

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

01/27/98

8:00 P.M.

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

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

Supervisor declared the Public Portion open.

Appearance: Philip Bosco
West Nyack

Mr. Bosco spoke regarding the Hackensack River Project and had questions about the excavating under the New York State Thruway that is going on.

RESOLUTION NO. (108-1998)

Co. Smith offered and Co. Mandia seconded

WHEREAS, a proposed local law entitled, "REPEALING CHAPTER 250, SUBDIVISION 6 OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN (TRAFFIC HAZARDS AT STREET CORNERS), AND CREATING A NEW CHAPTER 250, SUBDIVISION 6 OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN (TRAFFIC HAZARDS AT STREET CORNERS)" was introduced by Councilman Maloney at a Town Board meeting held on December 31, 1997, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on December 31, 1997, directed that a public hearing be held on January 27, 1998, at 8:05 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on January 13, 1998, 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 23, 1997, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on January 27, 1998;

NOW, THEREFORE, be it

RESOLVED, that Local Law No. 1 - 1998, entitled:

"REPEALING CHAPTER 250, SUBDIVISION 6 OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN (TRAFFIC HAZARDS AT STREET CORNERS), AND CREATING A NEW CHAPTER 250, SUBDIVISION 6 OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN (TRAFFIC HAZARDS AT STREET CORNERS)" is hereby ADOPTED and

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RESOLUTION NO. (108-1998) Continue

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 Absent
 Ralph F. Mandia, Councilman Yes
 Ann Marie Smith, Councilwoman . . Yes
 Louis J. Profenna, 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.

RESOLUTION NO. (109-1998)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that the Town Board Minutes of January 5 and January 13, 1998 are hereby accepted as submitted by the Town Clerk.

On roll call the vote was as follows:

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

RESOLUTION NO. (110-1998)

Co. Smith offered and Co. Profenna seconded

WHEREAS, neither the Insurance Department nor public health law of New York State currently protects patients from the decisions of health care organizations, and

WHEREAS, health care organizations are not presently held responsible for the wrongful denial of care, and

WHEREAS, New York State and federal legislation has been introduced, and is now pending before the State Legislature and the Congress, that would require health care organizations to be liable for their decisions affecting the provision and/or quality of care, and

WHEREAS, appropriate medical services to individuals must be the prime consideration of our health care system.

NOW THEREFORE, be It

WHEREAS, the Congress of the United States, under the leadership of the President, has introduced bipartisan legislation to monitor and regulate health care organizations with regard to patient rights, and

WHEREAS, without this needed legislation, individuals may not receive appropriate

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RESOLUTION NO. (110-1998) Continued

health care services, and may suffer harm or other adverse consequences, including but not limited to diminution of quality of life, deterioration of health, and/or loss of life itself, and

RESOLVED, that the Town Board of the Town of Clarkstown join the bipartisan Hudson Valley Regional Conference, Health Reform Task Force in calling on the New York State Legislature and the Congress of the United States to adopt health care reform, making health care organizations legally responsible for their decisions.

RESOLVED, further that the Town Board of the Town of Clarkstown supports the ongoing efforts of the Hudson Valley Regional Conference to develop further consumer health care issues for our consideration, and be it

RESOLVED, further that the Town Clerk of the Town of Clarkstown forward a copy of this resolution to the Hudson Valley Regional Conference (P.O. Box 65 New City, NY 10956), members of the State Legislature, the Governor, members of Congress, and the President.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (111-1998)

Co. Mandia offered and Co. Profenna seconded

RESOLVED, that the Town Board hereby authorizes Richard A Glickel, Deputy Town Attorney, to attend a civil rights seminar at the Georgetown University Law Center Campus in Washington, D.C., on March 26 and 27, 1998, and be it

FURTHER RESOLVED, that all the proper charges shall be charged against Account No. A-1420-414.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (112-1998)

Co. Mandia offered and Co. seconded

RESOLVED, that Wayne T. Ballard, P.E., C.S.P., Superintendent of Highways, is hereby authorized to attend the 1998 North American Snow Conference, sponsored by the American

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RESOLUTION NO. (112-1998) Continued

Public-Works Association, to be held in Edmonton, Alberta, Canada April 19 - 22, 1998 and be it,

FURTHER RESOLVED, that all necessary expenses be allocated against appropriation account No. DB-5110-414.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (113-1998)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that Resolution No. 963, adopted by the Town Board on December 31, 1997, is hereby amended by changing the Map designation of the property owned by Star Enterprise to Map 106, Block A, Lot 2.01.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (114-1998)

Co. Smith offered and Co. Profenna seconded

WHEREAS, on July 11, 1997, a culvert located at Brookside Avenue, Valley Cottage was damaged as a result of an accident which occurred involving a vehicle owned and/or operated by Jamesco Transportation Company, and

WHEREAS, as a result of said accident, damages were incurred amounting to \$7,400.00;

NOW, THEREFORE, be it

RESOLVED, that the Town Attorney is hereby authorized and directed to take all steps necessary to recover damages.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

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RESOLUTION NO. (115-1998)

Co. Smith offered and Co. Profenna seconded

WHEREAS, by Resolution No. 950-1997, Karl Kirchner was authorized to prepare a preliminary appraisal on New Plan Realty Trust/Newton Associates, Map 58, Block G, Lot 37 at a fee not to exceed \$2,000.00, in connection with pending tax certiorari proceedings, and

WHEREAS, by letter dated January 14, 1998, Karl Kirchner advised the Town Attorney's Office that because of the size and complexity of the property, an additional \$3,000.00 is requested to prepare said preliminary appraisal;

NOW, THEREFORE, be it

RESOLVED, that an additional \$3,000.00 may be expended to prepare said preliminary appraisal.

On roll call the vote was as follows:

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

RESOLUTION NO. (116-1998)

Co. Smith offered and Co. Profenna seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, GEORGE WALD v. TOWN OF CLARKSTOWN, its Assessor and Board of Assessment Review of the TOWN OF CLARKSTOWN, Index No(s). 6704/91, 4176/96 (for 1992), 4921/96 and 5535/97, affecting parcel(s) designated as Map 32, Block B, Lot 1.2 and Map 32, Block A, Lot 33.1, for the year(s) 1991/92, 1992/93, 1996/97 and 1997/98, 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 assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 32, Block B, Lot 1.2 be reduced for the year(s) 1991/92 from \$1,700,000.00 to \$1,328,500.00, at a cost to the Town of \$3,816.51;
2. That the assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 32, Block B, Lot 1.2 be reduced for the year(s) 1992/93 from \$1,700,000.00 to \$1,334,500.00, at a cost to the Town of \$4,193.77;
3. That the assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 32, Block B, Lot 1.2 shall remain unchanged for the years 1996/97 and 1997/98;
4. That the assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 32, Block A, Lot 33.1 shall remain unchanged for all pending years;

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RESOLUTION NO. (116-1998) Continued

5. That reimbursement for the year(s) 1991/92 and 1992/93 on the parcel described as Map 32, Block B, Lot 1.2 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

6. 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 Nanuet 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.....Absent
Councilman Mandia..... Yes
Councilman Profenna..... Yes
Councilwoman Smith..... Yes
Supervisor HolbrookYes

RESOLUTION NO. (117-1998)

