

**Clifton Park Town Board Meeting Minutes  
November 13, 2006**

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 Speckhard  
Councilman Roth  
Councilwoman Walowit  
Supervisor Barrett  
Town Clerk O'Donnell

Absent: Councilman Paolucci

Also Present: Town Attorney Trainor  
Myla Kramer, Director of Parks, Recreation and Community Affairs  
Kathleen Maynard, Director of Planning  
Michael Shahan, Town Administrator

**ANNOUNCEMENTS AND COMMUNICATIONS**

No announcements or communications

**PRESENTATION TO THE BOARD**

Joe Grasso, Clough, Harbour & Associates, presented the proposed pavilion and skating rink project for Martin Jewett Park (Longkill 1 Park District). The pavilion is a 2700 square foot structure that would include an enclosed picnic area, restrooms, storage areas and utility rooms. The skating rink of 7000 square feet will be asphalt paved with the ability to be flooded by Buildings and Grounds and plowable. Mr. Grasso reported the project will go out to bid over the next 45 to 60 days. The skating rink is an add alternate. The base bidding includes the pavilion and will be broken down into general construction, plumbing and electrical work. Estimated cost is \$270,000 to \$300,000 for the pavilion and the skating rink \$80,000 to \$100,000. He expects construction could start around the beginning of April with completion in fall 2007. In response to Councilwoman Walowit's question regarding exterior lighting, Mr. Grasso said there will be security lighting by the pavilion and no lighting proposed for the skating rink at this time.

Bill Mackesey, South Hollow Drive, Chairman of the Longkill Park District, reported this is the second phase of a potentially four-phase review of the park. He stated this park will be for all residents in town and surrounding park districts. Mr. Mackesey said phase 3

will consist of paving the tennis courts and phase 4 upgrading of the parking lot.

PUBLIC HEARING, 7:10 PM  
TO CONSIDER A LOCAL LAW AMENDING  
LOCAL LAW NO. 18 OF 1988, AS AMENDED,  
TRANSIENT RETAIL MERCHANTS

The Town Clerk read the Notice of Public Hearing as published in The Daily Gazette on November 9, 2006.

Councilwoman Walowit summarized the proposed local law explaining there were issues a year ago regarding merchants coming into town and creating a “circus-like atmosphere” and safety issues. She said the proposed changes to the legislation deal mostly with safety issues as they relate to the major roadways and intersections throughout the town, as well as the permit process. Councilwoman Walowit said some of the issues will need to be addressed separately under the Sign Legislation.

Supervisor Barrett said this is an issue of fairness for business owners in town, and the area, who make a commitment to the community. He said the current transient retail merchant legislation is far too easy. The Supervisor said he did not like what he saw in the Exit 9 area due to transient merchants for a lot of reasons – aesthetics, public safety and fairness for local merchants. He said it is important for a municipality to recognize that certain standards need to be kept in the town.

Town Attorney Trainor reviewed the proposed legislation, noting the durational limitations, bond requirement, prohibitions of sales in high traffic areas due to danger to motorists, cyclists or pedestrians.

Councilman Walowit noted exemptions to the proposed legislation.

Town Attorney Trainor recommended clarifying Section 189-10 - Location as follows:  
No Transient Retail Business shall be located or operated outdoors along any of the following thoroughfares.....

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

Abraham Blum, Parkland Court, asks how the legislation will affect out of town vendors on the Common. He further asked how the law will be enforced regarding trucks going door to door in neighborhoods.

Supervisor Barrett responded vendors on the Common are a different situation and door to door merchants come under the Peddlers Law.

At the request of Norman Goldman, London Square Drive, Mr. Trainor read the definition of Transient Retail Merchants as defined in the current legislation. Mr. Goldman said he is not pleased with the changes because of the basic reason that

prompted the changes. He continued if it were not for the complaint of local merchants, some from out of town, this question would not have been raised. Mr. Goldman said no one complains about the appearance of carnivals being held in the mall parking lot. He feels this was not brought forward on the basis of public safety and that it is too restrictive. Mr. Goldman said if transient merchants find it is worth their efforts and investment to come into town, it must be because there are people in town who are looking to buy the product. He reiterated the reason this came up was based on the issue of competition and fairness. He asked if there was any documentation of accidents occurring while transient merchants were present and, if not, what is the basis for the legislation.

Jim Baisley, Barkwood Lane, asked if any kind of background check is required. He said the applicant should also be required to produce a current "Certificate of Authority" and report to the town as to what was sold and taxes collected and reported to the proper authority.

