

Clifton Park Town Board Meeting Minutes

October 14, 2003

The regular 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.

PLEDGE OF ALLEGIANCE TO THE FLAG

Present: Councilman Paolucci
Councilman Speckhard
Councilman Roth
Councilwoman Walowit
Supervisor Barrett
Town Clerk O'Donnell

Also Present: Town Attorney Trainor
Patricia Haffner, Director of Parks, Recreation and Community Affairs
Jason Kemper, Director of Planning
Barbara McHugh, Director of Community Development
Michael O'Brien, Environmental Specialist
Michael Shahan, Town Administrator

ANNOUNCEMENTS AND COMMUNICATIONS

Speaking with regard to the junkyard on Route 146A across from Ballston Lake Ambulance Building, Councilman Roth asked that more authority be given to the Director of Building and Zoning in order to deal with cars being left in front of the junkyard and close to the road, as well as situations in other areas of town.

Town Attorney Trainor responded there may already be provisions in highway law or vehicle and traffic law.

Councilman Paolucci reported the trail on Van Patten Drive will be named the Robert Van Patten Trail in recognition of all Mr. Van Patten has done for Clifton Park in the past several years. He announced a ceremony dedicating the trail will be held on October 25, 2003 at 1:30 p.m. at the Ushers Road end of the trail.

PUBLIC HEARING, 7:10 PM TO CONSIDER A LOCAL LAW AMENDING THE TIME WARNER CABLE FRANCHISE AGREEMENT

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on October 2, 2003.

Councilwoman Walowit explained there are 11,000 cable subscribers in the town. She explained the process of negotiating the franchise renewal began in 2000 with a Needs Assessment Committee consisting of members representing citizen interest, senior citizens, library, school, emergency services and representatives from Time Warner and the Public Service Commission. She noted Time Warner remained firm on denying any discounts but the town can receive one PEG line, allowing live broadcasting, and a franchise fee of 4.051 percent which is the same as the current fee. Councilwoman Walowit stated at this time the Town Board is considering purchasing the necessary equipment from franchise fee revenue instead of passing the expense on to subscribers. The Senior Center will receive Roadrunner with six extensions free of charge. She feels this is the best agreement for town subscribers.

Peter Taubkin, Time Warner, expressed appreciation to all who participated in the process of negotiating the agreement. He reviewed projects being worked on in town and noted in particular over the last two years, that the Company has invested over \$600,000 to build out to new developments as well as commercial entities requesting internet or other services. Mr. Taubkin said Time Warner is a true supporter of the town and offers free cable and Roadrunner connections to schools. Mr. Taubkin said he looks at the relationship with the town as a partnership with the investments Time Warner has made. In response to Councilman Speckhard's question, Mr. Taubkin explained the process involved in order to have live broadcasting from the town hall, noting the town would purchase the necessary equipment and Time Warner, at their cost, would build the fiber line into town hall. He said Time Warner provided the town with a cost estimate of \$40,000 for equipment. Mr. Taubkin said cable rates are not an element of the franchise negotiation process. The basic service rate is regulated by the Public Service Commission, tiers above that are unregulated.

The public hearing was opened for comments from the audience at 7:35 p.m.

Norman Goldman, London Square Drive, asked if Time Warner can guarantee that live events will be shown. Mr. Taubkin responded there are three channels available for shared use.

Discussion ensued as to how Time Warner will schedule live programming from local municipalities without conflicts. Mr. Taubkin stated there are three channels, public access, government access and education access, that are very underutilized and believes this will be sufficient now and even into the future.

Supervisor Barrett stated \$40,000 is a significant amount of money and if the Town Board decided to spend that amount, it would be necessary to work out many details with Time Warner.

Jim Baisley, Barkwood Lane, asked how the town monitors franchise fees. Mr. Taubkin responded a summary statement is included with the quarterly check to the town.

Carol McTygue, Public Service Commission, replied the PSC has an Accounting and

Finance Department and will do desk audits upon a municipality's request. She noted there is a provision in the franchise agreement that requires Time Warner to provide statements in sufficient detail along with payment.

