

January 20, 2011

A Meeting of the Town Board of the Town of Harrison, Westchester County, New York was held at the Municipal Building, 1 Heineman Place, Harrison, NY, Westchester County, on the 20th day of January, 2011 at 6:30 PM, Eastern Standard Time. All members having received due notice of said meeting:

MEMBERS PRESENT:

Joan B. Walsh ..... Supervisor

Joseph Cannella       )  
Fred Sciliano       ) ..... Councilpersons  
Patrick Vetere       )  
Marlane Amelio       )

ALSO ATTENDING:

Frank Allegretti ..... Town Attorney  
Fred Castiglia ..... Deputy Town Attorney  
Jonathan Kraut ..... Deputy Village Attorney (arrived late)  
Anthony Marraccini ..... Chief of Police  
Maureen MacKenzie ..... Comptroller  
Anthony Robinson ..... Commissioner of Public Works  
Michael Amodeo ..... Town Engineer  
Ron Belmont ..... Advisor to the Recreation Department

Copies to:

— Assessor  
— Benefits  
— Bldg  
✓ Compt'r  
✓ Eng'ng  
— Law  
✓ Police  
✓ P. Wrks  
✓ Purchg  
✓ Rec'r'ta  
✓ Supvs'r

FILED THIS

30th DAY OF

March 2011

*Angela J. Tameo, Deputy*  
Town Clerk, Harrison, New York

January 20, 2011

2011 - - 017 - - a

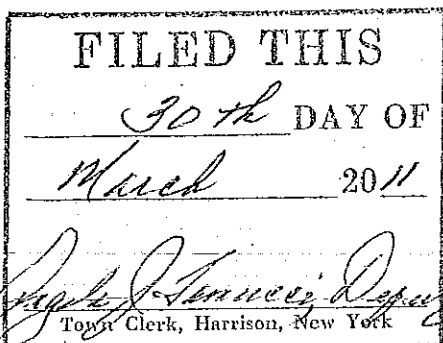
LETTER FROM A RESIDENT COMPLIMENTING THE HIGHWAY DEPARTMENT ON  
THE RECENT SNOW REMOVAL

Supervisor Walsh stated that a letter was sent to her office from a town resident expressing their gratitude to the members of the Harrison Highway Department for their efforts in the snow plowing and removal caused by the recent snow storms the town has endured. Supervisor Walsh went on to read the following portion of the letter in which the resident expresses their:

"sincere appreciation for how well the town employee's maintain and care for our properties and the welfare of the citizens as well as the outsiders who visit throughout the day".

Copies to:

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January 20, 2011

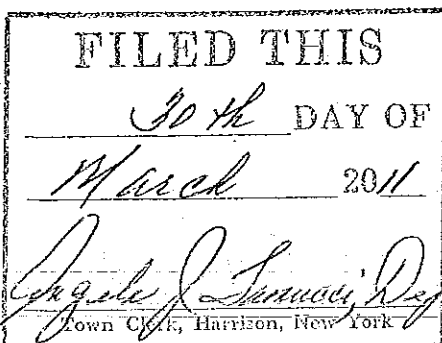
2011 -- 017 -- b  
SELLING OF BONDS

Supervisor Walsh explained that the following is something new that the town has not done in many years. That of which is an offer by the town through the firm of Jamie, Montgomery & Scott of Bonds we are going to offer to people at retail. Normally when the town sells Bonds it does so through a corporation, however, in an effort to look for every method to reduce expenses bring in additional funds to the town, the supervisor explained we are refunding some Bonds at interests of 4% and 5% reissue in the \$10,410,000. Moodys Capital A small A3. which is good and we are good credit risk if interested in buying 631-8900- Ray Kraus. Contact Jamie, Montgomery & Scott.

Offer by the town through this firm. Offer Bonds to people in retail.  
Normally done through corporations but in every effort to save a considerable amount of money to be determined when the Bonds are sold.

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☐ Rec'n  
☒ Supvs'r



January 20, 2011

2011 - - 018

ACCEPTANCE OF THE CORRESPONDENCE AND REPORTS

On motion of Councilman Cannella, seconded by Councilman Vetere,

it was

RESOLVED to accept the following correspondence and reports:

- 1a. Monthly report by the Town Clerk for December 2010.
  - 1b. Monthly report by the Acting Fire Marshal for December 2010.
  - 1c. Monthly report by the Building Inspector for December 2010.
  - 1d. Quarterly report by Librarian Carol Meehan of the Harrison Library for October, November and December 2010.
  - 1e. Monthly report by the Receiver of Taxes for December 2010.
  - 1f. Monthly report by the Recreation Department for December 2010.
2. Notification by Chris Grey, NY Area manager for American DG Energy that the subject of modifying the Doral Arrowwood Conference Center, (Section 129.34, Block 1, Lots 43, 44 & 45) site plan to include a container that houses energy generation equipment will be on the Village of Rye Brook's Board of Trustees agenda for January 25<sup>th</sup> at 7:30 PM, at 938 King Street in the Village of Rye Brook, NY.

Adopted by the following vote:

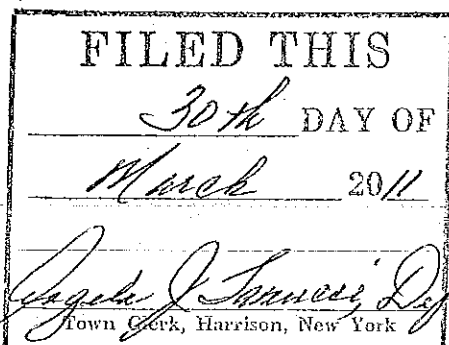
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

Copies to:

\_\_\_ Assessor  
\_\_\_ Benefits  
\_\_\_ Bldg  
✓ Compt'lr  
✓ Engrng  
✓ Law  
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January 20, 2011

2011 -- 019

ADJOURNED - CONTINUATION OF PUBLIC HEARING - RE: WESTMED,  
TO CONSTRUCT A BELOW-GROUND PARKING GARAGE  
AT 210 WESTCHESTER AVENUE

On motion of Councilman Vetere, seconded by Councilman Cannella, with all members voting in favor, the Hearing was opened.

