

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

6/12/2001

8:00 P.M.

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

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

Christopher Hecht received a Certificate for achieving rank of Eagle Scout.

Detective Eileen Malloy and Officer Michael Novotny on behalf of the Clarkstown Police Benevolent Association presented Christopher Bax of Clarkstown So. High School with the G. Robert Schnakenberg scholarship award. The second scholarship went to Craig Carrol of Clarkstown No. High School. The third to Kevin Cassidy of Nyack High School. The following four also were presented with scholarships: Kristie Doyle, Megan Delo, Tricia Grosso and Allison Fehsal.

Supervisor introduced Dr. Jack Lukens. Dr. Lukens asked the Town Board to join in a celebration on the publication of a book entitled, "Compassion's Lure", a selection of writings accumulated by Barbara Reese, Executive Dir. of the Venture Foundation, himself and Sr. Helen Murphy, former Dir. of St. Agatha Home for Children. The collection was done with the notion of celebrating the activities of Kathleen and making Rockland Co. a better place for handicapped people. Clarkstown has played an important part in the struggle of Venture and other organizations for accommodating handicapped people. In the 1970's when George Gerber was Supervisor, at considerable political risk to himself, he declared that zoning laws were meant for land use and not to exclude persons from occupancy of homes. That courageous statement enabled Venture Inn to be founded. Group homes have never been a popular thing. Later on when Venture East was established on Strawtown Road, it was Supervisor Holbrook who indulged Venture and supported us in that effort which was a considerable struggle.. Barbara Reese presented the book to the Town Board Members which represents her efforts as well as his and Sister Helen's in the hope that it will keep Kathleen's words alive.

Supervisor stated that before he was on the Town Board, John Maloney was there with George Gerber. Dr. Lukens stated what really makes a great town is when leaders take risks to do the right thing even when it is not popular. This Board has done that. Co. Lasker stated that she admired Kathleen very much and she thinks Venture is wonderful.

Detective Eileen Malloy, Director of the Town of Clarkstown Youth Court presented the 29th graduating class. They will be celebrating their 20th year this fall. They have heard over 3,000 cases and have graduated about 400 children. Tonight's graduates have completed a ten week program and soon will be assuming the roles of Bailiff, Court Clerk, Prosecuting and Defense Attorneys and maybe someday Judge. These young adults will be giving their Wednesday nights for the rest of their High School career to work in this program. Det.Malloy thank everyone for their commitment.

Supervisor Holbrook offered his congratulations and said that it is a program that has been modeled across the Country. We have been contacted by other municipalities. Ours has been one of the longest in the Country. Co. Maloney congratulated these youngsters and stated that unfortunately the media does not cover this event. Co. Mandia said that he has been most impressed by what happens in Youth Court and congratulated each graduate. Co. Smith stated that we are very proud of the Youth Court. She congratulated all their parents and wished the students success. Co. Lasker congratulated the graduates for their hard work and commitment. Chief Kilduff on behalf of all the other Officers offered congratulations to the graduates.

Supervisor opened the public portion of the meeting.

Appearance: John Lodico, New City

Spoke regarding open space..

Appearance: Cora Bodkin, New City

Regarding Item 26, asked why appraisal is being done at this time.

On motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted the public hearing re: Continuation of Petition for Snake Hill Corporation for a Special Permit was opened, time: 8:29 P.M.

On motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted the public hearing re: Continuation of Petition for Snake Hill Corporation for a Special Permit was closed, Decision Reserved, time: 9:00 P.M.

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted the public hearing re: Chapter 216 Proceeding (property Maintenance) Goldberg was opened, time: 9:01 P.M.

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted the public hearing re: Chapter 216 Proceeding (property Maintenance) Goldberg was Closed, Continued to next Town Board Meeting, time: 10:12 P.M.

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted the public hearing re: Continuation of Proposed Local Law Entitled "Historic Road Preservation" was opened, time: 10:12 P.M.

On motion of co. Maloney, seconded by Co. Lasker and unanimously adopted the public rearing re: Continuation of Proposed Local Law Entitled "Historic Road Preservation" was closed, Continued to July 24th Town Board Meeting, time: 10:24 P.M.

RESOLUTION NO. (468-2001)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that the Town Board Minutes of May 22, 2001 and June 5, 2001 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. (469-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, in accordance with the recommendation of the Department of Environmental Control, Patricia J. McCartin, residing at 46 Lake Road Valley Cottage,

RESOLUTION NO. (469-2001) continued

New York, has agreed to gratuitously convey a Drainage Easement to the Town of Clarkstown affecting property identified as 52.19-2-62 (formerly known as 123-F-6), and

WHEREAS, the Town Attorney recommends acceptance of said conveyance;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor of the Town of Clarkstown is hereby authorized to accept said Easement on behalf of the Town of Clarkstown, and be it

FURTHER RESOLVED, that said Drainage Easement is hereby ordered recorded in the Office of the Rockland County 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. (470-2001)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that upon the recommendations of the Deputy Director of the Department of Environmental Control and the Highway Superintendent of the Town of Clarkstown, Performance Bond in the amount of \$77,000.00, which was furnished to the Town in connection with the Brega-Ahearn Subdivision (52.19-1-32+, formerly known as 123-D-16+), is hereby terminated; and the Performance Bond may be released.

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. (471-2001)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that based upon the recommendation of Sgt. Robert Franchino of the Clarkstown Police Department, dated June 7, 2001, the Superintendent of Highways is hereby authorized to:

Install a "Stop" sign on Twin Elms Lane at Irion Drive, New City 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, to the Traffic and Traffic Fire Safety Advisory Board, and to the Chief of Police, for their information and for enforcement purposes.

RESOLUTION NO. (471-2001) 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. (472-2001)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that based upon the recommendation of Sgt. Robert Franchino of the Clarkstown Police Department, dated June 7, 2001, the Superintendent of Highways is hereby authorized to:

Install two "Weight Limit 3 Tons" (R7-3W) signs, with the legend "No Commercial Trucks" on each, one on westbound South Mountain Road, just west of its intersection with Little Tor Road, and the second on eastbound South Mountain Road, at the Town line

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, to the Traffic and Traffic Fire Safety Advisory Board, 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. (473-2001)

Co. Maloney offered and Co. Mandia seconded

RESOLVED, that based upon the recommendation of Howard L. Lampert, PE, Traffic and Highway Engineering Consultant, dated May 29, 2001, the Superintendent of Highways is hereby authorized to install:

1. "Right Turn" (Sign #W1-2C) and "15 MPH" (Sign #W9-1X) signs on northbound Pine Street, New City, north of the driveway at house #24, and
2. "Left Turn" (Sign #W1-1C) and "15 MPH" (Sign #W9-1X) signs on westbound Pine Street, New City, west of Sterling Place

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.

RESOLUTION NO. (473-2003) 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. (474-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, Resolution No. 371-2001 was adopted on April 24, 2001 and stated the Town Board's position concerning the centralization of cellular 911 service, and

WHEREAS, the Clarkstown Police Department has requested clarification to Resolution No. 371-2001,

NOW, THEREFORE, BE IT,

RESOLVED, that Resolution No. 371-2001 adopted on April 24, 2001 is hereby amended to read:

RESOLVED, that the Town Board of the Town of Clarkstown hereby recommends to the Rockland County Legislature that it supports the efforts of the Rockland County Office of Emergency Services to centralize cellular 911 service until such time as it is feasible to direct calls originating from the Town of Clarkstown to the Clarkstown Public Safety Answering Position.

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. (475-2001)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, Assembly Bill No. A. 3489 and Senate Bill No. S. 2061 have passed in the Assembly and are now before the Senate, and

WHEREAS, said bills would prohibit all public employers from reducing health insurance benefits or increasing health insurance costs for retirees unless a corresponding change has been negotiated for current employees, and

WHEREAS, the Town Board of the Town of Clarkstown, is in support of said legislation;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby requests Governor George Pataki and Senator Thomas Morahan to support Assembly Bill No. A. 3489 and Senate Bill No. S. 2061, to prohibit all public employers from reducing health insurance benefits or

RESOLUTION NO. (475-2001) continued

increasing health insurance costs for retirees unless a corresponding change has been negotiated.

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. (476-2001)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, Rita C. Kelly has been employed with the Town of Clarkstown in various part-time and full-time positions, commencing October 3, 1974, and for no reason ascribable to her own negligence, no application form was filed with the New York State and Local Employees' Retirement System prior to October 23, 1984, and

WHEREAS, the Town Board of the Town of Clarkstown wishes to correct this situation by authorizing Rita C. Kelly to apply for retroactive membership in the New York State and Local Employee's Retirement System;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown hereby authorizes the Supervisor to sign a Home Rule Request concerning Assembly Bill No. A. 7634-A and Senate Bill No. S. 3981-A, which Act will authorize Rita C. Kelly to apply for retroactive membership in the New York State and Local Employee's Retirement System, if, on or before December 31, 2001, Rita C. Kelly shall file with the State Comptroller a written request to that effect, and be it

FURTHER RESOLVED, that all costs imposed by the enactment of this Act, shall be borne by the Town of Clarkstown as required by applicable statutes.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith No
 Supervisor Holbrook Yes

RESOLUTION NO. (477-2001)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into a renewal agreement with Partners in Safety, Inc., 800 Route 17M, Middletown, New York, for the period commencing January 1, 2001 and terminating on December 31, 2001, in a form satisfactory to the Town Attorney, to provide alcohol and drug testing of safety-sensitive employees including transportation employees and those holding commercial driver's licenses, and be it

RESOLUTION NO. (477-2001) continued

FURTHER RESOLVED, that the agreement shall provide for contract indemnification and professional and other liability insurance coverage as required by the Town Attorney, and be it

FURTHER RESOLVED, that the fees for such services shall be according to the proposal dated January 1, 2001, and shall be charged to Account No. A 9000-409.

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. (478-2001)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, the County of Rockland and the Town of Clarkstown wish to coordinate bus fares as it relates to cash paying, full fare, adults on the "Transport of Rockland" (TOR) and the "Clarkstown Mini Trans" (CMT), and

WHEREAS, the Town Board of the Town of Clarkstown wishes to participate in the County of Rockland Department of Public Transportation "Super Saver" Discount Program for the Clarkstown Mini Trans;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with the County of Rockland, in a form approved by the Town Attorney, to provide for the coordination of bus fares as it relates to cash paying, full fare, adults on the Transport of Rockland and the Clarkstown Mini Trans, and for the Town of Clarkstown to participate in the Rockland County "Super Saver" Discount Program.

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. (479-2001)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, Lawler, Matusky & Skelly Engineers, LLP has submitted Modification No. 1 to its agreement with the Town of Clarkstown dated March 12, 2001, to provide services for soil investigation (Phase II environmental) with respect to property known as 44.15-3-1 (formerly Map 127, Block N, Lot, 23.02), Burnside Avenue, Congers, New York;

NOW, THEREFORE, be it

RESOLUTION NO. (479-2001) continued

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an agreement with Lawler, Matusky & Skelly Engineers, LLP, Modification No. 1 to its agreement with the Town dated March 12, 2001, to provide engineering services to the Town with respect to property known as 44.15-3-1 (formerly Map 127, Block N, Lot 23.02), Burnside Avenue, Congers, New York.

