

TOWN OF CLARKSTOWN  
TOWN BOARD MEETING

Town Hall

11/28/2000

8:00 P.M.

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

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

The Public Hearing on Mayfield Street, Valley Cottage is to be continued.

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the public hearing re: Proposed Local Law Amending Chapter 290 (Zoning) of the Clarkstown Town Code regarding Assisted Care Living was opened, time: 8:05 PM

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the public hearing re: Proposed Local Law Amending Chapter 290 (Zoning) of the Clarkstown Town Code regarding Assisted Care Living was closed and to be continued, time: 8:20 PM.

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the public hearing re: Proposed Local Law Amending Chapter 262 (Taxation) of the Clarkstown Town Code was opened, time: 10:20.PM

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the public hearing re: Proposed Local Law Amending Chapter 262 (Taxation) of the Clarkstown Town Code was closed and Adopted, time: 10:22 PM

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Supervisor opened the public portion of the meeting

Appearance: John Lodico  
New City

Reminded everyone of the dedication for the Clarkstown Veterans Memorial Park on Saturday, December 2, 2000 at 1:00 PM

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RESOLUTION NO. (925-2000)

Co. Smith offered and Co. Lasker seconded

WHEREAS, a proposed local law entitled,

**“AMENDMENT TO CHAPTER 262 (TAXATION) OF  
THE TOWN CODE OF THE TOWN OF CLARKSTOWN”**

was introduced by Councilwoman Smith at a Town Board meeting held on November 14, 2000, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on November 14, 1999, directed that a public hearing be held on November 28, 2000, at 8:00 p.m., or as soon thereafter as possible, and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on November 17, 2000, and

RESOLUTION NO. (925-2000) continued

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 October 18, 2000, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on November 28, 2000;

NOW, THEREFORE, be it

RESOLVED, that Local Law No. 13-2000, entitled:

**“AMENDMENT TO CHAPTER 262 (TAXATION) OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN”**

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

- Charles E. Holbrook, Supervisor . . . Yes
- John R. Maloney, Councilman . . . . . Yes
- Ann Marie Smith, Councilwoman . . . Yes . .
- Ralph F. Mandia, Councilman . . . . . Yes
- Shirley Lasker, Councilwoman . . . . . Yes

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

RESOLUTION NO. (926-2000)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that the Town Board Minutes of November 14, 2000 are hereby accepted as submitted by the Town Clerk.

On roll call the vote was as follows:

- Councilwoman Lasker . . . . . Yes
  - Councilman Maloney . . . . . Yes
  - Councilman Mandia . . . . . Yes
  - Councilwoman Smith . . . . . Yes
  - Supervisor Holbrook . . . . . Yes
- \*\*\*\*\*

RESOLUTION NO. (927-2000)

Co. Smith offered and Co. Maloney seconded

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

RONALD J. TARIGO  
Five Cross Creek Lane  
Stony Point, NY 10980

JMK BUILDING CORP.  
301 North Main Street  
New City, NY 10956  
John Knutsen, President

MRJ EXCAVATING, INC.  
Seven Beaver Court  
New City, NY 10956  
Michael Rickli, Jr., President

RESOLVED, that the following Certificates of Registration be issued:

RESOLUTION NO. (927-2000) continued

- No. 2001-1 RONALD J. TARIGO
- No. 2001-2 JMK BUILDING CORP.
- No. 2001-3 MRJ EXCAVATING, INC.

On roll call the vote was as follows:

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

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RESOLUTION NO. (928-2000)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby amends Resolution No. 1026, adopted by the Town Board on December 28, 1999, by deleting the meeting scheduled for December 29, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (929-2000)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, the Police Chief and the Police Commission have recommended that an application for a grant from U.S. Department of Justice in the amount of \$45,000.00 as partial funding for the suppression of Internet Crimes Against Children Task Force Program;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to apply for and accept said grant, and be it

FURTHER RESOLVED, that this Resolution is retroactive to November 21, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (930-2000)

Co. Maloney offered and Co. Smith seconded

WHEREAS, KIMCO OF NANUET, INC. has commenced tax certiorari proceedings against the Town of Clarkstown affecting parcel designated as Map 14, Block C, Lot 21, for the year(s) 1996/97, 1997/98, 1998/99, 1999/00 and 2000/01, and

WHEREAS, it is desirable to have a preliminary appraisal prepared for the purpose of negotiating and/or trying the aforesaid matter;

NOW, THEREFORE, be it

RESOLVED, that Karl Kirchner be retained for the purpose of preparing such preliminary appraisal at a fee not to exceed \$2,000; and such fee shall be charged to Account No. A 1420-439-1.

On roll call the vote was as follows:

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

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RESOLUTION NO. (931-2000)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Town of Clarkstown is desirous of having all the area maintained on the commuter parking lots; and

WHEREAS, the State will reimburse the Town of Clarkstown for full payment for the contractor fee; and

WHEREAS, debris, litter and lawn areas are to be maintained at the above sites; and

WHEREAS, the Department of Environmental Control has obtained proposals from (3) three qualified contractors and recommends acceptance of the proposal from Pro-Cut Lawns, Landscaping and Contracting;

NOW, THEREFORE, BE IT RESOLVED that the Director of the Department of Environmental Control is hereby authorized to retain the services of:

Pro-Cut Lawns, Landscaping and Contracting  
102 Goshen Road  
Chester, New York 10918  
Telephone # 914-496-2608

to perform said property maintenance as scheduled for the sum of \$7,500 as per its proposal; and

BE IT FURTHER RESOLVED that this shall be a proper charge to Account # A-8511-409.

RESOLUTION NO. (931-2000) continued

On roll call the vote was as follows:

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

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RESOLUTION NO. (932-2000)

Co. Smith offered and Co. Maloney seconded

WHEREAS, pursuant to Section 115 of the Town Law, the Comptroller is hereby authorized to amend the 2000 budget for transferring unexpended balances of appropriations among various accounts, and by increasing and decreasing revenue accounts for the purpose of balancing all funds,

THEREFORE BE IT,

RESOLVED, that the 2000 budget is hereby amended.

On roll call the vote was as follows:

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

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RESOLUTION NO. (933-2000)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Town of Clarkstown has received a donation of \$100.00 from Jim McCann Golf Professional, Inc., and be it

THEREFORE RESOLVED, to increase Estimated Revenue Account No. 01-002705 (Gifts & Donations) and Appropriation Account No. 7310-329 (Parks & Recreation - Supplies) by \$100.00.

On roll call the vote was as follows:

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

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RESOLUTION NO. (934-2000)

Co. Smith offered and Co. Maloney seconded

RESOLVED to decrease Appropriation Account No. A-7610-329 (Rec Supplies) by \$1,500.00 and to increase A-7610-201 (Furn/Fix) by \$1,500.00.

RESOLUTION NO. (934-2000) continued

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
 Councilman Maloney . . . . . Yes  
 Councilman Mandia . . . . . Yes  
 Councilwoman Smith . . . . . Yes  
 Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (935-2000)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Town of Clarkstown has received a donation of \$100.00 from Green Mountain Landscaping, Ltd., and be it

THEREFORE RESOLVED, to increase Estimated Revenue Account No. 01-002705 (Gifts & Donations) and Appropriation Account No. A-7310-329 (Parks & Recreation – Supplies) by \$100.00.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
 Councilman Maloney . . . . . Yes  
 Councilman Mandia . . . . . Yes  
 Councilwoman Smith . . . . . Yes  
 Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (936-2000)

Co. Lasker offered and Co. Maloney seconded

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

BID #9-2001  
 HAND TOOLS & MISCELLANEUS MAINTENANCE SUPPLIES

Bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by TO BE DETERMINED 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:

Councilwoman Lasker . . . . . Yes  
 Councilman Maloney . . . . . Yes  
 Councilman Mandia . . . . . Yes  
 Councilwoman Smith . . . . . Yes  
 Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (937-2000)

Co. Maloney offered and Co. Smith seconded

RESOLVED, that based upon the recommendation of the Administrative Lieutenant of the Police Department that

RESOLUTION NO. (937-2000) continued

BID #57-2000  
DIGITAL RECORDING SYSTEM FOR THE  
CLARKSTOWN POLICE DEPARTMENT

hereby awarded to: DICTAPHONE CORPORATION  
3191 BROADBRIDGE AVENUE  
STRATFORD, CT. 06614  
A PUBLIC CORPORATION

as per their proposed lowest cost bid meeting specifications of \$39,556.00.

On roll call the vote was as follows:

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

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RESOLUTION NO. (938-2000)

Co. Maloney offered and Co. Smith seconded

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

BID #60-2000  
SALE OF SURPLUS VEHICLES

Is hereby awarded to:

LIBERTY MOTORS, INC.  
1705 KENNEDY BLVD.  
JERSEY CITY, NJ 07305  
PRINCIPAL: JEFF MACK

ROBERT ALEXANDER  
185 NYACK PLAZA  
NYACK, NY 10960  
PRINCIPAL: ROBERT ALEXANDER

JERSEY ONE AUTO SALES  
7 COUNTY ROAD  
JERSEY CITY, NJ 07307  
PRINCIPAL: MARC ANDERSON

SANDRA SOLANCHICK  
17 HICKORY DRIVE  
STONY POINT, NY 10980  
PRINCIPAL: MICHAEL J.SOLANCHICK

GRACE QUALITY USED CARS  
945 LINCOLN HIGHWAY  
MORRISVILLE, PA 19067  
PRINCIPAL: MICHAEL MAKON

As per the item/price on file in the Purchasing Dept.

On roll call the vote was as follows:

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

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RESOLUTION NO. (939-2000)

Co. Maloney offered and Co. Smith seconded

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

BID #1-2001  
OFFICE SUPPLIES

is hereby awarded to:

CORPORATE EXPRESS, INC.  
160 AVON STREET  
STRATFORD, CT 06615  
PRINCIPALS: A PUBLIC CORPORATION

O.P.G. INDUSTRIES, INC.  
P.O. BOX 140  
BROOKLYN, NY 11232  
PRINCIPALS: DON THOMPSON  
DAN SCHREELEX

ROCKLAND OFFICE SUPPLY  
P.O. BOX 602  
SUFFERN, NY 10901  
PRINCIPALS: DEBBIE TORTORA  
PAUL TORTORA

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

On roll call the vote was as follows:

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

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RESOLUTION NO. (940-2000)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the New York State Department of Transportation (NYSDOT) has informed the Town of Clarkstown that it will be conducting a Preventive Maintenance Initiative Resurfacing Project on Route 303 from the New Jersey State Line to Oak Tree Road, and from Bradley parkway to Route 59. It will be performing the milling and resurfacing work during the hours of 9:00 p.m. to 7:00 a.m., and is seeking approval from the Town of Clarkstown regarding such nighttime hours;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown has no objection to the NYSDOT proposal for milling and resurfacing work on Route 303 from the New Jersey State Line to Oak Tree Road, and from Bradley parkway to Route 59, being performed between the hours of 9:00 p.m. and 7:00 a.m., during the 2001 construction season.

On roll call the vote was as follows:

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

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RESOLUTION NO. (941-2000)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the SISTERS OF CHARITY OF ST. VINCENT de PAUL; OF NEW YORK, has petitioned the Town Board of the Town of Clarkstown for a Special Permit, pursuant to Section 290-17(A), to construct Assisted Care Living Quarters on premises known as Tax Map 4, Block A, Lot 6, and also known as Map 63.11-2-13, for property located on the east side of Pascack Road and north side of Convent Road, Nanuet, New York;

NOW, THEREFORE, be it

RESOLVED, that the petition is hereby referred to the Rockland County Commissioner of Planning pursuant to Sections 239-L and 239-M of the General Municipal Law for report, the Clarkstown Planning Board, and to the following agencies for comment or study and report on or before December 31, 2000:

- 1. Clarkstown Department of Environmental Control
- 2. Clarkstown Building Inspector
- 3. Rockland County Health Department
- 4. New York State Dept. of Transportation
- 5. Palisades Interstate Park Commission

and be it

FURTHER RESOLVED, that for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency with respect to the application for the Special Permit, and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review, and be it

FURTHER RESOLVED, that this referral is hereby made retroactive to November 20, 2000.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
 Councilman Maloney . . . . . Yes  
 Councilman Mandia . . . . . Yes  
 Councilwoman Smith . . . . . Yes  
 Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (942-2000)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, an agreement for Maintenance of portions of Hutton Avenue and Kemmer Avenue, Nanuet, New York, was entered into by the FB Nanuet LLC and the Town on March 2, 1999 and recorded in the Rockland County Clerk's Office on April 9, 1999, as Instrument Number 1999-00019452, relating to the property described in the said Maintenance Agreement, in accordance with and as shown on a site plan, approved by the Planning Board on November 18, 1998 and signed by the Chairman on April 5, 1999, and

WHEREAS, FB Nanuet LLC applied for and received approval to amend said site plan on December 15, 1999, to include additional premises, and

WHEREAS, the premises to be developed pursuant to the Amended Site Plan included an additional portion of Hutton Avenue as shown on said Amended Site plan, which portion of Hutton Avenue had been deemed abandoned by the Town and conveyed as surplus municipal property to FB Nanuet LLC, and

RESOLUTION NO. (942-2000) continued

WHEREAS, in accordance with said amended site plan, the remaining portions of Hutton Avenue and Kemmer Avenue which had not been abandoned were to continue to be maintained by the FB Nanuet LLC for its benefit, the benefit of adjoining commercial property, and the public, and

WHEREAS, as a result, an amendment to the Maintenance Agreement referred to above was executed on March 16, 2000 and was recorded in the Rockland County Clerk's Office on March 21, 2000 as Instrument No. 2000-12294, and

WHEREAS, FB Nanuet LLC applied for and received approval for further amendment of its site plan to include additional premises formerly known as the Rocco and AT&T parcels, as well as the remaining portion of Kemmer Avenue, which was deemed abandoned as a public right-of-way by the Town Board on September 12, 2000, and

WHEREAS, as a result FB Nanuet LLC is desirous of further amending said Maintenance Agreement dated March 2, 1999, as amended March 16, 2000, to remove from its maintenance obligation the remaining portion of former Kemmer Avenue, which is about to be conveyed to FB Nanuet LLC, as surplus municipal property;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into a Second Amendment to the Maintenance Agreement affecting portions of former Hutton and Kemmer Avenues, in a form approved by the Town Attorney, which shall reflect the abandonment of the remaining portion of Kemmer Avenue, said agreement to be executed and recorded simultaneously with the deed of conveyance of the said former portion of Kemmer Avenue, previously declared to be surplus municipal property.

