

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, December 3, 2014 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 Peter DiCostanzo, followed by a prayer given by Councilman Geiger.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the budget sessions held October 9, 23 & 29, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to accept the minutes of the work session and regular meetings held November 19, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the transfer of funds from the 2014 Youth Bureau Budget as follows: \$12,500.00 from account A7310.0450 - Maintenance of Buildings & Grounds to account A7310.250 – Building Improvements; and \$1,000.00 from account A7310.450 – Maintenance of Buildings & Grounds to account A7310.416 – Gas & Oil. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell congratulated Councilman Pat Casilio for being awarded the Lifetime Achiever of the Year by the Clarence Chamber of Commerce. The Annual Awards Dinner will be held at Samuels Grand Manor on February 26, 2015.

Supervisor Hartzell announced that on November 24<sup>th</sup>, the taxpayers of the Town of Clarence voted yes on both referendum items for the Clarence School District. The capital projects are for repairs to many of their buildings and renovation of the athletic facilities.

Supervisor Hartzell said Supervisor Dino Fudoli of Lancaster and Supervisor Mary Holtz of Cheektowaga asked him to convey their gratitude for the assistance from our highway department during the recent blizzard.

Supervisor Hartzell announced that our Deputy Recreation Director Chris Durr was recently named the 2014 All-Bee Girls Soccer Coach of the Year by the Clarence Bee. Mr. Durr is also the Williamsville East Head Soccer Coach for the Lady Flames who won their 12<sup>th</sup> regular season divisional title and 8<sup>th</sup> section six championship.

Supervisor Hartzell said he received a compliment from a satisfied Town resident about Building Inspector David Metzger. She said she had an issue and he came out and very diplomatically solved the problem. She sends her thanks.

Supervisor Hartzell announced that two Clarence High School grads, Scott and Matt Jarrett are staff writers on the television series NCIS. They both wrote a recent episode in which they included many names of their friends from Clarence, including Joseph Lancellotti who works in our Engineering Department.

Councilman Kolber said he has a concern about all of the street lights in Town that are out and we still have to pay for them. He would like to get a lighting blitz going with Town residents reporting lights out through the Town website at [www.Clarence.ny.us](http://www.Clarence.ny.us). There is a connection directly to NYSEG to report lights out. The Board discussed contacting our representative again.

Councilman Kolber thanked the Town Highway Department and fire companies who helped other towns out during the recent storm cleanup. Our Town employees and volunteers do a great job and we are lucky to have them.

Town Engineer Tim Lavocat gave a presentation regarding the proposed construction of facilities for State Police, Erie County Sheriff's and the Clarence Town Court.

- February 2014 the Town Board authorized the Supervisor to sign a lease agreement with the New York State Police to construct a zone command headquarters on the Town Hall campus.
- April 2014 the Town Board authorized hiring a consultant, Ken Pearl, to assist with the programming phase to look at the details of the project to come up with a budget.
- May 2014 the NYS Attorney General approved the lease.
- July 2014 the NYS Comptroller approved the lease.
- Town Engineer and Consultant conducted many meetings and site visits with all the stakeholders including town departments, State Police barracks, Erie County Sheriff's and Town Justices along with the NYS Office of Courts from Albany. This took seven months through this analysis phase.

Mr. Lavocat said it was through this part of the project that they realized that the court presented some challenges to remodel the existing space in the town hall and adding on to provide more space for the court. These issues relate to operational challenges, records management, security, State Building & Fire Code compliance, Office of Courts guidelines and connectivity to a 40+ year old building.

They determined at this point to include the court with the detached facility for the NYS Police. It addressed all of the challenges. The space will include 9,000 sq. ft. for the NYS Police, 7,700 sq. ft. for the court and approximately 2,200 sq. ft. for the Erie County Sheriff's substation. The projected cost is \$6.8 million, which includes all project elements – architectural and engineering design, site work, infrastructure, complete building construction with prevailing wage, construction and design management, all contingencies, bonding, etc.