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. (480-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, Section 1660-a(6) of the New York State Vehicle and Traffic Law and Section 278-6(20) of the Clarkstown Town Code authorizes the Town Board, by Resolution, to prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of shopping centers, and

WHEREAS, the Chief of Police has indicated that vehicles parked in areas other than designated parking areas obstruct the flow of traffic, contribute to traffic accidents and impede the response of emergency vehicles in the parking areas of the Palisades Center Mall and the Nanuet Mall, and

WHEREAS, the Town Board has determined that limiting the parking of vehicles in such parking areas to designated parking areas will result in increased safety in such areas;

NOW, THEREFORE, be it

RESOLVED, that it shall be a violation of Town Code §278-6(20) for any person to park, stand or permit to park or stand any vehicle in any area within the parking areas of the Palisades Center Mall or the Nanuet Mall other than in designated parking places, and violation of this provision of law shall be subject to the penalties set forth in §278-14B of the Town Code, and be it

FURTHER RESOLVED, that the Superintendent of Highways is hereby authorized to fabricate and install the following signs in appropriate locations as agreed to between the property owners and the Town:

NOTICE

Parking in other than designated parking areas is a violation of Clarkstown Town Code §278-6(20) and is punishable by a fine of up to \$250 and/or imprisonment for up to 90 days.

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. (481-2001)

Co. Maloney offered and Co. Lasker seconded

RESOLVED, that based upon the recommendation of the Supt. of Highways and the Town Traffic Safety Engineering Consultant that

**BID # 41-2001
2001 - SPECIAL PAVEMENT MARKINGS**

is hereby awarded to: **SAFETY MARKING, INC
460 BUSTWICK AVE
BRIDGEPORT, CT 06605
PRINCIPAL: MARK KELLY**

as per their proposed project cost of \$26, 715, and be it

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

- a) Signed Contract Documents - two sets
- b) Performance Bond - 100% of project cost
- c) Labor and Materials Payment Bond - 100% of proposed project cost
- d) Certificate of Contractor's Liability, Property Damage Coverage, including a Save Harmless Agreement
- e) Certificate of Worker's Compensation
- f) Certificate of Worker's 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. (482-2001)

Co. Maloney offered and Co. Lasker seconded

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

**BID #42-2001
COVERALL RENTAL SERVICES**

is hereby awarded to: **AMERIPRIDE LINEN & APPAREL SERVICE
490 WETHERSFIELD AVE
HARTFORD, CT. 06114
PRINCIPALS: LARRY STEINER
BRUCE STEINER**

as per their proposed cost of \$.40 per garment per week

RESOLUTION NO. (482-2001) 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. (483-2001)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, THE BANK OF NEW YORK v. THE TOWN OF CLARKSTOWN, A Municipal Corporation, Its Assessor and Board of Review, Index No(s). 4606/96, 4490/97, 4340/98, 4183/99 and 4014/00, affecting parcel(s) designated as Map 43.15, Block 1, Lot 44 (formerly known as 58-F-11), for the year(s) 1996/97, 1997/98, 1998/99, 1999/00 and 2000/01, and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice and without costs on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Tax Assessor, the Senior Deputy Town Attorney of the Town of Clarkstown and the attorneys for the Clarkstown Central School District, who believe the best interests of the Town and the School District are being served;

NOW, THEREFORE, be it

RESOLVED, that:

1. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 43.15, Block 1, Lot 44 (formerly known as 58-F-11) be reduced for the year(s) 1996/97, 1997/98 and 1998/99 from \$1,600,000 to \$1,200,000 at a cost to the Town of \$17,964.03;
2. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 43.15, Block 1, Lot 44 (formerly known as 58-F-11) be reduced for the year(s) 1999/00 from \$1,600,000 to \$1,120,000 at a cost to the Town of \$7,077.87;
3. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 43.15, Block 1, Lot 44 (formerly known as 58-F-11) be reduced for the year(s) 2000/01 from \$1,600,000 to \$1,040,000 at a cost to the Town of \$8,085.82;
4. Reimbursement for the year(s) 1996/97, 1997/98, 1998/99, 1999/00 and 2000/01 on the parcel described as Map 43.15, Block 1, Lot 44 (formerly known as 58-F-11), as stated above, be made within (60) days, without interest, through the Office of the Commissioner of Finance; and such payment shall be adjusted by the Commissioner of Finance and the Town as a deficiency added to the next county levy;
5. All municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement, and be it

RESOLUTION NO. (483-2001) continued

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

RESOLUTION NO. (484-2001)

Co. Smith offered and Co. Lasker seconded

WHEREAS, the Rockland County Personnel Office has certified on June 11, 2001 that the position of Assistant Fire Safety Inspector (part-time) (Competitive) can be created.

NOW, THEREFORE, be it

RESOLVED, that the position of Assistant Fire Safety Inspector (part-time) (Competitive), Building Department, is hereby created, effective June 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

RESOLUTION NO. (485-2001)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Gary E. Siegel, 14 Green Bower Lane, New City, New York is hereby appointed to the position of (Provisional) Assistant Fire Safety Inspector (part-time) Building Department at the current annual salary of \$18,500.00, effective June 18, 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. (486-2001)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Marialaine Notaro, 800 A Brookridge Drive, Valley Cottage, New York is hereby appointed to the position of (temporary) Principal Account Clerk, Comptroller's Office at the current annual salary of \$34,506.00, effective and retroactive to June 11, 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. (487-2001)

Co. Smith offered and Co. Lasker seconded

WHEREAS, the Rockland County Personnel Office has furnished Certification of eligibles #97043 and #00082 Real Property Data Collector which contains the name of James J. Molinaro, Jr.

NOW, THEREFORE, be it

RESOLVED, that James J. Molinaro, Jr., 6A Cedar Lane, Suffern, New York is hereby appointed to the contingent permanent position of Real Property Data Collector, Assessor's Office at the current annual salary of \$25,028.00 effective June 18, 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. (488-2001)

Co. Smith offered and Co. Lasker seconded

WHEREAS, the Rockland County Personnel Office has certified on May 9, 2001 that the position of Senior Clerk Typist #0788, Supervisor's Office can be reclassified to the position of Secretarial Assistant I.

NOW, THEREFORE, be it

RESOLVED, that the position of Senior Clerk Typist #0788, Supervisor's Office is hereby reclassified to the position of Secretarial Assistant I, effective and retroactive to May 21, 2001, and be it

FURTHER RESOLVED, that the grade for the position of Secretarial Assistant I is hereby established at a grade 21.

RESOLUTION NO. (488-2001) 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. (489-2001)

Co. Smith offered and Co. Lasker seconded

RESOLVED, that Lori A. Zaccaro, 120 North Route 303, Unit 10, Congers, New York is hereby appointed to the position of (Provisional) Secretarial Assistant I, Supervisor's Office at the current annual salary of \$39,379.00, effective and retroactive to May 21, 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. (490-2001)

Co. Lasker offered and Co. Maloney seconded

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

BID #45-2001
COMPUTER AND WORD PROCESSING 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

RESOLUTION NO. (491-2001)

Co. Lasker offered and Co. Maloney seconded

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

BID #46-2001
L E D TRAFFIC SIGNAL INSTALLATION

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

RESOLUTION NO. (492-2001)

Co. Lasker offered and Co. Maloney seconded

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

BID #47-2001
PELHAM WEST WATER QUALITY BASIN BELOW
GRADE DETENTION STORAGE

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

RESOLUTION NO. (493-2001)

Co. Maloney offered and Co. Lasker seconded

FEMA PW #408
Pascack Road @ Culvert #309
Nanuet, New York

RESOLUTION NO. (493-2001) continued

WHEREAS, the Town of Clarkstown is desirous of effecting repairs to specific areas damaged as a result of Tropical Storm Floyd, and

WHEREAS, the Federal Emergency Management Agency (FEMA) has made funding available for this work, and

WHEREAS, the Department of Environmental Control has initiated the Tropical Storm Floyd Rebuilding Program for the purpose of effecting the repairs, and

WHEREAS, certain projects must be completed by the July 1, 2001 deadline imposed by FEMA.

NOW, THEREFORE, BE IT

RESOLVED, that the Director of the Department of Environmental Control is hereby authorized to lease equipment and operators from qualified contractors on a lump sum basis, with all activities to be under the direct supervision of personnel of the Department of Environmental Control, and

BE IT FURTHER RESOLVED, that all materials required to complete this work shall be provided by the Town of Clarkstown, and

BE IT FURTHER RESOLVED, that only a lease agreement is contemplated and therefore all work will be performed under the direct supervision and control of the Department of Environmental Control, and

BE IT FURTHER RESOLVED, that the cost for the work shall not exceed \$6,188.00 and shall be a proper charge to account H 8748 409 0 72 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. (494-2001)

Co. Maloney offered and Co. Lasker seconded

FEMA PW #296
Pascack Road @ Culvert #291
Nanuet, New York

WHEREAS, the Town of Clarkstown is desirous of effecting repairs to specific areas damaged as a result of Tropical Storm Floyd, and

WHEREAS, the Federal Emergency Management Agency (FEMA) has made funding available for this work, and

WHEREAS, the Department of Environmental Control has initiated the Tropical Storm Floyd Rebuilding Program for the purpose of effecting the repairs, and

WHEREAS, certain projects must be completed by the July 1, 2001 deadline imposed by FEMA.

NOW, THEREFORE, be it

RESOLUTION NO. (494-2001) continued

RESOLVED, that the Director of the Department of Environmental Control is hereby authorized to lease equipment and operators from qualified contractors on a lump sum basis, with all activities to be under the direct supervision of personnel of the Department of Environmental Control, and

BE IT FURTHER RESOLVED, that all materials required to complete this work shall be provided by the Town of Clarkstown, and

BE IT FURTHER RESOLVED, that only a lease agreement is contemplated and therefore all work will be performed under the direct supervision and control of the Department of Environmental Control, and

BE IT FURTHER RESOLVED, that the cost for the work shall not exceed \$6,277.50 and shall be a proper charge to account H 8748 409 0 72 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. (495-2001)

Co. Maloney offered and Co. Lasker seconded

PW-173

WHEREAS, trees and shrubs were removed in order to perform necessary stream bank restoration work per TB resolution #648-2000 at tax map lot 43-E-1, and;

WHEREAS, The Department of Environmental Control recommended replanting with trees and shrubs, and;

WHEREAS, the Director of the Department of Environmental Control has solicited and reviewed proposals from four (4) qualified contractors to perform the necessary work, and;

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

ASCAPE LANDSCAPE CONSTRUCTION CORP.
 P.O. Box 679
 New City, NY 10956

in accordance with their proposal dated June 6, 2001, and

BE IT FURTHER RESOLVED, that the cost of the work shall not exceed \$4,200.00 and shall be a proper charge to account H 8748-409-0 72-1

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. (496-2001)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, as a condition to the approval of the final map with regard to a site plan known as Clemente Associates, LLC, described on the Clarkstown Tax Map as 51.14-2-20, 20.1 and 20.2 (formerly known as 36-D-1, 8 and 9), the Planning Board of the Town of Clarkstown requested a deed for road widening purposes along Arlene Court, New City, 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 April 10, 2001 from Clemente Associates, LLC to the Town of Clarkstown, gratuitously conveying a strip of land along Arlene Court, New City, 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. (497-2001)

Co. Smith offered and Co. Maloney seconded

WHEREAS, Dr. Richard E. Handlesman has requested permission to sponsor a foot race on Route 59, a State highway, between Suffern and Nyack, on September 16, 2001, to promote awareness for the need for prostate cancer research, and

WHEREAS, the New York State Department of Transportation has advised that since several jurisdictions will be involved in this event, permission should be elicited from each town;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby grants permission to Dr. Richard E. Handlesman, and Associates in Internal Medicine, to sponsor a foot race on Route 59, on September 16, 2001, within the Town of Clarkstown, to promote prostate cancer awareness, subject to receipt and approval by the Town Attorney of the following:

1. Certificate of Insurance naming the Town as an additional insured.
2. Hold Harmless and Indemnification Agreement.
3. Written permission of the Clarkstown Chief of Police approving the event from a public safety point of view,

and be it

FURTHER RESOLVED, that the Town Clerk shall distribute copies of this resolution to all municipalities within the contemplated race course.

