

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, September 11, 2013, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town Officials present were Director of Community Development James Callahan, Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett and Confidential Secretary to the Supervisor Karen Jurek.

Director of Community Development - James Callahan

Public Hearings:

McGuire Development 8321 Main Street

A public hearing is scheduled for 7:45 PM to consider the request for a Special Exception Use Permit for a structure larger than 10,000 square feet in the traditional Neighborhood District at 8321 Main Street. Applicant is proposing to construct a new 19,000+/- square foot professional office building to be located on the south side of Main Street, west of Susan Drive on existing residential property consisting of 2.3+/- acres in the TND. Per the Zoning Law, the Town Board has authority to issue Special Exception Use Permits for structures greater than 10,000 square feet in the TND. The Planning Board has forwarded a recommendation on the project with conditions.

Work Session items for consideration September 25, 2013:

Douglas Klotzbach 8185-8195 Sheridan Drive

Applicant is proposing to develop a 90,000+/- square foot professional office building with associated parking and landscaping. The proposed site is located on the south side of Sheridan Drive, east of the entrance to Eastern Hills Mall on existing residential and commercial property consisting of 6.2+/- acres in the Restricted Business Zone. Per the Zoning Law, the Town Board will have final review and approval authority via a Special Exception Use Permit based upon the size of the proposed building. Size and scale of the proposed development, public sewer access, traffic and connectivity between projects in the vicinity are all issues that need to be addressed.

S&S Auto body 9727 County Road

Applicant is proposing to relocate an existing collision shop on County Road to a existing commercial building (former Francis Heating & Cooling building) located on the south side of County Road, east of Goodrich Road on 1.2+/- acres in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has approval authority for collision shops in the Industrial Business Park Zone with a Special Exception Use Permit. A public hearing will be required to consider the use.

Domenic Piestrak – Spaulding Greens Open Space Design Subdivision

Applicant has completed construction on approximately 600 linear feet of Ferncrest Court and is seeking the extension of a public road within the approved subdivision to accommodate 12 new structures and 48 new residential units. The proposed site is located on the east side of Goodrich Road as an extension south and west of the existing Ferncrest Drive within The Villas section of Spaulding Green. Per the Subdivision Law, the Town Board has final authority to accept roads for public dedication. Town Engineer and Highway Superintendent must inspect the road and assure that it is constructed to Town standards.

Brookfield Country Club 5120 Shimerville Road

Applicant requests Fireworks Display Permit for September 28, 2013 at existing country club located in the Residential Single Family Zone. Per the State Penal Law, the local legislative body has authority to approve fireworks display permits. Application, site plan, fees, insurance and fire chief approvals are on file.

Junior Planner Jonathan Bleuer forwarded to the Board Master Plan 2025 goals and narrative. The Planning Board has worked on updating the goals for public consideration. A Public Hearing is scheduled for October 16th. In advance of that, James Callahan asked the Board to review the document and direct any comments back to the Planning Department.

Supervisor David Hartzell

- Fall Festival in Clarence Center is scheduled for September 27, 2013.
- Received a letter from Clarence School District relative to the presentation given by Area Director of Civil Defense David Bissonette.
- Supervisor Hartzell received a complementary letter from a resident regarding the Highway Department.
- Appoint Kristin Beaver at Clerk PT seasonal effective September 1, 2013 and ending December 8, 2013.
- Grant additional unpaid leave of absence to Nancy Meyer from her position as Messenger.
- Appoint James Englert Jr. to the position of Laborer for the Highway Department.
- Set a Bid Date for October 1, 2013 at 10:30AM to accept sealed bids for the removal of leaf compost.

Supervisor Hartzell has been in contact with Erie County Correctional Facility Service Action Corps. Program to supply the Town with inmates to volunteer for cleanup of Beeman Creek Park and the recently purchased town property next to the Main Street Town Park; we are on a waiting list.

