

LaGrange Town Board Meeting

August 25, 2010

AGENDA

Call to Order

Salute to the Flag

Minutes Approval

- Minutes from August 11, 2010

Supervisor's Report

Correspondence

- Time Warner Cable

Agenda Items

Anderson Center for Autism Proposed Group Home – 41 Brian Court

- The Public Information Session for the Anderson Center for Autism proposed group home will be rescheduled to September 15th

Overlook Dog Park Pavilion

- Town Board to authorize the construction of a pavilion at the Overlook Dog Park
- Town Board to authorize waiving the building fees for construction of a pavilion at the Overlook Dog Park

Establish Escrow – 680 Freedom Plains Road

- Building Inspector request to establish escrow in the amount of \$1,000.00 for consultant review for site improvements at 680 Freedom Plains Road

Rolling Meadows Subdivision/Lake Ridge Subdivision

- Planning Board is requesting Town Board's recommendation and/or comments for a third re-approval of the final Rolling Meadows Subdivision/Lake Ridge Subdivision

Stormwater Management Consultants – Taconic Crossing, NYS Route 55

- Stormwater Management Consultants is requesting Town Board's approval to replaced the performance bond to a maintenance bond in the amount of \$13,378.00

Appointment

- Town Board to appoint Zoning Board of Appeals Alternate

Bond Agreements

- Building Inspector is requesting Town Board's approval for Soil Erosion Bonds for the following grid #'s:
 - 6361-01-147675
 - 6301-01-116548

Committee Reports

- Water and Sewer
- Recreation
- Open Space
- Highway

Town Board Comments

- This time is set aside for new or old business not on the agenda

Town Attorney

- This time is set aside each meeting for new business by the Towns Attorney not listed elsewhere in the agenda

Administrator of Public Works

- This time is set aside each meeting for the Administrator of Public Works to discuss Planning, water, sewer, MS4 and related topics not listed elsewhere on the agenda.

Environmental Consultants

- Reports from the operators of the Town's water and sewer facilities

Public Comment

- Public comments are accepted during this time.

Executive Session

Adjournment

**STATE OF NEW YORK
COUNTY OF DUTCHESS
TOWN OF LA GRANGE**

**TOWN BOARD MEETING
AUGUST 25, 2010**

Present: Supervisor Jon J. Wagner
Councilman Joseph J. Luna
Councilman Gary Beck
Councilman Stephen O'Hare
Councilman Edward P. Jessup

Recording Secretary: Margaret Schmitz, Deputy Town Clerk

Others Present: Ronald C. Blass, Esq. Van De Water & Van De Water
Wanda Livigni, Administrator of Public Works
Steve Mance, Environmental Consultants

A regular meeting of the Town Board was held on Wednesday, August 25, 2010, at the LaGrange Town Hall, 120 Stringham Road. Supervisor Wagner called the meeting to order at 7:30 p.m.. The Deputy Town Clerk led the flag salute.

Supervisor Wagner asked for a motion to accept the minutes from August 11, 2010. Councilman Beck so moved; seconded by Councilman O'Hare. Supervisor Wagner abstained; all other Councilmen voted aye; motion carried.

Supervisor's Report

Supervisor Wagner thanked Councilman Luna for filling in as Supervisor for the past month or so while he was out of the office for surgery.

Correspondence

Supervisor Wagner stated that Time Warner Cable sent notification of channel line-up changes. This correspondence will be in the Town Clerk's Office for two weeks.

Agenda Items

Supervisor Wagner stated that the Anderson Center for Autism public information session is scheduled for Wednesday, September 15, 2010.

Oral Resolution

Supervisor Wagner stated that the Town Board needs to authorize the construction of a pavilion at the Overlook Dog Park. The pavilion will be constructed at no cost to the town. All materials and labor have been donated. Councilman Luna made a motion to approve the construction; seconded by Councilman Beck; carried unanimously.

Oral Resolution

Supervisor Wagner stated that the Building Inspector has requested the Town Board’s approval to waive the customary building permit fees for the pavilion at the Overlook Dog Park, located on town property. Councilman Jessup made a motion to approve waiving the fees; seconded by Councilman Beck; carried unanimously.

Oral Resolution

Supervisor Wagner stated that the Building Inspector has requested the Town Board to authorize the establishment of a \$1,000.00 escrow for consultant review for site improvements at 680 Freedom Plains Road. The Building Inspector believes this is a minor change and my not need to go before the Planning Board. Councilman Beck stated that the proposed use is more than a minor improvement and should go before the Planning Board. A brief discussion followed.