At the request of Attorney Anthony Gioffre, on behalf of his client, WESTMED, the Hearing was adjourned until the February 3, 2011.

On motion of Councilman Vetere, seconded by Councilman Cannella, with all members voting in favor, the Hearing was adjourned until the February 3, 2011 Meeting.

Copies to:

☐ Assessor  
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☐ Bldg  
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☒ Engrng  
☐ Law  
☐ Police  
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☒ Purch'g  
☐ Recr'tn  
☒ Supvs'l

FILED THIS

30<sup>th</sup> DAY OF

March 2011

*Angela J. Serrano, Deputy*  
Town Clerk, Harrison, New York

January 20, 2011

2011 -- 020 -- a

PUBLIC HEARING -- RE: PARK KNOLL OWNERS, INC. FOR A ZONING AMENDMENT  
TO PERMIT ON-SITE HOUSING FOR APARTMENT'S FOR  
THE SUPERINTENDENT AND ASSISTANT SUPERINTENDENT

On motion of Councilman Cannella, seconded by Councilman Vetere, with all members voting in favor, the Hearing was opened.

Mr. Nicholas Ward-Willis, attorney with the firm of Keane & Beane addressed the Board on behalf of his client Park Knoll Owners, Inc. Mr. Ward Willis explained that his client has come before the Town Board with a petition requesting that the 23-18a of the Zoning Code be changed to permit two superintendent's to be housed. Mr. Ward-Willis went on to state that Park Knolls is currently an apartment structure which was built in 1953. The property is required to have onsite housing for both the Superintendent and the Assistant Superintendent which it currently does not have. One of the two building superintendents is required to be on the grounds at all times. Mr. Ward-Willis added that the proposal does not alter the footprint of the building. The proposal will only be converting existing space. Some minor changes to the parking area will be done to bring the property into compliance now that an additional two housing areas will be added. The petitioners have gone before the Planning Board and was a given a positive review.

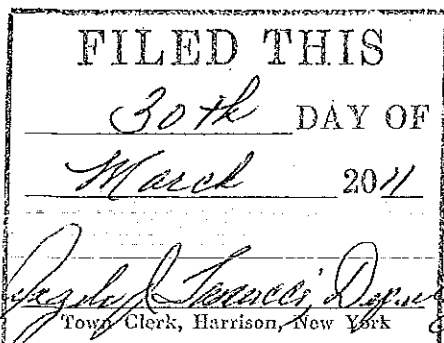
Councilman Sciliano asked if approved will the superintendent or assistant superintendent will be on premises at all times in case of emergency.

Mr. Ward-Willis, answered that a superintendent or assistant superintendent will be on premises at all times even through holidays.

On motion of Councilman Cannella, seconded by Councilman Vetere, with all members voting in favor, the Hearing was closed.

Copies to:

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- ☐ Police
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- ☒ Purch'g
- ☐ Recr'tn
- ☒ Supvs'r



January 20, 2011

2011 -- 020 -- b

APPROVAL FOR PARK KNOLL OWNERS, INC., TO PERMIT ON-SITE HOUSING FOR  
APARTMENT'S FOR THE SUPERINTENDENT AND ASSISTANT SUPERINTENDENT

On motion of Councilman Cannella, seconded by Councilman Vetere,

it was

RESOLVED to approve the request by Attorney Nicholas Ward-Willis, with the firm of Keane & Beane, on behalf of their client Park Knoll Owners, Inc., for a zoning amendment to permit on-site housing in the form of accessory apartments for the building's superintendent and assistant superintendent.

FURTHER RESOLVED to forward a copy of this Resolution to the Commissioner of Public Works, the Building Inspector and Mr. Ward-Willis.

Adopted by the following vote:

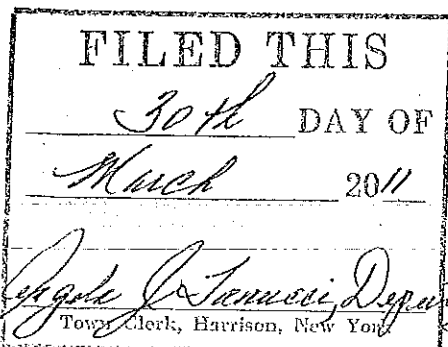
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Superintendent Walsh

NAYS: None

ABSENT: None

Copies to:

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- ☒ Compt'lr
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- ☒ Law
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- ☒ Purch'g
- ☐ Recr'm
- ☒ Supvs'r
- ☐



January 20, 2011

2011 - - 021

PUBLIC HEARING – RE: NEW CINGULAR WIRELESS PCS, LLC (AT&T) TO CO-LOCATE A WIRELESS TELECOMMUNICATIONS FACILITY ON PROPERTY KNOWN AS THE WESTCHESTER COUNTRY CLUB

On motion of Councilman Cannella, seconded by Councilwoman Amelio, with all members voting in favor, the Hearing was opened.

Daniel Laub with the firm of Cuddy & Feder addressed the Board on behalf of their clients New Cingular Wireless PCS, LLC. Mr. Laub stated that currently, there are existing antennas on the rooftop of this property which services Verizon. The proposal from New Cingular is to add to the group of antennas presently there to service their needs. The difference between the two is that New Cingular will be adding a 5 foot stealth screen, colored to match the rooftop that will screen the antennas from view.

Michael McCooey, resident of 475 Polly Park Road addressed the Board with his concern. Mr. McCooey is a member of Westchester Country Club, his mother, sister, cousin and brother all live either on the country club grounds or its surrounding property. Mr. McCooey explained that there are identifiable risks from antennas like the ones being proposed. Such examples of these risks are cancer and birth defects which have been linked to antenna fields in many parts of the country. Mr. McCooey stated that this matter was discussed at Planning Board meeting in which three members of the Board stated they would be concerned with living in the proximity of the radio waves from these antennas. Mr. McCooey further stated he has spoken with two elderly residents of the club who did not get the notice and was not aware such antennas were being proposed. Mr. McCooey questioned who was notified of this proposal.