Co. Mandia offered and Co. Smith seconded

WHEREAS, by Resolution Nos. 629-1984 and 759-1987, the Town Board, pursuant to the provisions of § 280-a(2), granted that a permit be issued for the erection of a one-family residence to Louis Chillino, as owner, for property situate on the west side of Wisconsin Avenue, Congers, New York, more specifically designated on the Clarkstown Tax Map as Map 139, Block B, Lot 30, and

WHEREAS, as a condition to the issuance of said building permit, said resolution required the owner to execute and record a Declaration of Covenant, in a form satisfactory to the Town Attorney which provided in part that "the declarant owner shall provide for and maintain to the satisfaction of the Superintendent of Highways a "T" turnaround at the end of the driveway within the right-of-way of Wisconsin Avenue, which shall service as access to the subject premises", and

WHEREAS, said Declaration was executed and recorded in the Rockland County Clerk's Office on December 11, 1984, and

WHEREAS, upon the recommendations of the Department of Environmental Control and the Highway Department, it is suggested that the requirement to provide for and maintain the "T" turnaround be waived, since the premises have been developed with a satisfactory temporary turnaround;

NOW, THEREFORE, be it

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RESOLUTION NO. (117-1998) Continued

RESOLVED, that Resolution Nos. 629-1984, dated June 12, 1984 and 759-1987, dated July 14, 1987, are hereby amended to omit Item No. "3" regarding the "T" turnaround, and be it

FURTHER RESOLVED, that the present record owner may execute and record an Amended Declaration of Covenant, in a form satisfactory to the Town Attorney, which shall run with the land, deleting the requirement for the installation of the "T" turnaround.

On roll call the vote was as follows:

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

RESOLUTION NO. (118-1998)

Co. Smith offered and Co. Profenna seconded

RESOLVED, based upon the recommendation of the Clarkstown Parks Board and Recreation Commission and the Supt. of Recreation and Parks that the following 1998 part-time salaries be established:

| <u>PART-TIME</u> | <u>MINIMUM</u> | <u>MAXIMUM</u> |
|--|----------------|-----------------|
| Recreation Aide | \$5.15/hr | \$15.00/hr. |
| Recreation Assistant | \$5.15/hr. | \$16.00/hr. |
| Recreation Leader | \$7.00/hr. | \$18.00/hr. |
| Recreation Specialist | \$7.00/session | \$35.00/session |
| Refreshment Stand Attendant | \$5.15/hr.* | \$ 8.00/hr. |
| Refreshment Stand Attendant II | \$6.50/hr. | \$12.00/hr. |
| Lifeguard | \$7.00/hr. | \$13.00/hr. |
| Head Lifeguard | \$8.50/hr | \$14.00/hr. |
| Water Safety Instructor | \$8.50/hr. | \$13.00/hr. |
| Head Water Safety Instructor | \$9.00/hr. | \$14.00/hr. |
| Laborer-Student | \$6.00/hr. | \$10.00/hr. |
| Groundswoker (L) | \$8.00/hr. | \$13.00/hr. |
| Custodial Worker (Seasonal) (L) | \$5.00/hr. | \$13.00/hr. |
| | | 3.5% Increase |
| Senior Citizen's Leader (Part-time) | \$11,699.00 | \$25,937.00 |
| Swim Area Supervisor (Seasonal) | \$10,727.00 | \$17,874.00 |
| Senior Recreation Leader (Seasonal) | \$ 5,376.00 | \$ 8,750.00 |
| Senior Recreation Activity Specialist (Seasonal) | \$ 3,845.00 | \$ 5,708.00 |
| Senior Recreation Activity Specialist (Seasonal) | \$ 5,231.00 | \$ 7,094.00 |

On roll call the vote was as follows:

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

RESOLUTION NO. (119-1998)

Co. Profenna offered and Co. Smith seconded

WHEREAS, the Town of Clarkstown has received \$39,965.61 from NYNEX (Allan Rotto Consultants, Inc.) for overcharges relating to the Police Department's voice messaging service and

WHEREAS, the agreement is to reimburse Allan Rotto Consultants, Inc. 50% of the refund, and be it

THEREFORE RESOLVED, to increase Estimated Revenue Account No. A 01 9 2701 0 (Pr. Years Revenue) and A 3020 230 (Central Communications-Communications Equipment) by \$19,982.81 and

WHEREAS, the Town of Clarkstown has received \$682.50 from H.S.I. Productions, \$400 from Step Mom Productions and \$4,560 from Corporate Property Investors for police coverage, BE IT THEREFORE

RESOLVED, to increase estimated Revenue Account No. A 01 9 705 0 (General Fund-Gifts & Donations) and A 3120 111 (Police-Overtime) by \$5,642.50.

On roll call the vote was as follows:

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

RESOLUTION NO. (120-1998)

Co. Profenna offered and Co. Mandia seconded

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

BID #16-1998
MOSQUITO CONTROL SERVICE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on February 19, 1998 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 Absent
- Councilman Mandia Yes
- Councilman Profenna Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (121-1998)

Co. Profenna offered and Co. Mandia seconded

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

BID #17-1998
ARTS & CRAFTS SUPPLIES

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on February 23, 1998 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 Absent
Councilman Mandia Yes
Councilman Profenna Yes
Councilwoman Smith Yes
Supervisor Holbrook Yes

RESOLUTION NO. (122-1998)

Co. Profenna offered and Co. Mandia seconded

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

BID #18-1998
CRUSHED STONE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on February 18, 1998 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 Absent
Councilman Mandia Yes
Councilman Profenna Yes
Councilwoman Smith Yes
Supervisor Holbrook Yes

RESOLUTION NO. (123-1998)

Co. Profenna offered and Co. Mandia seconded

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

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RESOLUTION NO. (123-1998) Continued

BID #19-1998
BITUMINOUS CONCRETE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on February 17, 1998 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 Absent
Councilman Mandia Yes
Councilman Profenna Yes
Councilwoman Smith Yes
Supervisor Holbrook. Yes

RESOLUTION NO. (124-1998)

Co. Profenna offered and Co. Mandia seconded

RESOLVED, that Town Board resolution #804-1997 is hereby corrected to read:

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

BID #20-1998
ASPHALT RESURFACING - CONGERS LAKE MEMORIAL PARK

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on February 27, 1998 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 Absent
Councilman Mandia Yes
Councilman Profenna Yes
Councilwoman Smith Yes
Supervisor Holbrook. Yes

RESOLUTION NO. (125-1998)

Co. Profenna offered and Co. Mandia seconded

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

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RESOLUTION NO. (125-1998) Continued

BID #21-1998
CONGERS LAKE PARK WADING POOL

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 2:00 P.M. on February 20, 1998 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, upon payment of prescribed non-refundable fee.

On roll call the vote was as follows:

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

RESOLUTION NO. (126-1998)

Co. Profenna offered and Co. Mandia seconded

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

BID #22-1998
POOL LINERS, COVERS & GUTTER REHABILITATION
AT GERMONDS AND CONGERS LAKE PARK

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 2:00 P.M. on February 20, 1998 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, upon payment of prescribed non-refundable fee.

