

TOWN OF CLIFTON PARK TOWN BOARD

September 18,2023

The meeting of the Town Board of the Town of Clifton Park was held in the Town Office Building at 7:00 p.m. Supervisor Barrett presiding.

Present: Supervisor Barrett  
Councilman Morelli  
Councilwoman Walowit  
Councilwoman Reid  
Town Clerk Brobston

Absent: Councilman O'Hara

Also Present: Town Attorney McCarthy  
Mark Heggen, Comptroller  
Norah Hoefler, Communications and Technology Coordinator

ANNOUNCEMENTS & COMMUNICATIONS

Supervisor Barrett announced the completion of the Kid's Corner Playground on the Clifton Common recently with positive reviews. The supervisor stated the original playground was very important to the Community representing volunteerism, hard work, and Community spirit. The replacement playground meets all the new standards and is accessible for all children with many new elements to explore.

Supervisor Barrett announced the improvements to the Veteran's Monument have begun on the Clifton Common. He stated the pickleball courts will begin construction this week.

PRESENTATION

"Finding Big Foot" Prize Winners

Supervisor Barrett stated, "Get Ready for the Yeti", tagline from Kathleen Kaufmann, is the continuing of the program starting in December, a cut out of a Yeti will be hidden in the parks for residents to find.

Connor Kaufmann and his mother Kathleen Kaufmann were presented with the top winning prizes.

Supervisor Barrett thanked the program sponsors, Stewart's Shops, Hayner's Ice Cream, Doberts Canvas Art Studio and Awards by Walsh for their donations.

Supervisor Barrett reminded residents to check the Town website for updated information regarding the "Big Foot/Yeti" program.

PUBLIC HEARING-AMENDING TOWN CODE TO INCLUDE A BAN ON ALL SMOKING IN TOWN PARKS AND NATURE AREAS 7:11PM

Town Clerk Brobston read the legal notice that was advertised in the Daily Gazette on September 7, 2023.

Supervisor Barrett explained the Town Board approved Resolution No. 132 of 2017, prohibiting smoking of all products within the Town owned and managed parks and nature preserves. This public hearing is based on the Resolution and other definitions being proposed to become a local law.

Darlene McGraw, Halfmoon, agrees with the proposed non-smoking ban and requested signage.

No one else wished to be heard, the Public Hearing closed 7:13PM.

RESOLUTIONS

Resolution No. 213 of 2023, a resolution approving a retainer agreement with Lewis & Greer P.C. for legal services relative to Tax Certiorari proceedings relative to volunteer firefighters residing within the Town.

Introduced by Councilwoman Reid, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, pursuant to Chapter 670 of the Laws of 2022, the NYS legislature amended the Real Property Actions and Proceedings Law (RPAPL) by adding Section 466-a to the Chapter which authorized a new real property tax exemption of up to 10% of the assessed value for enrolled members of an incorporated volunteer firefighter company serving within the Town, certified as such, and residing within assessed real property within the Town as the primary residence, and

WHEREAS, on February 28, 2023, the Town Board adopted Local Law No. 2 of 2023, through Resolution No. 43 of 2023, and

WHEREAS, on July 31, 2023, the Town and the Town Sole Assessor were served with a Petition filed in Saratoga County Supreme Court challenging the Assessor’s denial of the exemption authorized by Section 466-(a) and Local Law No. 2 of 2023, on behalf of 13 named taxpayers, who are enrolled members of incorporated volunteer fire companies, and

WHEREAS, the Sole Assessor sought independent legal advice concerning the applicability of certain exemptions in the named litigation, where the individual firefighters reside within the Town, but not within the geographic limits of the Fire District within which they serve, and

WHEREAS, the Town Board wishes to accommodate the Assessor’s request, and approves a retainer agreement with the attorney of his choice, Dylan Harris of Lewis & Greer, Poughkeepsie, N.Y., for legal advice in the matter of Gregory Agosti, et al. vs. Town of Clifton Park, EF20232039, pursuant to the attached Retainer Agreement; now, therefore, be it

