

January 12, 2009

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 Roth
Councilwoman Walowit
Supervisor Barrett
Town Clerk O'Donnell

Also Present: Town Attorney McCarthy
Michael Shahan, Town Administrator
Mark Heggen, Comptroller
Michael O'Brien, Facilities Supervisor Clifton Park Sewer District No. 1
John Scavo, Director of Planning
Jennifer Viggiani, Open Space Coordinator

ANNOUNCEMENTS AND COMMUNICATIONS

Councilman Roth expressed appreciation to Jim Larkin and Gil Kortz for their contributions and many years of service on the Planning Board and Zoning Board of Appeals respectively. He acknowledged the resignations of Stephanie Commerford and Mike O'Toole and thanked them for their service on the Environmental Conservation Commission.

Councilman Roth reviewed his efforts to find convenient drop-off locations for the Community News since it is no longer being delivered to homes in the 12148 and 12019 zip codes.

It was noted that letters requested by Conifer Village developers to move the project along have been signed by the Supervisor.

In response to Councilman Roth's question, Mr. McCarthy responded he doesn't believe the town is liable for damaged fences due to fallen tree limbs. It was noted this has been discussed with Mr. Handerhan and the town's insurance agent.

Councilman Roth referred to a letter from Highway Superintendent Kukuk requesting \$50,000 to pay contractors that worked on the ice storm. He asked Mr. Kukuk to prepare a resolution in this regard. Supervisor Barrett reported all the costs the town has incurred have been submitted to FEMA and if expenses are paid from the Highway budget it will be reimbursed when funds are received from FEMA.

Referring to Councilman Roth's concern regarding the deck structure around the pond at Clifton Country Road, Town Administrator Shahan reported the town has repaired this deck in the past. The deck collapsed before winter set in and, since no one was willing to take it away, he asked Supervisor of Buildings and Grounds Handerhan to do so since youth have been seen playing on it. Councilman Roth stated this is a safety and liability issue and needs to be taken away.

Councilman Roth reported a meeting is scheduled on January 20th with the Not So Common Players theater group to discuss future endeavors and the importance of complying with rules and regulations.

Councilman Roth noted interviews will begin soon for the Environmental Specialist position.

PRESENTATION TO THE BOARD

Gordon Boyd, President of Energy Next, a consulting firm that manages group energy buying programs. Mr. Boyd spoke on behalf of Mega - Municipal Electric and Gas Alliance, a buying

group that has been adopted by the NYS Association of Counties as its official energy procurement program for counties and municipalities throughout NYS. Governance is done by counties. He noted an important feature of the program is the public bid process, noting procedures have been reviewed by the State Comptroller's office. Mr. Boyd explained the enrollment procedure. He reported Energy Next fees are paid by MEGA and the town would pay only for the energy at the signed for price. Enrollment forms are on line at megaenergy.org

PUBLIC HEARING, 7:10 PM
TO CONSIDER A LOCAL LAW AMENDING CERTAIN SECTIONS OF
CHAPTER 208 – THE ZONING CODE OF THE TOWN OF CLIFTON PARK

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on January 9, 2009.

Councilman Roth explained his concern is with Section 208-43.15 as he would rather see land given instead of money. He recommends incentive zoning for single family residential be increased from \$30,000 to \$60,000 and that the developer not have the option of holding onto the money until project is finished according to proposed Section 43.15C(1)(b). He further stated if, under incentive zoning, land is turned over to the town there must be a timeframe for the title of the property being transferred to the town.

Town Attorney McCarthy reported this legislation has been under review for a number of years. He said it is his understanding that reference to a policy statement against PUDs in the Conservation Residential zone or in the western part of town was inadvertently omitted from the earlier legislation. Mr. McCarthy reviewed proposed changes, including those previously recommended by former Directors of Planning.

Councilman Paolucci reviewed the process of an amenity zoning request and the proposed legislation in this regard. Councilman Paolucci reviewed proposed Section 208-43.15C(b). Director of Planning Scavo recommended the proposed legislation state final payment should be at the time of 80 percent completion. Supervisor Barrett reviewed the Western GEIS and stated he doesn't support increasing the amenity required from \$30,000 to \$60,000. He reported there is approximately \$1 million due the town from amenity zoning. He said a better process is needed in collecting money from amenity zoning and suggested fees be put toward the middle and backend of a project with the proper timing.