On roll call the vote was as follows:

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

RESOLUTION NO. (127-1998)

Co. Profenna offered and Co. Mandia seconded

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

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RESOLUTION NO. (127-1998) Continued

BID #10-1998
GROUNDSKEEPING & LANDSCAPE SUPPLIES

is hereby awarded to:

THE TERRE CO. OF NEW JERSEY
206 Delawanna Avenue
Clifton, NJ 07014
PRINCIPALS: WILLIAM A. FEURY
WILLIAM B. FEURY
THOMAS FEURY

LESCO INC.
20005 Lake Road
Rock River, OH 44116
PRINCIPALS: NAOMI FITZGIBBON

MANTEK
PO Box 660196
Dallas, Texas 75226-0196
PRINCIPAL: IRVIN LEVY
LESTER LEVY
MILTON LEVY JR.

BISSETT NURSERY CORP
PO Box 386
Holtsville, NY 11742
PRINCIPAL: JAMES BISSETT
JOAN BISSETT
JAMES BISSETT III

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

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (128-1998)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that based upon the recommendation of the Deputy Director of Environmental Control that

BID #11-1998
MARCUS ROAD DRAINAGE IMPROVEMENTS

is hereby awarded to:

TUCCI EQUIPMENT CO.
PO Box 741
Larchmont, NY 10538
PRINCIPALS: Anthony Martucci
Ralph Martucci

as per their proposed project cost of \$25,460.00, and be it

FURTHER RESOLVED, that said award is subject to the receipt by the Director of Purchasing of the following:

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RESOLUTION NO. (128-1998) Continued

- a) Signed Contract Documents - two copies
- b) Performance Bond - 100% of project cost
- c) Labor and Materials Payment Bond - 100% of Project Cost
- d) Certificate of Contractor's Liability, and Property Damage Insurance Coverage
- e) Certificate of Worker's Compensation and Worker's Statutory Disability Coverage

The Town of Clarkstown shall be named as co-insured on liability policies.

On roll call the vote was as follows:

Councilman Maloney.....Absent
 Councilman Mandia.....Yes
 Councilman Profenna.....Yes
 Councilwoman Smith.....Yes
 Supervisor HolbrookYes

RESOLUTION NO. (129-1998)

Co. Smith offered and Co. Profenna seconded

RESOLVED, that due to the severe hazardous condition of Babcock Avenue, Nanuet, the Superintendent of Highways is hereby authorized to fill and repair the potholes on this road.

On roll call the vote was as follows:

Councilman Maloney.....Absent
 Councilman Mandia.....Yes
 Councilman Profenna.....Yes
 Councilwoman Smith.....Yes
 Supervisor HolbrookYes

RESOLUTION NO. (130-1998)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that the Town Board hereby authorizes the Building Inspector to refund the amount of \$2,296.00 to Regina and Scott Kay, with respect to Building Permit No. 97-754 issued for property known as Map 23, Block A, Lot 3.5.

On roll call the vote was as follows:

Councilman Maloney.....Absent
 Councilman Mandia.....Yes
 Councilman Profenna.....Yes
 Councilwoman Smith.....Yes
 Supervisor HolbrookYes

RESOLUTION NO. (131-1998)

Co. Smith offered and Co. Profenna seconded

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

MJB CORP., INC.
3170 Bordentown Avenue
Old Bridge, New Jersey 08857

SAVAGE EQUIPMENT CORP.
952 Warwick Turnpike
Hewitt, New Jersey 07421

RESOLVED, that the following Certificates of Registration be issued:

No. 98-15 MJB Corp., Inc.

No. 98-16 Savage Equipment Corp.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (132-1998)

Co. Smith offered and Co. Mandia seconded

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

MONSEY EXCAVATING INC.
& ALBERT LEPORI
18 Laura Drive
Monsey, New York 10952

ROLF GREIBESLAND
200 Brewery Road
New City, New York 10956

RESOLVED, that the following Certificates of Registration be issued:

No. 98-17 Monsey Excavating Inc. & Albert Lepori

No. 98-19 Rolf Greibesland

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (133-1998)

Co. Smith offered and Co. Profenna seconded

RESOLVED, that the Supervisor is hereby authorized and directed to enter into an agreement with the library organization listed below, in a form approved by the Town Attorney, which provides a service for residents of the Town of Clarkstown which is deemed beneficial to Town residents, and be it

FURTHER RESOLVED, that said library shall receive library assistance, pursuant to Sec. 256 of the Education Law of New York State, in the amount of \$3,000.00 for the calendar year 1997.

NANUET PUBLIC LIBRARY

On roll call the vote was as follows:

- Councilman Maloney.....Absent
- Councilman Mandia.....Yes
- Councilman Profenna.....Yes
- Councilwoman Smith.....Yes
- Supervisor HolbrookYes

RESOLUTION NO. (134-1998)

Co. Smith offered and Co. Profenna seconded

WHEREAS, it is necessary for the Town of Clarkstown to obtain actuarial services for compliance with GASB 10 (Governmental Accounting Standards Board) for fiscal year ending December 31, 1997 and,

WHEREAS, Financial Risk Analysts, 27 Hartford Turnpike, Vernon, CT, is a nationally known actuarial consulting firm providing services to public entities nationwide related to self-insurance and GASB 10, and be it

THEREFORE, RESOLVED, that Supervisor Charles E. Holbrook is hereby authorized to enter into an agreement for one year with Financial Risk Analysts, in a form acceptable to the Town Attorney, at a cost not to exceed \$5,500.00, plus reasonable out-of-pocket expenses.

On roll call the vote was as follows:

- Councilman Maloney.....Absent
- Councilman Mandia.....Yes
- Councilman Profenna.....Yes
- Councilwoman Smith.....Yes
- Supervisor HolbrookYes

RESOLUTION NO. (135-1998)

Co. Smith offered and Co. Mandia seconded

WHEREAS, the New York State Department of Transportation (NYSDOT) has advised the Town that projects for the following three parking lots have been constructed and recommended for final acceptance by the State:

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RESOLUTION NO. (135-1998) Continued

- 1. Parking Lot at Smith Street and Route 59, Nanuet, New York
- 2. Parking Lot at Route 59 at Exit 14 of the New York State Thruway
- 3. Parking lot extension of the east park and ride at Forman Drive and Route 59

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby accepts the three parking lots constructed by NYSDOT, as listed below, and shall maintain the lots pursuant to agreements between the Town and NYSDOT:

- 1. Parking Lot at Smith Street and Route 59, Nanuet, New York
- 2. Parking Lot at Route 59 at Exit 14 of the New York State Thruway
- 3. Parking lot extension of the east park and ride lot at Forman Drive and Route 59

and be it

FURTHER RESOLVED, that this resolution shall become effective on February 1, 1998.

