

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

02/26/03

8:05 PM

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

Re: Continuation - Chapter 111 (Unsafe Building) Proceeding: - Zeqir Qosaj, 87 Hess Road, Valley Cottage, Lot 59.8-1 (fka 123-A-13)

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the Public Hearing was declared open at 8:05 PM.

Supervisor Holbrook stated that based on the Fire Inspector's report, the property is clear. Supervisor read the resolution for consideration before the Board. There is a lien on the property in the amount of \$1,195.51 which is for the cost of all the proceedings.

There being no further business before the Board and no one further wishing to be heard, on motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the Public Hearing was declared closed with no further action. Time: 8:06 PM

Respectfully Submitted,



Patricia Sheridan
Town Clerk

RESOLUTION NO. 143-2003 ADOPTED

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

02/26/03

8:06 PM

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

Re: Continuation – Petition of O’Sullivan Tree Care, Inc. for a Special Permit for a Recycling Facility at 210 Western Highway, West Nyack

On motion of Co. Lasker, seconded by Co. Maloney and unanimously adopted, the Public Hearing was declared open at 8:06 PM.

Supervisor Holbrook asked the representatives of O’Sullivan’s Tree Care who were present if they had any comments. They replied there were no further comments.

Town Attorney John Costa said that the record was left open because the petitioner was to submit information concerning the dyes used in the processing. Since the petitioner did not submit the information, Mr. Costa proposed closing the record with exception.

Supervisor asked the Town Attorney to develop Findings of Fact for the next meeting.

There being no further business before the Board and no one further wishing to be heard, on motion of Co. Lasker, seconded by Co. Maloney and unanimously adopted the Public Hearing was closed with exception, waiting for MSDS sheets.. Time: 8:07 PM

Respectfully Submitted,



Patricia Sheridan
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

02/26/03

8:08 PM

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

Re: Proposed Local Law: Amendment to Chapter 263 (Taxicabs) of the Clarkstown
Town Code

On motion of Co. Maloney, seconded by Co. Smith and unanimously adopted, the Public Hearing was declared open at 8:08 PM. The Notice of Public Hearing was read by the Town Clerk.

Supervisor Holbrook asked Town Attorney John Costa to explain the Local Law. Mr. Costa said this Local Law was amended to correct an omission that failed to require the applicants pay for their finger print checks. He said that anyone driving a cab should not have a background that is inconsistent with that responsibility.

Supervisor opened the meeting for comment.

Appearance: James Comer
President
Forest Brook Homeowners Association

He said that a cab company in Spring Valley has so many violations that its drivers are forbidden to drive in Spring Valley, but allowed to drive elsewhere.

Supervisor answered that Clarkstown is trying to regulate by finger print checks so that the Town knows who is driving the cabs and ensure public safety.

There being no further business before the Board and no one further wishing to be heard, on motion of Co. Maloney, seconded by Co. Lasker, the Public Hearing closed. Time 8:11 PM

Respectfully Submitted,



Patricia Sheridan
Town Clerk

RESOLUTION NO. 145-2003 ADOPTED

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

02/26/03

8:11 PM

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

Re: PH: Proposed Acquisition of Conservation Easement

On motion of Co. Lasker, seconded by Co. Mandia and unanimously adopted, the Public Hearing was declared open at 8:11 PM. The Town Clerk read the Notice of Public Hearing.

Supervisor read the following letters:

I applaud your recent efforts to protect open space in Clarkstown, and encourage you to support a conservation easement to protect and preserve the acreage that is part of the Hackensack River Basin and comprises nearly all of the property owned by United Water at Lake DeForest.

As you are aware, the serious drought emergency and subsequent restrictions this past year, have alerted us to the critical water situation we face in Rockland. As chair of the County's Environmental committee, I have been holding informational hearings to respond to this crucial issue that has environmental, health and economic consequences impacting Rockland residents. At our first meeting, the County Health Department presented an overview of Rockland County's water supply indicating that essentially all water used in Rockland derives from precipitation. We must do everything possible to preserve and protect our water supply, as our ground water supply is limited and not renewable!

I urge you to support a solution which would guarantee long term protection of this vital watershed.

Thank you for your consideration of this matter.