Councilman Roth said his primary purpose is to receive land, not money, and the only way to encourage developers to give land is to make it more expensive for them to go the dollar route. He said money given by a developer would ultimately be put into the cost of the house. He said most every project submitted for amenity zoning has offered money instead of land and the purpose of the GEIS is to keep the western part of Clifton Park open. Councilman Roth stated the purpose of the \$60,000 is to encourage developers to give land instead of money. Supervisor Barrett said any property that is given in exchange has to be deemed valuable enough to offset the benefit given to the developer and developers are not going to give developable land.

Councilman Paolucci agrees the price of lots needs to be reviewed due to rising land costs; however, the town is not receiving the funds which are needed to purchase additional open space.

Director of Planning Scavo said developers would like to stretch the payment out as long as possible. He said the question is will that \$30,000 preserve one acre of land to transfer the density of that additional unit and allow the town to make a fair market value purchase of \$30,000. Councilman Paolucci said it is time to look at the \$30,000 number as he feels it is insufficient. He asked if another public hearing will be required since changes are being proposed to the payment schedule. Town Attorney McCarthy said if the changes are being discussed and proposed at this public hearing, he doesn't believe another public hearing is necessary.

Councilman Hughes said he would like to see the term "amenity zoning fee" changed to an "open space protection fee". The Board agreed with that change.

The public hearing was opened for comments from the audience at 8:14 p.m.

Jim Baisley, Barkwood Lane, thinks the \$30,000 fee is fine. Councilman Roth reviewed language regarding real property as an amenity, noting property will be transferred to the town within 90 days of Town Board approval of the incentive zoning application approval. Mr. Baisley questioned the 90-day requirement when the proposed subdivision application may not be approved by the Planning Board. Supervisor Barrett said this may have to be reviewed further. Mr. Scavo said one of the concerns of doing this is that the Planning Board gets backed into a corner of approving it because there is an incentive hanging over their heads. Councilman Paolucci said the intent is to get the land upfront in the process so that it doesn't go on indefinitely but there could be some structural issues that could put undue pressure on the Planning Board. He asked Mr. Scavo to review and suggest how this could be structured. Councilman Hughes this could be a disincentive for a developer to actually put the land up as the Planning Board process can be long in scope and if the project doesn't move forward or there are substantial changes then a prime piece of property has been given up. Councilman Roth said the idea was to get something that said the land has got to come to the town.

Pam Marshall, Fairlawn Court, said the legislation needs to be updated and agreed no PUDs be allowed in the western part of town. She stated obtaining large contiguous tracks of land is important. Ms. Marshall noted with land values going up, \$30,000 needs to be increased. She agreed with changing the "amenity zoning" to "open space". She asked if land could be deeded to the town in lieu of approval of final project.

Supervisor Barrett noted there are many variables when it comes to trading land for land and the timing is much more difficult.

Margaret Catellier, Royal Oak Drive, asked that this public hearing be kept open so the members of Friends of Clifton Park Open Space can review the proposed legislation.

Councilman Roth said regarding numbers suggested in the proposed legislation, he is open to any changes board members or Planning Department might recommend. He said it might be helpful to keep the public hearing open.

Open Space Coordinator, Jennifer Viggiani, noted the code is called the Open Space Incentive Zoning. She explained the existing code allows a contract be shown at the time of Town Board approval in lieu of transfer of title. She further explained Conservation Residential zoning requires a donation of 50 percent open space from the applicant.

Everyone was given an opportunity to speak in favor of or against the proposed local law; however, the **public hearing was kept open until a future date.**

PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

Resolution No. 7 of 2009, a resolution authorizing the Town Supervisor to enter into agreements with the Ballston Lake Emergency Squad and the Clifton Park Halfmoon Emergency Squad for the provision of Emergency Medical Services and Emergency Ambulance Services.