Councilman O’Hare moved to establish the escrow; seconded by Councilman Jessup. A vote resulted as follows; motion carried:

Supervisor Wagner	AYE
Councilman Luna	AYE
Councilman Beck	NAY
Councilman O’Hare	AYE
Councilman Jessup	AYE

Supervisor Wagner stated that he would like to set up a meeting with Councilman Luna, Councilman Beck, Ken McLaughlin, the Town Attorney, and the Planning Board Chairman, to discuss whether or not this needs to go before the Planning Board.

Oral Resolution

Supervisor Wagner stated that the Planning Board is seeking the Town Board’s recommendation and comments for a third re-approval of the final subdivision for Rolling Meadows Subdivision and the Lake Ridge Subdivision. Wanda Livigni advised the Board that the developers are claiming economic hardship. In addition to that, Rolling Meadows has an outstanding issue with a sewer district. Ms. Livigni stated that at a meeting with Ron Blass, Greg Bolner, the developer and herself, the developer was presented with the Map, Plan and Report, which has yet to be signed.

Supervisor Wagner asked for confirmation that water and sewer through that particular subdivision is an integral connection between the systems and the Town Center. Ms. Livigni confirmed that is the case with the water system only. She stated that the water is in Phase I, all set, and already in the Manchester Water District. Ms. Livigni recommended the Board grant re-approval to both subdivisions.

Councilman Beck made a motion that the Board recommend that the Planning Board grant re-approval to both subdivisions; seconded by Councilman Luna; carried unanimously. Councilman Luna suggested the Board give consideration to the number of re-approvals that should be granted. He inquired about a sunset clause in this law. A discussion followed.

Oral Resolution

Supervisor Wagner advised the Board that Stormwater Management Consultants is requesting the Town Board's approval to replace the existing performance bond for Taconic Crossing, NYS Route 55, with a maintenance bond, in the amount of \$13,378.00. Ms. Livigni stated that the Town Board had previously approved both, the performance bond amount, and the maintenance bond amount. Ms. Livigni reported that both the property owner's engineer and Walter Artus, the Town's Stormwater Consultant, have certified that the installation is complete and in compliance with the approved plan. Councilman Beck moved to approve releasing the performance bond and converting it to a \$13,378.00 maintenance bond; seconded by Councilman Jessup; carried unanimously. Councilman O'Hare moved to modifying the motion to be subject to receiving the bond for the maintenance; seconded by Councilman Beck; carried unanimously.

Appointment

Supervisor Wagner requested a motion to appoint an alternate member to the Zoning Board of Appeals. Councilman Luna moved to appoint Mark Christenson; seconded by Councilman Jessup; carried unanimously.

Soil & Grading Bonds

Supervisor Wagner stated that the Building Inspector is requesting approval of soil erosion bonds in the amount of \$1,500.00 each, received on August 24th, for the following grid #'s:

- 6361-01-147675
- 6301-01-116548

Councilman Beck moved to approve the soil erosion bonds; seconded by Councilman O'Hare; carried unanimously.

Committee Reports

Recreation

Councilman O'Hare reported that construction at Overlook Park is going well. The lights are up and should be operable by today. He added that grandstands for 350 people will be going up in a

week or so. Councilman O'Hare suggested that a Community Grant application be submitted for next year to purchase a \$1,500.00 handicap ramp for the grandstands. Councilman O'Hare stated that the building interior has been sheet-rocked and painted and looks really great. He listed all the improvements that have been made at the park. Councilman O'Hare stated that the Dog Park pavilion has been built and it looks good.

Open Space

Councilman Jessup reported that he dropped the conservation easements for the Pierson and the Sleight properties off at the attorney's office on Thursday, August 19th, for review. The fund raiser for the Pierson Property should be wrapping up soon.

Administrator of Public Works

Wanda Livigni presented the Town Board with a map, plan and report that was prepared for the Harvest Ridge Subdivision Drainage District, and requested the Town Board set a public hearing. Councilman Jessup made a motion to set a public hearing for Wednesday, September 8, 2010 at 7:30, p.m.; seconded by Councilman Luna; carried unanimously.

