

## **Clifton Park Town Board Meeting Minutes**

**July 16, 2001**

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  
Louis Gerard, Superintendent of Highways  
Mark Heggen, Comptroller  
Patricia Haffner, Director of Parks, Recreation & Community Affairs  
Jason Kemper, Director of Planning  
Michael Shahan, Town Administrator

MOTION by Councilman Paolucci, seconded by Councilman Roth, to approve the minutes of the July 2, 2001 meeting as presented.

### **ROLL CALL VOTE**

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

Noes: None

### **MOTION CARRIED**

### **ANNOUNCEMENTS AND COMMUNICATIONS**

Supervisor Barrett announced the town is sponsoring a blood drive on August 8, 2001 from noon to 6:00 p.m. in the town hall.

Letter from John and Lucinda McPhee to the Town Board dated July 5, 2001, attached.

Councilman Speckhard filed "Downtown Day" Consultant Cindy Schmehl's final report with the Town Clerk, noting it was an outstanding success. He reported a proposal from Ms. Schmehl has been received requesting a financial commitment from the town of

\$2000 for a heated hospitality tent and connector to Santa's Workshop, holiday music and PA system, refreshments, candy canes or other handouts to the children, entertainment (magician or others) for the "Sounds of the Season III event to be held November 28, 2001 from 5:00 to 9:00 p.m. at Shoppers World Plaza. Councilman Speckhard said he will bring a resolution forward in August in this regard, noting it is important to support businesses in town.

Councilman Speckhard filed with the Town Clerk the short environmental assessment form he received from Environmental Specialist O'Brien regarding proposed lighting of soccer and baseball fields on the Clifton Common, noting this will have to be responded to.

Councilman Speckhard acknowledged receipt of letters from George Petersen, Chairman, Rexford Water District Study Committee, asking the Board to consider increasing the amount of money to \$4000 that the Superintendent of the Water District can spend without prior town approval. He noted there is currently a resolution from 1980 giving the Superintendent authority to spend up to \$1000. A second request asked the Board, as Commissioners of the District, to certify six companies that the Superintendent could go to when emergencies, e.g. leaks, occur. Councilman Speckhard congratulated the Study Committee and Superintendent Tom Ziobrowski for their work over the past year in keeping up with the water emergencies that occurred.

Councilman Paolucci reported representatives from NYS Department of State are scheduled to give a training class on adult entertainment zoning on July 19, 2001 at 7:00 p.m. in the Town Hall. He noted this is a complement to the study done by Dr. Penna and should prepare the Town to be able to reevaluate choices that have been studied.

#### PRESENTATION TO THE BOARD

Tom MacLaughlin, President of Clifton Park Babe Ruth League, announced Clifton Park has been awarded the 2002 14 year old Babe Ruth World Series and introduced Ron Tellefsen, CEO & President of Babe Ruth, Inc. and International Commissioner Robert Faherty at which time the official contract was signed

#### REPORTS

Report for June from the Transfer Station was filed with the Town Clerk.

#### PUBLIC HEARING, 7:20 PM

TO CONSIDER A LOCAL LAW AMENDING LOCAL LAW NOS. 11 of 1996 and 2 of 1998

#### TELECOMMUNICATION TOWERS

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on July 7, 2001.

Supervisor Barrett said it is prudent to look at the code and the procedures in place for a communication tower co-location. The public hearing was opened for comments from the audience at 7:30 p.m.

Robert Ritter, Castle Pines, expressed appreciation to the Board for rethinking the policy with regard to antennae for telecommunication industry. He asked the Board to look at the current policy and the impacts it will have on the residential community. Mr. Ritter stated these antennae do not belong near a residential community. He referred to and explained the "Duanesburg example" and the health effects. He stated the Duanesburg area is the only case study in the United States that has a long term low density RF factor study and the study determined towers should be at least one mile away from residential areas. Mr. Ritter said the cell tower owners have the ability to angle the antennae from a remote location and this is a concern. Mr. Ritter distributed a statement from Lawrence and Susan Stankavich, information titled "Some Unexpected Health Hazards Associated with Cell Tower Siting", and "A Clear Call - American Unplugged - A Guide to the Wireless Issue", attached. Mr. Ritter asked the Town Board to review the membership of the Clifton Park Water Authority.

