

Clifton Town Meeting Minutes
For Tuesday, January 4, 2011, 7:30 pm
Clifton Town Meeting Hall
12641 Chapel Road, Clifton VA 20124

Town Council members present: Mayor Hollaway, Deb Dillard, Dwayne Nitz, John Powell and Chuck Rusnak. Wayne Nickum arrived late (7:45pm).

Town Officials absent: Treasurer, Marilyn Barton, Clerk, Kathleen Barton. Minutes taken by Trisha Robertson. Meeting called to order at 7:35 with the pledge of alliance.

Order of Business:

(1) Review of the Minutes

No changes were offered to the minutes from the last meeting.

Motion to approve the minutes was made by Chuck Rusnak and seconded by John Powell. Motion passed unanimously.

(2) Treasurers Report: The Treasurer was not present to give a report to the council but a written report had been submitted prior to the meeting.

John Powell mentioned that there will be additional expenses for Haunted Trail toward the 2010 budget year.

Dwayne Nitz asked if there were final numbers for the Clifton Candlelight Holiday Homes Tour. He had heard \$6520 which is up from last year. He expressed thanks to the committee and the home owners for their hard work.

Motion to approve the Treasurer's written report was made by Dwayne Nitz and seconded by John Powell. The motion passed unanimously.

(3) Reports of Planning Commission, Architectural Review, Board and Committees

(a) Planning Commission Report: Attached.

Item 1: Kathy Kalinowski stated that the Planning Commission recommends approval of a use permit to Hilton Consulting Corporation and China Policy Research Institute for general office space at 12642 Chapel Road, Suite H, with hours of M-F 8:30 am to 5:30 pm and a maximum of one employee, with one parking space allocated.

The applicant stated that Hilton Consulting has been in business 15 yrs and has 12 employees who work at their clients' sites. This space will be used for general administration by the applicant himself.

John Powell requested clarification that clients will not come to the office. The applicant confirmed that to be the case but noted that occasionally a staff member might stop by to pick up paperwork, etc.

Wayne Nickum reminded the applicant of the need to pay BPOL directly to Clifton in lieu of the county and advised him to contact the Town Treasurer, Marilyn Barton.

Motion to approve the Planning Commission's recommendation was made by Wayne Nickum and seconded by Chuck Rusnak. The motion was unanimously approved.

Item 2: Kathy Kalinowski stated that the Planning Commission recommends approval for a use permit for Heart of Clifton, Inc. for the operation of a restaurant at 7145 Main Street, comprised of space B on the ground floor, the back patio and storage upstairs in space C. The following conditions were placed on the permit:

1. That thirty parking spaces be allocated – twenty-six for customers and four for employees plus one loading space. (Maximum seating of 156)
2. Hours of operation are Sun. – Sat. 10:00 am to 12:00 am
3. That the above hours be extended to 2:00 am for a maximum of 12 occasions per year with no more than 4 within any month.
4. No outdoor music, including the patio.
5. No flashing signs, neon or otherwise, or any signs not approved in advance by ARB
6. Any movement of the dumpsters to be approved by the Planning Commission.

Mayor Hollaway expressed concerns with the plans for dumpsters and parking associated with the new restaurant. Specifically with regard to the dumpsters, he wants to ensure that they not be placed on town property or the railroad siding and that if they rest on parking spaces, these spaces not be counted toward the required parking spaces for the use permit.

Wayne Nickum confirmed that town policy requires that all dumpsters must be placed on the business' property and must have appropriate screening.

John Powell expressed concern that the current dumpsters cannot stay where they are unrelated to the pending use permit for Heart of Clifton. He stated that the current tenant had been advised that they needed to move to move the dumpsters. New dumpsters for this applicant must meet town requirements.

Deb Dillard cautioned that "appropriate screening" is subjective.

Dwayne Nitz asked what the current code says regarding dumpster screening and Kalinowski stated that language is not currently in the code but Planning Commission can add something with Town Council guidance.

Sheldon Hofferan (property owner) responded to Town Council concerns regarding the dumpsters. The current dumpsters will be removed when the current tenant vacates (anticipated in January). He has already met with service providers to learn their requirements and available options. He stated that he and the new tenant will work with Town Council to reach an agreement with regard to appearance and access. He expressed concern that the

dumpster policies be uniformly expressed and enforced among all the businesses in Town. Hofferma n agreed to share what he learns from the dumpster companies and to consult with Planning Commission to develop language for the zoning code.

