

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

**March 10, 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  
Louis Gerard, Superintendent of Highways  
Jason Kemper, Director of Planning  
Barbara McHugh, Director of Community Development  
Michael O'Brien, Environmental Specialist  
Michael Shahan, Town Administrator  
Walter Smead, Assessor  
Jack McDonald, Town Engineer

MOTION by Councilman Paolucci, seconded by Councilman Roth, to approve the minutes of the February 24, 2003 meeting as presented.

### **ROLL CALL VOTE**

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

Abstain: Councilwoman Walowit

Noes: None

### **MOTION CARRIED**

### **ANNOUNCEMENTS AND COMMUNICATIONS**

Supervisor Barrett said he will be holding meetings with residents on Saturdays. Anyone interested in meeting with him should call the Supervisor's office.

Dave Miller and Jim Romano, Co-Chairs of the Open Space Committee reviewed the

process to this point with the Open Space Plan and thanked all involved, including Niagara Mohawk, Behan Associates and the Audubon Society for inkind services.

PUBLIC HEARING, 7:15 PM  
REGARDING THE OPEN SPACE PLAN

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on February 28, 2003.

Supervisor Barrett reviewed acquisitions set aside for open space since 2000 as follows: 80 acres at Round Lake reservoir, 60 acres off Miller Road, 80 acres on MacElroy Road, 25 acres added to the Vischer Ferry Preserve for a total investment of \$450,000. He stated the Open Space Plan won't work if people are not behind it and it is important to know how far residents will take this.

The public hearing was opened for comments from the audience at 7:20 p.m.

Clark Wilson, Rexford, lifelong resident, commended the Town Board and Supervisor for getting in front of this issue and stated Clifton Park is on the cutting edge of this issue. Mr. Wilson read a statement from the Friends of Clifton Park Open Space, attached.

Mark Marchand, Longview Drive, urged the Board to adopt the "well-crafted and important" Open Space Plan. He expressed appreciation to town government for various measures taken to maintain Clifton Park's outstanding quality of life such as the Noise Law, safety patrols and hazardous waste day. He said adoption of the Open Space Plan will enhance the quality of life.

Cheryl Pollock, Pine Hill Bend, 30 + years resident, commended town on developing the conservation easement program. She noted the town lacks a visible town center. She recommended the town share a resource with the Town of Halfmoon, that being the original Clifton Park Village that straddles both towns and is in the hub of the business areas of both towns. Ms. Pollock stressed the importance of preserving this area of town. She recommended both towns relocate their town halls to this area and that traffic on Route 9 be rerouted around the perimeter of this historic area.

George Peterson, Riverview Road, Rexford, said he supports the report and planning for smooth, smart growth is imperative.

Tom Threlkeld, Lincolntown Drive, read his prepared comments, attached.

Jim Larken, Winkle Way, said the concepts of the Open Space Plan are good but he has concerns with the expenditures. He said he would not want to put his money into something if he would not be able to get use out of the land; e.g. hunting, snowmobiling. Mr. Larken said what purchasing and acquiring open space does is drive the cost of housing up in the area. He offered in lieu of open space general fund tax that for those who are interested in open space the town could keep a separate budget item to be

contributed to voluntarily on the tax bill. Residents shouldn't have to pay for a non-essential public function. He applauded the effort that went into the plan.

Supervisor Barrett said one way residents and businesses could get involved is through voluntary donations but the legality of the town accepting donations needs to be researched.

Alan North, Carlton Road, said the Plan has good concepts and needs to be supported. One of his issues is the necessity of communicating with affected landowners directly. He did not get a mailing. He reviewed various methods currently in effect to preserve land and questioned where is the technical basis for the need for more protection other than the laudable desire to protect open space and trees. Mr. North said some language in the Plan is loose and undefined. He said part of the proposed Dwaaskill Nature Preserve goes through his property and is a few hundred yards wide. He stated most of the watershed protection needs to occur in the developments and currently developments discharge directly into tributaries leading into the Cooleykill and Dwaaskill with lots of runoff of things such as: oils, salts, pesticides, fertilizer and herbicides. Mr. North recommended that the town spell out that eminent domain and coercive zoning is not authorized by the Open Space Plan. He recommended extending the watershed aquifer protection by controlling chemical use restrictions up stream in the developments. He said the way to stop the escalating tax burden in Clifton Park is through more restrictive building and possibly a building moratorium.