Mr. Lavocat said this brings us to authorization for the bonding to move the project forward. Then, the next step is to interview architectural and engineering firms to bring us to the next phase of the project.

Supervisor Hartzell said this project came to be because the NYS Police lease is expiring and they could have moved to another location. We would like to keep them in the Town to help prevent us from having our own police department in the future. They agreed to pay a \$1.2 million over the next 20 years and at the end of that the Town owns the building.

This is the basic information regarding this project. He opened for comment or questions from the public.

Speaking to the subject:

Michael Patterson said he sees that the Town has done a lot of work on this and that the Town Board believes it is a good expenditure. He has not seen any proposal to the citizens to justify why the Board thinks the Town will benefit from this. He is here as a citizen to participate in making the decision on this expenditure. It is difficult without any information to review from the Town. He feels the Town should have prepared a document for the citizens to review to see if they thought this proposal was a good idea.

Mr. Patterson gave examples of other towns in the country where the leaders gave the citizens information before they voted to spend tax dollars. He does not feel he was informed about this at all.

Councilman Kolber said this is not to actually spend this money. We have to authorize the bonding before anything else can take place. This is driven by two factors, one of which we have known for quite some time that the NYS Police's lease is almost up. Their presence in the Town keeps us from having our own police force that has been estimated to cost 8 to 9 million dollars per year. They do a great job for us. The building restrictions are coming from the State Police and has to be as they require.

Councilman Kolber said the other issue is the enhancements required for our court system according to the Court Administration. There are numerous shortfalls.

Councilman Kolber said we are elected to make decisions that will benefit the Town. This is the beginning of the project. The Board has to authorize the bonding so that we can move forward to obtain more details of the project.

Mr. Patterson said this should be in writing to the citizens so that they are involved in the process. He does not feel this is being done right.

Town Attorney Lawrence Meckler said this is so early in the process. This will come back to the Town Board and the public many times with the details laid out.

Mr. Patterson said it is moving right along without first notifying the public.

Supervisor Hartzell said they started working on this in 2012 and since then there have been articles in the Bee, the Buffalo News and the Sun. He has only received two emails from people who were interested. He does not understand why there is not more interest with the amount of money. It is not for lack of exposure.

Councilman Casilio said he believes the taxpayers know we run a lean Town. Our tax rate is dollars below other towns. It is locking the State Police in for the next 20 years. When you are negotiating an agreement like that, you cannot go public with it. At the least, it is going to save the taxpayers money in the long run. They are also to provide safety and that is part of this too.

Mr. Patterson said they are not providing effective public participation. It should be on the website.

Michael Powers, Town Justice thanked everyone involved with this project. It is a huge undertaking. It has been in the papers. People have had the opportunity to respond. He thinks that they think it is a good idea. It is badly needed. It will save 8 to 9 million a year and take care of some serious deficiencies. We have people charged with violent felonies, violent crimes, and prisoners, domestic violent victims in the hallways, confidential areas and in the same room with traffic violations. He gives the Board credit to be proactive in this situation. We have one of the busiest courts in the area and operate in 19<sup>th</sup> century facilities.

Councilman Casilio said it will not only be safer for the court personnel, but for the citizens too.

Mr. Powers said the public is the number one concern.

Supervisor Hartzell noted for the record that after advertising in the Sunday Buffalo News, we had one resident here to comment tonight.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration on the proposed State Police, Erie County Sheriff and Town Court Facilities Project located at One Town Place, Clarence, NY. After thorough review of the project details including preliminary site plans and a completed Part 1, 2 and 3 Environmental Assessment Form, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio thanked Town Engineer Tim Lavocat for all of his work on this. He had several meetings to gather the information to get us to this point. He also thanked the consultant, Ken Pearl. This proposal was being discussed under the last four supervisors and town boards including Dan Herberger, Kathy Hallock, Scott Bylewski and the current Board to try to keep the State Police in Clarence. We are fortunate to have an agreement in place. He also thanked Town Attorney Lawrence Meckler for the expertise he brought to the table.

