



GOVERNMENT

Lowey Announces Federal Grants for Westchester Fire Departments

Washington, DC -- Congresswoman Nita Lowey (D-NY) last week announced the White Plains Fire Bureau and Tarrytown Fire Department will receive federal grants for equipment and training, helping to keep Westchester County communities safe.

"First responders serve their communities by responding to emergencies and helping those in need of assistance," said Congresswoman Lowey. "It is our responsibility to ensure they have the equipment and training they need to help keep us – and themselves – safe. I am pleased the Department of Homeland Security is addressing these needs in White Plains and Tarrytown."

Lowey is a senior member of the Appropriations Subcommittee on Homeland Security, where she has strongly advocated initiatives to support local fire departments.

The White Plains Fire Bureau will use the funding to purchase thermal imaging cameras for use while battling blazes. The cameras allow firefighters to find victims and reconnect with each other if they become separated in a smoke-filled environment.

White Plains Public Safety Commissioner David Chong said, "We thank the Congresswoman for her help in securing this grant which will provide the fire department with necessary, modern technology to help us fight fires and locate possible victims."

Tarrytown Mayor Drew Fixell said, "On behalf of the Village of Tarrytown, I wish to thank Congresswoman Lowey for her assistance in securing this support for our hard-working volunteer fire department. In times like these, when local governments are finding it increasingly

difficult to maintain and enhance essential, life-protecting services such as these, it's impossible to overstate how important this grant is to our department and our community. Its impact will be felt throughout the department, allowing us to upgrade a wide-range of mission-critical equipment, as well as to enhance training. I would also like to thank our Fire Chief, Pete Saracelli, our grant-writer Martin Schneider and our Village Administrator, Michael Blau, for all the work they did in obtaining this grant."

The Assistance to Firefighters Grant (AFG) program, which is administered by the Department of Homeland Security Office of Grants and Training in coordination with the U.S. Fire Administration, awards grants directly to fire departments and EMS agencies. Funds may be used to increase the effectiveness of



Congresswoman Nita Lowey (D-NY)

firefighting operations, firefighter health and safety programs, emergency medical service programs, fire prevention and safety programs, and to purchase new fire equipment.

INVESTIGATION

Highway and Yorktown Under Scrutiny

By Abby Luby



The Town of Yorktown is being audited by the New York State Comptroller. The ongoing investigation started in May, 2010, and was prompted by a series of allegations against Highway Superintendent Eric DiBartolo.

"We are still conducting the audit of the town and the highway department figures in the audit," said Bill Reynolds, spokesman for the NYS Comptroller's office. "We look at risk assessment, financial operations and internal controls. We are hoping to complete the investigation by May, 2011."

Allegations that led to the state investigation included DiBartolo's alleged use of town equipment and employees for personal projects, illegal purchase and sale of vehicles and equipment, and questionable practices in contractor bids and political favors. Audits by the state comptroller typically check for misuse of funds and conflicts of interest.

Yorktown Supervisor Susan Siegel

declined to comment. "I speak for both myself and Dave Rambo, the Director of the Yorktown Water Department. While this is under investigation, we cannot comment."

Rambo succeeded DiBartolo who was overseeing the Water District as Director of Labor Operations from 2007 to 2009, a position he held concurrent to being highway superintendent. Rambo criticized the handling of Water District funds in his March 18, 2010 report to the town when he referenced expenditures made under DiBartolo's watch: "Money set aside in the 2007 and 2008 budget to replace the [water] meters was instead spent on trucks." Rambo's report also stated that the 2010 budget "...had insufficient funds in critical line items and inconsistencies with allocated money."

Witnesses allege that DiBartolo made purchases for the town with funds from the Water District, a district that generates their own funds from selling water to other areas such as Somers and Cortlandt.

