

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

01/9/2001

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.

Supervisor Holbrook introduced Peggy Nadell from Keep Rockland Beautiful, Inc. Ms. Nadell thanked the Town Board Members and other Town Officials for their support in keeping Rockland beautiful. She asked that an example be set by discouraging the use of paper and styrofoam cups in municipal offices and encouraging the use of reusable mugs. She asked for future cooperation in promoting the three environmental R's (recycling, reuse and reduction).

Supervisor announced the graduation of the 28th Class of the Clarkstown Youth Court. He introduced Detective Eileen Malloy. Detective Malloy stated that she is the Director of the Clarkstown Youth Court. In 1981, the Town of Clarkstown became one of the first municipalities to adopt this sort of program. This program provides first time offenders, who are juveniles, the opportunity to avoid the over burdened Family Court system and be judged by their peers. The Court is still going strong after more than nineteen years. We have heard over 3,000 cases and have graduated approximately 4,000 Youth Court Members. The young people we are honoring tonight have completed an intensive ten week training program and will soon be assuming the roles of bailiff, defense attorney, prosecutor and judge. They are perfect examples of what is right with out Town. They devote at least two Wednesdays a month for hopefully the rest of their high school years, Detective Malloy thanked the parents for bringing the children every week; Supervisor Holbrook and the Town Board for their support; the Chief of Police, Kevin Kilduff; the District Attorneys Office; Detective Elmendorf, the Steering Committee Chairman; and Mrs. Pat Barad. Detective Malloy asked Mrs. Barad to come forward and help with the presentation. The graduation proceeded and the Town Board congratulated all the graduates.

Supervisor opened the public portion of the meeting.

Appearance: Mike Reilly
Nanuet

Spoke regarding Item 14A, the bid for improving Lake Nanuet. There appears that there has not been a SEQRA and no plan to have one. He spoke regarding the lights on ball fields of several high schools for night game use. The lights have not been used at the Nanuet campus. He urged the Board to initiate negotiations with the Nanuet School Board to work out a plan to use the ball field.

Appearance: Donald Franchino
President of Nanuet Little League

Spoke regarding Item 14A and the loss of the ball field at St. Agathas. He is in favor of the ball field at Lake Nanuet. He requested that all those in favor of the Lake Nanuet ball field to please stand up. Approximately forty people stood.

Appearance: Ingrid DiChico
Nanuet

She is concerned if the ball field is to be put in, it will impact on their property values. Would like to have a fence installed on the property that abuts the ball field.

Appearance: Al Rossi
Nanuet

He is in favor of Item 14 A and the ball field at Lake Nanuet.

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 continued, time: 8:00 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 is to be continued on January 23, 2001, time: 9:30 PM.

On motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted the public hearing RE: Proposed local law amending Chapter 290 (Zoning) of the Clarkstown Town Code to Restrict Use of Flag Lot Development was continued opened, time: 9:31 PM.

On motion of Co. Maloney, seconded by Co. Lasker and unanimously adopted the public hearing RE: Proposed local law amending Chapter 290 (Zoning) of the Clarkstown Town Code to Restrict Use of Flag Lot Development was closed, Decision Reserved time: 10:12 PM.

RESOLUTION NO. (39-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that the Town Board Minutes of December 27, 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. (40-2001)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that the conditions complained of in the Order and Notice dated October 25, 2000 regarding premises designated on the Tax Map of the Town of Clarkstown as Map 108, Block B, Lot 14.10 have been corrected, and be it

RESOLUTION NO. (40-2001) continued

FURTHER RESOLVED, that the Town Attorney is hereby authorized and directed to discontinue all further proceedings, and be it

FURTHER RESOLVED, that the Town Attorney is hereby directed to calculate the total costs incurred by the Town for this proceeding and public hearing, and a bill shall be sent to the property owner, and be it

FURTHER RESOLVED, that in the event the property owner fails to reimburse the Town, a lien shall be assessed against the property to cover the costs of such proceeding.

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. (41-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, it has been alleged that subterranean tanks exist on property on or in the vicinity of 31 West Prospect Street, Nanuet, New York, and

WHEREAS, there is no existing survey of Prospect Street that would delineate the position of the Town's right-of-way;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Director of the Department of Environmental Control to hire a surveyor to ascertain and mark the location of the Town right-of-way known as Prospect Street in Nanuet, and be it

FURTHER RESOLVED, that the Town Board further authorizes the Director of the Department of Environmental Control to hire a contractor with skills and equipment necessary to locate the alleged two fuel tanks, for the purpose of determining who is responsible for their removal, and whether or not an encroachment exists in the Town's right-of-way.

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. (42-2001)

Co. Maloney offered and Co. Smith seconded

WHEREAS, as a condition to the approval of the final map with regard to a subdivision known as J & J Sautner, the Planning Board of the Town of Clarkstown

RESOLUTION NO. (42-2001) continued

requested a deed for road widening purposes along Ridge Road, Valley Cottage, New York;

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Deputy Director of Environmental Control of the Town of Clarkstown, deed dated November 21, 2000 from John Sautner and John Sautner, Jr. to the Town of Clarkstown, gratuitously conveying a strip of land along Ridge Road, Valley Cottage, New York, is hereby accepted and ordered recorded in the Rockland County 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

RESOLUTION NO. (43-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, it was necessary for Howard Lampert, Traffic Engineering Consultant, to provide engineering reports and testimony regarding litigation against the Town entitled, Board of Trustees of Village of Spring Valley, New York v. the Town of Clarkstown, et al;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes payment to Howard Lampert, Traffic Engineering Consultant, the sum of \$1,500.00 for providing engineering reports and testimony regarding litigation against the Town entitled, Board of Trustees of Village of Spring Valley, New York v. the Town of Clarkstown, et al, and be it

FURTHER RESOLVED, that said fee shall be paid from Account No. A-1420-409, and be it

FURTHER RESOLVED, that this Resolution is made retroactive to May 1, 2000.

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. (44-2001)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with Dr. Isidore Rosen, in a form satisfactory to the Town Attorney, whereby Dr. Rosen

RESOLUTION NO. (44-2001) continued

agrees to provide services to the Clarkstown Police Department as the Police Surgeon, for the period from January 1, 2001 to December 31, 2001, and be it

FURTHER RESOLVED, that the agreement may be renewed on January 1st of each year for a period of up to one year with the approval of the Police Commission and the Town Board, and be it

FURTHER RESOLVED, that the agreement shall be in a form and shall provide, among other provisions required by the Town Attorney, for contract indemnification of the Town, and professional and other liability insurance coverage with the Town of Clarkstown named as an additional insured, and be it

FURTHER RESOLVED, that the fee for said services shall be \$1,000 per month, and shall be charged to Account No. A 3120-112, and be it

FURTHER RESOLVED, that this Resolution is hereby made retroactive to January 1, 2001.