RESOLUTION NO. (497-2001) 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. (498-2001)

Co. Lasker offered and Co. Mandia 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, De Li Wan and Rui Lei Wan and "John Doe" and "Jane Doe", numbers "1" through "28", 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 161 North Middletown Road, Nanuet, New York, and described on the Clarkstown Tax Map as 58-13.1-15, as a boarding house or other illegal multiple dwelling, and be it

FURTHER RESOLVED, that this resolution shall be retroactive to June 8, 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. (499-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Town Board of the Town of Clarkstown has previously authorized corrective drainage work to be performed on lots 34.19-3-62, 43.7-2-2, 34.19-3-58, and 34.19-3-59 as shown on the current tax map of the Town of Clarkstown and located within the dedicated Long Meadow Estates subdivision in New City; and

WHEREAS, changes in the ownership of some of the aforementioned lots has resulted in a delay in obtaining the necessary right-of-entry agreements and having the work performed; and

WHEREAS, said delay has resulted in a revised proposal from Pro-Cut Lawns and Landscaping from that submitted eleven (11) months ago to perform said corrective drainage work; and

WHEREAS, the revised proposal continues to be the lowest of the four (4) obtained by the Department of Environmental Control to perform said drainage work;

NOW, THEREFORE be it

RESOLUTION NO. (499-2001)continued

RESOLVED that Town Board Resolution 637-2000 be amended to reflect the change in the proposal that said corrective drainage work be performed for an amount not to exceed \$5,000.00; and be it

FURTHER RESOLVED that this amount continues to be a proper charge to account number A 8749 409 0 73-14; and be it

FURTHER RESOLVED that the execution of said corrective drainage improvements continues to be contingent on the receipt of signed right-of-entry agreements from the current owners of the subject lots.

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. (500-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Village of Nyack on behalf of Rockland Summer Institute requested the use of the Town of Clarkstown showmobile on Saturday, August 4, 2001 from 4:00 PM – 9:30 PM for the concert by Rockland Summer Institute Orchestra.

NOW, THEREFORE, be it

RESOLVED, that permission is hereby granted to the Village of Nyack to use the Town of Clarkstown showmobile on Saturday, August 4, 2001 for the above purpose and subject to the provision of the necessary insurance policies.

FURTHER RESOLVED, that the Town Board hereby waives the fee for the use of the Town of Clarkstown showmobile on Saturday, August 4, 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. (501-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, Town Justice Joel J. Flick has obtained a proposal from the CyraPhone Company to provide instruments and telephone connections in the Clarkstown Justice Court for interpretation and translation services in 150 languages, on a 24 hour a day basis, and has recommended that such services be implemented, and

WHEREAS, the Town Attorney has advised the proposed services may be obtained without competitive bids;

RESOLUTION NO. (501-2001)continued

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into a contract with CyraPhone Company for bi-lingual interpretation and translation services to be used by the Clarkstown Justice Court, in a form approved by the Town Attorney, for a trial period of not more than six months, for a total cost including installation and monthly services charges of not more than \$1,000.00, without further authorization by the Town Board, and be it

FURTHER RESOLVED, these services shall be charged against Account No. A-3020-460-0.

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. (502-2001)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Superintendent of Highways has advised that in order to fulfill the requirements for a permit issued by the Rockland County Sewer District No. 1, for the discharge of waste-water from the Clarkstown Highway Department facility, 12 Seeger Drive, Nanuet, New York, it is necessary to obtain periodic waste water sampling and analysis, and

WHEREAS, a proposal has been submitted by Hydro Environmental Solutions, Inc. to perform such required wastewater sampling and analysis, and the Superintendent of Highways has recommended acceptance of said proposal;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with Hydro Environmental Solutions, Inc., in a form approved by the Town Attorney, to provide waste water sampling and analysis as described in a proposal dated February 6, 2001, for the purpose of meeting the requirements of the Rockland County Sewer District No. 1 discharge permit no. 32, at a cost not to exceed \$20,170.00, and be it

FURTHER RESOLVED, that the cost of said services shall be charged to Account No. DB-5110-409-0.

On roll call the vote was as follows:

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

RESOLUTION NO. (503-2001)

Co. Lasker offered and Co. Mandia seconded

WHEREAS, The Summit School at Nyack, an educational treatment program for children with learning and adjustment difficulties, has proposed to provide students for the period July 9, 2001 through August 24, 2001, to work in the Clarkstown Highway facility, 12 Seeger Drive, Nanuet, New York, for the purpose of obtaining pre-vocational skills training at no cost to the Town of Clarkstown, and

WHEREAS, the Superintendent of Highways has advised that he would like to participate in this program, and believes that the students could provide valuable assistance to the Town Highway Department and obtain on-site meaningful pre-vocational work experience;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement, in a form approved by the Town Attorney, with The Summit School at Nyack, to provide for pre-vocational skills training for sixteen students at the Clarkstown Highway facility, 12 Seeger Drive, Nanuet, New York, provided that the school agrees to indemnify the Town from any liability, provide the necessary certificate of insurance naming the Town of Clarkstown as an additional insured, and supplies training Supervisors to be present at all times when the students are at the Clarkstown Highway facility.

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. (504-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, Town Board resolution No. 107-2000 awarded bid #66-2000 for the Crum Creek Detention Basin Improvements to Danny Clapp Landscaping, Inc., New City, New York, and

WHEREAS, all work in connection with this project is being performed within a dedicated Town drainage easement located on parcel 34.19-1-5, and

WHEREAS, existing plantings were removed to allow the required work to be completed, and

WHEREAS, additional landscaping and restoration are required to secure the detention basin, and

WHEREAS, the Contractor has submitted the additional cost associated with Change Order No. 2, and

WHEREAS, the Department of Environmental Control has reviewed the cost for Change Order No. 2 and found it to be reasonable.

NOW, THEREFORE, be it

RESOLVED, that the Town Board authorizes Change Order No. 2, and be it

RESOLUTION NO. (504-2001 continued)

FURTHER RESOLVED, that the cost of Change Order No. 2 is \$7,150.00 and shall be a proper charge to account 8749 409 0 73 19, and be it

FURTHER RESOLVED, that the total cost for Bid No. 66-2000 shall not exceed \$92,865.00.

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. (505-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, Town Board resolution No. 107-2000 awarded bid #66-2000 for the Crum Creek Detention Basin Improvements to Danny Clapp Landscaping, Inc., New City, New York, and

WHEREAS, all work in connection with this project is being performed within a dedicated Town drainage easement located on parcel 34.19-1-5, and

WHEREAS, during the course of construction, a portion of the easterly embankment became unstable and required immediate stabilization, and

WHEREAS, the placement of heavy stone fill was necessary to correct the problem, and

WHEREAS, the original bid did not contain any provisions for the placement of the required heavy stone fill, and

WHEREAS, the Contractor has submitted the additional cost associated with Change Order No. 3, and

WHEREAS, the Department of Environmental Control has reviewed the cost for Change Order No. 3 and found it to be reasonable.

NOW, THEREFORE, be it

RESOLVED, that the Town Board authorizes Change Order No. 3, and be it

FURTHER RESOLVED, that the cost of Change Order No. 3 is \$2,703.63 and shall be a proper charge to account 8749 409 0 73 19, and be it

FURTHER RESOLVED, that the total cost for Bid No. 66-2000 shall not exceed \$95,568.63.

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. (506-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, The Town of Clarkstown wishes to improve an adverse drainage condition for the residents in the vicinity of Jerry's Avenue, and;

WHEREAS, in order to improve the drainage condition an existing 24-inch pipe will be removed and replaced twin 48-inch pipes and a new channel will be installed with rock-lined side slopes connecting to the existing outfall, and;

WHEREAS, the property is owned by Wyeth Ayerst Pharmaceuticals (formerly Lederle Laboratories) and their requirements are to hire contractors certified to work on their property, and;

WHEREAS, the Director of Environmental Control has solicited a proposal from a company certified by Wyeth Ayerst to work on their property which can lease equipment and personnel on a per diem rental basis;

NOW, THEREFORE be it

RESOLVED, that contingent upon Wyeth Ayerst approval of the proposal and the recommendation of the Director of Environmental Control, W. Harris & Son, Inc. 37 W. Washington Avenue, Pearl River, New York, is hereby selected to provide equipment and personnel in accordance with their proposal dated June 11, 2001 and be it

FURTHER RESOLVED, that all work shall be performed under the direct supervision and control of personnel from the Department of Environmental Control, and that only equipment and certified personnel shall be provided, and be it

FURTHER RESOLVED, that the rental of equipment with personnel shall not be charged at more than \$4825 per day and shall be charge to the Account No. H8736-409-0-67-20

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. (507-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, The Town of Clarkstown wishes to improve an adverse drainage condition for the residents in the vicinity of Jerry's Avenue, and;

WHEREAS, in order to improve the drainage condition, test pits must be excavated to locate the existing water main in the area where drainage improvements will take place, and;

WHEREAS, the property is owned by Wyeth Ayerst Pharmaceuticals (formerly Lederle Laboratories) and their requirements are to hire contractors certified to work on their property, and;

WHEREAS, the Director of Environmental Control has solicited a proposal from

RESOLUTION NO. (507-2001) continued

a company certified by Wyeth Ayerst to work on their property which can lease equipment and personnel on a per diem rental basis;

NOW, THEREFORE be it

RESOLVED, that contingent upon Wyeth Ayerst approval of the proposal and the recommendation of the Director of Environmental Control, W. Harris & Son, Inc. 37 W. Washington Avenue, Pearl River, New York, is hereby selected to provide equipment and personnel in accordance with their proposal dated May 29, 2001 and be it

FURTHER RESOLVED, that all work shall be performed under the direct supervision and control of personnel from the Department of Environmental Control, and that only equipment and certified personnel shall be provided, and be it

FURTHER RESOLVED, that the rental of equipment with personnel shall not be charged at more than \$2136 per day and shall be charge to the Account No. H8736-409-0-67-20

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. (508-2001)

Co. Maloney offered and Co. Smith seconded

WHEREAS, the Town of Clarkstown is considering acquisition of real property known as 26.17-2-7, New City, New York, for the open space acquisition program, and

WHEREAS, the Town Board requires an appraisal of said property;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Town Attorney to obtain an appraisal of property known as 26.17-2-7, New City, New York, as potential open space acquisition, pursuant to a proposal of Blaise Appraisals & Consultants, Inc. (Steven T. Sherwood, MAI) dated June 12, 2001, and be it

FURTHER RESOLVED, that the cost of said appraisal shall not exceed the sum of \$2,500.00, and shall be charged to Account No. H 8750-409-0-74-1.