Supervisor Walsh stated that the issue of living in proximity to these antennas is not a new issue and has been brought up many times in the past. She explained that she did some research on the matter and found from her findings, studies indicating that there are no relation from these antennas to cancer.

Councilman Joseph Cannella stated that FCC has strict guidelines for structures like the ones being proposed. Such structure must meet FCC standards in order to reach this point in the application process. The Councilman went on to state that the Westchester Country Club Board has presumptively approved this if it is going to be built on their building however he would have no problem with adjourning this request to a later date in order for any resident concerns to be addressed and to determine if the club Board has reviewed this matter at all.

Councilwoman Amelio stated that while the Supervisor may be correct in her findings that these antennas do not cause horrific results, we do not know what a group of these antennas will produce since that is what will be the result if the Board approved New Cingular to add to the existing one antenna.



Mr. Laub stated that he has a report, which was submitted to and confirmed by the independent radio frequency consultant who states this proposal does not pose risks and passes FCC and Health Department guidelines.

On motion of Councilman Cannella, seconded by Councilman Vetere, with all members voting in favor, the Hearing was adjourned until the February 3, 2011 Meeting.

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\_\_\_ Compt'lr  
\_\_\_ Engrng  
\_\_\_ Law  
\_\_\_ Police  
\_\_\_ P. Wrks  
\_\_\_ Purch'g  
\_\_\_ Recr'm  
\_\_\_ Supvs'r  
\_\_\_

FILED THIS

30<sup>th</sup> DAY OF

March 2011

*Regina J. Sanvici, Deputy*  
Town Clerk, Harrison, New York

January 20, 2011

2011 - - 022

APPROVAL FOR P.O. WILLIAM DUFFELMEYER TO ATTEND  
THE 2011 SPRING SEMESTER AT BATES TECHNICAL INSTITUTE

It was stated that P.O. Duffelmeyer researched the courses to see which school would be the least expensive. He is able to take a course at Bates Technical Institute for approximately \$70 rather than \$3,000 at Manhattanville College.

Christine Hughes complimented Officer Duffelmeyer for taking the time to research said courses and encouraged all police officers to look into alternatives for less money.

On motion of Councilwoman Amelio, seconded by Councilman Cannella,

it was

RESOLVED to approve the request of Chief of Police Anthony Marraccini for authorization for P.O. William Duffelmeyer to attend the 2011 Spring Semester at Bates Technical Institute for:  
"Industrial Planning & Curriculum Models for Secondary Physical Education"

FURTHER RESOLVED to authorize P.O. William Duffelmeyer to attend the Bates Technical Institute for:  
"Child Growth & Development"

FURTHER RESOLVED that the tuition for both courses and books will total \$2,975.

FURTHER RESOLVED to authorize the Comptroller that upon satisfactory completion and submission of P.O. Duffelmeyer's attendance at the above listed courses, to audit and pay for expenses as outlined as per the contract with the HPA.

Adopted by the following vote:

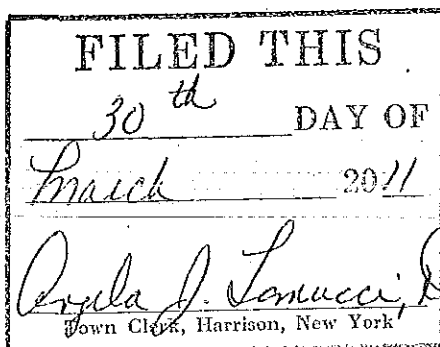
AYES: Councilpersons Amelio, Cannella and Sciliano  
Supervisor Walsh

NAYS: Councilman Vetere

ABSENT: None

Copies to:

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☐ Bldg  
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☐ Engrng  
☐ Law  
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☐ Supvs'r  
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January 20, 2011

2011 - - 023

APPROVAL FOR THE 2011 INTER-AGENCY AGREEMENT,  
SOUTH EAST CONSORTIUM

On motion of Councilwoman Amelio, seconded by Councilman Cannella,

it was

RESOLVED to approve the request by Town Attorney Frank Allegretti for authorization for the 2011 Inter-Agency Agreement, South East Consortium, in the amount of \$21,355. (This amount reflects zero increase from 2010.

FURTHER RESOLVED to authorize the Supervisor/Deputy Supervisor to execute same.

FURTHER RESOLVED to forward a copy of this Resolution to the Law Department and the Comptroller.

Adopted by the following vote:

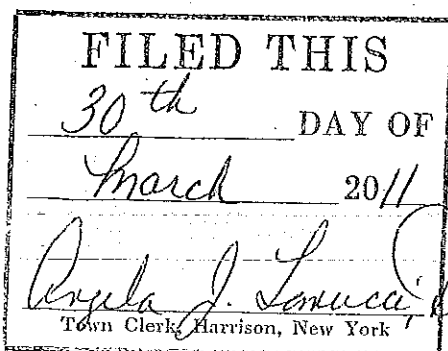
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

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☒ Bldg  
☒ Compt'r  
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☒ Law  
☒ Police  
☒ P. Works  
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☒ Rec'd  
☒ Super



January 20, 2011

2011 - - 024

APPROVAL FOR THE CONTRACT WITH ALLIED BIOLOGICAL

On motion of Councilman Sciliano, seconded by Councilman Vetere,

it was

RESOLVED to approve the request by Town Engineer Michael Amodeo for authorization for a contract with Allied Biological for work related to the herbicide treatment of Phragmites at the Beaver Swamp Brook site, at a cost not to exceed \$6,350.

FURTHER RESOLVED that the work in this contract includes the completion and submission of all necessary NYSDEC permits (\$1,500) and the treatment of Phragmites using an approved herbicide (\$4,850).

