

TOWN OF CLIFTON PARK TOWN BOARD

May 16, 2022

The meeting of the Town Board of the Town of Clifton Park was held in the Town Office Building at 7:00 p.m. Deputy Supervisor Morelli presiding.

Present: Supervisor Barrett via Zoom
 Councilwoman Flood
 Councilwoman Standaert
 Councilman Morelli
 Councilwoman Walowit
 Town Clerk Brobston

Also Present: Town Attorney McCarthy via Zoom
 Mark Heggen, Comptroller
 Matt Andrus, Information Specialist
 John Scavo, Planning Director
 Myla Kramer, Director of Parks, Recreation & Community Affairs
 Daniel Clemens, Buildings, Parks & Recreation Director
 Dahn Bull, Highways Superintendent

MINUTES APPROVAL**May 2, 2022 Town Board Minutes**

Councilwoman Standaert stated she would like to make a motion to amend a portion of the minutes pertaining to Resolution No. 129 of 2022. She stated she would like it added to the minutes her comments to Councilman Morelli's inaccurate claim. She stated Mr. Morelli made an inaccurate statement about the purpose of her calling the April 11, 2022 Executive Session. That was not entered into the May 2, 2022 minutes as submitted. Her statement clarifying that I called the Executive Session for a personnel matter and not for policy, as Mr. Morelli inaccurately suggested.

Councilman Morelli stated his recommended amendments to the May 2 minutes after Resolution No. 129 of 2022. He would like to include the following two paragraphs.

Town Attorney stated that his office and the office of the Comptroller needed more time to do the reviews that fall under the procurement policy of Clifton Park which specifically refers to purchases greater than \$20,000 or contracts greater than \$35,000 and that these reviews are such that his office is responsible for in accordance with Resolution No. 1 of 2022, in that the Town Attorney review and approve all contracts and agreements on behalf of the Town.

Councilwoman Standaert asked the Town Attorney "if that was another threat". She then later stated this is offensive to me. Then later in the meeting she says, "she is offended by this resolution". At an additional time she says, "I will not be threatened". Additional time he stated he asked, "if there was a threat that I hadn't heard such a threat". Councilwoman Standaert stated I do.

MOTION by Councilwoman Standaert, to table the approval of the May 2, 2022 minutes, as presented, so the Town Clerk can review recommended amendments, seconded by Councilwoman Walowit.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
 Councilwoman Walowit, Supervisor Barrett

Noes: None

MOTION CARRIED

May 9, 2022 Town Board Minutes

MOTION by Councilman Morelli, seconded by Councilwoman Walowit, to approve the minutes of the May 9, 2022, meeting as presented.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Abstain: Councilwoman Standaert

Noes: None

MOTION CARRIED

ANNOUNCEMENTS AND COMMUNICATION

Supervisor Barrett explained, he is participating on Zoom tonight due to the rising COVID cases, although he was considered not in close contact with a co-worker who tested positive, he stated he has tested negative, but is being overly cautious and avoiding indoor meetings and gatherings.

Supervisor Barrett stated, the Town continues to move forward with Greenlight Cable Co. coming to the residents of Clifton Park. Thursday at 10am they will have an event at the Vischer Ferry Fire Department. The company will be partnering with the fire department for equipment storage.

Supervisor Barrett announced a groundbreaking event for the Town Center Park on Monday, May 23, 2022, at 10 AM. Construction to be completed in 2022.

Supervisor Barrett announced the opening schedules of the Town Pools and Learn To Swim program. Country Knolls pool will be opening first on May 28. Additional information available on the Town website.

Supervisor Barrett reminded residents of the opportunity of free lifeguard training offered in June. Free gas cards will be offered to participants to help with this expense. The Town is partnering with Saratoga County. Contact the Supervisor's Office for additional information and possible openings.

Supervisor Barrett reminded residents of a free summer EMT training program offered by Saratoga County, through the Workforce Development, in partnership with Shenendehowa School District, Clifton Park-Halfmoon EMS, Shenendehowa Career Jam and Hudson Valley Community College. This program will be offered to Senior students at Shenendehowa High School.

Supervisor Barrett stated, our hearts go out to the City of Buffalo and the various other shootings around the nation, especially the victims' families of the heinous act that occurred in a supermarket recently.

Councilwoman Flood thanked those who participated in the festivities at the Grooms Tavern this past Sunday. Dr. Christina Reith provided a lecture on the archaeological assessment of Clifton Park.