Mr. Trainor said the current legislation requires proof of qualifications to do business in the state.

Supervisor Barrett responded the inclusion of a background check in the legislation should be reviewed.

Rich Thomas, Garden Drive, said information can be found through the Attorney General's office. Mr. Thomas expressed concern about limiting transient merchants from coming into the town, stating the backbone of this country was built on free enterprise. He said it is up to the buyer to beware of what they are purchasing.

Supervisor Barrett responded he welcomes competition but local business owners are vested in and have made a commitment to the community.

Councilwoman Walowit reported major intersection accident reports have been filed with the Town Clerk.

Mr. Goldman stated fairness and competition are not legitimate issues to enact this law.

Mr. Baisley reported, as contained in the Town Code, part of the legislation includes zoning.

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 8:00 p.m.

#### PUBLIC PRIVILEGE ON RESOLUTIONS

No one wished to be heard.

Resolution No. 399 of 2006, a resolution transferring funds for payment of an invoice from John G. Waite Associates for Architectural Services at the Grooms Tavern.

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

WHEREAS, John G. Waite associates has submitted an invoice for Architectural Services at Grooms Tavern in the amount of \$5,140, and

WHEREAS, it is necessary to transfer funds from the Unappropriated Fund Balance for payment of this invoice, and

WHEREAS, the General Fund will be repaid with funds forthcoming from a \$50,000 Legislative Grant; now, therefore, be it

RESOLVED, that authorization is hereby given to transfer \$5,140, as per Schedule A, from the Unappropriated Fund Balance to A-1627-024 (Grooms Road Emporium-Repairs & Maintenance) for payment of an invoice from John G. Waite Associates; and be it further

RESOLVED, that the amount of \$5,140 will be repaid from a forthcoming \$50,000 Legislative Grant to the General Fund.

Councilman Roth said a letter was received from John Scherer in July advising that upon receipt of the grant, money will be refunded.

Councilman Speckhard approximately \$140,000 is needed in order to get a Certificate of Occupancy for the Grooms Tavern. He reported this money is not in the 2007 Budget but is in the current town surplus and could be budgeted by the end of the year so work can get started. The \$50,000 grant is designated for interior decorations and cannot be used for the construction aspect. Supervisor Barrett asked if this designation can be changed. Councilman Speckhard said not that he is aware of as this is a state historical grant.

#### ROLL CALL VOTE

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

Noes: None

Absent: Councilman Paolucci

#### DECLARED ADOPTED

Resolution No. 400 of 2006, a resolution awarding the bid for Contract No. 1-Water System Construction of Rexford Water District No. 2, Extension No. 1 Grooms Road in

the Town of Clifton Park.

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

WHEREAS, bids were received on September 28, 2006 for the construction of the waterline extension and came in higher than anticipated requiring that the Town Board increase the funding amount to cover the increased cost, and

WHEREAS, all of the legal process involving the cost increase including a public hearing and other related matters have been completed and a revised application of cost has been submitted to the New York State Audit and Control, and

WHEREAS, all property owners in the Extension have been fully informed of the impacts on the cost increase on the water rates and have signed authorization forms approving the cost increase, and

WHEREAS, the Town Board is desirous of expediting the administrative process to the maximum extent practicable so that property owners can connect into the new Extension water mains prior to the onset of winter, and

WHEREAS, McDonald Engineering has reviewed the qualifications of the low bidder and recommends awarding the contract to Jablonski Construction, the most responsible bidder; now, therefore, be it

RESOLVED, that the Town Board hereby conditionally approves the award of the contract to Jablonski Construction in the amount of \$88,995 for Contract No. 1-Water System Construction, of Rexford Water District No. 2, Extension No. 1 Grooms Road in the Town of Clifton Park and the Supervisor is hereby authorized to execute the contract conditioned on receiving final approval from the New York State Audit and Control and any other resolutions required by the Town Board.

#### ROLL CALL VOTE

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

Noes: None

Absent: Councilman Paolucci

#### DECLARED ADOPTED

Resolution No. 401 of 2006, a resolution requesting the installation of "No Parking" signs at the northeast corner of Moe Road and Grooms Road.