Supervisor Barrett emphasized the Open Space Plan is strictly voluntarily. He asked Town Attorney Trainor to look at the legalities of language prohibiting eminent domain.

Mary Lou Classen, Blue Spruce Lane, Co-President of League of Women Voters of Saratoga County, read a statement from the League.

Dave Gibson, representing the Capital Region Audubon Society, noted the town has taken a leadership role. He said the Town Board needs to ask the Planning Board to require of all developers, as an alternative, an open space design, every time a plot plan comes before the Board. Mr. Gibson recommended strengthening the Land Conservation zone to protect key natural resources in town. He said he is concerned with the Wood Road area as it is an important area ecologically. He urged the Town Board to work with DEC and the landowners of the Wood Road area to preserve that area.

Grant Keeler, Van Vranken Road, said the basic idea of an open space program may be a good idea and help the town but there are some aspects of it, namely trails, that residents, especially in rural road areas, would be impacted by. He expressed concern that paths will be taking a lot of land and proposed a path following the county sewer line from Moe and Englemore Roads to Bonneau Road to Crescent Road, down Grissom Drive and continue through the Preserve in order not to make an impact on a nice rural area. He expressed concern with the proposed costs for residents and noted that even grants are taxpayer money. Mr. Keeler said he doesn't think the Moe Road trail is used and expressed concern with using money for something that isn't used.

Dave Miller said the key linkage areas are made up of different types of trails and it depends on location as to what type of trail would be in place. He said this is conceptually laid out with public private partnerships over time. He stated this would be on a willing basis from the landowner. Mr. Miller said the areas of open space are also conceptual based on resources so within those areas if there is any property owner that is not interested, he would not be part of the program and this is stated in the plan.

Raymond Seymour, Nadler Road, said he was involved with the committee that drafted the plan as a representative of the Land Trust of the Saratoga Region, and wanted to express support and the endorsement of the Land Trust of the Saratoga Region for this plan. He said this is one of the best concept plans ever seen and was a process that incorporated trying to get as much input from the public as possible. Mr. Seymour said the Land Trust is prepared to help the town with implementation of this Plan in anyway it can.

Tom McCarthy, Linden Court, spoke in support of the Plan and noted a Plan like this cannot be implemented without costs. He said the town is miles ahead of other communities and is doing a great job.

Bert Roy, Kinns Road, read a prepared statement, attached.

Supervisor Barrett said since he's been in office there have been no plans brought forward of trails going in back of anyone's house and this Plan will not create any of those instances.

Judith Carlson Kleinberg, Moe Road, said she participated in charettes and encouraged the Town Board to adopt the Plan, noting it a wonderful opportunity. She said the Open Space Plan is about balanced development not no development. Ms. Kleinberg emphasized the importance of saving farmland, particularly family farms and the farmland protection part of the Plan offers a wonderful opportunity to not only preserve open spaces but also to increase the economic viability in Clifton Park and to offer consumers more opportunity to buy local farm products. She further noted the importance of saving habitat. Ms. Kleinberg endorsed cluster development which would leave much more habitat available, reduce the use of pesticides and leave room for future multiuse. She asked the Board to consider the importance of developing infrastructure along with the Open Space Plan, particularly to support farms. Ms. Kleinberg said as an alternative to an Open Space Coordinator that there be closer coordination among all the entities in the town and a commitment to the open space principles utilizing the wetland regulations, buffers and all of the tools that are already available in the town.

David Haight, NY Field Manager for the American Farmland Trust, said the Plan provides a menu of options and urged the Board to take action.

Annie Adler, Crescent Road, expressed concern that there is planned development for 100 acres on Van Vranken and Crescent Roads. She asked that the town make sure

people are notified of development of trails and zoning changes.

Cory Tremblath, former resident, asked that the Plan be implemented and continued to be refined. She noted things going on outside of the town can affect the town. She asked that the Master Plan and Open Space Plan be looked at together and that zoning laws be reviewed. Ms. Tremblath recommended the town work closely with other area towns.

Bill Mackesey, South Hollow Drive, Ballston Lake, member of Park and Recreation Advisory Board, Trails Committee, Open Space Committee, said this Plan is a vision for the future of the town. He said it is important to find multiple sources of financing. He wants it to be clear to residents the difference between park district taxes and open space funding. Mr. Mackesey said this Plan is to control growth, as well as to following the various Master Plans for trails, park districts and also means the development of trails. He said trails will connect various developments and presently there is not easy access to all developments.

