

**Clifton Park Town Board Meeting Minutes
June 5, 2000**

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.

Boy Scout Troop #62 led the 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 Pelagalli
Donald Clemens, Director of Building and Zoning
Michael Shahan, Town Administrator

MOTION by Councilwoman Walowit, seconded by Councilman Paolucci, to approve the minutes of the May 8 and 15, 2000 meetings as presented.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth
Councilwoman Walowit, Supervisor Barrett
Noes: None

MOTION CARRIED

AUDIT THROUGH JUNE 2ND

To be added

MOTION by Councilman Paolucci, seconded by Councilman Roth, to accept the audit.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth
Councilwoman Walowit, Supervisor Barrett
Noes: None

MOTION CARRIED

ANNOUNCEMENTS AND COMMUNICATIONS

Supervisor Barrett announced a Job Fair will be held on June 15 in the Clifton Country Mall.

The Supervisor read a letter of thanks he sent by Email to those individuals that sent letters in support of Boscov Department Store locating in the Clifton Country Mall.

Supervisor Barrett expressed appreciation to individuals that served on the Public Safety Task Force and to those in attendance at the May 31st meeting. He noted recommendations as to where to go in the future will be heard at a July 19th meeting.

The Supervisor expressed appreciation to Dolly Jordan and Pat Bloss for the work involved with the Character Counts Program. He said this would be the first such program in the State.

REPORTS

Report for May from the Justice Court was filed with the Town Clerk.

PRESENTATION ON ADULT USE BUSINESSES

Councilman Paolucci said the Town is being proactive in taking steps to have the proper zoning in place to regulate adult use businesses. As it stands, there are no zoning restrictions on adult use businesses and they cannot be zoned out of a municipality. He noted a moratorium has been passed and extended. Councilman Paolucci said if the Town bases its zoning on secondary adverse impacts, the proposed zoning law will stand up to a challenge. He expressed appreciation to Dr. Robert Penna, consultant, and the Committee on Adult Use Businesses. He reported the Committee's goals were to define the adverse impacts that could come from an adult use business and to come up with a location so adverse impact would be minimized. Councilman Paolucci displayed a map showing areas of sensitive use (places of worship, schools, municipal buildings, parks) as well as residential and business areas and said it was apparent to Dr. Penna and the Committee that the unshaded Light Industrial zone in the Wood Road/Route 9 area would be acceptable. Councilman Paolucci said it was determined to create an overlay zone known as LI-A bounded by Wood Road and Route 9. He said Dr. Penna and the Committee recommends there be no differentiation between passive and active adult uses and no adult use be allowed within 500 feet of any residential use or within 1000 feet of any place of worship or other sensitive use. It was further recommended that all sales of alcohol be prohibited within the designated adult zones and from 1225 feet of any adult establishment. Councilman Paolucci said the committee further recommends that the Town include in its zoning that all booths, cubicles, studios used for either the viewing of motion pictures or live performances be open to public view from the common area of the establishment, that private viewing areas be well lighted and readily accessible and

that lighting throughout the adult establishment shall be sufficient to illuminate every place to which patrons are permitted access. It was further recommended by the Committee and Dr. Penna that the Town incorporate into its regulations of adult uses such screening, landscaping and other requirements, including, but not limited to, signage, as may be required to meet these community needs. Councilman Paolucci said the study contains the statistical analysis and documentation regarding adverse impacts and no decisions are based on content. He said these conclusions should be included in any final zoning.

Dr. Robert Penna, Consultant on Adult Use Businesses, expressed appreciation to the Committee, and noted adverse impacts differ from cities to towns. He said there can be a depressing impact on local businesses, with outsiders coming in and acting in rural communities. Clifton Park is vulnerable to adult use businesses coming in any area as specific zoning is lacking. Dr. Penna said generally it is desired to keep these businesses away from commercial areas as commercial areas tend to attract a mixed group of people who would not want to be exposed to patrons of adult use businesses. He noted only five percent of the land in Clifton Park is devoted to commercial uses so it was felt the town was well within its bounds to further limit the areas in which adult uses could operate. He explained the 300 acres in the unshaded light industrial zone is nineteen percent of all the commercial area and is more than ample to meet the Supreme Court tests. It was proposed that the Light Industrial zone would be the most logical because it has the least amount of residences and existing businesses. The legislation requires buffering, as well as a ban on alcohol.

