

TOWN OF CLIFTON PARK TOWN BOARD

June 20, 2023

The 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.

Present: Supervisor Barrett
Councilman Morelli
Councilwoman Walowit
Councilman O'Hara
Councilwoman Reid
Town Clerk Brobston

Also Present: Town Attorney McCarthy
Mark Heggen, Comptroller
Daniel Clemens, Director of Parks, Buildings & Recreation
Dahn Bull, Superintendent of Highways
Michael Woerner, Director of Parks & Recreation
Norah Hoefner, Communications and Technology Coordinator

MINUTES

MOTION by Councilwoman Walowit, seconded by Councilman Morelli, to approve the Town Board minutes of June 5, 2023, as presented.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O'Hara,
Councilwoman Walowit, Supervisor Barrett

Noes: None

MOTION CARRIED

ANNOUNCEMENTS & COMMUNICATIONS

Supervisor Barrett reminded residents of the 4th of July festivities. Parade will begin at Noon at the Shen Campus continuing to the Clifton Common. The Freedom Mile Race starts before the parade, information can be obtained from the Parks & Recreation Department or on the website. Bands start late in the afternoon and continue into the evening and complete the day with fireworks.

Supervisor Barrett updated residents on the Country Knolls Pool Liner Project. He stated the liner work is complete, later than expected, now the Town will begin filling the pool and have it open as soon as possible. The other two Town pools are open.

Councilman O'Hara stated, the Friends of Historic Grooms Tavern and the Clifton Park Historic Commission, have invited the local Aurgener-Seely Chapter of amateur archaeologists to perform an archaeological survey around the Blacksmith shop, Wagon Shop and Grooms Tavern the 1st and 2nd weekends of July. The public is welcome. Additional information will be posted on the website.

PUBLIC HEARING-Proposal to amend Chapter 176 of the Town Code Re: Street opening, or excavation permits 7:05PM

Town Clerk Brobston read the public hearing notice that was advertised in the June 8, 2023 edition of the Daily Gazette.

Supervisor Barrett explained, from the outcome of the recent audit, with regard to street opening or excavation permits, proposed changes to the law are presented to bring more structure to the process.

Attorney McCarthy explained the proposed local law changes for Chapter 176 of the Town Code are specific to procedures, record keeping and time frames review for permit applications for companies that have reason to occupy Town right-of-way and, in some cases, to bury lines underneath the roadways. This chapter was intended to give the Highway Department the ability to require a permit application from companies for a business reason, such as National Grid, to supply service to the public. The Town became aware of issues with this procedure in August of 2022. The Supervisor requested an outside auditor, Cusack & Co. CPA, to audit the Highway Departments processes, record keeping and fee collection of this process. These proposed changes to the law are directly related to what was found in the audit. Records were missing, it was hard to determine how many permits were applied for, no date-stamped copies and timeframes had no uniformity. An additional point is to separate these types of businesses from an individual residence. Emails were presented to the Town Clerk pertaining to this proposal. Attorney McCarthy reviewed each change proposed. Fees to be established by resolution of the Town Board, as updated from time to time. A fee structure was requested by Fios in the existing market. He stated the Comptroller's Office was not aware of how many permits were received. The proposal provides an annual report to the Town Board. Attorney McCarthy continued with an overview of the proposed changes.

Darlene McGraw, Halfmoon, requested a job description for the Highways Superintendent. Suggested two people reviewing Town functions.

Rain Lalukota, Balsam Way, stated it is good to review policies and procedures in each department yearly to see where the Town lacks checks and balance.

Joanne Coons, Balsam Way, read a prepared statement questioning the timing of the proposed amendments. She stated the current Highways Superintendent was following the already in place procedures. She stated procedures and policies should be written clearly and made public so the residents can all understand the processes.

Supervisor Barrett stated the audit could have been done sooner, but the Highways Superintendent did not cooperate with the auditor.

Attorney McCarthy stated, fall of 2021, started a series of emails regarding permit applications and stated at that time would be a good time to update Chapter 176. Attorney stated Highways Superintendent stated, at that time, he would bring his questions to the Town Board. An email regarding the conversation was presented to the Town Clerk.