Jeff Harper (use permit applicant) expressed that he will work with Town Council and wants to have a good relationship with the Town and Council. He emphasized that he wants to improve the aesthetics of the property. Harper expressed that he will work with the Council and landlord to find a suitable place for the dumpsters and they he also wants to see them screened.

Mayor Hollaway expressed concern that this use permit is being considered before the current occupant has vacated.

Kalinowski explained that this is common practice because a business is reluctant to sign a lease without an approved use permit. The permit becomes effective when the old tenant moves out. Harper added that the bank needs a use permit to grant a business loan. He anticipates it will be months before he can open.

Hofferma n stated that the current tenant (Heart in Hand) had expressed that they would vacate by January 5th but this appears to not be the case. They have not asked to renew or extend their lease.

Wayne Nickum observed that the use permit doesn't include restrictions on noise whereas the Heart in Hand permit did. He stated that if there are two complaints there is a noise problem. Noise from the business should not unreasonably affect the neighbors, and that he needed to see language in the use permit regarding noise.

Mayor Hollaway agreed that noise shouldn't unreasonably affect the neighbors and added that the Town needs an objective standard.

Kathy Kalinowski explained that since no music is allowed outdoors this language was considered unnecessary and that the Town noise ordinance would be sufficient. The Main Street Pub and Heart in Hand have the same language regarding noise in their use permits. John Powell expressed that hearing music after midnight is unreasonable while others commented that noise could be objectionable anytime of the day/night.

Sheldon Hofferma n stated that there should be consistent rules for all the businesses in town regarding noise.

Jeff Harper stated that he plans to accommodate the Town's concerns and suggested placing decibel meters outside so that there is an objective noise level that is deemed too loud. Then he could use that measurement to enforce the noise level with bands playing at the restaurant.

Wayne Nickum expressed concerns that there may have been modifications to the interior of the space that did not have proper permits or meet building codes.

John Powell asked whether the Town would be liable if this were the case.

Kathy Kalinowski indicated that such permits, inspections and enforcement are the county's responsibility.

Sheldon Hofferma added that restaurants are rigorously inspected in Fairfax County and confirmed that the property is regularly inspected by the county fire and health inspectors.

Mayor Hollaway expressed concern regarding parking associated with the use permit, specifically with regard to spaces allocated on the property at 12704 Chapel Road and on the Norfolk Southern railroad siding. He pointed out that the easement of 12 spaces from the property at 12704 Chapel is effective only from the hours of 6:00 pm – 12:00 am and thus does not encompass the restaurant's full hours. Further, the application refers to 11 spaces on Town property, leased from Norfolk Southern. Without these spaces (on Chapel and the railroad siding), the applicant does not have sufficient parking spaces to support the use permit. He expressed that the Town Council needs to apply the code or change it -- but it needs to be addressed. As it currently stands, one business in town has a monopoly on Town spaces and is allowed to double count other spaces to meet its allocation requirements. The Town is about to expand the area leased from Norfolk Southern to add more parking. How will the new spaces be allocated? The Town Council needs to be fair and cannot violate the code. The Council could modify requirements when reduced parking needs during some hours is warranted. Further, the Council could amend the code to allow street spaces along the front of a business' building to be counted toward its allocation. He suggested that the Town Council modify the occupancy number on the application, substituting a variable occupancy that would allow more seats at times of the day when the parking spaces at 12704 Chapel could be allocated for the restaurant's use.

Dwayne Nitz asked if there is anything in the code that would make allowances if a business wouldn't need parking spaces during certain hours which Kalinowski indicated there is not. He also commented that the Town incurs costs when leasing the spaces from Norfolk Southern and these costs will increase with the Town's plan to expand the property leased from the railroad. Perhaps a business could purchase an offset to help the Town with costs associated with the leased railroad property.

Wayne Nickum agreed that there are costs associated with the lease and maintenance of the Norfolk Southern property and asked if businesses in town should be billed. He commented that this is a lease issue and the Town Council needs to determine how many spaces we have (now and projected) and how to make them available to all the businesses in town.