Councilwoman Flood announced, on June 4, Historian John Scherer will be offering a bus trip to the Eric Canal Museum Syracuse, NY. Additional information can be found in the Parks & Recreation Department.

RESOLUTIONS

Ann Connolly, Clifton Park Neighbors and The Easy Clifton Park Neighborhood Watch website social groups co-administrator, had questions on the referenced proposed resolution pertaining to retaining outside counsel on tonight's agenda. She stated she had received several messages from Clifton Park employees and residents. The messages were read. Some in favor of the action and some against. She stated she requested proof of the allegations. She questioned if a bid was observed on the selection of counsel? Who chose this firm? What is their retainer? Has NYSDOL been contacted? Has there been a HR complaint? Was there mediation? Was the labor union involved? Have all the normal procedures been exhausted? She stated the firm is a conflict of interest because they are also retained by Saratoga County and Supervisor Barrett is on the Board of Supervisors. She was against allowing the three Board members to vote for this proposal and gain control. The Town Board should work together as a group and not individually. She felt the firm will be hired to take out the Supervisor, at taxpayers' expense. She felt the law firm faults would be against Supervisor Barrett, Councilman Morelli and Attorney McCarthy, and the employees who don't go along with it would be out.

Mark Brockbank, Stoney Creek, agreed with Ms. Connolly's statements. Questioned why Attorney McCarthy is not able to deal with the issues with the labor dispute? Why use a law firm when you can use a general election?

Chris O'Hara, Stoney Heights Ct., agree with the aforementioned speakers against the resolution proposed.

Michael Christensen, Main St., member of the Republican Committee, spoke against the proposed resolution hiring outside counsel and the expenditure of public funds.

Resolution No. 136 of 2022, a resolution appointing Megan Babendreier, provisionally, as a half-time Recreation Leader in the Office of Parks & Recreation pending Civil Service certification.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, by Resolution No. 78 of 2022, the Town Board established the position of half-time Recreation Leader for a work week of up to 25 hours per week, and

WHEREAS, Myla Kramer, Director of Parks, Recreation and Community Affairs, has interviewed Megan Babendreier and recommends the retention of Ms. Babendreier provisionally, as a half-time Recreation Leader, at Grade 4, Step 1, Year 1, to be paid \$21.94/hr., pending a future civil services test schedule; now, therefore, be it

RESOLVED, that Megan Babendreier, 41 Rolling Brook Drive, Clifton Park, is hereby appointed as half-time Recreation Leader for the Town of Clifton Park, effective immediately, and pending Civil Service certification; and be it further

RESOLVED, that the Comptroller is authorized to transfer \$17,600 from A-914 (Unassigned Fund Balance) to A-7021-Exxx (General Fund –Parks & Recreation –Employee).

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 137 of 2022, a resolution hiring seasonal staff for the 2022 Parks & Recreation Programs.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Flood.

WHEREAS, the Town Board wishes to hire additional Lifeguards for the summer 2022 pool season, and

WHEREAS, Myla Kramer, Director of Parks, Recreation and Community Affairs, has recommended that the individuals listed in the attached Schedule A be hired; now, therefore, be it

RESOLVED, that the individuals listed in the attached Schedule A be accepted as staff for the Town's pools, to be paid as indicated on the schedule through the end of the respective season.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 138 of 2022, a resolution authorizing the sale of equipment declared surplus by the Town Board and authorizing Departments to sell the surplus equipment at public auction.

Introduced by Councilwoman Standaert, who moved its adoption, seconded Councilman Morelli.

WHEREAS, Daniel Clemens, Director of Buildings, Parks, & Recreation, has identified the old telephones that were replaced in November as surplus property, and

WHEREAS, based upon the recommendation of Mr. Clemens, the Town Board declares the items as surplus; now, therefore, be it

RESOLVED, that the Town Board authorizes the Buildings & Grounds Department to sell the surplus equipment, as is, through an upcoming online public auction.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 139 of 2022, a resolution awarding a contract for replacing fencing at the Clifton Common.