On roll call the vote was as follows:

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

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RESOLUTION NO. (943-2000)

Co. Smith offered and Co. Maloney seconded

WHEREAS, an action was commenced in Supreme Court, State of New York, County of Rockland entitled, ROCKLAND BUILDERS, INC., BERK DEVELOPMENT CORP., PHILLIPS HILL ESTATES, INC., GOLDBERK BUILDERS, INC. and WALTER BERKOVIC v. THE TOWN OF CLARKSTOWN, THE TOWN BOARD OF THE TOWN OF CLARKSTOWN, THE DEPARTMENT OF ENVIRONMENTAL CONTROL of the Town of Clarkstown, CHARLES HOLBROOK, Supervisor of the Town of Clarkstown, and DENNIS LETSON, Deputy Director of the Department of Environmental Control of the Town of Clarkstown, Index No(s). 5795/99, seeking the recovery of \$115,194, and

WHEREAS, the attorneys for the parties have proposed to settle the action on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Senior Deputy Town Attorney of the Town of Clarkstown who believe the best interests of the Town are being served;

RESOLUTION NO. (943-2000) continued

NOW, THEREFORE, be it

RESOLVED, that

- 1. \$80,944 be refunded to plaintiff, together with statutory interest from October 1, 1999;
- 2. An additional \$9,000 be refunded without interest for work that has since been completed; and
- 3. The Town of Clarkstown shall retain \$4,800, subject to plaintiff providing proof of completion of outstanding matters, and be it

FURTHER 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:

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

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RESOLUTION NO. (944 -2000)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that Edward J. Duer, Comptroller, is hereby authorized to attend the Mid-Hudson Chapter Government Accounting Update to be held on Wednesday, December 6, 2000 at the Ramada Inn, Newburgh, New York, and be it

FURTHER RESOLVED, that the \$75.00 fee for said course be charged to Appropriation Account A 1010-414 (Schools and Conferences), and be it

FURTHER RESOLVED, that any related travel expenses be charged to Appropriation Account A 1010-404 (Travel, Mileage and Meals).

On roll call the vote was as follows:

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

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RESOLUTION NO. (945-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby recognizes the appointment by the Superintendent of Highways of Andrew I. Freedman, 35 Twin Elms Lane, New City, New York, to the position of Laborer (temporary), Town Highway Department, at the current hourly rate of \$13.00 – effective and retroactive to November 15, 2000 for a period not to exceed three (3) months.

RESOLUTION NO. (945-2000) continued

On roll call the vote was as follows:

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

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RESOLUTION NO. (946-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby recognizes the appointment by the Superintendent of Highways of Stephen McMahon, 16 Old School House Road, New City, New York to the position Laborer (temporary), Town Highway Department, at the current hourly rate of \$13.00 – effective and retroactive to November 15, 2000 for a period not to exceed three (3) months.

On roll call the vote was as follows:

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

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RESOLUTION NO. (947-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the resignation (by retirement) of Kathleen Heed, 17 Poplar Street, Nanuet, New York, clerk Typist, Building Department is hereby accepted, effective and retroactive to November 25, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (948-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the resignation of Donna T. Boemio, 584 Babbling Brook Lane, Valley Cottage, New York, Clerk Typist (p-t), Building Department (Fire Inspector's Office) is hereby accepted, effective December 1, 2000 at the close of the business day.

RESOLUTION NO. (948-2000) continued

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
Councilman Maloney . . . . . Yes  
Councilman Mandia . . . . . Yes  
Councilwoman Smith . . . . . Yes  
Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (949-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Anna Martin, 18 New Haven Avenue, Nanuet, New York is hereby appointed to the position of Clerk Typist (part-time), Building Department (Fire Inspector's Office, at the current hourly rate of \$12.50 effective December 4, 2000.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
Councilman Maloney . . . . . Yes  
Councilman Mandia . . . . . Yes  
Councilwoman Smith . . . . . Yes  
Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (950-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Donna T. Boemio, 584 Babbling Brook Lane, Valley Cottage, New York, is hereby appointed to the position of (Provisional) Clerk Typist, Building Department at the current annual salary of \$25,731.00, effective December 4, 2000.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
Councilman Maloney . . . . . Yes  
Councilman Mandia . . . . . Yes  
Councilwoman Smith . . . . . Yes  
Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (951-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Frances H. Hunt, 10 Jolen Drive, New City, New York, Senior Clerk, Personnel Office is hereby granted, as per her request, a leave without pay, pursuant to the Family and Medical Leave Act, effective and retroactive to November 21, 2000 to February 13, 2001.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
Councilman Maloney . . . . . Yes  
Councilman Mandia . . . . . Yes  
Councilwoman Smith . . . . . Yes  
Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (952-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that June A. Gabrielli, 2 Hannah Lane, Valley Cottage, New York is hereby reassigned to the Personnel Office to cover the leave of absence of Frances Hunt at the current annual salary of \$24,654.00, (Clerk-Step 14-AA), effective December 4, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (953-2000)

Co. Smith offered and Co. Lasker seconded

WHEREAS, the Chairman of the Planning Board has requested that the grade for the position of Planning Assistant be changed to a grade 27 (from a grade 29) and the grade for the position of Administrative Aide (Planning) be changed to a grade 22 (from a grade 26), Planning Department.

NOW, THEREFORE, be it

RESOLVED, that the grades for the following positions are established at:

Planning Assistant                      Grade 27  
Administrative Aide (Planning)        Grade 22

Effective December 4, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (954-2000)

Co. Smith offered and Co. Lasker seconded

WHEREAS, the Rockland County Personnel Office has certified on October 24, 2000 that the qualifications for the position of Planning Assistant can be modified.

NOW, THEREFORE, be it

RESOLVED, that the position of Planning Assistant, Planning Department is hereby created, effective December 4, 2000, and be it

FURTHER RESOLVED, that the grade for the position of Planning Assistant is hereby established at a grade 27.

RESOLUTION NO. (954-2000) continued

On roll call the vote was as follows:

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

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RESOLUTION NO. (955-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby recognizes the appointment by the Chairman of the Planning Board of Rosalie A. Cautillo, 439 Country Club Lane, Pomona, New York to the position of (Provisional) Planning Assistant at the current annual salary of \$57,541.00 effective December 4, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (956-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby recognizes the appointment by the Chairman of the Planning Board of Bridget M. McNamara, 119 Laurel Road, New City, New York to the position of (temporary) Administrative Aide (Planning), Planning Department at the current annual salary of \$41,492.00 effective December 4, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (957-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that the Rockland County Personnel Office has furnished Certification of Eligibles #99044 Principal Clerk Typist, which contains the name of Diane K. Papenmeyer.

NOW, THEREFORE, be it

RESOLUTION NO. (957-2000) continued

RESOLVED, that the Town Board hereby recognizes the appointment by the Chairman of the Planning Board of Diane K. Papenmeyer, 221 Strawtown Road, West Nyack, New York, to the position of Principal Clerk Typist, Planning Department at the current annual salary of \$34,847.00, effective December 4, 2000.

On roll call the vote was as follows:

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

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RESOLUTION NO. (958-2000)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, Councilperson Lasker, a member of the Town Board of the Town of Clarkstown has introduced a proposed local law entitled,

“AMENDMENT TO CHAPTER 290, “ZONING LOCAL LAW OF THE TOWN OF CLARKSTOWN” TO RESTRICT USE OF “FLAG LOT” DEVELOPMENT IN THE TOWN OF CLARKSTOWN BY IMPLEMENTING REVISED REQUIREMENTS FOR LOT FRONTAGE, LOT WIDTH MEASUREMENT, RESIDENTIAL BUILDING ORIENTATION, REQUIRED RIGHT OF WAY WIDTH AND ORIENTATION OF SIDE LOT LINES TO DESIGNATED STREET LINES”

NOW, THEREFORE, be it

RESOLVED, that a public hearing, pursuant to §20 of the Municipal Home Rule Law, be had at the Auditorium of the Town Hall, 10 Maple Avenue, New City, New York on December 12, 2000 at 8:00 P.M., or as soon thereafter as possible, relative to such proposed local law, and be it

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

RESOLVED, that the proposed local law is hereby referred to the Clarkstown Planning Board for its review and recommendations, and to the Rockland County Commissioner of Planning and the other municipalities and governmental bodies as required by Sections 239-1 and 239-m of the General Municipal Law and other applicable provisions of law, and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

On roll call the vote was as follows:

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

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**RESOLUTION NO. (959-2000)**

Co. Maloney offered and Co. Lasker seconded

RESOLVED, that the Town Board meetings and the Town Board Workshop meetings, for the year 2001, shall be held at the Clarkstown Town Hall on Tuesday nights, except where noted, on the following days:

**TOWN BOARD MEETINGS**  
**8:00 P.M. - Auditorium**

January	3 (Wednesday-Organization)
January	9 - 23
February	13 - 27
March	13 - 27
April	24
May	8 - 22
June	12 - 26
July	24
August	14
Sept.	11 - 25
October	9 - 23
November	13 - 27
December	11
December	31 (Monday at 12:00 Noon)

**WORKSHOP MEETINGS**  
**7:30 P.M. - Room 311**

January	-	16
February		6
March		6 - 20
April		3
May		1 - 15
June		5 - 19
July		17
August		7
Sept.		4
October		2 - 16
November		20
December		4

On roll call the vote was as follows:

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

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**RESOLUTION NO. (960-2000)**

Co. Maloney offered and Co. Smith seconded

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

**PARKER EXCAVATING & SEPTIC, INC.**  
P. O. Box 545  
Washingtonville, NY 10992  
Robert Parker, President

RESOLVED, that the following Certificate of Registration be issued:

No. 2000-29 PARKER EXCAVATING & SEPTIC, INC.

On roll call the vote was as follows:

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

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RESOLUTION NO. (961-2000)

Co. Lasker offered and Co. Maloney seconded

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

BID #10-2001  
FURTHER REMEDIATION OF OLD MILL ROAD, WEST NYACK

Bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by TO BE DETERMINED 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:

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

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RESOLUTION NO. (962-2000)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that based upon the recommendation of the Deputy Director of the DEC and the Director of Purchasing that

BID #59-2000  
SECURITY GUARD SERVICES AT CLARKSTOWN SOLID WASTE FACILITY

is hereby awarded to:

ACCURATE SECURITY CO.  
84 SOUTH LIBERTY DRIVE  
STONY POINT, NY 10980  
PRINCIPALS: JOHN A. SCHASSLER  
                  JOHN A. SCHASSLER, JR.

as per their proposed lowest bid project cost of \$9.50 per guard, per hour and be it

FURTHER RESOLVED, that said award is subject to the receipt of General Liability Insurance, including coverage for errors and omissions in the face amount of one million dollars. The Town shall be named as co-insured on said policy, and a Certificate of Workers Compensation and Workers Disability Insurance coverage.

On roll call the vote was as follows:

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

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RESOLUTION NO. (963-2000)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Resolution No. 884, adopted by the Town Board on November 14, 2000, authorizing the replacement of a fence with the Town right of way in the vicinity of Red Hill Road, New City , is hereby **RECINDED**.

On roll call the vote was as follows:

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

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RESOLUTION NO. (964-2000)

Co. Smith offered and Co. Lasker seconded

WHEREAS, some years ago, the Town of Clarkstown erected a fence in the vicinity of Red Hill Road near Lindberg Lane, New City New York, in order to protect school children using a school sidewalk from exposure to a hazardous drop and

WHEREAS, said fence has deteriorated to a point where a replacement is needed;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes a new fence to be erected within the Town right of way in the vicinity of Red Hill Road near Lindberg Lane, New City, New York, and be it

FURTHER RESOLVED, that based on the recommendation of John Coyle, Safety Manager, Crestwood Fence Co., Inc., 261 West Nyack Road, West Nyack, New York, shall perform said work at a cost of \$1,167.00, which cost shall be charged to Account No. H 8749-409-0.

On roll call the vote was as follows:

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

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RESOLUTION NO. (965-2000)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, it has been determined by Wayne T. Ballard, Superintendent of Highways, and Larry J. Nardecchia, Jr., P.E., Consulting Engineer, that additional work was necessary on the Remediation Work for Old Mill Road Safety Improvement Project (Bid No. 50-2000), who have recommended that a change order be approved by the Town Board;

NOW, THEREFORE, be it

RESOLUTION NO. (965-2000) continued

RESOLVED, that the Town Board hereby authorizes the Superintendent of Highways to prepare Change Order No. 1 to Bid No. 50-2000 for the Remediation Work for Old Mill Road Safety Improvement Project, which change order shall increase the project cost by \$24,541.06 to a sum to \$71,297.66.

