

May 11, 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 – 7:27 p.m.
Councilman Hughes
Councilman Roth
Councilwoman Walowit
Supervisor Barrett
Town Clerk O'Donnell

Also Present: Town Attorney McCarthy
Michael Shahen, Town Administrator
Mark Heggen, Comptroller
Michael Montague, Environmental Specialist
John Scavo, Director of Planning
Jude Hazard, Information Specialist

ANNOUNCEMENTS AND COMMUNICATIONS

Councilman Roth asked Mr. Scavo to address Mr. Koebbeman's letter of April 30, 2009 regarding zoning of open space. Councilman Roth said he doesn't believe it is necessary to create a new zone. Supervisor Barrett feels the current zoning on the Dwaaskill Nature Preserve will suffice. Councilman Hughes feels the zoning Mr. Koebbeman is suggesting would be so restrictive as to not allow educational kiosks, as well as bathrooms. Director of Planning Scavo stated changing/updating the zoning map should be specifically based on something in the town Master Plan (Comprehensive Plan) and should be reflective of the community's goals and wishes and established as part of a public planning process. Mr. Koebbeman's request has not been codified in any Comprehensive Plan; however, if the Town Board wished to enact something beyond what the Comprehensive Plan documents and there is a good public benefit, it could be documented. Mr. Scavo continued zoning laws can be changed through the local law process and enacting specific zone on a map but, in his opinion, would be in conflict with the Public Trust Doctrine, which is dictated by New York State. He explained the Public Trust Doctrine establishes that public parks, open space, air, waterways, shorelines and other natural resources should be preserved for public enjoyment; therefore, the land is already protected. Mr. Scavo said he believes the public planning process involving the community as a whole will dictate the type of recreational uses to be allowed as needs change over time. The other option as the town acquires open space and there is a desire to say "nothing anytime now or any point in the future" can be accomplished through deed restrictions which the Town Board has done previously through purchase of development rights and conservation easements.

Councilwoman Walowit displayed proposed plans for the new playground area at the Kids Karner. A September opening is anticipated.

PRESENTATIONS

Supervisor Barrett presented awards to the winners of the Arbor Day Poster Contest.

Staff Sergeant Paul LaVigne, a medic serving in Iraq, was recognized as a Home Town Hero.

The following resolution was presented to the Clifton Park Under 10 Girls Shooting Stars Soccer Team in recognition of their outstanding accomplishments.

Resolution No. 152 of 2009, a resolution recognizing the Clifton Park U10 Girls Shooting Stars Soccer Team for recently completing an undefeated season against both U10 and U12 competition.

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

WHEREAS, the U10 team was picked after tryouts in June of 2008, played its first U10 Tournament in October going 4-0 and allowing only one goal the entire Tournament; and

WHEREAS, the girls were moved up to Division 2, U12 Girls for the November-December indoor session, ended up champions and not losing any games to any U12 Girls Teams; and

WHEREAS, the Girls played in the local New Year's Day Tournament, again not losing any games, won the Tournament qualifying them to play in the Nationals in Cleveland; and

WHEREAS, along with coach Keith Jordan, the twelve team members, recently traveled to Cleveland, Ohio to participate in a national tournament for U10 teams where they tied for 4th place, losing to the returning National Champions; and

WHEREAS, the Clifton Park U10 Girls Shooting Stars soccer team completed an undefeated season against both U10 and U12 competition; and

WHEREAS, the Town Board is supportive of the Clifton Park Soccer Club and all area youth sports organizations, which enhance the health and fitness of area youth, and recognizes the benefits of team sports and competition at all levels; now therefore be it

RESOLVED, that the Town Board wishes to congratulate the U10 Girls Shooting Stars for completing an undefeated season against both U10 and U12 competition, and to recognize the following team members and their coach for their outstanding athletic accomplishments:

Sydney Burbank	Virginia Krause
Kaitlin Davis	Anna Kuhl
Lauren Drake	Audrey Meany
Lauren Gray	Rithika Pradeep
Danielle Jordan	Emma Smith
Ava Katinas,	Amanda Volk

Coach Keith Jordan

ROLL CALL VOTE

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

Noes: None

Absent: Councilman Paolucci

DECLARED ADOPTED

Councilman Paolucci arrived at 7:27 p.m.