FURTHER RESOLVED that this work is required as part of the Town's United States Army Corp of Engineers permit received for this site.

FURTHER RESOLVED that funding for this contract is available in the Engineering Department Operation Budget, Account #001-1440-100-0407 Special Services.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Town Engineer, the Law Department, and the Commissioner of Public Works.

Adopted by the following vote:

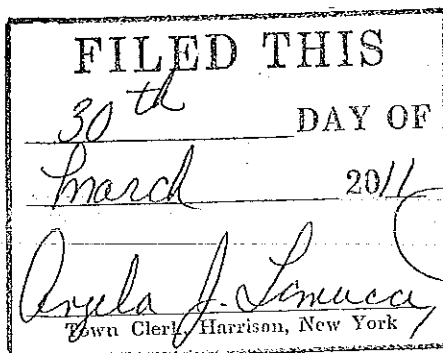
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

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☒ Supvs'r



January 20, 2011

2011 - - 025

APPROVAL OF THE WETLAND MONITORING REPORT SERVICES FOR YEAR 5  
BY HDR AT THE BEAVER SWAMP BROOK/BROWNFIELDS LOCATION

On motion of Councilman Cannella, seconded by Councilwoman Amelio,

it was

RESOLVED to approve the request by Town Engineer Michael Amodeo for authorization of the Wetland Monitoring Report Services, for year 5, provided by HDR at the Beaver Swamp Brook/Brownfields location as required by the Army Corps of Engineers at a cost not to exceed \$35,000.

FURTHER RESOLVED to authorize the Purchasing Department to issue a Purchase Order in the amount of \$35,000.

FURTHER RESOLVED that funding is available in the 2011 Operating Budget, Engineering Special Services Account #001-1440-100-0407.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Town Engineer, the Purchasing Department and the Commissioner of Public Works.

Adopted by the following vote:

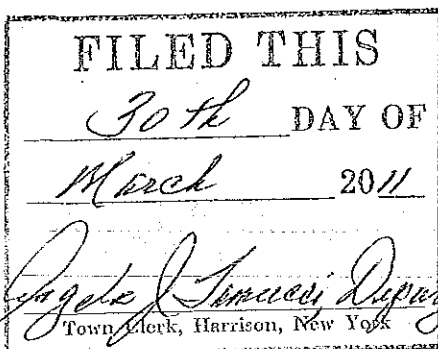
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

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☐ Recr'tn  
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January 20, 2010

2010 - - 026

AUTHORIZATION FOR AN ASCAP LICENSING FEE FOR  
2011 SPECIAL EVENTS FOR THE TOWN OF HARRISON

On motion of Councilman Cannella, seconded by Councilwoman Amelio,  
it was

RESOLVED to authorize the ASCAP licensing fee for the 2011 Special Events, for the Town of Harrison in the amount of \$309.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Law Department.

Adopted by the following vote:

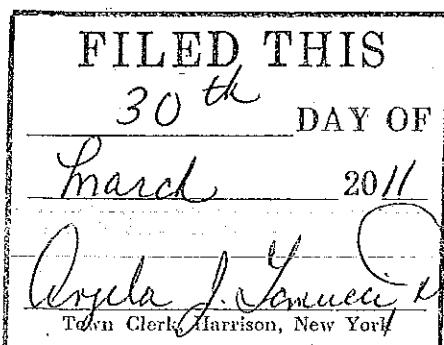
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

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January 20, 2011

2011 - - 027

APPROVAL TO SCHEDULE A PUBLIC HEARING ON FEBRUARY 3, 2011  
RE: AMENDING CHAPTER 82 ENTITLED "ALARMS"

On motion of Councilwoman Amelio, seconded by Councilman Cannella,

it was

RESOLVED to approve the request by Town Attorney Frank Allegretti for authorization to set the date of February 3, 2011 for a Public Hearing RE: Amending Chapter 82 entitled "Alarms" by Local Law.

FURTHER RESOLVED to forward a copy of this Resolution to the Law Department and the Chief of Police.

Adopted by the following vote:

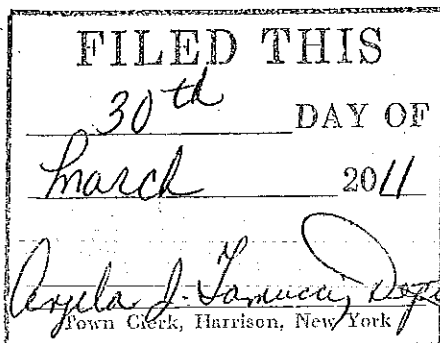
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

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January 20, 2011

2011 - - 028

AUTHORIZATION FOR THE DIRECTOR OF COMMUNITY SERVICES  
TO ACCEPT DONATIONS IN THE AMOUNT OF \$9,943.80

On motion of Councilman Vetere, seconded by Councilwoman Amelio,

it was

RESOLVED to approve the request by Director of Community Services Nina Marraccini for authorization to accept the following donations for the Harrison Food Pantry:

George J. & Ellan Batavick	\$1,000. (2 checks for \$500 each)
Elena A. De Nicolo	20.
Joseph A. Derwin	25.
The Christmas Project via	
Cary S. & Katherine R. Frankel	5,263.80 (2 checks, \$5,113.80 & \$150)
Harrison Police Association	250.
Jodi M. & Michael S. Kessler	50.
John L. Loeb, Jr. Foundation	1,000. (2 checks for \$500 each)
Brendan A. McKiernan	100.
West Harrison Independent Fire Co.1	35.
West Harrison Neighborhood Association, Inc.	<u>200.</u>

Subtotal of checks: \$7,943.80

Line of credit from Wells Fargo Bank at  
Food Bank at Food Bank of Westchester \$2,000.00

Total donations; \$9,943.80

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Director of Community Services.