On roll call the vote was as follows:

Councilwoman Lasker No
Councilman Maloney Yes
Councilman Mandia No
Councilwoman Smith Yes
Supervisor Holbrook Yes

RESOLUTION NO. (509-2001)

Co. Smith offered and Co. Mandia seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, ENTENMANN'S, INC. v. THE BOARD OF ASSESSORS AND THE BOARD OF ASSESSMENT REVIEW OF TOWN OF CLARKSTOWN, Index No(s). 3982/96, 4336/97, 4050/98, 3852/99 and 3815/00, affecting parcel(s) designated as Map 64.6, Block 1, Lot 3 (formerly known as 32-B-107.2), for the year(s) 1996/97, 1997/98, 1998/99, 1999/00 and 2000/01, and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice and without costs on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Tax Assessor, the Senior Deputy Town Attorney of the Town of Clarkstown and the attorneys for the Nanuet Union Free School District, who believe the best interests of the Town and the School District are being served;

NOW, THEREFORE, be it

RESOLVED, that:

1. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 64.6, Block 1, Lot 3 (formerly known as 32-B-107.2) be reduced for the year(s) 1996/97, 1997/98, 1998/99, 1999/00 and 2000/01 from \$2,000,000 to \$1,000,000 at a cost to the Town of \$74,094.61;

2. Reimbursement for the year(s) 1996/97, 1997/98, 1998/99, 1999/00 and 2000/01 on the parcel described as Map 64.6, Block 1, Lot 3, as stated above, be made within (60) days, without interest, through the Office of the Commissioner of Finance; and such payment shall be adjusted by the Commissioner of Finance and the Town as a deficiency added to the next county levy;

3. All municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement, 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

RESOLUTION NO. (510-2001)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, ST. AGATHA HOME OF THE NEW YORK FOUNDLING HOSPITAL, has petitioned the Town Board of the Town of Clarkstown for a Special Permit, pursuant to Section 290-IIA of the General Use Regulations, R-22 Zoning District, Table 3, Column 2, Item B-5, to construct an Agency Group Home on a portion of premises known as 63.15-1-42 (formerly known as Tax Map 4, Block A, Lot 7), for

RESOLUTION NO. (510-2001 continued)

property located on the south side of Convent Road and the east side of Duryea Lane, Nanuet, New York, and more particularly described on Schedule "A" attached;

NOW, THEREFORE, be it

RESOLVED, that a public hearing, pursuant to Section 290 of the Zoning Local Law, shall be held at the Auditorium of the Town Hall of the Town of Clarkstown, 10 Maple Avenue, New City, New York, on July 24, 2001, or as soon thereafter as possible, to consider the application of ST. AGATHA HOME OF THE NEW YORK FOUNDLING HOSPITAL, relative to said Special Permit, and be it

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

On roll call the vote was as follows:

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

RESOLUTION NO. (511-2001)

Co. Lasker offered and Co. Maloney seconded

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

BID #44-2001
CAST IRON CURB INLETS, CATCH BASIN FRAMES & GRATES, ETAL

is hereby awarded to:

CAMPBELL FOUNDRY
800 BERGEN STREET
HARRISON, NJ 07029
PRINCIPAL: JOHN R. CAMPBELL 111

NEENAH FOUNDRY CO.
P.O. BOX 729
NEENAH, WI 54957
PRINCIPALS: WILLIAM BARRETT
GARY LACHEY
PHIL ZEHNER

CHEMUNG SUPPLY CORP
P.O. BOX 527
ELMIRA, NY 14902
PRINCIPALS: HERMAN WARSHAW
MYRA S. STEMERMAN
JERALD M. STEMERMAN

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. (512-2001)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, a portion of culvert #459 has collapsed immediately adjacent to the eastbound travel lane of South Mountain Road in the vicinity of High Tor State Park, and

WHEREAS, the partial collapse of culvert #459 poses a severe threat to the safety of the general public, and

WHEREAS, the installation of a concrete barrier is required to secure the culvert from further deterioration and to provide protection for the general public along the affected section of South Mountain Road, and

WHEREAS, the Superintendent of Highways has been informed of the emergency and agrees with the temporary corrective measures.

NOW, THEREFORE, be it

RESOLVED, that the Director of the Department of Environmental Control and the Superintendent of Highways are hereby authorized to perform the temporary corrective measures, and

BE IT FURTHER RESOLVED, that upon completion of the temporary corrective measures, the Department of Environmental Control will evaluate the condition of culvert #459 and prepare the plans and specifications for a permanent solution, and

BE IT FURTHER RESOLVED, that all costs associated with corrective measures shall be a proper charge to account H 8751 409 0 75 9.

On roll call the vote was as follows:

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

Town Board recessed the meeting and retired to executive session at 10:35 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

6/12/01

8:29 P.M.

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

RE: Petition of Snake Hill Corp for Special Permit for Recycling Center

On motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted the public hearing was continued.

Appearance: Martin Cornell, Esq.

There was a letter from the Planning Board dated May 22 which was available at the last meeting and I would just like to address briefly some of the issues in that letter and I would like to call the engineer, Steve Gamelsky, and ask him a few questions.

Mr. Costa swore in Mr. Gamelsky.

Mr. Cornell: Mr. Gamelsky, you prepared a lengthy affidavit and other material that was submitted to the Board at the last meeting, is that correct?

Mr. Gamelsky: That's correct.

Mr. Cornell: Is it true also that you prepared the application for the applicant to the NYS Department of Conservation, is that correct?

Mr. Gamelsky: Department of Conservation, right.

Mr. Cornell: At the last meeting there was a letter that was received from the Planning Board of the County of Rockland dated May 22, 2001, which we briefly saw at the meeting and I want to ask you if you would address some of the issues that were raised in that letter. The first issue states that the applicant shall show that the operation of this facility shall meet all performance standards for air pollution, odor, solid waste and noise as specified in the Clarkstown code which show the performance standards. I want to ask you is it correct that the applicant will in all respects comply with those compliance standards?

Mr. Gamelsky: Yes, it is and we have also submitted engineering plans and engineering reports to the DEC and to the Town for its review and in that report we have addressed the environmental impact of this facility.

Mr. Cornell: The second item that is raised by the County Planning Board letter says an examination of the site shall be conducted by the Rockland County Drainage Agency to insure that drainage from the site does not negatively impact the Hackensack River, and required permits shall be obtained, can you address that issue?

Mr. Gamelsky: We have designed a storm water management system to collect and treat the storm water and the applied best management practices for the storm water and that has been identified in the plan and in the engineering report.

Mr. Cornell: I might just mention, Mr. Supervisor and the Board, that all of this material is before you in that large package that you got at that last meeting. The Planning Board, Mr. Gamelsky, also indicates that there are certain other relative factors that are not part of the GML review but they are raising these issues for consideration and the first one that they raise is whether there should be buffers that are smaller than 75 feet and as you

know the Board can reduce the buffers by an amount of 50 feet and in connection with this application there is a request for a buffer reduction on both sides and I ask you whether that is in any way going to adversely impact the adjoining property.

Mr. Gamelsky: No, it will not, it is in an industrial zone and the Planning Board has agreed to reduce the buffer.

Mr. Cornell: You are referring to the Clarkstown Planning Board which had a meeting last week in which they adopted a resolution which is probably before you where they say that the "Planning Board does not have any objections to modify buffers to the site" and just for purposes of clarification, we did submit a letter from the property owner to the north indicating that he had no objection to the buffer and the property to the south, which is Miele's property based upon the approvals of the Planning Board site plan has a large buffer there so there should not be any interference with that operation in that particular area. Now the last issue that is raised by the County Planning Board is one that we touched on at the last meeting but maybe you can elaborate on it a little further, they indicate that the Rockland County Department of Health has been contacted with regard to this review and the Department of Health has restated its previous concern that the proposed facility will undermine the solid waste management plan for Rockland County. It says that the Town should consider the impact of the transfer station on the Rockland County Solid Waste Authority's operation. Can you comment on that?

Mr. Gamelsky: First, I would like to say that that comment is kind of outrageous and certainly not appropriate. The solid waste management plan recognizes the need for solid waste transfer. It is an operation that has to be performed in this County, the County does not have a disposal facility for solid waste. The County is working towards doing as much recycling as it can but 80% of solid waste has to be shipped out of the County. In order to accomplish that most effectively, to save fuel and energy and reduce environmental impact, you need transfer stations. Currently right now, the permitted capacity of transfer stations in the County are being utilized at close to 80% of capacity. The quantity of solid waste will increase and this has been projected in the solid waste management plan. Certainly, the addition of a 400 ton per day transfer station is consistent with the solid waste management plan and will also provide needed capacity for the County in the future.

Mr. Cornell: The Clarkstown Planning Board in discussing this says in their resolution that "from a planning perspective, the Planning Board suggests the Town Board consider the fact that there are other similar facilities in the Town of Clarkstown" and it is suggested that the Town Board evaluate whether it is appropriate to add an additional station". I would like to comment on that. The existing Clarkstown Zoning Code specifically authorizes transfer and recycling facilities in the M zone where this property is located. This particular location is one of the only remaining areas of the Town where the transfer and recycling station could go in the existing zone and also be available to transportation immediately, which includes access to Route 303 and the Thruway without embarking on traveling on local streets which is very important. So this is really a key area the Town will provide for that facility. The issue of the need or whether it is appropriate to have another transfer station is already addressed in the Code because the Code authorizes it to be there. Your function as a Town Board in granting a special permit is only in those specific issues that are set forth in the ordinance and there are two provisions and in the affidavit that was submitted, those are developed in some detail as to what the considerations are for the special permit. So I submit to you that as a matter of law, and Mr. Costa would have to advise you on this, that if you consider this permit in the light of whether this facility is needed or not is an inappropriate consideration for the determination of the special permit because you have already, by putting it in the Code and providing for it, determined that it is a use by right so you cannot deny the permit based on that issue. Mr. Gamelsky if you could comment on that further.

Mr. Gamelsky: We have only 5 transfer stations in the County and they are operating at 77% of rated capacity. That means that if each one was pushed to its permitted limit we would only have an additional 23% of their capacity available for MSW transfer. MSW is municipal solid waste. There are transfer stations that are permitted exclusively for handling C and D, construction and demolition waste. The

solid waste management plan projects an increase in solid waste generation over the next 10 years. I don't think we want to be in the position of regulating the marketplace. If a business wants to engage in a certain activity that is permitted by the State, it has been recognized by the solid waste management plan and recognized by your Code. I think that it is appropriate to add that capacity, it makes everybody more efficient and competitive.

Mr. Cornell: Mr. Gamelsky, used the word "competitive" and I think in this country competition benefits the consumers and our argument and position would be that in this particular industry, competition will benefit the consumer and hopefully you'll grant the permit which we request. I have no further comments but I would be happy to answer questions.

Mr. Costa: You mentioned a waiver of the buffer requirement on the 2 side yards. Have you considered the possibility that also a buffer requirement exists with respect to the rear property line where the property is fronting on the railroad property?

Mr. Gamelsky: There is no buffer required there.

Co. Mandia asked what the 23% is represented by in tons?