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. (45-2001)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with Rev. David Lothrop, in a form satisfactory to the Town Attorney, whereby Rev. Lothrop agrees to provide spiritual counseling services to the Clarkstown Police Department as the Police Chaplain, for the period from January 1, 2001 to December 31, 2001, and be it

FURTHER RESOLVED, that the agreement may be renewed on January 1st of each year for a period of up to one year with the approval of the Police Commission and the Town Board, and be it

FURTHER RESOLVED, that the agreement shall be in a form and shall provide, among other provisions as required by the Town Attorney, for contract indemnification of the Town, and general liability insurance coverage with the Town of Clarkstown named as an additional insured, and be it

FURTHER RESOLVED, that the fee for said services shall be \$1,500 per year, and shall be charged to Account No. A 3120-112, and be it

FURTHER RESOLVED, that payments shall be paid on a quarterly basis, and be it

FURTHER RESOLVED, that this Resolution is hereby made retroactive to January 1, 2001.

RESOLUTION NO. (45-2001) continued

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. (46-2001)

Co. Mandia offered and Co. Lasker seconded

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

FURTHER RESOLVED, that said library shall receive library assistance, pursuant to §256 of the Education Law of New York State, in the amount of \$3,000 each for the calendar year 2000, and be it

FURTHER RESOLVED, that this Resolution is hereby made retroactive to December 27, 2000.

New City Library
 Valley Cottage Library

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. (47-2001)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an agreement, in a form approved by the Town Attorney, with the following non-profit organization to provide services and programs for residents of the Town of Clarkstown that are deemed beneficial to Town residents, and be it

FURTHER RESOLVED, that the Town Board shall allocate economic assistance for 2000 to the following non-profit organization in the following amount:

First Night Nyack \$1,500
 (Friends of the Nyacks)

and be it

FURTHER RESOLVED, that the total amount of \$1,500.00 be transferred from Account No. A 1990-505 to Account No. A 8840-424, and be it

RESOLUTION NO. (47-2001) continued

FURTHER RESOLVED, that these funds are to assist in providing such services for the calendar year 2000, and are to be charged against Account No. A 8840-424, and be it

FURTHER RESOLVED, that this Resolution is made retroactive to December 12, 2000.

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. (48-2001)

Co. Smith offered and Co. Maloney seconded

WHEREAS, Councilwoman Smith, a member of the Town Board of the Town of Clarkstown has introduced a proposed local law entitled,

**“AMENDMENT TO CHAPTER 278 (VEHICLES AND TRAFFIC)
OF THE TOWN CODE OF THE TOWN OF CLARKSTOWN”**

and

WHEREAS, this proposed local law is intended to create Town Code provisions to restrict operation of vehicles in excess of the maximum gross weight as stated on the registration application, or to operate any vehicle within the Town of Clarkstown in violation of any permit issued pursuant to New York State Vehicle and Traffic Law;

NOW, THEREFORE, be it

FURTHER 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 January 23, 2001 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.

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. (49-2001)

Co. Smith offered and Co. Lasker seconded

WHEREAS, Sr. Stephen Gerard, O.P., Principal of St. Paul's School, 365 Kings Highway, Valley Cottage, New York, has requested permission to use Congers Community Center should an emergency evacuation of the school become necessary, and

WHEREAS, Charles Connington, Superintendent of Recreation and Parks recommends that the Town Board approve said request;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby grants permission to St. Paul's School to use Congers Community Center should an emergency evacuation of the school become necessary, and be it

FURTHER RESOLVED, that the permission granted hereby is subject to prior receipt of a Certificate of Insurance with the Town of Clarkstown named as an additional insured, to provide coverage as, when, and if emergency use of the Town facility becomes necessary.

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. (50-2001)

Co. Maloney offered and Co. Lasker seconded

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

PHOENIX EXCAVATORS CORP.
62 Rose Road
West Nyack, NY 10994
Michael S. Moucadie, President

PAUL BITTS CO. INC.
9 Germonds Road
New City, NY 10956
Paul Bitts, President

KEVIN STOKES EXCAVATING, INC.
P. O. Box 812
Pearl River, NY 10965
Kevin Stokes, President

CAL MART ENTERPRISES, INC.
357A Route 59
West Nyack, NY 10994
Martin Wortendyke, Vice President

TRAVCON, INC.
375 Kings Highway
Valley Cottage, NY 10989
Vincent Travaglino, President

RESOLVED, that the following Certificates of Registration be issued:

- No. 01-6 PHOENIX EXCAVATORS CORP.
- No. 01-8 PAUL BITTS CO. INC.
- No. 01-10 KEVIN STOKES EXCAVATING, INC.
- No. 01-12 CAL MART ENTERPRISES, INC.
- No. 01-14 TRAVCON, INC.

RESOLUTION NO. (50-2001) continued

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. (51-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby authorizes Marsha Coopersmith, Deputy Town Attorney, to attend a seminar concerning Construction Law, which is being given by Lorman Education Services, to be held on February 7, 2001, in White Plains, New York, and be it

FURTHER RESOLVED, that the seminar tuition of \$239.00, and any reasonable expenses for travel, will be charged to Account No. A 1010-414.

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. (52-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that Edward J. Duer, Comptroller, is hereby authorized to attend the Public Finance Conference to be held in New York City on Thursday, February 8, 2001 in New York City, and be it

FURTHER RESOLVED, that the \$125 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

RESOLUTION NO. (53-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that Dorothy Poust Stoops, RN, CSW, Director, Clarkstown Counseling Center, is hereby authorized to attend Clinical Supervision Training – 2000-2001, on March 12-16, 2001 in Albany, New York, and be it

FURTHER RESOLVED, that the registration fee of \$50.00 per person, and all reasonable expenses including travel, tolls and meals shall be charged to appropriate account #4210-414.

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. (54-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby authorizes attendance at the New York State Uniform Fire Prevention and Building Code Course (basic training course), by Joel Epstein, Code Enforcement Officer I, which is being held at the N.Y.S. Fire Academy in Montour Falls, New York, on February 26 through March 1, 2001, and be it

FURTHER RESOLVED, that the seminar cost of \$25.00, and other reasonable expenses for hotel, tolls, travel and meals will be charged to Account No. A 1010-414.

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. (55-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby authorizes attendance at the New York State Uniform Fire Prevention and Building Code Course, dealing with transitional codes, by John Coyle, Safety Manager, which is being held at the Rockland County Fire Training Center, Pomona, New York, on January 23 through 25, 2001, and February 13 through 15, 2001, and said course shall be free of charge, and be it

FURTHER RESOLVED, that reasonable expenses for travel and meals will be charged to Account No. A 1010-414.

RESOLUTION NO. (55-2001) continued

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. (56-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that permission is hereby granted for a fireworks display to be conducted by the Clarkstown Parks Board and Recreation Commission at the Clarkstown South High School at approximately 9:30 p.m. on Tuesday, July 3, 2001, rain date, Wednesday, July 11, 2001 pursuant to Section 405 of the Penal Law.

