

October 18, 2010

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 Hughes
Councilman Romano
Councilwoman Walowit
Supervisor Barrett
Town Clerk O'Donnell

Also Present: Town Attorney McCarthy
Michael Shahen, Town Administrator
Mark Heggen, Comptroller
Steven Myers, Director of Building and Development
John Scavo, Director of Planning

MOTION BY Councilman Romano, seconded by Councilwoman Walowit, to approve the minutes of the October 4, 2010 meeting as presented.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

MOTION CARRIED

ANNOUNCEMENTS AND COMMUNICATIONS

Supervisor Barrett thanked all who participated in the successful Shredding Day.

PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

Resolution No. 254 of 2010, a resolution scheduling a public hearing to consider the 2011 Preliminary Budget.

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

WHEREAS, the Town Board wishes to obtain comment regarding the 2011 Preliminary Budget; now, therefore, be it

RESOLVED, that a public hearing is hereby scheduled for Thursday, November 4, 2010 at 7:00 p.m. in the Wood Memorial Room, One Town Hall Plaza, Clifton Park, New York, to consider the 2011 Preliminary Budget; and be it further

RESOLVED, that the Town Clerk publish appropriate notice of same.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 255 of 2010, a resolution expressing the intent of the Town of Clifton Park Town Board to encourage parents to limit the times that children will be trick or treating on Halloween to between the hours of 4:00 - 8:00 p.m.

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

WHEREAS, the Clifton Park Town Board wishes to encourage parents to limit the hours that their children will trick or treat for safety reasons; now, therefore, be it

RESOLVED, that the Town Board encourages families residing within the Town of Clifton Park to limit trick or treating to between the hours of 4:00 - 8:00 p.m. on Halloween.

Supervisor Barrett noted this is only a recommendation.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 256 of 2010, a resolution allocating matching funds for the 2008 FEMA Pre-Disaster Mitigation JES Application.

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

WHEREAS, in 2008, the Clifton Park Sewer Department filed a grant application for the addition of three new standby generators to be located at Denkers, Knoll Wood and Wild Flower Pump Stations at an estimated cost of \$120,000 for the project, and

WHEREAS, (75%) or \$90,000 of the total cost of the project will be borne by Federal Share and the Town of Clifton Park will be responsible for (25%) or \$30,000, and

WHEREAS, FEMA requires documentation of the availability of matching funds for the 2008 FEMA Pre-Disaster Mitigation JES Application; now, therefore, be it

RESOLVED, that the Clifton Park Sewer Department is authorized to complete the grant application under the 2008 FEMA Pre-Disaster Mitigation JES Program and the Town Board authorizes \$30,000 in local matching funds; and be it further

RESOLVED, that the 25% share or maximum of \$30,000 requirement of the matching funds be allocated from the 2011 Clifton Park Sewer Department budget line G7 811-200 (Equipment and Building).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 257 of 2010, a resolution authorizing the Supervisor to execute a contract with M. J. Engineering to conduct a feasibility study of the Moe Road Multi-Use Trail final section and safety re-alignment of the road.

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

WHEREAS, the Town of Clifton Park has held two public meetings to obtain comments from residents concerning trails connections in the Stony Creek Park District I vicinity, including extending the Moe Road Trail along Moe Road, and

WHEREAS, the Town has applied persistently for recent funding opportunities including applications through the:

- 1) 2008 SAFETEA-LU Enhancement Program,
- 2) 2009 Healthy Trails, Healthy People Program Technical Assistance from Parks and Trails New York
- 3) the 2010-2015 TIP/State transportation

WHEREAS, none of these outside sources has yet awarded the Town any funding or technical assistance for design or construction, and

WHEREAS, the public continues to express support for completion of trail connections between Crescent and Grooms Roads in a north - south direction, and

WHEREAS, the Town authorized \$50,000 within the 2010 budget to be allocated towards advancing the technical studies needed (surveying work, right-of-way analysis and preliminary design); now, therefore, be it

RESOLVED, that the Town Supervisor is authorized to execute a contract with M.J. Engineering, Clifton Park, to conduct a feasibility study of the Moe Road Multi-Use Trail, final section and safety realignment of the road, at a cost of \$50,000, to be paid as budgeted in the 2010 budget from A-7629-135 (Moe Road Trail).

Supervisor Barrett reported Director of Planning Scavo will oversee this project.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 258 of 2010, a resolution authorizing the Clifton Park Town Court to submit an application for a Justice Court Assistance Program Grant and to authorize the Town Supervisor to sign all necessary documents in support of such efforts.