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

WHEREAS, the Director of Buildings, Parks, and Recreation Daniel Clemens, advertised for sealed bids for fence replacement located at the Clifton Common, and

WHEREAS, sealed bids were opened on February 11, 2022, and the Town Board awarded the contract to WBE Fence Co. of Brewster, NY, the lowest bidder, by Resolution No. 111 of 2022, and

WHEREAS, WBE Fence Co. has informed the Town that it would not honor its bid price, due to inflationary or supply issues, and

WHEREAS, Bruce Fencing, the second bidder, indicates that it is able to secure the necessary materials for the removal and replacement of stockade fencing around the perimeter of the Clifton Common with gates at the price bid, including removal and installation of 4-foot-high black chain link fence with gates surrounding the soccer fields, at a cost not to exceed \$467,403, and

WHEREAS, the Director of Buildings, Parks, and Recreation recommends awarding the bid to Bruce Fencing, as most responsive bidder; now, therefore, be it

RESOLVED, that the Comptroller is authorized to transfer from A-00914 (General Fund – Unassigned Fund Balance) the additional amount of \$214,902 to A-07112-00200 (General Fund – Clifton Common – Equipment), and be it further

RESOLVED, that the Supervisor is authorized to sign a contract with Bruce Fencing for the fencing, in an amount not to exceed \$467,403 for removal and installation of fencing and gates at the Clifton Common; and be it further

RESOLVED, that the approval of a contract granted by Resolution No. 111 of 2022, for a contract with WBE Fence is hereby repealed.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Daniel Clemens, Director of Buildings, Parks & Recreation, explained the above referenced Fencing Bid was awarded to the lowest bidder, WBE Fence Co., a month ago. He contacted the company and they informed him they can no longer honor their bids because of material increase. The additional bidder was Bruce Fencing, they will honor their submitted bid.

Supervisor Barrett stated, this project was put out to bid several times. WBE Fence, after telling them they were awarded the bid, wanted to raise their bid.

Councilwoman Walowit asked counsel if there is any way to guarantee/bond bids? She stated this situation may happen in the future.

Attorney McCarthy stated a bid bond can be required and is advised to require it more on upcoming projects.

Resolution No. 140 of 2022, a resolution authorizing the transfer of American Rescue Plan Act Funds to the Paving Budget to close the inflation gap, and pave additional roads.

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

WHEREAS, by Resolution No. 239 of 2021, the Town Board designated funds to support four categories of expenditures of Federal Funds received through appropriations within the American Rescue Plan Act (ARPA), and

WHEREAS, the Town has received \$1,864,917.47 in ARPA funds to date, with an anticipated equal amount to be received later this year, and

WHEREAS, budget line DA-5110-030 (Highway – Paving) was allocated \$550,000 in the adopted 2022 budget, and

WHEREAS, the Town Board wishes to designate an additional \$1,300,000 from the total ARPA funds for paving to close the inflation gap and pave additional roads; now, therefore, be it

RESOLVED, that the Comptroller is authorized to transfer \$1,300,000 from the General Fund of the ARPA funds received to DA-5110-030 (Highway – Paving), with any balance to be transferred once the remaining funds are received.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Highways Superintendent Dahn Bull made the Town Board aware of the increase in asphalt pricing.

Resolution No. 141 of 2022, a resolution accepting funds from the Friends of Grooms Tavern and authorizing KDS Contracting, LLC. to complete repairs at Grooms Tavern.

Introduced by Councilwoman Flood, who moved its adoption, seconded by Councilwoman Standaert.

WHEREAS, by Resolution No. 119 of 2022, the Friends of Grooms Tavern were awarded a \$7,000 grant from the Town’s Community Preparedness and Resiliency Fund (CPR Fund) which was designated from the American Rescue Plan Act of 2021, and

WHEREAS, the Friends of Grooms Tavern have asked the Town to manage a project to complete certain repairs to the Grooms Tavern structure, and

WHEREAS, Daniel Clemens, Director of Buildings, Parks, and Recreation, solicited quotes for sheet rocking and finishing of walls in the upstairs bathroom at the Historic Grooms Tavern, and

WHEREAS, Mr. Clemens recommends that KDS Contracting, LLC be authorized to complete the project based on the lowest responsive quote, in the amount of \$1,500 for the work; now, therefore, be it

RESOLVED, that the Comptroller is authorized to increase revenues to A-02705 (General Fund – Donations) by \$1,500, and increase expenditures in A-01627-00200 (General Fund – Grooms Tavern – Equipment) by \$1,500; and be it further

RESOLVED, that the Director of Buildings, Parks, and Recreation, is authorized to accept the quote of KDS Contracting, LLC, 41 Berkshire Drive, Clifton Park, NY, as low quote, for the repairs at Grooms Tavern, on Sugarhill Road, as described in the attached documents, at a cost not to exceed \$1,500 from A-1627-200 (General Fund – Grooms Tavern – Equipment).

