town any idea as to what the ultimate development would be. What is the potential for development? Not a word from industry although we have asked for specifics. We are asking them to give us a sense as to what is going to be the impact on our Town as a result of their development. It is very reasonable on the part of a town to know what they are permitting. Initially, I had great concern about the exposure to regular frequency. There is no question that exposure to regular frequencies where the strength of that regular frequency is great can cause harm. There are limits that have been specified by various agencies and the claim is that the exposure to the general public as a result of these proposed antennas are below those limits. He has made measurements with very, very exacting equipment. The exposure by virtue of the existence of a tower is ten to a hundred thousand times greater exposure than if there was no tower there. This cannot be an issue because according to our legal authorities, the exposure issue is out of the hands of the municipality. If we are going to have a development of a considerable number of towers, we should minimize the impact in the residential in terms of destroying the image and the appearance of the area. The early forms of this proposal limited the height of the antennas in residential areas to fifty feet. It would provide a meaningful incentive to the industry to find other ways to accomplish their goals. We know the resources and the technology of these industries has the capability of working around any limitations that may be set forth. Upon appeal, they could go as high as seventy-five feet with antennas on top. As a result of the compromises that we have had to work with, the law is eighty-five feet with the possibility of another fifty percent increase which gives them already the one hundred and twenty that they require. One hundred and twenty feet is ideal for them. They don't choose a plot of land based on how it is going to fit in with the rest of the environment, but they choose based on what works best for them. There is no consideration to the Town. We are already at the point where a hundred and twenty foot tower is permissable in this law. They are now asking for more. They are asking for additional opportunities for variances. There are certain things the Town can and should regulate and that is what happens in a residential area. We cannot allow a commercial enterprise to roll through our residential areas. The height restriction should be brought down to the fifty feet so that in the event that residential development is necessary, it won't be a major problem for the people who have to live in that neighborhood. The industry should be able to work around those limitations so that they can accomplish their goals and we can still have a Clarkstown that we are proud of.

Co. Mandia asked Mr. Liefer, "if the towers are shared by several service providers, does that increase the emmision?

Mr. Liefer replied, it does. On Smith Street where there is an existing antenna on the roof, now on top of the existing cellular there is an additional antenna. This antenna is called an omni directional antenna which means that it puts out radio waves in every direction. It is designed to be low angle radiation. What will happen when these things are installed in a residental area? It has to be watched and regulated.

Co. Mandia asked if there was a way to test the emissions and should it be made part of the Law?

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Mr. Liefer said that he is convinced that the current installations are below the current scheduled standards. Mr. Liefer feels that it is the responsibility of the Town to make sure that the standards are being met. The industry has not been cooperative in sharing its measurements.

Appearance: Cheryl Stroud
Central Nyack

Ms. Stroud said that she is speaking for many Central Nyack residents. They are grateful for this Law and agree that the essence of the Law should be to protect residential neighborhoods. They have a site in their neighborhood that is maybe twenty-five to fifty feet from one of their homes. It would be irresponsible to grant variances that would allow for more radiation into a residential neighborhood.

Mr. Geneslaw stated before they can get approval, they have to provide information.

Ms Shroud asked about periodic monitoring

Mr. Geneslaw replied that we were told by the industry that they must do periodic monitoring.

Co. Smith stated that it is not mandatory, but the Town may measure levels as necessary.

Ms. Shroud stated that existing water towers and power lines were built for very different reasons and have a very different environmental impact than cellular antennas.

Mr. Geneslaw stated that in most cases the water tanks and power lines are on large enough pieces of property with sufficient easements.

Ms. Shroud said that in Central Nyack they have an established tower. It is a radio tower. Could they go to the Building Inspector and get a permit and put up a tower.

Mr. Geneslaw said , "No", they would have to go to the Planning Board for a Special permit.

There was discussion regarding Sections of the proposed Law between the Town Board and Mr. Geneslaw.

Appearance Mr. Martus Granier
President of West Branch Conservation
New City

Mr. Granier stated that you have very little power under this present rule. Given that, you should hold on to as much as you can. Watch out for this business of variances because that can open the back doors for all kinds of things that you would never have allowed. If you are going to adopt some modification that would allow for variances, I hope you will continue the Hearings. If you modify the Zoning Ordinance, you will probably need another Hearing. Mr. Granier asked if this was going to be continued?

Supvr. Holbrook replied that it is the intention of the Town Board to adopt the Law today with a few modifications and would not require a Public Hearing.

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Present: Ms. Alex Soltow
Central Nyack

Ms. Soltow stated that her house is about fifty feet from the tower. She wants to know what effect would a tower in a back yard have on reception. What effect would it have on the property values. She is opposed to having a tower.

There being no one further wishing to be heard on motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared closed, time: 1:20 P.M.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

RESOLUTION NO. (1115-1996) ADOPTED

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall 12/31/96 1:25 P.M.

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

RE: Local Law - "Amendment to Chapter 143 Fire Prevention of the Town Code of the Town of Clarkstown"

On motion of Councilwoman Smith, 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.

Mark Papenmeyer, Chief Fire Inspector, said that this a compilation of a lot of hard work by the Fire Inspectors throughout the County of Rockland. They have been working on this for about two years to come up with a uniform code that can be used throughout the County. The Town of Clarkstown's code was the model that it was based on.

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

There being no one wishing to be heard on motion of Councilman Mandia, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared closed, RESOLUTION ADOPTED, time: 1:27 P.M.

Respectfully submitted,

Patricia Sheridan
PATRICIA SHERIDAN,
Town Clerk

RESOLUTION NO. (1116-1996) ADOPTED

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall 12/31/96 1:28 P.M.

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

RE: Local Law - "Amendment to Chapter 278 (Vehicles and Traffic) of the Town Code of 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.

Mark Papenmeyer stated that this is a separate chapter of the Town Code. There is an amendment in this Law to clear up some confusion on the wordage.

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

There being no one wishing to be heard on motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared closed, RESOLUTION ADOPTED, time: 1:29 P.M.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

RESOLUTION NO. (1117-1996) ADOPTED