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. (57-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, the Town of Clarkstown has received a donation of \$100.00 from Vanguard Crafts, 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

RESOLUTION NO. (58-2001)

Co. Maloney offered and Co. Lasker seconded

RESOLVED, to decrease Appropriation Account A7141-21 (Furn/Fix) by \$4,000.00 and to increase A 7020-226 (Comp. Software) by \$4,000.00

RESOLUTION NO. (58-2001) continued

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. (59-2001)

Co. Smith offered and Co. Lasker seconded

WHEREAS, certain non-profit organizations request economic assistance from the Town of Clarkstown from year to year;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the use of a uniform request form for the purpose of requesting economic assistance from the Town of Clarkstown, which form shall be on file in the Supervisor'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

RESOLUTION NO. (60-2001)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that based upon the recommendation of the Project Engineer and the Superintendent of Recreation and Parks that

BID #45-2000
LAKE NANUET IMPROVEMENT PROJECT

is hereby awarded as follows:

1) Ballfield and Site General Construction, awarded to:

West-Con Contracting
 41 Wilmont Road
 Scarsdale, NY 10583
 Principal: John Gentile

as per their low bid proposal of \$716,354, and

2) Site Electrical awarded to:

CGR Electric Corp.
 d/b/a Eagle Electric
 110 West Crooked Hill Road
 Pearl River, NY 10965
 Principals: Sheila Gray, Kevin Campbell

RESOLUTION NO. (60-2001) continued

as per their low bid proposal of \$223,000, and be it

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

- a) Signed Contract Documents-2 sets
- b) Performance Bond-100% of proposed project cost
- c) Labor and Materials payment Bond-100% of proposed project cost
- d) Certificate of Contractors Liability and Property Damage Coverage, including a save Harmless Agreement
- e) Certificate of Workers Compensation
- f) Certificate of Workers Disability Coverage

The Town of Clarkstown must be named as co-insured party on all liability policies, as they pertain to the project awarded.

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. (61-2001)

Co. Smith offered and Co. Lasker seconded

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

BID #5-2001
JANITORIAL/MAINTENANCE SUPPLIES

is hereby awarded to:

E.A. MORSE & CO.
 11-25 HARDING STREET
 MIDDLETOWN, NY 10940
 PRINCIPALS: WINIFRED V. MORSE
 JOHANNE N. CORTRIGHT
 CARL D. MORSE
 EMERSON A. MORSE III
 THOMAS S. MORSE

CLEANING SYSTEMS
 44A SECOR LANE
 PELHAM MANOR, NY 10803
 PRINCIPALS: JAMES TRISTER
 BARBARA TRISTER

(item/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

RESOLUTION NO. (62-2001)

Co. Smith offered and Co. Maloney seconded

WHEREAS, pursuant to the terms of a Stipulation of Settlement between EklecCo LLC, the Town of Clarkstown and the Clarkstown Central School District, the School District and the Town are to receive payments, pursuant to a \$1,000,000 note, and

WHEREAS, the School District and the Town have incurred legal fees, disbursements, expenses and other costs in the sum of \$700,000, reimbursement for which shall be divided equally between the Town and the School District, and

WHEREAS, the Clarkstown Central School District has lost interest on tax payments that would have otherwise been made by the taxpayer, and

WHEREAS, it has been determined that lost interest incurred by the Clarkstown Central School District is in the sum of \$218,991, and

WHEREAS, the balance of the money to be reimbursed to the Town of Clarkstown and the Clarkstown Central School District is to be divided equally, each to receive the sum of \$40,504.50;

NOW, THEREFORE, be it

RESOLVED, that the Town Attorney of the Town of Clarkstown be and he is hereby authorized to execute a Letter Agreement with the General Counsel for the Clarkstown Central School District in accordance with this resolution and in a form satisfactory to the Town Attorney, which Letter Agreement shall be forwarded to Robert Kandel of Kaye, Scholer, Fierman, Hays & Handler, LLP, and shall be binding on the respective parties.

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. (63-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that Judge William Kelly, 15 Christie Drive, New City, New York, is hereby appointed to the position of Member, Clarkstown Drug Abuse Prevention Council to serve without compensation. Term effective and retroactive to January 1, 2001 and to expire on December 31, 2003.

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. (64-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that Judge William Kelly, 15 Christie Drive, New City, New York, is hereby appointed to the position of Chairman, Clarkstown Drug Abuse Prevention Council to serve without compensation. Term effective and retroactive to January 1, 2001 and to expire at 12:01 a.m. on January 1, 2002.

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. (65-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that James Pascaliccio, 84 Demarest Avenue, West Nyack, New York is hereby reappointed to the position of Member, Clarkstown Drug Abuse Prevention Council to serve without compensation. Term effective and retroactive to January 1, 2001 and to expire on December 31, 2003.

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. (66-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that Peter Steckler, 32 Concord Drive, New City, New York is hereby reappointed to the position of Member, Clarkstown Drug Abuse Prevention Council to serve without compensation. Term effective and retroactive to January 1, 2001 and to expire on December 31, 2003.

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. (67-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that James R. Crean, 20 Old Lake Road, Congers, New York is hereby reappointed to the position of Member, Clarkstown Drug Abuse Prevention Council to serve without compensation. Term effective and retroactive to January 1, 2001 and to expire on December 31, 2003.

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. (68-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that Christopher A. Bangs, 424 Sierra Vista Lane, Valley Cottage, New York is hereby reappointed to the position of Member, Clarkstown Drug Abuse Prevention Council to serve without compensation. Term effective and retroactive to January 6, 2001 and to expire on January 5, 2004.

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. (69-2001)

Co. Maloney and Co. Mandia seconded

WHEREAS, by Resolution No. 293-1997, as amended by Resolution No. 363-1997, the Town Board accepted a drainage easement from Bergen Builders of Rockland, Inc. affecting property designated as Map 170, Block A, Lots 23 and 24, part of the Rodeo East Subdivision, upon the recommendation of the Department of Environmental Control, and

WHEREAS, on May 1, 1997, deed dated May 1, 1997 from Bergen Builders of Rockland, Inc. to the Town of Clarkstown was recorded in the Rockland County Clerk's Office as Instrument No. 1997-16589, and

WHEREAS, it is desirous, for clarification purposes only, to file a "Correction Deed" to explain more fully the location of the easement and the lots affected by it;

NOW, THEREFORE, be it

RESOLVED, that Correction Deed dated December 20, 2000, from Bergen Builders of Rockland, Inc. to the Town of Clarkstown is hereby accepted and ordered recorded in the Rockland County Clerk's Office.