Supervisor Barrett proposed the following statement added to the Plan as follows: “The new Open Space Plan will not create new restrictions on use by landowners, including new zoning and planning requirements.”

Peter Brooks, Acorn Grove, Ballston Lake, 25 year resident, spoke on the economics of the Open Space Plan and noted Clifton Park is a desirable place to live. He said the one thing town government has control over is the physical environment of the town, both built structures and what’s left in the natural environment, and is the one place where a difference can be made towards the quality life. Mr. Brooks said a physical structure can be changed but once the natural environment is altered or destroyed it can’t be rebuilt. He said the economic future of Clifton Park really rests on maintaining and enhancing the quality of life here and the biggest impact the Board can have is by helping to determine what will be left in the natural environment when most of the physical improvements have been built. He asked the Town Board to adopt and implement the Plan and to do everything necessary to bring the Plan to fruition.

Susan Burton, Riverview Road, asked the town to make a financial commitment to implement the program. Open space is the one thing with low costs for town services. She recommended looking at the annual budget appropriations while there are surpluses, as well as opening a reserve fund and borrowing.

Hank Tatreault, Crescent and Vischer Ferry Road, said there is often concern that open space means ballparks or soccer field and not picnic tables and trees. He said the trail markings in the Plan are confusing and if it was written that there would be no seizure of property people would feel better.

Supervisor Barrett emphasized that any programs of this type are strictly voluntary in nature and will remain that way.

Audrey Toussaint, Mohawk Trail, urged landowners to work with the Planning Board to

come up with a plan to preserve open space. She asked if the contributions are just for homeowners or for the whole community as there are many residents of town that will never own property. She questioned if complex owners have some sort of fee and if there will be registration fees for park usage. Ms. Toussaint said the open space plan is a wonderful idea.

Supervisor Barrett said the rainy day fund is at \$1 million and the interest from that fund is put in a designated open space fund.

Margaret Catellier, Royal Oak Drive, member of the Open Space Committee and Friends of Open Space, urged the Board to accept the Plan and to go forward. She said a lot of time and study went into the development of the Plan. She said open space keeps taxes low. Ms. Catellier said initially she was against the Moe Road path but after many meetings and review of the plans, now that it is completed she is very pleased with the outcome.

Youseff Ballout, Torrero Drive, speaking in favor of the Open Space Plan, expressed appreciation to those involved in its preparation and the openness of the entire process. He said it is necessary to marry the Open Space Plan to a controlled growth plan. Mr. Ballout spoke in favor of a cultural center for the town and asked that this Open Space Plan be made part of the Master Plan and codified into the laws of the town.

Norman Goldman, London Square Drive, said some policy to preserve open space have been in effect for some time and has been talked about for many years. He said even in the change from a Master Plan process to a Comprehensive Plan process the open space aspect was very important. He asked what difference this concept plan makes in terms of adding to open space areas to be protected in the Plan, if the landowners are willing, as opposed to what is already protected and occupied.

It was decided written comments on the Open Space Plan will be received until March 24, 2003.

Town Attorney Trainor said the next public hearing on the Plan will focus only on changes to the Plan.

Dave Miller said he did not hear any major substantive changes.

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 9:47 p.m.

MOTION by Supervisor Barrett, seconded by Councilman Paolucci to recess for five minutes. Motion unanimously carried at 9:47 p.m.

Meeting resumed at 10:05 p.m.

PUBLIC HEARING, 7:45 PM  
TO CONSIDER THE CREATION OF THE  
CORPORATE COMMERCE ZONE WATER DISTRICT

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on February 28, 2003.

Councilman Speckhard said this hearing is a result of about fourteen years of discussion. The Corporate Commerce zone began in the late 1980s–1990 and was added to in the mid 1990s and the thought was always at some point to provide water and sewer for the people who live in the Corporate Commerce zone area. The creation of the district has been attempted on a number of occasions with the last attempt being met with a court challenge from Niagara Mohawk, who did not want to be part of the district. The decision was ruled in favor of Niagara Mohawk. Councilman Speckhard said it is felt the town, at this point, is on much firmer ground and the end is in sight. Supervisor Barrett stated the proposed district is the same minus the Niagara Mohawk property.