On roll call the vote was as follows:

- Councilwoman Lasker . . . . . Yes
  - Councilman Maloney . . . . . Yes
  - Councilman Mandia . . . . . Yes
  - Councilwoman Smith . . . . . Yes
  - Supervisor Holbrook . . . . . Yes
- \*\*\*\*\*

RESOLUTION NO. (966-2000)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that based upon the recommendation of the Assessor of the Town of Clarkstown, the sum of \$744.59 be refunded to Susan Chacko, 5 Saxony Court, New City (42.20-3-23) for taxes erroneously assessed, levied and paid.

On roll call the vote was as follows:

- Councilwoman Lasker . . . . . Yes
  - Councilman Maloney . . . . . Yes
  - Councilman Mandia . . . . . Yes
  - Councilwoman Smith . . . . . Yes
  - Supervisor Holbrook . . . . . Yes
- \*\*\*\*\*

RESOLUTION NO. (967-2000)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, Rockland Empire Development, Inc. furnished to the Town of Clarkstown a Performance Bond secured by Letter of Credit No. 13676 in the amount of \$59,500.00, to cover the improvements and other facilities as shown on the final plat of Bedner Estates, which was filed in the Rockland County Clerk's Office on January 19, 2000, and

WHEREAS, the Deputy Director of Environmental Control and the Superintendent of Highways of the Town of Clarkstown have recommended that said Performance Bond be reduced to \$15,750.00, as much of the work has been completed to Town specifications;

NOW, THEREFORE, be it

RESOLVED, that Performance Bond in the amount of \$59,500.00 be reduced to \$15,750.00.

On roll call the vote was as follows:

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

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RESOLUTION NO. (968-2000)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, Councilman Ralph Mandia has recommended that the Open Space Guidelines, as recommended and reported by the Clarkstown Planning Board and the Ad Hoc Committee dated March 22, 2000, be adopted;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby adopts the Open Space Guidelines, as recommended and reported by the Clarkstown Planning Board and the Ad Hoc Committee dated March 22, 2000.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
 Councilman Maloney . . . . . Yes  
 Councilman Mandia . . . . . Yes  
 Councilwoman Smith . . . . . Yes  
 Supervisor Holbrook . . . . . Yes  
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RESOLUTION NO. (969-2000)

Co. Smith offered and Co. Maloney seconded

WHEREAS, existing retaining walls within a Town drainage easement along the Strathmore Creek, New City, are in a seriously deteriorated condition, and

WHEREAS, the existing wall foundations are undermined and pose a safety hazard to the general public, and

WHEREAS, a complete reconstruction of the Strathmore Creek is being planned for on / or about July, 2001, and

WHEREAS, the Department of Environmental Control has determined that is in the best interest of the general public to install protective screening along the entire boundary of the easement until the reconstruction is complete.

NOW, THEREFORE, BE IT

RESOLVED, that the Director of the Department of Environmental Control is hereby authorized to obtain the services of a qualified contractor to install approximately 1950 linear feet of protective safety fencing along the boundary of the drainage easement, and

BE IT FURTHER RESOLVED, that the installation of the protective screening shall be installed under the direct supervision of the Department of Environmental Control, and

BE IT FURTHER RESOLVED, that the associated costs shall be a proper charge to account H 8749 409 0 73 27.

On roll call the vote was as follows:

Councilwoman Lasker . . . . . Yes  
 Councilman Maloney . . . . . Yes  
 Councilman Mandia . . . . . Yes  
 Councilwoman Smith . . . . . Yes  
 Supervisor Holbrook . . . . . Yes  
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## RESOLUTION NO. (970-2000)

Co. Maloney offered and Co. Mandia seconded

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

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to acquire land for use by the Town. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$405,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$405,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Serial bonds of the Town in the principal amount of \$405,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

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

(a) The periods of probable usefulness of the object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11. a. 21 of the Law, is thirty (30) years.

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

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

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

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

RESOLUTION NO. (970-2000) continued

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

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law the "THE JOURNAL-NEWS," a newspaper published in Nanuet, New York, and/or in the "ROCKLAND COUNTY TIMES," a newspaper published in Rockland County, New York, each having a general circulation within said Town for such publication.

Section (B) The amendment of the bond resolution set forth in Section A of this resolution, shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

On roll call the vote was as follows:

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

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RESOLUTION NO. (971-2000)

Co. Maloney offered and Co. Mandia seconded

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

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to reconstruct various Town roads. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof is \$125,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$125,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable. Any funds to be received from the United States of America or the State of New York with respect to such improvements are authorized to be applied towards the cost of said objects or purposes or redemption of any Town obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal and interest on said obligations.

Section 2. Serial bonds of the Town in the principal amount of \$125,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law,

## RESOLUTION NO. (971-2000) continued

constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

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

(a) The period of probable usefulness applicable to the object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 20. (c) of the Law, is fifteen (15) years.

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

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

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

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

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

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

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

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

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

Section 7. This bond resolution, as amended, is subject to permissive referendum.

\* \* \*

Section (B). The amendment of the bond resolution set forth in Section (A) of this resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities

RESOLUTION NO. (971-2000) continued

incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

Section (C). The Town Clerk of said Town of Clarkstown shall, within ten (10) days after the adoption of this resolution, cause to be published, in full, in "THE JOURNAL-NEWS," a newspaper published in Nyack, New York, and/or in the "ROCKLAND COUNTY TIMES," a newspaper published in Rockland County, New York, each having a general circulation within said Town for such publication, and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

TOWN OF CLARKSTOWN, NEW YORK

PLEASE TAKE NOTICE, that on November 28, 2000, the Town Board of the Town of Clarkstown, in the County of Rockland, New York, adopted a bond resolution amending the bond resolution adopted by said Town Board on September 28, 1999 which bond resolution as amended, in part, is entitled:

"Bond Resolution of the Town of Clarkstown, New York adopted on September 28, 1999 and amended on November 28, 2000, authorizing the reconstruction of various Town roads, stating the estimated maximum cost thereof is \$125,000, appropriating said amount therefor, authorizing the issuance of \$125,000 serial bonds of said Town to finance said appropriation, and authorizing any funds to be received from the United States of America or the State of New York to be expended towards the cost of said objects or purposes or redemption of the Town's obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal of and interest on said obligations,"

an abstract of such bond resolution, concisely stating the purpose and effect thereof being as follows:

FIRST AUTHORIZING said Town to reconstruct various Town roads; STATING the estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$125,000; APPROPRIATING said amount therefor; and STATING the plan of financing includes the issuance of \$125,000 bonds to finance a said appropriation, and the levy of a tax upon all the taxable real property within the Town to pay the principal of said bonds and interest thereon; and STATING that any funds to be received from the State of New York in connection with such project are authorized to be expended towards the cost thereof, or to be applied to the redemption of the bonds issued therefor, or to be budgeted as an offset to the taxes for the payment of the principal of and interest on any bonds or bond anticipation notes issued therefor;

SECOND: AUTHORIZING the issuance of \$125,000 serial bonds of the Town pursuant to Local Finance Law of the State of New York (the "law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said serial bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation hereof maybe applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said serial bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

RESOLUTION NO. (971-2000) continued

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, and the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to permissive referendum.

DATED: November 28, 2000

Patricia Sheridan  
Town Clerk

Section (D). Said bond resolution, as herein amended, is subject to a permissive referendum as therein provided. In the event that a valid petition protesting against said bond resolution, as amended, and requesting that it be submitted to the electors of said Town for their approval or disapproval is filed and the Proposition submitted therefor is defeated, the validity of the bond resolution adopted September 28, 1999 shall not be in any way affected and shall remain in full force and effect.

Section (E). After said bond resolution, as herein amended, shall take effect, the Town Clerk is hereby authorized to cause said bond resolution as herein amended, to be published, in summary, in the newspaper hereinabove referred to in Section (C) hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York.

Section (F). This resolution shall take effect immediately.

On roll call the vote was as follows:

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

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RESOLUTION NO. (972-2000)

Co. Maloney offered and Co. Mandia seconded

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

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to resurface various Town roads. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof is \$2,310,000 and said amount is hereby appropriated therefore. The plan of financing includes the issuance of \$2,310,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable. Any funds to be received from the United States of America or the State of New York with respect to such improvements are authorized to be applied towards the cost of said objects or purposes or redemption of any Town obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal and interest on said obligations.

Section 2. Serial bonds of the Town in the principal amount of \$2,310,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law,

RESOLUTION NO. (972-2000) continued

constituting Chapter 33-a of the consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

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

(a) The period of probable usefulness applicable to the object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 20. (c) of the Law, is fifteen (15) years.

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

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

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

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

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

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

Section 7. This bond resolution, as amended, is subject to permissive referendum.

\* \* \*

RESOLUTION NO. (972-2000) continued

Section (B). The amendment of the bond resolution set forth in Section (A) of this resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

Section (C). The Town Clerk of said Town of Clarkstown shall, within ten (10) days after the adoption of this resolution, cause to be published, in full, in "THE JOURNAL-NEWS," a newspaper published in Nyack, New York, and/or in the "ROCKLAND COUNTY TIMES," a newspaper published in Rockland County, New York, each having a general circulation within said Town for such publication, and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

TOWN OF CLARKSTOWN, NEW YORK

PLEASE TAKE NOTICE that on November 28, 2000, the Town Board of the Town of Clarkstown, in the County of Rockland, New York, adopted a bond resolution amending the bond resolution adopted by said Town Board on September 28, 1999 which bond resolution as amended, in part, is entitled:

"Bond Resolution of the Town of Clarkstown, New York, adopted on September 28, 1999 and amended on November 28, 2000, authorizing the acquisition of vehicles and equipment, stating the estimated maximum cost thereof is \$2,310,00, appropriating said amount therefor, authorizing the issuance of \$2,310,000 serial bonds of said Town to finance said appropriation, and authorizing any funds to be received from the United States of America or the State of New York to be expended towards the cost of said objects or purposes or redemption of the Town's obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal of and interest on said obligations,"

an abstract of such bond resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town to resurface various Town roads; STATING the estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,310,000; APPROPRIATING said amount therefor; and STATING the plan of financing includes the issuance of \$2,310,000 bonds to finance a said appropriation, and the levy of a tax upon all the taxable real property within the Town to pay the principal of said bonds and interest thereon; and STATING that any funds to be received from the State of New York in connection with such project are authorized to be expended towards the cost thereof, or to be applied to the redemption of the bonds issued therefor, or to be budgeted as an offset to the taxes for the payment of the principal of and interest on any bonds or bond anticipation notes issued therefor;

SECOND: AUTHORIZING the issuance of \$2,310,000 serial bonds of the Town pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said serial bonds are authorized to be issued is ten (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures

RESOLUTION NO. (972-2000) continued

made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said serial bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, and the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to permissive referendum.

DATED: November 28, 2000

Patricia Sheridan  
Town Clerk

Section (D). Said bond resolution, as herein amended, is subject to a permissive referendum as therein provided. In the event that a valid petition protesting against said bond resolution, as amended, and requesting that it be submitted to the electors of said Town for their approval or disapproval is filed and the Proposition submitted therefor is defeated, the validity of the bond resolution adopted September 28, 1999 shall not be in any way affected and shall remain in full force and effect.

Section (E). After said bond resolution, as herein amended, shall take effect, the Town Clerk is hereby authorized to cause said bond resolution as herein amended, to be published, in summary, in the newspaper hereinabove referred to in Section (C) hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York.

Section (F). This resolution shall take effect immediately.

On roll call the vote was as follows:

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

\*\*\*\*\*

RESOLUTION NO. (973-2000)

Co. Maloney offered and Co. Mandia seconded

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

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to acquire vehicles and equipment for use by the Town. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof is \$365,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$365,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on

## RESOLUTION NO. (973-2000) continued

all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable. Any funds to be received from the United States of America or the State of New York with respect to such improvements are authorized to be applied towards the cost of said objects or purposes or redemption of any Town obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal and interest on said obligations.

Section 2. Serial bonds of the Town in the principal amount of \$365,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

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

(a) The period of probable usefulness applicable to the object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 28. of the Law, is ten (10) years.

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

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

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

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

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

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

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

## RESOLUTION NO. (973-2000) continued

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

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

Section 7. This bond resolution, as amended, is subject to permissive referendum.

\* \* \*

Section (B). The amendment of the bond resolution set forth in Section (A) of this resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

Section (C). The Town Clerk of said Town of Clarkstown shall, within ten (10) days after the adoption of this resolution, cause to be published, in full, in "THE JOURNAL-NEWS," a newspaper published in Nyack, New York, and/or in the "ROCKLAND COUNTY TIMES," a newspaper published in Rockland County, New York, each having a general circulation within said Town for such publication, and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

TOWN OF CLARKSTOWN, NEW YORK

PLEASE TAKE NOTICE that on November 28, 2000, the Town Board of the Town of Clarkstown, in the County of Rockland, New York, adopted a bond resolution amending the bond resolution adopted by said Town Board on September 28, 1999 which bond resolution as amended, in part, is entitled:

"Bond Resolution of the Town of Clarkstown, New York, adopted on September 28, 1999 and amended on November 28, 2000, authorizing the acquisition of vehicles and equipment, stating the estimated maximum cost thereof is \$365,000, appropriating said amount therefor, authorizing the issuance of \$365,000 serial bonds of said Town to finance said appropriation, and authorizing any funds to be received from the United States of America or the State of New York to be expended towards the cost of said objects or purposes or redemption of the Town's obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal of and interest on said obligations,"

an abstract of such bond resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town to acquire vehicles and equipment for use by the Town; STATING the estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$365,000; APPROPRIATING said amount therefor; and STATING the plan of financing includes the issuance of \$365,000 bonds to finance a said appropriation, and the levy of a tax upon all the taxable real property within the Town to pay the principal of said bonds and interest thereon; and STATING that any funds to be received from the State of New York in connection with such project are authorized to be expended towards the cost thereof, or to be applied to the redemption of the bonds issued therefor, or to be budgeted as an offset to the taxes for the payment of the principal of and interest on any bonds or bond anticipation notes issued therefor;

RESOLUTION NO. (973-2000) continued

SECOND: AUTHORIZING the issuance of \$365,000 serial bonds of the Town pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said serial bonds are authorized to be issued is ten (10) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said serial bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, and the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to permissive referendum.

