

TOWN OF CLARKSTOWN  
TOWN BOARD MEETING

Town Hall

11/2/2000

8:30 P.M.

Present: Supervisor Holbrook  
Council Members Lasker, Maloney & Smith  
Councilman Mandia Absent  
John Costa, Town Attorney  
Patricia Sheridan, Town Clerk

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

On Motion of Co. Maloney, seconded by Co. Smith and unanimously adopted, the public hearing re: Amendment to the Official Map of the Town of Clarkstown (Open Space) was opened, time: 8:30 PM.

On motion of Co. Maloney, seconded by Co. Smith and unanimously adopted, the public hearing re: Amendment to the Official Map of the Town of Clarkstown (Open Space) was closed and ADOPTED, time: 9:40 PM.

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RESOLUTION NO. (868-2000)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that the proposed changes to the Official Map are hereby withdrawn.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
Councilman Maloney . . . . . Yes  
Councilman Mandia . . . . . Absent  
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 Co. Maloney seconded by Co. Smith and unanimously adopted, the Town Board Meeting was declared closed, time: 9:40 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,  
Town Clerk

TOWN OF CLARKSTOWN  
PUBLIC HEARING

Town Hall

11/2/2000

8:30 P.M.

Present: Supervisor Holbrook  
Council Members Lasker, Maloney & Smith  
Councilman Mandia Absent  
John Costa, Town Attorney  
Patricia Sheridan, Town Clerk

RE: Amendment of the Official Map of the Town of Clarkstown (Open Space)

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

Supervisor distributed maps to the public for their reference. Supervisor stated that the purpose of tonight's public hearing is to elicit public comments on the land shown on the maps, being distributed, for consideration of open space. The Town Board will not put any properties on the official map this evening. In the future, the Town will only consider those properties that it intends actually to acquire with the owner's approval. The maps show all the lands that were considered. There was no reduction in the list so that all are shown. The properties represented were chosen by the Planning Board, the Citizens Ad Hoc Committee and the public after a series of Public Hearings. The actual taxable value of all the land in the Town of Clarkstown as of 11/2/2000 is four billion, one hundred and forty-seven million, seventy-nine thousand, six hundred and nineteen. Supervisor asked Mr. Geneslaw to make a few comments relative to the proposal that is presently before the Town Board.

Mr. Geneslaw stated that about two years ago, the Town decided to undertake an update of the Comprehensive Plan. That was done primarily by the Planning Board and the Ad Hoc Committee that was appointed to work with the Planning Board. They met about every three weeks for a year. They had a series of meetings around Town to get comments from the public. There was a meeting for Valley Cottage, Congers, Nanuet, and New City. Anyone else who lives elsewhere in Town could come to those meetings and make whatever comments they wanted about the future of the Town. One of the most frequently heard comments from the public at those meetings was a request that the Town preserve open space. People felt that there was too much development in the Town. There was not much open land left and there was not much of an opportunity unless the Town acted quickly. The Planning Board and the Ad Hoc Committee included a recommendation in the Comprehensive Plan to the Town Board to preserve open space. The Town Board held a public hearing on the Comprehensive Plan and completed an environmental review and it was adopted with that provision that there would be some method of preserving open space. Earlier this year, the Town Board asked the Planning Board and the Ad Hoc Committee to nominate specific properties. There was also a Public Hearing in March of this year to allow the public to nominate properties. Some were nominated by individuals, some were nominated by their own owners, some were nominated by civic or environmental groups. All of the properties that were nominated are included on the map that each of you have. The numbers show the tax, block and lot numbers under the new numbering system. A few properties were added by the Town's Department of Environmental Control to try to control flooding. Recreation added one or two and our office added a few. Everything that has been nominated is on the map. The Town Board has made no selection at this point and I don't think they will until after the referendum. If the referendum fails, there will be no reason to identify priorities among the properties. If the referendum passes, that will be the next step and to work out the mechanics of how all of this will happen. There two hundred and sixty-one properties on the list. Slightly more than half were nominated for only partial protection. There are situations where there may be a stream in someone's backyard that is subject to flooding. And the Town would like to do something to either get a conservation easement, drainage

easement or some other method of getting access to the property so the Town can do something about flooding in those areas. Where several properties adjoin one another, it would be necessary for anything to be affective, to have all of the properties available within the program.