"He was taking water district money

and spending it on town projects," said Ed Noonan, a Yorktown retiree who worked for the town for 27 years as acting water superintendent and assistant town engineer. "He also took trucks and sold them to the town for pennies on the dollar and bought new equipment with water district money."

Noonan came forward to alert the town a few years ago. "They [the town] just looked the other way because it seemed DiBartolo was doing a good job." Noonan also sent letters to the editor of the *North County News* alleging DiBartolo had misappropriated funds while heading up the Water District, but the letters were never published Noonan said.

A current town employee, who asked to remain anonymous for fear of repercussions, said highway department workers were frequently seen fixing one or more of DiBartolo's personal cars "at the shop in the town garage."

The same employee said it was common for workers to be "thanked" with comp time, written on time sheets as "VC," which meant "a free day off." Corroborating this information is retired forewoman Gayle Chase who worked with DiBartolo when he headed up the Water District.

"We had a water main break and it took us about eight to nine hours to fix it," Chase recalled. "When we finished, Eric [DiBartolo] said we had done an amazing job and he would reward us with some days off. That's how he gets these guys not to talk when he does favors for them or for others. To me it was all illegal," emphasized Ms Chase.

Local politicians seem to have a blind spot when it comes to the comptroller's investigation. Jim Martorano, town board member for over 19 years, said he wasn't even aware that the state was investigating the town or DiBartolo. "Why would I know about this?" he asked. Similarly, Westchester County Board Legislator Mike Kaplowitz whose district includes Yorktown, said he was unaware of the investigation.

Another town employee who also asked to remain anonymous remembered when several co-workers helped DiBartolo rebuild his parent's former house on Westview Drive about eight years ago and that it was "done on town time." The unspoken rule was not to anger DiBartolo if it could be helped. "Sometimes he comes across personal and friendly, but if you criticize him or if you've

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done something he doesn't like, you're going to pay – there'll be repercussions.”

The employee also said co-workers helped connect a resident's house to the sewer line, a job home owners usually pay a private contractor to do. The hook-up, done with town employees, was allegedly a political favor and took place with a

council member on site.

When attempting to reach DiBartolo himself, his secretary quickly said “He has no comment!”

Another questionable transaction was in 2009 when the town was alerted about the removal of contaminated soil from town property by a company owned by DiBartolo's late brother. The job had not been put to bid because it has been

said that DiBartolo had designated the situation an emergency. In a previous interview with *The Westchester Guardian** DiBartolo claimed the job was authorized. Questions arose about the actual need for the job that cost the town \$73,000.

The State Comptroller will issue a report when the investigation is complete, said Reynolds. “In general, it has been our practice that if we have findings that suggest criminal wrongdoing we contact either the local law enforcement or the

Attorney General.”

*The catalyst behind this investigative report, also penned by Abby Luby, was first revealed in *The Westchester Guardian* in the February 17, 2011, edition under the title *From Salt Wars to Slander*, and found on page 19.

Abby Luby is a Westchester based, freelance journalist who writes about current, local news, environmental issues, art entertainment and food.

LAW

Defense of Marriage Act Proves Indefensible

By Larry M. Elkin



President

Obama, who is a former constitutional scholar, and his chief legal beagle had a belated but welcome epiphany yesterday: A president is not obliged to defend an indefensible law, and the Defense of Marriage Act is indefensible.

In other words, just what I wrote in June 2009, after Obama and his Justice Department offered offensive justifications, including long-ago incestuous and adolescent marriages, for the federal government's refusal to recognize today's same-sex adult marriages that are valid under state or foreign law. When the gay community responded with outrage, Obama's minions asserted that an executive must defend any legislation on the books, no matter how clearly it violates citizens' rights, until the legislation is struck down by the courts.

I can't take credit for the continuing legal education of the president and Attorney General Eric Holder. The change of heart is doubtless due to a string of stinging lower-court reversals and a sense that the political tides are turning as Americans increasingly realize that same-sex marriage is here to stay, and that it has not brought an end to civilization as we know it.