Mr. Gamelsky: We spoke with Frank Kelly of the DEC and he conveyed information to us on the permitted capacity on all the transfer stations in the county. We also obtained the latest records from the DEC on the production of solid waste that goes out of county for disposal. We ratioed the 2 numbers and we came up with the amount of solid waste that is being transferred, which is disposed of out of the county, divided by the permitted capacity for solid waste 77% and that is not a lot of cushion in the solid waste business.

Co. Mandia asked how many transfer stations there were in the county.

Mr. Gamelsky stated that there were 6.

Co. Mandia said that 23% is roughly the capacity of an entire transfer station. How many more tons can they take?

Mr. Gamelsky stated that the permitted capacity is 1350 tons per day MSW. The current waste that requires disposal is 1031. We take that ratio, 1031/1350, and we come up with 70 plus percent.

Supervisor asked if anyone from the public wished to comment.

Appearance: John Lodico
New City

Has been involved in the solid waste program for over 40 years. The first time was to oppose a proposed incinerator at the Clarkstown Landfill area and we were lucky that we knocked that out of the box with public meetings. Was a firm supporter of creating and developing the 20 to 25 year plan for our landfill. This application coming before the Board tonight I think is an example of free enterprise operating within the jurisdiction of the law properly having opportunity to develop competition. I think that it is appropriate to have one or even two more of these. It would be to the benefit of Rockland County if you had four of them.

Appearance: Donald Tracey, Esq.

I represent the recycling center down the road. I keep hearing references made to transfer station and municipal solid waste. Is this an application for a recycling center or for a transfer station?

Mr. Costa stated that the application speaks in terms of the recycling center but its keying on the definition in this Town Law and I think this definition does allow for the processing of municipal solid waste as well as recycling of materials.

Mr. Tracey stated this is just another way of establishing a transfer station. Does the Town permit, by special permit or otherwise, transfer stations in any zone?

Mr. Costa stated that he didn't think that term was used. He agreed that that term is not in the Clarkstown town code.

Mr. Tracey stated that he takes the position that this is a transfer station that is not permitted by the zone. Would like also to correct a misapprehension. When a legislative body reserves for itself the power to issue a special permit, that legislative body is not bound solely by the criteria in its own ordinance as opposed to a zoning board of appeals or a planning board. I'd just like to call attention to the fact that if this proposed transfer recycling center is going to handle municipal solid waste and if the Clarkstown carters are contractually bound to deliver their solid waste to the Clarkstown Transfer station, then out of necessity, traffic to utilize this recycling center will have to come from elsewhere. If this is to be used as a transfer station, contractually none of the 11 carters picking up municipal solid waste in the Town will be able to use this center and I wonder what the effect of traffic on the area will be.

Mr. Cornell responded that in the M zone it says in Column 3 of the Table, Item 9, recycling facility subject of section 290-17R so clearly metes a recycling station and when you examine section 290-17R, the heading of that section is Recycling Facilities and Transfer Stations are subject to the following conditions and it spells them out. It is very clear in the ordinance that recycling and transfer stations are permitted in this zone without any question. This Board approved such a facility right next door not too long ago. With regard to the other issue regarding solid waste that comes from residential users, my client is one of those carters who is involved in providing for residential use but he is perfectly cognizant of and will abide by his contractual obligations to dispose of that waste in the Clarkstown facility so none of the residential waste that he is collecting will go to any other place in the Clarkstown facility. The only waste that will be delivered to this site is waste other than residential which will come from the County of Rockland and the Town of Clarkstown.

Appearance: Joe Schleimer
New City

Asked how big the facility was going to be, what is the traffic going to be? I don't see anyone here that lives in this area. My daughter lives on Old Mill Road which is close to it and I think this has a lot of repercussions for the people living in that area and I think it should be given more thought I think there should be another public hearing where the people in the area are more informed as to what is going on there.

Appearance: Scott Nangel
West Nyack

He lives close to this proposed facility. At the last meeting some statistics were given out, among them that the capacity would be about 50 truckloads a day which I assume would be rinsed or somehow processed and the rinse water would be gathered in a 1,000 gallon tank which would then be emptied by a licensed service that would cart this away. How long would a 1,000 gallon tank last if you are rinsing 50 truckloads of material? It seems it would fill up in a matter of minutes and does the facility plan to shut down and halt operations while they are waiting for the service to come and empty the tank or will the service simply be standing by? I don't see this working. I'm looking at the agenda here and it talks about a recycling facility. There is no mention of solid waste transfer. Why, if in fact the attorney for the applicant is relying on a section that includes solid waste and is citing a precedent regarding a nearby solid waste facility, that indicates to me that there is more to this than meets the eye. I am skeptical and I think this Board ought to be as well. By suggesting that legally they can operate a waste transfer station, now we are looking at a serious concentration of these facilities in one place. This is right near the Hackensack River. There was talk at the last meeting that truck traffic would not be permitted to come to this facility from Snake Hill, Old Mill, Germonds and that whole area but turns were supposed to be prevented at the Snake Hill

intersection to the mall and this Town has done nothing to enforce that provision. I can't help but wonder what is going to happen in this instance, history shows that it will not be enforced. The Board needs to take a close look at this entire proposal.

There being no one further wishing to be heard, on motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted the Public Hearing was closed, DECISION RESERVED, time, 9:00 P.M.

Respectfully submitted,



Patricia Sheridan
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall 6/12/01 9:01 P.M.

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

RE: Chapter 216 Proceeding (Property Maintenance): Goldberg, 139 Massachusetts Ave

On motion of Co. Maloney, seconded by Co. Lasker and unanimously adopted the public hearing was continued.

John A. Costa, Town Attorney, reviewed the history of this matter for the purpose of establishing the record tonight. This is a Chapter 216 proceeding and the Town Board is determined to hold the public hearing with respect to an alleged condition that exists on property owned by Mr. & Mrs. Goldberg at 139 Massachusetts Avenue. A notice of violation was issued by the office of the building inspector on May 15 2001, relating to property shown on the Clarkstown tax map, the new designation is 52.8-3-53.1 and the other lot is 52.8-3-53, the old designation was Map 139, Block A, Lots 22.5 and 22.6. The notice of violation was directed to Mr. Barry Goldberg at 139 Massachusetts Avenue and indicated that on May 3, 2001, an observation of disposal of debris and litter was made with respect to the property. It alleges that there was dumping of construction material on the eastern section of lots 22.5 and 22.6. As a result of this violation notice, the Town Board issued an order and notice dated May 23, 2001 which was mailed by certified mail, return receipt to Barry and Linda Goldberg and in addition to the notice an order was posted by Irene Saccende of the building department and she has provided an affidavit of posting. I should indicate that prior to issuing the notice, the order and notice, the town attorney's office caused the Hudson Valley Abstract Company to conduct a last owner and lien search of the property and I have received and will offer into the record tonight reports of the Hudson Valley Abstract Company indicating that Block 3A, Lot 52.3 is owned by Barry Goldberg and that lot 53 is owned by Barry and Linda Goldberg and we will offer that as an exhibit. The Order and Notice issued by the Town Board directed, advised the property owner that inspections disclosed that there was nuisance hazard and litter on the property and the order directed that same be removed and it included as an exhibit, the copy of the original notice of violation. This order was sent by certified mail, returned receipt and it was mailed on May 23, 2001 and there are green cards returned by the post office indicating that two copies of the notice and order were received and signed for by Linda Goldberg on May 24, 2001. I would like to just put in the record a brief history of this matter which I know the Town Board is well aware of. This matter goes back to 1999. In May of 1999 as a result of complaints made by residents in this neighborhood, the building department issued a complaint alleging that Barry Goldberg at 139 Massachusetts Avenue, Congers, NY had violated Chapter 290-11a, Table 4, Column 3 of the Town zoning law by conducting a landfill without a special permit. This matter did proceed and still is pending in the Clarkstown Justice Court. On January 4, 2000, Mr. Goldberg filed a petition with the Town Board seeking a special permit pursuant to the Town law to conduct a landfill at the site. Now the petition was filed after the allegations were made regarding the filling of the site. At the time a moratorium was in effect and this petition was not acted upon. On March 28, 2000, Mr. Goldberg's petition was referred by resolution of the Town Board to the various state, county and town agencies for review and recommendation and a public hearing on this petition was scheduled for April 25, 2000. In early April, 2000, Mr. Goldberg requested and was granted a postponement of this public hearing to May 9, 2000. On May 9, 2000, the public hearing was held before the Town Board with respect to his application for a special permit to conduct a landfill at the site. Mr. Goldberg submitted a statement which he described as events which led up to the evening of May 9 and he described what had happened beginning in May 1999. At that time, the moratorium was no longer in effect on the issuance of special permits and in fact the moratorium had expired shortly before the Town Board scheduled the public hearing. I

have as an exhibit and will offer this into the record the minutes of the meeting of May 9, 2000, which Mr. Goldberg appeared on behalf of himself and made statements to the Board among those statements was a statement that he had filled the property but he also stated on May 9, 2000 that although he did not yet have the test results, there had been test pits dug on his property and materials had been removed for analysis. He also said that night to the members of the Town Board, the results looked good, the fill that we had appears to be quite clean. The report of the tests referred to by Mr. Goldberg in this testimony on May 9 was actually received in our Department of Environmental Control on July 31, 2000 although the report itself by York Analytical Laboratories Inc. is dated May 4, 2000 which was a date prior to the public hearing on Mr. Goldberg's special permit application. That report also is going to be placed in the record as evidence in this proceeding. The York Analytical Laboratories report was made and submitted to Northeast Environmental Labs. On November 1, 2000, the NYS Department of Environmental Conservation issued an internal memo to Mr. Steve Parisio of the Department of Environmental Conservation indicating that analysis of the materials on Mr. Goldberg's property showed that the fill material was not limited to uncontaminated construction and demolition waste. On February 6, 2001, Warren and Panzer Engineers, P.C. issued a report which concluded that the fill material contained chemical constituents above the NYS Department of Environmental Conservation permissible limits for C and D debris and that the fill placed on Mr. Goldberg's property was in violation of state DEC regulations. I have that report also to submit as part of the record dated November 1, 2000. That report recommends further testing. On March 22, 2001 the Department of Environmental Conservation acting through the director recommended the removal of the fill and said it was necessary for that fill to be removed to prevent health hazards and also to remove a landslide threat that affected Route 9W in Congers. On March 27 2001, this Town Board adopted a resolution in which it denied the special permit having closed the hearing and reserved decision on Mr. Goldberg's original application and in its decision, the Town Board denied the permit and required the applicant to prepare and file within 30 days a remedial plan for the remediation of this property. This decision was mailed certified mail, return receipt to Mr. & Mrs. Goldberg on March 28, 2001. The receipt from the post office indicates that this material was received by them on March 30, 2001. On May 1, 2001, the Department of Environmental Conservation advised my office and myself as Town Attorney, that no remedial plan had been submitted. At that time I recommended that the Town Board consider a proceeding pursuant to Chapter 216 of the Town code to attempt to rectify this matter. For your information Chapter 216 provides for remedies against the property and it also provides for penalties for violating the provisions which are in the nature of violations to be prosecuted in the Justice Court, however, since there is a proceeding pending in the Justice Court, this proceeding is directed to the property itself and the issue is whether or not the materials that exist on this property present a hazard to the community affecting the health and safety of the community. I received correspondence from the law firm of Dorfman, Lynch and Knoebel dated June 5, 2001 in which they advised that they represent Barry Goldberg in this matter before the Town Board and they asked that this letter become part of the record. I do note that a member of that law firm is here this evening, I am not sure whether he intends to participate in the proceeding or not but it is my recommendation that this letter be received as part of the record. I have also received correspondence dated June 8, 2001 from Larry Lewinsky from the firm of Jacobowitz and Gubits who indicates that that firm represents Mr. and Mrs. Patrick Rocco who reside at 147 Massachusetts Avenue and they asked that this letter be read into the record of the hearing and with the Board's permission I will read that into the record:

Dear Supervisor Holbrook and Town Board Members:

This firm represents Mr. And Mrs. Patrick Rocco who reside in the Town of Clarkstown at 147 Massachusetts Avenue. The purpose of this letter is to convey Mr. and Mrs. Rocco's strong support for the action to be taken by the Town of Clarkstown under Chapter 216 of the Town Code to remove waste containing hazardous substances that was disposed by Barry Goldberg on various properties including the Roccas' property.

