



**CLIFTON TOWN COUNCIL MEETING  
TUESDAY, OCTOBER 1, 2013, 7:30 PM**

**CLIFTON TOWN MEETING HALL**

**12641 CHAPEL ROAD**

**CLIFTON, VA 20124**

Town Council Members present: Bill Hollaway, Dwayne Nitz, Deborah Dillard, John Powell, Wayne Nickum, Chuck Rusnak

Town Officials present: Treasurer Marilyn Barton, Clerk Kathleen Volonsevich

Order of Business:

1. Review of the Minutes

**Motion:** Wayne Nickum made a motion to approve the September 2013 Minutes. Dwayne Nitz seconded the motion and it was unanimously approved.

2. Report of the Treasurer

Treasurer Marilyn Barton presented the Treasurer's Report. The Cash Balance Report as of September 30 was \$733,091.26. She added that the Cash Balances Report did not reflect the interest income as yet, however it would be available by the following day. The Community Hall was reserved for the Town of Clifton Audit, which will be conducted on October 16-17, 2013. Steve Bittner made a request to the CBA for the balance remaining for the Basketball Court of \$1,031. Mrs. Barton added that the Auto Tag mail out for FY14 will be going out soon, and that she would be meeting with Cardinal Bank regarding the Town's accounts and investment opportunities during the following month.

**Motion:** Wayne Nickum made a motion to approve the Treasurer's Report. John Powell seconded the motion and it was unanimously approved.

3. Reports of the Planning Commission, ARB, and Committees:

a. Planning Commission

Kathy Kalinowski presented the Planning Commission Report, and handed out an updated version of the report to the Town Council. The report was as follows:

1. The Planning Commission recommended approval of the request by Fairfax County to replace the existing generator behind the firehouse and its enclosure in the existing location in order to provide an adequate generator to power the fire station and to provide adequate noise control for the generator, on the condition that if the fence is replaced, ARB approval would be needed.

**Motion:** Wayne Nickum made a motion to approve the recommendation of the Planning Commission. Bill Hollaway seconded the motion and it was unanimously approved.

2. The Planning Commission recommended approval of the preliminary site plan dated August 5, 2013, revised through September 19, 2013, for new home construction by Atlantic Investment Corp. at 7239 Dell Avenue, which has been approved by the ARB, on the condition that the building permit application will not be authorized by the Mayor until the E&S Plans have been approved by Fairfax County, the well has been approved by Fairfax County Health Department, and the driveway entrance has been approved by VDOT and such approvals are submitted to the Town. Further recommend, based on the review by the Town Consultant, Joe McClellan that a waiver of Storm Water Management be granted.

**Motion:** Wayne Nickum made a motion to approve the recommendation of the Planning Commission. Dwayne Nitz seconded the motion and it was unanimously approved.

3. The Planning Commission recommended the approval of the request for an amendment to the use permit of Mario & Luigi LLC/Patriot Properties LLC in June of 2013, for a change of ownership to Villagio LLC, whose sole member is Colette Silva, for the restaurant at 7145 Main Street.

**Motion:** Wayne Nickum made a motion to approve the recommendation of the Planning Commission. Bill Hollaway seconded the motion and it was unanimously approved.

4. The Planning Commission recommended the approval of the request for a use permit for the main structure at 12700 Chapel Road (not the ancillary building) to be used for an office and temporary training for Villagio, LLC, with the allocation of 6 on-site parking spaces, no more than 5 employees regularly on the premises at any one time, and to be used daily from 9 AM to 9 PM,

pending confirmation that the gross floor area of the building is 1300 square feet or less, and pending approval of the site plan for the parking area.

**Motion:** Wayne Nickum made a motion to approve the recommendation of the Planning Commission. Bill Hollaway seconded the motion and it was unanimously approved.

5. The Planning Commission recommended the approval of the request by Villagio, LLC, the owner, for a site plan to construct a rear parking lot at 12700 Chapel Road, based on receipt by the Planning Commission of corrected site plan, dated September 25, 2013, which responded to the requirements which the Town Consultant, Joe McClellan's, set forth in his letter of September 20, 2013 and approved in his letter dated October 1, 2013. In addition to the foregoing, the Planning Commission is also recommending that the approval be conditioned upon (a) the installation of appropriate lighting for the site in the rear of the property which is shielded so that only the rear is illuminated and which is timed to shut off no later than 1 AM each day; (b) the installation of bumpers to delineate clearly the parking spaces and that the bumpers be affixed to the ground in order to prevent their movement; (c) the approval of the E&S Plan by Fairfax County; (d) that the shed in the back not be removed; and (e) the obtaining of any Fairfax County Health Department approvals.