RESOLVED, that the Supervisor is authorized to execute the attached Retainer Agreement with Lewis & Greer P.C., and be it further

RESOLVED, that the Town Attorney represents the Town Board and the Town of Clifton Park in this matter.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett

Noes: None

Absent: Councilman O’Hara

DECLARED ADOPTED

Attorney McCarthy explained this Resolution and the next deal with the application and interpretation of RPTL Section 466-(a), which was added late last year, authorizing a new exemption on property taxes for volunteer firefighters and ambulance workers. The interpretation of this Section has been a topic in the Assessor’s world. The Town Sole Assessor Walter Smead reached out, when the Town was served litigation, to Lewis & Greer, Dylan Harris, who has been providing independent legal advice to the Assessor regarding this matter. He explained only the Town Board has the authority to retain outside counsel for a department, approve the agreement, and to pay for the professional services. He stated this is a procedural matter.

Resolution No. 214 of 2023, a resolution approving the settlement of certain tax certiorari litigation against the Town, pursuant to Article 7 of the New York State Real Property and Proceedings Law, relative to volunteer firefighters residing within the Town.

Introduced by Councilwoman Reid, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, pursuant to Chapter 670 of the Laws of 2022, the NYS legislature amended the Real Property Actions and Proceedings Law (RPAPL) by adding Section 466-a to the Chapter which authorized a new real property tax exemption of up to 10% of the assessed value for enrolled members of an incorporated volunteer firefighter company serving within the Town, certified as such, and residing within assessed real property within the Town as the primary residence, and

WHEREAS, on February 28, 2023, the Town Board adopted Local Law No. 2 of 2023, through Resolution No. 43 of 2023, and

WHEREAS, Local Law No. 2 of 2023 provides for exemptions of 10% of the assessed value of real property within the Town, for members of a volunteer firefighter company, who have been certified by their respective companies as having at least two years of service, in which the certified member occupies as the primary residence, the Law being adopted with the intent of providing the exemption to the maximum degree, as authorized by RPAPL 466-a, and

WHEREAS, by Local Law No. 1 of 2023, the County of Saratoga implemented and adopted the exemption authorized by the RPAPL 466-a, to the extent of 10% of the assessed value of real property occupied by certified members as a primary residence, and

WHEREAS, by Resolution dated February 28, 2023, the Shenendehowa Central School District adopted the exemption authorized by the RPAPL 466-a, to the extent of 10% of the assessed value of real property occupied by certified members as a primary residence, and

WHEREAS, pursuant to RPAPL §466-(a) 2.(d), the Town, as a municipality, is vested with the duty and the responsibility for determining the procedure for certification of the eligibility of enrolled members of incorporated volunteer fire companies within the Town, and

WHEREAS, on July 31, 2023, the Town and Assessor were served with a Petition filed in Saratoga County Supreme Court challenging the Assessor's denial of the exemption authorized by Section 466-(a) and Local Law No. 2 of 2023, on behalf of 13 named taxpayers, who are enrolled members of incorporated volunteer fire companies, and

WHEREAS, the Town Board has determined that RPTL 466-a 2. D. provides the Board with authority to determine that individuals so certified as having at least two years of service to an incorporated volunteer firefighting company serving within the Town, and so residing within the Town, are eligible for the exemption from taxing jurisdictions within the Town who have adopted local laws or resolutions implementing the exemption as authorized, and

WHEREAS, the Town Board wishes to resolve the above-referenced litigation by applying exemptions for all County, Town, and School taxes on the 2023 tax roll for each of the taxpayers and properties listed within the above-referenced litigation, as outlined on the attached Stipulation and Order of Settlement; now, therefore, be it

RESOLVED, that the Town Attorney is authorized to execute the attached STIPULATION AND ORDER OF SETTLEMENT and submit same to the Saratoga County Supreme Court Justice assigned for approval and to be "so ordered".