Quadricentennial Flags were presented to owners of homes on the Historic Register.

ANNOUNCEMENTS AND COMMUNICATIONS, CON'T

Supervisor Barrett reported on a meeting held today with DEC regarding the composting facility at the Transfer Station. County Waste officials were also in attendance. He reported a letter had been received from DEC stating there are concerns regarding the facility. At today's meeting he was able to discern that there is a lot less material at the facility now than a year ago and overall the facility is in "good shape but could be better". He explained the town has taken voluntary steps in changing the permit to change the parameters of the operation, working in conjunction with DEC for this upcoming year. Supervisor Barrett reported overall more work is necessary,

noting there was a backlog of material last year and the town worked with DEC, rectified issues, got the operation to a point where it was running smoothly but now is in a situation that is not 100 percent. The Town of Clifton Park is committed to proper recycling. He said the town will continue to look at options in the future. Supervisor Barrett said he feels the town has done everything they can to satisfy contractual obligations and the service that County Waste provides is worth a great deal to the town and every resident since yard waste is picked up free of charge. He stated it would cost the town hundreds of thousands of dollars to duplicate this service. The Supervisor said it is important to make sure that any facility run by the town is 100 percent where it needs to be and won't accept anything less. He stated there needs to be a time limit and any outstanding issues need to be addressed quickly to be 100 percent compliant. He explained yard waste is picked up by a professional contractor, brought to a DEC permitted facility, professionally processed and turned into a product that has some value. He noted the increased amount of debris is due to the ice storm. Supervisor Barrett stated unless the town has a facility that is 100 percent compliant it won't be accepted and if the town needs to move quickly in a different direction, the town will look to do that. He emphasized it is a very good recycling program, the town has had a very good arrangement for a number of years and any change would be negative from the standpoint of cost and service. He said neither the town nor residents pay for this pickup. Supervisor Barrett reiterated his comments of May 4th that the town has agreed to continue the program the way it is but must be cautious and careful and not make any rash decisions that will end up costing the residents or town government a great deal of money and/or a loss in service. Supervisor Barrett referred to a resolution on the agenda regarding the expense for possible changes in the yard waste program and asked that it be pulled. He reported County Waste said if they agreed to changes to the contract they would want the contract to be up at the end of the year. He asked the Board to look at a "drop dead" date with DEC and the contractor to see if this program can work under the current parameters. He asked for input from the Town Board.

PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

Resolution No. 153 of 2009, a resolution establishing Rivercrest Sewer District Extension No. 1, and authorizing the acquisition and construction of improvements to the sewer system.

Introduced by Councilman Hughes, who moved its adoption and seconded by Councilman Roth.

WHEREAS the Town Board of the Town of Clifton Park proposes to establish the Rivercrest Sewer District Extension No. 1 (the "Extension") in the Town of Clifton Park, New York (the "Town"), pursuant to Article 12-A of the Town Law; and

WHEREAS a map, plan and report relating the establishment of the proposed Extension, prepared by John M. McDonald Engineering, P.C., a competent engineer licensed by the State of New York, in the manner and detail required by the Town Board, has been filed with the Town Clerk in accordance with the requirements of Article 12-A of the Town Law; and

WHEREAS on March 23, 2009, Resolution No. 84 of 2009 was adopted by the Town Board reciting the filing of the map, plan and report, the boundaries of the proposed Extension, the improvements proposed, the estimated expense of these improvements, the proposed method of financing, the cost of the Extension to the properties in the Extension, the fact that the map, plan and report are on file in the Town Clerk's office for public inspection, and all other matters required by law to be stated; and

WHEREAS the resolution called a public hearing to be held on April 13, 2009 at 7:10 p.m. to hear all persons interested in this matter and to take action as required by law; and

WHEREAS the resolution was published and posted as required by law; and

WHEREAS a public hearing on the matter was held by the Town Board on

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April 13, 2009, beginning at 7:10 p.m. and the matter was fully discussed and all interested persons were heard;

NOW, THEREFORE, the Town Board of the Town of Clifton Park hereby determines that:

1. The notice of hearing was published and posted as required by law, and is otherwise sufficient.
2. All the property and property owners within the proposed Extension are benefited thereby.
3. All the property and property owners benefited are included within the limits of the proposed Extension.
4. The establishment of this Extension is in the public interest.