**Motion:** Wayne Nickum made a motion to approve the recommendation of the Planning Commission. Bill Hollaway seconded the motion and it was unanimously approved.

6. The Planning Commission reviewed the request for the amended use permit for Trattoria Villagio, the restaurant located at 7145 Main Street, owned by Villagio, LLC for expanded seating from 84 seats to 188 seats. A use permit was initially granted on June 5, 2012, for a restaurant at this location under the owner Patriot Properties, LLC for a maximum of 6 employees present at any one time, and 84 total restaurant seats, indoors or outdoors and the allocation of 17 onsite parking spaces. In addition to the foregoing, were the following requirements:
  - (a) Hours of operation are to be Sunday through Wednesday from 11 AM to 10 PM; Thursday through Saturday from 11 AM to 12 AM;
  - (b) Closing time may be extended until 2 AM for up to 12 occasions per year, no more than 4 occasions in any one month, with prior notification of the Town Clerk of those occasions

- when the premises will be open for expanded hours;
- (c) No outdoor live or amplified music;
  - (d) No use of the back patio for regular ingress and egress;
  - (e) Noise from the business should not have an unreasonable effect on surrounding residences;
  - (f) No signs to be erected other than those approved by the ARB;
  - (g) The dumpster must be located as shown on the attached parking plat and the applicant must screen the dumpster with fencing approved by the ARB;
  - (h) The applicant must comply with all required Fairfax County and Virginia State building/Fire Code and regulations, including required inspections and approvals with any necessary exceptions allowed as a result of the building's designation as a contributing structure to the Town of Clifton State/National Historic District;
  - (i) The applicant will comply with all Virginia Department of Alcoholic Beverage Control requirements;
  - (j) Any changes, expansions or contractions of the business, or additions to the Use of Business as anything other than a restaurant, including, but not limited to, installation of gambling machines, dances areas, etc. must be reviewed by the Planning Commission and approved by the Town Council.

In July, 2012 the amendment to the use permit was granted for construction of the outdoor seating area and to expand into the detached ground floor area 450 square feet to allow pizza carryout and a market with the requirements as follows for the use of that expanded space that:

- a. All other requirements of the use permit approved on June 5, 2012 are to remain in effect;
- b. Two additional onsite parking spaces will be required bringing the total of onsite parking spaces to 19;
- c. There will be no eat in restaurant space at the location of the pizza carryout and the market;

- d. There will be no more than two additional employees and the hours will be the same as the restaurant approved hours.

The applicant, Villagio, LLC, is requesting seating expansion of the restaurant area and additional employees in its instant application. **The Planning Commission recommended approval of the following:**

- (a) That the seats in the restaurant, indoor or outdoor combined, be limited to 144 seats;**
- (b) That 24 onsite parking spaces be available to accommodate the customer seating and use of the pizza carryout, conditioned upon the presence of the 5 additional spaces onsite;**
- (c) That up to 15 employees may be on the premises at any one time;**
- (d) That all employees of the business park at the parking area at 12700 Chapel Street, conditioned upon the approved development of the parking area pursuant to an approved site plan with all Town and County approvals having been obtained;**
- (e) That 8 parking spaces be designated for the 15 employees at 12700 Chapel Road;**
- (f) That the Applicant submit an amended use permit application for the restaurant, if the parking at 12700 Chapel Road for employees no longer becomes available;**
- (g) That the Applicant ensure that all employees in fact park at 12700 Chapel Road and not onsite;**
- (h) That all other conditions and requirements, except for number of parking spaces, number of restaurant seats and number of employees, as set forth in the two previous approved use permits of June 5, 2012 and July 2012 remain in full force and effect.**

While the Applicant had requested approval for a total of 188 seats based on the Applicant's request to utilize off-site parking located at 12700 Chapel Road, the Planning Commission found upon an examination of all the facts, including employee shift changes when more employees would be on site, the unlikelihood that customers would park at a lot which was not contiguous to the business and was composed of gravel and not asphalt, the substantial increase in size of the restaurant over the previous approved size of 88 seats, and the existing issues in town with parking, that the number of restaurant seats should be limited to the number of on-site parking spaces available to accommodate those seats at this time.

The Planning Commission recommended that off-site parking be allowed for employees only as set forth above. They noted that the Town Code in section 9-132(c) 11 requires that all parking for uses permitted in the Commercial District be located on the same lot as the structure or use to which they are accessory. However, the Town “may” but is not required to, authorize off-site parking. Given the foregoing reasons, the Planning Commission recommended that this off-site parking at 12700 Chapel Road, which is located within 500 feet of the restaurant, accessible by sidewalk, located at a commercial zoned area, and under the same ownership, only be allowed at this time for the employees of the business. The Planning Commission also noted that this parking area would be used by the trainees and employees who will be on site at 12700 Chapel Road, as evidenced by the use permit request for the office use of that property.