RESOLUTION NO. (69-2001)

On roll call the vote was as follows:

Councilwoman LaskerYes
Councilman Maloney Yes
Councilman Mandia Yes
Councilwoman Smith Yes
Supervisor HolbrookYes

RESOLUTION NO. (70-2001)

Co. Smith offered and Co. Mandia seconded

RESOLVED, that upon the recommendations of the Deputy Director of Environmental Control and the Superintendent of Highways of the Town of Clarkstown, deed(s) from: Israel Drilick, dated July 13, 1999, conveying the following road(s):

Extension of Snedecker Road 265 L.F.

and other public improvements to the Town of Clarkstown in a subdivision as shown on the Final Plat of Endicott Homes are hereby accepted by the Town of Clarkstown and ordered recorded in the Rockland County Clerk's Office, subject to receipt of a Maintenance Guaranty in the amount of \$7,215.00, if in the form of a surety bond, or \$3,610.00, if in the form of cash or an irrevocable Letter of Credit, and be it

FURTHER RESOLVED, that upon receipt of said Maintenance Guaranty, Performance Bond dated August 27, 1999, secured by Letter of Credit No. 99-0827 in the amount of \$30,000.00, may be released.

On roll call the vote was as follows:

Councilwoman LaskerYes
Councilman Maloney Yes
Councilman Mandia Yes
Councilwoman Smith Yes
Supervisor HolbrookYes

RESOLUTION NO. (71-2001)

Co. Smith offered and Co. Maloney seconded

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

NOW, THEREFORE, be it

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

Windmill Lane, New City
(Install one (1) - 5800 lumen sodium vapor street light
on existing utility pole number 59631/41671

Annual charge for fuel (including maintenance), shall be charged to SL 5182 461.

RESOLUTION NO. (71-2001)

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. (72-2001)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that based upon the recommendation of Howard L. Lampert, PE, Traffic and Highway Engineering Consultant, dated December 22, 2000, the Superintendent of Highways is hereby authorized to install:

“Playground” warning signs (NYS#7-5C) on both directions of Tennyson Drive, Nanuet approaching the playground between house numbers 46 and 48 for eastbound traffic and 50 feet east of the west curb line of Fulton Street for westbound traffic,

and be it

FURTHER RESOLVED, that the Town Clerk, is hereby directed to forward copies of this resolution to Wayne T. Ballard, PE, CSP, Superintendent of Highways for implementation, and to the Traffic and Traffic Fire Safety Advisory Board, to Howard L. Lampert, and to the Chief of Police, for their information and for enforcement purposes.

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. (73-2001)

Co. Maloney offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby authorizes the Town Attorney to take all necessary steps, including commencing litigation on behalf of the Town of Clarkstown to temporarily enjoin and restrain the Defendants CONGREGATION LIZENSK, INC. AND “JOHN DOE” and “JANE DOE,” Numbers “1” through “30”, from continued illegal occupancy in violation of the Housing Standards and the Town Code of the Town of Clarkstown, and to obtain a permanent injunction against said Defendants to prevent the maintenance and use of the premises commonly known and described as 100 South Central Avenue, Nanuet, New York, and described on the Clarkstown Tax Map as Map 6, Block C, Lot 8.1, as a boarding house or other illegal multiple dwelling.

RESOLUTION NO. (73-2001) continued

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. (74-2001)

Co. Smith offered and Co. Lasker seconded

WHEREAS, Columbia Pictures Industries, Inc., a production company, has requested permission to film in Clarkstown on Thursday, January 11th, 2001, and Friday, January 12th, 2001;

NOW, THEREFORE, be it

RESOLVED, that Columbia Pictures Industries, Inc., 291 Tuckahoe Road, Yonkers, New York 10710, is hereby authorized to film in the Town of Clarkstown, at Dr. Davies Farm, Route 304, Congers, New York 10920, from January 11th, 2001 through January 12th, 2001, upon the following conditions:

- (1) A permit fee of \$250.00 shall be paid by Permittee;
- (2) The Town shall be named as an additional insured on a Certificate of Insurance providing for not less than \$1,000,000.00 combined single limit for automobile liability and general public liability;
- (3) Permittee to provide proof of Workers' Compensation and Disability Insurance as required by New York law;
- (4) The Permittee shall agree in writing to indemnify and hold the Town of Clarkstown harmless from any and all claims, actions at law, liability, damages or injuries which may result from the permitted activity;
- (5) Permittee shall post a cash security deposit of not less than \$1,000.00 prior to the commencement of any filming activities;
- (6) Permittee shall pay for all required police protection as determined by the Chief of Police, to be reimbursed at a rate equal to the actual hourly cost to the Town, and
- (7) Permittee shall not utilize public property for any filming or storage of equipment or parking of vehicles, and be it

FURTHER RESOLVED, that the permit granted herein is with the understanding that should public property be used by the Permittee, a fee of \$1,500.00 per day shall be paid for each day, and be it

FURTHER RESOLVED, that a copy of this resolution shall be deemed the filming permit.

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. (75-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Superintendent of Highways has notified the Department of Environmental Control of a hazardous roadway condition in the vicinity of 565 South Mountain Road, and

WHEREAS, the Department of Environmental Control has inspected the location and determined that a portion of culvert #557 collapsed as a result of a vehicle incident that occurred on November 30, 2000, and

WHEREAS, the Department of Environmental Control has prepared a plan for the temporary repairs to culvert #557, and

WHEREAS, the Department of Environmental Control has obtained three (3) proposals from qualified contractors to perform the required temporary repairs,

NOW, THEREFORE, BE IT

RESOLVED, that the Director of the Department of Environmental Control is hereby authorized to hire W. Harris and Sons, Inc, 37 West Washington Avenue, Pearl River, New York 10965 to provide all equipment and labor necessary to perform the required temporary repairs, for a cost not to exceed \$4,200.00, and

BE IT FURTHER RESOLVED, that the Town of Clarkstown will provide all necessary materials to perform the required temporary repairs, and

BE IT FURTHER RESOLVED, that the total cost for the repairs shall not exceed \$4,800.00 and shall be a proper charge to account H 8751 409 0 75 1, and

BE IT FURTHER RESOLVED, that this resolution shall be retroactive to December 13, 2000.

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. (76-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Superintendent of Highways has recommended the purchase of two (2) Model 2000 Trackless MTV from Bid No. 19-2000.

Bid Cost:	\$56,800.00
Optional Equipment:	
Sickle Bar Mower	6,900.00
"V" Plow	2,200.00
51" Wide Snow Blower	<u>6,300.00</u>
Cost Per Machine:	\$72,200.00

and

RESOLUTION NO. (76-2001) continued

WHEREAS, although the bid offer expiration date has passed, the low bidder is willing to honor the bid price, and the Town Attorney and the Director of Purchasing believe that acceptance of that bid is in the best interest of the Town without any unfairness to any other bidder or prospective bidder;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the purchase of two (2) Model 2000 Trackless MTV referred to herein for the bid price of \$72,200.00 each, and be it

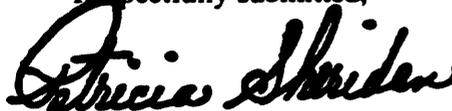
FURTHER RESOLVED, that the amount of \$144,400.00 shall be charged to Account No. H8751-409, project No. 75-2.