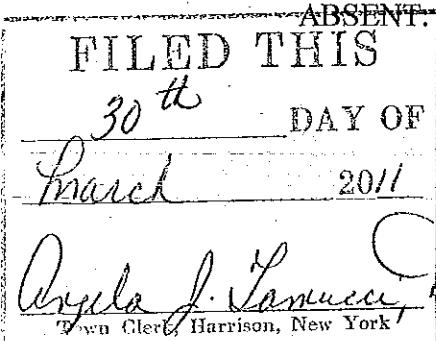
Adopted by the following vote:

AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh  
Copies to:

NAYS: None

ABSENT: None

<input type="checkbox"/>	Assessor
<input type="checkbox"/>	Benefits
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<input checked="" type="checkbox"/>	Engng
<input checked="" type="checkbox"/>	Law
<input type="checkbox"/>	Police
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January 20, 2011

2011 -- 029  
DETERMINATION OF THE LAKE STREET GRANITE QUARRY INC.'S  
APPEAL FOLLOWING A HEARING PURSUANT TO CHAPTER 133  
OF THE CODE OF THE TOWN OF HARRISON

WHEREAS, Lake Street Granite Quarry, Inc. was issued a Stop Work Order on or about October 13, 2009 by Assistant Building Inspector William J. Gerety, which Stop Work Order directed that all excavation and regrading at the site cease;

WHEREAS, Lake Street Granite Quarry, Inc. (hereinafter referred to as "the Quarry") appealed that Stop Work Order to the Supreme Court of the State of New York -- Westchester County pursuant to Article 78 of the CPLR, and said matter was assigned Index No. 003042/10;

WHEREAS, a Decision and Order was issued by the Court with respect to the Article 78 Proceeding, on June 17, 2010;

WHEREAS, the Decision and Order held, inter alia, that Chapter 133 of the Code of the Town of Harrison applied to the Quarry and remanded the matter back to the Town Board of the Town of Harrison to consider this matter;

WHEREAS, the Quarry chose not to appeal that Decision and Order;

WHEREAS, the Town Board held a Hearing pursuant to Section 133-19(C)(2), which Hearing was opened on September 23, 2010 and continued on October 7, 2010, November 3, 2010 and November 17, 2010;

WHEREAS, the Quarry had a full and free opportunity to submit all documents and testimony they wished to prefer; and

WHEREAS, members of the public were afforded a full and free opportunity to submit all documents and testimony they wished to prefer;

WHEREAS, the Town Board received and reviewed numerous documents during the pendency of this Hearing, including but not limited to:

- A. Decision and Order of the Hon. Albert Lorenzo dated June 17, 2010 in connection with Lake Street Granite Quarry, Inc. v. ZBA of Town of Harrison Article.78 Proceeding.
- B. Memo from Frank P. Allegretti, Esq. to the Town Board dated September 17, 2010 with attachments consisting of Chapter 133 of the Town Code ZBA Decisions dated December 10, 2009.
- C. Stop Work Orders dated December 5, 2008, June 12, 2009, October 13, 2009, March 18, 2010 and November 15, 2010.
- D. Information Summonses issued against Lake Street Granite Quarry, Inc. on September 4, 2009, October 13, 2009, May 11, 2009, October 13, 2009, March 18, 2010 and March 19, 2010.
- E. Memorandum of History from Building Department with attachments consisting of New York State Department of State entity information for Lake Street Granite Quarry, Inc., ZBA application filed June 7, 1988, New York DEC letter dated October 22, 1996 to Lake Street Granite Quarry, Inc., ZBA application dated July 10, 2000, and Decision of ZBA dated March 5, 1991.
- F. September 3, 2010 letter from Frank P. Allegretti, Esq. to Michael Sirignano, Esq.
- G. September 21, 2010 letter from Michael Sirignano, Esq. to Frank P. Allegretti, Esq., with attachment consisting of time line of Lake Street Granite Quarry, Inc.'s equipment, operation and date.
- H. Exhibits and list of exhibits submitted on behalf of Lake Street Granite Quarry, Inc. on September 23, 2010 consisting of:
  - a. Certificate of Incorporation;
  - b. ZBA Decision dated March 5, 1991;
  - c. Decision of Harrison Town Court dated June 5, 1992;
  - d. Decision of Supreme Court of the State of New York dated December 19, 1991;
  - e. Appeal letters to the Harrison Town Board dated October 20, 2009 and December 3, 2010;
  - f. Permits and licenses obtained by Lake Street Granite Quarry, Inc.; and
  - g. Additional documents regarding non-conforming Quarry use.

- I. November 17, 2010 letter from Michael Sirignano, Esq. to Frank P. Allegretti, Esq. with attachments consisting of:
  - a. 28 historical photographs of Quarry operation with photo descriptions;
  - b. Affidavit of Theodore Antonitis sworn to November 17, 2010;
  - c. November 17, 2010 letter from Sherri Barrego;
  - d. November 16, 2010 letter from Leonard Dashnaw; and
  - e. Jones v. Carroll Decision.
- J. March 10, 2010 letter from Michael Sirignano, Esq. to Town of Harrison Planning Board with photographs.
- K. Photographs submitted by Sam Fanelli comprising 29 pages with separate description of the photographs.
- L. Miscellaneous submissions from Town of Harrison residents consisting of:
  - a. On-line article regarding hearing loss;
  - b. Petitions signed by Town of Harrison residents comprising 4 pages;
  - c. Affidavit of Vanessa Daher sworn to April 5, 2010;
  - d. Affidavit Vladimir Sokoloski sworn to April 5, 2010;
  - e. Letter dated November 8, 2010 from Angela Laignel;
  - f. Letter dated November 9, 2010 from Jean Butterworth;
  - g. On-line print-outs of Lake Street Granite Quarry, Inc.'s advertisements;
  - h. Petition signed by Town of Harrison residents comprising 2 pages;
  - i. Letter dated December 2009 signed by Town of Harrison residents comprising 7 pages;
  - j. Website print-out of Lake Street Granite Quarry, Inc. comprising 3 pages;
  - k. Yellow page advertising of Lake Street Granite Quarry, Inc.;
  - l. ZBA applications and findings;
  - m. 2 page letter undated and unsigned;
  - n. Petitions signed by Town of Harrison residents comprising 4 pages;
  - o. 2 photographs dated November 3, 2010;
  - p. Letter dated November 2, 2010 from Theodore Antonitis;
  - q. Affidavit of Peter Barrego sworn to on March 19, 2010;
  - r. ZBA documents from 1988 and 1991;
  - s. Letter dated September 1, 1993 from Benjamin Peng;
  - t. Letter dated August 23, 1993 from Jean Vitalli; and
  - u. Letter dated March 10, 1992 from Michael Casarella with documents from the Dawson History Center.
- M. Tax Map and Assessment records.
- N. Certificate of Incorporation of Lake Street Granite Quarry, Inc.; and
- O. Town Board Minutes.