John Emery, Knolltop resident, spoke in favor of the proposed moratorium and asked the Town Board to review any proposed legislation very carefully. He said he wishes the Water Authority had advised the town of the proposed cell tower. He said he doesn't believe the Telecommunications Act of 1996 was intended to cut down on peoples' quality of life and expressed concern with health issues that may be related to cell towers.

Youseff Ballout, Torrero Drive, recommended looking at the health effects of the radio frequency emissions. He said the Telecommunications Act of 1996 sets a standard and guideline on the basis of the power density that is emitted from towers and does not talk about frequency and frequency levels. He recommended, when going through the study and fact finding mission, contacting Johns Hopkins University who protect their workers 100 times lower than the FCC requires. He noted Kirkland Air Force Base has also set their standards lower than that of the FCC.

Margaret Catellier, Royal Oak Drive, questioned the effects of radiation upon the water in the water tower.

Jim Van Buskirk, Castle Pines, said the Telecommunications Act of 1996 and subsequent FCC regulations prevent localities from using health information as a grounds for denying permission to site but does says the power to reject or accept a cell tower rests with the locality. He asked where is the evidence that this will enhance real estate values and stated anything that is cited in or near a residential neighborhood is doing damage to the residents and their property.

Supervisor Barrett noted this application is in front of the Planning Board at the current time.

Mary Beth Slevin, representing Nextel Partners in its application before the Planning Board, stated Nextel is proceeding with processing its application before the Planning Board. She reviewed the status of the application. Ms. Slevin said the antennae are installed in a stationary position, there are no motors that will move them, and the positions are specifically identified on the site plan. She continued if the positions are changed it would be a deviation from the site plan which would require further Planning Board review. Ms. Slevin said Nextel provided a propagation study which is a study of where existing coverage exists and where there are gaps in the coverage and the area under question is an area that needs additional coverage. She stated the Town's zoning ordinance is specific in preferring existing tall structures before construction of a new tower and the water tower was a natural candidate for consideration. She said the application also consists of a power density study which shows RF emissions that are less than one percent of the allowed FCC guidelines and this was confirmed by an independent review at MIT. She stated in order to provide a full level of service and security that a cell phone offers, existing gaps in coverage must be filled. She noted studies have been done that indicate the FCC guidelines are adequately protective of human health. Ms. Slevin said Nextel has submitted sufficient information with respect to its application to demonstrate that it has complied with FCC guidelines, and that it can do an installation on the water tower that is acceptable and consistent with FCC guidelines and with the Town's ordinance requirements. The site plan provides for appropriate screening and Nextel is flexible with regard to ground facilities. She said Nextel can accomplish an installation at the proposed site without interfering with the neighborhood. Ms. Slevin continued, Nextel has provided information that demonstrates that this will not have an adverse impact on property values, there are a number of other installations in the town and throughout the capital district all of which show telecommunication installations can be accomplished without adverse impact on the community but instead continue to provide a public service.

Supervisor Barrett said the main concern is the protection of the neighborhood both health and safety and aesthetically.

Mr. Ballout said the study review at MIT made no claim as to health effects.

Mr. Ritter said it is his understanding the wireless industry is not a public utility but a user fee system.

Ms. Slevin responded the Court of Appeals in 1993 determined cellular phones is a public utility.

Mr. Emery reiterated his concern of the siting in a residential area and said there are other options that have not been looked at.

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 8:25 p.m.

Supervisor Barrett said he proposes the Town Board vote on an "interim application process" which would allow the company to go the first step of the application process but would aware of the moratorium in place and by the time the application may be considered by the Planning Board, the town may have different rules than today.

Town Administrator Shahan reviewed the 4th of July event, reporting traffic was cleared in approximately 48 minutes. He said the 2002 budget process is beginning and the tentative budget will be filed with the Town Clerk on September 28th, workshops will be held on October 10 and 11 and adoption planned for November 19th.