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

WHEREAS, the Clifton Park Nursery School has limited parking, creating an overflow parking problem whenever the School has a special event, and

WHEREAS, during these special events attendees park on the gravel area at the northeast corner of the intersection which is property owned by Saratoga County to the limit of the Grooms Road right-of-way and by a private owner beyond that, and

WHEREAS, in order to help alleviate the problem the Town Board would like authorization to request Saratoga County to install "No Parking" signs at the northeast corner of the Moe Road and Grooms Road intersection; now, therefore, be it

RESOLVED, that the Clifton Park Town Board hereby requests Saratoga County Highway Superintendent, Joseph Ritchey to install "No Parking" signs at the northeast corner of Moe Road and Grooms Road; and be it further

RESOLVED, that the Town security force and County and State law enforcement personnel are to enforce violations of the "No Parking" policy at all times except when the Town has granted temporary parking privileges to the Clifton Park Nursery School upon its prior written request for special events.

#### ROLL CALL VOTE

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

Noes: None

Absent: Councilman Paolucci

#### DECLARED ADOPTED

Councilwoman Walowit asked that the proposed Transient Retail Merchant legislation be brought forward this evening since the moratorium expires on November 19, 2006.

Resolution No. 402 of 2006, a resolution adopting Local Law No. 19 of 2006, a Local Law amending Local Law No. 18 of 1988, as amended by Local Law No. 2 of 1998 and Local Law No. 4 of 2005, regarding Transient Retail Merchants.

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

WHEREAS, the Town Board has recommended that Chapter 189, Transient Retail Merchants be amended, and

WHEREAS, on October 2, 2006, a public hearing was conducted to obtain comment from the public regarding this matter, and

WHEREAS, on November 13, 2006, a second public hearing was conducted to obtain comment from the public regarding additional proposed changes to the local law; now, therefore, be it

RESOLVED, that Local Law No. 19 of 2006, a Local Law amending Local Law No. 18 of 1988, as amended by Local Law No. 2 of 1998 and Local Law No. 4 of 2005 regarding Transient Retail Merchants is hereby adopted, 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; and be it further

RESOLVED, that this local law shall take effect immediately upon its adoption.

LOCAL LAW NO. 19 OF 2006, A LOCAL LAW AMENDING  
CHAPTER 189 OF THE TOWN CODE REGARDING LICENSES FOR  
TRANSIENT RETAIL MERCHANTS, AS ADOPTED BY  
LOCAL LAW NO. 18 OF 1988, AS AMENDED.

§189-1 Purpose

This chapter is enacted for the purpose of regulating the conduct and business practices of transient merchants within the Town of Clifton Park in order to protect the health, welfare and safety of the Town's residents and visitors. It is also enacted to require conformity with the Town's Comprehensive Plan, Zoning and Sign laws so that the community's land use and planning goals are not unduly interfered with or defeated by unregulated enterprises.

§189-4 License required; fee.

B. The fee for a transient merchant's license shall be at the rate of [~~\$100~~] \$300 per day.

C. Persons soliciting, collecting or operating a sale on behalf of any bona fide charitable, educational, scientific, health, religious or patriotic not for profit organization shall not be required to pay a fee or provide a Bond for a transient merchant license but must complete and be approved for a license as otherwise provided herein.

D. Each applicant for a transient merchant license shall be limited to one license per calendar year. The maximum licensing period for a transient merchant license shall be seven (7) days per calendar year per applicant.

§189-5. License application.

E Bond or Certified Funds. Before any license authorized herein shall be issued, the applicant

shall file with the Town Clerk proof of a bond executed by a surety company or insurance company licensed to do business in the State of New York or an irrevocable one-year letter of credit issued by a licensed banking institution in the sum of \$10,000 for the purposes of saving harmless the citizens of the Town of Clifton Park from any and all damages which may be incurred by said citizens as a result of false or fraudulent unlawful sales practices by any person licensed hereunder. In lieu of the foregoing bond or irrevocable letter of credit, cash or certified funds in the amount herein before set forth shall be deposited with the Town Clerk. Such funds shall be held for a period of one year from deposit. Interest earned shall be the property of the applicant. The funds shall be used to satisfy any judgment obtained in judicial proceedings for damages incurred by citizens of the Town of Clifton Park as a result of false, fraudulent or unlawful sales practices by any person licensed hereunder.

#### §189-6 Exemptions

- B. Sales conducted pursuant to [the] an order by any court.
- [C. Any person selling personal property at wholesale to dealers in such articles.]
- [D.] C The sale of fruits and vegetables raised on the property where being sold.
- [E.] D Any honorably discharged member of the United States Armed Forces who has procured a license under Article 4 of the General Business Law of the State of New York.
- [F. Persons soliciting, collecting or operating a sale on behalf of any bona fide charitable, educational, scientific, health, religious, patriotic or other organization of worthy cause deemed to be in the public interest.]
- [G.] E [Any person selling personal property at a garage sale held at his residence.]  
Garage Sales, and Farmer's Markets.
- [H. Any person selling Christmas trees.]