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett

Noes: None

Absent: Councilman O’Hara

DECLARED ADOPTED

Supervisor Barrett explained the Town Board disagrees with the Assessor’s interpretation for this issue, and feels the firefighters should receive some tax exemptions, but not all the different tax exemptions. He stated everyone agrees that if you live in a fire district that you do not serve as a volunteer, you do not get the fire district tax benefit, but are eligible for other tax benefits, based on the fact that those taxing entities did pass legislation allowing for the benefit to be offered. The supervisor stated the Town of Clifton Park and Saratoga County passed legislation earlier this year allowing for the benefit. Because of litigation submitted to the Town, the Town Board can have a role if they choose, to bring this matter to an end, and ensure that the firefighters connected to the litigation do receive the tax benefits for which they are eligible. He stated it is important to let the firefighters know they are appreciated for their volunteering.

Attorney McCarthy submitted to the Town Clerk a final draft of the Stipulation of Order of Settlement including updates making it clear this Resolution is for this case only, and not setting a precedent for any other tax cases or types of litigation before the Town.

Councilwoman Reid agrees that the firefighters should receive a well-deserved tax break.

Councilman Morelli supports and will continue to support our first responders.

Resolution No. 215 of 2023, a resolution authorizing the Supervisor to sign a Saratoga County Trails Program Grant Award Contract for supporting the trail sign project at the Town Center Park.

Introduced by Councilwoman Reid, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, the Planning Department has submitted a grant application to the Saratoga County Trails Grant Program for funding assistance, to advance a project to ensure the Town Center Park entrances and trail locations are legible to the public, and

WHEREAS, by Resolution No. 216 of 2023, the County Board of Supervisors awarded \$10,000 to the Town, on a 100% matching basis, and

WHEREAS, the Town Board supports the project and is supportive of the local match portion of this project; now, therefore, be it

RESOLVED, that the Supervisor is authorized to execute the attached Grant Funding Contract with the County of Saratoga.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett

Noes: None

Absent: Councilman O’Hara

DECLARED ADOPTED

Resolution No. 216 of 2023, a resolution authorizing the Supervisor to sign a lease agreement with M&T Bank for leasing of a Broom Bear Sweeper and a 2023 Ram Class 4 truck for the Highway Department.

Introduced by Councilwoman Walowit, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, by Resolution No. 105 of 2022, the Town Board authorized the purchase of an Elgin Broom Bear Sweeper pursuant to a competitive bidding process conducted by Sourcewell Service Cooperative, Contract #093021-ELG (Elgin), in the amount of \$306,535 to replace the 2021 model destroyed in the August 17, 2021 fire in the “White Building”, and authorized the Comptroller to solicit bids for a capital lease for purchase financing, and

WHEREAS, by Resolution No. 205 of 2023, the Board also authorized the purchase of a new 2023 Ram Class 4 Regular Cab truck for the Highway Department, through the Onondaga County Contract #7974, in the amount of \$68,094, also to be financed through a municipal lease, and

WHEREAS, following solicitation by the Comptroller’s Office, M&T Bank submitted the lowest financing rate proposal, and

WHEREAS, the Town Board determines that financing of the approved acquisitions of such equipment and vehicle for municipal use, is best accomplished through a master lease agreement with M&T Bank, at competitive lease financing rates; now, therefore, be it

RESOLVED, that the Town Supervisor is authorized to enter into a lease agreement with M&T Bank for the lease/purchase of the Sweeper and Truck identified above, for a seven-year term at a rate of 5.127%, resulting in annual lease payments of \$62,069.37, and be it further

RESOLVED, that the Board ratifies the Comptroller’s execution of a rate hold commitment for the Lease rate on October 5, 2023, in order to lock in funds in a daily rate environment, and be it further

RESOLVED, that the Comptroller is authorized to charge \$62,069.37 from DA-05130-00145 (Highway Machinery-Lease Payments); and be it further

RESOLVED, that the subsequent budgets include appropriations to cover the lease payments.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett

Noes: None

Absent: Councilman O’Hara

DECLARED ADOPTED

Resolution No. 217 of 2023, a resolution certifying retirement days for elected and appointed officials.