NOW, THEREFORE, upon careful review of the testimony and documents, and after due deliberation, the Town Board of the Town of Harrison finds as follows:

1. The Decision and Order of the Honorable Albert Lorenzo, dated June 17, 2010 in the instant matter holds that "the Court finds no reason cited or evidence provided by the Petitioner as to why Section 133 does not apply to the Petitioner." This Board determines that the Quarry failed to submit any facts or law that would lead to any other conclusion. Consequently, Chapter 133 clearly applies and jurisdiction is properly conferred upon this Board.

2. The Quarry was not in compliance with Chapter 133 at the time of the issuance of the Stop Work Orders. It was undisputed by the Quarry that at no time did the Quarry ever apply for a permit pursuant to Chapter 133. The Quarry did not contest this fact during the pendency of this matter. Rather, the Quarry asserted that they were immune from required compliance as the Quarry asserted a right to a continuing non-conforming use and claimed this exempted them from required compliance. As a matter of law, valid and reasonable exercise of the Town of Harrison's Police powers can apply to both legal and legal non-conforming uses (See Town of Hempstead v. Goldblatt, 9 NY2d 101, aff'd 369 U.S. 590).

3. The Board further finds that the Stop Work Order was issued validly and pursuant to powers vested in the issuing officer and all other Stop Work Orders in the Record were also validly issued as reflected plainly thereon by Paul Senitta, Assistant Building Inspector; William J. Gerety, Deputy Building Inspector; Edward G. DiBuono, Jr., Code Enforcement Officer and approved by Chief Building Inspector, Robert FitzSimmons. Each of the foregoing officials were duly appointed and we find acting

within the full authority of their lawful discharge of their duties in issuing the Stop Work Orders.

4. Section 133-18(A) of the Town Code provides: "This article is to be enforced by the Building Inspector and shall be applicable to all excavations or regrading operations which are in progress at the time this article becomes effective." Accordingly, the Quarry is precluded from simply, without more, claiming immunity by virtue of a claimed continuation of any non-conforming use status.

5. The Code of the Town of Harrison Chapter 235 Article IX addresses non-conforming uses, buildings, and structures. Specifically, Section 235-54(A)(2) states "a non-conforming use shall be deemed to have been abandoned ... when it has been discontinued for any reason or cause for a period of 10 consecutive months." Section 235-54(B) sets forth "a non-conforming use that has been abandoned shall not thereafter be reinstated." It is well settled that the burden is on the property owner to establish that an alleged pre-existing legal non-conforming use existed prior to the enactment of any prohibitive ordinance which purportedly rendered it non-conforming, and furthermore, that the claimed use was continuous through and including the date the property owner is seeking to continue that use. Alfred L. Jacobsen v. Town of Bedford Zoning Board of Appeals, 890 N.Y.S.2d 369, 2007 WL 6787806 (N.Y.Sup., 2007 N.Y. Slip Op.); Matter of McQuade v. Zoning Bd. of Appeals of the Town of Huntington, 248 A.D.2d 386 (2<sup>nd</sup> Dept.1998); Matter of Keller v. Haller, 226 A.D.2d 639, 640 (2d Dept. 1996); Incorporated Village of Old Westbury v. Alljay Farms, Inc., 100 A.D.2d 574 (2d Dept.1984).

6. The Quarry's counsel was specifically directed by counsel to the Town Board to furnish all evidence the Quarry wished considered which supported the Quarry's stated contentions. Specifically, during the Hearing of November 3<sup>rd</sup>, the following colloquy took place between one of the attorneys for the Town, Jonathan D. Kraut and the Quarry's attorney:

Mr. Kraut: Based on discussions with the Board we request that the Appellant provide each document that the Appellant believe that would support their contention that the subject property enjoyed a legal non-conforming use status at a point and time and each document evidencing its continuation of that legal non-conforming use to this date. And if any those documents are already in the public record of this proceeding, we ask that you identify them in writing and my suggestion would be that we leave the Hearing open to allow for that and at that time after the receipt of it if there are any further matters to address we can address that with the applicant.

Councilman Cannella: Do you have a suggested time frame?

Mr. Kraut: Mr. Sirignano, how long would it take you to put that together?

Mr. Sirignano: I have to review the file, I think we have given you a substantial amount already and I just need to see if there is anything additional I want to submit. So 10 days should be fine.

Mr. Kraut: Just to be clear, I know you have submitted a variety of things but specifically we talking about each document that you acknowledged that substantiates the claim that there is a legal non-conforming use that was enjoyed at a point of time and then continued without interruption to this date. So to be clear, I want to make sure before the record closes that you have acknowledged that you have been given that opportunity that every document you believe that supports that contention is actually in the record.

Mr. Sirignano: Yes, I will review the file and then in 10 days certainly 2 weeks will be ample time.

Mr. Kraut: I would put it over to the next Town Board meeting.

Mayor: Adjourned to the next Town Board meeting?

Deputy Clerk: November 17, 2010.

Mayor: November 17, 2010.