Environmental Consultants

Steve Mance reported that there have been three recent lightning strikes to storage systems. He stated that lightening protection is being pursued. He mentioned that the installation of the blowers at the Titusville Water Treatment Facility is going well and should be done tomorrow.

Ms. Livigni reported that the insurance company has assured her that these damages will be covered; however, there will come a point when rates may be increased. Ms. Livigni has discussed consulting with a lightening specialist. Ms. Livigni advised the board that this would be a capital project and would require some clarity on the budget before any steps could be taken. She requested that she be provided with that information.

Public Comment

Councilman Jessup made a motion to open the meeting to public comment; seconded by Councilman O'Hare; carried unanimously.

Paul Lenci, representing the LaGrange Library Board, reported on some current Library activities. He mentioned that the 3rd Annual Smart Card promotion starts next week. It offers card holders a discount at about 20 businesses when showing a library card. The Children's Summer Reading Program concluded. A ceremony will take place next week. There were 325 children and teens that participated. Mr. Lenci thanked the Town Board for their continued support of the Library.

Supervisor Wagner requested a motion to close the public comment section of the meeting. Councilman Jessup so moved; motion did not carry.

Ernie Martin, Engineer for the applicant, Nesheiwat Estates, Harvest Ridge Subdivision, stated that back in April the subdivision received conditional final sub-division approval with certain conditions. Since that time he has had various meetings with the Town's staff and attorney regarding proceeding with the work with the intent of putting up a bond at some later date; approximately the anniversary of the approval. Mr. Martin stated that all those conditions have been taken care of. He stated he had a meeting today with staff from the Town to go over final approval. Mr. Martin stated that regarding the agreement between Mr. Nesheiwat and the Town, everything has been taken care of, including the restoration and restoration bond calculation. Mr. Martin stated that Mr. Nesheiwat would like to get that bond approved and start the work. He stated that Mr. Nesheiwat has paid all the fees, and has a contractor ready. He added that they have a three month window to do this work, and obviously every day is critical.

Supervisor Wagner asked Mr. Blass if the Town is ready to act on this today. Mr. Blass advised the Supervisor that during the course of today, a couple of things happened. Mr. Blass stated he received a digital copy of a restoration plan from Mr. Martin's office, followed by a request from Greg Bolner and Wanda Livigini inquiring if there are any open issues on the condition of approval. Mr. Blass listed about 12 open items. Mr. Adam's, attorney for the applicant, approached the Board. A lengthy and disorderly discussion concerning outstanding items followed.

Mr. Blass suggested amending the agreement to include a non-refundable sum of \$5,000.00, representing a contribution to the Town to buffer the effect on assessed valuation of potential non-filing of the plat prior to taxable status date March 1, 2012.

Supervisor Wagner asked who is making the final determination of the, \$5,000.00 figure. Mr. Blass stated that figure was arrived by Mr. Adam's discussion with the Town Assessor, Bernard Fountain. A discussion related to that figure followed.

Councilman O'Hare moved to accept the \$5,000.00, and grant the request, subject to getting the documentation and payment. Councilman Beck seconded the motion. Supervisor Wagner asked Mr. Blass if he had any legal concerns over making such a motion. Mr. Blass stated that he does not have a concern. Supervisor Wagner stated that there was a motion and a second; all voted in favor; motion carried. (SEE ADDENDUM)

Donna Bolner, County Legislator for District 13, reported that she recently received a tour of the Dutchess County Rail Trail that goes through LaGrange. She offered to take questions from anyone who has questions about it. She mentioned that the ramps going across Titusville are really starting to gear up.

Legislator Bolner reported that this last month was the vote on the charge back method to the towns, in which case her no vote was not enough; it was passed 14 to 10. She stated that she would like to sit down at some point to go over the numbers because what the projected cost in 2010 would be is minus the ballots. The ballots this year are being paid for by HAVA (Help American's Vote Act); next year they will not. The going price on ballots is \$1.10 a piece. Legislator Bolner reported that the Sullivan County suit that is against going to the new electronic machines did make it past its first two hurdles. The lever machines are still

somewhere in Dutchess County and have not been scraped yet. There is a chance that one of the machines from Dutchess County will be sent somewhere in Connecticut. Sullivan County is having their machines sent to a company to see if they are tamper proof. She stated that a big piece of this case is that we are not making voting any more accurate for anyone with these new electronic machines. Legislator Bolner questioned if hacking or a device set on a machine could cancel out a vote. Things of that sort will be looked into. She stated that the report for the RRA will be coming out very shortly. Legislator Bolner stated that she is hearing that the Town received a big, fat tax revenue check for sales tax, and it was more than projected. She stated that she had not gotten an actual number from Union Vale, Wappingers, or LaGrange yet. She wanted to make sure that what she is hearing is in fact what is happening at the towns.