Mr. Goldman stated he doesn't think live broadcasts are necessary as long as tapes are complete and broadcast on a regular schedule. He asked if there would be additional ongoing costs to monitor the equipment during a live broadcast. Mr. Taubkin stated producing live programming is a task that requires a lot of people and the \$40,000 is strictly equipment.

Everyone was given an opportunity to speak in favor of or against the proposed local law and no one else wished to be heard. Supervisor Barrett declared the public hearing closed at 7:55 p.m.

**PUBLIC HEARING, 7:20 PM
TO CONSIDER A LOCAL LAW REGARDING THE MAXWELL DRIVE SOUTH
PLANNED DEVELOPMENT DISTRICT**

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on October 9, 2003.

Gordon Nicholson, Environmental Design Partnership, representing DCG Development, explained the primary focus of work to date has been to facilitate the extension of Maxwell Drive, south of Route 146 to tie in with Southside Drive noting this will be a benefit to the Shenendehowa School District and the Town of Clifton Park (the Public Safety Building parcel). He described the location and boundaries of the parcel, noting the area is approximately 11 acres; 5 ½ of which is zoned B4, Highway Business, and remaining PIR. The proposed PDD will consist of 200 units of senior citizen housing and approximately 94,000 square feet of mixed commercial office land use. He estimates the site will support a total of 600 parking spaces, 400 for the offices and 200 for the senior housing. Entrance will be from the Southside Drive location for the offices with Wall Street frontage and access for the senior housing. He reviewed proposed greenspace. A traffic study has been done and submitted to DOT. Mr. Nicholson said the underground parking is in addition to the proposed 600 parking spaces.

Councilman Roth questioned if policies and procedures quoted under "Occupancy of Senior Housing" (A) in the proposed PDD have been done.

Paul Goldman, attorney for DCG responded the policies are not in place until the PDD legislation is adopted and DCG will conform with the requirements of law. Mr. Goldman explained HUD services not only the very lowest income, but middle and higher income projects. It is not an income restricted project.

Supervisor Barrett said under "Occupancy of Senior Housing" B. he has changed the second sentence to read "At least eighty-five (85%) percent of the Senior Facility shall be occupied by at least one person per unit who is 55 years of age or older". Mr. Goldman

replied DCG Development concurs with that change.

Councilman Roth asked if the rent rolls of Foxwood Apartments received from DCG Development will be used as guidelines for the senior housing. Mr. Goldman there will be no HUD subsidy and no tax credits but will be market rate housing.

Councilman Roth asked what amenities will be in the housing. Mr. Goldman responded program requirements have not been set up as yet. He stated there will be no meal component in the housing; this will be just rental apartments for seniors.

Donald MacElroy, DCG Development, said meetings have been held with members of the senior community to gain input. He noted the amenities all go toward the bottom line and a balance needs to be struck between what the market will bear and what DCG can afford to build. Mr. MacElroy stated DCG needs to know their costs before determining their income.

Councilman Roth stated people age 65 and up need senior housing and their needs are different than those of 55 years of age. Mr. MacElroy said the DCG apartments house more seniors than anyone else in Saratoga County ranging in age from 55 to 90 years of age. It was noted design components will be to code and to constituents needs. Supervisor Barrett said the big difference between other apartment complexes and the one proposed is that DCG will have to abide by this legislation. He feels very comfortable with the age requirement. He said he does not want the impression given that this complex will be another Foxwood or Twin Lakes. The Supervisor said he feels the rental fees of this complex will be between Shenendehowa Village and Coburg Village.

Discussion ensued as to what will be addressed by the Planning Board and the Building Department.

Councilman Speckhard said he doesn't care whether it is a senior facility or not and doesn't think the term "senior facility" accurately describes it. He said he wished the Board wouldn't focus on the senior aspect as individuals 55 years of age are not seniors. He stated it is theoretically possible with the exceptions that no one in the complex would be over 55 years of age. He would like to drop the senior designation as it is not fair to push that aspect in trying to get it accepted. He finds it acceptable as a place for people to live and they don't have to be 55 years of age.