Submitted by,
Ellen Jaffee
Legislator, District 12

Having lived for 40 years in Valley Cottage on Waters Edge overlooking Lake DeForest, and being unable to attend tonight's Town Board meeting, I would like to very briefly share with you and the Board my view on the matter of United Water's property around the Lake:

A conservation easement would be the best way to prevent further development and ensure permanent preservation of this property.

Please read the above into the record of tonight's meeting.

Submitted by,
Peggy Nadell
Valley Cottage Civic Association, Secretary
Keep Rockland Beautiful, Board Member

With respect to the pending application on the above whereby the Town of Clarkstown would acquire a conservation easement from United Water Company for approximately 458 acres of land, I am writing to voice my support of this acquisition.

I am a lifelong resident of the Town of Clarkstown and enjoyed many days of fishing in Lake Deforest and canoeing on the Hackensack River with my father, Dave Hobbs. This acquisition would preserve that opportunity for others as opposed to allowing these lands to be developed to the detriment of the community.

Thank you for your consideration.

Submitted by,
Kevin Hobbs
Attorney at Law

I am sorry that I am not able to join you this evening due to a previously scheduled appointment, but as you know, I've been actively involved with the Open Space issues in Clarkstown, both as a private individual and a representative of the Mountainview Condominiums in Valley Cottage. I am writing to let you know my views on two issues on which you will decide tonight.

Water is one of our most precious resources, and it's especially important in a highly built-up area, such as Clarkstown, that we do everything possible to protect both the quality and quantity of our water.

A proposed agreement between the Town and United Water providing for a conservation easement on 458 acres surrounding Lake Deforest would prevent any further industrial or residential development from encroaching on our water supply.

I believe that the Town Board should support and approve this measure for two very important reasons. The first and clearly most important reason is that by protecting the land around the lake, we can help to minimize lawn chemicals, pesticides, road salts and other substances that runoff into the lake and pollute our drinking water. Additional water filtration to remove pollutants can be very expensive and is not always completely effective, so we should try to prevent pollution from entering the lake in the first place.

The other reason I urge you to approve this measure is that the land surrounding the lake, which includes both wooded areas and one of the few remaining orchards in Clarkstown, is that you will help protect open space and the quality of life enjoyed by our residents.

New York City has recently been spending many millions of dollars to acquire land in the Catskills and elsewhere in an effort to protect their watershed. Clarkstown has the opportunity to acquire the conservation easement from United Water at no direct cost, and while there will be a reduction in future property taxes collected from the company, the benefits to the community of this acquisition far outweigh any small loss of tax revenue.

The other issue on the agenda this evening that I ask you to support is an appraisal of the property at 18 Old Stone Road in Valley Cottage. This property, which is now on the market, is adjacent to the recently acquired 35 acres on West Hook Mountain and would provide for a contiguously protected area, as I think should be the goal of the Town.

I would like to take this opportunity to point out that a meeting in Supervisor Holbrook's office yesterday, the New York - New Jersey Trail Conference enthusiastically committed to moving the Long Path Hiking Trail off of Route 9W and onto West Hook Mountain. This decision takes advantage of land acquired through the Town's Open Space Initiative and makes continued preservation of this area even more important.

Thank you very much.
Marvin Baum
Resident

I discussed the United Water Conservation Easement with the School Board on Thursday night.

While they feel somewhat blinded by the absence of the map of properties, they like the concept.

I can comfortably state that with the addition of a "no tax certiorari" clause in the language – for at least the next three or four years, but ideally much longer – the Board of Education will strongly support the concept.

Thank you for your attention.

Submitted by,
William B. Heebink, Ph.D.
Superintendent of Schools

Supervisor asked Martus Granirer, the Town's special counsel for open space issues, to make his presentation. Mr. Granirer said the Town first considered protecting this land in 1999 when the Comprehensive Plan, and in that, considered the idea of less than fee interest to protect open space. He showed a map and explained the parcels of land to be saved.

Cathy Conklin, Tax Assessor gave some estimates of the tax impact in regard to the proposed conservation easement. She said there are a total of 62 parcels that are part of the three categories of property. She said that based upon the 2003 tax rate for the Town, the properties are all considered non-homestead. If that reduction had been in place for the January bill, United Water would have paid \$44,836.80 less to the Town and \$11,404.51 less to the County of Rockland. If these had been in place last September, with 58 of the parcels located in the Clarkstown School District, they would have paid \$114,562.78 less to the school district. Three of the parcels are located within the Nyack Union Free School District, and that would have resulted in a reduction of \$9,998.07 less to the Nyack School District. For the one parcel located in a sub-division lot in Nanuet Union Free School District, they would have saved \$1,176.60.