7. In the Record, there are divergent oral and written testimony offered concerning what activities took place on the subject property and during what periods of time those activities occurred and/or did not occur. It is clear that the evidence in the Record left many substantial periods (e.g. greater than 10 months) of time since the adoption of relevant local laws and the date of the Stop Work Order unallocated with respect to what uses, if any, took place on the subject property. It simply cannot be said that the Record supports the Quarry's contention that legal non-conforming activities took place on the property in an unbroken and continuous manner satisfying the criteria set forth in Section 235-54 and elsewhere in the Code of the Town of Harrison. Therefore, after careful deliberation and weighing the credibility, relevance and probative value of all the written and oral evidence presented during this proceeding, this Town Board finds that the Quarry has failed to meet the burden of proof required for this Board to find a legal non-conforming use existed at the time the Stop Work Order was issued. Therefore, we hold that a non-conforming use did not exist at the time the Stop Work Order was issued.

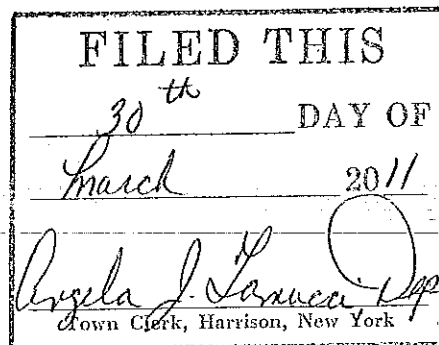
8. The Quarry cites prior rulings claiming a presently existing right to a legal non-conforming use. These citations are set forth in detail within a letter written by the Quarry's attorney, dated September 21, 2010 ("Exhibit G" in the Record of Proceedings). The prior rulings cited include a Harrison Zoning Board of Appeals decision, dated March 5, 1991, a Decision in Town of Harrison Justice Court by Honorable William R. Johnston, dated June 5, 1992 and a Decision/Order by Honorable James R. Cowhey in or

about 1991. These prior rulings are of no moment whether correct or otherwise. The Zoning Board of Appeals' determination was concerning a completely different legal matter and in all events this Town Board is not bound by the determination of the Zoning Board of Appeals. The Decision in the Harrison Justice Court was in a quasi-criminal proceeding wherein the People were required to prove the allegations in the accusatory instruments beyond a reasonable doubt. That is not the legal standard in this proceeding. The Decision in the Supreme Court of the State of New York by Judge Cowhey strictly determined that (in processing an application by the Quarry) the Zoning Board of Appeals had failed to comply with SEQRA ("State Environmental Quality Review Act"). As set forth hereinabove, we accord each of those prior proceedings limited weight based upon the content and context of each matter. Also, all of these prior rulings cited by the Quarry were 17 or more years ago.

9. The Quarry's attorney argued during the Hearings that while Chapter 133 had been in effect for several decades prior to the issuance of the instant Stop Work Order, the Quarry was never before required to comply with Chapter 133. Therefore, the Quarry's attorney argues Chapter 133 should not apply now. This Board is unswayed by that rationale, because even if true, the failure or oversight of a municipality to enforce a validly existing law does not preclude its enforcement at a later point in time. We find no such estoppel exists in the instant matter preventing this Board from requiring compliance with Chapter 133. We further hold the Quarry must comply with all terms, conditions and requirements of Chapter 133 in connection with the use and/or operation of their property and every matter whatsoever. (See e.g. Park View Associates v. City of New York, 71 N.Y. 2d 274).

Adopted by the following ROLL CALL VOTE:

Councilwoman Amelio	VOTING	AYE
Councilman Cannella	VOTING	AYE
Councilman Sciliano	VOTING	AYE
Councilman Vetere	VOTING	AYE
Supervisor Walsh	VOTING	AYE



Copies to:

- \_\_\_ Assesso
- \_\_\_ Benefit
- \_\_\_ Bldg
- \_\_\_ Compt'
- \_\_\_ Engrng
- \_\_\_ Law
- \_\_\_ Police
- \_\_\_ P. Wrk
- \_\_\_ Purch'
- \_\_\_ Recr'tn
- \_\_\_ Supvs'



January 20, 2011

2011 - - 030

MATTERS FOR EXECUTIVE SESSION:

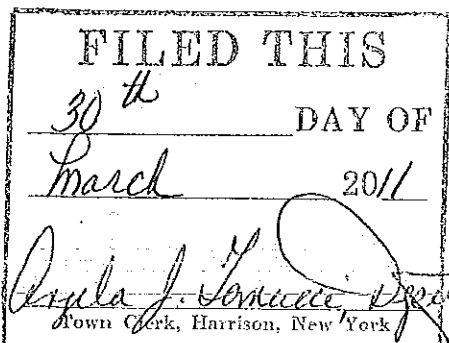
Personnel	3
Settlement of Claim	2
Collective Bargaining	3
Litigation	2

On motion duly made and seconded,  
with all members voting in favor,  
the Meeting was recessed at 8:30 PM

On motion duly made and seconded,  
with all members voting in favor,  
the Meeting was re-convened at 10:45 PM.

Copies to:

☐ Assessor  
☐ Benefits  
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☒ P. Wrks  
☒ Purch'g  
☐ Recr'tn  
☐ Supvs'r



January 20, 2011

2011 - - 031

REMARKS BY RESIDENTS

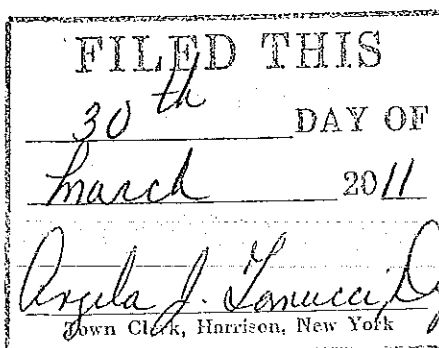
Mr. John Katsogridakis, resident, addressed the Board and questioned what if anything is the town going to do to prevent water from flooding the area of Glendale Road where his home is located. Mr. Katsogridakis further explained that after severe flooding a few years ago of the Mamaroneck river which passes through this area, the Town of Mamaroneck received government funding to build a wall to prevent future flooding on the Mamaroneck property. Mr. Katsogridakis questioned why the Town of Harrison is not looking to do such work to prevent their residents from being flooded.