Councilman Casilio said to address Mr. Patterson's concerns, it will keep the State Police here for the next 20 years with a visible presence, while saving tax dollars. The building will always be used for law enforcement of some kind. It will not be wasted. There were only 9,000 people in the town when the town hall was built without a mall or Walmart. The times have changed, as well as the needs of the community. It adds security to our whole campus.

Motion by Councilman Casilio, seconded by Councilman Kolber to adopt Bond Resolution of the Town of Clarence, New York, on December 3, 2014, authorizing the construction of a multi-purpose building, portions of which are to be used as a New York State Police zone command headquarters, an Erie County Sheriff's substation and a Town Court facility; stating the estimated maximum cost thereof is \$6,800,000; appropriating said amount for such purpose; and authorizing

the issuance of bonds of the Town in the principal amount of \$6,800,000 to finance said appropriation, subject to a permissive referendum.

On the question, Councilman Casilio said a complete copy of the Extract of Minutes for said Bond Resolution will be on file in the Office of the Town Clerk.

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

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the transfer of funds from the 2014 Planning Board Budget as follows: \$500.00 from account 001.8020.0100 – Personal Services to account 001.8020.0471 - Training and Education. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to enter into and 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 one year term beginning January 1, 2015 and ending December 31, 2015. On the question, Councilman Kolber said this is our third year and it seems to be working out well. Supervisor Hartzell said it is saving us money and he thanked the Town of Lancaster for their participation. Town Clerk Nancy Metzger added and a thank you to our Assessor Christine Fusco. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said his next motion is to set a public hearing concerning the Landscape Committee. The committee is composed of three members, but we only have two at this time. It is limited to who can be a member and they would like to relax the requirements.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to set a public hearing for January 21, 2015 at 7:45 p.m. to consider a Local Law Amending the Code of Town of Clarence, Chapter 131 - Landscape and Tree Conservation - §131-4 - Landscape Review Committee. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Emily Senay to the position of Recreation Attendant PT at the rate of \$10.28 per hour effective December 6, 2014 subject to receipt of all pre-employment paperwork and pre-employment requirements being met.

On the question, Councilman DiCostanzo said this appointment is being made to fill a position that is open due to Gabriel Gilmour not being able to accept the winter appointment.

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

Councilman Geiger announced that the Clarence Hollow Association put the lights up on the pedestrian bridge over Ransom Road.

Councilman Geiger announced that Sunday, December 7<sup>th</sup> is Pearl Harbor Day. “FDR Remembers Pearl Harbor” is being presented by Albert McFadden at the Clarence Historical Society at 1:00 p.m.

Town Clerk Nancy Metzger received the annual Tariff Amendments from Erie County Water Authority. The amendments include several rate increases including water rate from \$3 to \$3.05 per 1,000 gallons. The biggest change to affect the Town is that they will no longer do monthly billing for fire hydrant rentals. We will be billed once for all hydrants. They will send the bills out about the same time as the Town & County tax bills go out in February. Any adjustments will be made in the following year’s billing. A complete copy of the Tariff is on file in the Town Clerk’s Office.

A Public Hearing was held to consider a Special Exception Use Permit for a secondary living unit at 8755 Howard Drive. James Callahan said the location is the south side of Howard Drive between Old Hickory and Connection Drive. It is an existing single family home in the Single Family Residential Zone. The Town Board can issue a permit following a public hearing.

Marie Beilman said they have an existing attached one-car garage which they are opening up to their living space. She had to apply for the permit because she is putting an oven and refrigerator in this space.

Councilman Casilio asked if she is aware and agreeable with the restrictions and she said yes.