Supervisor stated that over the last couple of days we have received a series of letters from individual property owners all of which have assembled here for the public record indicating their interest in withdrawing their properties from consideration on the official map. Certainly, the Town Board will acquiesce on the letters that have been received and noted in the public record.. Anybody that is here and wishes to fill out a form tonight and submit it to the Town Clerk for the official record, may do so.

Supervisor Holbrook asked if there was anyone wishing to make a comment or ask a question.

Appearance: James W. Cropsey  
So. Little Tor Rd., New City

He feels that this is an ethical issue. With your positions comes a certain responsibility to the residents of the Town of Clarkstown. A certain loyalty to imply or express that you look out for the welfare of all the Town members not just a select few. The way this thing is playing out, he thinks that everyone in the Town has a vital interest in how this thing plays out tonight. He read the following prepared statement.

Mr. Supervisor and Town Board Members, my name is Jim Cropsey, life long resident of New City,- The property my wife Pat and I own is listed on the notice of public hearing that brought us all here tonight. As you should already be aware, we have asked to be removed from this plan.

I am here tonight to ask you to totally repudiate the last sentence used in this notice and come back to the citizens of Clarkstown with language that accurately reflects the stated intent of the Planning Board Members that we heard over the last two years at the public hearings conducted by the Planning Board as they considered a new zoning ordinance. The public was assured many times by the members of this Town Board and the planners that it was the intent of the Town to identify properties that the Town would be interested in acquiring if and when at some future date those properties were to come on the market for sale.

I think it is safe to say that every one of you and probably all the Planning Board and Ad Hoc Committee members at some time over the last two years have emphasized that there would be no forcible taking involved. Each transaction was to be between a willing seller and a willing buyer negotiating on the basis of the fair market value of the property in question.

Since the notice of public hearing first came out, you Mr. Holbrook and Mr. Granirer from the Town Attorney's Office, the apparent author of the language used in the notice, have been quoted in the Journal News as to how you see this new interpretation of (open space) will in fact be implemented. Your quotes confirm our worst fears. Mr. Holbrook, I am asking for you to call for a vote right now on a statement of policy of this Town Board that this proposal will be withdrawn and further direct that you will all go back to the drawing board and write a new proposal that faithfully reflects the wishes of the Planning Board, the Ad Hoc Committee and the citizens of Clarkstown.

Appearance: Henry Horowitz, Esq.  
New City

He takes no position as either being for or against the proposed referendum. That is primarily because he does not have sufficient information in order to formulate a judgment. About a week ago, he prepared a series of questions on this matter that he sent