Supervisor Barrett stated the following addition should be made to the legislation under Development: H. A thirty foot area is reserved for future road right of way. He stated there are no plans to bring this road to Clifton Park Center Road. He said it is important to preserve the right of way to protect the town's interest in the future. Mr. Goldman stated the applicant feels this is appropriate.

Councilman Speckhard asked if the facility is built, will there be changes made to Wall Street. Mr. Nicholson responded they are waiting for the results of a traffic study but the Planning Board is aware of discussions regarding Wall Street.

It was noted that this facility will give seniors walking access to the library, YMCA and shopping.

Town Attorney Trainor asked if anyone else, other than DCG, has any rights or interest in the 30 foot area. Mr. MacElroy responded it is 100 percent on DCG property. Mr. Goldman stated it is on DCG property exclusively and there are no connection rights to it.

Mr. Trainor said he doesn't believe another public hearing is necessary since DCG is the only owner of the right of way.

Councilwoman Walowit stated she hopes the parking lot configuration remains as shown.

The public hearing was opened for comments from the audience at 8:50 p.m.

Bob Gauvreau, Oakwood Blvd., asked how the facility can be called senior housing when there are no amenities. He said he doesn't understand the 55 year old concept. He said something should be brought forward on what the facility will offer.

Norman Goldman, London Square Drive, read a prepared statement, attached.

Margaret Catellier, Royal Oak Drive, expressed concern that the Exit 9 GEIS was not adopted by the Town Board. She said the 45 percent greenspace was to keep density down. She asked what restrictions can be put in the PDD, e.g. the height of the building. Mr. Trainor responded this is a creative approach to changing zoning in a particular area and the Town Board can put certain restrictions in the legislation but changes are not done in a vacuum and if a landowner is coming forward with a certain project and has a creative approach to developing the parcel then for the town to be overly restrictive doesn't help anybody and it is a balancing act.

Councilman Paolucci said this action is driven by a private owner of land, not the Town Board. The Town Code allows for the zoning of 10 acres or more to allow possibilities that may not exist in the current zoning of that area. He said in an area that big there may be opportunities to benefit the community by doing some creative things.

Ms. Catellier stated this shouldn't be addressed as a senior building and it needs to be seen if this project fits in with the Exit 9 GEIS. She doesn't believe the proposed location is good for any kind of apartment building, as senior housing should be in residential areas.

William Engleman, Partridge, asked what uses would not be permitted without the zoning change. Mr. Nicholson responded the business office use is permitted within the B4 zone which is everything shown on the plan except the 60 foot wide strip. The only thing not allowed in the PIR strip is the small portion of the office building. The senior housing is a permitted land use within the PIR zone; however, the caveat is the difference between publicly financed versus private sector. Mr. Nicholson stated this is the only piece of

property in the town that is zoned PIR that is in the private sector. He stated Maxwell Drive will end at Southside Drive, as suggested by DCG, the Planning Board, CHA, NYS DOT and Shenendehowa School District, and there is no plan for Maxwell Drive to be connected to Wall Street. It was stated that the 30 foot right of way has nothing to do with the extension of Maxwell Drive to Wall Street. Mr. Engleman said this proposal will cause more sprawl and a loss of greenspace, mature vegetation and esthetic quality and violates both the spirit and letter of the Exit 9 GEIS. He said by approving the legislation, the Town Board is disregarding major public concerns about more clear cutting roads and over development in the town. Mr. Engleman asked if an Ethics Disclosure Statement had been filed. Mr. Kemper stated with every site plan an Ethics Disclosure Form is required. Mr. Nicholson replied all applications filed over the last two years included the Ethics Disclosure Form.

Jim Baisley, Barkwood Lane, said what is being marketed here is more of an adult community. He thinks there is a need for this type of housing.