The public hearing was opened for comments from the audience at 10:05 p.m.

Jim Larken, Winkle Way, said he was glad to see the formation of both the Corporate Commerce zone Water and Sewer Districts. He said this is a great opportunity as this will be allocated by private individuals to move the water and sewer out there to feed that district.

Councilman Speckhard explained the water district will also include an additional size of a pipe and the entire cost of that district is not being paid for by people in the Corporate Commerce zone. Some of the cost will be paid by future users as there is an intention to extend the water pipe on further west to the Rexford Water District whereas the sewer pipe will end at the district.

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 10:10 p.m.

PUBLIC HEARING, 8:00 PM  
TO CONSIDER THE CREATION OF THE  
CORPORATE COMMERCE ZONE SEWER DISTRICT

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on February 28, 2003.

Councilman Speckhard explained the Niagara Mohawk property is not included in the proposed district and that affects the individual costs.

Jack McDonald, J.M McDonald Engineering, explained as a result of the Sterling Heights subdivision, water and sewer lines are being extended about 1000 feet west of Route 146A and as a result of that it will be easier to hook on to extend westerly. It was

originally planned the sewer system would be all pressure sewer and each property would have grinder pumps however as a result of the Sterling Heights project the sewer design has been changed to make it a gravity system. Mr. McDonald said this will be less costly for existing properties along the route to hook into.

The public hearing was opened for comments from the audience at 10:15 p.m.

Everyone was given an opportunity to speak in favor of or against the proposed local law and no one wished to be heard. Supervisor Barrett declared the public hearing closed at 10:15 p.m.

## PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

With regard to the following resolution, Councilman Roth recommended putting all open space money into this fund. Councilman Speckhard questioned if money from a Capital Fund can be used for miscellaneous administrative expenses as monies in a Capital Fund fall under a different set of laws. He said currently there is a budget line for open space administrative costs which wouldn't require a referendum. He explained the Capital Fund would be used to implement decisions that would be made and may be subject to a permissive referendum. Councilman Roth said his concern is that the budget line money would be lost. Councilman Paolucci recommended a resolution at the end of every year transferring the budgeted money into the Capital Fund. The Board agreed to this recommendation. Supervisor Barrett asked Mr. Shahen to review this with Mr. Heggen.

Resolution No. 49 of 2003, a resolution creating an Open Space Capital Reserve Fund.

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

WHEREAS, there is an increased need for open space development, and

WHEREAS, the Town Board is desirous to create a special fund for this purpose, and

WHEREAS, there presently exists a significant undesignated fund balance that is dedicated to support the best interests of the Town residents; now, therefore, be it

RESOLVED, that a Capital Reserve Fund be created and dedicated to open space development, and be it further

RESOLVED, that the sum of \$100,000 be withdrawn from the Town's current undesignated Fund Balance (A-909) to be deposited in the Open Space Capital Reserve Fund; and be it further

RESOLVED, that any further applications for payment from said Reserve Fund must



comply with General Municipal Finance Law Section 6-c and NYS Town Law Section 209-9, as amended from time to time, may require a public hearing, and may be subject to permissive referendum.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 50 of 2003, a resolution authorizing John M. McDonald Engineering, P.C. to prepare bid specifications for repairs and renovations to all Town pools and to advertise for bids.

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

WHEREAS, repairs and renovations are needed to all Town pools, and

WHEREAS, the Town Board wishes that John M. McDonald Engineering, P.C. prepare bid specifications for the repairs and renovations to the pools; now, therefore, be it

RESOLVED, that John M. McDonald Engineering, P.C. is hereby authorized to prepare bid specifications for repairs and renovations to the pools, and to advertise for bids, at a cost not to exceed \$3,000.00, \$2,000.00 to be paid from A1440-135 (Engineering Services) and \$1,000.00 from SP5-7123-200 (Longkill #1-Capital Improvement).

Councilman Speckhard said Jack McDonald has reviewed everything and has developed a five year plan. This is the implementation of the first year of the plan.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

Resolution No. 51 of 2003, a resolution adopting an Annual Plan for 2003 for the Town of Clifton Park Section 8 Program.

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

Speckhard.