In answer to a question regarding signage, Town Attorney Pelagalli responded the signage allowed in the Light Industrial zone would be permitted in the overlay zone.

Director of Building and Zoning, Donald Clemens, reviewed signage allowances in the Light Industrial zone.

Councilman Roth asked if the Town is going beyond the Supreme Court decision by not allowing alcohol in the area. Dr. Penna responded no, as the Town has the right to decide where alcohol is allowed. He explained the Supreme Court is interested in the fact that the constitutional rights of people to sell material or to buy, rent or view not be impinged. The study contains an intent section to be included in the legislation.

In response to a question regarding allowing the use in the smaller retail plazas in the Routes 9 and 146 area and include in the restrictions that the business cannot be within certain distances of various other uses, Dr. Penna said allowing this in an existing strip mall would eventually make the strip mall adults only.

Supervisor Barrett said this is a proactive step and until the laws are strengthened and a specific place denoted, adult businesses could go into any one of the strip malls.

It was noted the 1000-foot buffer surrounding Corpus Christi Church extends from the Church property line.

Supervisor Barrett said the proposed location is off of Route 9, which is heavily patrolled by the Sheriff and State Police. He said the 1000-foot buffer surrounding the church could be reviewed.

Dr. Penna said there would be protective berming and vegetation.

Town Attorney Pelagalli reported the distance of the adult use business in the Town of Halfmoon, located south of Corpus Christi Church on Route 9 is between 1500 and 1800 feet from the Church and that business serves alcohol where as no alcohol would be allowed in the proposed adult business zone.

Councilman Paolucci said the 1000-foot buffer is not etched in stone and can be discussed. He said one of the key points that had to be looked at is that there be substantial acreage or else it would appear the businesses are being zoned out.

Dr. Penna said he doesn't think there is a problem increasing the church buffer to 1500 feet. Councilman Paolucci agreed.

Supervisor Barrett emphasized the legal necessity to determine a location for adult use businesses noting this location will not have children walking by and is on a heavily patrolled road.

Throughout the presentation concern from the floor was voiced as to the proximity of the proposed zone to Corpus Christi Church.

Recommendation from the floor to change title of map from "Cultural Uses" to "Sensitive Uses". Councilman Paolucci agreed.

Resolution No. 124 of 2000, a resolution awarding certain Asphalt Concrete Paving bids.

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

WHEREAS, bids were received for certain Asphalt Concrete Paving needs of the Highway Department, and

WHEREAS, the Deputy Highway Superintendent has requested that the low conforming bids received be awarded; now, therefore be it

RESOLVED, that the following bids for Asphalt Concrete Paving are hereby awarded:

Asphalt Concrete Paving, 6F, 7F and Dense Binder F.O.B. to Pompa Bros.

Asphalt Concrete Paving, 6F, 7F and Dense Binder to be delivered in place to Towne Construction and Paving.

Asphalt Concrete Paving-Curbing Mix-F.O.B. to Palette Stone.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 125 of 2000, a resolution authorizing the hiring of Timothy Goodwin by the Rexford Water District on an as needed basis.

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

WHEREAS, the Superintendent of the Rexford Water District has identified a need for a part-time worker to assist him on an as needed basis, and

WHEREAS, the Superintendent has recommended Timothy Goodwin for this position; now, therefore be it

RESOLVED, that the Superintendent of the Rexford Water District is hereby authorized to hire Timothy Goodwin, 22 Garnsey Road, Rexford on an as needed basis at the rate of pay of \$15.00 per hour.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 126 of 2000, a resolution authorizing the appointment of Matthew Farnsworth to a laborer position with the Highway Department.

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

WHEREAS, a vacancy exists following the resignation of a laborer employed with the Town of Clifton Park Highway Department, and

WHEREAS, the Deputy Highway Superintendent has recommended that Matthew Farnsworth be appointed to this position; now, therefore be it

RESOLVED, that Matthew Farnsworth, 13A Woodbine Drive, Clifton Park is hereby appointed to the position of laborer in the Highway Department, Grade 4, Step 1 effective immediately.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 127 of 2000, a resolution reclassifying certain job titles as per recommendation and approval of the Saratoga County Department of Personnel.

