

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, January 21, 2015 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, Deputy Town Attorney Steven Bengart, Town Engineer Tim Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, Planning Board members Paul Shear and Steven Dale, Confidential Secretary to the Supervisor Karen Jurek, Highway Superintendent James Dussing and Director of Administration and Finance Pamela Cuviallo.

### **Director of Community Development – James Callahan**

#### ***Public Hearings:***

Landscape Law Amendments

A Public Hearing is scheduled for 7:45PM to consider a Local Law amending the Code of the Town of Clarence Chapter 131 - Landscape and Tree Conservation Law to broaden the requirements for committee membership.

David and Sarah Krantz - 6220 Salt Road

A Public Hearing is scheduled for 7:50PM to consider the designation of 6110 Salt Road as a local historic landmark. The proposed site is located on the west side of Salt Road north of the Peanut Line Trail. Per the Historic Preservation Local Law, the Town Board has final designation authority for local landmarks. The Historic Preservation Commission has held a public hearing on the application and has forwarded a recommendation for the Town Board to designate the property as a local historic landmark.

Drew Brown - 9500 Main Street

A Public Hearing is scheduled for 7:55PM to consider a Temporary Conditional Permit for outside dining at 9500 Main Street. The proposed site is located on the northwest corner of Main Street and Goodrich Road within the Willow Square Development (formerly Rock Garden Apartments). Per the Zoning Law, the Town Board may consider the use with a Temporary Conditional Permit. The proposed location is adjacent to the parking area for the use and is proposed to be screened with a low landscape wall. Greenspace within the development is maintained at an acceptable percentage per code. As there is adjoining residential uses, the outside area should be conditioned as to hours of operation and any noise control.

Proposed Fee Amendments

A Public Hearing is scheduled for 8:00PM to consider proposed fee revisions to the following: Building Department Fee Schedule, Engineering Department Fee Schedule and Plumbing Permit Fee Schedule.

#### ***Formal Agenda:***

McGuire Development 5989 Transit Road

Applicant is proposing to develop a commercial plaza including a Tim Horton's drive-thru. The proposed site is located on the southeast corner of Transit Road and Clarence Center Road on existing residential property located in the Commercial Zone. Per the Zoning Law, a drive-thru will require a Special Exception Use Permit as approved by the Town Board. The Town Board will be Lead Agency on this project.

The design as submitted will require a setback variance along the east side of the property as the required 45' undisturbed greenbelt will be violated. The setback can be achieved

however, the setback area will be disturbed. In addition, without an interconnection to the property to the south, a variance to the required greenspace requirement will be required. A parking variance may be required as the submitted design identifies 61 spaces and the code identifies a 70 space requirement. Referral to the Planning Board would initiate formal review of the project.

#### Emerling Insurance - 9092 Main Street

Applicant is seeking approval to construct a new 6,200 square foot one-story office building. The proposed site is located on the north side of Main Street, west of Thompson Road at existing residential and vacant property located in the Commercial Zone. The existing house will be demolished. Per the Zoning Law, the Town Board has the opportunity to comment and provide guidance prior to formal project review by the Planning Board. Referral to the Planning Board will initiate formal review of the project.

#### Town Automotive Group – 8215 Main Street

Applicant is proposing to develop a Maserati Dealership at 8215 Main Street. The proposed site is located on the south side of Main Street, east of Transit Road behind the BMW Dealership in existing previously approved office use located in the Commercial Zone and within Erie County Sewer District #5. Per the Zoning Law, the Town Board has approval authority via a Special Exception Use Permit for automotive uses. The property previously underwent an environmental review for the office use. The Town Board will be Lead Agency on this modification. All setbacks and bulk requirements are per code. The existing office space on the parcel will remain.

#### Spaulding Greens LLC – Phase V amendment

Applicant is proposing to refile the Map Cover with one small modification to sub-lot #92 to add 15+/- feet of depth to the sub-lot. The existing previously approved Final Plat for Phase V of Spaulding Greens includes 21 sub-lots and approximately 1000 linear feet of Meadowglen Drive, 300 linear feet of Willowleaf Court and 260 linear feet of Glenview Drive in a residential classification. Per the Subdivision Law, the Town Board has final approval authority for accepting map covers and road dedications. No other changes to the map cover are identified other than the modification to lot #92.