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. Lasker seconded by Co. Mandia and unanimously adopted, the Town Board Meeting was declared closed, time: 10:21 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

01/09/01

8:20 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 290 (Zoning) of the Clarkstown Town Code regarding Assisted Care Living (continuation)

On motion of Councilman Mandia , seconded by Councilman Maloney and unanimously adopted, the Public Hearing was continued.

Supervisor stated that we would not be making a decision on this tonight although we would continue the public hearing tonight. It will also be continued on January 23. The Town Board is still wrestling with the issues that have been raised by members of the public and we are seeking more input from our planning consultant and members of the Planning Board. The input that the public has given has been very helpful but we are not yet in a position to adopt anything because the local law is not in final form. Supervisor asked if there was anyone present wishing to speak on this

Appearance: Cora Bodkin
South Little Civic Association

I am here to speak on behalf of the South Little Tor Civic Association. The executive board of our association is responsible for setting policy and considers the sentiments of the members of our association when determining our positions. When reviewing the Proposed Amendment to the Zoning Code for Assisted Care Living, Continuous Care Living, and Senior Citizen Independent Living Congregate Housing, our Executive Board recognized the efforts of the Planning Board and the Ad Hoc Committee to address these housing needs in our Town. Now is the time to seek to improve the document by listening to critical analysis and input at the continuing Open Hearing. The first point I wish to reiterate is that the South Little Tor Civic Association continues to believe that the proposed housing for seniors should not be located in the Town's single family residential zones. However, we recognize that the Amendment should be viewed in the context of the existing Code. The Code already has a detailed description of Senior Citizen Housing. Senior Citizen Housing and Senior Citizen Independent Living Congregate Housing share the same purpose and structure and therefore should be permitted in the same zones. Senior Citizen Housing differs from Senior Citizen Independent Living Congregate Housing in two essential requirements: financial eligibility requirements for the tenants or occupants and prior residency requirements in Clarkstown for a period of 5 years. Senior Citizen Housing is therefore designated for limited income people and receives government subsidies to enable its construction. There are three existing Senior Citizen Housing developments in Clarkstown. Construction requirements specify that there shall be no more than 106 dwelling units at any one site. Construction requirements mandate that at least ten percent of the floor area is dedicated to community space, such as lounges, games rooms and workshops. Cafeterias or dining halls are permitted as general accessory uses. Senior Citizen Housing is permitted in the RG-1, and RG-2 zoning districts, which are garden apartment districts for multifamily housing; in the PO or professional office zoning district; in the MF 1-3 zoning districts, which are the multifamily districts, and in the R-15 and R-10 zoning districts, which are the multifamily districts, and in the R-15 and R-10 zoning districts which are the only single family residential zoning districts in which Senior Citizen Housing is permitted. To quote in part from Section 290-6, Purpose of Districts of the Zoning Code, the R-15 zoning district is the "medium density residential district...surrounding the hamlet centers. The R-10 zoning district "permits the highest density of single-family detached housing and therefore is mapped close to the commercial facilities of the hamlet centers." Senior Citizen Housing is specifically NOT permitted in the R-22, R-40 and R-80 zoning districts, which are the less dense residential zoning districts in the Town. It is not logical for the amendment to the Zoning Code to permit Senior Citizen Independent Living Congregate Housing in residential zones less dense than that is

permitted for Senior Citizen Housing, such as R-22, R-40 and R-80, because the nature of the housing is virtually identical. It is significant to note that all three existing Senior Housing developments in Clarkstown are currently zoned MF-3. As you know, it is our position that senior congregate independent living is a form of multiple unit housing. Furthermore, Senior Citizen Housing must be placed on property with frontage on primary or secondary roads. The proposal for the Zoning Amendment for senior independent living congregate housing does not specify any such requirements, merely requiring that the property "have frontage on and access from a publish street or streets" permitting such housing on tertiary roads, there for presenting another inconsistency. On another note, I wish to reiterate that an Amendment to the Zoning Code should permit Senior Citizen Independent Living Congregate Housing and/or Assisted Care Living and/or Continuous Care Housing in commercial-type zones, especially to allow for another alternative use for office and commercial zones for residential use. There are significant reasons for this position. The total amount of space now devoted to retail, office and commercial functions in our Town is likely to decline in the future. The business and retail marketplace are offering more options today than ever before. Businesses are consolidating and offering more services to their customers. For example, brokerage houses are also offering the kinds of services traditionally provided by banks, and visa-versa. Gas stations are also minimarkets. Pharmacies are super-stores. Supermarkets are banks, florists, and fast-food restaurants. While these establishments are large, they displace many smaller establishments. In addition, retail establishments are challenged by customers shopping on the Internet. Get a mortgage on-line. Buy a book on-line. Order your supermarket purchases on-line. While it is true that on-line sales have not replaced the traditional retail venue, it will, over time, have continuing impact on the retail marketplace. In the future we are likely to see many retail establishments similar to Gateway in concept, which is basically a storefront showroom operation at which customers can examine their products which are then ordered and shipped from a warehouse at a regional location. Certainly, a retail store which does not stock inventory would need a lot less square footage. Finally, many people are working from their homes, and this trend is likely to continue and increase, thus decreasing the need for office space elsewhere. While there are many benefits to all these trends, there is a distinct likelihood that some commercial, office and retail space might become vacant and remain vacant for an extended period of time. Why not consider the possibility of allowing Senior Citizen Independent Congregate Housing, Continuous Care, or Assisted Care Living as a use for redevelopment? Since these zones are often in the hamlet centers, they might be ideal for such alternate use. IN the case of Senior Citizen Independent Living Congregate Housing especially, seniors who have adequate mobility would be able to walk to a pharmacy, hairdresser, the library, and so on. How much more independence would be offered the residents if the housing were so located rather than in residential zones which require use of a vehicle to get anywhere. The last point I wish to make tonight relates to a comment I had made at the last Town Board meeting on December 12. At that time I stated that multi-unit housing built for the purpose of fulfilling housing needs for Senior Citizen Independent Living Congregate Housing and Assisted Care Living at the present time could be subsequently used for multi-family housing if the need for the aforementioned housing should decline. In response to my comment, it was noted in the press that this problem would be avoided if there were to restrictive covenants in the deeds of such developments to prevent the transformation of the development for senior citizens into multi-family housing or other types of multi-unit housing. This is an unrealistic belief. When the real estate market for a use such as this declines into a long-term slump, the owner of the property inevitably claims economic hardship. The result is that the restrictive covenants are dropped and multi-family housing is permitted. Therefore, restrictive covenants should not be considered a long-term solution. To close my remarks for this evening, I understand the Town Board must weigh many factors when making a decision regarding the proposed Amendment to the Zoning Code. The members of the South Little Tor Civic Association expect the Board to consider fully the potential outcomes of their decision on the residents of this Town.

Appearance: George Remult
New City

I notice, as I drive by the Sunrise Assisted Living center, that there is an sign advertising that they have space available. There is also a huge assisted living facility on Rte. 9W heading towards Haverstraw and I do not think that is full. There are a couple of huge developments in Ramapo for the same purpose. Do we really need more of these. Where are the people going to come from that are going to use these facilities. Are we building for the benefit of a landowner

or a conglomerate from somewhere else? These are questions you have to ask yourselves because it seems to me that we have more than enough of this type of facility.