DATED: November 28, 2000

Patricia Sheridan  
Town Clerk

Section (D). Said bond resolution, as herein amended, is subject to a permissive referendum as therein provided. In the event that a valid petition protesting against said bond resolution, as amended, and requesting that it be submitted to the electors of said Town for their approval or disapproval is filed and the Proposition submitted therefor is defeated, the validity of the bond resolution adopted September 28, 1999 shall not be in any way affected and shall remain in full force and effect.

Section (E). After said bond resolution, as herein amended, shall take effect, the Town Clerk is hereby authorized to cause said bond resolution as herein amended, to be published, in summary, in the newspaper hereinabove referred to in Section (C) hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York.

Section (F). This resolution shall take effect immediately.

On roll call the vote was as follows:

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

\*\*\*\*\*

RESOLUTION NO. (974-2000)

Co. Maloney offered and Co. Mandia seconded

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

RESOLUTION NO. (974-2000) continued

Section 1. The Town of Clarkstown, in the County of Rockland, New York (herein called "Town"), is hereby authorized to construct drainage improvements in the Town. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof is \$200,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$200,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable. Any funds to be received from the United States of America or the State of New York with respect to such improvements are authorized to be applied towards the cost of said objects or purposes or redemption of any Town obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal and interest on said obligations.

Section 2. Serial bonds of the Town in the principal amount of \$200,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

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

(a) The period of probable usefulness applicable to the object or purpose for which said serial bonds are authorized to be issued, within the limitations of Section 11.00 a. 4. of the Law, is forty (40) years.

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

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

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

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

## RESOLUTION NO. (974-2000) continued

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

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution, as amended, is subject to permissive referendum.

\* \* \*

Section (B). The amendment of the bond resolution set forth in Section (A) of this resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

Section (C). The Town Clerk of said Town of Clarkstown shall, within ten (10) days after the adoption of this resolution, cause to be published, in full, in "THE JOURNAL-NEWS," a newspaper published in Nyack, New York, and/or in the "ROCKLAND COUNTY TIMES," a newspaper published in Rockland County, New York, each having a general circulation within said Town for such publication, and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

PLEASE TAKE NOTICE that on November 28, 2000, the Town Board of the Town of Clarkstown, in the County of Rockland, New York, adopted a bond resolution amending the bond resolution adopted by said Town Board on September 28, 1999 which bond resolution as amended, in part, is entitled:

"Bond Resolution of the Town of Clarkstown, New York, adopted on September 28, 1999 and amended on November 28, 2000, authorizing the construction of drainage improvements stating the estimated maximum cost thereof is \$200,000, appropriating said amount therefor, authorizing the issuance of \$200,000 serial bonds of said Town to finance said appropriation, and authorizing any funds to be received from the United States of America or the State of New York to be expended towards the cost of said objects or purposes or redemption of the Town's obligations issued therefor or to be budgeted as an offset to the taxes for the payment of the principal of and interest on said obligations,"

an abstract of such bond resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town to construct drainage improvements in the Town; STATING the estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$200,000; APPROPRIATING said amount therefor; and STATING the plan of financing includes the issuance of \$200,000 bonds to finance a said appropriation, and the levy of a tax upon all the taxable real property within the Town to pay the principal of said bonds and interest thereon; and

RESOLUTION NO. (974-2000) continued

STATING that any funds to be received from the State of New York in connection with such project are authorized to be expended towards the cost thereof, or to be applied to the redemption of the bonds issued therefor, or to be budgeted as an offset to the taxes for the payment of the principal of and interest on any bonds or bond anticipation notes issued therefor;

SECOND: AUTHORIZING the issuance of \$200,000 serial bonds of the Town pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said serial bonds are authorized to be issued is forty (40) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said serial bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, and the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to permissive referendum.

DATED: November 28, 2000

Patricia Sheridan  
Town Clerk

Section (D). Said bond resolution, as herein amended, is subject to a permissive referendum as therein provided. In the event that a valid petition protesting against said bond resolution, as amended, and requesting that it be submitted to the electors of said Town for their approval or disapproval is filed and the Proposition submitted therefor is defeated, the validity of the bond resolution adopted September 28, 1999 shall not be in any way affected and shall remain in full force and effect.

Section (E). After said bond resolution, as herein amended, shall take effect, the Town Clerk is hereby authorized to cause said bond resolution as herein amended, to be published, in summary, in the newspaper hereinabove referred to in Section (C) hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York.

Section (F). This resolution shall take effect immediately.

On roll call the vote was as follows:

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

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RESOLUTION NO. (975-2000)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, certain property owners within the Lake Lucille Aquatic Plant Growth Control District have alleged the existence of a covenant running with the land which exempts them from responsibility for the maintenance and repair of the Lake Lucille Dam within said improvement district, and

WHEREAS, the Town Attorney has recommended that special counsel, with expertise within this area, be retained to research and determine the validity of said covenant and the obligation of the owners of property within the Lake Lucille Aquatic Plant Growth Control District to share in the cost of repair and maintenance of the Lake Lucille Dam;

NOW, THEREFORE, be it

RESOLVED, that Deborah Wolikow Lowenberg, Esq. be retained in accordance with her proposal dated November 28, 2000, to investigate and report on the validity of covenant referred to herein, and be it

FURTHER RESOLVED, that Ms. Lowenberg be compensated at the rate of \$175 per hour, plus costs and expenses, which fee shall not exceed the amount of \$3,500.00 without further authorization of the Town Board, and said fee shall be charged to Account No. H 8741-409-0-23-1.

On roll call the vote was as follows:

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

\*\*\*\*\*

RESOLUTION NO. (976-2000)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for the completion of improvements on Mayfield Street, Valley Cottage.

On roll call the vote was as follows:

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

\*\*\*\*\*

There being no further business to come before the Town Board and no one further wishing to be heard, on motion of Co. Smith seconded by Co. Mandia and unanimously adopted, the Town Board Meeting was declared closed, time: 10:25 P.M.

Respectfully submitted,  
*Patricia Sheridan*

PATRICIA SHERIDAN,  
Town Clerk

TOWN OF CLARKSTOWN  
PUBLIC HEARING

Town Hall

11/28/00

8:05 P.M.

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

RE: Proposed Local Law amending Chapter 290 (Zoning) of the Clarkstown Town Code regarding Assisted Care Living

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

Supervisor Holbrook asked Mr. Geneslaw, Planning Consultant, and Chairman Paris to give a brief synopsis of the project.

Appearance: Robert Geneslaw

As part of the update of the Comprehensive Plan the Planning Board and the Ad Hoc committee recommended that additional facilities be made available through the zoning code for seniors and this is the first step in what may be a several step process. What is before you is an amendment to the code that would allow assisted living facilities and senior citizen congregate housing facilities. You adopted new definitions almost a year ago to cover some of these things. The Planning Board recommended a change in one of them. The definitions are before you again but they are substantially the same as they were the last time except the continuous care living quarters portion is intended to cover facilities that we might think of as rest homes or convalescence homes where people are living there but they are really not convalescing from an illness but they need some assistance. The new facilities would be allowed in the R-15, R-22, R-40 and R-80 zoning districts by special permit of the Town Board on properties at least 10 acres in size. The requirements for the assisted living and for the independent living are a little bit different. The assisted living facilities, primarily those where the residents cannot take care of all of the activities of daily life on their own, they need some assistance in their living so, for example, they take meals in common in a central cafeteria or dining room, whereas with the independent living facilities with the equivalent of smaller apartments for seniors. There are bulk requirements in the proposal that is before you. There is a 5 unit per acre maximum in the independent living portion and a 10 unit per acre maximum in the assisted living portion because the assisted living units are smaller. The independent living portion also has a bonus arrangement that would allow a 50% increase in density from 5 units to the acre to 7-1/2 units to the acre if the independent units were affordable, they were built within rental guidelines to be established by the Town Board based on meeting an income in the community, and based on the income of the individual applicants for the units so there will be a monitoring process that is somewhat similar to what we have now with the federally assisted senior citizen developments. These would be for families and individuals with somewhat higher income but who could not afford private market units. The units are a little bit bigger, the incidence of car ownership is a little bit higher but the intention was to be able to provide some facilities for seniors who cannot afford private market facilities but would like to stay in the Town. There are a series of area and dimensional requirements included within the amendment which I won't go into unless there are questions. There is also a section on how the affordability aspects would be handled and there are site plan requirements which are similar to the site plan requirements for the MF-1, MF-2 and MF-3 districts. We are in the process of completing the environmental review and trying to identify the number and location of properties that are potentially eligible for this so that the Town Board will have a clear idea of where projects like this could take place using the special permit procedure in those 4 zoning districts. With that I will stop and respond to any questions there may be.

PH: Proposed Amendment to Chapter 290 (Zoning)

Co. Mandia asked about the bonus density you mentioned, the 50% bonus, I am not sure I heard it, does that have a residency requirement attached to it?

Mr. Geneslaw responded that it did. Clarkstown residents would get first opportunity, county residents would get a lesser opportunity, people who are active in the volunteer fire departments, ambulance squads for a period of three years would also have a priority as it is proposed. The Town Board is free to amend that anywhere it wants to as part of the adoption process.

Co. Mandia stated that the monitoring of that is important because if they construct a facility utilizing that 50% bonus we would have to make sure that the people that move in there meet those criteria and more importantly when residency changes and one of those units become vacant, that the person replacing that individual meets the same criteria or we are giving that bonus away for nothing.

Mr. Geneslaw agreed that it has to be an ongoing process; it really has to be permanent. Most of the facilities of this kind that are being built now are being built with state and or federal assistance often in the form of tax credits. The IRS requires something in the order of a 15 or a 20 year minimum arrangement for the affordable units in order to justify granting tax credits to sponsors. Typically, the sponsor would be looking for the same kind of commitment arrangement from the Town since they are required to do it for the tax credits.

Co. Mandia asked about age requirements in the independent living portion.

Mr. Geneslaw stated that it was set at 60 but it could be modified a couple of years either way. That would depend in part on the funding source that the sponsor will use. My guess is that for the affordable units, the sponsors would tend to be nonprofit organizations but there are situations where for profit organizations have applied for tax credit financing and have obtained it.

Co. Mandia asked if anything was discussed in terms of the handicapped, in other words you could have a handicapped person that needs that kind of housing but he or she is not 60 years of age.

Mr. Geneslaw stated that there is no provision in it as written. Some of the units would have to be handicapped accessible in any case, but something like that could be added which would add a certain percentage that would have to be handicapped accessible and not have the age requirement, but it would still have the income requirement, I think.

Co. Mandia asked if that was something that could be done through an amendment at some later date if the circumstance arises.

Mr. Geneslaw responded yes or you could do it before you adopt. You won't be able to adopt tonight because SECA is not finished and we have not received a response back from the County yet, they have only had it for 4 or 5 working days so it will be at least the next meeting before you will be able to act. Something like that could be added.

Supervisor Holbrook asked Mr. Geneslaw to identify the various categories here, assisted care living quarters, continuous care living quarters and senior citizen independent living congregate housing so everybody can understand what we are talking about here.

Mr. Geneslaw stated that the assisted care living centers are for people that need some assistance within some element of their daily life. They may need assistance dressing or bathing or in other aspects of personal care. So there would be licensed professionals on staff to help them with those things and they would be taking their meals in common. There might be facilities in common in the building, recreation activities, game rooms, places of that nature. The continuous care living quarters is, the most easy comparison is to think of a rest home or convalescence home. And the prior definition that you adopted referred to a convalescent home. One of the Planning Board members raised a question about that because he had members of his family who were in a facility like that but were not strictly convalescing from an illness, they had simply reached a point in their life where they were at a lower level of personal ability to do things but not in a convalescent setting so we changed the definition to try to deal with that kind

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of situation. The senior citizen independent living congregate housing would be primarily independent living units, kitchen, bathroom, people would make their own meals, there would not be meals in common, but it is limited to people who are 60 years or older and there is a limit to the size of the unit and it says specifically in the definition that housekeeping, linen, laundry services and other amenities may be provided but there is not licensed professional medical care or related services. What we have to try to remember is that zoning is static. We are going to put a definition of something in the code whatever these things are and it is going to stay that way but the seniors who occupy any of these kinds of housing are going to be needing different levels of care at different times during their life. We have all heard about elderly people who have fallen and broken a hip and after a month or two they are able to take care of themselves again but for a short period they need some help. What we have tried to do with this is to recognize some of those individual variations but still keep it in a zoning context so there is some certainty as to the land uses and the density and other provisions in the code.