Who woulda thunk it?

Holder announced the presidential change of heart in a letter to House Speaker John Boehner, R-Ohio. Holder said the executive branch has determined that Section 3 of the 1996 legislation, which prevents any federal recognition of same-sex marriage, violates the Constitution's

equal protection clause.

Not long ago, Boehner and most fellow Republicans would have denounced Holder's letter, along with the very idea of same-sex marriage. But Republicans too can see which way the political and legal winds are blowing. Sidestepping the issue of whether DOMA was ever a reasonable law – which it was not – Boehner spokesman Michael Steele offered the following reply: “While Americans want Washington to focus on creating jobs and cutting spending, the president will have to explain why he thinks now is the appropriate time to stir up a controversial issue that sharply divides the nation.”

The idea that the economy has to recover before the government recognizes Americans' civil rights is just as nonsensical as the idea that the institution of marriage needs a “defense” against gay couples that want to participate in it. But at least it isn't as hateful. Maybe that's progress, too.

From the day it was signed into law by President Bill Clinton, a self-proclaimed friend of gay Americans, the Defense of Marriage Act was an irrational act of legislative spite directed at a politically unpopular minority. The polite legal word for hate is “animus,” and this is the word that Holder's letter used to describe the law's motivations. It is also one of the words U.S. District Judge Joseph L. Tauro used when he declared DOMA unconstitutional last July.

The executive branch's new position will affect at least two more cases currently pending that involve DOMA. *Pedersen v. OPM*, a case in Connecticut, concerns the denial of marriage-related protections for federal benefits such as Family Medical

Leave Act benefits and federal laws relating to state pension plans. In New York, *Windsor v. United States* centers on the federal government's refusal to recognize a couple's marriage for federal estate tax purposes. Holder advised Boehner that “[...] the President has instructed the [Justice] Department not to defend the statute in *Windsor* and *Pedersen*, now pending in the Southern District of New York and the District of Connecticut. I concur in this determination.”

By refusing to defend the legislation, the administration will be all but asking the courts to strike it down.

Though the courts are moving faster than politicians or the public, there is a growing consensus across our society that sexual orientation is a private matter that ought not to involve the government. From the Supreme Court's 2003 decision in *Lawrence v. Texas* (which overturned laws against consensual adult homosexual conduct) to U.S. District Judge Vaughn Walker declaring California's Proposition 8 unconstitutional last August, we have made a great deal of progress in a relatively short time. Legislation to repeal the military's Don't Ask, Don't Tell policy was finally enacted in December, after that policy also was struck down in the courts. But the policy remains in effect until after military leaders certify that it will not damage the armed forces' readiness, effectiveness, unit cohesion, recruiting and retention. At that point, a 60-day waiting period begins before the policy is officially scrapped.

Though I think the ultimate acceptance of same-sex marriage is inevitable, it still remains to be seen whether that will happen sooner rather than later. Even

with the administration's change of heart, I expect the Supreme Court will eventually weigh in on whether the federal government must recognize same-sex unions. At the same time, another line of cases will eventually develop over a separate section of DOMA, which purports to give states the power not to recognize other states' same-sex marriages. If these marriages are not vindicated in the courts, we will have to wait until politicians feel it is safe to stop discriminating.

The president, for one, isn't there yet, because he isn't sure what it will cost him. White House Press Secretary Jay Carney said yesterday that Obama is still “grappling” with his own stance on gay marriage, but has always seen DOMA as “unnecessary and unfair.” As Boehner's spokesman observed, it's a controversial issue, and taking a strong stance could put the president on shaky political ground.

While it would be nice for Obama to come down firmly on the side of fairness and equal rights for everyone, it isn't necessary. What is necessary is for the U.S. government to recognize and respect the marriages that all Americans, and foreigners too, decide to form. Yesterday's announcement does not get us all the way there, but it brings us closer.

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