IT IS FURTHER DETERMINED AND RESOLVED that the Extension to the District, as set forth in the map, plan and report be approved, that the requested improvements be constructed, and that the necessary easements and lands be acquired, upon the required funds being made available and provided for.

IT IS FURTHER RESOLVED that this District shall be known as the Rivercrest Sewer District Extension No. 1 in the Town of Clifton Park and shall be bounded and described as set forth on Exhibit A attached hereto.

IT IS FURTHER RESOLVED that the proposed improvements, including construction costs, cost of acquisition of lands and easements, legal and engineering fees, and all other expenses, be financed by the issuance of serial bonds and bond anticipation notes of the Town containing such terms as may be determined by the Town Board, and all costs of such improvements to be assessed, levied and collected in the same manner as all other charges against the extension, and consistent with the engineering Map, Plan and Report as adopted.

IT IS FURTHER RESOLVED that this resolution is subject to permissive referendum as provided in Town Law Section 209, in the manner provided in Article 7 of the Town Law, and is subject to the approval of the State Department of Audit and Control in accordance with Town Law Section 209-F.

Supervisor Barrett said a significant state grant has been received, as well as \$125,000 from Assemblyman Reilly. He noted residents in the western part of town will see sewer rates reduced and this will be a benefit to those without public sewer.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

Resolution No. 154 of 2009, a resolution appointing Tiffany A. Southard as a member of the Environmental Conservation Commission.

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

WHEREAS, due to the resignation of James Quinn an opening exists for a member for the Environmental Conservation Commission; and

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WHEREAS, Tiffany A. Southard, 87 Algonquin Road, Clifton Park has been recommended to fill the position; now therefore be it

RESOLVED, that Tiffany A. Southard, 87 Algonquin Road, Clifton Park, is hereby appointed as a member of the Environmental Conservation Commission to fill the unexpired term of James Quinn, term to expire December 31, 2009.

ROLL CALL VOTE

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

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Ken Buniak, Hidden Crest Court, speaking with regard to the mulching operation at the Transfer Station, referred to the minutes of April 6, 2009. He stated formal complaints were filed by area residents with DEC on April 26, 2009. He reported, as of today, the odor is still distinct and annoying. He said it appears the town is paying the private operator \$80,000 per year who is bringing in debris from five or six other area municipalities. He referred to the sign at the Transfer Station that states "residents only". Mr. Buniak continued on April 27 and 28 Kevin Wood of DEC arrived unannounced at the site after responding to sited complaints and determined the operation was far out of compliance of regulations, including debris that had been so mishandled that it was rotting and moldy and producing odors. Mr. Buniak said violations were documented and violation notice sent to the town on May 5, 2009, and the town, as the permit holder, and by extension, taxpayers, will be responsible of payment of fines if assessed. He said town employees did not create the violations. He reviewed violations confirmed at this time: 1) not grinding debris within the seven day requirement, 2) failure to submit an annual report as required by the permit and regulations, 3) unacceptable nuisance odors and dust as prohibited by the permit, 4) composting methods inconsistent with prescribed methods with respect to timeliness, temperature, moisture content and frequency of turning, and 5) general operation of the site not in compliance with DEC permit. Mr. Buniak noted these five are the same as five of the nine last year and the illegal running of leaching is continuing into the Stony Kill reservoir. He stated this stench has been going on far too long and people have been trying to address this situation since 2005. He said on March 30, 2008 over 30 residents signed a petition asking DEC to step in which DEC did on April 10, 2008 with respect to the previously mentioned nine violations. Mr. Buniak said this has to do with restoring the quality of life for every resident in the area, not just Hidden Crest, who are taxpayers and deserving of more than the town has provided. NYDEC has been the objective voice of reason, fortunately having the background to perform two inspections resulting in numerous and recurring violations over the course of the last year. Mr. Buniak said Kevin Wood of DEC is to be commended for carrying out his responsibilities in a professional manner consistent with regulations, laws and logic.