Appearance: Donald Tracy, Esquire  
New City

This is my critique and I pretty much make my livelihood out of the zoning ordinance, zoning, planning and the like and having read this I am thoroughly confused. The reason I am confused is that it appears to do something that I don't see how it can possibly do unless we are talking about a parcel of land at least 50 acres. I asked one of our engineers to look at this map and to lay something out on it and when he laid something out on it he says can't build anything, period, when you look at the buffer, open space requirements, etc. But just indulge me in telling you what bothers me about the ordinance and I'll preface that by saying I think it's a step in the right direction. I think it is something we needed and I think it is something that could be clarified but I think it is something that was attempted to be bundled together that might better exist separately. Let's start off with definitions. When we look at what is the difference between assisted care living quarters and continuing care living quarters. Assisted care living quarters says residents who need assistance on a daily basis and continuous care says persons not able to live independently and not needing the level of care provided by the above. Now that seems to be contradictory. If I were a zoning official I would have an awful hard time trying to determine which was which. If you read that carefully it would seem that assisted care living quarters are for someone not as in need as someone with continuous care living quarters but when you read them quite the opposite is so. Senior independent living congregate housing talks about a building or a group of buildings and I assume also would be single family detached or attached housing which could be in individual ownership and the only place you could put those would be in residential districts and yet there is an awful lot of LIO land laying fallow which would be suitable for this type of use. There are very few residential parcels in town that could accommodate this type of thing. I might also call to mind the recent situation with the Sunrise Assisted Living and that came about because it was plunk in the middle of a "residential neighborhood". Now you want to put these again in a residential neighborhood. In reading this I have a feeling that it was created for a single parcel of land a very large parcel of land and that is all well and good and I have no objection to that but I wonder unless you had a tremendously large parcel of residential land where you could locate any of these facilities. My next comment was if you look at the use tables and the regulations that are attached to them you have a maximum building size, now we are going to talk about the single family detached residence, of 800 square feet. That is a 20' x 40' house. Is that the kind of housing we want to put our seniors in, a house that is 20' x 40'? If you look at the parking regulations, if you put 1-1/2 parking spaces and you use the Town zoning code criteria, you talking about 300 feet for parking spaces for this 800 square foot house. If you look at some of the setbacks, for instance, 150' minimum for a 40' house or a series of 40' houses, distance between buildings at least 40'. Now 40 feet between 40' buildings if they're separate single detached houses looks like a group of chicken coops. It would remind me of the summer bungalows that were here many years ago. On accessory uses, they talk about limited retail and service uses, gift shops, sundries, personal care products, exercise facility -- 20' x 40', some exercise facility! Supervisor, you could jog across that in four steps. Again, no more than 2 persons per room on assisted living or continuous care and no more than 2 bedrooms and I assume the slash in here means "per". I would like to see 2 bedrooms in a 20' x 40' and a decent little living room, bathroom facilities and kitchen facilities. None of the over 55 housing units that I have inspected around the south Jersey area had a minimum of less than 1,200 square feet and most of them averaged between 1,400 and 1,700 square feet to make them aesthetically pleasing. It would be very difficult to make a 20' x 40' house aesthetically pleasing. I notice on the development size for senior citizen independent

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living congregate housing, there is no restriction however, on the other use which is the assisted care living quarters or continuous care living quarters, there is a restriction of not more than 100 units or 200 residents. Now even on a large parcel of property, unless they are going to interpose a planned development that has a combination of all of these, that doesn't make much sense. Again, they say residential appearance shall be paramount including such elements as gabled roofs, reminds me of a nursery rhyme about a gingerbread house, if it is going to be 20' x 40'. Then we get on to the demonstrated need and that bothers me because there is absolutely no criteria. It says as part of the application for special permit the applicant shall provide sufficient information to demonstrate that the proposed development will help meet the needs of the Town of Clarkstown as shall be determined by the Town Board in its sole discretion. So if we've got an all Democratic Board, it will depend on if the guy's a registered Democrat. If we have a Republican Town Board it will depend on whether he is a registered Republican and that will be one of the criteria. I don't accuse this Town Board of that kind of gerrymandering but this Town Board may not always be here. Do you want to leave a future Town Board with such unfettered authority? My next comment was on page 6 where I read a paragraph and reread it and by the time I finished, I still didn't know what it said. "iii. 25% of the entire tract shall be reserved as usable open space for use by all residents of the development or at the request of the applicant, prior to final site plan approval and subject to acceptance by the Town Board upon recommendation of the Parks Board and Recreation Commission, may be offered for dedication, in whole or in part, to the Town. Such usable open space, exclusive of any off-street parking areas and access driveways or any other paved areas, shall have no dimension of less than 30 feet, except access, and the location thereof shall be subject to approval of the Planning Board. The community building and recreation facilities may be located within the usable open space. Density shall be established prior to the identification of usable open space." Usable open space is a term that confuses me. We either have open space or have space in its natural condition, but usable open space does that mean open space that you can use for something or is it open space that is used as open space? The next thing that caught my eye and confused me, now this is for people 60 years of age or older, and they are talking about tennis courts and swimming pools. Now I am 70 and I suppose I can still swim. I never was much of a tennis player but we are going to have locker room supporting facilities for these senior people some of whom need assistance. We also say a community hall or space shall be provided within each independent living development with a meeting room no less than 15 square feet per dwelling unit but not less than 400 square feet. So for each 800 square foot house we going to have 15 square feet set aside, if you build a big project, one big humongous community hall. It says further on there should be no more than 8 units in any building configured as town houses. I would assume that 800 square foot town house, or 20' x 40' can be designed adequately. I got to the real problem in this thing having recently litigated a case on the area when we get to a density bonus. We are giving the Planning Board a determination on an application for subdivision approval if the site is appropriate for fee simple ownership type units. There are no criteria established, carte blanche, white hat, black hat you guys decide it. We get to this density bonus "when the applicant proposes to develop affordable units". I can hardly see that in today's market that an 800 square foot unit couldn't be anything but affordable. We get to determination of need which the Town Board has to determine without any criteria and a priority system which really bothers me. When we get to moderate income, the Town Board has some criteria to decide. In making some determination, the Town Board shall consider among other factors family size and number of dependents. In an 800 square foot house, how many dependents are we going to have, what is the family size going to be unless you are going to put in little cubicles and put the people in like they do in chicken coops. "Among other factors, family size and number of dependents, income all wage earners in the family and sources of family income." As a general guide they say it shall not be more than 80% of the medium family income based on family size in the Town of Clarkstown but may be less. The Town Board is now determining and putting it upon themselves to determine the sale's price of housing including closing costs and fees shall not exceed the applicable maximum sales price as established from time to time by resolution of the Town Board. The Town Board has not been proven to be very astute at buying properties. Now they are going to establish sale prices. I don't think that the Town Board wants to do that or wants to get into rent control where they also control the rentals on these properties. Last but not least when we come to the eligibility requirements we run into a serious constitutional issue and that is who are we going to offer these units to and who are we going to give priority to. As a cardinal principle of zoning law and a lot of case law on it which holds that while you can regulate the use, you cannot regulate the user and any attempts to regulate the user is deemed to be unconstitutional. True there are exceptions to that under Section 8 housing and we have one very successful project here in the Town of Clarkstown which is Monterey Gardens and there are

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exceptions under HUD regulations to the discrimination provisions contained in HUD regulations for their over 55 housing program. However, we are now going to give these priority based on longevity of residence to residents of the Town of Clarkstown at the time of applications and their family members in this 800 square foot unit who at one time resided with such residents within the Town. Volunteers in good standing at the time of the application serving the ambulance corp. or the volunteer fire companies serving the Town. I certainly think they deserve it, but I don't know how many of them would qualify as over 60 years of age in the volunteer fire department and ambulance corp. so that is a fiction too. But what really confuses me is parents and siblings of Clarkstown residents at the time of application. Now a sibling of someone 60 years or older, how old can they be or would this person basically have to be 79, 80 years of age to have an old enough sibling to qualify? Or does that mean brother or sister, then the brother or sister would have to be that age. Then we come to former residents of the Town of Clarkstown with residents with relatives currently residing within the Town, what does that mean? Former residents, somebody that move away and we go down to Dade County or Broward and we say come back we have housing for you now? Next category all former residents of the Town of Clarkstown, how long did they have to live here? Could they have been here a week, could they have been here for 10 days, leave and then come back into the housing. Residents of Rockland County, all others, the next category and then when they talk about the tax assessment the restrictive sale of rental values of moderate housing. So I confess to be confused by this, I think it's a nightmare. I think the Town Board undertakes a very dangerous course if it approves some of the aspects of it. And I think some of the priorities that are set forth herein without federal or state sanction are clearly illegal.

Supervisor Holbrook asked Mr. Geneslaw to respond to some of the issues that were raised here.

Mr. Geneslaw started with the last few comments that Mr. Tracy made with regard to the affordability and eligibility. I think it is a good illustration with the kinds of issues that need to be addressed and somehow resolved. If a bonus provision or some provision is going to be made for affordable units there has to be a way to make sure that the people who occupy those units meet the criteria and meet the income criteria and in meeting with the Planning Board and Ad Hoc committee there was a strong feeling that those units should be available for people who live in Town first. Yes, they would have to be seniors, if they are active members of the volunteer fire department or ambulance corp. and they meet the age and income limitations they would get a priority. The feeling was that for people who have spent some of their adult life providing volunteer services to the community there should be some recognition of that. It is a fairly common provision in these kinds of ordinances in other communities. There is a lot of discussion about people who have spent many years in town and move out because they couldn't afford to live here. Maybe they did move to Dade County, maybe they moved to Jersey. If a development of this type were built, should they be ineligible because they have been away for 2 or 5 years and the feeling was some provisions should be made for them. So the intention was to try to provide a priority system that recognized some of these kinds of situations and in the end if there aren't enough of these various populations to occupy a development then it has to be open to the public at large without the residence requirement. There would still need to be an income and an age requirement. Most communities feel if they are going to give something in the way of density or location or sometimes infrastructure improvements, then the community should get something in return for that and priority system is a very common element of that. A number of the other items that Mr. Tracy talked about were taken almost directly from the present multi family regulations in the zoning code. Community space, for example, is a requirement because the Town found as condominium developments were being built that there were increasing requests for meeting space in Town Hall. Not only for formal annual meetings of the condominium but also for social events and so the code was amended about 15 years ago to require that each of these multifamily developments provide their own meeting space, so they now have space available for their annual meetings, committee meetings, social events and for renting out to residents of the community. Those are not going to be used in an assisted living kind of environment but in an independent living environment it would be appropriate. That kind of provision was included because it has been found to be helpful within the Town. There is also considerable discussion about what the minimum size of a parcel should be and whether developments of this kind should be near hamlet centers, for example, or more remote. We had the same kind of issue 15 or 20 years ago when we had the housing commission. The feeling now on the part of the Planning Board and Ad Hoc committee is that these should not be adjacent to hamlet centers, they should be further out, which accounts for the 10 acre minimum

lot size recommendation for the Town Board and that the densities should be fairly low because they were in almost all cases adjacent to existing family neighborhoods. The feeling was there should be substantial buffers around the edge so that the impact on the existing single family neighborhoods would be less. There is a provision for sliding scale, the longer the building gets, as it is parallel to the property line, the greater the setback has to be. The bulk of the building is diminished on its impact on the adjoining residential community. A number of the other comments Mr. Tracy made are ones that I would like to take a look at but I think that covers most of what I consider to be the major ones.

Co. Smith asked if the definitions were based on the NYS definitions at all.

Mr. Geneslaw responded that these were taken from a variety of sources and they are substantially what the Town Board adopted roughly a year ago as the first step leading up to these requirements. Mr. Costa and I worked on them, there are a variety of sources that were used, it was not a matter of taking a definition from one place and applying it to the Town.

Co. Smith asked about the senior citizen independent living mentioning age 60 and the other 2 don't mention any age but you assume they would be older. Suppose it was a younger person that needed either of those facilities?

Mr. Geneslaw responded that it is age restricted with the possible exception of making an adjustment for the handicapped. One of the very strong objections on the part of some of the Ad Hoc committee members was that this should not be an alternate way of building multifamily housing, building condo developments without coming to the Town Board for a zone change. This is set up as a special permit. If you meet the criteria with whatever legislative discretion the Town Board has, it could be approved. It doesn't require change of zone. The feeling was that if there are going to be independent units that look like MF-1 and act like MF-1, then they should come here and get a zone change for it and not do it through special permit procedure. That's one of the reasons the unit size is so small so it doesn't become a substitute for a zone change for a multi family. There are not more than 100 units per building for assisted living. The feeling was they didn't want it to look like a large-scale nursing home kind of setting. There is not a limit on the number of independent units as it is proposed to the Town Board, so if someone were to build something that was only assisted living, the maximum number of units would be 100. If they wanted to build something that had both forms of housing on it there would a limit of 100 units for the assisted living. Independent living would be based on the density and any bonus that they might apply for. The bonus is optional on the part of the applicant, not to be imposed by the Town Board. Continuous care would be the same as the assisted living.

Co. Smith asked about giving a bonus increased density, this is completely opposite of Clarkstown's philosophy.

Mr. Geneslaw responded that the feeling was that there was a need to provide some element of independent living units for seniors who could not afford the private market. We have all seen ads for Sunrise and other places around the County and the kinds of prices that are being charged. There are a lot of seniors in Town that can't afford that. So the feeling was if a sponsor was willing to come forward and build something that will meet that need, the Town would in all probability have to do something more than 5 units to the acre to make it work so the suggestion was to make it a bonus situation at the option of the applicant, not the Town Board, nobody is required to do affordable units, if they choose to apply for affordable units, they would get a bonus based on the number of affordable units they would be providing. So there is a "carrot" approach in trying to provide some units for seniors who can't afford the private market. We have had people come to Town Board meetings asking for some form of residential development that would be suited for seniors and particularly for those who have lived in the Town for a long time and can't pay current prices for private market housing. This was an attempt to get at that.