#### ***Work Session items for consideration February 11, 2015:***

##### Eliot Lasky/Roxberry Subdivision Phase II – Helenwood Extension

Applicant is proposing a modification to the previously approved subdivision to eliminate one cul-de-sac and reduce the lot count from 10 to 7. The proposed site is located on the south side of Sheridan Drive as an extension of Helenwood Drive. The proposed new design includes a cul-de-sac dead end that exceeds the allowable number of lots on a dead end. The variance procedure per the Subdivision Law is a super majority approval by the Town Board. Final approval by the Harris Hill Fire Chief will be required before taking final action on this variance request. The Fire Chief has some major concerns about water pressure in this area.

Councilman Kolber stated that his concern is that with the previous design, the large exception area is taken by single family lots. The new design is listed as exception and the Board does not know what the developer could present for the larger area in the future. Director of Community Development James Callahan stated that the developer could do an Open Development for one lot, but it is not a “as of right” use. The property is zoned restrictive business. Councilman Kolber stated that he looks at this as a segmentation issue.

### **Town Attorney – Lawrence Meckler**

Town Attorney Meckler has two personnel items to discuss in Executive Session as well as one Attorney Client item.

### **Town Engineer Tim Lavocat**

- Town Engineer Lavocat stated that last December he distributed to the Town Board a list of the proposed fee revisions. The last time the building/plumbing fees were reviewed was in 2006 however, the responsibilities under the new building codes has increased since 2006. Engineering fees have not been addressed in over 15 years.
- The Main Town Park Project (restroom and shop facilities) was bid out last year however the bids came in over budget. Councilman Casilio will make a motion to approve Change Order No. 1 to the existing contract with Sutton Architecture for redesign and re-bidding services in the amount of \$8,000. The restroom will now be approximately 1,400 square feet and the shop facility will be moved to where the Park's Department offices are located. The current shop building will be demolished by the Parks Department. This will decrease the cost of the project and will benefit the Parks Department by moving the operation elsewhere.
- Town Engineer Lavocat updated the Board on the Court Facilities Project. He has received 15 qualification proposals. After review, a short list of four firms was selected. Interviews with the four firms will begin next week. More details will be forthcoming at the February 4<sup>th</sup> Work Session. At that time the Board can discuss moving forward with Resolutions at the February 11, 2015 Town Board meeting. Councilman Kolber stated that he would like to sit in on the interviews. Town Engineer Lavocat will e-mail the Board the interview schedule.

### **Confidential Secretary to Supervisor – Karen Jurek**

Karen presented a proposal for updating the computer backup system for the town servers, the money is included in the 2015 Budget.

Originally Karen was going to go with Cloud, that is what was budgeted, however Network Services presented several other options. Currently they are offering a special with Barracuda and have offered the service half off. Network Services suggested instead of using Cloud to store the Town's data, we could go with two (2) Barracuda backup systems. One system would be located at Town Hall and the other system at the Parks Department. Karen also purchased two external backups for under \$200 that will also backup. Supervisor Hartzell asked for more time to review the proposal and a decision will be made at the next Town Board meeting. Karen stated that the special being offered by Network Services/Barracuda is not going to last long so she asked the Board to e-mail her with their decision.

### **Supervisor David Hartzell**

Supervisor Hartzell has had discussions with the Town Board and Town Engineer Lavocat relative to the extension of the Waterford Bike Path some money is available and the rest will be bonded.

The Chamber of Commerce is hosting the State of the Town luncheon on Thursday, January 22, 2015 at Orazio's Restaurant.

The Board of Education will meet on January 26<sup>th</sup> for a budget study meeting.

Dennis Londos met with Supervisor Hartzell regarding the Deer Abatement Program. Mr. Londos would like to cut the cost of corn by installing feeders. Each feeder costs approximately \$150 and can be purchased at Gander Mountain. In the past, he would dump a 50# bag of corn on the ground and the deer would eat whenever they wanted. Using feeders, he will be able to set them for whenever he is going to hunt and they will distribute a small amount of corn saving him money on the cost of corn. Councilman Casilio was in agreement as long as it was within his budget. Councilman DiCostanzo suggested looking on State Contract and if the Town purchases the feeders, we should not be paying sales tax.