Supervisor Barrett thanked Pat Haffner and Mike Handerman and staff for all their work involved with the 4th of July.

Town Comptroller Heggen reviewed the June financial report that includes the 2nd quarter report of special district funds. He reported the "Rec 2000" BAN has been paid off two months early thereby saving \$3000. He said the obligation to the County has been settled as of June and the Town will now be receiving 100 percent of sales tax monies between now and the end of the year.

#### PUBLIC PRIVILEGE ON RESOLUTIONS

Question from floor asked how the proposed telecommunications law will affect the Nextel application. Town Attorney Trainor reported per the proposed resolution, pending applications will be considered under current legislation.

Resolution No. 182 of 2001, a resolution adopting Local Law No. 8 of 2001, a local law amending Local Law Nos. 6 of 1995, 5 of 1997, and 9 of 1999 entitled Comprehensive Plan of the Town of Clifton Park.

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

WHEREAS, the Comprehensive Plan Review Committee met, as required by law, and heard recommendations for amendments to the Comprehensive Plan; and

WHEREAS, a public forum was held on June 4, 2001 and a public hearing was held on July 2, 2001 to consider the adoption of said proposed local law; now, therefore, be it

RESOLVED, that the Town Board of the Town of Clifton Park hereby adopts Local Law No. 8 of 2001, a local law amending Local Law Nos. 6 of 1995, 5 of 1997, and 9 of 1999 entitled the Comprehensive Plan of the Town of Clifton Park, a copy of which is attached hereto as Exhibit A; and be it further

RESOLVED, that the Town Clerk file said local law with the New York State Department of State as required by law.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 183 of 2001, a resolution authorizing the seventh annual Special Collection Day on September 29, 2001.

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

WHEREAS, the Town Board of the Town of Clifton Park wishes to conduct the seventh annual Special Collection Day for household hazardous waste to be held on September 29, 2001, and

WHEREAS, an application will be made to the New York State Department of Environmental Conservation for reimbursement of up to 50% of eligible costs, and

WHEREAS, the citizens of Clifton Park have supported such programs in the past; now, therefore, be it

RESOLVED, that authorization is hereby granted to allocate up to \$12,000 from A-8989-150 (Community Development-Special Collection Day) in order to conduct the Special Collection Day; and it is further

RESOLVED, that authorization is given to the Town Environmental Specialist to apply for funding for reimbursement of up to 50% of eligible costs.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 184 of 2001, a resolution awarding a services contract for the Special Collection Day.

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

WHEREAS, three proposals have been submitted for professional services related to packaging, labeling, transport, and disposal of household hazardous waste to be collected at the seventh annual Special Collection Day to be conducted on September 29, 2001, and

WHEREAS, the Town Environmental Specialist has reviewed the proposals submitted for such professional services and recommends that the proposal of Clean Harbors Environmental Services of Glenmont, New York, be accepted; now, therefore be it

RESOLVED, that the contract to perform professional services related to the packaging, labeling, transport and disposal of household hazardous waste to be collected at the Town of Clifton Park's seventh annual Special Collection Day on September 29, 2001, is hereby awarded to Clean Harbors Environmental Services with funds for such services not to exceed \$12,000 with such funds to come from A-8989-150 (Community Development-Special Collection Day).

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 185 of 2001, a resolution amending the boundaries of the Clifton Knolls Park District to exclude the Wyncrest and Enders Subdivisions

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

WHEREAS, a public hearing was properly noticed and held on July 2, 2001 to consider amending the boundaries of the Clifton Knolls Park District to exclude the Wyncrest and Enders Subdivisions, and

WHEREAS, comments from the public were generally in favor of the proposal but it was recommended that the amendment not take effect until January 1, 2002 for budgetary reasons; now, therefore, be it

RESOLVED, that the boundaries of the Clifton Knolls Park District be amended to exclude the Wyncrest and Enders subdivisions effective January 1, 2002 per the attached boundary description, and be it further

RESOLVED, that the amendment of the boundaries shall have no budgetary impact on the Clifton Knolls Park District for calendar year 2001, and be it further

RESOLVED, that the Town Clerk cause a notice of Adoption of this resolution to be prepared and posted in accordance with Town Law No. 206(4); and be it further

RESOLVED, that this resolution is adopted subject to a permissive referendum.