Councilman Bernard Kolber

- Councilman Kolber will make a motion authorizing the Supervisor to accept funds from the NYS Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993 in an amount not to exceed \$9,000 for the Reconnaissance Level Survey of barns and agricultural structures.
- Councilman Kolber has one Attorney-Client item to discuss in Executive Session regarding a legal matter.

Councilman Patrick Casilio

- Post the position of Civil Engineer/Provisional for the Engineering Department.

- Authorize Supervisor Hartzell to sign the annual Service & Supply Maintenance Agreement with Eagle System, Inc. per the terms and conditions of said agreement.
- Authorize Supervisor Hartzell to sign the proposal submitted by Amherst Alarm Inc. for the purchase and installation of equipment for an alarm system for Clarence Town Hall at a cost not to exceed \$3,255.

Councilman Casilio has two Attorney-Client items to discuss in Executive Session regarding personnel.

Councilman Peter DiCostanzo

- Authorize Supervisor Hartzell to sign a Municipal Cooperation Agreement between the Town of Clarence and the Town of Lancaster for the shared use of the Clarence Assessor for a period of one year beginning January 1, 2014 and ending December 31, 2014, renewing the terms and conditions of the current contract that expires December 31, 2013.
- To extend the appointment of Timothy Vertino to the position of Junior Planner PT Seasonal in the Planning and Zoning Department to December 8, 2013 at the budgeted rate of \$12.42 per hour.
- Approve the request by Northern Erie Sno-Seekers to use the bike path for their 2013-2014 season.
- Grant permission to Professor Thomas White of Buffalo State University of NY, Department of Biology to use Beeman Creek Park for a Mammalogy Study.

Ron Grim presented a plan to the Planning Board Executive Committee for a twelve lot cul-de-sac off County Road between Stahley Road and Rivera Way.

Brother's of Mercy is hosting an Oktoberfest and 5K race on September 13, 2013.

Councilman DiCostanzo has requested budgets from all departments he is liaison to. Councilman Kolber suggested meeting with all department heads regarding their budget requests. A meeting with Department Heads is scheduled for September 25, 2013 at 4:00 PM.

Councilman Robert Geiger

- Authorize Supervisor Hartzell to sign a contract and enter into an agreement with Erie County for the 2013-2014 Community Development Block Grant Project-Senior Center entrance improvements subject to review and approval by the Town Attorney's office.
- Authorize Supervisor Hartzell to sign the Sales Order for Liberator Time Systems in the amount of \$6,878. For the attendance system.

Town Engineer Timothy Lavocat

The town pool project is underway and should be completed in two weeks.

Brookhaven sewer project will be completed in two weeks, the paving is complete.

The library project is ahead of schedule. The contractor is working on the interior; they begin work at 5AM to avoid interfering with the public using the library.

Bids will be accepted on Friday relative to the restoration work around the library parking lot. Councilman Kolber suggested the Parks Department do the restoration work. Town Engineer Lavocat will see what the bids come in at.

Town Engineer Lavocat has one Attorney-Client item to discuss and one item regarding personnel.

Supervisor Hartzell would like to present a proclamation to former Senator Walter Floss commemorating his 90th birthday and his service to the town. A scheduled date will be announced at a future meeting.

Councilman Kolber would like to rename Bryant and Stratton Way since the school is no longer in town at this location. He suggested assistance from the public to rename the street. Councilman Casilio suggested contacting the property owners first to get their input.

Director of Community Development James Callahan distributed copies of a draft Local Law regarding off-highway vehicles within the Town of Clarence. Deputy Town Attorney Steven Bengart suggested sending the draft law to the Town Prosecutor to review. There are several subjective items that would be hard to enforce.

Councilman Kolber would like to revisit the total number units allowed for multiple family homes in the Town of Clarence before the town gets overwhelmed with multi-family projects. We currently have a number for single family residential.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person(s) and several Attorney Client items. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:50PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:30 PM. Upon roll call - . Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, September 11, 2013 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman DiCostanzo. Prayer was given by Pastor Randy Rozelle from Holy Cross Lutheran Church. Ginger Lindner from Clarence Presbyterian Church also gave a prayer.