On roll call the vote was as follows:

Councilman Maloney.....Absent
 Councilman Mandia.....Yes
 Councilman Profenna.....Yes
 Councilwoman Smith.....Yes
 Supervisor HolbrookYes

RESOLUTION NO. (136-1998)

Co. Profenna offered and Co. Smith seconded

WHEREAS, the Town Board of the Town of Clarkstown denied a petition of HATTENBURG DEVELOPMENT COMPANY, INC. and SL REALTY CO. for a special permit to construct a mini-warehouse on September 9, 1997, and

WHEREAS, the Town Board of the Town of Clarkstown, on its own motion, wishes to reconsider the petition for a Special Permit to construct and operate a mini-warehouse facility pursuant to the provisions of the Zoning Ordinance of the Town of Clarkstown §290-11A, RS District, Table 12, Column 3, Item 7, and §290-17S, for property located at 49 Old Nyack Turnpike, Nanuet, New York, which property is designated on the Clarkstown Tax Map as Map 163, Block D, Lots 41 and 42, and a portion of Map 163, Block D, Lot 38.01;

NOW THEREFORE, be it

RESOLVED, that a public hearing pursuant to said Zoning Ordinance shall be held at the Auditorium of the Town Hall of the Town of Clarkstown, 10 Maple Avenue, New City, New York, on February 10, 1998, at 8:10 P.M., to consider the said Special Permit, and be it

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

On roll call the vote was as follows:

Councilman Maloney.....Absent
 Councilman Mandia.....Yes
 Councilman Profenna.....Yes
 Councilwoman Smith.....Yes
 Supervisor HolbrookYes

RESOLUTION NO. (137-1998)

Co. Mandia offered and Co. Smith seconded

WHEREAS, St. Paul' Church, Valley Cottage has requested use of the Town of Clarkstown showmobile on June 28, 1998 for their Parish Picnic which is being held on St. Paul's School, Kings Highway, Valley Cottage, New York;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby grants permission to St. Paul's Parish to use the Town of Clarkstown showmobile on June 28, 1998, at St. Paul's School, Kings Highway, Valley Cottage, New York, at no charge, subject to provision of the necessary insurance policies.

On roll call the vote was as follows:

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

RESOLUTION NO. (138-1998)

Co. Smith offered and Co. Mandia seconded

WHEREAS, there is a rare moment of hope in Ireland, and

WHEREAS, all Americans of good will want to see the peace talks in Belfast, under the chairmanship of an American Special Envoy, bring about a just and lasting peace, and

WHEREAS, people in Northern Ireland, who for years have been leading peaceful resistance to sectarian bigotry, after reflecting on what changes and guarantees of rights are needed for all citizens, nationalists and unionists alike, to be able to build a future as equals, have designated the Charter for Change; and

WHEREAS, the Charter corresponds to the basic ideas of equality and liberty, and democracy and civil rights enshrined in sacred documents, such as the American Bill of Rights, in domestic and international law, and simple fair play, and

WHEREAS, the denial of equality and full rights for all has been the root cause of the conflict in Northern Ireland, and

WHEREAS, all people everywhere should have these rights and so should people in the North of Ireland no matter what governance structures are negotiated by the parties and the government by May 1998, and

WHEREAS, the American role in the Irish peace process arose because Americans, Irish and non-Irish alike, demanded it, and President Clinton wisely, and courageously offered to bring U.S. encouragement to bear,

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown warmly welcomes and

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RESOLUTION NO. (138-1998) Continued

endorses the Charter for Change as a democratic idea which points the way to peace, justice reconciliation in Ireland, and be it

FURTHER RESOLVED, that the Clerk to the Town Board be and is hereby authorized and directed to send a certified copy of this resolution to President Bill Clinton, the Hon. Daniel Patrick Moynihan and Hon. Alfonse D'Amato, United States Senators, the Hon. Benjamin Gilman, United States Representative; the President Pro Tem of the United States Senate; the Speaker of the House of Representatives; the Majority and Minority leaders of the Senate and the House of Representatives; the American Ireland Education Foundation - P.E.C. and to such other persons as the Clerk, in her discretion, may feel proper in order to effectuate the purpose of this resolution.

On roll call the vote was as follows:

Councilman Maloney.....Absent
Councilman Mandia.....Yes
Councilman Profenna.....Yes
Councilwoman Smith.....Yes
Supervisor HolbrookYes

RESOLUTION NO. (139-1998)

Co. Mandia offered and Co. Smith seconded

WHEREAS, the Clarkstown Town Board adopted Resolution No. (1151-2988 and SEQRA findings on December 6, 1988 (the "Zoning Resolution") amending an ordinance known as Chapter 106, Zoning Code of the Town of Clarkstown in relation to change of Zone District Classification Map 89, Block A, Lots 4, 12.02 and 13; Map 106, Block A, Lots 25, 45, 45.0101, 46, 47.01, 48 and 49 from LIO (Light Industrial Shopping) to MRS (Major Regional Shopping Center); and

WHEREAS, the Zoning Resolution contained certain requirements known as the "Exit 12 Improvements" and the Route 59 Improvements" and any alternatives to those improvements approved by the appropriate state agency, to be performed by the developer of the Palisades Center (referred to as "Applicant in the Zoning Resolution"); and

WHEREAS, a building permit was issued on December 13, 1996; and

WHEREAS, the Zoning Resolution further provided that "full completion" of the Road Improvements "shall be a condition precedent to the issuance of a preliminary Certificate of Occupancy for any such building", and

WHEREAS, the Zoning Resolution further provided that completion of the Road Improvements shall be secured by Developer of the full estimated cost of such Road Improvements, which security in the amount of TEN MILLION DOLLARS (\$10,000,000.00) was delivered by Developer and accepted by the Town in 1993; and

WHEREAS, Developer also has delivered to the Town a TWO MILLION FIVE HUNDRED THOUSAND DOLLAR (\$2,500,000.00) Irrevocable Letter of Credit as security for Developer's completion of the top course of certain road improvements and completion of the landscaping and certain other "punchlist" items; and

WHEREAS, Developer, on behalf of BJ's one of its tenants, has applied for a Certificate of Occupancy for the BJ's premises on the Palisades Center site; and

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RESOLUTION NO. (139-1998) Continued

WHEREAS, by this Resolution this Board clarifies the meaning of the term "full completion" as used in the Zoning Resolution,

NOW, THEREFORE, be it

RESOLVED, that the Town Board in accordance with its previous SEQRA Findings hereby states that "full completion" in the Resolution dated December 6, 1998 was intended to mean and means that all required improvements are in place, usable and safe; and be it

FURTHER RESOLVED, that the Town Board will rely upon certification of the agency having jurisdiction over the road improvements and upon certification by those agencies or Town agencies, as the case may be, that the road improvements are in place, safe and useable, such that the Building Inspector may issue a Certificate of Occupancy; and be it

FURTHER RESOLVED, that on future requests for Certificates of Occupancy the Town Board adheres to the same standards as sent forth herein, up to the 1.854 million square feet GLA as adopted by the Planning Board Chairman on January 12, 1998.

On roll call the vote was as follows:

- Councilman Maloney Absent
- Councilman Mandia Yes
- Councilman Profenna Yes
- Councilwoman Smith Yes
- Supervisor Holbrook No

Co. Mandia explained that the purpose of this resolution is to clarify the fact that unless or until the State DOT and the Town authorities approve, including the police department, the building inspector, and the DEC, approve that those roads are safe and passable that no COs are issued until those conditions are satisfied.

Town Attorney: There's a bond that covers 1D, not 1H, this is 8A in their group of requirements, it's with the \$1 million bond that you will find covers 1H, the requirement for a letter of credit covers 1D.

Supervisor: How does this resolution differ from the issue of completeness?

Town Attorney: Valenti signed a document which was a covenant that he would complete the improvements. This has not been done. Also, this requirement of the bond for 1D which should be 1H. Also there's certain other items here which require letters, etc.

Supervisor: The other question I have is has the Highway Superintendent, to this point, certified that these roads are complete? I would think that the resolution really is superfluous because, basically, this should be governed by what it says in the covenants. That's my opinion.