WHEREAS, the Town of Clifton Park operates a Section 8 Housing Assistance Payments Program funded by the U.S. Department of Housing and Urban Development, and

WHEREAS, the Town of Clifton Park is required by the U. S. Department of Housing and Urban Development to prepare and adopt a written Annual Plan that establishes local policies for administration of the Section 8 Housing Assistance Payments Program in accordance with regulations of the U. S. Department of Housing and Urban Development, and

WHEREAS, the Town Board of the Town of Clifton Park has caused a written Annual Plan for 2003 to be prepared establishing local policies for administration of the Section 8 Housing Assistance Payments Program in accordance with regulations of the U. S. Department of Housing and Urban Development, and has reviewed such written plan, and

WHEREAS, the Town Board held a public hearing on March 3, 2003 in regard to the Annual Plan for 2003 and no public comment was received; now, therefore, be it

RESOLVED, that the Town Board of the Town of Clifton Park hereby adopts the Annual Plan for 2003 for operation of the Town of Clifton Park Section 8 Housing Assistance Payments Program.

Councilman Speckhard said he would like to explore with Mr. Mastrianni what can be done through Section 8 for the people on the waiting list.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 52 of 2003, a resolution authorizing the Assessor to change the tax obligation for the Rexford Fire District's new firehouse.

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

WHEREAS, the Rexford Fire District has constructed a new firehouse located in the ad valorem Rexford Water District (WT005), and

WHEREAS, this type of exempt property which is located in a special district is only

.responsible for the payment of capital construction costs associated with costs of sewer or water system in accordance with Real Property Tax Law, Section 464 (2); now, therefore, be it

RESOLVED, that the Assessor is hereby authorized to change the tax obligation for the Rexford Fire District's new firehouse located in the ad valorem Rexford Water District (WT005) from a charge based on 100% of assessed value to a charge based on 20% of assessed value.

Town Assessor Smead explained this is the new \$1.3 million firehouse compared to the old valued at \$200,000. The Rexford Water District is the only charge they pay and this is only way the assessor can separate their charges from maintenance cost to capital cost of construction. Mr. Smead said this will keep their tax payment the same as it has been.

#### ROLL CALL VOTE

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

Noes: None

#### DECLARED ADOPTED

#### PUBLIC PRIVILEGE

Robert Maxwell, hospital, read attached letter to James J. Barba, CEO of Albany Medical Center.

Norman Goldman, London Square Drive, spoke with regard to participation at Town Board meetings and distributed suggested guidelines for resident participation at Town Board meetings. He said opportunities for public privilege are a valuable part of the meetings and hopes any changes will not become more restrictive.

Town Attorney Trainor said public participation in the Town Board meetings is up to the rules of the Board. Public Privilege is strictly at the Board's pleasure, whereas Public Hearings presents more of a need and requirement for public participation.

Supervisor Barrett said he does not want to make any changes that would be restrictive. He agrees with Mr. Goldman that there should be more concrete rules and wants to take discretion out of public privilege as much as possible. He asked the Town Board for some guidance in setting rules regarding public privilege.

Councilman Paolucci said he values public privilege at the meetings. With regard to public hearings, if members of the community have points that will take more the five minutes to communicate to the Board they should be allowed to make those comments. However, when there is a crowd, such as this evening, it is fair to allow people to speak

for five minutes and then ask them to come back after everyone has spoken to finish their comments. Councilman Paolucci continued, public privilege gives the Board insight to what the community is thinking and also it is important that the community be able to make comments on the record. However, he doesn't believe the standards for public hearing should apply to public privilege. He stated five minutes is enough time for public privilege and it should pertain to town business.

Mr. Goldman said the language currently on the agenda has worked well for many years and he doesn't know why it has become a problem. He is looking for at least as much opportunity as people have now but consistently applied and reasonable.

Councilman Roth noted good comments come out of public hearings. Regarding public privilege, he recommended removing the wording "reserve time" on the agenda and adding words to the effect that people can speak again after everyone has spoken. He said there should be public privilege at every meeting, people should be allowed to speak for a certain length of time, and some discretion needs to be used.

Councilman Speckhard agreed with Councilman Roth.

A discussion ensued on the wording under public privilege on the agenda.

Councilman Roth suggested wording "may have an opportunity for an additional five minutes after the initial five minutes".

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 11:00 p.m.

Patricia O'Donnell  
Town Clerk