The Roccas also wish to remind the Town Board that, because this waste contains hazardous substances, removal of it should be conducted in full accordance with town, NYSDEC and industry standards, protocols and requirements. Once the waste is removed, further testing should occur to ensure that no hazardous substances have migrated into the soil or groundwater at the Roccas' property or for that matter, any other property affected by the illegal disposal.

Our understanding is that a public hearing will be held on this matter pursuant to 216-8 of the Town Code on June 12th. We respectfully, request this letter be read at the hearing and included in the hearing record.

Thank you for your cooperation and attention.

Very truly yours,
Larry Wolinsky

It is my intention to have several witnesses appear before the Town Board tonight as well as any members of the public who wish to participate. I would like at this time to have the following documents accepted into the record. The first one is the violation notice dated May 15, 2001. The second item is the Affidavit of Posting by Irene Saccende indicating that she posted the notice of violation and the Order and Notice of the Town Board on 24 May, 2001. Next two items are the reports of the Hudson Valley Abstract Company indicating the record owners of the property which I have referred to; one being owned by Barry Goldberg and the other property being owned by Barry Goldberg and Linda Goldberg. The next item is the actual Order and Notice of the Town Board which was served on the Goldbergs and the receipt for the postal service as well as the return receipt from the post office indicating same was received by them. It should also be noted that this Order and Notice was filed in the Rockland County Court's office on June 11, 2001. Next items are the minutes of May 9, 2000 of the public hearing held with respect to Mr. Goldberg's application for a special permit. Then the York Analytical Laboratories incorporated technical report of May 4, 2000, a memo to Steve Parisio from Environmental Officer Jay Kaufman of the NYS Department of Environmental Conservation dated November 1, 2000. We have already referred to the Dorfman, Lynch and Knoebel letter and the Jacobowitz and Gubits letter. There is also a report dated February 6, 2001 from the Warren and Panzer Engineers Company which reviewed the analytical report of York and made certain recommendations and indicated certain conclusions with respect to the types of material that were present in the fill that was placed on the property. I also have correspondence from my office to Mr. Cornell and copies to Barry Goldberg dated March 28, 2001 in which the Town Board's order denying the special permit and ordering a remediation plan to be prepared was forwarded to Mr. Goldberg on March 28, 2001 and a green card indicating that it was received on March 30 and lastly the recommendation contained in the memo of March 22, 2001 from the director of the Department of Environmental Control of the Town of Clarkstown which indicates the need for the remediation of this property. At this point I'd like to have Irene Saccende of the Building Department briefly address the Town Board.

Mr. Costa swore in Irene Saccende.

Irene Saccende identified herself as the Code Enforcement Officer for the Town of Clarkstown.

Mr. Costa: Ms. Saccende, did you have any role to play in posting this property notifying Mr. Goldberg of violation that is before the Town Board tonight.

Ms. Saccende: Yes, I personally went to the property and posted it on a stake on his front lawn.

Mr. Costa: Are you aware also that your department issued this notice of violation directing the clean up of the property.

Ms. Saccende: Yes.

Mr. Costa: When was that done?

Ms. Saccende: The original one or the second one?

Mr. Costa: Original.

Ms. Saccende: The original one was the 18th day of May, 1999.

Mr. Costa: How was that notice delivered?

Ms. Saccende: It was delivered by certified mail and regular mail.

Mr. Costa: Have you had any conversations with Mr. Goldberg or Mrs. Goldberg regarding this matter.

Ms. Saccende: I had a conversation with Mr. Goldberg on the telephone last week.

Mr. Costa: Last week?

Ms. Saccende: Yes.

Mr. Costa: Did you discuss in any way the substance of the issue before the Town Board dealing with the material on this property.

Ms. Saccende: At that time, Mr. Goldberg indicated to me he wasn't sure what exactly the whole process was, what it was that was the area concerned and what material on the area itself and I told him that I was filling in and taking over for Mr. Burton, this had originally been his case, and that I was filling in and taking over and following the procedure of reissuing a new complaint so that we could follow through with the Town Board hearing and I said I would go over the complete file so that I could answer him factually rather than assuming and giving him something, perhaps, that isn't right.

Mr. Costa: Did Mr. Goldberg indicate that he would be attending tonight's public hearing?

Ms. Saccende: No he made no indication of the public hearing.

Mr. Costa: Thank you very much.

Mr. Costa called Ron Haelen from the DEC and swore him in.

Mr. Costa: What is your position?

Mr. Haelen: I am the Environmental Resource Specialist for the Department of Environmental Control for the Town of Clarkstown.

Mr. Costa: Do you have direct personal knowledge regarding the matter under inquiry here tonight.

Mr. Haelen: Yes, I do.

Mr. Costa: How long have you been working on this particular problem.

Mr. Haelen: Since the first time we got the phone call which was on May 18, 1999. That's when I made the first site visit out there.

Mr. Costa: And your first site visit was made as a result of a complaint received in your department?

Mr. Haelen: That's correct.

Mr. Costa: When you made your first site visit in May of 1999, did you make observations of the conditions at the site?

Mr. Haelen: Yes, at the time there was a truck dumping material and there was four large trucks backed up on Massachusetts Avenue waiting to go into the site.

Mr. Costa: What type of material was being deposited.

Mr. Haelen: It looked like C & D material, construction, mainly bricks, wood, ground up material.

Mr. Costa: For the purpose of people who are not familiar with the term C & D, what is C & D.

Mr. Haelen: C & D essentially is construction debris which would come from demolishing some type of structure or house.

Mr. Costa: There after did you have conversations with Mr. or Mrs. Goldberg?

Mr. Haelen: Yes, I had conversations with Mrs. Goldberg on that day, May 18 and Mr. Goldberg via telephone.

Mr. Costa: Can you characterize for the Town Board's information the frequency or the number of opportunities that you had to talk to either the Goldbergs since that time to today.

Mr. Haelen: In the beginning when it first happened I was on quite a few phone calls with Mr. Goldberg especially not too much with Mrs. Goldberg just trying to resolve this situation and trying to stabilize the soil, that was my main concern because it was such a drastic slope and my concern was having any of the material going on to Route 9W from erosion from heavy storms or any washout from that.

Mr. Costa: As a result of those conversations, did you learn anything about the source of the materials that were placed on the property?

Mr. Haelen: Yes, I learned about the source from Day 1, actually Mr. Goldberg told me.

Mr. Costa: What was the information that you learned?

Mr. Haelen: He said that the materials were being trucked by LaMonica Trucking and it was coming from the Bronx and essentially, what they did was they took a building, ground it up, put it in the trucks and took it to a site and disposed of it on this site.

Mr. Costa: Are you familiar with the NYS Department of Environmental Conservation regulations with respect to defining what is C & D waste.

Mr. Haelen: Yes.

Mr. Costa: And was the waste that you observed defined under those regulations as C & D waste?

Mr. Haelen: Yes, it is.

Mr. Costa: I realized this was a long time ago and we are not going to go through each and every conversation that you had but did there come a time when you learned about what the chemical contents of some of this was.

Mr. Haelen: Yes, that came about from having conversation with Mr. Goldberg and asking him to certify that the material that he placed there was clean fill and how he was going to stabilize soil and we went back and forth quite a few times and he finally was able to get a consultant engineer and was able to get the soil tested.

Mr. Costa: Do you know that name of the consultant engineers that were hired?

Mr. Haelen: Northeast Environmental, Nick Barnaba.

Mr. Costa: Mr. Goldberg himself hired Northeast Environmental and the company that I referred to in my statement York Engineering was also involved. How were they involved?

Mr. Haelen: Nick Barnaba from Northeast Environmental, he took the material and sent it to the laboratory, York is actually the laboratory and does the actual testing so it is kind of a two fold operation. The engineering firm took the samples and they sent it to the lab and the lab did the analysis.

Mr. Costa: Did there come a time when you were informed as to the results of the analysis?

Mr. Haelen: After quite a few requests, it was finally sent to our office.

Mr. Costa: When did that happen.

Mr. Haelen: It seems like it was almost a year later, I think it was in July 2000, I'm not sure of the date.

Mr. Costa: I would like you to refer to an interoffice memorandum dated March 21, 2001 from you to your boss, the director of environmental control which contains some dates. Would you look at that and see if that refreshes your recollection as to when you received the information?

Mr. Haelen: OK, yes, it was 7/31 the year 2000.

Mr. Costa: So that is when you learned the result of the analysis of the samples taken from the site.

Mr. Haelen: Yes that is when I actually saw the analysis. I knew they were taken but as far as actually getting a copy of that, that was the first time I received a copy.

Mr. Costa: Is that the report I referred to as the May 4, 2000 report by York?

Mr. Haelen: Yes.

Mr. Costa: So it is dated May 4 but you didn't see it until July. Can you characterize or summarize the contents of that report for the Board members please.

Mr. Haelen summarized the report for the Board.

Mr. Costa: Does the report conclude that the materials contained compounds which were in excess of those permitted to be disposed of in the manner in which the materials were placed on the Goldberg property.

Mr. Haelen: Yes, that came from the NYS Department of Environmental Conservation, they indicated which ones were above the normal parameters.

Mr. Costa: Are you familiar with the NYS Department of Environmental Conservation regulations regarding this.

Mr. Haelen: I am not familiar with the exact amount of chemical makeup of it. I know they have regulations but as far as the parameters, how high and how low things are allowed to be, I'm not.

Mr. Costa: Are you familiar with the recommendations and conclusions that they drew from the information that they gathered.

Mr. Haelen: Yes.

Mr. Costa: What were those recommendations?

Mr. Haelen: The recommendations were that the material be removed from the site.

Mr. Costa: Now has your department made any recommendation to the Town Board?

Mr. Haelen: Yes, our recommendation is to have the material removed from the site and to have the ground that is underneath tested and make sure any chemicals that were in the C & D disposal did not leach down into the existing ground.

Mr. Costa: If one is to remove these materials from the site, what would be required to do it in a safe and reasonable manner?

Mr. Haelen: You would have to hire a trucking firm that is certified to handle C & D or, in this case, potentially hazardous material and have it logged where the material is going to and certification that it went to this site and the site would have to be one that would only take C & D material of this magnitude and this nature.

Mr. Costa: Does it require the preparation of a plan for the remediation of the property that would be submitted to the review and approval of the Town's DEC as well as the NYS DEC?