John Powell expressed that whether the allocation of spaces are referred to as offsets or leases, the Town Council needs to ensure that there are enough parking spaces in town to support successful, and hopefully growing, businesses. The Council also needs to figure out how to do so fairly -- especially in light of the Town's plans to expand the parking in this area. Clifton is at a

point in its growth that Town Council needs to make sure that its policies are consistent and workable for everyone and that there is enforcement.

Chuck Rusnak expressed concern that the Council was going to disallow a verbal agreement that had held for the last 20 years when the Council is trying to promote business in the Town. He concurred that the Council should approve the use permit based on a reduced number of seats so that parking requirements could be met. Once the Council makes a determination of how to deal with the spaces on the railroad siding, existing and planned, then the Heart of Clifton should be allowed to return to Town Council and ask for more should the applicant wish to do so.

Kathy Kalinowski indicated that Planning Commission allowed the railroad siding spaces to be included because permits for the building have traditionally counted these. As recently as the last Heart in Hand use permit in 2009, these spaces were allowed by Planning and approved by Town Council. She stated that Planning just revised the parking policies for the Town last year. The spaces along the railroad siding and on the street in front of businesses are a zoning issue. Town Council would need to set policy regarding how it wants to handle its leased property. She pointed to the property map to indicate that on its property, the Buckley Store has 25 spaces plus one loading space. Since 11 have already been allocated to other businesses on the property, there are 14 spaces that can be allocated to Heart of Clifton which corresponds to 60 seats for occupancy.

Sheldon Hofferma argued that there has long been an understanding between the Town and his business (Golden Phoenix) that the railroad siding spaces can be considered part of the building's allocation for parking spaces, not a particular tenant or business. He expressed that it would be unfair to change this long-held arrangement. He added that since one cannot control who actually parks in the spaces, it would be unfair to ask him or his tenants to rent them. He asked Town Council to state how many seats they would allow on the use permit, given the parking spaces they would recognize as allowable. He stated that although the use permit indicates 126 seats, the fire marshal will allow fewer -- 88 seats throughout the property. The applicant would be willing to amend the application to reflect fewer seats that would match acceptable parking spaces. Harper confirmed that this would be acceptable. Kalinowski noted that 88 seats would require 14 parking spaces for customers plus another 4 for employees for a total of 18 spaces.

Motion: Mayor Hollaway made a motion to grant approval for a use permit to Heart of Clifton, Inc. for the operation of a restaurant at 7145 Main Street, comprised of space B on the ground floor, the back patio, and storage upstairs in space C with the following amended conditions:

1. That parking spaces be allocated variably, as follows:
 - 14 spaces from 10:00 am to 6:00 pm
 - 30 spaces from 6:00 pm to 12:00 am
 - 25 spaces from 12:00 am to 2:00 am
2. That maximum occupancy be likewise variable, as follows:

- 60 seats from 10:00 am to 6:00 pm
- 156 seats from 6:00 pm to 12:00 am
- 126 seats from 12:00 am to 2:00 am
- 3. Hours of operation are Sun. – Sat. 10:00 am to 12:00 am
- 4. That the above hours may be extended to 2:00 am for a maximum of 12 occasions per year with no more than 4 within any one month.
- 5. No outdoor music, including the patio.
- 6. No flashing signs, neon or otherwise, or any signs not approved in advance by ARB.
- 7. Any placement of dumpsters shall be pre-approved by the Planning Commission and shall not be on the Norfolk Southern railroad siding. Further, if the dumpsters are placed on existing parking spaces, then the occupancy must be reduced.
- 8. Noise from the business should not have an unreasonable effect on surrounding residences.
- 9. The use permit is conditioned upon Heart of Clifton, Inc. moving into the space. Should Heart of Clifton, Inc. not occupy the space, the use permit becomes null and void.

The motion was seconded by Deb Dillard and unanimously approved.

(b) Architectural Review Board did not meet in December and there are no applications pending. The ARB will meet in January to draft a sign policy.

(c) Other Committees

Communications Committee

Dwayne Nitz proposed adopting a resolution to honor Willard Jack Webb who passed away recently. The resolution was read by Nitz and is attached to these minutes.

Motion to pass the resolution was made by Dwayne Nitz and seconded by Wayne Nickum. The motion passed unanimously.