Councilwoman Walowit stated the outside audit, which had no agenda, was performed with no political motive.

Attorney McCarthy showed a list of permits given by National Grid that they had applied for, to the auditors and during that time 2021-22 and the amount that the Town had in lost revenue.

Comptroller Heggen stated, the Comptroller's Office recognized no street opening permits fees/revenue was collected prior to 2021, the majority of the revenue that was recognized in 2021-22 was from Greenlight, just over \$20,000. He stated during the same time through 2022 the Comptroller did collect \$500 deposits from the Highway Department for road open permits and that was approximately \$14,100, of that amount if you take each permit of \$150 that's \$3,750. He stated National Grid applied for 20 work permits on an annual basis of \$18,000 between 2017-22. He stated there was some revenue in 2021-22 that was recognized as \$1,500-\$2,000. Verizon did submit approximately 15 permits and received a permit by depositing \$500 for each permit, \$7,500 of revenue the Town took in in 2022-23.

Highways Superintendent questioned the Comptroller, between 2000-2017 how much money was collected by former Highway Superintendents?

Comptroller Heggen answered he received no money.

Attorney McCarthy stated the current code went into effect in 2012. Prior to 2017 there was no code in effect and that is the problem.

Supervisor Barrett read from the audit report for responsibility of permits to be reviewed. He stated as long as the procedures are corrected that's the goal.

Comptroller Heggen pointed out the report that the CPA firm did is an agreed upon procedures report and is not an audit, but has a level of assurance, but it is not an audit. It is another moniker for accounting terms.

Attorney McCarthy describes the report as a management report, an analysis of policies and procedures.

Councilman Morelli provided a copy of the duties of the Highways Superintendent for the resident requesting it as per State Law. Councilman read legal options provided by the State Comptrollers website relative to the Highway Department and the Town Board. He stated it is the Town Board's job to ensure the finances of the Town are being adhered to in a proper manner. Town Law NY 123 gives the Town Board the ability to ask of any town officer for a public accountant of examination of the books, etc. Councilman went over the proposed changes. He commented that the changes are in relationship to issues raised in the report to correct them going forward.

Supervisor Barrett stated numerous complaints have come in over the years from residents about companies working in the easements and the condition of their property. He stated when those concerns are raised in the Supervisor's Office, they call the companies involved and explain the concerns and follow-up with the residents. He stated companies have always been very responsive.

Attorney McCarthy stated these proposed amendments would require accountability. He stated in his legal terms the audit/report is called a Management Audit/Report.

SUGGESTED AMENDMENTS TO BE ADDED.

Per Supervisor Barrett:

Supervisor Barrett read the following excerpt from the audit of the Highway Department completed by Cusack, "Sincere there is no formal record of the actual permits which were applied for and approved or denied, I was unable to reasonably determine the population to test. All items tested were those provided by the Highway Superintendent therefore I could not reasonably ascertain whether permits could be lost, misplaced or intentionally withheld from review."

The Town Administration became aware of issues with this procedure in August of 2022 described by Supervisor Barrett and Tom McCarthy as companies applying for permits from the Highway Department not receiving adequate responses or any response whatsoever, lack of communication and cooperation from the Highway Superintendent and a lack of fees collected.

Attorney McCarthy stated that were sent to the Highway Superintendent in 2021 asking to engage in a process of updating the process in question. The request to work cooperatively on an update of the Town Code was rebuffed by the Highway Superintendent.

Per Councilman Morelli: with regard to the NYS Highway Law 284, the NYS Comptroller issued Opinion 91-45 that says specifically:

"It has been held that the town supervisor may not make any payment for highway repairs and improvements in the absence of the section 284 agreement nor may repairs and improvement be made in a manner other than set forth in the agreement. It has also been held that a highway superintendent's overspending an appropriation may result in personal liability and that his knowing failure to comply with the terms of the section 284 agreement may constitute malfeasance in office and grounds for removal.