Members of the Town Board present were Council Members Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, and Town Engineer Timothy Lavocat.

Minutes of the previous work session and regular meetings of August 28, 2013 were not yet completed.

Supervisor Hartzell thanked the Chamber of Commerce for holding the Legislative Breakfast last weekend. It was wonderful. It would be nice to have more people there. He thanked the councilman for being there and looking for next year to be even better.

Supervisor Hartzell said Clarence Center Fall Fest is Friday, September 27, 2013 from 5:30 to 9:00 p.m. They close the street down and have food and entertainment. It is a fun event.

Supervisor Hartzell said he received a letter from Jeff Hicks, Clarence School Superintendent thanking David Bissonette for the review of the safety drill. His expertise has been invaluable to the school district. He does an excellent job for the Town of Clarence.

Supervisor Hartzell said he also received a letter from Lawrence Probst complimenting the Town of Clarence Highway Department on their prompt response to an issue on his street. He was very happy with the outstanding response, timeliness and service from a well run department.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to appoint Kristin Beaver as Clerk PT Seasonal effective September 1, 2013 and ending December 8, 2013 at the rate of \$12.42 per hour pursuant to the provisions in the Residency Requirement of Chapter 39 of the Clarence Town Code that Ms. Beaver become a Clarence resident within an agreed upon time period. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to grant an additional unpaid leave of absence to Nancy Meyer from her position as Messenger for a period not to exceed two months commencing on September 14, 2013 to and including November 8, 2013. The Town will not provide and/or pay for Nancy Meyer's health, vision and dental insurance and/or any other employee benefits during this period.

On the question, Supervisor Hartzell said the granting of this request is to provide a reasonable accommodation to Ms. Meyer. This leave of absence is subject to the provisions of Article 24 – sections 1 through 6 of the Town of Clarence White Collar Unit Contract. Any future requests by Ms. Meyer or other persons in the future will be taken on a case-by-case basis at the discretion of the Town Board. The Town Board is not creating a precedence setting policy by granting this request.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell said the next item on the agenda to appoint a Laborer in the Highway Department is still under discussion by the Town Board and will be done at a later date.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to set a bid date for October 1, 2013 at 10:00 a.m. to accept sealed bids for the removal of leaf compost from the Town recycling area on Sheridan Drive. The bid price submitted will be per cubic yard loaded and hauled off site by the successful bidder within 60 days. The volume of material consists of one pile totaling 866 cubic yards. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to adopt the following resolution:

Be it Resolved, that David C. Hartzell, Jr., as Supervisor of the Town of Clarence, is hereby authorized and directed to accept funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993, in an amount not to exceed \$9,000 and enter into and execute a project agreement with the State for such financial assistance to the Town of Clarence for the Reconnaissance Level Survey of Barns and Agricultural Structures.

Resolved, in accordance with the requirements for application for funding from the New York State Office of Parks, Recreation and Historic Preservation, that the Town of Clarence hereby reaffirms the Master Plan, "Town of Clarence New York Master Plan 2015", adopted in 2001 including any and all amendments to date, as the official land use planning document of the Town of Clarence.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he discussed earlier in the work session the idea of changing the name of Bryant Stratton Way, since Bryant Stratton is no longer here. They are looking at different ideas to possibly rename that street.

Councilman Casilio congratulated the Supervisor on his presentation at the Chamber on Saturday. He was hoping that he would have challenged the County on the snowplowing contract.

Supervisor Hartzell said the County agreed to a 5% increase and then backtracked and changed it to .5%. Since then the highway superintendents have tried negotiating with the County at 4%, but they came back with .75%. All of the towns have met to discuss this issue because legally we cannot plow County roads without a contract. They are all working to come to an agreement before it snows.