**Motion:** Dwayne Nitz made a motion to approve the recommendation of the Planning Commission with the following changes: That there will be parking for up to 168 seats with use of 12700 Chapel Road provided that adequate approved signage is posted announcing its parking spaces for guests; also that there be two guest assistants Thursday through Saturday and during special events to help guests find parking spaces, and that signage be approved for both properties by the ARB, contingent on the 24 spaces authorized by Sheldon Hofferman. Mr. Nitz amended to the motion that “special events” be defined as events with 30 or more people. Bill Hollaway seconded the motion, and it was unanimously approved.

**Therefore, the changes from the original recommendation were as follows: 4 more spaces off-site for guests, inclusion of 2 guest assistants, and signage to be approved by the ARB to be located at 12700 Chapel Road, and at the restaurant location.**

7. Lastly, there was a request by the Main Street Pub for the repair of their building. Since it is a repair, no use permit is required however Mr. Hollaway would sign off on the approval of the repair.

b. Architectural Review Board:

i. Request for Regular Reports;

Dwayne Nitz presented the ARB report. He stated that there was an application reviewed the previous Thursday. The application was for Mr. and Mrs. Heillman for new signage for their new business. The application was approved. Bill Hollaway stated that it would be helpful if the ARB could give the Town Council a write-up of the ARB Report every month, including documents that they receive.

ii. Potential Addition of Members

John Powell began discussion concerning the potential addition of members to the ARB. After discussion with Mr. Jarrendt and among the Town Council, it was concluded that there were two people interested in joining the ARB, and that an e-mail would be sent out to the ARB to see if there were any members interested in relieving their duties. If not, a code change may be considered, as presently the code states that 1. The ARB cannot have an even number of members, and 2. The ARB cannot have more than 7 members. Currently the ARB has 7 members. The ARB will return to the Town Council with an update.

c. Committees:

i. Traffic and Safety Committee:

1. Speed Survey Update;

Dwayne Nitz tabled the Speed Survey Update.

2. Speed Limit Bollards.

Dwayne Nitz tabled discussion of Speed Limit Bollards.

ii. Park Committee – Removal of Dying Tree on Park Property

Wayne Nickum presented on behalf of the Park Committee. He stated that the dying tree on Park property needs to be taken down. There was a proposal from Freedom Tree Service. There is \$2500 allocated in the budget for Tree and Trimming.

**Motion:** Wayne Nickum made a motion to approve \$1600 for Tree Removal from the Park. Bill Hollaway seconded the motion and it was unanimously approved after the following roll call vote:

Wayne Nickum: AYE

John Powell: AYE

Deborah Dillard: AYE

Bill Hollaway: AYE

Chuck Rusnak: AYE

Dwayne Nitz: Abstain

**Motion:** Wayne Nickum made a motion to accept the offer to plant a tree in close proximity to the dead tree. Bill Hollaway seconded the motion and it was unanimously approved.

iii. Park Committee – Repair Chapel Street Entrance to Park

Chuck Rusnak presented on behalf of the Park Committee. He stated that the entrance to the Town Park has been used for every event in the park. Due to the amount of use, grass cannot grow there. He proposed improving the area, and suggested that the Park Committee explore the options and come up with a solution.

iv. Special Projects Committee:

Susan Yantis presented an update on behalf of the Special Projects Committee. One response to the ad was received from J2 Engineers. The Committee would have to interview them and get them approved by VDOT, then go into negotiating a contract. The Town Council gave the Committee the go ahead to interview the one consultant that responded to the RFP. Concerning the Triangle, VDOT currently has the plans for the Triangle, and the Committee has been waiting for approval.

4. Communications.

There were no communications.

5. Citizen's Remarks.

There were no citizen's remarks.

6. Unfinished Business

a. Complaint Regarding Poe Property on School Street – Report and Discussion

Bill Hollaway inquired as to whether the Arnolds were continuing to pursue the complaint or whether they felt that the complaint had been resolved. Mrs. Arnold stated that they have seen improvement, and that their concerns had been addressed. On behalf of the Committee addressing the complaint regarding the Poe's property, Dwayne Nitz stated that they had submitted a report in order to investigate the status of the Poe's vehicles. The report read as follows:

“Committee members met with Darrell Poe at his house at 9 AM on September 22, 2013 by prearrangement. At that time there were two vehicles parked with Antique tags, two motorcycles parked in the public right of way with valid tags and four vehicles parked in the driveway with covers. When asked, Darrell stated that the covered vehicles all had expired tags and were inoperable. After the meeting, the committee members met and agreed that the four vehicles with covers met the definition of junk vehicle set forth in Section 9-13(j) of the Chapter 9 of the Zoning Ordinance, which states that any “vehicle will be presumed to be a junk vehicle when: (a) valid license plates are not displayed, or license plates have been expired for more than sixty (60) days”. Also, all the four covered vehicles were in view from the public street (School Street). Given the prohibition of the Section 9-13 (j), that in “all districts the parking of junk vehicles in view from public streets shall be prohibited”, a notice of violation should be sent to the Poe's with respect to eh four covered vehicles.”