Co. Mandia: Well, I'm going back to the meeting that was held a week and a half ago. I can understand the economic questions of the business people to get their facility open but the fact of the matter is, it was a discussion of some length at the Police Commission on Monday night and I listened to some pretty strong remarks by both the representatives from the DEC as well as the Highway Department concerned with the fact that some of these punch list items were not complete, and even if they were complete that afternoon at some time, then there wasn't even time to check it out to make sure it was complete. No, I don't know that the Highway Superintendent or Mr. Letson has had a chance to look at whatever has been given to them since that time. They're both engineers, it's up to them, but all this resolution is intended to do is to make it clear that unless the State DOT, the Town Highway Superintendent and the Town DEC and the Police Department feels that the roads are safe and passable, complete, to me, is too vague a term. The Nanuet Mall was not closed before the lights were put up and while the construction was going on. It is the normal course of business including Avalon and many other developments that the base course of the road, the curbing, the drainage, is put in, declared safe and passable by those same individuals, and the top course is

done some months later and cleanup is worked on some months later. It is not in contradiction to any other practice we have done any place else and as long as those three individuals, four including the police dept, feel that those roads are safe and passable, free of construction debris, free of construction traffic and able to be accessed, then as far as I'm concerned, the situation that we term complete is in fact complete and in line with any other development that has been carried upon. We don't want Pyramid to get away with not building a road as was the case in some place in Massachusetts about 20 years ago. They promised to build a road and didn't build it and somebody gave them a CO and it was a problem. Well, the roads are essentially built as soon as they're safe for traffic as certified by the professional engineers in those departments I described. I don't think that we need to be holding back on these C of Os because of the top wearing course, if that is the intention of anyone, when we haven't done that for anyone else. That's my point and that's the purpose of the resolution, to clarify the issues that were brought up as concerns by the engineers, both Eklecco's and our own, from my point of view, I think Eklecco's engineers were kind of shaky on it themselves on that Friday morning a week ago. That is the purpose of this resolution.

Supervisor: One other thing I would just add to that is that the issuance of the CO, aside from the roads being complete, also has a whole host of other items, for example, leachate collection system which was tested by the Rockland County Health Dept. and was found to be inadequate at this particular point in time. Also, there were some other items relative to changes in the covenant that were exacted by other agencies which need to be corrected prior to an issuance of a CO. So it's not simply the roads, although the roads are a major component of this. I just think that if we follow what's in the covenant originally that we will be very clear on what we have to do. I think a lot of the times that we get involved with this it becomes obfuscation by trying to clarify what the word "complete" means and I think that's really the game plan here.

Shirley Lasker: I'm just confused; are you thinking of passing this resolution tonight? Don't you need a public hearing before you are, in effect, changing the covenant.

Co. Mandia: I don't see it as changing the covenant and, therefore, I don't think it calls for a public hearing. It just clarifies what completion means.

Shirley Lasker: I'm just a lay person but I would think that the covenant is very clear; that the roads have to be complete. I would just be concerned, the Town has to be concerned, with the safety of the public and not with the Palisades Center agenda or what their economic concerns are. The mall is going to open and nobody's trying to stop them from opening the mall, obviously, but the Town is liable in this case. If something happens to somebody on the road the Town would be liable, if the roads aren't completed satisfactorily.

Co. Mandia: From my point of view, we have a maintenance agreement which has a bond of multimillion dollar's insurance. We have asked them to give us insurance at the company of our choice; the resolution was passed several weeks ago and we have a \$100,000 deposit in a maintenance account that is in cash, we have a \$ 2-1/2 million irrevocable letter of credit that is far more valuable than any bond. I don't think we are responsible. We have not dedicated the roads or that portion of the ring road that will be a town road. This is no different than many developments that have opened up. There is one right down the street at the old Yale Rapkin property where the houses are being built, C of O's are being issued, people are living in them.

Shirley Lasker: I think the Town should hold to higher standards, not only with this development but with a lot of the others that have occurred in the Town. I think our standards in the Town are too low. We have to be concerned with public safety, whether or not you have the bonds to fix it or not. If one person gets hurt on those roads, that's one person too many, whoever is liable.

Number two, it concerns me and a lot of other people that the leachate collection system was found to be faulty. Before they are allowed to be opened up, the collection system has to be fixed.

Co. Mandia: If the DEC clears this, which I hope and assume include health department and other officials; if Mr. Letson, Mr. Kalarical, whoever clears, we have all those agencies covered, I would hope. I have to rely upon the professional people, and we are fortunate that they are all engineers and have been very productive and have been very, rightfully so, critical of what has been going on based on what I've seen them do. Hopefully, those issued will be covered before they sign off on it. I'm not saying issue a C of O tonight; I want to make sure they have satisfied all those agencies on every level that everything has been done.

Shirley Lasker: I think the covenant is adequate and you don't need to add the resolution. That is my opinion and a lot of people feel the same way.

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Eric Alderman: I work in West Nyack and live in Syracuse, NY. There has been great deal of discussion on whether this site and the off site improvements have been completed by Eklecco sufficiently to obtain a CO for BJ's. That is not the issue here tonight. I agree with Mr. Mandia that all the improvements that need to be completed will be according to a proper and appropriate standard before the certificate of occupancy is issued. I would like to address two issues tonight. One is an issue raised by Mr. Jacobsen and Mr. Holbrook in a memo which I have had the opportunity to see and that is the issue of whether Eklecco needs some relief from this Board to modify the 1988 zone change resolution because of changes in the plans since 1988 and the second issue is whether and under what circumstances the work that is identified in that zone change resolution is complete. We need to look back at the resolution itself. I think if Mrs. Lasker did look at the resolution, she would understand that it is not the covenant, it's the resolution which controls and that the answers are quite apparent on the face of that resolution. There are 12 enumerated improvements on the 1988 zone change resolution to be performed by the owner of the project, referred to in that resolution as the applicant. Those were contained in Section 1 in sub paragraphs A and B, 12 enumerated improvements. The purpose of those improvements was plainly and clearly set forth in the language of the resolution "to prevent traffic generated by the development of this site from intensifying existing traffic problems at the NYS Thruway Authority Exit 12 interchange with Rte 303 and on Rte 59 in the vicinity of the site" and the second was to insure proper ingress and egress to and from the site. Put another way, the resolution provided that it was each of these 12 improvements that had to be in place, that is the full completion of not less than all 12 improvements which was a condition precedent of the resolution. This resolution nowhere said perfect completion but completion of the full complement of all 12. We know this because the resolution tells us that the group of 12 improvements were necessary to create and meet the stated and identified goals of traffic mitigation and access. Thus, if all 12 improvements were and are in place so as to be safely usable to effect their goal, that is, access and traffic mitigation, there would be full completion. Nowhere is it said, for example, that this precludes the existence of punch list items that do not effect the installed improvements serving their purpose. Some in the Town might respond that, in any event, relief is needed from this Board because there were modifications to some of these 12 improvements by alternative designs adopted by NYS Thruway Authority or the NYS Dept. of Transportation. These have been detailed in Mr. Holbrook's memorandum. However, we must be aware that the very specific language that this Board adopted in the zoning resolution allowed for those changes. Fortunately, this Board in 1988 had the foresight to realize and understand that their ideas of the required improvements to effectuate the purposes and meet the stated goals of the resolution of access and traffic mitigation might be different in some ways to the NYS DOT and the NYS Thruway Authority who had jurisdiction over these offsite state road system improvements of the Exit 12 interchange, the bridges, the ramps, Rte 303 and Rte 59 and as a result of that, the resolution set up Section 1C as part of the conditions that had to be met by the developer. That language says prior to the issuance of final site plan approval by the Town of Clarkstown Planning Board for the development of the site, applicants shall own in fee all lands near or adjacent to the site for the development of the site, and (b) obtain all approvals necessary for the improvements described in those Sections 1A and 1B, 12 improvements are necessary for the implementation of alternative plans acceptable to the NYS DOT and the NYS Thruway Authority who intended to achieve the purposes stated above, namely, access and traffic mitigation. In issuing the highway work permits over the state roads over which they have jurisdiction, the NYS DOT and the NYS Thruway Authority issued work permits on 6 of those improvements which contain minor, in some cases minor, in some cases more substantial, modifications of those words enumerated in the zone change. Just as the zone change resolution anticipated, provided for and allowed and, in fact, each of those alternative plans was incorporated in the site plan and just as the zone change resolution provides adopted by the planning board in the final site plan approval.