Councilman Speckhard explained the Town Board did not reject the Exit 9 GEIS and did express support for 45 percent greenspace but thought in terms of the planning process, the Planning Board had the expertise to make the decisions on greenspace rather than to have it forced on people by the Town Board. If this had been the case, it would have created a situation in which there would have been exclusions from the 45 percent greenspace and legislation constantly passed reducing it. The Planning Board has supported that decision and there is an option requiring the 45 percent greenspace but if physically or geographically it can't be done, it can be reduced. The town needed that planning flexibility and that flexibility can only reside with the Planning Board not the Town Board.

Supervisor Barrett said comments regarding this proposal will still be accepted.

Everyone was given an opportunity to speak in favor of or against the proposed local law and no one else wished to be heard. Supervisor Barrett declared the public hearing closed at 9:30 p.m.

Resolution No. 259 of 2003, a resolution hiring Dennis Nealon to the position of part-time Junior CPR Coordinator. Introduced by Councilman Paolucci, who moved its adoption, seconded by Councilman Roth. WHEREAS, a need exists for a part-time coordinator for the Junior CPR program, and WHEREAS, said position is a budgeted item in the 2003 fiscal plan; now, therefore, be it RESOLVED, that authorization is hereby granted to hire Dennis Nealon, 44 Huntwood Drive, Clifton Park, as Junior CPR Coordinator for the office of Parks, Recreation and Community Affairs, at Grade 5, Step 1, effective immediately, as budgeted from lines A7309-83 (Junior CPR).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 260 of 2003, a resolution authorizing the reduction of the speed limit on Waite Road from 45 to 35 miles per hour and change the advisory signs from 35 to 30 miles per hour.

Introduced by Councilman Paolucci, who moved its adoption, seconded by Councilman Roth.

WHEREAS, upon the request of the Highway Superintendent, McDonald Engineering has reviewed the existing speed limit on Waite Road, and

WHEREAS, McDonald Engineering has recommended that it is in the best interest of the traveling public to reduce the speed limit on Waite Road; now, therefore, be it

RESOLVED, that the Highway Superintendent is authorized to reduce the speed limit on Waite Road from 45 to 35 miles per hour and the advisory signs from 35 to 30 miles per hour and to post signs accordingly.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 261 of 2003, a resolution awarding the bid for Contract No. 1, the construction of water and sewer infrastructure to serve the Corporate Commerce Water and Sewer Districts.

Introduced by Councilman Paolucci, who moved its adoption, seconded by Councilman Roth.

WHEREAS, on October 2, 2003, bids were received for the above referenced contract, and

WHEREAS, the low bid would be based on the combination of the sum of the water system infrastructure and sewer system infrastructure, and

WHEREAS, the low bidder for Contract No. 1 – Sanitary Sewer and Water System Construction, was W. M. Schultz Construction for the total bid amount of \$553,318.60; of which the water system bid amount is \$306,572.20, and the sewer system bid is

\$246,746.40, and

WHEREAS, as per letter from McDonald Engineering, dated October 6, 2003, McDonald Engineering has reviewed the bids and has recommended to the Town Supervisor that the total combined bid in the amount of \$553,318.60 submitted by W. M. Schultz Construction, be accepted as the lowest most responsible bidder; now, therefore, be it

RESOLVED, that the Town Board hereby accepts and awards the above referenced bid to W. M. Schultz Construction in the amount of \$553,318.60.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 262 of 2003, a resolution establishing Miller Road South Water District No. 1, and authorizing the acquisition and construction of improvements to the water system.

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

WHEREAS, the Town Board of the Town of Clifton Park proposes to establish the Miller Road South Water District No.1 (the "District") in the Town of Clifton Park, New York, (the "Town"), pursuant to Article 12-A of the Town Law, and

WHEREAS, the Town Board has caused a map, plan and report of the proposed district prepared by John McDonald Engineering, P.C., a competent engineer licensed by the State of New York, in the manner and detail required by the Town Board, has been filed with the Town Clerk in accordance with the requirements of Article 12 – A of the Town Law, and

WHEREAS, the boundaries of the proposed District are set forth on Exhibit A attached hereto, and