Introduced by Councilwoman Reid, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, it is necessary to establish standard workdays for elected and appointed officials to be reported to the New York State and Local Employees’ Retirement System, based on the record of activities maintained; now, therefore, be it

RESOLVED, that the Town Board hereby established standard workdays for elected and appointed officials, per Schedule A, attached.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett  
Noes: None  
Absent: Councilman O’Hara

DECLARED ADOPTED

Resolution No. 218 of 2023, a resolution accepting a proposal from Greenman-Pedersen, Inc. (GPI), for engineering services to analyze the gasoline pumps at the Highway Department.

Introduced by Councilman Morelli, who moved its adoption, seconded by Councilwoman Reid.

WHEREAS, on October 18, 2021, the Town Board designated \$60,000 to analyze solutions and options to upgrade and replace underground gasoline pumps at the Town’s Highway Department, using Federal funds made available by the U.S. Government in the American Rescue Plan, (ARPA funds), through Resolution No. 239 of 2021, and

WHEREAS, the Highways Superintendent has not taken steps to retain an engineering or consultant firm to begin work on the project as authorized, and

WHEREAS, the gas pumps are critical to Town Hall operations, as well as the Highway Department fleet, and the Town Board wishes to ensure continued access to the system and to ensure compliance with DEC regulations within the system, and

WHEREAS, pursuant to the American Rescue Plan, such federal funds must be obligated and appropriated by December 2024, and

WHEREAS, GPI has submitted a proposal to analyze the existing condition of the tanks, develop a preliminary design for a replacement fuel storage and distribution option, and the demolition/removal of the existing tanks at the Highway Department, and

WHEREAS, Supervisor Barrett recommends that the Town Board retain GPI to move the project forward, and that the Town Board assume direct control over the project to assure its timely completion consistent with ARPA funding deadlines; now, therefore, be it

RESOLVED, that the Supervisor is authorized to execute an agreement with Greeman-Pedersen, Inc. to begin the first phase of a scope and plan to upgrade and replace the Highway Department’s gas pumps and tanks, in an amount not to exceed \$112,600; and be it further

RESOLVED, that the Comptroller is authorized to transfer \$112,600 from ARPA funds to offset costs of the Engineering Agreement with Greenman-Pedersen, Inc, and increase the budget expenditures by \$112,600 to A-5132-135 (General Fund-Highway Garage-Engineering).

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett  
Noes: None  
Absent: Councilman O’Hara

DECLARED ADOPTED

**SUGGESTED AMENDMENT TO BE ADDED.****Per Supervisor Barrett:**

Supervisor Barrett stated \$60,000 was allocated two years ago to move this initiative forward and nothing has been done. It is imperative the Town Board take over the process. He explained with the inaction at the Highway Department on this project, and the money allocated so long ago, the project needs to be completed as soon as possible. He stated the cost of the project will be borne with the Highway fund.

Councilwoman Walowit supports the action.

Councilman Morelli explained in 2021 a working group, which he was the Town Board liaison, was formed to gather information and recommendations to complete this project. Because the funds were ARPA funds, the Town Board wanted to be sure and use the funds correctly. He does not understand why the Town Board is passing a resolution, almost two years later, to complete the project. He stated there is a concern for the age of the pumps and tank for environmental reasons. The pumps are used by other agencies throughout Town, EMS, Law Enforcement etc. He suggested for future projects to apply completion deadlines.

**SUGGESTED AMENDMENT TO BE ADDED.****Per Supervisor Barrett:**

Supervisor Barrett stated there were four items listed in the resolution passed two years ago distributing the remaining ARPA funds and one was emergency generators for the Clifton Park Sewer District, which was acted upon right away. He stated then there were Highway funds for stormwater management upgrades and paving money, total of \$350,000, and \$60,000 for gasoline pumps project, allocated by the Town Board in recent years, unspent by the Highway Department. The remaining funds of \$200,000 were for non-profit entities, serving the residents of Clifton Park, responding to the Corona Virus impact on their organizations, was acted upon right away. He stated when the Town Board allocates money to be spent it expects this to be completed.