Motion by Councilman Casilio, seconded by Councilman Kolber to post the position of Civil Engineer/Provisional for the Engineering Department at the rate of pay per the White Collar Contract. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor David Hartzell to sign the Annual Service & Supply Maintenance Agreement with Eagle Systems, Inc. for the period beginning October 15, 2013 and ending on October 14, 2014 per the terms and conditions of said agreement. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor David Hartzell to sign the proposal submitted by Amherst Alarm Inc. for the purchase and installation of equipment for an alarm system for the Clarence Town Hall at a cost not to exceed \$3,255.00. On the question, Councilman Casilio said there will be an additional annual fee for Alarm monitoring services. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said we have been working for a long time trying to get better camera systems for our bike trails. We are working on some numbers with Time Warner. He hopes to have a report on that soon.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to authorize the Supervisor to sign a Municipal Cooperation Agreement between the Town of Clarence and the Town of Lancaster for the shared use of the Clarence Assessor for a period of one year beginning January 1, 2014 and ending December 31, 2014, renewing the terms and conditions of the current contract that expires on December 31, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to extend the appointment of Timothy Vertino to the position of Junior Planner PT-Seasonal in the Planning and Zoning Department to December 8, 2013 at the budgeted rate of \$12.42 per hour. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo asked if there was a reason that he should not move the motion for the Northern Erie Sno-Seekers.

Councilman Casilio said there is not really a layout in the motion of where the snowmobiles are going. He asked if we could wait on the motion to find that out.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to grant permission to Professor Thomas White of the Biology Department of Buffalo State University of New York School of Natural and Social Sciences to use Beeman Creek Park to conduct a Mammalogy Study in September and October of 2013 subject to the review and approval of the certificate of insurance and any conditions as set forth by the Town Attorney's Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said there is a public hearing set for October 16, 2013 at the Planning Board Meeting to discuss the Master Plan goals. Anyone with comments should attend the meeting.

Councilman DiCostanzo said the Brothers of Mercy is having their Oktoberfest and 5K Run this Friday.

Councilman DiCostanzo said after the legislative breakfast last week they went to the Clarence Hollow for the unveiling of the new mural on the Bistro building. It is pretty neat. They are now working on the lighting for it.

Motion by Councilman Geiger, seconded by Councilman Casilio to authorize Supervisor David Hartzell to sign the Sales Order for Liberator Time Systems in the amount of \$6,878.00 for the attendance system.

On the question, Councilman Geiger said this is for the update of our current attendance system to Version 2.2, adding employee count and users and clocks. This is to bring a majority of the Town on the attendance system, either using time clocks or computer log-in. Note: This is included in the 2013 Computer Budget.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Supervisor Hartzell to authorize Supervisor David Hartzell to sign a contract and enter into an agreement with Erie County for the 2013-2014 Community Development Block Grant Project – Senior Center Entrance Improvements subject to the review and approval by the Town Attorney's Office.

On the question, Councilman Geiger said a grant application prepared by the Planning and Zoning Department through the Erie County Community Development Block Grant Program was accepted and awarded to the Town of Clarence for the Senior Center Entrance Improvements in the amount.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger said the Town received a letter from County Executive Mark Poloncarz notifying the Town of the award of Community Development Block Grant Funds for the ADA Improvements for the Senior Center entrance in the amount of \$31,000. This will help us make the necessary improvements.

Town Clerk Nancy Metzger announced that the school tax bills will be mailed out by the end of the week. If you do not receive one, please call the Town Clerk's Office.

A Public Hearing was held to consider the request for a Special Exception Use Permit for a structure larger than 10,000 sq. ft. in the Traditional Neighborhood District at 8321 Main Street.

Michael Metzger, engineer was present representing the applicant.

James Callahan said the location is the south side of Main Street, west of Susan Drive consisting of an existing residential property in the Traditional Neighborhood District. The applicant is proposing a new professional office building. A Negative Declaration was issued by the Town Board on August 14, 2013. Concept Approval was granted by the Planning Board with conditions. The Planning Board forwarded a recommendation for a Special Exception Use Permit.