to Mr. Costa. Mr. Costa forwarded them to Mr. Granier. What concerns Mr. Horowitz is not necessarily the actual answers to the questions, but the response from two of the Board Members is different from the balance of the Board. He thinks we have a major problem. What does concern him for instance, is the acquisition of land includes costs other than the actual purchase price. Will the monies from that bond also cover the legal fees, title studies, surveying and title insurance or is that going to be coming from a separate fund?. Is someone going to make sure that every parcel we obtain has been checked by the Town of Clarkstown environmentally sensitive area maps as well as the New York State Department of Environmental Conservation, wet land maps as well as the Federal wet land maps? Is someone checking to make sure that a parcel being acquired could in fact have been developed and does it make sense to take parcels which are zoned as two or more acres? While he sincerely hopes the Town will make its acquisitions by negotiations, it cannot mask its power of condemnation. In fact it is that very essence that you have the power of condemnation which is going to make negotiations so much feasible. Without that threat, you are going to have a difficult time getting land strictly by a negotiation. What method of selection will be used to retain the various title companies, appraisers, brokers, surveyors, attorneys and other technical persons that we would need in order to acquire a parcel? Should there be a moratorium of processing for development? When there is a particular parcel in question, if so, what happens to the rights of the owner of that parcel? Since the early 1960's, the Town has collected funds known as money in lieu of land. For the last couple of days, he has been in touch with the Building Department, the Town Clerk's Office, the Planning Board, the County Planning Board and the Bureau of Census with an effort to determine how many single family lots have been processed in the Town since about 1960 when the money in lieu statute took effect. At the present time, the Town receives two thousand dollars for every lot which is processed. Two thousand dollars to every three bedroom unit whether it be a condo or rental. Fifteen hundred for every two bedroom unit and one thousand for a one bedroom. According to the figures he received since the 1960's, the Town should have collected close to twenty million dollars. Of course, those funds were used for all the recreation activities which have gone on during that period. There has been the Nanuet Park, Street School and other projects, however, it would help if we could determine how much of that money is available right now. Is it added to the twenty-two million? Could some of the twenty-two million be cut down if we have sufficient funds? The money in lieu of land which the Town has is specifically provided for in the Town Law as follows: Any monies required by the Planning Board in lieu of land for parks, playgrounds and other recreational purposes pursuant to the provisions of this action shall be used by the Town exclusively for parks, playgrounds and other recreational purposes including the acquisition of property. The Planning Board reports to the Town Board every year as to how much money they received for fees. From 1989 to 1999, the Planning Board has received strictly for money in lieu of land some two point eight million dollars. This does not include seven hundred and four thousand it received from Avalon. The reason it wasn't there is because Avalon gave its check directly to the Comptroller rather than go through the Planning Board process. Just a few projects off hand, Kingsgate, Normandy Village, Long Meadow West came to millions. We have acquired quite a substantial amount of money. He does not know how this money in lieu of land works. If someone comes in with one hundred acres which is zoned R-22, that individual is entitled to one hundred and sixty lots. If he gets those, he must give a certified check at the time of final approval of three hundred and twenty thousand dollars. That comes to the Town for money in lieu of land. There is another option. The Planning Board can allow the lots to be a little bit smaller, but the same number of lots, and that is the key, not one more lot could be obtained than is allowed under the zoning. Again, we get one hundred and sixty lots. If they were brought down now to the next lower zone, you would be able to generate twenty-four acres which would be gratuitously dedicated to the Town of Clarkstown. That is a good twenty-four acres. There are no legal fees, no surveys nothing. That is all done by the person who has made the gratuitous dedication. The same thing is true if you have lands that are a half acre and brought down to R-15. The key provision being there is not one unit more than what is permitted and instead of the monies, you can get the land. Again, the only disadvantage that system has is that there is no outlay of money on the part of the Town. The comment

was made that if the referendum fails, we don't have to do very much. He thinks we have a lot to do. We should have an idea of what lands we would like to have so that the Planning Board can determine whether it makes sense at that particular time to get that money. He hopes the information is a lot more readily available to the Board Members than it was to him. How much money do we have in the money in lieu of land fund and whether or not it doesn't make sense to try and accomplish the same purposes without the expenditure of twenty-two million dollars?