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

WHEREAS, the Clifton Park Town Court is in need of storage space for files, and

WHEREAS, the 2010 New York State budget includes \$5 million in Justice Court Assistance Program funds, and

WHEREAS, the Honorable James F. Hughes and the Honorable Robert A. Rybak wish to submit an application seeking a \$19,656.84 grant from the Justice Court Assistance Program to purchase a Spacesaver storage system, and

WHEREAS, the Spacesaver storage system will meet the current and future needs of the Clifton Park Town Court; now, therefore, be it

RESOLVED, that the Town Board authorizes the Town Court to submit an application for a Justice Court Assistance Program Grant seeking \$19,656.84 to purchase a Spacesaver storage system; and be it further

RESOLVED, that the Town Supervisor is authorized to sign all necessary documents in support of the grant application.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 259 of 2010, a resolution authorizing the Shenendehowa Senior Citizens Inc. to use the Shenendehowa Adult Community Center for a cocktail party and dance on October 22, 2010.

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

WHEREAS, the Shenendehowa Senior Citizens have requested permission to use the Shenendehowa Adult Community Center for a fund raising event on October 22, 2010, from 7:00 - 10:00 p.m., and

WHEREAS, the Shenendehowa Senior Citizens have also requested authorization to serve beer and wine at the event; now, therefore, be it

RESOLVED, that authorization is hereby given to the Shenendehowa Senior Citizens to use the Shenendehowa Adult Community Center for a cocktail party and dance on October 22, 2010 from 7:00 - 10:00 p.m.; and be it further

RESOLVED, that the sponsoring group is hereby authorized to serve beer and wine at the event.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Hughes, Councilman Romano,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

PUBLIC HEARING, 7:10 PM
TO CONSIDER A LOCAL LAW AMENDING CORPORATE COMMERCE DISTRICT,
SECTIONS 208-51, 208-53 AND 208.54 AND LIGHT INDUSTRIAL DISTRICT SECTIONS
208.62, 208.64a, AND 208.65

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on October 8, 2010.

Supervisor Barrett stated the proposed legislation better reflects today's market and commercial zoning and what is happening in the immediate area.

Director of Planning Scavo summarized the proposed local law and noted highlights of changes, explaining because the changes occur on more than 25 acres, it is automatically a Type 1 Action under SEQRA. He said basically the changes allow for what is known as "flex space" and this clarification of the code will give flexibility and clarification for office, warehouse and distribution. He reported scientific and laboratory are being removed from the current code and replaced with research and development. Mr. Scavo further explained reference to corporate headquarters is being removed and replaced with offices, offices of organizations, not-for-profits and businesses. A further change establishes the ability for a private road whereas under the existing code an applicant would be required to get a variance. Mr. Scavo explained this will allow for greater flexibility and better utilization of the land, sitings of buildings and preserve open space.

Supervisor Barrett reported the last update of Corporate Commerce zoning was 1996 and Light Industrial in 2005.

Mr. Scavo suggested the Town Board consider adding Accessory Retail as a minor addition within Corporate Commerce and Light Industrial 1 and 2 zones. He defined Accessory Retail as follows: "The retail sales of various products including food services intended to be ancillary to the primary uses within an office or industrial complex. Accessory Retail is intended to meet the daily needs of immediate employee population through the offerings of goods and services in close proximity in order to promote sustainability and reduce traffic. Typical Accessory Retail uses include but are not limited to cafes, coffee and sandwich shops, automated teller machines, banks, mini markets and newsstands, as well as a pick up and drop off service for dry cleaning". Mr. Scavo stated the current code prohibits all retail.

Supervisor Barrett asked if this would be a strip plaza or part of a larger flex building. Mr. Scavo responded it is usually part of a larger flex building. He said as feedback was received on the proposed legislation, it was suggested that Accessory Retail be added.

The public hearing was opened for comments from the audience at 7:30 p.m.

Jim Angus, Sevilla Drive, Vice President of Saratoga Economic Development Corp, read a letter from SEDC, attached, in favor of the proposed amendments and the importance of flex space. Mr. Angus said as a resident, he supports the proposed legislation. Speaking with regard to the Accessory Retail proposal, he said he understands what it is and it is being considered now in the NYSERDA park in Malta, as well as a provision in the Luther Forest PDD for these uses. He said it is important to look at the impact Accessory Retail will have on other businesses outside the area. Supervisor Barrett stated that is his concern.

James Ruhl, Wood Dale Drive, read a statement, attached, in opposition of the proposed amendments. He noted where LI is mentioned it refers to LI 1.

Supervisor Barrett said the areas currently zone Corporate Commerce and Light Industrial are not being changed; simply an update and clarification of the code.

Pam Marshall, Fairlawn Court, appreciates language stating efforts will be made to keep natural vegetation on the site, stating this needs to be encouraged. She further said she is glad to see that the green space requirements remain but needs to be maintained. Ms. Marshall expressed concern about building heights not being limited and discretion left to the Planning Board. She said building height needs to be limited.