Supervisor Walsh said the area would be assessed and that currently, the town is looking to hire a grant writer who would be placed with the task of getting monies for such projects.

Naomi Oppman, resident, addressed the Board and thanked the Town employees for coming to work during the recent snow storm and furthermore thanked the employees of the Department of Public Works for their excellent clean up work and snow removal during the recent snow storm.

Copies to:

☐ Assessor  
☐ Benefits  
☒ Bldg  
☒ Compt'lr  
☒ Eng'ng  
☒ Law  
☐ Police  
☒ P. Wrks  
☒ Purch'g  
☐ Recr'tn  
☒ Supvs'r  
☐



January 20, 2011

2011 - - 032

SETTLEMENT OF CLAIM  
CAROL PASTORE v TOWN OF HARRISON

On motion of Councilman Cannella, seconded by Councilwoman Amelio,  
it was

RESOLVED to settle the claim in the matter of Carol Pastore v Town of Harrison in the amount of \$50,000 for a personal injury claim.

FURTHER RESOLVED that this settlement is subject to the claimant signing a General Release.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Law Department.

Adopted by the following vote:

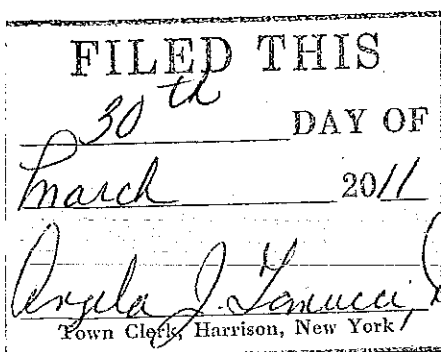
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

Copies to:

☐ Assessor  
☐ Benefits  
☐ Bldg  
☒ Compt'r  
☒ Engrng  
☐ Law  
☐ Police  
☒ P. Wrks  
☒ Purch'g  
☐ Recr'm  
☐ Supvs'r



January 20, 2011

2011 - - 033

SETTLEMENT OF CLAIM  
VILLA v TOWN OF HARRISON

On motion of Councilman Cannella, seconded by Councilwoman Amelio,

it was

RESOLVED to settle the claim in the matter of Villa v Town of Harrison in the amount of \$500 for automobile damages.

FURTHER RESOLVED that this claim is subject to the claimant signing a General Release.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Law Department.

Adopted by the following vote:

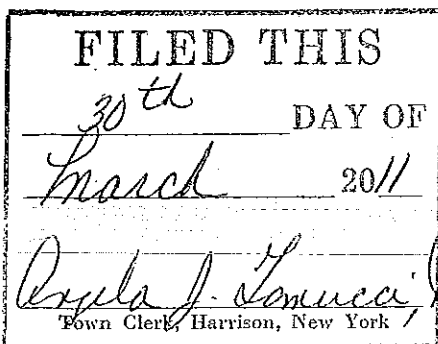
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

Copies to:

☐ Assessor  
☐ Benefits  
☐ Bldg  
☒ Compt'r  
☒ Engrng  
☒ Law  
☐ Police  
☒ P. Wrks  
☒ Purch'g  
☐ Recr'tn  
☐ Supvs'r



January 20, 2011

2011 - - 034

APPROVAL TO ADD MARY KIZIS TO THE PART TIME AVAILABILITY LIST

On motion of Councilman Cannella, seconded by Councilwoman Amelio,

it was

RESOLVED to add Mary Kizis to the part time availability list at the rate of \$12.50 per hour effective immediately.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Personnel Manager.

Adopted by the following vote:

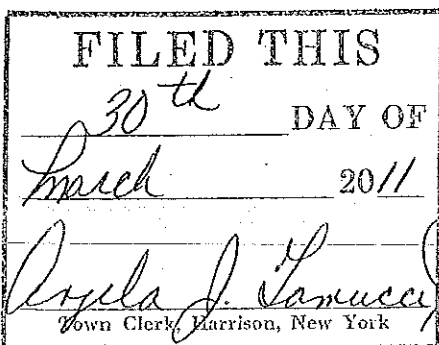
AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

Copies to:

☐ Assessor  
☐ Benefits  
☐ Bldg  
☒ Compt'lr  
☒ Engrng  
☒ Law  
☐ Police  
☒ P. Wrks  
☒ Purch'g  
☐ Recr'tn  
☐ Supvs'r



January 20, 2011

2011 - - 035

APPROVAL TO ADD ROSEMARY KING TO  
THE PART-TIME AVAILABILITY LIST FOR GRANT WORK  
IN THE COURT CLERK'S OFFICE

On motion of Councilman Cannella, seconded by Councilwoman Amelio,  
it was

RESOLVED to add Rosemary King to the part-time availability list for grant work in the Court Clerk's office at the rate of \$12.50 per hour effective January 1, 2011.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Personnel Manager and the Court Clerk.

Adopted by the following vote:

AYES: Councilpersons Amelio, Cannella, Sciliano and Vetere  
Supervisor Walsh

NAYS: None

ABSENT: None

On motion duly made and seconded,  
with all members voting in favor,  
the Meeting was re-convened at 10:45 PM.

There being no further matters to come before the Board,  
the Meeting was, on motion duly made and seconded,  
with all members voting in favor, declared closed at 10:45 PM

Respectfully submitted,

Angela J. Tamucci  
Deputy Town Clerk

Copies to:

☐ Assessor  
☐ Benefits  
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☒ Engrng  
☒ Law  
☐ Police  
☒ P. Wrks  
☒ Purch'g  
☐ Recr'n  
☒ Supvs'r