Appearance: Ann Mc Grade  
Veterans Memorial Association of Congers, NY

On behalf of the Veterans Memorial Association of Congers, we have become aware that our property located at 25 Lakewood Drive, Congers has been proposed as part of the Town's open space initiative. We were not aware that our property was designated as such until it was published in the local newspapers. We do know who put our property on this initiative, but the Board of Directors is disturbed that this will be done without our knowledge. For the reasons that I will state, the Board of Directors would like to repeat the request stated in our letter to the Town of Clarkstown that we want our property removed from this list. We are aware that the Town is concerned with over development and the impact it has on our community. Unfortunately, this is being done far too late and at the expense of many long time property owners. Regarding the VMA property, it is observed that the Town would designate this property for open space or parkland. The VMA property is already a park and ball field for use by our community and community organizations. Our property is deeded for recreational activities and will never be sold for development. The land was donated to the VMA over fifty years ago specifically for recreational activities and that will not change. If the Town is looking to acquire land for preservation, why do they not work cooperatively with owners who wish to sell and preserve their property from development? It appears that this again has been done without much forethought as other town land acquisitions have. It would be a waste of Town funds and taxpayers money to acquire land that is already parkland and maintained through private funds. Our property has always been a source of pride and enjoyment for our community and we do not understand why the Town wishes to waste limited funds on property that has no chance of ever being developed and is already parkland. We therefore, again, ask that our property be removed from the Town's acquisition list.

Supervisor said that the letter was received and it has been taken care of.

Appearance: Donald Tracy, Esq.  
New City

This is truly a debacle. Even the Notice of Hearing for tonight's meeting was immediately abrogated by the Supervisor when he sat down and saw the crowd. The purpose of this hearing was to place properties on the official map and designate them as parkland. That is wholly and totally illegal. It cannot be done and under a Court of Appeals case, it is in fact the condemnation of property. Should the Town Board have gone ahead with what they propose to do tonight, I can assure you there would be class action suits ready tomorrow. Lets talk about truth in advertising in another sense. We have been told that the cost of a twenty-two million dollar bond is forty dollars per year per family. Supervisor said it would be seventy-three dollars. Mr. Tracy was going to say the initial cost is seventy dollars a family. However, lets take twenty-two million dollars off our assessment roll and lets multiply that by the rate per thousand and we lose eight hundred thousand dollars a year from our tax base. Lets decide who is going to maintain this open space. When this open space becomes a dumping ground for yard debris and the like, are we going to hire fifteen, twenty, thirty parkies to take care of it. Lets take the loss from our tax base that ratable coming into this open space would have provided. Without those ratables, can it be gainsaid the Town budgets will stand still and will not increase and there will not be the normal and necessary increases dictated by CSE contracts and the like. We will have a shrunken tax base and nowhere to go to

increase that tax base. In conclusion, he thinks it is a supreme act of arrogance in the United States to say here is a list of properties, we the government are going to designate your properties parkland for our open space commission. It is not right. It is ridiculous. It is illegal and it is ill advised.

Appearance: Martin Bernstein  
New City

Mr. Bernstein said that Mr. Tracy is wrong about one thing. The rate of taxes is based on the assessment not based on the value. Twenty-two million dollars is not what is used to estimate the lose of taxes. He is against this whole program. It is not a good idea. Nobody should be put into a position where their property is put on a moratorium. They can't sell their property and when they come to negotiate, they are in very bad position. It never should have been done. This particular resolution should be turned down without worrying about individual properties. All of the properties should be put into the same position. None of them should be on this map. We need open space and that is the most important thing of all. If we had twenty-two million dollars reserved in a bond and could get matching funds on some of it maybe we could build it up to forty million dollars, we would be able to purchase some very important parcels in this Town in which some property owners might be very interested in selling at a regular rate which would be based on an appraisal. He was on the Ad Hoc Committee for a year and a half. We had public hearings. We had hundreds of people who came to our hearings and ninety percent said they needed open space. We have built most of our Town up and now we should save whatever is left. If not all of it, at least, most of it. At most of the hearing, there were developers who came and I understand their point of view. I am a realtor and I know they are very interested in developing it. That is their business. They all wanted the property to be turned into high density property. I think the public should come in on Tuesday and vote for the twenty-two million dollars. The Town Board should vote to turn down this whole concept of creating a map where properties are put on a parkland so that they can't be used and the Town is put in a position which makes them standing in the back. That is very bad. If the public says we should do it, then lets discuss open space.