Resolution No. 219 of 2023, a resolution accepting a proposal to complete the design and custom engraving of the bricks on the newly constructed Veterans Memorial Walkway at the Clifton Common.

Introduced by Councilman Morelli, who moved its adoption, seconded by Councilwoman Reid.

WHEREAS, by Resolution No. 175 of 2023, the Town Board authorized enhancements to the Veterans Memorial which involved the construction of paver walkways, in conjunction with the Board's "Buy a Brick" program to honor all veterans of US Military services, past, present, and future, and

WHEREAS, a quote was received for the walkway brick engraving, per the attached proposal, and

WHEREAS, the sole conforming quote for the brick design and engraving was submitted by Humphrey Memorials, 3051 State Route 28, Herkimer, NY, in an amount not to exceed \$15,000 (\$50 per brick for the 300 bricks sold to date), and

WHEREAS, Humphrey Memorials' proposal also noted that the cost for future bricks sold, will be \$60 per brick with a minimum of 10 bricks, per batch; now, therefore, be it

RESOLVED, that the Town Board hereby awards the Veterans Memorial Walkway brick design and engraving contract to Humphrey Memorials, at a cost not to exceed \$15,000, to be charged from A-07112-00015 (General Fund – Clifton Common – Other Contractual), with the funds transferred from collections received on the sale of bricks from 2022 and 2023 charged against the Town's Unassigned Fund Balance, A-00914.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett  
Noes: None  
Absent: Councilman O’Hara

DECLARED ADOPTED

Resolution No. 220 of 2023, a resolution to direct the Highways Superintendent to cooperate with a Human Resources investigation regarding the separation of a Highway Department employee during 2023, including the basis for sick leave approvals, resignation, and administrative processes of such approvals.

Introduced by Councilman Morelli, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, the Town’s Human Resources Consultants have initiated an investigation into the circumstances surrounding the separation from employment of a certain Highway Department employee in the spring of 2023, and

WHEREAS, within the context of the investigation, the Office has requested certain documents, including leave slips, notices of resignation and similar documentation concerning payouts to the former employee, in advance of a request for an interview of the Superintendent relative to the basis for certain payments totaling some \$3,500, and

WHEREAS, interviews have been scheduled with Highway Department employees regarding this matter, and additional Department employee interviews will be scheduled in the coming weeks, and

WHEREAS, the Highways Superintendent has failed and refused to cooperate with the investigation, or to provide documents directly to the Human Resources office, and

WHEREAS, pursuant to NYSTL 32, the Town Board has the authority to direct the Superintendent to keep and supply records, to cooperate fully and transparently with the Comptroller’s office and Human Resource consultants for that office, in the administration of benefits, including sick leave, FMLA leave, and post-employment payouts relative to separation of employment; now, therefore, be it

RESOLVED, that the Highways Superintendent is directed to provide any and all documents, emails, leave slips, and drafts of same, directly to GTM HR services, under contract to the Town; and be it further

RESOLVED, that the Superintendent is also directed to appear in person and be interviewed, regarding all aspects of the separation, last day on the job, and basis for sick leave determinations and payouts for the involved former employee.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilwoman Walowit, Supervisor Barrett  
Noes: None  
Absent: Councilman O’Hara

DECLARED ADOPTED

Discussion pertaining to the Highways Superintendent conduct ensued.

No one wished to be heard.

OTHER BUSINESS

Councilwoman Reid thanked the Sponsors, Parks & Recreation and Buildings & Grounds Departments for a successful Farm Fest this past weekend, showcasing our local agricultural community.

Supervisor Barrett congratulated John Reid for winning the Farm Fest 5K race.

PUBLIC PRIVILEGE

Darlene McGraw, Halfmoon, reminded residents that October is Domestic Violence Awareness Month. She requested the Town to collect items for those in that situation.

MOTION BY Councilwoman Walowit, seconded by Councilman Morelli, to adjourn the meeting to the next regular meeting or any other meeting necessary for the conduct of town business.

Motion carried at 8:22 PM

Teresa Brobston  
Town Clerk