In plain language, this means that if in the permitting process the state agency having jurisdiction over the roads allowed and thought that it was proper to modify the language of that resolution in some of the alternative plans which they thought were proper, they had the right to do so and it was OK as long as it was intended to achieve one of the two stated goals of proper access and adequate traffic mitigation. So that when Mr. Holbrook or Mrs. Lasker alludes or refers to the fact that there is some other action needed by this Board because there was a failure to comply with the zone change resolution the only explanation for their belief in that regard could be an intention to either misread or mislead based upon their personal feeling about the Palisades Center. When you ask whether Mr. Mandia's resolution has a purpose, it does. There is a clear understanding in the resolution of what full completion meant. Mr. Mandia said it forth very simply. The goal was to make sure that Eklecco, or whoever was the developer of this project, could not open this project by leaving out one of the improvements which was found as a result of the SECA process to be necessary in the process of access and mitigation. We have not left any of the improvements out. Whether each of those improvements is complete, that is, ready to be used for the purpose for which it was meant to be built, that is access and traffic mitigation, is a decision to be made by the appropriate agency, the State DOT and Thruway Authority over state roads within their jurisdiction and the Town departments over the Town roads within their jurisdiction. On this issue, we take no issue unless there is some different standard to be applied to this project than any other project and that completion means more than the functional use of the improvements which we have made and have secured to this Town through

millions of dollars of security. It has also been raised by Mr. Holbrook in his memorandum that we did not comply with the zone change resolution because a million dollar letter of credit referred to in the zone change resolution was not provided. However, in 1993, with the full agreement and participation of the Town Attorney and as approved by the Town departments and as presented to the Planning Board and in full light of day agreed to by Mr. Holbrook, we provided a bond in a million dollars instead of a letter of credit which has been in place since 1993 and continues to be in place. We have provided a copy of that bond to each of you. To say today, five years after the fact, hundreds of millions dollars into this project, that that bond is now not sufficient, is the most amazing of all arguments that we have faced in the many years trying to get this open. There are other similar types of arguments addressed in the Holbrook memorandum. They are equal in their weight and their accuracy. For example, there was a concern that two pieces of work, the Rte 59 culvert and the Bobby Lane curbing would not be done. They will be done just as they are provided for in the resolution. There has been a lot of talk about the status of work. The most typical issues have to do with providing as-built drawings, certifications about the roads, department head approvals, the leachate collection system, the force main and the landfills. We assure you that each of those items, and most particularly the leachate collection system which, in fact, was not ready a week ago, will be ready and will be certified as functional and ready before the certificate of occupancy is issued, as will all of the other improvements. Probably the most amusing of the arguments against the certificate of occupancy in the Holbrook memorandum is that we have not complied with the requirement that the skating rink be ready. Now, we have a picture. I don't know, Mr. Holbrook, if you have even bothered to come into the mall, have you.

Supervisor: No, I haven't been there.

Alderman: You haven't been there but you are willing to accuse us of not having completed.

Supervisor: That's the question, it has to be complete and ready for public use

Alderman: Here's a picture, ice, facilities, lights, boards, people skating on it.

Supervisor: Yes, if it's complete it's complete. Complete means complete.

Alderman: I would only ask that before you do what you often do so well which is to throw words around which aren't accurate that you read the accurate language of the documents which control the development of this site. This four million dollar amenity which is provided by Eklecco to the Town and its citizens is ready for use.

Supervisor: Well, then we can take it off the list.

Alderman: Good. The next items that I want to address is that there was a lack of compliance with a certain master list that was developed in November 1996. When that list was created after weeks and weeks of arduous review by yourself and your department heads to make sure that a building permit and a site plan approval was not obtained before we complied with those items, you made the list, we complied, you said we complied, your Town Department heads said we complied. Why is it on your list, Mr. Holbrook. There are two items on Mr. Holbrook's list which are not improvements listed in the resolution yet they are treated as though they have to be fully complete by Mr. Holbrook. One of them is the Raia Landscaping that nowhere appears in the 1988 zone change resolution and also should be removed from your list. We are here trying to work with the department heads of this Town, understanding what we need to do in order to open properly and safely. Mr. Mandi's resolution is to be applauded because it will obtain for the people of this Town and the members of this Board the proper application of the term complete and when a certificate of occupancy should be issued so that we can welcome our new great neighbor in Clarkstown and in this community, BJ's, who is dying to get open and serve the townspeople of this community and I know that Mr. Drummie from BJ's is here and I don't know if he wishes to say anything tonight, but I know that we welcome them and I hope that you will too. We have provided you, Mr. Holbrook, as well as the balance of the Town Board and all the department heads, with a response with backup written documentation as to the deficiencies which you claim in your memorandum, all of which are slightly outdated, I might add, which will help you understand that we have completed, or within the next day or two or three will complete, each of the items which we are legally bound to complete to make this a safe, proper, and appropriate opening of the Palisades Center. Thank you.

Town Attorney: Mr. Alderman, you provided us with a copy of a bond for \$1 million dollars, 1H of the Town Board resolution which talks about a letter of credit in the amount of a million dollars. It does not cover D which is a letter of credit prior to the site plan approval for which the Town shall be entitled to obtain funds for such improvements. I'm reading from D in the covenants, the bond in D in the covenants is exactly the same as the bond in E in the resolution. H speaks about a million dollar bond or letter of credit, D talks about a letter of credit to be approved by various agencies.

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Alderman: Mr. Jacobsen, I can only say we would have depended on you to make sure that the agencies of your Town approved that before you approved it on behalf of the Town

Town Attorney: I didn't approve it on behalf of the Town.

Alderman: It was delivered to you personally and it has been in place since 1993.

Town Attorney: No, it wasn't. The bond talks about 1H.

Tom Valenti: Mr. Jacobsen, you had me make changes on that bond, we sent it back to the bonding company and the changes that you requested were made.

Town Attorney: 1H is what the bond says.

Valenti: It doesn't matter if it's 1H or 1D, it's for the same thing

Town Attorney: It's not, 1H talks about a million dollar bond , 1D talks about a letter of credit. There's six listed items that might have to be taken care of now before you get a certificate of occupancy. You have to give us that bond, the letter of credit.

Valenti: Mr. Jacobsen, we have a very strong disagreement and if we must settle it in court, we will.

Town Attorney: Very good.