Mr. Haelen: Yes, not only a plan but some type of specifications that would have to go with it, the size of the equipment, what type of truck was used, what type of excavators are going to be used, the personnel that would be on the site, the truck route. All these things would have to be taken into consideration and the biggest part is the methodology of removing the material because it is so steep that you don't want anyone getting hurt on the site.

Mr. Costa: I believe you indicated, in material sent to the Town Board, that you had concerns regarding the stability of the slope, could you elaborate on that.

Mr. Haelen: Yes, there have been incidents where some of the material has been falling down the slope and right now there is a ditch right before 9W so a lot of it is collecting there but I was just out at the site today on another complaint and I noticed that there were quite a few rodent holes in it which makes it even more of a major situation because the rodents tend to burrow and make a big mess in there and, if you do get rain, any material above it may collapse into it and cause another slide.

Mr. Costa: Do you have any way of estimating the amount of the materials that were deposited on the site?

Mr. Haelen: Going by some of the existing plans and a plan that was provided by Mr. Goldberg showing the topo as it is now I would guesstimate that it is probably about 3,000 yards of C & D material.

Mr. Costa: There has been reports to the effect that some of this material has migrated onto adjacent property. Are you familiar with that issue.

Mr. Haelen: That was my concern from day one. I mentioned to Mr. Goldberg that it appears that some of the material from the initial disposal of it onto his site, it appeared that some of it was disposed on other sites.

Mr. Costa: Are you familiar with the names of the owners of the properties that have this material on it.

Mr. Haelen: I know that one is Mr. Rocco, one is the Palisades Park Commission and I'm not sure who the other one is. I informed the Palisades Park Commission and they made a site investigation and they were under the understanding that it is on their property.

Mr. Costa: Would it be fair to say that it's properties to the north, south and east of the Goldberg property that are affected by the materials?

Mr. Haelen: That's correct.

Mr. Costa: What exactly is your professional expertise?

Mr. Haelen: I am a registered landscape architect working with the Town of Clarkstown. I have experience with the Rockland County Soil and Water Conservation, I have 15 years experience working with various civil engineers.

Mr. Costa: So, in the exercise of your professional discipline, are you in a position to offer an opinion with respect to the hazard, if any, that is presented by the slope or the lack of stability in the slope that you have talked about.

Mr. Haelen: Yes, I believe I am.

Mr. Costa: And what is your opinion?

Mr. Haelen: I believe that the slope is very unstable at this point. My last observation when I was up on Mr. Goldberg's property, there is a separation of the material from the top it is probably about 2 or 3 inches wide where it seems like it started to move away from or migrated away from the rest of the material and I still am very concerned about the stability of that material and the nature of it being bricks and blocks from just some obvious photographs that these contain a lot of voids, it is not all filled in, when blocks lay on top of each other it creates voids and, as it rains, the voids tend to fill in and it causes sinkholes all over the place and, being that bricks and concrete are more of a smooth surface, it has more of a tendency to slide.

Mr. Costa: Do you believe that the materials may actually slide off the embankment and affect the properties to the north, south as well as the east.

Mr. Haelen: Yes.

Mr. Costa: Is there any danger that the materials might actually reach any adjacent roadway?

Mr. Haelen: Yes, the biggest concern is Route 9W.

Mr. Costa: And this property is in what proximity to 9W? How far is it?

Mr. Haelen: I would say the bottom of the slope, it is probably about 20 feet from Route 9W.

Mr. Costa: The materials? Those materials are encroaching on PIP property.

Mr. Haelen: Yes, it is encroaching on PIP and possibly on to Route 9W property, too.

Mr. Costa: Have you had any conversations with Mr. Goldberg or any of his representatives regarding this matter?

Mr. Haelen: Yes, not recently but in the past.

Mr. Costa: Have you had conversations with Mr. Goldberg?

Mr. Haelen: Yes, I have.

Mr. Costa: And did you discuss these issues that you have been talking about here today?

Mr. Haelen: Yes, I have made some recommendations on the site to temporary stability.

Mr. Costa: Has Mr. Goldberg discussed with you the sources of materials. You already testified that he told you on the day you visited where they came from but has he had further discussions with you over the past months?

Mr. Haelen: No, he has not.

Mr. Costa: Has Mr. Goldberg indicated that he would cooperate with the Town.

Mr. Haelen: Yes, he has always indicated that he would cooperate with me personally and the Town. He is willing to do whatever asked.

Mr. Costa: Has he actually said to you that he was willing to do whatever the Town wanted.

Mr. Haelen: Yes.

Mr. Costa: Has Mr. Goldberg followed up with those words with any action?

Mr. Haelen: On certain occasions, yes. When I asked him to stabilize the slope with cutting a ditch on only the top to keep the water from running over the top and feeding the slope until we were able to determine how we were going to remove the material, yes, he did do that. But as far as removing all the material, no, he has not done that.

Mr. Costa: Did you ask Mr. Goldberg or did anyone in your office ask Mr. Goldberg to prepare a plan for the remediation of this site.

Mr. Haelen: Yes, the director had asked and I believe I conveyed the message to him myself.

Mr. Costa: Did Mr. Goldberg prepare such a plan?

Mr. Haelen: No, not to my knowledge. He hasn't presented it to us anyway. He may have prepared it, but we haven't seen it.

Mr. Costa: Aside from the risk of landslide in the movement of the material, is there any risk in the health, safety and welfare of people who reside in that neighborhood as a result of the type of materials which are on the site.

Mr. Haelen: Yes, and that comes from the levels of the chemical analysis or the high mercury indicators. That is where there is a potential hazard for the people living around the area.

Mr. Costa: Are you in a position to elaborate on this in any way.

Mr. Haelen: Not really. My knowledge of mercury is not enough.

Mr. Costa: Do you believe that this chemical poses a health risk.?

Mr. Haelen: Yes, from what I have read.

Mr. Costa: Is it acknowledged that that type of chemical does pose a health risk to people who may encounter it?

Mr. Haelen: Yes. Mercury is the one of the top contenders for being hazardous material.

Mr. Costa: Do you have any recommendation to the Town Board regarding this proceeding under Chapter 216?

Mr. Haelen: My recommendation was to have the material removed from the site and brought to a proper landfill.

Mr. Costa: Thank you, Mr. Haelen.

Mr. Costa: Board Members....any questions?

Mr. Haelen: Today at about 4:15 P.M. I received a call from the Clarkstown Police Department and they are saying that there is someone trying to remove the material from the Goldberg property. I went out there and spoke to Officer Flannigan. He said there was someone trying to remove it. They did take some of the material off the site and brought it over to 200 Brewery Drive. This is disturbing to me because the last thing the Town wants to see is....it is bad enough that there is one site like this but we don't want to see 100 sites like this. The material that he brought off is some concrete steps and bricks. I don't know if there was any problems with it as far as being chemically "hot" but we really don't want to see all of these sites potentially going all over town, if he starts removing it without any type of direction or supervision from either our office or an engineering office.

Mr. Costa: What would it take to have a proper remediation plan prepared and approved by the State DEC? Can you answer that question?

Mr. Haelen: No, I am not certain what the State would be looking for.

Mr. Costa: Who would be normally involved in the preparation of such a remediation plan?

Mr. Haelen: You would probably have to get an environmental engineering outfit who has better knowledge of handling such material.

Mr. Costa: Do you know the firm that Mr. Goldberg had employed to dig the test pits and ultimately obtain the chemical analysis of the waste. Are they qualified to do that type of work?

Mr. Haelen: I believe they are, yes.

Mr. Costa: I have no further questions. I think it is important to open this public hearing up to comments from members of the public who may have interest in this matter.

Supervisor asked if there was anyone from the public who wished to comment on this.

Mr. Costa: If they want to present evidence he will need to be sworn in. Mr. Levine, before you proceed, do you intend to offer evidence to the Town Board of observations or information?

Mr. Levine is sworn in.

My name is Stephen Levine. I reside at 193 Massachusetts Avenue. Good evening Mr. Supervisor, members of the Board, members of the public. In terms of evidence I can only say what I observed going on on Massachusetts Avenue which was numerous 40 cubic large containers, large trucks of material going in day and night. What they call dump and roll. Basically taking the tail gate of the truck, backing it up to the slope, dumping the material, dumping the material, dumping the material.

Mr. Costa: Can you tell us when your observations were made, Mr. Levine.

Mr. Levine: I would say approximately the same time that the Town got the first complaint. It was continued after the Town got the complaint. There were several times I passed by the site. I saw NYS DEC officers in front of the site, still trucks at the location. I did observe the applicant, Mr. Goldberg in conversation with the DEC officer, obviously.

Mr. Costa: Did you recognize Mr. Goldberg, personally? You can recognize him.

Mr. Levine: Well, now I do. At that time, yes. I knew him by face. I knew the location. I believe it was after the first public hearing we had there was still activity going on on that site. Although I am not exactly clear about that. But I do know who the individual is.

Mr. Costa: Just to clear the record, the first complaint came in May of 1999. The actual public hearing held on Mr. Goldberg's application for a special permit did not begin until May 2000.

Mr. Levine: Then it must have been between May 1999 and 2000. I am not exactly sure of the exact sequence of the dates.

Mr. Costa: Don't guess at anything.

Mr. Levine: I don't want to guess it for the record. I did not write it on my calendar. I did see these trucks going and I do know that it was an individual who I later learned to be Mr. Goldberg, the owner of the property, engaged in conversation with NY State DEC who were in uniform and in patrol cars on two occasions. I know that I made complaints to the Town in regards to these numerous trucks rumbling up and down the street. Several times there must have been twenty or thirty of these tractor trailers lining end to end on Massachusetts Avenue. I live approximately ¼ of a mile away. There were trucks almost into my driveway, all waiting to go onto this site. I personally observed that.

Mr. Costa: Anything else you want to invite to the Town Board.

Mr. Levine: Only that, one, I would like to commend this Board for the action they are taking. I would like commend the Supervisor for spearheading and getting all the agencies involved. I believe the Town Board recognizes the seriousness of this problem. The health hazard to this community. In the first public hearing, we had a petition signed by over 50 or 60 immediate neighbors and I would like to say we must continue to take action. The applicant, despite his rhetoric, is not taking any action. He does not seem to be wanting to cooperate despite his comments. The Town Board needs to continue to take this very seriously and, aside from removing the material, we need property testing, we need to test the ground water, we are close to Rockland Lake and the aquifers, we need to continue monitoring and see how extensive this problem is. As Mr. Haelen has testified the landslide and the debris coming down 9W is one issue, the other issue is that the longer the toxic material continues to permeate and spread, the worse the situation gets. We need to continually monitor and have extensive testing in addition to complete removal of the site.

Supervisor asked is there was anyone else wishing to speak.

John Costa invited Mr. Rory Clark, representing Mr. Goldberg, to speak.

Appearance: Rory Clark, Esq.

My name is Rory Clark, I am an attorney with Dorfman, Lynch and Knoebel, we represent Mr. Goldberg in 3 separate criminal actions pending against him regarding factual allegations which are exactly the same as those which have been presented tonight. All of those actions are still pending. The Town is prosecuting one of those actions, the DA's office is prosecuting one of those actions, and the DEC is prosecuting another action. Each of those actions includes several charges. The action pending by the Town is for violations of the exact same code provisions that you are being asked to consider tonight. There has not been a resolution to any of those actions. None of those allegations have been proven. It is easy for anyone to allege anything that they want. All of the evidence that you have heard tonight has been based upon hearsay, except for Mr. Haelen who testified that he has actually seen the property. He mentioned that he saw the property today and that there was somebody hired by Mr. Goldberg to remove materials from the property. He testified that Mr. Goldberg has in fact cooperated with the Town and has tried to do the right thing but when he tried to remove the property

today, they were stopped from doing that, yet this Board is considering taking over and doing that for Mr. Goldberg.