Public Hearing closed at 7:48 PM.

RESOLUTIONS

Resolution No. 141 of 2023, a resolution directing the Highways Superintendent to cease paving streets and highways within the Town pending execution of an agreement on funding pursuant to Highway Law.

Introduced by Councilman O’Hara, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, Section 284 of the Highway Law requires a written agreement between the Highways Superintendent and the Town Board, and

WHEREAS, by Resolution No. 100 of 2023, the Town Board approved a paving contract with Evolution Construction Services and Jointa Lime Co. for the 2023 Clifton Park Highway Paving program, and

WHEREAS, the Town Board has requested a written paving list and agreement multiple times at Town Board meetings, under Section 284 of the Highway Law, from the Town Superintendent of Highways, and

WHEREAS, to date, the Superintendent has failed and refused to provide either a full list of highways scheduled to be paved during the Summer/ Fall of 2023 or an agreement pursuant to the Highway Law; now, therefore, be it

RESOLVED, that the Highways Superintendent is directed to provide a full and complete proposed list of Town streets and highways to be repaved and maintained pursuant to the contracts approved in Resolution No. 100 of 2023, by July 3, 2023, in order to continue operating pursuant to the contracts approved in such resolution.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Councilman Morelli read parts of New York State Highway Law Section 284. He stated an agreement between the Highway Department and Town Board must be written and signed to agree to the paving from the list and authorize the payments for the year. This agreement has not been received nor has the paving list been submitted.

Resolution No. 142 of 2023, a resolution appointing Mark Brockbank to the Industrial Development Agency (IDA).

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

WHEREAS, a vacancy for a member exists on the IDA, and

WHEREAS, Mark Brockbank has been recommended to fill the position, and

WHEREAS, Mr. Brockbank has the background experience, education and training to act effectively as an agency member; now, therefore, be it

RESOLVED, that Mark Brockbank is hereby appointed as a Member of the IDA for the remainder of a one-year term, term to expire December 31, 2023.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara, Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 143 of 2023, a resolution accepting a quote for the removal and replacement of the roof on the restroom and storage building at Collins Park. Introduced by Councilwoman Reid, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, quotes were received by the Buildings and Grounds Department for removal and replacement of roofing shingles at the Collins Park restroom and storage building, and

WHEREAS, the lowest conforming quote for the reroofing services was submitted by 518 Roofing Company LLC, 3 Whip Circle, Albany, NY, in an amount not to exceed \$5,850, and

WHEREAS, Daniel Clemens, Director of Buildings, Parks, and Recreation, has recommended that 518 Roofing be authorized to proceed with the repairs; now, therefore, be it

RESOLVED, that the Town Board accepts the quote of 518 Roofing, LLC for removal and replacement of roof shingles at the Collins Park restroom and storage building, at a total cost not to exceed \$5,850, as lowest responsive quote, to be charged from A-7113-00200 (General Fund- Collins Park - Equipment); and be it further

RESOLVED, that the Comptroller is authorized to transfer \$5,850 from A-00914 (General Fund-Unassigned Fund Balance) to A-07113-00200 (General Fund-Collins Park-Equipment) to cover the cost of the roof replacement.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 144 of 2023, a resolution awarding the contract for the installation of playground equipment in the Sherwood Forest Park District.

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

WHEREAS, the Buildings and Grounds Department solicited quotes for playground equipment at Sherwood Forest Park, which were received by May 15, 2023, and

WHEREAS, JK Playgrounds & Playscapes, Bristol, Connecticut, submitted the only responsive quote in the amount of \$11,101 in response to the request, and

WHEREAS, Daniel Clemens, Director of Buildings, Parks and Recreation, recommends awarding the contract for playground equipment to JK Playgrounds & Playscapes; now, therefore, be it

RESOLVED, that the Town Board, acting as Commissioners for the Sherwood Forest Park District, hereby award the contract for installation of playground equipment and related improvements at the Sherwood Forest Park to JK Playgrounds & Playscapes as per the documents attached, in an amount not to exceed \$11,101, to be paid from SP8-07125-00200 (Sherwood Forest Park District - Sherwood Forest Contractual-Equipment), and be it further