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 142 of 2022, a resolution hiring a laborer for the Clifton Park Highway Department.

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

WHEREAS, Dahn Bull, Superintendent of Highways, requests authority to hire a full-time laborer, a position created in the 2022 Clifton Park Budget, and

WHEREAS, Mr. Bull has conducted interviews and driving record reviews, and has recommended the hiring of Mr. Ryan VanGalen, 57 Algonquin Road, Clifton Park, NY, at Grade 4, Step 1, at a rate of \$22.44/hr, and a salary of \$46,675, and

WHEREAS, Mr. VanGalen has worked in a seasonal position with the Highway Department and has shown interest in many responsibilities of the department; now, therefore, be it

RESOLVED, that Mr. VanGalen be hired as a full-time laborer, at Grade 4, Step 1, at a rate of \$22.44/hr, and a salary of \$46,675, effective immediately; and be it further

RESOLVED, that the Comptroller is authorized to transfer \$30,224 from DA-05110-E3000 (Highway Fund – General Construction – Laborer) to DA-05110-E1976 (Highway – General Repairs – R. VanGalen) and \$6,283 from DA-05142-E3000 (Highway Fund – Snow Removal – Laborer) to DA-05110-E1976 (Highway – General Repairs – R. VanGalen), respectively.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 143 of 2022, a resolution appointing Denise Bagramian as Chairman of the Planning Board.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, a vacancy exists for a Chairman of the Planning Board, and

WHEREAS, Supervisor Barrett recommends that Denise Bagramian, 1 Towline Rd, Clifton Park, be appointed to the position as Chairman; now, therefore, be it

RESOLVED, that Denise Bagramian is hereby appointed as Chairman of the Planning Board for the remainder of a 1-year term, with the term to expire on December 31, 2022, to be paid the remaining stipend as budgeted.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Supervisor Barrett thanked Planning Board Chair Rocco Ferraro for his years of service to the Town.

Resolution No. 144 of 2022, a resolution appointing Lisa Westrick as Alternate Member to the Planning Board for the remainder of a one-year term.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Flood.

WHEREAS, a vacancy exists for the Alternate Member of the Town of Clifton Park Planning Board with the appointment of Jennyfer Gleason as a full voting member, and

WHEREAS, Councilwoman Standaert recommends that Lisa Westrick, 6 Chestnut Lane, Clifton Park, fill the position, and

WHEREAS, Lisa Westrick has the background, education, training and experience necessary to be an effective member of the Town of Clifton Park Planning Board; now, therefore, be it

RESOLVED, that Lisa Westrick is hereby appointed Alternate Planning Board Member, for the remainder of a 1-year term, term to expire December 31, 2022.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 145 of 2022, a resolution authorizing the purchase of additional crosswalk systems from Traffic Systems, Inc.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, by Resolution No. 117 of 2017, the Town Board authorized the initiation of a pilot program to demonstrate the effectiveness of solar powered bi-directional RFB crosswalk alert systems for crosswalks within the Town, and

WHEREAS, subsequent addition to the Carmanah crosswalk alert systems in 2018, 2019, and 2021, have been effective and popular within the Town, and the Town Board has received positive feedback from residents relative to the visibility and uniformity of the systems, and

WHEREAS, the Town Board wishes to add three new pedestrian crosswalk systems to expand the crosswalk alert systems within the Town, and

WHEREAS, the flagship crosswalk systems previously acquired by the Town, perform as intended and are successful in raising awareness of speeds and of the crosswalks and trails where they have been implemented, and

WHEREAS, quotes were sought for the acquisition of additional units, and

WHEREAS, the Town has been informed that Traffic Systems, Inc. is the only vendor authorized to sell the Carmanah Systems within the region, and

WHEREAS, the Town Supervisor recommends that three additional beacons of the same type for locations to be determined, be purchased from Traffic Systems, Inc.; now, therefore, be it

RESOLVED, that authorization is hereby granted for the purchase of three Carmanah Bidirectional Solar RRFB Crosswalk Systems from Traffic Systems, Inc., as a sole source for Carmanah Systems within the Capital District, at a cost of \$19,908 to be paid from A-3310-0200 (Traffic Safety – Equipment); and be it further

RESOLVED, that the Comptroller is authorized to transfer \$19,908 from A-914 (Unassigned Fund Balance) to A-3310-0200 (Traffic Safety – Equipment).