Appearance: Martin Bernstein
New City

There has been a lot of discussion about assisted living. The newspaper discusses this in vague terms as assisted living. There is a combination of 2 things we are discussing but it is never really identified in the press. One is independent living which is being proposed and is basically multifamily housing of 5 units per acre in any residential zone in the Town, other than 4 acre zoning, which means there is no specific site for this, it can be put in any of the residential areas throughout the Town. One of the proposals that has been made is the Sisters of Charity and that is a different type of thing than most people are talking about. They have 45 acres of land; they are proposing a complex which includes affordable senior citizen housing plus assisted living, where they are going to maintain and run it, and they will eventually include a nursing home. This is a different kind of thing than what is being proposed here. What is being proposed here is really 2 specific kinds of zoning. I don't think people understand that what is being proposed on independent living is that you don't have to put in assisted living; any developer who has enough land in any of the residential zones can put 5 units of either apartments or housing on any one acre which means you can go to a 2 acre zoning area and increase the density five-fold. I don't mind if we are going to provide affordable senior citizen housing in certain specific areas of the Town, I think there is a great need for it. There is a need for affordable senior housing, not just housing that will accommodate people who come from all over the metropolitan area to move into multifamily housing, even though it is over age 55. The Sisters of Charity can build senior citizen housing because they are under the nonprofit affordable program that we have in the Town right now. I would like to see us separate what we are talking about, independent and assisted living, because they are two different items. I would like us to turn down the independent living facility, 5 units per acre, and to make sure that assisted living facilities be shown to be affordable and for the residents of Rockland County, at least. We should not just open this up to real estate development and fill up the vacant spaces that are still available; one day we are talking about maintaining open space and another, we are talking about filling it up with all kinds of development. The Town Board needs to coordinate all of these things and the first thing I would like to see them do is to separate the two items into two, turn down independent living because that is no different from multifamily housing. I would also like them, under the assisted living, to make sure that it is affordable and that it is limited to the people who now live in Clarkstown and, at least, we would benefit our own people and our own land.

Appearance: Steve Levine
Congers

I think that these types of facilities to be placed in any residential district is inappropriate because of how these facilities are used. These types of facilities are generally 2 and 3 stories high, they usually have auxiliary facilities such as laundries. They have medical offices, they have cafeterias. They don't restrict any member from the public coming from the outside to use these facilities. You have traffic from the workers, the people who come to assist the seniors. Image this right next to your one or two family house. This sounds like an apartment building, at best, or a hotel, at worst. Now if we proceed as the law is now being presented with the amendment to the zoning board, let's say we run into economic hard times, we have an assisted living facility in a residential zone. Now the developer comes along because he already has a special permit, he says he can't make any money because there are not enough seniors who can afford these rates, he comes to the Town Board with his attorneys and they say, under the guise of the special permit, why don't we change this building into an apartment building in an R zone because, in essence, that is how we have been functioning pretty much. An even more outrageous developer could come along and say I'm actually functioning like an hotel, I have rooms, I rent them, I have maids, a cafeteria. I do not think that these things are appropriate in any residential district. Generally speaking, there are commercial and residential zones and there is a reason for that. I say to the members of the Board, think of your house and think of a 2 or 3 story facility being used as I described next to your property. What is the real impact of these facilities? Yes, there is a need but I think they need to be planned and that is what we have a Planning Board for. I think we need to carefully consider, once they are in and something happens, you know what the developers are going to do, they are going to cry that they are not

making any money, help me. This is why I am concerned about the legislation as it is proposed right now.

Appearance: Jeff Sassoon
New City

Concerned about why this is even being considered. I agree with Mr. Levine and Mr. Bernstein about their concerns. A residential neighborhood should be a haven, a place where people should find peace. They selected that family lifestyle for a purpose, for security, for quality of life and for long term investment. If we are going to introduce enterprise into a neighborhood, you have changed the formula. Any kind of enterprise is just a business and they are looking at it for the short term, they are looking at profit, week to week, day to day. How are they going to keep overhead down? Are they going to maintain that property like a residence? Are they going to take pride in that property like a residence? If profits are bad or income is low, aren't they going to make cutbacks? What kind of people will be working here; traditionally you have low paid caregivers, what kind of supervision do you have around the clock, 7 days a week. You are putting this into the middle of a neighborhood that will have no control over these facilities. I don't think this Town has the resources or know how to control such an enterprise. I think looking down the road we would have a lot of legal problems. Why should a young family who has got kids in the driveway or in the cul de sac have to worry about linen trucks coming through, food trucks coming through, medical waste? There is issue after issue involved with this kind of consideration and I don't think you have the right or the authority to push this through this Town. Let's talk about doing some right things for our community. Let's put together an agenda about things affecting our community in the near term. What about Indian Point, I have not heard Rockland County protest that. What about all these power plants and substations coming into our town? What about the water resources that we have? What about what is happening to the environment here. I see police station go up, a jail, a firehouse, what about a community center. How about something for our youth? They have no place to go in this town and they are just as important as the seniors. This thing with assisted, long-term care, no one can define it, and I think you are looking for a lot of trouble. I'd like to see you kill it tonight, not have another discussion on it, just forget the whole idea and move on.

Appearance: Ed Graybow
New City

I was opposed to the expansion of Sunrise and I am opposed to what is being planned for this evening. We talk about the need for zoning ordinances. There is no need to expand our needs. Just take a look at Sunrise, where do they advertise? They have to advertise outside this area. It is a residential assisted care facility. We need senior housing but we do not need assisted living which is a business proposition, approximately \$6,000 to \$8,000 per month per resident. The type of housing being proposed is inappropriate in the current zoning and I urge this Board to speak on behalf of its constituents and say no to any expansion of this type of zoning.

Appearance: Donald Tracey, Esq.
New City

I first spoke about this and said this ordinance confused me. Since that time, I studied it further and became more confused. The first objection I cited was that I didn't think it should be in residential zones. The least developed zone in the Town is the LIO zone. There are acres of LIO zone. I recently read the General Municipal Law County Report and they seem to agree. I thought maybe one of the problems was that they were trying to combine these things all together instead of separating them, and I thought more about that and thought that a wonderful planning tool is the Town Board special permit because the Town Board is not bound solely by the criteria set forth in the special permit. They can reject the special permit for reasons outside the criteria unlike a Zoning Board where, if you meet the criteria, they have to give it to you. I think that the County 2000- Planning Report indicates that there is some need for this but there is a further thing that nobody has mentioned and that is that people who come to put these things in are making substantial investments. They do their market research and they know what the possibilities of success are. They are not going to jump into a market that is overcrowded but I don't think they should be in a residential zone. I don't think they should be combined all together. I think the Planning Board should go back to the drawing board under the leadership of a professional planner and devise a special permit whereby these applications could be made for

these uses either individually or combined in nonresidential zones, and I think that that way instead of putting them into each zone and then letting the development take place I think that the Town Board could then evaluate based on certain criteria, such as need and the area. I don't think that you can exclude people outside of Clarkstown. The Allen case out in Smithtown held that exclusionary zoning was strictly prohibited. You can't limit any kind of housing strictly to the people of Clarkstown.. One thing is missing from the hodge-podge and that is housing for active seniors or what I refer to as over-55 housing which is not garden apartment style housing but which is separate, fairly affordable, residential units in an area that is limited to people over the age of 55. I think that, too, might be a special permit use so that the Town might intersperse them in appropriate areas so they do not infringe upon higher density zoning or have a danger of being located in densely populated residential districts.