History Committee

Pat Layden shared an update on the efforts of the Town History Committee to get Clifton Elementary School listed on Fairfax County's Inventory of Historic Sites. The application was submitted by the December 29th deadline. The final application is 24 pages long with a detailed history of the school, photos and timelines, as well as a detailed explanation regarding how this building would contribute to the history and heritage of Fairfax County. A copy of the document was provided to Council members and is attached to the minutes.

The Fairfax History Commission will meet tomorrow night at 7:30 pm at the Fairfax Regional Library where the document will be presented but no vote will be taken. On February 2nd at

7:00 pm, the Commission will meet to vote on the application. There should be some representation from the Town Council at that meeting.

Once the Fairfax History Committee approves the application and the school is listed, it will appear on county documents and maps, and it will be referred to as a “heritage resource.” As such, it will be covered by the Fairfax County’s Comprehensive Plan and the structure will have to be preserved. Also, note that the boundary line of the Town’s historic overlay goes through the original brick building of the school which means that if things are changed, Planning Commission, ARB and Town Council will have to be involved.

Motion: Mayor Hollaway offered a motion to formally thank the History Committee including Lynne Wark, Pat Layden, Margo Buckley, and Diane Dygve for their efforts to get Clifton Elementary School listed on the Fairfax County Inventory of Historic Sites. Wayne Nickum seconded the motion and it passed unanimously.

(3) Communications. None.

(4) Citizen Remarks. None.

(5) Unfinished Business

a) Cox Verizon Status Update

Deb Dillard confirmed that Verizon should be out next week to install internet only for one year.

b) Status of Storage Facility for Town Equipment

Deb Dillard noted that she had spoken with the Clifton Betterment Association (CBA) Chair, Michelle Stein, about the possibility of developing storage inside the CBA barn.

c) Status of Norfolk Southern Lease and Parking Project

Dwayne Nitz distributed copies of a new lease agreement with Norfolk Southern to expand the parking area along the railroad siding. He asked that the Council review the document in preparation for a vote at the next Town Council meeting. He noted that the lease provides the amount of space the Town will want for Phase 1 and 2. The first 11 spaces, Phase 1, will not require much work or funding – spreading gravel and placing parking blocks -- and perhaps can be done with volunteers or as an Eagle Scout project. Phase 2 will require more funding.

A fence must be built all the way down through Phase 2 and a gate is required by Norfolk Southern. The committee felt compelled to offer Raymond Van Lienden a taller fence where it touches his property to hide headlights. Most of the expense of the project is in the fence which will need ARB approval. Nitz asked if ARB could be asked to submit a design with details for the fence. There was agreement from the Council. Estimates for the construction could be either sole source or based on a few bids. The Town should plan to move on this by late winter or early spring.

d) Status of Heart in Hand Sign and Town Signage Policy

The lit sign at the Heart in Hand was turned off but then moved to another window. ARB will be drafting signage policy at this month's meeting.

(6) New Business

a) Removal of Private Property (Dumpsters and Truck) from Town Railroad Siding

Mayor Hollaway talked to Corey Harlow who said that he would move the dumpsters within a day of Town Council notification so that the parking development can begin. The Heart in Hand lease will expire and they will move out within the month. At the end of the month, if the dumpsters are still there Town Council can revisit the issue.

b) Town Calendar Sales

Mayor Hollaway noted that it is January so now it is important to move the calendars quickly. **Motion:** Mayor Hollaway made a motion that the Council allow the businesses to sell them for \$10 and give the Town \$8. Wayne Nickum seconded the motion and it passed unanimously.

c) Update of Town Community Hall HVAC System

Dwayne Nitz met with a commissioning agent meeting who was the first in the county. He will do the work gratis. He said the system itself is flawed, old, and oversized for the facility. He provided some short term recommendation such as cleaning clogged vents and shutting down the supply on the closest side. His recommendation will most likely be replacement because it will cost much less to operate.

d) Status of Re-keying of Town Community Hall

Deb Dillard commented that she has asked the county to rekey the building but it has not happened yet.

Kathy Kalinowski asked if Planning Commission could be notified when the rekeying occurs so that they are not locked out of their meeting.

e) Status of Town/Fairfax County Agreement for Community Hall

Discussion tabled until next month's Town Council Meeting.

Motion to Adjourn was made by Mayor Hollaway at 11:15 pm, seconded by John Powell, and passed unanimously.