RESOLVED, that the Comptroller is authorized to make a transfer from SP8-00915 (Sherwood Forest Park District - Assigned Fund Balance) to SP8-07125-00200 (Sherwood Forest Park District - Sherwood Forest Contractual-Equipment) in the amount of \$7,319 to cover the cost of the equipment.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,

Councilwoman Walowit, Supervisor Barrett
Noes: None
DECLARED ADOPTED

Resolution No. 145 of 2023, a resolution authorizing the hiring of 2023 summer help for the Buildings and Grounds Department.

Introduced by Councilwoman Reid, who moved its adoption, seconded by Councilman O’Hara.

WHEREAS, openings exist for seasonal help in the Buildings and Grounds Department, and

WHEREAS, Daniel Clemens, Director of Buildings, Parks, and Recreation, has recommended that the individuals listed in Schedule A be hired to fill the positions; now, therefore, be it

RESOLVED, that individuals listed on Schedule A be hired as seasonal workers for Buildings and Grounds for the summer of 2023, to be paid as noted in the attached schedule, effective immediately.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,
Councilwoman Walowit, Supervisor Barrett
Noes: None
DECLARED ADOPTED

Resolution No. 146 of 2023, a resolution authorizing the Town of Clifton Park Town Board to apply for the 2023 New York State Farmland Protection Planning Grant (FPPG) program.

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

WHEREAS, the NYS Department of Agriculture and Markets announced a 2023 RFA 0263- Municipal Agriculture and Farmland Protection Planning Grant (FPPG) opportunity to focus on protecting agricultural lands through municipal zoning, land use and subdivision regulations, with 75/25 % state local match commitment, and

WHEREAS, the Town Board wishes to proceed with the grant application to study additional ways and methods of preserving working agricultural lands with the Town, and

WHEREAS, the Town’s commitment to the local match is estimated to be \$25,000 for the study and plan documents; now, therefore, be it

RESOLVED, that the Town Board commits to funding the local match commitment for the Farmland Protection Plan Grant; and be it further

RESOLVED, that the Planning Department is authorized to submit the application for a Farmland Protection Plan Grant with NYS Department of Agriculture and Markets.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,
Councilwoman Walowit, Supervisor Barrett
Noes: None
DECLARED ADOPTED

Resolution No. 147 of 2023, a resolution authorizing the Supervisor to sign a license agreement with Clifton Park – Halfmoon Piranhas, for use of the Country Knolls pool for swim team practice.

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

WHEREAS, Clifton Park – Halfmoon Piranhas wish to utilize the Country Knolls Town-owned pool for a term of up to six (6) weeks, beginning on June 26, 2023, at a rate of \$45.00 per hour per pool, PLUS the hourly rate of all Town employees working at the pools during practice hours; now, therefore, be it

RESOLVED, that the Town Supervisor is hereby authorized to sign the attached License Agreement with Clifton Park – Halfmoon Piranhas for use and occupation of the Country Knolls Pool, provided that the Town Attorney reviews and accepts the attached Certificate of Insurance naming the Town of Clifton Park as additionally insured.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 148 of 2023, a resolution authorizing the hiring of a lifeguard at Barney Road Pool and correcting the employment step of two lifeguards at the Country Knolls Pool.

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

WHEREAS, an opening exists for a lifeguard at the Barney Road Pool, and

WHEREAS, Michael Woerner, Director of Parks & Recreation, recommends that Alana Connally be hired to fill this position, and

WHEREAS, Mr. Woerner wishes to promote Sara Casale to Head Guard at the Country Knolls Pool, Step 6, \$16.20 retroactive to May 7, 2023, and

WHEREAS, Mr. Woerner wishes to make a step adjustment for the following lifeguard at the Country Knolls pool, reflecting his correct step, as listed below:

<u>Name</u>	<u>Step</u>	<u>Rate</u>	<u>2023 Original Hire Step</u>
Thomas Rizzo, Country Knolls	4	\$15.00	3