Peter Aust, President and CEO of The Chamber of Southern Saratoga County, read a resolution adopted by the Chamber in favor of the proposed legislation, attached, and urging the Town Board to adopt the proposed changes.

Bill Engleman, Partridge Plateau, spoke in opposition to the proposed legislation, stating “the proposed zoning changes weaken the few remaining protections in the Light Industrial and Corporate Commerce zones”. He said maximum lot sizes should not be removed in the Corporate Commerce zone and height restriction should remain at 35 feet and not left unlimited and turned over to the discretion of the Planning Board. Mr. Engleman said office buildings and equipment maintenance should not be added as a permitted use to the LI zone, nor should warehouses be added to Corporate Commerce. He stated equipment maintenance should not be added as a permitted use to the Light Industrial zone, as equipment exposed to nano-particles and tech pollution should not be allowed to enter Clifton Park’s industrial zone. He expressed concern with “clear cutting” mature forest that has recently happened in the Light Industrial zone and other locations which calls into question the town’s willingness or ability to enforce the Zoning Code. Mr. Engleman stated the Town Board should expand the Dwaas Kill natural area east from the Northway to the town line with Halfmoon and secure perpetual conservation easements from all applicants with land in the existing Land Conservation zone area along the Dwaas Kill. He further recommended the Board consider expanding the width of the buffer included in the town’s Land Conservation zoning district along the Dwaas Kill and further extend a protective buffer of conserved lands along the Dwaas Kill creating a substantial undisturbed green corridor. Mr. Engleman stated these amendments are not clarifications but substantive and invasive changes and should be rejected by town residents and the Town Board.

Dean Taylor, Vineyard Circle, commercial real estate agent, spoke in favor of the proposed legislation, noting he is dealing with several of the ancillary companies and this is exactly what companies are looking for. He said the town has done a very good job with the planning process and there are so many layers regarding planning and environmental issues and enough stop gaps in effect that it would be very unlikely that something would slip through. Mr. Taylor commented the town can continue with 20 year old zoning and attract 20 year old industry. He said the area is looking at a whole new wave of environmentally conscience industry. He further noted this industry will be paying research scientists and for specific logistics. Mr. Taylor stated when a project is presented to an applicant they want to know what the zoning allows at that time, not what a special use permit or variance can do. He stated the current zoning does not meet the qualifications of this industry.

Peter Fort, Riverview Road, IDA Chairman and speaking on behalf of the IDA, said the town is in competition with every municipality including surrounding counties. He spoke in favor of the proposed legislation noting this opens up the avenue for promoting projects within the Town of Clifton Park, specifically for industries looking at the town. Mr. Fort stated the technology today is changing so rapidly the IDA has to be in a position to address these changes. He stated the existing law is very restrictive. The proposed legislation will create a tax base for the town and school district. Mr. Fort spoke in favor of adding Accessory Retail.

Ed Abele, Woodland Drive, Abele Builders, spoke in favor of the proposed legislation, noting what is being proposed is proactive. He said this is a reasonable accommodation for business and a calibration of the existing code, noting with business always changing, the code needs to be sufficiently flexible. Mr. Abele stated clients and tenants like to have predictability and it is important to have flexibility. He noted NYS has a very comprehensive development process with a lot of existing structure rules and infrastructure in place to scrutinize a project sufficiently.

Donald MacElroy, Route 146A, Vice President of DCG Development Co., spoke in favor of the proposed legislation, noting the job growth potential. He said the amendments are well thought out and responsive to issues that have been raised in recent years. He continued with the state fiscal crisis and as state jobs disappear there will be more of a need to have local jobs. Mr. MacElroy stated the town is in an enviable position with Global Foundries to the north and the nanotech development in Albany. He said the town has the land and both transportation and utility infrastructure, so the tools are there and what is needed is flexibility. He urged the Town Board to vote in favor of the proposed legislation.

Supervisor Barrett said a sustainable tax base needs growth in all areas and diverse uses, noting the town depends on sales tax for its revenue.

Michael Dudick, Addison Estates, ZBA Chairman, said the ZBA looks for balance and appreciates the guidance and clarification from the Town Board.

Jim Baisley, Barkwood Drive, questioned the ZBA Chair speaking at the public hearing and wondered if there could be conflict of interest with companies coming before the Zoning Board in the future. He asked that Messrs. Ruhl's and Engleman's comments be taken into consideration. He said the most important issue is the interest of town residents.

Supervisor Barrett said Accessory Retail is an item to be considered. Any additional comments can be submitted by mail or email.

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 8:19 p.m.

PUBLIC PRIVILEGE

No one wished to be heard.

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

Motion carried at 8:20 p.m.

Patricia O'Donnell
Town Clerk