Supervisor Barrett stated the town is not paying anyone \$80,000. He explained as a part of looking at other options, the town put out an RFP to do the processing and the lowest bid was \$80,000, with the next lowest approximately \$385,000 just for processing and did not include pick up. (Clerk's note: the bid was not awarded). Supervisor Barrett said the new parameters call for leaves and brush to be processed within seven days and the setting up of a windsock. The contractor has said if the wind is blowing in a northerly direction all processing is stopped and, therefore, it is sometimes not possible to get the mulching done in seven days.

Tom DeLeonardis, Hidden Crest Court, said the goal has always been for clean sweet air. He reported most of the material at the mulching operation is bad and there will always be an odor from bad material. He said odors are coming from piles being turned as well as the process of making top soil. Mr. DeLeonardis stated the site is too big and is not being operated properly. He has been to the Saratoga mulching operation and they are grinding within hours but are not grinding five extra town's worth. He said at one visit to the town mulching operation there were two machines making top soil but the grinder was not on the premises and yet there was material

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from last fall, plus what has been brought in this year. The piles are 10 feet high and when turned over there is mold and mildew. He said the Saratoga composting operation would be an excellent model to follow. He was told it cost Saratoga \$160,000 per year and they make \$80,000 back selling mulch. Mr. DeLeonardis said he feels his quality of life doesn't count. He noted in August it was announced the mulch would come only from Clifton Park only and Troy Sand & Gravel would be paid by the town but they are still being paid by County Waste.

James Ruhl, Wood Dale Drive, reported one million dollars in federal stimulus money is coming to the County to complete the Zim Smith Trail and asked the Supervisor to offer support at the County level.

Jerry Cifor, County Waste, explained outdoor composting facilities will always have an odor even if perfectly run and limited to Clifton Park leaves and brush only. He stated odors can be mitigated but never eliminated. He reported County Waste has not operated the facility in over two years but subcontract with Troy Sand & Gravel since they had the expertise to run a composting facility. Mr. Cifor reported County Waste has paid Troy Sand & Gravel \$120,000 per year in 2007, 2008 and if things continue as is, in 2009, to process the material. He said he has been trying to get County Waste off the permit as the operator for the last two years without success. He does not want to take responsibility for a facility County Waste is not actually operating. He said it is a great benefit to the town to have material collected for free to be composted and it is a minority of the population that is actively aligned against the facility. Mr. Cifor stated he sympathizes with the neighbors of the composting facility and the problems that have been identified will be dealt with immediately and they will continue to do whatever they can to mitigate the odor issues. He reported Clifton Park is the only town in which County Waste picks up at no charge and provides the benefit because they are the hometown company. He said County Waste will continue to do whatever they can to help the Town Board do the right thing.

Supervisor Barrett said County Waste has been a great corporate partner and service is important to a lot of people but if there are odors it is also important and there is work to do to create the balance. He said this is a regional problem and something DEC needs to address. He stated part of his concern is if the town does anything too drastic, rogue operations could pop up around town. It was noted DEC does not regulate mulching operations under 10,000 yards. He expressed concern that people will dump leaves and brush in common areas if the pick up doesn't continue.

Ron Streeter, Glenwood Drive, invited the Town Board and the public to the 6th Clifton Park Relay for Life, sponsored by the American Cancer Society, will be held on June 5 & 6 from 7:00 p.m. to 7:00 a.m. in front of the Orenda/Karigon schools.

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

Motion carried at 8:35 p.m.

Patricia O'Donnell
Town Clerk