Michael Metzger said they also have an out-of-district user agreement for sanitary sewer with Erie County Sewer District No. 5. They are in agreement with the conditions set forth by the Planning Board. They are working with the Landscape Committee based on input from the neighbors. His client is very much in favor of working with the neighbors. The project has come a long way and they are compliant with the TND requirements. It is a nice building and they believe it will be a great asset to the Town. The size of the proposed building is 19,000 sq.

ft. It is a single-story building with a stone front that is in keeping with the character of the TND.

Supervisor Hartzell said he appreciates the effort that they have gone to work out issues with the neighbors.

Councilman Geiger said according to the Clarence Bee today they have had an issue with woodchucks.

Michael Metzger said there were a couple dilapidated accessory buildings on the site that provided a great place for wildlife to live. They are attempting to humanely relocate them. The current condition of the site has allowed them to flourish.

Speaking to the subject:

Patti Gamin said they have had an experience with woodchucks. Animal Control would bring a cage to trap them for \$50. She asked if there was a way they could take care of them on their own. They dump Pine Sol on a rag and stuff it in the hole or anywhere you need to. They do not like Pine Sol and it really worked.

With no one else speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to adopt the following resolution:

REVOLVED, that the Clarence Town Board, after a public hearing duly held on September 11, 2013, and after all interested parties having been heard, grants a Special Exception Use Permit to the applicant, McGuire Development, for the construction of a structure greater than 10,000 square feet in the Traditional Neighborhood District located at 8321 Main Street subject to the following conditions:

1. As per the final concept plan drawings as submitted by Silvestri Architect and dated June 4, 2013.
2. Subject to review and approval of final Landscape Plan.
3. Subject to NYSDOT approval for access and drainage and any tree removal within the Route 5 Right-Of-Way.
4. Dark Sky Lighting fixtures required to ensure that lighting does not spill onto adjoining residential properties.
5. Subject to approval by Erie County Water Authority for water service connections.
6. Screening required for the stormwater facilities and parking fields.
7. Subject to payment of all applicable fees.
8. Development Plans to detail stormwater facilities and address blasting, if required.

On the question, Councilman Kolber said in regard to item 6, will that be approved by the Landscape Committee. James Callahan said the Landscape Committee has already had a few preliminary meetings with the applicant and they are working on screening the detention facility in the front and the parking field along Main Street. The trees on the southern border are being maintained and enhanced. The Landscape Committee will have final approval.

Michael Metzger said there is an area of 40 – 60 ft. that they are keeping and planting additional trees. They are also considering a stone wall, which they think will look very nice.

Councilman Kolber also asked about item 8. James Callahan said that was a condition of the original concept approval and is a part of the P.I.P. Permit issued by the Town.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell recognized Robert Sackett and Steve Dale from the Planning Board who were present. He thanked them for what they do for the Town.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Clarence American Legion #83 Auxiliary – Sept. 27, 28, 29 & 30, 2013; B. Clarence Track Club – Nov. 19, 2013; C. Town of Clarence – Dec. 6, 2013; Legion Hall Applications – A. Clarence Democratic Committee – Sept. 19, 2013; B. William & Lindsay Goulette – Dec. 1, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of September 12, 2013 are approved for payment: General Fund - \$144,270.09; Highway Fund - \$66,653.61; Water District - \$35,494.73; Lighting Districts - \$776.62; Sewer Districts - \$26,057.13; Capital Fund - \$173,801.10; and Trust & Agency 203 - \$15,688.75 for a total amount of \$462,742.03. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Ray Skaine said he has a complaint with the Source newspaper. They are placing the paper in blue bags and if you do not have a box to put them in they are throwing them in the yard. He has contacted them four times and they continuously put them in his paper box. He goes away and does not want them littering the neighborhood.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:10 p.m.

Nancy C. Metzger
Town Clerk