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 146 of 2022, a resolution adopting the 2022 General Facility Fee Schedule for memberships, and short-term use of town-owned pools and facilities.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Flood.

WHEREAS, the Town Board is anticipating more normal operations of facilities this summer and wishes to adopt a fee schedule for memberships and parties at the Town-owned pools, and

WHEREAS, Supervisor Barrett has recommended that the fee schedule be adopted, according to the attached Schedule A, consistent with full season fees approved in 2021; now, therefore, be it

RESOLVED, that the Town Board adopts the attached 2022 Town Pool Fees for permits and memberships issued by the Office of Parks & Recreation.

MOTION by Supervisor Barrett, seconded by Councilwoman Standaert, to amend the Fee Schedule originally attached, to reflect fees for Pool Memberships same as the 2021 season.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

MOTION CARRIED

ROLL CALL VOTE ON AMENDED RESOLUTION

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 147 of 2022, a resolution authorizing the Supervisor to execute a retainer agreement with outside counsel.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, the Town Board has received allegations of a hostile work environment at the Town, and

WHEREAS, the Town Board has requested that an investigation be conducted regarding alleged violations of Town policies, and other labor and employment matters in the Town, and

WHEREAS, the Town Board requests that the independent investigator report their findings and recommendations directly to the Town Board, and

WHEREAS, the Town Board recommends that the Town retain outside counsel to conduct an internal investigation; now, therefore, be it

RESOLVED, that this Town Board does hereby authorize the Supervisor to enter into and execute a letter of engagement with Bond, Schoeneck & King Attorneys, 1010 Franklin Avenue, Garden City, NY, to represent the Town of Clifton Park as its attorneys, in connection with the above referenced investigation, at an hourly rate as indicated in the attached Letter of Engagement.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilwoman Walowit

Noes: Councilman Morelli, Supervisor Barrett

DECLARED ADOPTED

Councilwoman Standaert read the following statement.

“On April 4, 2022, Town Attorney Tom McCarthy issued a memo to the Town Board which claimed that a Town Official was “abusive, toxic” and has created a “hostile work environment” for Town employees. This Town Board, as the employer, has a legal responsibility to address, investigate, prevent or correct a hostile work environment claim. Therefore, at the Town Board meeting on April 11, 2022, I made a motion for the Town Board and the Town Clerk to enter into an executive session to address this town employee matter. The motion was unanimously passed. Since the town employee matter involved Town Attorney Tom McCarthy, I was advised by our HR Consultant that Tom not be included in the closed-door meeting, hence the aforementioned motion for only the Town Board and the Town Clerk to enter into executive session. After we filed into the room, Tom McCarthy was reminded that he was not invited into the meeting. Tom then raised his voice at the Town Board, claiming that an executive session without him is illegal. After threatening the town with a lawsuit, Tom left the room. According to New York State Public Officers Law, Article 7, Section 105, the public body, in this case the Town Board, are the only people who have the right to attend executive sessions. The public body may authorize others to attend, in this case, the Town Clerk was the only other person outside of the public body authorized to attend. In my attempt to proceed with the executive session, I clarified to the Town Board and the Town Clerk that we needed to investigate the hostile work environment claim between the two Town Officials based on the advice of our HR Consultant. An attempt to handle these allegations through our usual course of action failed. Councilwoman Walowit, Councilwoman Flood and I believe that the hostile work environment claim must not be ignored and must be investigated. Since we have run into potential conflicts of interest, we are left with no other choice than to retain independent outside counsel to investigate these allegations.”

Attorney McCarthy responded that there was some confusion about the motion, he stated he didn’t initially catch the preamble to the motion that the Councilwoman made, that it was to be the Town Board and Town Clerk to enter into executive session. His comment was that the Town Board itself needed to take a vote on who was present and that is in Section 105 of NYS Public Officers Law. The confusion had to do with procedure. He thought the motion was inadequate and needed to be clarified in the executive session as to what the topic was and being denied that opportunity while Councilman Morelli was questioning that action which created the additional confusion in the back room.

Councilwoman Standaert stated she would have happily explained, but the attorney’s reaction was so angry and left her very uncomfortable.