RESOLVED, that Alana Connally be hired as Lifeguard for the 2023 season at Barney Road Pool, to be paid at Step 1, \$14.50/hour from A-7150-E4690 (General Fund-Barney Road Pool-Lifeguards), and be it further

RESOLVED, that the Town Board authorizes the promotion to Head Guard for Ms. Casale, and the correction of the employment steps for Thomas Rizzo as they were listed in Resolution No. 92 of 2023; and be it further

RESOLVED, that Ms. Casale and Mr. Rizzo be paid the adjusted rates for the 2023 pool season, authorized as listed, to be paid from line A-7150-E4690 (General Fund-Country Knolls-Lifeguard).

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 149 of 2023, a resolution accepting an offer of dedication of the road system, drainage easements, open space parcel and four (4) sidewalk parcels within the Honey Hollow Farm subdivision.

Introduced by Councilman Morelli, who moved its adoption, seconded by Councilman O’Hara.

WHEREAS, pursuant to New York State Highway Law 171, and Section 179-23 of the Town Code, the Town Board has the discretion to accept the dedication of roads and real property for public use, and

WHEREAS, pursuant to the approved subdivision plans, developer Bordeau Builders, Inc. offered to dedicate Blueberry Lane, Fern Drive, Honey Hollow Way, Sunflower Terrace, as well as an open space parcel, stormwater management area and sidewalk parcels A, B, C, & D noted in the attached Schedule A, and the respective descriptive maps, also attached, and

WHEREAS, Prime Engineering has completed inspections and reports that all punch list items have been completed; now, therefore, be it

RESOLVED, that the Town Board accepts the offer of dedication of Blueberry Lane, Fern Drive, Honey Hollow Way, and Sunflower Terrace in the Honey Hollow Farm subdivision, as well as an open space parcel totaling 4.53+/- acres, a stormwater management area and sidewalk parcels A, B, C & D, as depicted on the approved subdivision maps and as more particularly described in the relevant technical descriptions, also attached, which were provided by the engineering firm Ingalls & Associates, LLP, subject to the final approval of the Town Attorney of all real estate transfer documents, review of title and confirmation of the payment of appropriate taxes.

ROLL CALL VOTE

Ayes: Councilman Morelli, Councilwoman Reid, Councilman O’Hara,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

No one wished to be heard.

PUBLIC PRIVILEGE

Mark Brockbank, Stoney Creek, thanked the Town Board for his appointment to the IDA and is looking forward to taking part in the experience.

Darlene McGraw, Halfmoon, voiced concern with The Crossing Boulevard sidewalk work to be completed. Voiced appreciation for the Town volunteer firefighters and the tax exemption.

Supervisor Barrett explained, the firefighters and EMS tax exemption was passed by resolution by the Town Board recently to receive the benefits for this year. He stated most local Town’s passed the exemption, as well as the County. Per State law for firefighters to receive the fire district benefit, they must live in the district of which they serve. If firefighters serve in a different district that they live in, they will not receive the district tax exemption benefit and that is in the Fire Department resolutions that they passed. The question is, are they eligible for the other three, Town, County and School jurisdictions. Since all three of those jurisdictions passed legislation saying yes, they want to take what the State is offering and make sure our local volunteers benefit in our individual jurisdiction. He stated there is a difference of opinion, as far as the Assessor’s Office is concerned, they don’t believe this is the case. Their opinion is that if firefighters live in a district but serve in another district, they are not eligible for **any** of the tax exemption benefits. He explained the Assessor’s Office, statutorily, is separate from the Town Board so the Town has no authority to get involved or override the decision. The Assessor has a six-year term to offer a separation that may be applied in different situations. The Supervisor stated he believes the firefighter should receive the Town, County and School tax exemptions benefit no matter if they live outside the fire district they serve in. The Town and Fire Districts have solicited legal advice.

Councilman Morelli stated Clifton Park Town Board was out front in passing this resolution in support of the multiple districts in Clifton Park.

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 8:34 PM Teresa Brobston, Town Clerk