Appearance: Richard Clark  
New City

Asked, what is going on here? At the last open meeting that I attended here, I witnessed a vote taken regarding the monetary amount of a bond proposed for the acquisition of nominated open spaces to be protected in perpetuity by the Town. To the best of my knowledge, my modest open space was not among them. Now a list appears. My property is designated as a parcel in the open space protection plan. Why and by whose rather arbitrary and capricious definition is this so? What are my options or those of my heirs should they choose to sell this property? Where is the benefit to me? Why was I not contacted by an emissary of the Ad Hoc Committee? Who is the Ad Hoc Committee? In this age, in seems somehow fitting that I should receive a form letter informing me of my new status. The Town's presentation is at best bureaucratic tactlessness and at its worse, it is so shot through with obfuscation that according to last Tuesday's Journal News, and Jim himself, corroborated this as the first speaker this evening. He is so nervous about his originally civilly magnanimous offer which is the lynch pin of this whole thing, he is considering withdrawing it. I am very much pro open space. The more the better. That is why I move here from Manhattan thirty-four years ago. Actually, I think, the price per taxpayer is to a greater or lesser degree negligible since we will all be paying for it with cheaper money anyway. Once these parcels are defiled, there is no turning back. I sight a private residence being built within five hundred feet of my house which when it is done will cost this Town more than the asking price of the dwelling itself because of the drainage problems that it is certain to cause. I know many of the answers to my questions maybe academic by this time next week, but that does not alter the fact that too much of the language of this issue has been, it would seem, deliberately obscured. So, I'll ask again, what is going on here?

Appearance: Edmond Gabriel  
New City

I have been a resident of Clarkstown for fifty years. I am very bewildered. I am very confused tonight. I came here with the sole purpose of reminding the Board that some of the actions taken were illegal. I brought a brief from my attorneys pointing out why they are illegal and what the consequences can be both to the Town and the Board. It was obvious that we were facing another Magee of greater magnitude than what Magee had in Orangetown. I am confused now. Mr. Supervisor, you made the statement a few minutes ago that we are not going to nominate property anymore. This is not going to be posted or designated this evening. The understanding that I have had and many of the people I have communicated with felt that this is the night if you had a quorum, you would vote on adopting these properties into a map for sterilization.

Supervisor replied that we have a quorum, but what I said in the beginning was that the Town Board was not going to do that.

Mr. Gabriel said that is a change from what has been in the paper and what Mr. Granrier has been advocating. We should have been notified that this was not going to be the issue tonight. You are not going to put these properties on a sterilization map. This map sterilizes every piece of property and makes unsaleable. Then we are at the mercy of some bureaucrats as to how much you are going to pay to buy our property when its been devalued. That was the purpose of being here. Suddenly the game plan has changed whether it is because of public pressure, maybe somebody has researched the proper legality of all of this. I would like to know from you tonight what is the policy? Are going to condemn property? Lets tell people we are going to condemn it.

Supervisor said that the feelings of the Board is no. The question of putting properties on the map tonight, the answer to that question is also no and the reason for that is the concern that has been raised by property owners involved and also the constitutional issues. All of those things factor into that. That is what I said in the beginning and I think the Town Board feels the same way.

Mr. Gabriel asked if that should have been researched before the Town Board subjected many senior citizens. The people who put this plan together are guilty of a terrible obscene thing. They will put senior citizens at risk. They will create trauma among people who saved their property all their lives, wanted it for their retirement, wanted it for their grandchildren's education, suddenly it becomes sterilized. Now they feel their entire nest egg has been wiped out. Somebody should have researched this before you brought it up. There has been no expression of what the senior citizens of this Town experienced in the last few days. People have called him and asked if someone could take their house away? Can I be kicked out of my house? Who put the map together? This is inhumane treatment of the senior people of this Town who are probably the largest landowners.