Mr. Costa asked if he was saying that his client has prepared and obtained approval for a plan to remediate this property?

Mr. Clark responded that he was not saying anything like that, just trying to tell you what has happened so far. It is interesting that you bring that point up in that the Town has ordered Mr. Goldberg to do a plan of remediation even though he has not been convicted of anything and the charges are still pending in the Justice Court. Yet this Town in its Order and Notice doesn't say that the Town is going to do a remediation plan, it says in paragraph C that the Town is just going to remove it and then bill him for that. I think that this Board should be concerned with the constitutional rights, the property rights of Mr. Goldberg, the due process rights of Mr. Goldberg. You are on notice that there are actions pending, due process is trying to run its course and I think that this Board should consider that and allow that to go ahead before it attempts to do an end run around that due process and unilaterally deprive Mr. Goldberg of his property rights.

Mr. Costa asked, if the Town Board hires the appropriate professionals to prepare and obtain permission from the NYS DEC to remediate the site, I am assuming by what you just said that you client would not object to that because the Town Board would be following all the required procedures before it embarks on any course which would lead to the removal of the material from the site.

Mr. Clark responded that he apologized if you find any ambiguity in what I am saying, please don't make any assumptions about what I am saying and please don't try to usurp my client's 5th Amendment rights of self incrimination while this criminal action is pending and ask me to make admissions on behalf of my client. All the evidence regarding statements of what Mr. Goldberg may have told Mr. Haelen or Mr. Costa, although it's presented to this Board informally, the rules of evidence don't apply here, but if we were in a criminal court there are serious constitutional implications involved in your actions here and Mr. Goldberg has very serious constitutional rights which will be filed in that criminal trial especially with regard to the hearsay and unsubstantiated allegations that we have heard tonight, that February 6, 2001, Warren & Panzer's report states that they didn't test anything on the property. I'd ask each one of you before you make any decision on passing a resolution or taking any action in this matter that each of you look at that report for yourselves, that report admits that they didn't test anything on that property. It lists the documents that they are relying on and they are relying on things like letters from neighbors and other unscientific, undocumented "evidence". It has been implied tonight that NYS DEC requirements of performance levels of substance and materials on property have been violated and that is not true. Nobody, not Mr. Haelen, not Mr. Costa has told you which DEC or any other environmental administrative law enforcement agency performance standards have been violated and the reason for that is that none have been violated. The word mercury was thrown around to inflame your passions and prejudices. Spoke of photo essay he once saw illustrating the dangers of mercury. Stated there is no danger of mercury contamination on that property. I ask you to look at the York consulting report, the Northeast Engineers report as well as the Warren & Panzer report.

Mr. Costa asked when Mr. Clark's firm began representing Mr. Goldberg because Mr. Goldberg appeared before this Board in May of 2000 and he made statements and answered questions of this Board specifically directed to the issues that are before this Board. Although it was in the context of an application to get a special permit, he did discuss the facts that are in controversy here and he didn't claim any 5th Amendment privilege at the time and in fact answered the Board's questions forthrightly with respect to the source of the materials and how they got there. I think that may have waived any 5th Amendment privilege that he might wish to assert at this time with respect to those very same facts which he has already discussed publicly.

Mr. Clark disagreed. Mr. Goldberg spoke to this Board in May of 2000 and attempted to cooperate all along until he started getting prosecuted in the criminal court, until he is threatened with prison time, until he is threatened with six figures of fines and penalties,

until he is threatened that someone is going to come in and arrest him. Mr. Haelen stated that he was over at the property today. I got a call today that Mrs. Goldberg is going to be arrested and there were six police officers on her property. When I got over there everyone is standing around with their hands in their pockets because there is nothing dangerous on the property. It is a steep slope but so is all that property for about a mile along 9W and then as you go further south, it is all a steep slope. We can drive over Clarkstown and find steep slopes and risks of erosion. In fact it has been admitted tonight that these same materials exist on the adjacent property, the Rocco property at 137 Massachusetts Avenue. Why are we bringing a notice and order against the Roccas and the property to the south, why are we not bringing it against them. It exists on the Palisades Interstate property, why are we not bringing a notice against them. Why just against the Goldbergs? Because they are not members of the Congers Civic Association, because they are not political lobbyists to this Board?

Mr. Costa stated that Mr. Goldberg was the one responsible for placing it on the property.

Mr. Clark stated that Mr. Goldberg never placed anything on that property and the DA isn't even prosecuting him for placing anything on the property, neither is the Town or the DEC. So to say that he placed anything on that property is a falsity.

Mr. Costa stated Mr. Goldberg stated that he did that to this Town Board when he was here in May of 2000.

Mr. Clark stated that there are criminal matters pending and that the Board should consider the constitutional rights of Mr. Goldberg and the implications that are involved by doing an end run around those due process proceedings that are pending. Thank you.

Mr. Costa swore in Ralph Rodriguez, of Warren & Panzer.

Mr. Costa: Do you have knowledge regarding the fill placed on Mr. Goldberg's property.

Mr. Rodriguez: Yes, I do.

Mr. Costa: Can you tell us where that knowledge comes from and what you know.

Mr. Rodriguez:: We were retained by Mr. Pat Rocco in January of 2001. He had a concern about fill that was encroaching onto his property. He wanted us to perform a site investigation and to look into the matter further. I performed a site visit in January 2000. This was a site visit and document review. We did visual observations of the site and did document review which is based on previous site assessments by prior environmental firms. We concluded that based on soil results from York Laboratories that levels of mercury and semi-volatile compounds were above the NYS DEC criteria and he based it upon the TAGUM NYS DEC guidelines. TAGUM is a technical and administrative guidance memorandum supplied by the NYS Environmental Conservation. It is the basic procedure to determine salt clean up levels throughout New York State sites. When we compared the results that York Laboratories had, we found that certain levels of metal were above the NYS DEC criteria and certain levels of semi-volatile organic compounds were above the NYS DEC criteria. He went on to explain what compounds were above the criteria. The NYS DEC usually likes, if soil is above the criteria, that groundwater be tested, in addition, if any of that contamination has infiltrated into the ground.

Mr. Costa: Do you have sufficient knowledge to describe to the Town Board what would be necessary to prepare for the remediation of the site?

Mr. Rodriguez: I have some knowledge, I can give you what I know. The levels of soil would have to be brought below the NYS DEC guidelines in such a manner that human health, air pollution and everything else is held below levels. In addition, groundwater would have to be monitored since soil was above.

Mr. Costa: Would your firm be qualified to prepare such a report?

Mr. Rodriguez: We could prepare design specs, yes, for the remediation.

Mr. Costa: You referred to the use of another report containing the analysis of the materials that were sampled at the site. You were not present when those materials were taken for sampling?

Mr. Rodriguez: No.

Mr. Costa: Do you have any knowledge regarding the methodology that was used to take those samples.

Mr. Rodriguez: We know that there were 6 test pits taken. From those test pits composite samples were retrieved and submitted to an appropriate lab.

Mr. Costa: If your firm were engaged to accomplish that type of testing, would your methodology be similar to that which was reported to have been used?

Mr. Rodriguez: Yes.

Mr. Costa: I have no further questions.

Appearance: Scott Turner
Congers Civic Association

(Town Attorney swore him in). I have been to Mr. Rocco's house twice and the reason he has this material on the property is because its overflowing from the Goldberg property. I encourage you to remember you are setting a precedent in your decision here.

Town Attorney recommended that the matter be continued over to the next Town Board Meeting, so that this public hearing can be continued. Mr. Kalariekal has indicated that there maybe some additional evidence that would be produced for the Town Board.

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

Respectfully submitted,



Patricia Sheridan
Town Clerk

(VERBATIM TRANSCRIPT ON FILE)

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

6/12/2001

10:12 P.M.

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

RE: Proposed Local Law Entitled "Historic Road Preservation", Continued

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted the Public Hearing was declared open.

John Costa, Town Attorney, stated that certain revisions of the Local Law are being drafted. He recommended that this matter be continued over to the next meeting. Supervisor said that the next meeting is rather full and would continue this to the July 24th meeting.

Appearance: Joe Schleimer
New City

This is a quality of life issue in Clarkstown. This is not something that would ever harm anyone. We have to make sure that the Road Department can do the things that can provide public safety on any road. We do not want to hurt the legitimate property rights of people. This is a simple law. It's only purpose is to make it better for the people who live in this Town. We are losing a lot of the things that many of us moved to Rockland for.

Appearance: Lila Yastion
So. Mountain Rd, New City

She is a recent resident here. The reason they bought their house was because of that beautiful road. It has almost become a through fare.

Appearance: John Lodico
New City

The idea of having a road with no repair or taking over the jurisdiction of the Highway Department to maintain a properly constructed roads with length, depth, drainage, sidewalks, curbs and whatever is necessary to create the historic road with no horses, no wagons, no milk barns is ridiculous. Put the post there for historic building and let the road repairs and the jurisdiction remain with the Highway Department.

Appearance: Scott Nagel
Strawtown Rd., New City

Strawtown Road is one of the roads that is under consideration as a historic road. He is in favor of this Local Law. He lives in one of the older houses that was built in the 1850's. The older houses are real treasures. Lately, they have been the subject of a wonderful kind of development. Fixing up older homes is a very positive form of development that helps everyone in the community. It is the ultimate form of recycling. When you widen a road, you threaten these older homes which were traditionally built close to the roads. After a certain point, the older more historical homes that give Rockland such character are threatened. They become less desirable. They become less financially feasible to invest in them. Ultimately, they get removed and replaced with something newer.

RE: Proposed Local Law Entitled "Historic Road Preservation", Continued

Page 2

6/12/01

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 and to be continued, time: 10:24 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
TOWN BOARD MEETING RECONVENED

Town Hall

6/12/2001

11:25 P.M.

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

The following is a memo that was received on June 22, 2001

At the Town Board meeting of June 12, 2001, the Town Board recessed the meeting to go into Executive Session.

The Town Board reconvened the meeting at 11:25 P.M., and Councilman Mandia offered a resolution dealing with the Clarkstown golf course property and Councilwoman Smith seconded the resolution, which is attached for filing in your office.

Since you were not present when the Town Board reconvened, the Supervisor requested me to call the roll, and the vote on the resolution was as follows:

Councilwoman Lasker No
Councilwoman Smith Yes
Supervisor Holbrook No
Councilman Maloney Yes
Councilman Mandia Yes

RESOLUTION NO. (513-2001)

Co. Mandia offered and Co. Smith seconded

RESOLVED, that the Town Attorney is hereby authorized to prepare a contract, in consultation with Town Board members, to provide for sale of the Town of Clarkstown Ramapo property to MGD Holdings CT, LLC, for \$6.1 Million, all cash, and be it

FURTHER RESOLVED, that any contract formal offer is subject to further resolution of the Town Board to authorize the Supervisor sign same on behalf of the Town of Clarkstown.

Motion to adjourn – Lasker/Maloney – all voted aye.

Respectfully submitted,


JOHN A. COSTA,
Town Attorney