Ms. Conklin also addressed the costs of the special districts because 62 different parcels will be in different fire and ambulance districts. She said that it would be a laborious task to estimate. However, she based the estimate on \$4.00 per \$1,000 of assessment for typical combined special districts with a rough savings of approximately \$12,300 to special district taxes.

Co. Mandia asked if the libraries are included in the school districts to which Ms. Conklin replied that it is correct. Co. Mandia also asked if March 1, 2003 is the deadline for the upcoming easement to be reflected in the upcoming assessment roll. Ms. Conklin answered that it is correct.

Mr. Granirer said the Water Company is being very good about the Town's land use planning. He said when the reservoir was first developed, hundreds of acres were acquired as if they were essential to protect the watershed. In time, those acres were sold off and developed, many of them next to the reservoir itself. Mr. Granirer expressed concern that if this proposal before the Board this evening for consideration is not passed, the remaining land could also be sold by the Water Company.

Co. Mandia asked if any specifics for patrol duties have been written since the Water Company would no longer have that responsibility. Mr. Granirer replied that the Water Company will continue to have its own three security people for two states; however, the reservoir being in Clarkstown is a public health and safety responsibility of the Clarkstown Police also. Mr. Granirer also said that since the events of September 11, 2001, the security of the water supply has become more of an issue. He said that the Clarkstown Police would be able to police the area more frequently according to their own judgment.

Supervisor said that in response to the recent heightened alert, the dam was included as part of the security measures. He also spoke about the complaints regarding tree cutting

in the area. With the police being in the area, these complaints can be avoided because the police can stop it immediately.

Co. Lasker said that residents have submitted photographs of people cutting down trees to United Water and were ignored. She said that in this instance, the police can enforce and penalize those who do any clear cutting. She also said that in the 1980's, United Water formed a real estate company and developed a great deal of land in West Nyack and in New Jersey. She said that recently, the Water Company wanted to develop forty-four acres in New Jersey along its reservoir for town homes, however, the outcome is not yet known. She continued to say this agreement would protect the land from development.

Supervisor said this is one way to protect Open Space without purchasing land. Co. Lasker asked Mr. Granirer if this agreement is bound for one (1) year. He replied that it is in order to offer time to resolve any problems and then subsequently, if all goes well, the Town will enter into a thirty-three (33) year agreement.

Co. Mandia asked Mr. Granirer if the zone could be changed to a watershed zone as another alternative to protect the land around the reservoir and to comment on possible other alternatives to accomplish the same end. Mr. Granirer said that the very first consideration was watershed protection zoning, however, less land would be protected at more cost.

Co. Smith said the most important thing is to protect the water supply and that everyone wants no further development. She asked Ms. Conklin if the property is assessed as commercial to which she replied that it is rather than homestead property. Co. Smith also asked if the profit from the property will count when the assessment is done. Ms. Conklin replied that the courts will not allow it.

Supervisor opened the meeting for public comment.

Appearance: Frank Hackett
Valley Cottage Civic Association

He said that in 2000, the residents of Clarkstown voted to save 22 million dollars of Open Space. To date only 3.2 million dollars has been spent for this purpose. He said that now, the Town has the opportunity to safeguard a significant piece of real estate, 458 acres, with multifaceted qualities. He also said that the loss of property taxes of \$200,000 per year is a small price to pay for the preservation of such valuable property.

Appearance: David Burke
Valley Cottage

He is in favor and urges the Board to adopt the Conservation Easement. It is the right thing for the Town.

Appearance: John Lodico
New City

He said he opposes a reduction in the water company's tax liability, saying the Town could zone the property to get the preservation impact it seeks.

Appearance: Donald S. Tracy, Esq.
New City

He said the Town could have enacted a law or zoning measure to protect the land without giving the water company a tax break. He commended Mr. Granirer on a job well done. He suggested looking at other options to achieve the same results.