Marie Beilman said her neighbors surprised her by coming in to speak on her behalf if she needed it.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on December 3, 2014, and after all interested parties having been heard, grants a Special Exception Use Permit to the applicant, Marie Beilman, for the construction of a secondary living unit as an addition to the existing home located at 8755 Howard Drive, subject to the following conditions:

1. All conditions as required in the Zoning Law must be met.
2. Unit must be secondary to the principal dwelling and not converted to a rental unit.
3. Occupancy shall be limited to family members, paid employees or temporary guest(s).
4. Occupancy shall be restricted to 2 persons to occupy the unit.
5. A Deed restriction shall be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language **is to be submitted and approved by the Town Attorney prior to the filing the deed.**
6. An Agreement shall be entered into between the applicant and or applicants (and others if applicable) and the Town of Clarence, which agreement shall require that the applicant (and others if applicable) to prepare and record a Deed Restriction incorporating the conditions as spelled out in this resolution which shall be placed into their Deed. The Agreement and deed restrictions shall continue in perpetuity. A copy of the Agreement is required to be filed as an attachment to the Deed. A copy of the Agreement is to be submitted to the Town Attorney prior to the filing of the Deed for approval.
7. Proof of filing of the approved deed and attachment is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.

On the question, Councilman Kolber said the specific language for the deed restrictions and the Agreement may be obtained from the Town Attorney's office.

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

David and Sarah Kraatz request a Public Hearing to consider Local Historic Designation Status for 6110 Salt Road. James Callahan said the location is the west side of Salt Road, north of the Peanut Line consisting of an existing agricultural farmstead in the Agricultural Rural Residential Zone. The Historic Preservation Commission has recommended that these structures be designated.

Councilman Kolber said it is a great place and he believes fits the designation requirements we would like to encourage.

Carol Conwall from the Historical Preservation Commission said designation of this property would be greatly appreciated.

David and Sarah Kraatz are restoring all of the buildings on the site. It is an ongoing process. (Several pictures of the site were presented.)

Motion by Councilman Kolber, seconded by Councilman Geiger to set a public hearing for January 21, 2015 at 7:50 p.m. to consider the designation of 6110 Salt Road as a local historic landmark. On the question, Councilman Kolber said this is an ideal property for designation. Upon roll call – Ayes: All; Noes: None. Motion carried.

Drew Brown requests a Public Hearing to consider a Temporary Conditional Permit for Outside Dining at 9500 Main Street. James Callahan said the location is the northeast side of Main and Goodrich in a previously approved commercial property.

Drew Brown and Michael Berger of Sutton Architecture were present. Mr. Berger said this is a mixed use retail space to be used to sell samples of beer and selling the beer. They would like to have an outdoor patio space.

Mr. Brown said there will only be snack type items served also. There will not be a commercial kitchen to cook food. They plan to serve sample flights of four or five beers. The idea is to taste samples of beer and then buy what you like to take home.

Councilman Kolber said there is a concern that it would jut out into the parking lot too far. It is taking the place of the landscaped area presented on the site plan. It was approved to have the buffer area, they are putting in a patio rather than all landscaping.

James Callahan said the project had a significant amount of greenspace, so it will not violate the law in any way.

Mr. Berger said there is the required space of 24 ft. between the parking stalls and the area they would like to use.

Motion by Councilman Kolber, seconded by Councilman Casilio to set a public hearing for January 21, 2015 at 7:55 p.m. to consider a request for a Temporary Conditional Permit for outside dining at 9500 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Day in the Park Committee – Jan. 20, Feb. 17, March 17 & April 21, 2015; Legion Hall Applications - A. Steven Bengart – Jan. 16, 2015; B. Safura Hoviehzar – Feb. 14 & April 11, 2015. 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 December 4, 2014 are approved for payment: General Fund - \$834,402.72; Highway Fund - \$400,453.79; Water District - \$35,678.97; Drainage District - \$665.00; Sewer Districts - \$272.44; Capital Fund - \$2,730.00 and Trust and Agency 203 - \$47,243.02 for a total amount of \$1,321,445.94. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell adjourned the meeting at 8:43 p.m. in memory of Michael Morris, husband of Mary Morris from our Assessor's Office; and Paul Fiegl a retired employee from the Highway Department.

Nancy C. Metzger  
Town Clerk