Councilman Paolucci reported the residents of the Wyncrest and Enders subdivisions requested to be removed from the Clifton Knolls Park District as they have different needs due to their location in proximity to the park district. The Clifton Knolls Park District agreed to this with the stipulation, since budgeting has already been done, that no changes take place until the end of the year.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 186 of 2001, a resolution authorizing the hiring of John Brown as a part-time security officer.

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

WHEREAS, a need for a part-time security officer has been identified, and

WHEREAS, Michael Shahan, Chief of Security for the Town of Clifton Park, has recommended John Brown of 1208 Foxwood Dr., Clifton Park, for this position; now, therefore, be it

RESOLVED, that authorization is hereby granted to hire John Brown, 1208 Foxwood Dr., Clifton Park, as a part-time security officer at Step I, Grade 3, effective immediately.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 187 of 2001, a resolution authorizing the commencement of the bidding process for the construction of the Dakota Trail, located on Kinns Road between Temple



Hills and Twilight Drive.

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

WHEREAS, the engineering work of the Dakota Trail was previously approved by Resolution No. 251 of 2000; now, therefore, be it

RESOLVED, that the Town Board hereby authorizes the Town Clerk to advertise for bids for work to be performed in the construction of the Dakota Trail.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 188 of 2001, a resolution authorizing the Supervisor to enter into an agreement with Behan Planning Associates to assist the Clifton Park Open Space Committee in preparing an open space plan for the Town of Clifton Park.

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

WHEREAS, the Town of Clifton Park Open Space Committee and the Director of Planning have recommended that Behan Planning Associates assist them in preparing an Open Space Plan for the Town of Clifton Park, and

WHEREAS, Behan Planning Associates is familiar with the open space resources in the Town of Clifton Park through their association with the Friends of Clifton Park Open Space, and has prepared open space plans for other municipalities, and

WHEREAS, workshops conducted by Behan Planning Associates would allow for citizen involvement in the open space planning process; now, therefore, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with Behan Planning Associates to assist the Clifton Park Open Space Committee in preparing an open space plan for the Town of Clifton Park; and be it further

RESOLVED, that the cost of such services will not exceed \$60,000 with \$10,000 to be budgeted from A-8560-135 (Community Beautification Engineering) and the remaining funds to come from unallocated fund balance A-909.

Supervisor Barrett said it is important that residents have a clear picture of options before the Town Board, as well as associated costs, and it is important to have an open space

plan where options can be formulated, discussed, publicly scrutinized and let residents say what they want to see done.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No.189 of 2001, a resolution authorizing the Director of Planning to attend an ArcView G.I.S. Training Course to be held on August 1 and 2, 2001.

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

WHEREAS, the Migrating from ArcView 3.x to ArcView 8 Training Course will be held in Schenectady, New York, on August 1 and 2, 2001, and

WHEREAS, Jason Kemper, Director of Planning for the Town of Clifton Park, has requested authorization to attend this training course, and

WHEREAS, Mr. Kemper's attendance at this conference will confer a benefit upon and be in the best interest of the Town of Clifton Park; now, therefore, be it

RESOLVED, that Jason Kemper, Director of Planning for the Town of Clifton Park, is hereby authorized to attend the Migrating from ArcView 3.x to ArcView 8 Training Course to be held in Schenectady, New York, on August 1 and 2, 2001, at a cost not to exceed \$800 to be budgeted from A-8021-004 (Planning-Computer).

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 190 of 2001, a resolution hiring staff for summer recreation programs.

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

WHEREAS, it is necessary that additional staff be hired by the Department of Parks and Recreation to operate the Town of Clifton Park summer recreation programs; now, therefore, be it

RESOLVED, that the individuals listed in Exhibit A, attached hereto, shall be hired to staff the Town of Clifton Park summer recreation programs from July 16, 2001 to August 18, 2001.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 191 of 2001, a resolution proclaiming the week of August 1-7, 2001 as Clown Week.