Appearance: Richard Sarajian, Esq
Represents Davies Farm

Contrary to what is being stated here, in 1998 before you started your master plan review, this use was permitted in many of the zones including R-15 and R-22 but you are now proposing to put it back in. This is not an expansion of zoning into a residential zone. What has happened by this proposed law is that you are continuing a special permit requirement of a use that was permitted before 1998 after two years of study and that you have now, in effect, up-zoned that use by your definition and bulk requirements to significantly cut almost in half projects that could have been done before your proposal. I just want to remind you that this is not a new use that you are newly putting into a zone but, in fact, a continuation of a use more definitely defined and more limited in the amount of density that is permitted. You were asked to do this study two years ago and you put a moratorium on special permits over our objection on this use. Please remember that you have to respect the rights of all land owners and that there are limitations of what you can do under your police power and that you must, if we are to be a nation of laws, remember that even those people who own vacant land have real property rights promised to them by the Constitution of the State of New York and the Constitution of the United States and the you have a duty to uphold all of those rights and it appears that you are trying at least to continue to do certain things. Finally, I would suggest that the type of use you are defining must be defined. You must put it somewhere in your code after two years of study and, as has been indicated to you before, there is a need for these uses and it is appropriate to put them in certain residential zones.

That is what we urge you to do. One more comment I'd like to make is that these units are totally different than senior citizen housing and the fact that you have senior citizen housing in your law is not the type of comparison that should be made for these uses. Senior citizen housing that you have defined in your ordinance is public subsidized housing, there is a major difference between these types of uses and public subsidized housing. We are talking about public subsidized housing versus housing that has what we call continuous care facility, a facility that allows people to age in place. There is a major difference between the two types of things. We have made suggestions to you about changing your definitions, there are formed definitions adopted by the American Institute of Planning for Continuous Care Facilities. We suggest that you adjust the law to comply with these formed definitions.

Appearance: Oscar Terry
37 Carolina Drive

The gentlemen before me talked about applying for a special permit in 1998. We were here in force fighting him every step of the way because that property that he is talking about is zoned for single dwelling on a half acre of land and we signed petitions; we gave this board petitions against down-zoning that to where they could put assisted living there. The people that live in those houses, we put our life's blood in the homes that we have built. We have lived here a long time and I have worked myself to death to try to keep my house presentable and not lose its value. If the Town passes this law and lets them build assisted living in the Davies Lake area it is not fair to the people who have lived there for years, to have to be put under this pressure constantly by these attorneys coming in and every time we beat them down, they come back with more. It is time for the Town Board to say this is enough.

Appearance: Scott Romer
West Nyack

I don't know how these lawyers have the gall to come in here and say in '98 we presented this and therefore, you will have to do it whether you like it or not. I've been a long time in a lovely county and I am now in my 80's and I don't want to leave, but what they did to us with that Pyramid Mall, it is the most ghastly concrete factory I have ever seen in my life. Please don't start ruining our individual homes.

Appearance: Nicole Dolaner
Pres, Rockland Civic Assoc.

I feel like we are being assaulted everywhere we look. They want to put in another Tappen Zee Bridge, they want to put in two power generation stations in the Torne Valley, they want to put assisted living all over the place. There are a group of us who have been fighting the same thing over again. There are a group of us who fought to get people elected and to have our voices heard because we wanted an update to the comprehensive plan because we saw that there was run away development in Clarkstown. There are a group of us who came together to make sure that we get an open space referendum passed in this town. These attorneys come in here, and they are very persuasive, but I am sorry but we live in a town, we elect officials to look out for our benefit, not for the benefit of assisted livings, shopping malls, power plants or whatever. These assisted living facilities are put up by one company, under one umbrella so they are not going to have to worry about whether or not they are going to do well in one particular area, it is the whole global picture that they look at, and if in one area they are not doing well, they may come back and ask to use it for something else. I don't want to see something like that right next to me. We need to slow down the development because we are all in it for the long haul, we all love our town and we want to live here.

Appearance: Edwin Day
Pres, Little Tor Neighborhood Assoc.

We have tried in the Ad Hoc Committee and the Planning Board to have some sort of description that we can hang a hat on when it comes to this type of housing because the present code is very vague. That may be why the gentleman who spoke before said he could have done this in this zone before because the code is so loose that anything that is as loosely described as this type of housing can be brought forward under this type of permit. We need to codified exactly what the specifics are. Some of the ideas we have had on the Ad Hoc committee are old ideas. One of the things we have spoken about was accessory housing; it sounds like a wonderful idea but the problem is that there are too many people who take advantage and it ruins our neighborhoods. That is what killed the idea and it is a shame because all of us have maybe parents they want to take care of or children they may want to give a hand to early in their lives. I voted for this concept in the Ad Hoc committee but I did make a separate motion regarding somehow having some sort of economic disincentive that would be so absolute that no one could ever undo what was brought up to this board initially. I am not a big fan of the Rockland County Planning Department, they seem to march to their own drummer and I don't think they march in step with the town. Some of the comments in here are beyond me; I don't understand how such an elitist attitude can permeate out of an office. We have Dr. Yarmus talking about how we shouldn't have this in R-40 and R-80 zones because this would significantly impact the community character. What about the people in R-15 and R-22 zones, don't we count? He says that would be fine because that's a lower density residential neighbor. I object to that and this type of attitude does not reflect the reality of what is going on. I think we are trying to make something work that is reflective of open tracts of land in this town, not necessarily the need for special housing types. If lawyers came up here and they had 15 acres in multifamily area, this would not even be an issue right now. The reason we have it now is because we have people who are coming to us wanting their land to be developed in a multifamily sort of way and it happens to be in another zone. I don't think we can do this type of housing in a residential zone in a manner consistent with what the wishes of the citizens have been. I'm am changing my vote on it, I'm opposed to this, I don't think this should be done in residential zones.

Appearance: Sheryl Slavin
New Valley Road

I support all these statements that people made about not wanting an apartment house, multiple dwelling or anything that resembles multiple dwelling in a residential area. They are diametrically opposed; they serve different needs. Multiple dwellings, even if they are disguised

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as senior residences or assisted living or any other name you call it, should not be in single family zoned housing. Supports Cora's earlier suggestion to use empty and underused commercial space and to think about converting that into something that can be used for residential space in more of a multiple dwelling kind of use. I am upset to see vacant strip malls, empty and vacant stores everywhere, and I think what is going on with the economy of our town and our county. This might be something to think about in terms of good use of our economy.