Co. Smith asked if he had identified parcels in Clarkstown where this would fit.

Mr. Geneslaw responded that we started to identify but we haven't finished. As written, this would apply in four zoning districts R-15, R-22, R-40 and R-80 for parcels of 10 acres or larger. They could be properties that are totally vacant now, they could be large properties that have a house on them but there is at least 10 acres of available land on the property. They could

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be assemblages of several properties that are vacant and smaller than 10 acres or some improved. We are in the process of trying to estimate the number of properties that are potentially eligible to be able to give the Town Board a rough idea of how they are distributed around the Town. I can tell you now that if you look only at those that are presently in these 4 zoning categories and are completely vacant, there are about 15 that are 10 acres or more. That does not include farm properties that are much larger than 10 acres and have a farm house on them. We are trying to get at that level of property now and then we will try to make some sort of rough estimate of the potential for assembly which is really a speculative kind of estimate to make because there is no telling when individual property owners might decide to sell to a developer or get together to do something.

Co. Mandia asked about the fee ownership provision. Would the bonus density apply even to those that are going to be sold?

Mr. Geneslaw responded that it could but he thinks it would be hard to make it work financially but what we are trying to do is to provide some options within the code so a developer has some choices, but it could.

Co. Mandia stated that if the idea is to provide a little more density to reduce the cost for needy people, regardless of the circumstances and regardless of the affordability, if that kind of need exists it is going to be sold to someone, maybe that needs to be in there so it covers all the bases. If those are going to be rented much the same as Monterey Gardens and the other ones, but if someone is going to buy it, I think this is something that may need more thought. The other thing is, I really understand the difference between independent living and assisted living but having read it, listening to Mr. Tracy, chatting with John, and reading it again, I'm still having a bit of difficulty understanding a layman's explanation of the difference between assisted living and continuous care living quarters. Is there a simple one sentence explanation that you or Mr. Paris could think of to help me with this?

Mr. Paris responded that you could consider assisted care living as a nursing home, continuous care living quarters as an adult residence and independent living as senior citizen housing, no restrictions, basically.

Co. Mandia asked if assisted care would carry some kind of medical facility with it, nurses, doctors, etc, and continuous care would not, is that correct.

Mr. Paris responded that was correct.

Mr. Geneslaw stated that that would be subject to state licensing requirements as well. It is obvious from what you and Mr. Tracy are saying that we need to take another look at the definitions and that is one of the purposes of the public hearing. If you are all having trouble then a developer who is interested in doing something will also have trouble and that is not the intention.

Co. Smith asked why there is not any over age 55 or 60 housing independent, that has been so asked of us lately. This is all like you have to be ill or on your way to being ill.

Mr. Geneslaw stated that the intention was for people who are able to live the same way people live in a private condominium.

Co. Smith said this is where meals are available. How about people who just want their senior housing separate, individual units or congregate with others, not necessarily that they have meals served to them. If you are going to do an ordinance taking in all of the seniors, why not do it thoroughly?

Appearance: Donald Tracy, Esq.  
New City

You want to develop this kind of housing, let's take an R-15 zone, and let's say somebody has 10 acres of R-15. Now R-15 land will give you roughly 2.6 units per acre with no buffer in a subdivision but a 20 foot side yard. What developer in his right mind would take a piece of land like that when he can get 2.6 per acre with no buffers, no open space requirements,

just the general R-15 requirements and put 20' x 40' houses on with 150' buffers and everything else. The problem I have with this is, in trying to lay it out with Ted Atzl today, no way is it going to be built unless you have a parcel of land that is 50, 60, 70, 100 acres. It is not economical. The market place drives these things, and if I got that land I'm sure not putting 150' buffer and 5 units per acre when I can get 2.6 units per acre without the buffers, I can probably get the same number of units.

Appearance: Richard Paris  
Planning Board Chairman

The intention of the senior citizen independent congregate housing is that it is supposed to be congregate housing. It is not supposed to be a single family house or a patio home or a 40' x 20' bungalow. It is supposed to be congregate housing or apartments in a facility that is substantially separated from a residential community to minimize the impact. What we were trying to do was to look for sites where we could develop a complex. Now it just so happens that there were 2 that were on the boards during the moratorium and with the concurrence of the Town Attorney's office we gave both applicants the permission to have these applications reviewed before TAC while we were developing this ordinance. With the understanding that as the ordinance progressed to the degree that we would submit it to you they would have to comply. One was the Davies Lake application and they decided after one or two meetings to withdraw and not to pursue their application, the other was the Sisters of Charity and every recommendation that we developed, they complied with, and they did change their map several times in order to comply. The size of the parcel that you would need to put this on is not going to be 70 acres. We don't want to become the market center for assisted living or independent living either. We wanted to try to develop a conservative ordinance that we could apply restrictively and if we needed to liberalize it we could always do that. I think there are some aspects of it now that may be a little too loose. We tried to take into account the fact that there has been a cry to provide some sort of residency for seniors. We don't have affordability for seniors in this community. That is why we came up with the 50% bonus. The test is if they can demonstrate through a market study of the Clarkstown area. We required, before we sent the Sisters of Charity up to you, that they submit a marketing study of the Town of Clarkstown and convince us (and that study is available to you and you should look at it when you review the special permit) whether or not there are numbers of eligible people in this Town that would qualify for these units. That was one issue. We had to concern ourselves with the people who lived around these areas, they didn't want to be impacted by development complexes but we needed them, so this is the reason that we try to start at the perimeter, 100 foot buffer, setbacks commensurate with the building size and some of these buildings, if they are 300 feet in length they ought to be 150 feet away from the property line. That is what we contend with. In an assisted living facility there is generally a single building complex like a nursing home, like Sunrise, is a single building complex and they tend to be bigger which is why we restricted that to the number of units. We have also specified a floor area ratio of .20 to minimize the impact. To give you an idea, only because I'm familiar with it, having reviewed it, the Sisters of Charity has over 100 independent living with the 50% bonus. Slightly under 100 in a single building for assisted living that occupies somewhere around 20 acres of their site. So that is 200 units on about a 20 acre site with the buffers and still leaves half their site for future development.

Co. Smith asked if they would need variances? So this is really just to their site?

Mr. Paris responded that they didn't need any for this. He stated this was not for their site, what they have done is as they have progressed with their plans, through about 10 or 12 TAC meetings and several Planning Board Meetings, they have been privy to our determinations and they have modified their map to conform to this. This was not based on their submission, their submission is modified to conform to this. The reason for the 800 square foot is to limit the size. We don't want someone to come in for independent living when they should have a multifamily zone. To give you an idea, in an MF-1 the units vary from 5 to 8 per acre, MF-2 is 9 to 13 per acre, MF-3 is 14 to 18. What we are talking about is the kind of density for independent living that is commensurate with the MF-1 zone, even with the bonus it is in the MF-1 zone. It is the type of development that we are trying to develop, a campus style, buildings shaped like houses with gabled roofs, aesthetically pleasing, we have got requirements in here for road construction, we have minimized the parking. The impact from this kind of development will be much less than you would get from and R-15 or an R-22 development on this site. There are going to be things here that are subject to modification and we appreciate any

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comments that you would have on it. The thrust of what we are trying to do is to make it somewhat restrictive so we don't get 50 applications, the biggest concern is that it would be a ruse for MF development so that is the reason we sent it up.

Appearance: John Lodico  
New City

We have had that experience of persons who were in our senior citizen housing in this Town who coincidentally moved in December and came back in May to senior citizen housing. My first suggestion is that you don't close this public hearing tonight and you adjourn it for maybe 2 or 3 more sessions because most of this Town doesn't know what is going on as far as housing goes. Everybody when they hear senior citizen housing thinks they are going to get Section 8 and they are not going to get it and if you do get it then you cannot regulate it to only Clarkstown residents or senior availability.

Appearance: Mike Reilly  
Nanuet

It sounds like what we are developing is government housing and I think one of the things that needs to be looked at, besides definitions, is what is the statistical impact on our Town administration. We don't need another Town Attorney to administer this or another planning consultant to monitor it or a housing administration. So please look at that as you see the long term impact and develop that as part of the criteria.

Appearance: Cora Bodkin  
New City

My name is Cora Bodkin and I reside at 7 Bellwood Drive in New City, I also am an executive board member of the South Little Tor Civic Association. I wish to voice some reservations I have regarding the proposed changes in the zoning code for senior congregate living.

The problem I foresee is regarding a potential for uncontrolled down zoning in the Town of Clarkstown throughout all residential zones. Let me explain my point of view. All current residential zones, whether currently permitting 1/3 acre R15, 1/2 acre R22, 1 acre R40 or 2 acre R80 residential lots, would allow housing to be constructed for a senior population in independent living at 5 units per acre or assisted living at 10 units per acre on any parcel of 10 acres or more. The fact that granting a building permit would allow for a greater density of units in all of these zones is undisputed.

While I support the zoning density for senior independent and assisted living, I believe that this situation could lead to uncontrolled down zoning if it were to be permitted in the residential zones. I'll explain my reasoning:

What's the current situation regarding private senior congregate living in Rockland County? Let's start with Clarkstown. Sunrise on North Main Street was projected to be at 75% of capacity in one year's time from opening but it is not at its projected occupancy target. Tappan Zee Manor, a second private assisted living facility in Clarkstown has a 55% occupancy rate. The Atria in Ramapo is at about a 70% occupancy rate. Another large development is under construction in Pearl River across from Blue Hill and near the Pearl River Hilton for assisted living and Alzheimer patients. Furthermore, a new development is being constructed now on Route 45 just north of New Hempstead Road specifically for a senior adult population. These developments are very near Clarkstown. We are a small county, and the preponderance of facilities in one town impacts the other towns. I am mentioning only privately owned facilities at this time because the rents of the units at these facilities are quite expensive and beyond many Clarkstown residents' ability to pay. For example, the current monthly charges at Tappan Zee Manor are \$2700 per person in a studio unit and \$4350 for two people in a suite. Independent living at Fountainview in Monsey runs about \$2500 a month. Therefore, able bodied active seniors who might be interested in living at an "independent living" facility would probably decide to stay in their existing homes and pay for the services they require because that would be the more economical choice for most people. They would not be likely to move out of their homes into independent or assisted living facilities until they become quite frail. Therefore, the age of a resident at independent living and assisted living facilities is quite advanced, and consequently the turnover rate is high, another factor causing potential financial instability for the owners of the facility. According to Andrew at Tappan Zee Manor, competitor Care Matrix

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has filed for bankruptcy which has resulted from overbuilding and overextended debt. This situation is not localized to Rockland County. The New York Times addressed the problem of overbuilding these facilities in the metropolitan area and in nearby Westchester County in particular. Most recently, this past Sunday's New York Times cited the nation's largest chain of assisted living facilities, Alterra Healthcare Corporation, as in a very weakened financial condition because of overbuilding, taking on too much debt, and having difficulties staffing their facilities. This latter problem is experienced by facilities in Rockland since most staffing positions offer close to minimum wage and our local residents for the most part are more highly skilled and command higher salaries. Stock in Alterra Healthcare plunged from a high of over \$35 a share in 1998 to \$2.75 now. It is clear to me that occupancy rates ranging from 55% to 70%, our local privately owned facilities in Clarkstown are operating marginally at best from a financial point of view. What would happen to these facilities and the residents occupying them if further competition causes them to go belly up? Would Tappan Zee Manor revert to its previous use as a drug rehab. facility, Daytop, serving a New York City population? Remember that assisted living studio units or suites do not have kitchens and therefore would not be appropriate for most people. Also, if attached units in independent living facilities, which do have kitchens, were to be converted to use by a population other than those of age 60 plus, it would be considered multi-family housing and not fit any permit use in single family R15, R22, R40 or R80 use. It would be wise for our zoning code to limit the number of these developments by further restricting where they can be constructed so that limited competition would make them more economically viable. It would also be appropriate to place them in multi-family zones so that if there would be use changes in the future, those changes would not impact on the character of residential neighborhoods.

For the above reasons, I characterize the proposed amendment to the zone code as opening a back door to down zoning and zone changes to rental units throughout all single family residential zones. In addition to recommending that these senior housing projects be permitted in multifamily zones, I recommend that commercial zones and office zones also be considered as appropriate. The Palisades Mall has negatively impacted various commercial centers which may end up closing their doors. Perhaps these distressed shopping centers or office building could be considered for conversion to such housing, just as the former Tappan Zee Motel is now an assisted living facility. Another benefit to permitting these facilities in multifamily zones and commercial and office zones is that these zones are more easily accessed by public transportation, and important factor in enabling low skilled employees who do not have cars to get to jobs at these facilities.

I urge the Town Board to anticipate the potential long-term consequences of these proposed amendments to the zoning code. Place senior housing developments only where multifamily, commercial or professional use is permitted to prevent uncontrolled backdoor down zoning.