#### § 189-8. [Hotel reports.] Land Owner Responsible.

[The owner, proprietor or manager of any hotel, motel, rooming house or other place of public accommodation shall report, within six hours after renting, to the Town of Clifton Park Clerk's office, the name of any person who has rented a room or other space for the sale and display of merchandise of a transient merchant, giving the location of the room so rented.]

No owner, or person in possession of real property in the Town of Clifton Park shall allow said real property to be used for the purpose of conducting Transient Retail Business unless the transient merchant shall first have been licensed as required by this chapter.

#### §189-10-Location:

No Transient Retail Business shall be located or operated outdoors along any of the following thoroughfares or within the specified radius of the identified intersections as these are deemed to be high traffic areas which may present a danger to the health or

safety of motorists, cyclists or pedestrians:

Route 9 from Kinns Road south to Route 146  
Route 146 west to Vischer Ferry Road and Route 146A  
Maxwell Road from Plank Road to Southside Drive  
Southside Drive  
Northside Drive  
Park Avenue  
Wall Street  
Old State Route 146  
Fire Road  
Clifton Country Road  
Clifton Park Center Road from Southside Drive to Clifton Country Road  
Vischer Ferry Road from Clifton Park Center Road to Route 146  
Crescent Road from Northway ramp to Moe Road ( this includes Okte)

Not within 500 ft. of Moe and Grooms Road  
Not within 500 ft. of Route 146 and 146A  
Not within 500 ft. of Longkill/Main/MacElroy/Hatlee  
Not within 500 ft. of Ushers and Van Patten Drive  
Not within 500 ft. of Route 146 and Balltown Roads  
Not within 500 ft. of Riverview and Balltown Roads

Councilwoman Walowit will look into incorporating background checks into the legislation as well as adding tax id requirements.

Councilman Speckhard, noting the sale of Christmas trees has been deleted from Exemptions, asked if trees could be sold at Farmer's Markets or for any charitable reason or garage sale. Councilwoman Walowit responded yes. Councilman Speckhard stated even though he cannot support the legislation due to its ultimate concept and proposition, he expressed appreciation for the many favorable improvements made to the current Transient Retail Merchant legislation.

Councilman Roth stated the one issue he is looking at is protecting the health, safety and welfare of town residents and visitors and feels this legislation is necessary.

Supervisor Barrett agreed that public safety is the overriding issue.

Councilman Speckhard said if public safety was the only focus, a lot of the concessions would not be in this legislation.

ROLL CALL VOTE

Ayes: Councilman Roth, Councilwoman Walowit, Supervisor Barrett

Noes: Councilman Speckhard

Absent: Councilman Paolucci

#### DECLARED ADOPTED

Director of Planning Maynard brought forward a minor inaccuracy in the zoning map. She explained a parcel adjacent to the LI zone on the northwest side of English Road, as well as the adjacent sewer easement, are shown as R-1. Ms. Maynard said former Director of Planning Kemper believes this was an error in the mapping process. After research, it was found that this property did not go through a legal process to change to R-1 from LI 2 and will be corrected on the zoning map.

#### PUBLIC PRIVILEGE

Vincent Apa, Abbey Court, representing Quick Response, said he submitted a letter, attached, in early October in which Quick Response asked the Town Board for approval to open a pre-owned auto sales lot on Route 9.

Supervisor Barrett responded he hopes to get back to Mr. Apa within a week. Mr. Trainor is reviewing the issue as to whether a variance or zoning change is required.

Beverly Czub, Miller Road, spoke in favor of the new traffic light at the corner of Clifton Park Center and Vischer Ferry Roads. She noted parking for garage or estates sales also causes dangerous situations.

Bill Mackesey, South Hollow Drive, speaking as co-chair of the Trails Committee, thanked the Town Board for their support of trails and specifically Councilmen Paolucci and Roth for the new Vischer Ferry, Ushers and Longkill Road trails. He said he would like to see the Longkill Road trail extended into the Longkill 1 Park. Mr. Mackesey reported Boy Scouts are working on the trails as part of their Eagle Scout projects.

Norman Goldman, London Square Drive, speaking with regard to the transient merchant legislation, stated distractions that may be safety issues were not addressed by the law. He continues to express concern with electronic machines.

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

Motion carried at 8:40 p.m.

Patricia O'Donnell  
Town Clerk