There being no one further wishing to be heard, on motion of Co. Maloney seconded by Co. Mandia and unanimously adopted the Public Hearing is to be continued on January 23, time: 9:30 P.M.

Respectfully submitted,



PATRICIA SHERIDAN
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

01/09/01

9:30 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 to restrict Use of Flag Lot Development in the Town of Clarkstown (continuation)

On motion of Co. Maloney seconded by Co. Mandia and unanimously adopted the public hearing regarding Flag Lot Development was continued.

Supervisor asked if anyone wished to speak on this.

Appearance: Maria Jansen
Congers

Supervisor Holbrook informed us at the December 12, 2000 Public Hearing, that the Town has removed Flag Lots from the Clarkstown Zoning ordinance. A flag lot was previously permitted for a subdivision of one lot into two lots. This was permitted under Table 16 of the Clarkstown Zoning for Residential developments. Because it was part of Table 16 Bulk Regulations for Residential zones it was AS OF RIGHT. The Building Department reviewed this minor type of subdivision into two lots. The proposed note Number 37 to be included Table 16 allows for the subdivision of four or more lots. Or more could mean 100 or 500 or 1000 new lots. By putting this note in the Table 16 the Town is saying that it is AS OF RIGHT to do ANY SIZE subdivision by complying with the few regulations of these four notes. This is Master Planning, and Master Planning is the job of the Planning Board. We cannot entrust the Master Plan and future development to the Building Department, which we will be doing if we insert these "new improved Flag Lot regulations" into the Bulk Table. The Town made the right decision to remove any flag lot reference from the Zoning Ordinance and the Town should not back down from that decision. Under Clarkstown Planning Board law, Section 254-1 "gives authority to the Planning Board to review and approve subdivisions of land for the purpose of providing for future growth and development and affording adequate facilities for housing, transportation, distribution comfort, convenience safety and health and welfare of the residents." Our current Zoning regulations Section 290-11B requires that all lots must have a minimum lot frontage of 50 feet. Section 290-20 states that all front yards shall be measured off the center line of a street. According to Clarkstown Zoning a major street is 80 feet wide and a local street is 50 feet wide. Except for that one note allowing the subdivision of one lot into two, all homes had to be developed with a minimum street frontage of 50 feet off a local street. The proposed new flag lot notes allow development of homes off 25 feet driveways. It also proposed that front yards do not have to face the local street but can be oriented to face neighbor's private rear and side yards. Section 254-31 of Clarkstown Planning Board law states that the Planning Board shall review applications for street specifications as of 1/31/64, sewer requirements, shade tree requirements and site plan approval requirements. All of these items are specified in detail in separate sections of the Planning Board law. Also, under Planning Board law, Public Hearing must be held for all subdivisions. Public Hearings would not be required if the proposed new flag lot regulations were added to the Bulk and were therefore under the jurisdiction of the Building Department. Developers do not want to provide the costly roads and sewer requirements of the Town and New York State. This proposed revision to the Bulk Table would allow unlimited subdivisions of homes without the safeguards and guidelines provided by the Clarkstown Planning Board law and NYS law. Further under Article 16 of Town Law (NYS Law) Section 280a, Permits for buildings not on improved mapped streets, #1 states "No permit for the erection of any building shall be issued unless on a street or highway giving access to such proposed structure has been duly placed on the official map or plan, or if there be no

official map or plan, unless such street or highway is (a) an existing state, county or town highway or (b) a street shown on a plat APPROVED BY THE PLANNING BOARD. This does not allow plats or subdivisions to be approved by the Building Department. Also, under Article 16 of Town Law (NYS Law) Note of Decisions *Spmosa v. Ackerman* 1979 it states that "Though the Town Board does not have to create a Planning Board and does not have to authorize a final site plan approval in a Planning Board, once it does so, it is bound by this section and cannot share or divide authority and responsibility between the Planning Board and the Town Board." This says that once the Town Board has created a Planning Board and given it power for site approval, it cannot take away that power and give it to the Building Department. Although I know a lot of concerned people worked on this proposed Zoning Change, I feel they were misled. This is no Flag Lot AS OF RIGHT currently. There is no humane Flag Lot. There is no need for one. The existing Clarkstown Planning Board laws provide all the protection the citizens of Clarkstown need, most importantly a Public Hearing. I urge the Town Board to abandon this Zoning proposal which will allow "out of control" development, and embrace the laws which are already in effect which will protect the public from over development and let Clarkstown development their Master Plan.

Town Attorney, John Costa, explained that the intent of this was to restrict and greatly reduce the ability of anyone to develop a flag lot. The lot width would be measured at a different point than currently it is measured. The existence of a right-of-way in front of the lot would diminish the bulk available to a developer. The Planning Board studied this matter for many weeks. While your concerns are that this is relaxing the rules, the object is to greatly restrict the ability to do flag lots.

Planning Board Chairman, Richard Paris, stated that one of the issues in working on the Comprehensive Plan was to do all we could to eliminate flag lots. So the development of this ordinance was to accomplish that. This is more restrictive.

Building Inspector, Peter Beery, stated that flag lots were referred to the Planning Board.

Appearance: Steve Levine
Clarkstown

Is concerned about flag lots. Three lots can be put in on his property. Wants flag lots eliminated completely.

Mr. Paris stated that if this ordinance is adopted it will stop the overabundance of flag lots and restrict further development of flag lots.

Appearance: Larry Kigler
New City

He is presently before the Planning Board. Wants his lot divided and would like an answer now.

Supervisor Holbrook said that he always had the option of going to the Zoning Board of Appeals.

Appearance: Don Tracey, Esq
New City

Is in favor of 2 lot subdivisions. People have held these lots for many years thinking they have an investment set aside for their retirement.

Appearance: Phyllis Edwards
New City

She stated that our homes should be a safe haven and next door to her there has been an application for a flag lot. All the residents in her area are opposed to this.

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Appearance: Mr. Kigler
New City

Has a 2 lot subdivision pending and the applications are before the Planning Board. He believes that his subdivision should be either excepted or exempt from this law.

Mr. Costa inquired whether his application was completed.

Mr. Paris stated that there should be no applications grand-fathered in.

Appearance: John Soutner
New City

Listening to the new things that are proposed, it seems to him that if you live in an R-15, you can't make a flag lot, but if you have a big piece of property with a skinny frontage on South Mountain Road, you can make a flag lot.

Appearance: John Lodico
New City

Is an advocate of property rights and believes that if people have land they should be allowed to develop it.

There being no one further wishing to be heard, on motion of Co. Maloney seconded by Co. Lasker and unanimously adopted, the Public Hearing was declared closed, DECISION RESERVED, time: 10:12 P.M.

Respectfully submitted,



PATRICIA SHERIDAN
Town Clerk