Attorney McCarthy stated he was surprised it couldn’t be discussed and would have liked to have discussed prior to the meeting what it was you wanted to accomplish. The opportunity was lost in the session for discussion.

Councilwoman Standaert agreed the opportunity was lost.

Councilwoman Walowit read the following prepared statement. "It is very important to carefully observe the things we see before us we judge things aren't always as they appear. The employees of the Town of Clifton Park have served the citizens with professionalism and respect, always giving 100%. That does not mean however that they are content with the atmosphere in which they work.

Over the years I have seen a change in that atmosphere from a relaxed in-house community of unification and trust and excitement. Now I see tension and tears and I miss those who left for their own wellbeing. My colleague gave reasons for the concerns. These people who serve you deserve better. We have attempted resolution and faced with a silent support only from those who are afraid to speak. As your employer, I stand now, this is to the staff, to assure you that because of this action the silence will be broken, and no one can be retaliated against, because that is against the law. For those who criticize us for not allowing any person to be intimidated in the workplace, I ask you to consider the human factor and not to judge our motives."

Councilwoman Walowit stated outside counsel is being requested because of conflicts of interest in the Town.

Councilwoman Flood questioned why Clifton Park does not have a Human Relations Department? Employees would then have someone independent to talk to and a process on how to file a complaint and protect the employees.

Attorney McCarthy explained, over this past weekend, he was ill and was not able to forward to the Town Board an existing agreement that the Town does have with a labor and employment firm. He stated he does recognize, with respect to at least two of the employee actions that are now under way, that there are some conflicts. So he had spoken with Roemer Wallens and began to go through several of the actions under way and the proceedings that should follow with outside counsel. The rate the Town has negotiated several years ago with Roemer Wallens is a much more favorable rate and a reputable local firm. He requested the Town Board consider tabling Resolution No. 147 for a discussion with one or both of the suggested firms, to have and the scope of those services and what the Town is delegating to them, the topic of the April 4 Memo or any other labor employment issues.

Councilwoman Standaert questioned, how long the Town has had Roemer Wallens on retainer?

Attorney McCarthy answered, since 2020, retained per authority on the 2022 Organizational Resolution.

Councilwoman Standaert stated, she was unaware of the Town having Roemer Wallens on retainer. With conflicts of interest, her opinion is any investigation should not have a personal existing relationship with the involved parties. She was advised by the Towns HR Consultant to not go with local firms because of potential political ramifications and conflicts.

Councilman Morelli stated, regarding the April 4 Memo from Attorney McCarthy, which addresses the Town's procurement policy, the memo raised concerns to the Town Board with issues with the policy. He stated it is the Town Attorneys job to advise the Town Board. He stated the Executive Session called for on April 11, 2022 by Councilwoman Standaert she stated was in accordance with the law, not what the topic was.

Councilwoman Standaert read the motion entering the April 11 Executive Session, moved for the Town Board and Town Clerk to enter into Executive Session for the purposes of discussing a Town employee matter covered under NYS Public Officers Law, Article 7, Section 105, Councilwoman Flood seconded.

Councilman Morelli states the motion was for an employee matter, not a matter of policy, which was what the meeting was about. He stated Councilwoman Standaert gave the HR consultant, that Councilwoman Standaert referred to having been advised by, that the complaint, Memo, was for a workplace complaint. This is not a workplace complaint but a memo from the Town Attorney relative to a policy that the whole Town Board had voted to approve. He stated when the Town Board entered executive session, raised voices occurred and his opinion was the meeting was improper because it was a matter of public policy.

Councilman Morelli questioned which specific allegations are being referred to, is the retainer open-ended, hiring them to investigate the allegation or other employment matters as the Town Attorney? Per NYS law, if the Town has established the office of Town Attorney, that the Town can not hire someone else to be our Town Attorney. He is not aware of the proposed law firm and has not been consulted. The Town also has two additional part-time attorneys and a labor employment firm already on retainer at a much lower cost. Mr. Morelli stated one department was highlighted in the mentioned memo and he set up a meeting with the Department Head, Town Attorney and himself. He stated the Department Head did not attend.

Councilman Morelli stated he feels an open-ended retainer is obviously motivated by one person's political ambition. He requested, if the resolution is approved and the proposed law firm is engaged, he would ask Councilwoman Flood and Councilwoman Walowit to ask Councilwoman Standaert to recuse herself from any vote related that investigation.