Supervisor Wagner responded that when this all started to evolve, and the sales tax came into play, there was at least one correspondence that came out last fall that said that mayors and supervisors should be very pleased because they were going to get this windfall. He stated that he feels he can speak very accurately for every mayor and supervisor in Dutchess County that we resent the County Legislature telling us how to spend our revenue. I think you will hear that resoundingly from every one of us, no matter what party it is. Mrs. Bolner also discussed sales tax on county tax revenues. A discussion followed.

Greg Bolner, Budd Lane, announced that the Sunrise Rotary is holding a 9/11 Memorial at Stringham Park at 8:00 a.m. on September 11, 2010. All are welcome.

Councilman Jessup moved to close the public comment section of the meeting; seconded by Councilman Luna; carried unanimously.

Councilman Luna made a motion to adjourn the meeting; seconded by Councilman Jessup; carried unanimously. The meeting adjourned at 8:35 p.m.

Respectfully Submitted,



Margaret Schmitz
Deputy Town Clerk

ADDENDUM

- **Agreement: Nesheiwat Estates – Harvest Ridge with Town of LaGrange**
- **Restoration Bond: Harvest Ridge Subdivision**

AGREEMENT

AGREEMENT this 1 day of *September* August, 2010 between the **TOWN OF LAGRANGE**, a municipal corporation with offices at 120 Stringham Road, LaGrangeville, New York 12540 ("Town") and **NESHEIWAT ESTATES, INC.**, a domestic corporation with offices at c/o Mitch Nesheiwat, 785 Broadway, Kingston, New York 12401 ("Developer").

WHEREAS, Developer is the owner of lands located at Noxon Road in the Town of LaGrange, County of Dutchess and State of New York, which comprise a residential subdivision known as the Harvest Ridge Subdivision ("Project");

WHEREAS, the Project received a resolution of the Town's Planning Board granting conditional final approval on April 20, 2010; and

WHEREAS, due to the economic climate, as well as the past conducting of site improvements with Planning Board consent and at Developer's own risk between preliminary and final subdivision approval, Developer seeks accommodations from the Town, including with respect to Section 199-8 of the Town Code which requires the providing of a performance bond "... prior to the start of construction of any street and related public improvement ..." so that Developer may commence public improvement work at the Project, to be fully performed consistent with approved plans and specifications, prior to signing of the subdivision plat and prior to posting of performance security for the Project as provided by local law;

IT IS HEREBY AGREED, between the Town and Developer, as follows:

1. Subject to the terms, conditions, and limitations of this Agreement, Developer is granted revocable permission by the Town to commence work on public improvements at the Project in full compliance with the approved plans and specifications for the Project.

2. The Town's temporarily suspends the obligation of Developer to post performance security covering the public improvement work, subject to the Town's full and unlimited rights to restore Developer's obligation to perform performance security in an amount which, at the time, takes into account work suitably completed in accordance with approved plans and specification in the opinion of consultants for the Town.

3. In consideration of the Town's revocable suspension of initial performance bonding for the Project's public improvements, Developer waives any and all rights to obtain a future subdivision re-approval of the Project unless the re-approval includes conditions for filing the subdivision plat before the next succeeding taxable status date following the conditional re-approval, and for bonding in full, and thereafter maintaining the performance bonding of, the scheduled value of remaining public improvement work as of the time of any resolution granting re-approval by the Planning Board. The parties hereby undertake to address the Town's interest to prevent commencement of unbonded work for the Project which is followed by any the continuation of that situation into successive periods of subdivision reapproval, since it is the Town's intent that the granting of permission to perform unbonded (although fully inspected) public improvement work is limited to the current situation where, according to the

representations of the Developer upon which the Town relies, there is a significant likelihood that the plat for this Project can be expected to be signed by the first anniversary of conditional final approval without the need for application for reapproval.

4. Upon the making of this Agreement, Developer shall pay to the Town preliminary and final subdivision fees.

5. Upon the making of this Agreement, Developer shall pay all local stormwater management and compliance fees made a condition of final subdivision approval for the Project.