WHEREAS, the Town proposes to acquire, construct and install a water supply and distribution system and related facilities in the District (the "Improvements"), including (a) construction and installation of water transmission mains and lines and related facilities, (b) acquisition of furnishings, equipment, machinery or apparatus required in connection therewith, and (c) acquisition of land or rights in land, all as more particularly described in the Maps and Plans, and

WHEREAS, the maximum amount proposed to be expended for the Improvements is \$192,000.00, and

WHEREAS, the cost of the proposed District to the typical property in the District is estimated to be approximately \$1,090.00 per year, and

WHEREAS, the proposed method of financing the costs of the Improvements consists of the issuance of serial bonds and bond anticipation notes of the Town to mature in annual installments over a period not exceeding 25 years, payable in the first instance from assessments levied on real property in the proposed District, and

WHEREAS, the cost of acquiring, constructing and installing the District Improvements will be assessed among the properties in the District in proportion to the assessed value of each property, and

WHEREAS, usage, operation and maintenance fees will be charged in accordance with the Clifton Park Water Authority standard fee schedule, and

WHEREAS, the Maps and Plans describing the foregoing, including a detailed explanation of how the estimated cost of the District to the typical property was computed, have been filed in the Town Clerk's office and are available for public inspection during regular business hours, and

WHEREAS, a public hearing was called on September 8, 2003, to hear all persons interested in this matter and to take action as required by law, and

WHEREAS, on September 8, 2003, resolution No. 231 of 2003 was adopted by the Town Board reciting the filing of the map, plan and report, the boundaries of the proposed District, the improvements proposed, the estimated expense of these improvements, the proposed method of financing, the cost of the District to the properties in the District, the fact that the map, plan and report are on file in the Town Clerk's office for public inspection and all other matters required by law to be stated, and

WHEREAS, the resolution was published and posted as required by law, and

WHEREAS, a public hearing on the matter was held by the Town Board on October 6, 2003 at 7:10 pm and the matter was fully discussed and all interested persons were heard; now, therefore, be it

RESOLVED, that the Town Board of Clifton Park hereby determines that the notice of hearing was published and posted as required by law, and is otherwise sufficient that the construction of the Water District Improvements will not have a significant impact on the environment, that all property and property owners benefited are included within the limits of the proposed district, and that it is in the public interest to establish said district, and be it further

RESOLVED, that the establishment of the Miller Road South Water District No. 1 is hereby authorized subject to the approval of the New York State Comptroller; and shall be bounded and described as set forth on Exhibit A attached hereto, and be it further

RESOLVED, that the District, as set forth in the map, plan and report be approved, that the requested improvements be constructed, and that the necessary easements and lands be acquired, upon the required funds being made available and provided for, and be it further

RESOLVED, that the proposed improvements including construction costs, cost of acquisition of lands and easements, legal and engineering fees, and all other expenses, be financed by the issuance of serial bonds and bond anticipation notes of the Town containing such terms as may be determined by the Town Board, the cost of such improvements to be issued by the Town Board, the cost of such improvements to be assessed by the Town Board in as close a proportion to the benefit to which each lot or parcel will derive from the improvement as possible; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to file a certified copy of this resolution and an application for approval of the District with the New York State Department of Audit and Control in Albany.

It was noted this came to the Board through residents' petitions.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Rob Spiak, Greensboro Drive, representing Brinker Restaurant Corp., (Chili's) stated in order for Brinker Restaurant Corp to get their Certificate of Occupancy, issues related to the stormwater management facilities of the property need to be taken care of by, and are the responsibility of, the developer (Northside LLC). It has been discovered that the utility pole that services the whole development happens to be located in the middle of where the stormwater management basin should be. He said his clients are seeking their CO and asking the Town Board's help.

Supervisor Barrett said it sounds like an issue that needs to be work out with the landlord.

William Engleman, Partridge, asked that the Board give attention to making the Exit 9 area more pedestrian friendly.

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

Motion carried at 9:55 p.m.

Patricia O'Donnell
Town Clerk