Supervisor Barrett stated, no threats have been made. He is against a separate law firm to investigate procurement policy procedures or a mediator. He stated politics are being inserted into Town operations.

MOTION TO TABLE proposed Resolution No. 147 of 2022 by Councilman Morelli, seconded by Supervisor Barrett.

Ayes: Councilman Morelli, Supervisor Barrett

Noes: Councilwoman Flood, Councilwoman Standaert, Councilwoman Walowit

MOTION DENIED

Chris Fitzgerald, Thoroughbred Way, spoke against outside counsel and the disappointment of politics of School Board and Town Board. Suggests discussions to be held.

Attorney McCarthy stated, since the Motion to table has been denied, his question remains on what is the scope of services that the Board is considering for this proposed firm.

Councilwoman Standaert stated the scope is for the on-going incident that was referred to in your April 3 Memo and to conduct an independent internal investigation into that issue.

Councilman Morelli questioned if there is a cap to the retainer?

Councilwoman Standaert answered, the fee is hourly and not a retainer per say. It will not be a traditional retainer.

Discussion of fees ensued.

Councilwoman Standaert stated communication and point-of-contact will be between the outside counsel and with the whole Town Board.

Councilman Morelli stated the Town Attorney is appointed for a two-year term for just this reason.

Councilwoman Standaert stated the proposal is not to hire an attorney to replace Mr. McCarthy, there is a conflict of interest in a situation at hand and we need someone independently to investigate it.

Councilman Morelli stated, a town attorney is appointed for a two-year term to advise the Board so that we can't just change or hire/fire an attorney or external law firm for what is his responsibility, due to any sort of issues going on with this Board, or in Town Hall for political ambitions. In the April 4 Memo, the Town Attorney raised issues of policy and he names you, so why are you the one bringing this motion forward? You are already conflicted. Could be viewed as retaliation.

Supervisor Barrett stated a concern was brought up that the Town has used Roemer Wallens for two years. He questioned how long the Town has used the proposed firm.

Comptroller Heggen stated the Town has used the Bond, Schoeneck & King firm as a bond attorney since prior to 1997.

Supervisor Barrett stated, the firm Bond, Schoeneck & King, was retained prior to him becoming Supervisor, approximately 23 years.

Councilwoman Standaert stated, Bond, Schoeneck & King was used only for bonding not employment matters. Roemer Wallens was hired for employment matters.

Councilwoman Walowit stated, while interviewing firms, the proposed firm was chosen because of their expertise in areas of conflict and human relations issues with employees. She stated the real issue is not about a procurement policy. The other issue was on an attack on an employee. It was suggested to hire a mediator to resolve the issue between the Town Attorney and the employee. Hence the meeting Councilman Morelli set up involving both parties.

Councilman Morelli stated the town employee came to the meeting, gave him a memo, stayed for 10 minutes and then left.

Councilwoman Walowit stated the reason for the executive meeting was to suggest a mediator. Some of the Town Board members have been hearing issues over the past several years, and they now feel the need to take a stand. She stated the proposed has nothing to do with the procurement policy.

Discussion on who raised their voice during the April 11 Executive Meeting was ensued.

Councilman Morelli stated, he has no ill will toward any of the Town Board members and is just doing his job. He is against this resolution because he thinks it is open-ended and not lawful.

(Amendment added per June 6, 2022 meeting- Attorney McCarthy questioned Comptroller Heggen if he supported the resolution last week to get more time to review the procurements?

Comptroller Heggen answered yes I did.)

Councilwoman Standaert suggested to revisit the procurement policy resolution that was presented and have a working committee to discuss. The proposed procurement policy was an inaccurate description of what she was trying to achieve in executive session about an employee matter. She suggested separating the two issues and discussing them.

Supervisor Barrett stated he wonders what kind of environment the Town Board is establishing by using certain terms.

Michael Christiansen, Main St., thanked Attorney McCarthy for his work for the Town.

Ann Connelly, Valdepenas, stated the proposed firm represents Saratoga County and that is a conflict of interest. Questioned ethics.

No one else wished to be heard.

PUBLIC PRIVILEGE

Everett Noakes, Boy Scouts of America Lodge Chief, and Town resident, thanked the Town Board for their work and service to the Town. Expressed concerns on the dividing the of the Town.

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

Motion carried at 9:21 PM

Teresa Brobston, Town Clerk