Introduced by Supervisor Barrett, who moved its adoption, seconded by the entire Town Board.

WHEREAS, the people of the Town of Clifton Park recognize the importance of laughter in their lives, and

WHEREAS, clowning encourages laughter in people from young to old, rich to poor, and

WHEREAS, clowns can dissolve thoughts of prejudice and intolerance of others, and

WHEREAS, clowns can make people forget their pain, sadness, illness, and distress;

NOW, THEREFORE, the Town Board of the Town of Clifton Park, do hereby proclaim the week August 1-7, 2001 as Clown Week:

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 192 of 2001, a resolution with regard to the Saratoga County revenue sharing plan for the Town of Clifton Park

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

WHEREAS, Saratoga County finds it necessary to return to local government funds held in reserve at levels beyond County need, with the Town of Clifton Park anticipated to receive \$634,433, and

WHEREAS, the Town of Clifton Park has already approved a resolution to expend \$361,000 on various projects of benefits to town residents leaving a balance of unallocated funds in the amount of \$273,433, deposited into the general fund.

WHEREAS, the need exists to move forward with the restoration of the Historic Grooms Tavern and per the " Statement of Probable Costs"(Exhibit A-Attached) as prepared by John G Waite Associates, dated May 17, 2001 that provide a priority list of the work that needs to be done on the Tavern to prevent further degradation and to have the foundation and exterior of the building in a safe and presentable condition, and

WHEREAS, the Grooms Tavern Advisory Committee has presented a plan for restoration and a plan for operating the Tavern subsequent to restoration (Exhibit B-Attached) and

WHEREAS, the grant applications prepared in 2000 will be updated and submitted to indicate the plan of restoration and usage; now, therefore, be it

RESOLVED, that the Town Board of the Town of Clifton Park hereby adopts a revenue sharing plan for the Historical Grooms Tavern in the amount of \$116,000, to be allocated from funds remaining from those received from Saratoga county and placed in the towns general fund.

Councilman Roth asked that this resolution be tabled until the August 6th Town Board meeting in order for the Board to have time to review the proposed budget, activities, and possible uses of the Grooms Tavern.

MOTION by Councilman Roth to table the resolution, seconded by Councilman Paolucci

ROLL CALL VOTE ON MOTION TO TABLE

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

Noes: None

MOTION CARRIED

Resolution No. 193 of 2001, a resolution adopting Local Law No. 9 of 2001, a local law directing an interim application process for Telecommunication equipment and amending Local Law Nos. 11 of 1996 and 2 of 1998.

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

Roth.

WHEREAS, by the enactment of the Telecommunications Act of 1996, there is anticipated substantial growth in the erection of wireless telecommunications facilities, and

WHEREAS, there have been discussions concerning the construction of such facilities within the Town of Clifton Park, and

WHEREAS, changes have been recommended to the Town's current ordinance, and

WHEREAS, the Town wishes to implement, revise or replace a law to more effectively protect the health, safety, and welfare of the community, and the ordinance to remove or change certain sections pursuant to recent case law to assure the orderly development of wireless technology in the community, including but not limited to the development of procedures governing the filing of an application, and for reviewing and analyzing an application, and for granting a permit to construct and use wireless telecommunications facilities or other tall structures for the purpose of providing wireless communications services, and

WHEREAS, a reasonable time for the Town to complete its aforementioned review, and for the Town to enact any required legislation resulting therefrom is deemed to be three (3) months from the date such local law enacting said interim application process is filed with the office of the Secretary of State, and

WHEREAS, pending applications for wireless telecommunications facilities shall continue to be reviewed under existing legislation but any new applications shall be evaluated under the Town's revised law regarding telecommunication towers; now, therefore, be it

RESOLVED, that while this interim application process is not meant to be prohibitive or exclusionary in nature, during the interim application process, applications for a building permit, special user permit or site plan approval, or use variance or other necessary Town approval for monopole, lattice tower or together telecommunications antennae installations, including, but not limited to cellular antennae installations, shall be accepted and processed by the Town. However, in processing an application during the period of this interim application process any application must be accompanied by an escrow deposit of \$8,500 for anticipated consulting costs to assist the Town in evaluating the application, and further, if a permit is issued it will be issued in accordance with any revisions made to the Town code during the three month period; and be it further

RESOLVED, that Local Law No. 9 of 2001, a Local Law directing an interim application process, for Telecommunications Equipment applications is hereby adopted in its entirety effective immediately.