Appearance: George Remeld  
New City

Asked why not decide what more likely than not would be the properties that we would like to set aside for open space. Then turn around, back to the owners, see if they would be agreeable, then find out by appraisal what the more likely than not cost would be for that. Then you can go to the taxpayers and say, this is probably the amount of dollars we are going to need to purchase xy and z and now we would like to bond it. It would appear like the old saying about the cart being placed before the horse. Lets do the connecting treads in the proper way.

Co. Lasker stated that when they listed these properties, these properties were properties that were put forth by the Planning Board, planning agencies and by people in

the public. They are just a list of properties that people would like to see preserved. It doesn't mean that they will be put on the map. I have worked before I became a Councilwoman. In my first campaign and in my second campaign, one of the things I worked for was preserving open space. This is a public hearing to see what the public feels about mapping a property. Anybody who doesn't want their property on the map, will not have it on the map. It is also to see what the feeling of the public is. Nobody has voted on anything yet. Nobody has decided yet. I for one because I worked so hard to get this bond on the ballot will vote against mapping if I find that the majority of people are against it. I do not want to jeopardize this referendum because of the mapping. As to what Mr. George Remelt said, most referendums (we did a lot of research on this) do not have specific properties attached to them on the ballot for the very reason that if you do that, then the Town would have to buy at whatever price those property owners came up with. We would be in a bind. Those developers would be in the driver seat. That is not the way these things are done. There has been a lot of controversy around this and I would vote against this tonight if I find the majority of people are against the mapping. The movement to preserve open space is national. In 1999 alone there were one hundred and two referenda in twenty-two states and 90% passed by large majorities.

Co. Maloney stated that about forty-five minutes ago Mr. Cropsey made a good recommendation and to my surprise about a half hour later, Mr. Bernstein said the same thing. I think we should rescind the resolution. I am prepared right now to make a motion to that we rescind the resolution.

Co. Smith stated, that I will second the motion. I think this is a situation where a consultant overstepped his bounds on behalf of the Town of Clarkstown. There are many, many parcels on this list, but it is amazing that Mr. Granirer's nine acre parcel on South Mountain Road is not on the list.

Supervisor Holbrook stated that a lot of people came out here to express their point of view for and against. Being opposed to the official mapping is not necessarily the same thing as being opposed to open space. I do appreciate the feelings of individual property owners who felt aggrieved, but I do understand that there is a need out there for the preservation of open space. I think that most people feel the pinch of over development not only here in Clarkstown, Rockland County, but across the nation. I cast my vote to support the resolution that Mr. Maloney put forward. At this particular point, there is no further business before the Town Board. The resolution to close the public hearing and to turn down the resolution has been adopted. I am in favor of the bond issue.

Co. Maloney stated that he voted against the bond issue of \$22,000,000.00 when it was proposed because there was a lot of questions I had. I felt \$22,000,000.00 was too much and I am opposed to the present bond issue the way it is stated.

Co. Lasker said that obviously I am for the bond issue. I think it is a good idea and there should be a committee of the presence of the Civic Association. We should have a review of which property should be prioritized and look over the disbursement of the funds.

Co. Smith stated that when the State tells you they are going for open space, they told you that it would be Sterling Forest and everyone agreed with that. When the County said they were going out for open space, they have an entire County to spread the bonding out over and they only took \$6,000,000.00 a year because they know that is at least affordable. I think \$22,000,000.00 over 80,000 residents of Clarkstown is over extending them especially seniors and young families. I didn't vote for the \$22,000,000.00 the first time and I will not vote for it this time.

PH: Amendment of the Official Map of the Town of Clarkstown (Open Space)

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11/2/2000

On motion of Co. Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared closed, RESOLUTION ADOPTED, time: 9:40 PM.

Respectfully submitted,  
*Patricia Sheridan*

PATRICIA SHERIDAN,  
Town Clerk

RESOLUTION NO. (868-2000) ADOPTED