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

WHEREAS, the job titles of Derek Miller, Marcia Johnson, Richard Vertefeulle and

Daniel Clemens have been reclassified by the Saratoga County Department of Personnel; now, therefore be it

RESOLVED, that the following title reclassifications are hereby approved by the Town of Clifton Park Town Board:

Derek Miller, from Building Inspector III to Senior Building Inspector, Competitive

Marcia Johnson, from Principal Typist to Administrative Assistant, Competitive

Richard Vertefeulle, from Laborer to Automotive Repairer/Recreation Maintenance

Worker, PC-NC, and

Daniel Clemens, from Laborer to Building Maintenance Mechanic, Non Competitive.

Mr. Shahan explained a study showed these individuals have taken on more responsibility than their actual titles reflected and in a salary review as a result of the union contract certain raises were given. Saratoga County Department of Personnel recommended that these individuals should be working in the above titles.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 128 of 2000, a resolution appointing Justina Vedder to the position of part-time legal secretary.

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

WHEREAS, due to summer vacation schedules of Town of Clifton Park clerical staff requires the hiring of a part-time legal secretary/summer intern to the Town Attorneys, and

WHEREAS, Justina Vedder has been recommended for this position; now, therefore be it

RESOLVED, that Justina Vedder, 3 Edwards Street, Clifton Park is hereby appointed to the position of part-time legal secretary/summer intern to the Town Attorneys, Grade 3, Step 1 from July 12 to September 11, 2000.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 129 of 2000, a resolution authorizing the Supervisor to enter into a lease agreement with Charlew Construction.

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

WHEREAS, Charlew Construction and the Town of Clifton Park previously agreed to Charlews placement of a sales trailer on a .99 acre parcel of Town land on the west side of Dorsman Drive for a period of not more than one year, and

WHEREAS, Charlew Construction has asked the Town to extend the agreement for an additional year, and

WHEREAS, Charlew Construction has agreed to pay the Town of Clifton Park \$1200 up front for a period not to exceed one year and restore the parcel to its original condition; now, therefore be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an extended lease agreement with Charlew Construction, for a period not to exceed one year, said agreement subject to final review by the Town Attorney.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 130 of 2000, a resolution setting a public hearing to consider adoption of a Local Law deleting Local Law No. 9 of 1985, Adult Entertainment, and amending Local Law No. 10 of 1996, as amended, The Zoning Code of the Town of Clifton Park.

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

WHEREAS, a thorough and detailed study of secondary adverse effects of adult use businesses has been conducted by Dr. Robert Penna, consultant to the Town of Clifton Park in

Conjunction with the Task Force on Adverse Secondary Impacts, and

WHEREAS, Dr. Penna has completed his report with recommendations to the Town Board, and

WHEREAS, the Town Attorney has drafted legislation addressing regulation of Adult Use Businesses; now, therefore be it

RESOLVED, that a public hearing to consider the adoption of a local law deleting Local Law No. 9 of 1985, Adult Entertainment, and amending Local Law No. 10 of 1996 as amended, the Zoning Code of the Town of Clifton Park will be held on June 12, 2000 at 7:10 p.m. in the Wood Memorial Meeting Room, One Town Hall Plaza, Clifton Park and the Town Clerk is directed to publish notice of same.

Councilman Paolucci asked the Board for comments on extending the proposed 1000-foot buffer to 1500 feet. Supervisor Barrett said he would like to see the buffer be at least the same distance that exists between Corpus Christi Church and the adult use business located south on Route 9 in the Town of Halfmoon. Dr. Penna said he would like to review information he has regarding standard deviations and setbacks to see what the norm is. It was noted the moratorium ends on June 19th. Town Attorney Pelagalli expressed concern that the larger the buffer zones the less available buildable land and this could be subject to constitutional challenge. Councilman Roth asked for topographical maps that could be reviewed to see what goes beyond the 1500-foot buffer.

It was agreed to propose 1500-foot buffers surrounding sensitive areas and 500-foot buffer from dwellings.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 131 of 2000, a resolution authorizing the Town Clerk to enter into an agreement for storage space.