The committee recommended that the time frame for the removal of the four vehicles be discussed with the Poe's, which should be no later than 90 days after the issuance of the notice of violation.

Wayne Nickum added that there were four vehicles that did not have current State tags or inspection stickers; those four vehicles were therefore not in compliance, and a violation of the Ordinance. The Committee saw it as a violation of the Code. Discussion followed concerning Code interpretation, and whether the vehicles should be considered viewable from public streets if they were covered with a car cover. It was agreed among the Town Council that there was a violation of the Code.

**Motion:** Bill Hollaway made a motion that the Town Council cite the Poe's in violation of the Town Code and provide them with a certificate letter to that affect, and give them an opportunity to negotiate with the members of the Town Council or appointed Town Council members as to the particular terms of the mediation, as well as negotiate a time frame with the Poe's. It was noted that mediation was not restricted to whatever it was that might have been in the Committee Report. John Powell seconded the motion and it was unanimously approved.

b. Projector/Screen for Community Hall – Consider Purchase

Deborah Dillard tabled this discussion to the November 2013 Meeting.

7. New Business.

a. Caboose Plaza Town Public Parking Lot – Phase 2.

Dwayne Nitz presented the report for Caboose Plaza Town Public Parking Lot, Phase 2. There was brief discussion, however the Town Council agreed to table this discussion to the following meeting.

b. Worker's Compensation Coverage for Members of Town Council

**Motion:** Wayne Nickum made a motion to approve the Resolution—members of the Town Council are authorized to be included as employees of Workers Compensation Coverage. Bill Hollaway seconded the motion and it was unanimously approved.

c. Code Change to Allow Golf Carts/Gators/ATV Vehicles in Town Limits.

John Powell presented that certain Towns can authorize four wheel vehicles within the limits of their Town. Some issues arose between the a few golf cart drivers etc. in Clifton and the Fairfax County Police. He suggested that as they were a viable means of transportation, and they were used by a number of residents and folks outside of Town, that the Town Council should look into it. After reviewing the Code, Wayne Nickum concluded that the Town could not adopt an ordinance that would allow golf carts in Town, but that there were some exceptions in certain Towns. Bill Hollaway stated that he would like to hear from the public as to whether there is a desire to allow driving golf carts etc. in Town. It was concluded that the Town Council would ask Tim

Hugo to pursue legislation to change the Code so that there is an option to move forward on it. Furthermore, the discussion was tabled for wholesome discussion.

d. Review of Labor Day Car Show

It was noted by Mr. and Mrs. Arnold that the Lion’s Club should consider having traffic control along School Street, as the amount of traffic on School Street during the event has increased. It was noted also by Kathy Kalinowski that the emergency planning for major Town Events needs to be reviewed. Dwayne Nitz added that the fair organizers need to be trained to handle the Emergency Plan. Such emergency plan will be discussed with the Lion’s Club.

e. Authorization to Prepare Clifton Town Calendar

**Motion:** Chuck Rusnak made a motion to authorize an expenditure of up to \$1,000 to print the Clifton Town Calendars for 2014. Dwayne Nitz seconded the motion and it was approved after the following roll call vote:

Bill Hollaway	AYE
Dwayne Nitz	AYE
Chuck Rusnak	AYE
Wayne Nickum	ABSTAINED
John Powell	AYE
Deborah Dillard	AYE

f. Proposed Eagle Scout Project

Dwayne Nitz reported that there was no Eagle Scout Project.

g. Art Guild Request to Use Community Hall for December 7<sup>th</sup> Show

Chuck Rusnak presented on behalf of the Art Guild, requesting use of the Community Hall for the December 7<sup>th</sup> show. After discussion, it was concluded that if the Art Guild should put in an application for rental of the Community Hall, they should give deposit and reservation fee. If the CBA applies for waiver of the Community Hall fees as a sponsor of the event, then the Town Council will respond as appropriate.

h. Enforcement Process for Violation of Town Ordinances

In depth discussion ensued concerning the enforcement process for violation of Town Ordinances, and the Town Council’s process by which they enforce these ordinances. After extended discussion, action was deferred to a future meeting.

8. Adjournment

**Motion:** Wayne Nickum made a motion to adjourn at 11:20 pm. Deborah Dillard seconded the motion and it was unanimously approved.