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

WHEREAS, a need exists for the provision of emergency medical and ambulance services within the geographical boundaries of the Town of Clifton Park, and

WHEREAS, the Ballston Lake Emergency Squad and the Clifton Park Halfmoon Emergency Squad are organized and operated for the purpose of the provision of health care and education services across a broad spectrum of the communities it serves; now, therefore, be it

RESOLVED, that the Town Supervisor is hereby authorized to enter into agreements with the Ballston Lake Emergency Squad and the Clifton Park Halfmoon Emergency Squad for the continuation of Emergency Medical Services and Emergency Ambulance Services, term of

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the Agreement from January 1, 2009 through December 31, 2009, as budgeted subject to Town Attorney review.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 8 of 2009, a resolution awarding the bid for the Clifton Country Road Sewer District Improvements Contract No.1-General Construction.

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

WHEREAS, on December 9, 2008, bids were received for the above referenced contract, and

WHEREAS, the low bidder for the Clifton Country Road Sewer District Improvements Contract No. 1-General Construction is R & J Kerr, Inc, in the amount of \$335,497.90, and

WHEREAS, McDonald Engineering has checked the references submitted by R & J Kerr, Inc. and all responses were positive, and

WHEREAS, as per letter from McDonald Engineering dated December 10, 2008, McDonald Engineering has reviewed the bids and has recommended to the Town Supervisor that the bid of R & J Kerr, Inc., Fort Edward, New York, be accepted as the lowest most responsible bidder; now, therefore, be it

RESOLVED, that the Town Board hereby accepts and awards the above referenced bid in the amount of \$335,497.90 to R & J Kerr, Inc., to be budgeted from funds authorized by Bond Resolution No. 5 of 2009, adopted on January 5, 2009.

Michael O'Brien, Facilities Supervisor Clifton Park Sewer District No. 1, explained these resolutions represent rebuilding of a pump station and bids have come in under budget.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 9 of 2009, a resolution awarding the bid for the Clifton Country Road Sewer District Improvements Contract No.2-Electrical Work.

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

WHEREAS, on December 9, 2008, bids were received for the above referenced contract, and

WHEREAS, the low bidder for the Clifton Country Road Sewer District Improvements Contract No. 2-Electrical Work is Stilsing Electric Inc., Rensselaer, New York, in the amount of \$53,956, and

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WHEREAS, McDonald Engineering has completed numerous projects with the low bidder and they are qualified to perform the work for which they bid, and

WHEREAS, as per letter from McDonald Engineering dated December 10, 2008, McDonald Engineering has reviewed the bids and has recommended to the Town Supervisor that the bid of Stilsing Electric be accepted as the lowest most responsible bidder; now, therefore, be it

RESOLVED, that the Town Board hereby accepts and awards the above referenced bid in the amount of \$53,956 to Stilsing Electric Inc., to be budgeted from funds authorized by Bond Resolution No. 5 of 2009, adopted on January 5, 2009.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 10 of 2009, a resolution appointing Jamie Hanley as a temporary Receptionist.

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

WHEREAS, due to the retirement of Marilyn Grimm a need exists for a temporary Receptionist until a permanent replacement is appointed from a new Civil Service list, and

WHEREAS, Jamie Hanley, 67 Rolling Brook Drive, Clifton Park, has been recommended to fill the position; now, therefore, be it

RESOLVED, that Jamie Hanley, 67 Rolling Brook Drive, Clifton Park, is hereby appointed as a temporary Receptionist at Grade 3, Step 1, effective January 12, 2009, until a permanent replacement is appointed from a new Civil Service List, to be paid from A-1620-E4000 (Town Hall Part-Time Employees).

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Jim Smith, Sterling Heights, asked the Board to enforce the current zoning of Hamlet Mixed Use at Route 146 and 146A especially as it relates to the northwest corner of the intersection.

Jennifer Stanton, Sterling Heights, said she is concerned about the 30 acres parcel currently zoned Hamlet Mixed Use which is actively being look at for development. She said 36 town homes, 36 carriage homes and 55,000 square feet of retail is being proposed. She reported according to current zoning only 15,000 square feet of retail is allowed. She asked what the town's vision is for that intersection.

Director of Planning Scavo reported there have been no submissions for that area.

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Jennifer Casabonne, Sterling Heights, spoke in opposition to development of the corner of Route 146 and 146A.

MOTION by Councilman Paolucci, 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 8:50 p.m.

Patricia O'Donnell
Town Clerk