Mr. Paris responded that this is for our people, seniors. The independent living is for people 60 and over maybe a lot of people here qualify. Where do you start, we have hashed this out with the Planning Board and Ad Hoc Committee, every meeting has been open to the public getting input. How do you resolve this problem? I don't think we can make it any more conservative than this. Every point that was raised is a point that we considered and were concerned about. If you don't want to give the 50% bonus you are talking about 5 units. You don't want someone to come in and take an R-15 zone where they can get 2.5 houses and get independent living in 5 houses per acre and they won't because it is not going to be to their advantage. In an R-15 they are going to build an R-15 and if they want to join houses where they can come up with a 10 acre site and they can meet the 100' buffer requirements, the 150' setback requirements and 24' wide paved road requirements, minimum standards for parking, minimum unit size, if they conform with all of that, let them do it. It's not going to impact on us at all because it is going to be less of an impact than a typical residential development. Lastly, these are not going to put kids in our schools and won't increase our school tax base. I think this offers a good solution, it is obviously not going to solve every problem and I'm sure the Planning Board and Ad Hoc Committee would be open to any suggestions or recommendations or paragraphs you want us to reconsider or go back to the drawing board on but I think it is going in the right direction.

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Appearance: Ed Day, Ad Hoc Committee Member  
Little Neighborhood Association

You heard Bob and Dick express what we have been trying to do as a group with the Planning Board and Ad Hoc Committee, nothing is perfect but we are trying. We are introducing multifamily housing into residential zones. However, we are trying to do it because we are trying to do the right thing for our seniors. If we do nothing we end up with a Sunrise. The people behind Sunrise can tell you how they reacted when they saw how high that building got. We end up with proposals that probably can best be described as a city on Little Tor Road, some enormous metropolis placed in the middle of residential zone. Cora Bodkin spoke earlier and she brought a lot of issues up as far as market surveys some of the various locations that are out here now. The bottom line is a failed venture is going to equal empty apartments and again that will compromise a residential zone. There is a need to define the need before the Planning and Town Board takes on the approval for this type of housing. I made a separate motion that there should be some language in the local law that will absolutely guarantee if so developed will be used as so intended. We are trying to do the right thing for our seniors, we are trying to make it affordable, trying to help their families. This is what we are attempting to do. Unfortunately, too often, the language seems to change into some remote dialect when it gets to the site. I remember when one of the local school districts came and described the use of one of the earlier approvals. Rudy's jaw hit the table because it was represented that this development would never attract children and then he found out that numerous children were in that development and it was a major impact on the school district. We have people telling us they are looking to care for the elderly they want to have it affordable and then they represent their proposal at rates that are half the going rate. Nobody believes it. Some of these people have had not contribution to seniors before they come forth with this wonderful idea. Mr. Tracy made a comment about what developer would do such a thing, maybe a builder who is looking to do the right thing. As far as the 800 square foot number, that will give you 2 bedrooms or bedroom and a den, two double closets, a linen closet, a bathroom, a living room, dining area and a working kitchen. I know that because I have a cape and the first floor is approximately 800 square foot. We felt that was a good starting point for a home where 1 or 2 people were residing. I am mostly concerned with enforcement. We can rely on the code enforcement that we have. I am not casting aspersions on the Building and Zoning Department, it is just not reality. You cannot get into homes to find out what is going on. Maybe we should look at developers when they come forth, maybe they could sign away their rights of inspection, maybe there could be heavy fines if it is found that the intended use has varied. Bottom line is we have to do the right thing for our seniors.

Appearance: Richard Sarajian, Esq.  
Representing Davies Farm

Ten years ago I tried to get a Marriot into Chestnut Ridge and I heard the same type of comments, there will be welfare people in the hotel, you are going to put Day's Inn out of business. The types of economic scare tactics that are used when you are discussing these issues should not be tolerated by this board. The motel went out of business even though Marriot didn't get permission there. And it is now the senior residence quarters that everybody loves. When you allow these scare tactics to influence your decisions you are making a major mistake because the market develops and changes and turns and you must make you decisions based on the law not on if you think somebody will be put out of business or won't be put out of business. Mr. Tracy knows the case law about the rules involving economic issues on these types of things, Mr. Costa knows the case law on that. You have to look and see if this law is an appropriate law and not allow yourself to be influenced at all by these types of scare tactics. The first issue I have tonight has to do with the public notice the clerk read before the hearing. That public notice that you were going to be considering, amendments to definitions, those amendments are on the first two pages of this law. There is 9 or 10 other pages and I truly believe that once again the Town of Clarkstown has not complied with the relevant laws as far as notice of consideration of this type of law. I would suggest that you keep this public hearing open and that you re-notice at to what is being considered here. I am surprised at the low turnout here and it may be because your notice did not comply with the law. I would like to comment that it appears to me that this law is drafted as a continuation of the discriminatory conduct that has taken place in terms of favoring the Sisters of Charity project over other developers in this area. A comment was made by the

Planning Board Chairman about inviting 2 applicants to come during this process and that Davies Farm came a few times and withdrew. Davies Farm specifically withdrew from the process in February when you passed a resolution deleting all of these types of uses from every zone passed some new definitions and put them in no zone. Therefore, we did not even know where and when and what zone you would consider to put this in and we didn't want to go through expense involving all of those issues and paying engineers and doing other things at a time when you had illegally removed the use from all zones. In case you don't know this, your Town Attorney had you re-pass the law to cure those defects in September of this year and then one day later filed papers with the court in response to our challenge saying yes, we did improperly adopt the law but now we've corrected that mistake. Not the first time that has happened. I would also like to point out that Mr. Geneslaw has said that this is just the first step of a process in dealing with this issue and that it is now sitting here today over two years since you passed a moratorium preventing my client from developing this type of project and we are still far away from resolution of this issue and that is a tragedy that you restricted my client from any development of this project while you had that moratorium and while you did nothing. I would like to comment on the law. I would like to praise the Planning Board and Ad Hoc Committee for having the wisdom to put these uses in residential zones. That is where they belong, they can also go into other districts, but it would be a gross disservice to the seniors and the residents of the Town for you not to put these in residential zones. Little Tor Road has very good bus service. It seems that while we now have a lawyer to interpret the code for us we are now writing the law so a lawyer can't interpret them or understand them and we are just as bad off as we were before. The definitions were somewhat unclear to me when I first read these and I now have a concern having heard the chairman of the Planning Board speak, assisted care living quarters is not the equivalent of a nursing home in the industry. That is just not an accurate way to describe that type of use and if in fact that was the intent of the Planning Board and the Ad Hoc Committee that is a mistake and I would point out to you that even though you deleted nursing homes from most zones in the Town Code back in February of 2000, you in fact did leave it already in some zones so there are separate definitions of nursing homes and they are in nonresidential zones. I am unclear as to the intent of this law with respect to the relationship of assisted care and continuous care. Continuous care seems to suggest a greater need for care than assisted care yet the definitions seems to be of a less restrictive care. Assisted care living makes reference to access to professionals on staff. Continuous care which to me seems to be a higher level, continuous makes no such reference so we are unclear as we read this ordinance where and how you plan to go in respect to that. It was clarified a few minutes ago by the chairman of the Planning Board and we think that that clarification shows a major mistake in terms of what this board should be doing. I'd like to comment about the concerns in the bulk tables and the rigidity of what has been done here. You have an FAR, you have a density, you have a minimum lot area, you have some lot sizes yet you are putting all sorts of other restrictions in here. To some extent you are denying the Planning Board the flexibility that it needs to develop these projects. There are too many limiting factors here in this ordinance. We have some confusion with the bulk table. You have minimum areas of 10 acres for a senior citizen and independent living. It is unclear from this ordinance whether a combination of independent living and either assisted or continuous care can be provided or are you limited to only one of these two uses on a site. Most projects are developed as a combination yet you have described this as a 10 acre minimum for one site a 10 acre minimum for the other site. You do not describe what might happen with a 15 acre site. As the chairman said the Sisters of Charity currently consists of 200 units on 20 acres. Does everybody have to have 20 acres to do both of these uses together or can you take one site as long as it is larger than 10 acres and do a combination of the 2 and somehow I can't figure out how the Sisters of Charity got 200 units on 20 acres even with the bonus. Regarding development size, when you multiply this out, 10 acres is really what you do, 10 acres, 100 unit maximum under the continuous care assisted living. You have 50 acres and theoretically a density of 500 which you could develop with 200 or 300 or 400 or 500 foot buffers, you are still limited to 100 units. You made this project 10 x 10, you said 10 acres minimum, 10 acre density, 10 times 10 is 100 and you said 100 is the maximum and it doesn't matter how much more property you have. That doesn't make any more sense in that type of overall limitation. There is a question about open space in our minds, this 3a, iii, 25% open space that is required. Mr. Tracy referred to that before and I have another question, not only do I have problems with the 30 feet wide definition of that but I have a question as to whether all the areas of the buffer are included in that. Another question, in the paragraph before, you talk about all non-disturbed areas, so if I have an area of 100 foot wide trees, does that count towards my open space or does the word "useable" mean I have to clear that 100' x 100' area to get useable open space and tear down all this natural vegetation. I am unclear as to

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what the intent of the ordinance is with respect to that but since the phrase "useable" is there, does walking through trees mean useable open space. There is a contradiction between the parking requirements in the bulk table and in the ordinance. In one section under the special requirements, 3a, 6, it says parking must be more than 20 feet from a building, in another portion it says not less than 10 feet away. There seems to be an error in the density bonus and I want to divert a little bit away from Davies Farm because Co. Mandia did ask some questions about it. I would agree with Mr. Geneslaw that there are ordinances and I know of one in Mahwah and I know of one of the restrictions in Mahwah when it was not done for seniors but just done in general for affordable housing, there are models to monitor this ongoing sales price so somebody who buys cheap because it is discounted can't sell and get the entire benefits of it so that it remains in an affordable housing mode ad infinitum. There are models out there and Mr. Geneslaw seems to have used one of them; I think more work needs to be done on the ordinance. When we look at the density bonus it appears to be, and maybe this is a typo because I doubt this is the intent of the ordinance, there seems to say in Section 6 of this law "Affordability. All dwelling units constructed in a development granted an affordable housing bonus shall be affordable to moderate income residents." As I read that that means once you get a bonus, all units have to be affordable. That is not the way these developments get built, that is not a good way. I think what is intended is that there be a requirement that the bonus units all be affordable units, but I think that is something you have to make sure, because if you do this then what you are doing is building government housing and I don't believe that this is the intent of this law. I believe the intent of this law was to allow private and/or non profit housing to be built to meet the needs of the seniors without it being government housing which is sometimes considered very negatively and to just give some bonuses for a limited number of affordable units within the development. You will have to talk to you Planning Board and your Ad Hoc committee and see if this was just an error in draftsmanship or an error of intent. Finally, if you have ever visited the senior type complex of these assisted living facilities, we saw an earlier draft and then there has been a later draft and one thing that was taken out was under the distance between buildings in the earlier draft it was changed to a new draft of at least 40 feet. But in the earlier draft there was a phrase "connected by covered walkways". Most of us have had relatives in these types of facilities, my grandmother was 95 when she went into the independent section of the nursing home, but if you are contemplating that from building to building there be 40 feet of open space with no walkway, you just don't understand the practicalities of senior housing. These building need the ability of the residents to move under shelter and I don't mean just a covered walkway, I mean a heated ramped walkway to go from building to building. You have a huge mistake in that area. I have brought with me tonight on behalf of Davies Farm and gentleman who is very active in this industry, John C. Chadwick, a senior associate of Perkins Eastman Architects. He is a licensed architect in New York State, the United Kingdom, member of the American Institute of Architects, member of the Royal Institute of British Architects, he works on senior housing projects, he currently has projects going in 5 states, currently has a project in Yonkers, NY, I am inviting him to make more comments to you about this because someone talked about profit before and I am concerned that this ordinance is smoke and mirrors. It holds out hope for the seniors yet it is drafted in such a way that it is not practical to build these types of units that you have decided are necessary in your town. The reason it is not practical is because to build certain buildings, you have to get financing. There is a set of standards and requirements for this type of financing that has to be met. I invite Mr. Chadwick to talk to you about the industry and the effect of some of the requirements you have put on it.