6. The parties agree that the Town has a clear incentive to inspect fully and completely the Project during a period of unbonded public improvement work. Inspection fee fees will be chargeable in full by the Town. The frequency and nature of inspections shall be within the discretion of the Town.

7. Before public improvement work shall commence by Developer, it shall present to, and obtain approval of, a restoration plan prepared by a licensed professional to cover the contingency of stoppage of work and abandonment of the project's public improvement work during a time when the work lacks performance security.

8. Before public improvement work shall commence by Developer, it shall provide the Town with an obligation, in the form and in an amount required by the Town based upon review and approval of the scope of work to be required in a worst case scenario under the restoration plan, securing the implementation and completion of the restoration plan. The amount of that

restoration obligation shall be secured by cash deposit or by a letter of credit in a form and issued by a lending institution deemed acceptable to the Town.

9. Prior to commencement of public improvement work, Developer shall otherwise fulfill and all other conditions of the resolution of conditional final subdivision approval, with the exception of the requirement for bonding of the work.

10. There shall be such periodic survey work performed at Developer's expense by a licensed professional as the Town shall require from time to time in the exercise of its discretion, in order to monitor and confirm field grades and elevations in relation to the work.

11. Developer shall comply with such installation and inspection protocols for Developer's public utility improvements as shall be established by the Town for the Project.

12. The duration of the maintenance bond, to be provided after dedication of public improvements for the Project, shall be four years rather than the two year period currently prescribed within Chapter 199 of the Town Code.

13. In the event that the Town concludes that performance of the unbonded work by Developer is unsatisfactory, the Town shall have the right to issue a stop work to Developer until and unless the Developer bonds the balance of the work in an amount to be determined by the Town as reflective of acceptable and suitable work performed up to that point in time. The Developer hereby waives and releases any claims against the Town for

losses or damages resulting, or in any way arising out of, the Town's exercise of this reserved right.

14. All consulting fee costs and expenses incurred by the Town in connection with the making, management, and enforcement of the terms of the Agreement shall be the responsibility of the Developer who shall escrow adequate funds as determined by the Town to cover such ongoing costs of the Town. Developer shall be responsible for all reasonable attorneys' fees incurred by the Town in the enforcement of this Agreement by litigation or otherwise.

15. Any litigated disputes arising out of this agreement shall be venued in Supreme Court Dutchess County.

16. There are no third party beneficiaries of this Agreement.

17. This constitutes the full and complete agreement between the parties, and it may not be modified except in writing signed by the parties hereto.

18. The final approval of the subdivision calls for Developer to convey title of Parcel A shown on the Plat to the Town within 30 days after approval. As between the parties, Developer understands, acknowledges and agrees that the subdivision and conveyance of Parcel A by the Developer to the Town is subject to exemption from the Town's local land use regulations under the standards enunciated by the courts of this state, and Developer waives, releases, and covenants not to sue the Town with respect to any claims, contentions or arguments that the conveyance of Parcel A to the Town, in advance of

filing of the plat, is not exempt from local land use regulation as aforesaid, given the fact that the Town is a party to this conveyance.

19. With the making of this Agreement, Developer shall pay the Town the non-refundable sum of \$5,000.00, representing a contribution to the Town to buffer the effect on assessed valuation of potential non-filing of the plat prior to taxable status date March 1, 2012.

20. With the making of this Agreement, Developer shall deposit in escrow with the Town a sum equivalent of school taxes charged against the Property for 2009-2010, in order to manage the school tax lien on the Property effective July 1, 2010 for 2010-2011 school tax. The Town shall release the escrow to Developer for the purpose of making timely payment of the forthcoming 2010-2011 school tax bill.

21. Either party may record this Agreement with the Clerk of Dutchess County.

TOWN OF LAGRANGE

NESHEIWAT ESTATES, INC.