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

WHEREAS, the Town Clerk has determined a need for off site storage space for Town microfilmed records is required, and

WHEREAS, the Town Clerk has identified space at Clifton Park Self Storage, Clifton Park consisting of 3x8 square feet at a cost of \$19.00 per month; now, therefore be it

RESOLVED, that the Town Clerk is hereby authorized to enter into an agreement for rental of storage space with Clifton Park Self Storage, Clifton Park, and, be it further

RESOLVED, that payment be made from Town Clerk Grant Expense (1410-070) and in future years as budgeted under Rental and Leases.

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 132 of 2000, a resolution hiring summer staff for the Buildings and Grounds Department and Convenience Transfer Station.

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

WHEREAS, the Buildings and Grounds Supervisor and the Convenience Transfer Station Supervisor have recommended that the appointments contained in Exhibit A be made for summer staff, and

WHEREAS, the positions being filled are paid at an hourly rate of \$6.50 per hour; now, therefore be it

RESOLVED, that the persons listed in Exhibit A are hired as summer staff for the Buildings and Grounds Department, line item A-7110-E4000 (Pt. Time Seasonal Laborers) and the Convenience Transfer Station, line item A-8160-E3000 (Pt. Time Seasonal Laborers), all at an hourly rate of \$6.50 per hour.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 133 of 2000, a resolution authorizing Building Maintenance Mechanic Wade Schoenborn to attend an Air Conditioning Course.

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

WHEREAS, Michael Handerhan, Director of Buildings and Grounds, wishes to have Building and Maintenance Mechanic Wade Schoenborn attend a course regarding repair and maintenance of air conditioning and N. Y. S. Certification to be held on June 11, 2000, and

WHEREAS, attendance at this course by Building Maintenance Mechanic Wade Schoenborn will benefit the Town of Clifton Park; now, therefore be it

RESOLVED, that the Director of Buildings and Grounds is authorized to send Building Maintenance Mechanic Wade Schoenborn to an air conditioning course on June 11, 2000 at a cost not to exceed \$125 to be paid from Account A-7110-024 (Buildings & Grounds General Maintenance).

ROLL CALL VOTE

Ayes: Councilman Paolucci, Councilman Speckhard, Councilman Roth

Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Norman Goldman, London Square Apts., had concerns regarding designating Adult Use Businesses in the Light Industrial zone, stating that area is vacant now because of restrictions on the land.

Supervisor Barrett said he has confidence in the Adult Use Business Study prepared by Dr. Penna and the Committee and no one is being zoned out.

Bill Engleman, Partridge Plateau, said he commends the Town for the work they are doing on adult use businesses, as well as the bill board moratorium. It was noted that landowners within 500 feet of the area will be notified of the public hearing. Mr. Engleman said the Planning Board conducted an environmental impact statement of the entire area under consideration and produced a Findings Statement and based on his reading, the use being specified does not comply with the Findings Statement of the Wood Road Corridor GEIS. He reviewed numbers 81 and 93 from the Findings Statement. He stated the Town is required to honor the findings as any applicant would be. If the law is passed without a DGEIS prepared, this would be a violation of the Wood Road Corridor Findings Statement.

Town Attorney Pelagalli responded he doesn't agree and said the Environmental Specialist is doing a SEQRA and the Town doesn't feel that this could possibly have a significant environmental impact as it is a much less intense use than light industrial or any of the present uses in that corridor. He continued he is confident it will be a negative declaration and there will be no draft GEIS or an EIS. He noted the Findings were considered, and are not law but guidelines and it is felt this does not conflict in any way with the Wood Road study and no additional environmental studies are required.

Mr. Engleman disagreed and said if the Town proceeds without creating studies or taking some action consistent with the Findings Statement, they will be in violation of the Statement and would be setting a precedent. He reported the EIS rejected a variety of uses in that area.

Supervisor Barrett said this is to set up a zone in which to put adult use businesses should the Town ever get an application. Any application would have to go through the Planning Board process.

Town Attorney Pelagalli said if a use came in, the Town could require the applicant to prepare an EIS consistent with the Wood Road GEIS.

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

Motion unanimously carried at 9:35 p.m.

Patricia O'Donnell

Town Clerk