Appearance: John Chadwick  
Perkins Eastman Architects

My company is working on projects all over the US and overseas, at any one time we have 3 or 4 hundred million dollars worth of senior housing projects either on the boards or under construction. Many of our projects are located in or next to residential zones. On most projects we find that the residential neighbors are concerned about the use being within their neighborhood and we spend a lot of time reassuring the neighbors that senior housing is generally a very benign use in any neighborhood. When these projects are finished, the neighbors' fears are almost always unfounded and they are actually quite happy that they have this type of facility as a neighbor. These facilities are good neighbors, they do not generate a lot of traffic, they don't have a rush hour, they don't generate a lot of noise, they don't have much impact on the neighbors at all and they have to be maintained and well looked after or they are not going to be attractive to the people they want to move into them. Many of our projects are also located in zones such as yours which have been created for this new type of building use

which has become so predominant in the last 20 years so I suspect that there are probably 20 other meetings going on somewhere in the country tonight talking about the exact same things that we are. I've looked at the requirements that you have written down for your proposed zoning ordinance and I find them to be somewhat at odds with the intended use for senior housing and also at odds with the market forces that we are encountering both in the New York metropolitan area and at a broader level all over the country. It might help if I give you some definitions of the terms as we use them and as are generally accepted throughout the country. Active adult housing is often for residents who are over the age of 55 and children are not allowed other than grandchildren visiting. They are frequently cluster homes sometimes single homes detached from one another. At least the main level has all of the main rooms, the living room, dining room, the master bedroom, on one level. They are designed with the intent that the residents can grow older in place without having to move, so they will be on one level if they are in apartments, they will be accessible always by elevators and we always design them within the various accessibility codes, bathroom sizes and so on. One of the impacts of designing them for people to grow older in place is that the units would be larger than they would be for normal active people because frail people need more space to move around in. In terms of common facilities in active adults, there would be a clubhouse most likely, sometimes a swimming pool, sometimes tennis courts but there are no housekeeping services provided no healthcare services provided, no food services provided or anything other than that so these are completely independent people who have just chosen to live in an adult community. The next level would be independent living and that is a little bit more for older residents who may be more frail or people who need more sheltering. They take the form often of either cluster homes 2 or 3 together or what is seen more often as apartments. In those facilities they will be provided with some of their meals, possibly all of their meals if they want to. Their units will have full kitchens, many of them have laundries in them and they range from 1 to 2 bedrooms, we do them 2 bedrooms and den, they get larger depending on the market. There will be some wellness facility in there which is more like an exercise or health facility but there is generally not a nurse on call all the time, certainly not a doctor in the facility. The next level would be assisted living. Typically in assisted living the residents will have a studio, one bedroom, sometimes a 2 bedroom apartment. There has to be some cooking facilities and a refrigerator and so on. In those facilities the residents receive all of their meals in common dining spaces or sometimes they are delivered to their rooms. They will have a wellness facility, there is a nurse there depending on the state it may be regulated how much of the time there has to be a nurse there and one has to be on call. There are always alarm calls in the apartments and so on. This is really for people who are very frail often the definition in the state is that they require a minimum of a half hour a day of assistance in the activities of daily living. They may need assistance bathing or dressing, they get about 1/2 hour a day, minimum, and as they become more frail they can get more help if they need it. The next level beyond that would be a nursing home but there is a big difference between an assisted living facility and a nursing home. Assisted living facility is designed to be as residential as it possibly can. It looks anything but like a health care facility, we make tremendous efforts to make sure that they don't look like health care facilities and we make them as residential as they possibly can be. They are not designed to nursing home codes which are much more stringent in terms of corridor width and dimensions, etc. That can give you an idea of what is generally accepted throughout the country what the 3 broad categories of senior housing might be. When I read your ordinance as defining assisted living and independent living I see them as falling into the latter 2 categories that I described. I think that is generally the intent of your proposed ordinance. The first thing I think is a little unusual in your ordinance is making a clear distinction between assisted living or continuous care and independent living. The reason I find that unusual is because many of the facilities we do have some combination of both of those. In many states there is an underlying principle which I could refer to as aging in place and the intent is that a resident can move into a facility at whatever age and can remain there for as long as possible. So if assisted living is the highest level of care they can stay there and go through assisted living until they need a nursing home or hospital. The intent would be to mix the uses so that people can either obtain assisted living service in independent living if they need them or if they become more frail, they can move within the facility from independent to assisted so we are often looking to combine them so that the needs of the residents can be met and they can age in place and they don't have to relocate when they have some sort of health crisis as, unfortunately, happens. I find the fact that it is separated is unusual because I would be looking to design a facility where both of these were possible on the same campus and there was no distinction specifically between the bulk requirements for either of them. In terms of density for independent living and assisted living we are trying to meet the needs of frail elderly people. The walking distances becomes a major issue

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when we are planning and designing these facilities. Issues of building being 40 feet apart can become a real issue. We try to minimize the distance if you are entering the facility from where you can park, where you can drop somebody off to the elevator or to the door to the unit. Right now I'm doing one facility where we have determined that 200 feet from the apartment door to the elevator is about the maximum we are going to allow and that is the independent. In assisted living we try to make it even less than that. I think you can see that by imposing density limit of 5 units per acre is very small, the buildings will be far apart and that creates a problem for the residents. Normally we would find maybe 10 units to an acre would be a average for independent living and more than that for assisted living and largely a function of creating facilities that are appropriate to the use of the residents. When you combine that with the floor area ratio that is allowed here, the developer is being bound in on several sides. If you have a 10 acre site that is 435,000 square feet x .2 means that the maximum one could put on 10 acres is 87,000 square feet. We have various rules of thumb that we use when we are planning these facilities as to what square footage goes with what. For assisted living, I have one client right now who is trying to achieve 800 square feet in the facility per unit. He has 100 units, it is going to be 80,000 square feet. He is going to have trouble doing that, the range is really between 800 and 1,000 square feet depending on how big the units are going to be. The units themselves are smaller but there are a lot of common facilities, dining rooms and lounges and recreational facilities that go into an assisted living facility. The maximum for your 87,000 square feet would be somewhere between 87 and 100 units and it would be closer to 87 but would really be possible for the minimum 10 acre size. We work with for profit and not for profit developers and there are various rules of thumb developers use for the number of units in an assisted living facility or an independent facility that will work financially and they vary according to whether its for profit or not for profit. The smallest units we will see are the 75 units you have with Sunrise and they go up in assisted living to 150 or 170 would be a typical one that would be financially viable where there would be enough units to support all of the common facilities and the staff that are needed. In independent living it would be closer to 1,200 gross square feet and that would be for fairly small units. For that at 87,000 square units you would get a total of around 72 to 75 units. When we look at rules of thumb for the financial viability of independent living units where you're not providing all the meals and services, you actually need a bigger facility in order to be able to make the common facilities that you have to provide, food service, laundry, housekeeping, you have to make a larger facility to make that work. Probably a minimum size would be 120 units for a proper independent living facility and it goes up from there. I just completed a residence in Yonkers; there are 200 independent living units and in the same building there are about 110 assisted living. That is what they determined to be financially viable for that property. There they were combined in the same facility so that the residents could age in place and any resident who is in independent living they may move in a little younger, can get the assisted living services in their apartment without having to move. If they want they can move to another floor where there are assisted living units. In your proposed zoning ordinance you are allowing a maximum of 800 square feet per unit and I would like to give you the standards that we are finding all around the country. In the Yonkers residence the smallest unit for independent living is 750 square feet and it is a 1 bedroom unit with a full kitchen and a full bathroom. The units do have to be a little larger to make allowance to meet all the accessibility codes and to give people enough space to move around in. The smallest unit would be 750 square feet, the largest unit there is 1,100 square feet and that is a 2 bedroom, 2 bath unit with a full kitchen and a common laundry. We are involved in another project where we are doing an addition to a retirement community. The independent living units they have now, the 2 bedroom unit is around 800 square feet. Through their market research and feedback from residents, the 2 bedroom units that we are going to be doing in the new building will be between 1,100 and 1,300 square feet. We are finding a trend nationwide that people are looking for larger units, so I feel that your unit sizes are unreasonable, they are too small and they will not meet the market forces that exist in this area for that type of unit so if that was what was allowed I think it would make it unattractive for the type of developers that you might like to have who do this type of facility to come and do it. The open space provision is something that we find in many communities and it is appropriate for the use to have that. Your ordinance does not make it clear whether that includes the buffer and setback zones for that open space requirement. I think anywhere else I've worked that would be the norm that the open space requirement could be met by they buffer zones. The thirty feet is something I have never encountered before in any other zoning ordinances, I believe that that is also restrictive in a means of what can and cannot be counted as open space. Planting and landscape strips, the buffer between the parking and buildings is almost invariably included in the open space requirements. The common facility can be included in the open space. That is something that

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would be more appropriate to an apartment complex because in any type of independent housing or assisted living the common facility is directly attached to the housing units because we are trying to reduce walking distances. The 100 unit per building limit is inappropriate for financial reasons. It is not clear, that 100 units would be the maximum size of an assisted living residence. Again, that is somewhat limiting and to suggest in the ordinance that they would be built in separate buildings is an issue. We often design these facilities as wings that may appear very separate from one another but they always are linked because the residents have to be able to get from one part of the building without going outside and often if there is a link between the building, that would be the place where the elevator or stores are or some sort of a lounge space would be. It is not clear here if the buildings are separate, if enclosed walkways are allowed between them, and once you've said it is an enclosed walkway, is it a separate building or is it not a separate building. This proposed zoning ordinance proposes unreasonable limitations on the developers and operators of the facilities that might be located here and they do not really meet the needs of the market forces and in many ways don't meet the needs of the residents that you are targeting this towards.

Appearance: Richard Sarajian, Esq.

Throughout your ordinance there has been tremendous specifications with respect to design yet an absence of specification in many areas such as need. You entrust to yourselves the sole discretion to determine need but you didn't give flexibility to your Planning Board, instead you are almost dictating to them in terms of bulk and other requirements. References were made before about facilities outside of Clarkstown and suggestions that Clarkstown residences can use them yet you reserve to yourself only the issue of need for within Clarkstown. When it is being suggested to you when you consider need you look throughout the County to see if there are other facilities outside of Clarkstown that can service Clarkstown residents, but only look to determine need what's presenting within Clarkstown. I urge you not to fall into that trap because as your counsel knows, in NYS you are supposed to look at needs for various things on a more detailed basis than just a town by town basis. Finally, I am amazed to be looking at your agenda, you are currently now considering whether to adopt an ordinance which will put definitions, bulk, site plan, special permit requirements in place. You have made no decision yet as to what zones it goes into, what the bulk requirements are, what the density is, nothing has yet been determined by this Board. There is no ordinance in place for an assisted care living facility. Your ordinance solely consists of a definition with no standard, prescriptions or legitimate legal place where that defined use can take place. With all of that ambiguity, I find on your agenda tonight a reference to refer a petition for a special permit for a use that does not yet exist in the Town of Clarkstown to various agencies for comments. How do they comment before you have developed the law? The answer is because this whole process has engaged in spot zoning for the Sisters of Charity and I urge you to stop discriminating against other developers.

Appearance: Martin Bernstein  
New City

I was the only one on the Planning Board/Ad Hoc committee that voted against this provision because there are a lot of problems. There is a need for affordable senior citizen housing. We worked for a year and a half on the comprehensive plan and the public said they did not want to use up open space for developments and the comprehensive plan also says if you want to change a zone you have to change the comprehensive plan for a specific site. When we go for a special permit here, we are avoiding the whole concept for the comprehensive plan because under this arrangement you don't have to change the comprehensive plan in order to change the zone. You can put this in any zone other than R-160. There is a need for senior housing of all phases and you need a complex where you move from place to place and in order to do that you have to provide housing and all kinds of facilities on one site which means you need quite a bit of acreage in order to do this. The only one that I see at the present time is the Sisters of Charity. They are working on a comprehensive campus where you can go from step to step and eventually they would put in a nursing home facility. What is proposed here is completely different. A developer can have 10 acres of land and do multifamily. There is no change of zone, it can go in any zone in the Town and it is multifamily. It is possible that the 800 square feet is too small, it probably need 1,000 square feet, but if you really want to provide the housing you are talking about why don't you set it up and show exactly what zone and where you are going to put this change of zone. Why the game of providing a special permit, which is a floating zone, which can go anywhere? If the taxpayers in the Town learn what you are

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PH: Proposed Amendment to Chapter 290 (Zoning)

proposing here they would rise up and raise hell. I agree with Mr. Lodico that we need more public hearings on this. Assisted living is overbuilt and just because someone is going to try it is not the reason we should make a change of zone and change the land use in the Town.

Appearance: Gil Heim  
Planning Board Member

Sitting on the Ad Hoc and Planning Board committee, we came to a decision that with the private groups, 10 years from now, are the same situations going to be here? We also talked about that if they weren't, we wanted to preserve the residential area and we wanted to keep the 40 feet and how we came up with the 40 feet was in R-15 the side yard is 20 feet from the house to the property line so we figured if you had 2 of them that is where the 40 feet came into play. We also were talking about limiting independent to only 8 units per building so it would be smaller and if it was built in residential it would stay in character with the neighborhood. That is where the 40 feet came in, that is where the uncovered walkway between the buildings that we took out only in independent. In the assisted side of it, we didn't limit no covered walkways, that was kept in. The intent of the committee was to keep the integrity of the neighborhood. I understand it is not profitable to build them small. Well, Clarkstown does not have to be big in everything. Build it, if you can't afford it, then don't build it there. We felt 100 units/ building was enough and why we turned around and put 200 people is because if you had 100 units to a building, it would not stop you from putting 4 patients to a unit, that is why we came with the 200 number.

Co. Smith asked if the 100 units/200 people meant for every 10 acres or is that the number regardless of how large the site was.

Mr. Heim responded that it was for every 10 acres. I just wanted to clarify where that 40 feet came in between the units and why we took away the covered walkways.

Supervisor suggested that the public hearing be continued on December 12, pending SECA requirements being met.

Town Attorney suggested re-advertising the public hearing amplifying in a notice additional information about this.

There being no one further wishing to be heard, on motion of Co. Mandia seconded by Co. Maloney and unanimously adopted, the Public Hearing is, TO BE CONTINUED, time: 10:20 P.M.

Respectfully submitted,



PATRICIA SHERIDAN  
Town Clerk

11/28/00

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PH: Proposed Amendment to Chapter 290 (Zoning)

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Respectfully submitted,



PATRICIA SHERIDAN  
Town Clerk

TOWN OF CLARKSTOWN  
PUBLIC HEARING

Town Hall

11/28/00

10:20 P.M.

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

RE: Proposed Local Law amending Chapter 262 (Taxation) of the Clarkstown Town Code

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

Supervisor Holbrook explained that this gives the Town the ability to raise limits pursuant to the laws that were adopted this year by the State of New York in regard to the categories here, the seniors, the income and for handicapped.

Supervisor asked if there was anyone present wishing to speak on this matter. No one appeared.

There being no one further wishing to be heard, on motion of Co. Smith seconded by Co. Lasker and unanimously adopted, the Public Hearing was declared closed, time 10:22 P.M.

Respectfully submitted,

  
PATRICIA SHERIDAN  
Town Clerk

RESOLUTION NO. 925-2000 ADOPTED