In response to Councilman Paolucci's question about proposed changes, Mr. Trainor said

one change being considered is to do with facilities within 1000 feet of a residence. Councilman Paolucci asked where the 1000 foot recommendation came from. Supervisor Barrett said he is concerned with the proximity of this tower being in the middle of a neighborhood and an antenna attached to it. He said the distance would give an opportunity for that not to happen. Councilman Paolucci said if the proposed study is going to encompass this, he is comfortable. He asked how the \$8500 came about and if there are estimates. Mr. Trainor said he thinks each application will vary and the deposit will allow the Planning Board to thoroughly evaluate the applications. Councilman Speckhard asked if it is anticipated somewhere in the resolution that there would be some kind of a systematic study by the Town Board into the current ordinance as far as whether or not it is appropriate or needs to be amended. Mr. Trainor said that is what the resolution and local law itself is directed toward. Councilman Speckhard asked if, as a follow up to this resolution, there will be an agreement with an expert in the field to conduct the study of the whole situation. Supervisor Barrett responded yes. Councilman Speckhard asked if there is any way the Town Board can stress the health issues in terms of the review of the law. Mr. Trainor responded it is his understanding it is a preemption issue and a higher level of government has studied the issue and has issued certain regulations and taken away some of the power of municipalities. Councilman Speckhard said sometimes regulations can change and can start at the grass roots level. He continued, if cases get into the courts, the courts do exercise some power in terms of federal regulations and that health issues in court cases might also begin to have an impact. Councilman Speckhard said as much effort as possible should be put into researching the health aspects not only for our own satisfaction but in order to be part of a process that is in the early stage. Councilman Speckhard asked if there is anyway to postpone a decision by the Planning Board on the Nextel application, which is not covered by this resolution, in order for the Town Board to further examine the issue. Mr. Trainor said this comes down to a due process issue. Mr. Kemper said the Planning Board closed the public hearing and they are under the 62-day timeframe. Councilman Speckhard asked if the Nextel situation is beyond anything the Town Board can do. Mr. Trainor responded yes. He further stated the Nextel application is being considered under the existing legislation. Councilman Speckhard asked if the current towers would be grandfathered in. Mr. Trainor responded yes and explained this law provides a 90-day period where the town is giving potential new applicants notice that the current law is being reviewed and there may be changes and their applications will be evaluated under the new revisions and the existing applications are grandfathered. Supervisor Barrett said the Board needs to be concerned with the health and safety and aesthetics of the neighborhood. Supervisor Barrett said it will be necessary to have outside parties study the telecommunications facilities issue. Councilman Paolucci asked if 90 days is adequate. Supervisor Barrett said generally it can be done in this timeframe.

#### ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

## PUBLIC PRIVILEGE

Robert Ritter, Castle Pines, asked if the Planning Board denies the Nextel application and they reapply, would they come under the new resolution. Mr. Trainor said it would depend upon the basis they were denied. Mr. Ritter asked the Town Board and Town Attorney to investigate the Water Authority's actions and to pursue every channel of government to do so. He expressed concern that the Water Authority never mentioned the Nextel application to the Town Board nor were the residents made aware of it.

Todd Kerner, Spruce Street, asked if the Board checked to see if Water Authority resolutions are legal. Supervisor Barrett responded initial investigation shows the Water Authority did not need a resolution.

Jim Larkin, Heartwood Drive, said it is important that the Board look at secondary materials and not necessarily conduct primary research. He said the National Institutes of Health and Center for Disease Control would be a good source for research information. Mr. Larkin said he feels the Town Board and Water Authority are doing a good job in fostering the interests of the public.

Youssef Ballout said science is incomplete regarding the effect of radio frequency emission on people.

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 9:45 p.m.

Patricia O'Donnell, Town Clerk