Penny Leonard: My name is Penny Leonard; I work in Town Hall for Supervisor Holbrook. I get a lot of questions because I answer the questions that come into our office. I just want to know, Ralph, how you want to answer these things so I can tell the people what you meant. On Charlie's memo yesterday, Number 3, about the curbing on Bobby Lane: According to Mr. Alderman's letter that we were responding to, you were eliminating that curbing and now my understanding is they are eliminating it. The Town Highway Superintendent and the consultant, John Sama, say it shouldn't be eliminated. Is it eliminated now or what? How are you dealing with that?

(Palisades officials stated that they are going to do curbing on Bobby Lane.)

Number 4, the traffic that leaves the NYS Thruway bridge that exits out onto Snake Hill Road: The resolution that the Town Board passed in 1988 said that the traffic would be limited to eastbound turns "only" and this was brought to our attention by a resident of Old Mill Road who said that this was a big thing that they fought for back in 1988 and that the idea was and the Town Board agreed before they passed a resolution that that traffic would wind up going right there. It wouldn't be going left so that it would wind up on Old Mill Road. There are a lot of residents who live on Old Mill Road who are worried now that because the traffic hasn't been limited to eastbound "only" as it did say in the Town Board resolution, that now they're going to have a lot of traffic. Mr. Alderman didn't address this point, and so when I get the calls from the people on Old Mill Road I want to know what to say. Let me know what to say. Are we going to follow the resolution and limit it only to eastbound, or are we forgetting about that now?

Valenti: The answer is that that NYS Thruway Authority and the Planning Board approving the design by the NYS Thruway allowed for the westbound turn from the bridge onto Snake Hill Road. We didn't care, we were directed by two agencies, one of which is the Town Planning Board.

Penny Leonard: Well, the people who are relying on what the Town Board did in 1988 were trusting in that.

Valenti: Your are missing the point again in that the Town Board Resolution provides for alternatives to be established by the NYS Thruway Authority

Penny Leonard: I get the point, Mr. Valenti, but the people who live on Old Mill Road and Strawtown Road, they get the point that they fought for this "ONLY" to be put in here and now apparently it has been totally disregarded.

Valenti: This is not something that came up suddenly, Mrs. Leonard, this is something

Penny Leonard: To tell you the truth it was brought to my attention only this week and . . .

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Tom Valenti: Mrs. Leonard, you did not attend the Planning Board . . .

Penny Leonard: No, I didn't but I know what the Town Board said and they said only and apparently they did want to protect the people who lived on Old Mill and Strawtown if that is no longer the intent, I will assume that it is no longer the intent and when they call I'll say, they knew it, they let it go by.

Alderman: The Town Board would not have allowed the provision to give the NYS DOT and the NYS Thruway Authority the authority to change within that resolution . . .

Penny Leonard: We read that differently, Mr. Alderman, so I won't debate it with you. Number 5 about the skating rink, it says the skating rink is ready for use by the public. When BJ's opens, will people be allowed on the rink?

Alderman or Valenti: No, it's not open . . .

Penny Leonard: OK so I can tell them it's not open and the Town Board knows that.

Alderman or Valenti: It's ready for use

Supervisor: But nobody can use it.

Alderman or Valenti: They can use it, as you saw in the picture, people were on it.

Penny Leonard: It's one thing to say it's ready for use but if you can't let the public on it, then it's really not ready.

Valenti: It's not a question of letting the public on it, it's a question of whether or not the Town wants to take it over. If the Town didn't want to take it over then we would've run it. We are trying to accommodate the Town by allowing the Town time to determine whether or not it makes sense to run it.

Penny Leonard: OK. It's not ready is what the bottom line is.

Valenti: It is ready.

Penny Leonard: As long as the Town knows, that's all. The leachate collection system again there are a lot of concerns about it. The public calls our office about it frequently; it's not something that is just a couple of people interested in; a lot of people are interested in it.

Mandia: The leachate system, the concern with that has to do with the base that's under it. The man from the Board of Health, he would rather see pilings under there or some substantial substance under it. Unfortunately, the State DEC or one of the state agencies approved it the way it is. He's concerned that the fact that it's not on solid ground, it could give. I asked him to continue to fight for that, I hope that the Town DEC will continue to fight with that but the fact of the matter is the resolution, as I understand it, calls for the DEC and the state agencies to approve the construction and any attempts to stop the progress of the development when it has been approved by the appropriate agencies should be done as a matter of the best quality to protect the property and to protect the public. The aspects of what is in the resolution have been satisfied.

Penny Leonard: What about the landfill. It says in the resolution that those landfills will be completed to the satisfaction of the NYS DEC and that all remediation work required by the DEC with respect to the two 12 acre landfills on the site will be complete. However, what I saw was a memo from Al Klaus saying basically that the work hasn't been completed but they didn't care if BJ's opened. Is that right.

Alderman: That was January 15 or 16. I think that there has been quite a bit of work done since then.

Penny Leonard: Is it complete now?

Alderman: Yes.

Penny Leonard: I am not trying to argue with the Board, I'm just want to know what to tell people when they call because it's like " Oh, let me find out."

Valenti: Why don't you refer them to me.

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Penny Leonard: They don't really trust you quite frankly. The last thing is that you all know that in 1996 the Town department heads and the Supervisor went over a whole list of all the conditions that had been placed on this project until that time. It took a lot of time to do that. The Supervisor assigned someone to each condition whether it was Luke, the head of the DEC or Dolph Milich, the head of the building department, so that we knew who is checking off on each one. Now the Supervisor has asked each of those department heads to come forward and say if everything is complete. It seems like an efficient way to do it. Are you saying you don't want us to wait for that to come back.

Mandia: I'm saying exactly the opposite. My resolution says when each of those department heads clear it, that's exactly what the resolution says.

Penny Leonard: So you want them to come back with the answers to this.

Mandia: Yes, the issue, Penny, really is, on the road issue especially, what is complete and what's not complete. All I'm saying is I have not seen any development here or any place else in the country where a development is allowed to be opened when the roads are safe. We shouldn't be treating this development any different than anyone else. As far as the other conditions, I will guarantee that if the police find that that road isn't safely passable, if those construction vehicles aren't taken off that road when that store is open, the road will be closed by the police. It has nothing to do with the DEC, you or me or any of the department heads. If it's unsafe it is very clear with the captains, the lieutenants, the chief, they'll close that road. There will be no messing around with that issue. But I was highly impressed at the meeting I attended a couple of weeks ago. I think that Mr. Letson, the Highway Superintendent, stood their ground and I want to give them a chance to have their piece. But if this issue is the wearing course on top, from my point of view, that is not fair.

Penny Leonard: But isn't that the call of the Highway Superintendent?

Mandia: Yes, it is.

Penny Leonard: You'll go with whatever he says?

Mandia: The resolution said that, whatever he or she says from the various department heads that have the authority to approve it.

Penny Leonard: And the letter of credit that Mr. Jacobsen referred to that was a requirement of the original resolution?

Mandia: It has been my understanding that was satisfied and as Mr. Valenti said that was satisfied in 1993 with the bond. There's an argument as to whether H agrees with D or D agrees with H and I guess that needs to be fought.

Penny Leonard: Will that be resolved before the CO is issued?

Mandia: I would like to see it resolved, yes.

Penny Leonard: Thank you all for your patience.