By:


Jon J. Wagner, Supervisor

By:


Print Name Majed Nesheiwat
Print Title President

STATE OF NEW YORK, COUNTY OF DUTCHESS } ss.:

On the 1st day of September, 2010, before me, the undersigned, a notary public in and for said state, personally appeared JON J. WAGNER, SUPERVISOR OF THE TOWN OF LAGRANGE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity and that by his/her/their signature on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

MARGARET SCHMITZ
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SC6220139
Qualified in Dutchess County
My Commission Expires April 12, 2014

Margaret Schmitz

NOTARY PUBLIC

STATE OF NEW YORK, COUNTY OF Dutchess } ss.:

On the 27th day of August, 2010, before me, the undersigned, a notary public in and for said state, personally appeared Margaret Schmitz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity and that by his/her/their signature on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]

NOTARY PUBLIC

JON HOLDEN ADAMS
Notary Public, State of New York
Reg. No. 31-0016278
Qualified in New York County
Commission Expires May 31, 2011

**RESTORATION BOND
TO SECURE RESTORATION OF
HARVEST RIDGE SUBDIVISION SITE**

Bond dated August 27, 2010, given by NESHEIWAT ESTATES, INC., a New York corporation having offices at c/o Mitch Nesheiwat, 785 Broadway, Kingston, New York 12401 (“Obligor”) to the TOWN OF LAGRANGE, a municipal corporation whose Town Hall is located at 120 Stringham Road, LaGrangeville, New York 12540 (“Obligee”).

KNOW ALL MEN BY THESE PRESENTS that the Obligor is held and firmly bound unto the Obligee in the sum of \$174,360.00 for the payment whereof to Obligee, the said Obligor binds itself, its successors and assigns, in order to create a fund for the Town of LaGrange to undertake, if necessary and consistent with this instrument, the restoration of the Harvest Ridge Subdivision site in the event of the project’s failure to faithfully complete or provide future security for performance of public improvements.

WHEREAS, the Obligor is the Developer of the Harvest Ridge Subdivision (“Subdivision”) which was granted conditional final subdivision approval by the Planning Board of the Town of LaGrange in April of 2010; and

WHEREAS, Developer has entered into an Agreement, dated August 26, 2010, with the Town which establishes terms under which Developer may defer the filing of the subdivision plat and the posting of performance security for public improvements (the “Agreement”), and the terms of that agreement, which shall be deemed incorporated herein and made a part hereof, provide for the Developer to give the Town this bond to secure restoration of the Subdivision site in accordance with a restoration plan provided to the Town by Paggi, Martin & Del Bene and dated August 25, 2010 in the event that the Developer fails, under the circumstances identified herein, to complete public improvements for the Subdivision per the specifications approved by

the Planning Board in the approval of the Subdivision; and

NOW, THEREFORE, the condition of this restoration obligation is such that, if the Obligor shall well and truly perform, in accordance with the plans and specifications approved by the Town of LaGrange for the Subdivision, construction of so much of the aforesaid public improvements as Developer undertakes prior to delivery to the Town of a performance bond for the uncompleted balance of the public improvements no later than the time frame identified in the aforesaid Agreement between the parties, and if the Developer timely posts such performance security for the uncompleted improvements, and if the Developer does not suspend or abandon the public improvement work prior to posting of the performance security with the Town to complete the public improvement work, , then this obligation shall be null and void; otherwise, the obligation shall remain in full force and effect.

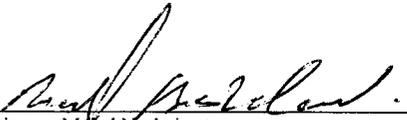
The Obligor shall at all times provide the Obligee with such security or surety as the Obligee shall deem sufficient provided the amount of such security or surety does not exceed the amount required by this bond. In furtherance of this covenant, the Obligor has obtained and hereby delivers to the Town of LaGrange the following security for faithful performance on this obligation: CASH DEPOSIT;

The Obligor hereby agrees to both release and covenant not to sue the Town of LaGrange with respect to any and all claims on behalf of itself, its successors or assigns, with respect to the enforceability of this restoration obligation; furthermore, the Obligor agrees hereby to defend and indemnify the Town of LaGrange with respect to any defenses by any lending institution in connection with this project or by an institution providing collateral security to the Town of LaGrange with respect to this restoration obligation.

The Obligor agrees to execute and/or endorse and deliver to the Town and/or the

aforsaid Bank any documents required for the Town to call upon said letter of credit.

NESHEIWAT ESTATES, INC.

By: 
Print Name: Majed Nesheiwat
Print Title: President

MAJED. J - NESHEIWAT

STATE OF NEW YORK, COUNTY OF DUTCHESS } ss.:

On the 1st day of September, 2010, before me, the undersigned, a notary public in and for said state, personally appeared Majed Nesheiwat, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


NOTARY PUBLIC

PATRICIA E. GUNN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GU6101725
Qualified in Dutchess County
My Commission Expires November 17, 2011