Appearance: Barbara Zwyenberg
West Nyack

She suggested that a study be done on the police costs for the land and compare them to the police costs for the Palisades Center Mall. She said the costs for the Mall would be higher. She also said that protecting our water supply is a priority.

Appearance: Mike Reilly
Nanuet

In July, 2000, United Water became wholly owned by the largest provider of water, a French company. He said we need to think globally and in view of our world situation, he would like to see this matter tabled until our troops come home safely.

Appearance: Bruce Broadly
West Nyack

He said he would like to see a "no tax certiorari" clause run with the agreement, not for just a few years. He asked Mr. Granirer if the "laying of pipes" for normal course of business statement refers to only water company business. Mr. Granirer said that the water company must be clear as to the work they do on the land and the work must be reviewed by the Building Department.

Co. Smith asked Mr. Granirer if there is a specified area of land where the water company can lay pipes and is there a restriction as to how much can be cut. Mr. Granirer answered that rather than specify an area, practice best management.

Mr. Broadly said that zoning is not the way to go. He is in support of the easement and urges the Board to vote in favor.

Co. Mandia reminded all that this is a one (1) year agreement where the company may pull back a year from now. He said another reason for not re-zoning is that in later years the zoning can be changed again. He also said that one hundred (100) acres of this area is not in the watershed. He said this is non-homestead property, therefore, the money lost in tax revenue will be spread out among the commercial tax base, not residential tax base. He said a zone change is not the best route to go.

Co. Smith asked Mr. Costa that if the agreement is for only one (1) year, could we ask for a three (3) year non-certiorari. Mr. Costa deferred the question to Mr. Granirer who said that if the water company agrees to a 33-year restriction on their land, they want a 33-year tax abatement. He said the problem is there is a constitutional prohibition against the Assessor giving contractual tax breaks. He said he would work very hard to keep the tax certioraris out of the agreement.

Appearance: Jim Cropsey
New City

He congratulated all who worked on this. He supports having a one year agreement as it is a bargain and it also allows time to work out any problems. He asked what the water company is paying in taxes at present. Ms. Conklin responded that it is approximately three and one-half (3 1/2) million dollars. He said the water company is giving up control of 458 acres and would want something in return.

Appearance: Nicole Doliner
New City
President, Rockland Civic Association
Former member of Citizens Advisory Panel on Open Space

She supports the idea of a conservation easement. She said that when people voted on the Open Space referendum, water conservation was a major part of it. She said it is important to conserve our natural resources.

Appearance: Irene Fisher
West Nyack

She fully supports the conservation easement agreement.

Appearance: Mary Ann Brancatelli
West Nyack

She supports the conservation easement, not the zone change.

Co. Maloney said that he has not seen the agreement, only a map. He said he never had to vote on the same night as a Public Hearing and would like to see a copy of the agreement.

Appearance: Jeff Ventola
Valley Cottage

He supports the conservation easement as it is an opportunity to do something very positive for very little money.

Mr. Granirer apologized for the agreement not being available this evening and will answer any questions. He said that the draft of the agreement was not dictated by the water company or by the French company. He wrote the draft and he and the water company haggled over the changes.

Co. Mandia asked if at the end of the year, the agreement automatically rolls over to a 33 year agreement or would the Board have to vote again. Mr. Granirer said that at the end of the year, there would be a fresh agreement.

Co. Smith said the highest concern is to protect our water source. She said this is not a zone change, but a zone designation. She asks if this is the best way and said they have not received enough information or given enough time to evaluate. She said they see more information in the paper. She said Mr. Granirer sent a memo to Mr. Costa and asked Mr. Costa if he had any comments.

Mr. Costa said the memo raised some questions such as whether or not it would be appropriate to obtain Title Insurance and Mr. Granirer advised that it would be. Mr. Costa said he put into motion a review of that matter. Much discussion ensued regarding several other questions.

Supervisor suggested that they vote tonight; however, offer a resolution to have a special meeting on Friday if further action is needed.

There being no further business before the Board and no one further wishing to be heard, on motion of Co. Mandia, seconded by Co. Lasker, the Public Hearing was closed and a tentative meeting scheduled for Friday, February 28, 2003. Time: 9:55 PM

Respectfully Submitted,



Patricia Sheridan
Town Clerk

RESOLUTION NO. 146-2003 ADOPTED