Donald Tracey, Esq: Mr. Holbrook and Town Board members, my name is Donald Tracey and I'm local attorney for Ekkecco. I have a great deal of respect for the legal acumen of our town attorney and I think that whatever the confusion may be or difference of opinion I know that as lawyers, we will sit down and we will work it out. If we are wrong, we'll fix what needs to be fixed, if he misinterprets I'm sure that he will acknowledge that as far as the law is concerned lawyers tend to be sticklers but there's a very common sense saying that says, "Let's not exalt form over substance." If we look at every single job that I know of over a period of almost 30 years now in municipal law or land development in the Town of Clarkstown, I have never seen a job which did not get a certificate of occupancy without a wearing course. A wearing course is a course that is put on for permanency. It is not something that makes the road any safer; it is not something that makes the road any nicer to drive on. It perhaps is something that can be damaged during construction if it is done prematurely. I'd like to emphasize because I saw Mrs. Leonard's concern that what Mr. Mandia has proposed as I understand it here tonight does not say grant BJ's a certificate of occupancy. What it says is satisfy the various departments, department heads, as to the safety and utilitarian use of these roads, satisfy the DEC, satisfy the NYS Thruway department, our new Superintendent of Highways, our Director of Environmental Control and our Town Attorney. Satisfy those people and we will not exalt form over substance by saying that you must wait until the Spring to put a wearing course on the road when we can extract from you a million and five hundred thousand dollar bond or letter of credit, incidentally under the general construction law, an undertaking is either a bond or a

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letter of credit and the two are used interchangeably under Article 14 of the General Construction Law so I applaud the resolution. I ask those who seem to be upset by it to realize that it basically does nothing but clarify. It does not put a certificate of occupancy in our hand, it does not endanger a single person and with that in mind I'm sure that on the morrow that reasonable men will sit down and reason together. Thank you.

Shirley Thorman, Valley Cottage I have a few questions to ask because I am also confused as Mrs. Lasker in terms of the resolution that was offered tonight. Mr. Mandia, am I to understand that the resolution which you are offering is more of a protection to the citizens of this Town than the covenant that we now have in place?

Mandia: No, it's just meant to clarify the issues that were brought up at that meeting a week ago Friday. Basically, to clarify this issue of completeness. Look, we're not hiding anything under the rug here. There's a great deal of concern about this property.

Shirley Thorman: I didn't imply that, sir.

Mandia: No, I understand that. What I'm trying to say simply is there are people that are very concerned about the mall as they should be. It's been going on for a long time, a longer time than I've been here and I'm concerned that there may be issues . . . to be very frank with you I don't feel it's the responsible thing to do and it's a risky thing to do; to single out this particular development and treat it differently than anybody else, when it comes to this issue especially. And again, I meant what I said earlier, I think that the gentlemen that were involved in that conversation last Friday, I admire their zeal. I mean there's an awful lot of pressure put on them that "Hey, we got it done, come out and look." Well, no way. We want to see the reports, we need the time if it's weeks or months. Hey, as long as they're satisfied.

Shirley Thorman: Are you implying that what exists now does not, in fact, do just that?

Mandia: Yes, it does. It just reinforces. If it was doing anything else then it would require a public hearing. It just reinforces what was said as I understand it.

Shirley Thorman: May I ask, sir, if this was discussed with the Town Attorney's office because this was the resolution that you have. When you read it out it sounded as if it were in legalese, so I assume that you had a lawyer help you in drafting it.

Mandia: Yes

Shirley Thorman: And the Town Attorney's office drafted this.

Mandia: No.

Shirley Thorman: I see. Does this, in fact, did you ask the Town Attorney's office whether, in fact, this in any way mitigated the covenant.

Mandia: No.

Shirley Thorman: Well, I have to tell you, sir, that as a citizen of the Town, I'm a bit taken back that anyone that is elected to public office to represent me, and that's what you are doing, did not discuss it with the Town Attorney's office because if I were sitting in your seat, sir, and I sat on the Planning Board in Clarkstown, I paid attention to what the Town Attorney's office advised us. And I would have hoped that as my representative you would have discussed it with the Town Attorney's Office. Thank you.

Mandia: Thank you.

Skip Coleman: Good evening, my name is Skip Coleman, I represent the Laborer's Union in the County. I'm here to say that I prequalify myself as being the resident road builder and bridge builder in this county. The majority, probably 99% of our roads and bridges built in this county, were built by my people or assisting in. The same contractors that have built Rte 59, the Tappan Zee Bridge, the Hemion Road bridge, I could go on and on, they're the same contractors performing the work at Pyramid. To think that they're deviating from any state specs or NY or federal specs is ludicrous. We're builders, those roads are sound, they're built to specifications, they're employing the local people and I would urge the Board to, if the roads are what's holding up the CO for BJ's, then I would urge you to pass it please. Thank you.

George Drummie: Good evening. My name is George Drummie and I'm the vice president in charge of real estate for BJ's Wholesale Club. I'm here to respectfully ask this Board to help us open our club as

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soon as possible. For BJ's in the community, further delay means potential layoffs in our work force. BJ's has approximately 150 employees on our payroll and we have a fully stocked store as we sit here this evening with over 6,000 items. Many of those items are time dated. We need to open. You will find us to be a good neighbor and an active participant in the town's educational and cultural affairs. Please help us begin that relationship and thank you for your consideration.

Holbrook: I'm going to vote no on this resolution. I know that's a big surprise to everybody out there but, seriously, there are a number items that still have to be done. I think that we have the wherewithal which to enforce what needs to be done out there. I think our department heads over the past weeks have done that. The BJ's situation is unfortunate but it's not of the Town's doing. Unfortunately, Pyramid has an interesting way of making their problems our problems and that's not right. That's what goes on not just here but in every community in which they're a part of. The Highway Superintendent who has the courage to go out there and do the job and actually check and see if those roads are sufficient and he hasn't done that to this point. It's not simply the wearing course. The wearing course is something that can be understood. We understand that, in fact, we even discussed that at the first meeting. Far more than the wearing course, there's core samples there that he found to be inadequate, there's other questions relative to construction, temperature issues that all have to be addressed. Then there is the issue of the leachate collection system and other items relative to the actual zone change itself. The Town Board put certain things into that resolution almost 10 years ago and if they're superfluous or moot at this point there should be changes. But if they're important, they can't be changed without the Town Board's approval and without having a public hearing on those issues. I think the eastbound issue there is one of those. So I think this is more than just a crisis to try to get BJ's in. BJ's, we welcome them into our community but we did not set those deadlines. We didn't establish January the 10th or January the 17th or whatever day they have in mind to open. It sounds to me like they want to open this weekend. But the fact of the matter is that mall should only be opened when everything is complete and now we've heard new definitions of what completeness is. Noah Webster lived a long time ago and complete in my view is complete, that means everything should be done and that was what was agreed to by the Town Board ten years ago and still what should be agreed to by the Town Board today. So I respectfully vote against this resolution.

There being no one further wishing to be heard on motion of Co. Mandia, seconded by Co. Smith and unanimously adopted, the meeting was declared closed, time: 9:05 P.M.

Respectfully submitted,



PATRICIA SHERIDAN
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

01/27/98

8:05 P.M.

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

Re: Revising Chapter 250, Subdivision 6, (Traffic Hazards at Street Corners)

On motion of Co. Smith, seconded by Co. 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.

There being no one wishing to be heard on motion of Co. Smith, seconded by Co. Mandia and unanimously adopted, the public hearing was declared closed, RESOLUTION NO. 108-1998 ADOPTED, TIME 8:07 P.M.

Respectfully submitted,



PATRICIA SHERIDAN
Town Clerk