*Supervisor Hartzell has several motions to announce:*

- Amend the motion made on December 17, 2014 to award the bid for the Tandem Hamm Roller for the Highway Department
- For the record, no bids were received for the sale of the 2007-GEM Electric Car therefore the car will remain in inventory at the Parks Department
- Approve a Special Event "Ride for Roswell" Cycling Fundraiser for June 27, 2015

### **Councilman Bernard Kolber**

Councilman Kolber will appoint Jamie Brawdy to the Historical Preservation Committee at the next Town Board meeting.

### **Councilman Patrick Casilio**

*Councilman Casilio has several motions to announce:*

- Encumber funds from the 2014 Engineering Department Budget
- Motion to approve the payment of annual fire hydrant maintenance fees to ECWA for two fire hydrants within Roxberry Subdivision Phase II
- Approve Change Order #1 to the existing Nussbaumer & Clarke contract for inspection services associated with the Sawmill Road Box Culvert Project
- Approve Change Order #1 to existing contract with Sutton Architecture for redesign and rebidding services relative to the Main Town Park Restroom and Shop Facilities Project
- Authorize William Schutt Associates to provide professional services to assist with the Design, Construction Documents and Bidding for the construction of the new Salt Barn Project for the Highway Department
- Request ECWA install a hydrant to be located in front of the property located at 5817 Transit Road (Gabes Collision)

Councilman Casilio commented on the EPA Audit and how the town will have to monitor our salt storage and drainage on the property.

Councilman Casilio received a request for additional street lights in the Waterford Subdivision. The person making the request would like lights that match the rest of the subdivision however the town does not do this, it would be up to the developer. The developer of the Waterford Project may now be bankrupt. Councilman Casilio would like to make this a condition for future projects especially for developments with several phases. The town is not in the electrical business and is not responsible for supplying decorative lights in subdivisions.

Councilman Casilio will work with Town Attorney Meckler regarding increasing the size of the Arboretum Committee. The committee would like to bring in new qualified members to help with the design of the Arboretum. Town Attorney Meckler stated that you could either increase the size of the committee or create a sub-committee. Town Attorney Meckler will prepare a resolution for the next Town Board meeting.

There were street lights out in Harris Hill Gardens, after calling our representative at NYSEG, the lights were repaired within 48 hours.

There was a prior town meeting where the art work and the Rohlf's clock at the Clubhouse were discussed. At this meeting, it was mentioned about selling the art work and the clock. Councilman Casilio was not sure about putting a covenant on these possessions and tie the hands of future town boards, however, he did not want to see the art work sold. Town Attorney Meckler stated that the Town Board could restrict the sale of these possessions. Deputy Town Attorney Bengart suggested giving the art work and the clock to the Historical Society and they in turn permanently loan the art work and the clock to the Town.

Councilman Kolber stated that when the Clarence Public Library was going to be transferred to the Erie County Library system, the Clarence Public Library transferred their assets to the Town. Since this did not take place, Councilman Kolber suggested transferring the assets back to the library. Councilman Kolber will meet with Cindy Rosel to prepare a motion for the next Town Board meeting.

Councilman Casilio has one item to discuss in Executive Session.

### **Councilman Peter DiCostanzo**

*Councilman DiCostanzo has several motions to announce:*

- Encumber funds from the 2014 General Fund Budget to Master Plan Expenses
- Authorize the Supervisor to sign the ESI Employee Assistance Program Renewal Agreement
- Michael Rizzo has resigned from the Assessment Review Board. Mr. Rizzo has recommended another person for this position. Councilman DiCostanzo will discuss this appointment further with Town Assessor Christine Fusco and announce the opening on the Assessment Review Board.

Councilman DiCostanzo stated that there are several traffic issues on Roll Road, Shimerville Road and Harris Hill Road. Councilman Casilio stated that no projects should be moving forward until these issues are resolved. Director of Community Development James Callahan stated that the findings of the Environmental Impact Statement for the Waterford Project identified that if there were traffic issues associated with the development of the Roll Road PURD which turned into Waterford Development then those mitigations would be the responsibility of the applicants for Waterford which included a series of investors. There is a traffic analysis on Waterford Commons, Waterford Campus and Waterford Landings which indicates that there will be failing levels of service at two intersections with the build-out of this project. There are problems associated with approvals however there is mitigation but how the mitigation will be implemented is the question. Also, the roads in question are County roads so the County will dictate how and when the mitigation will be implemented. Councilman Casilio did not feel it was the town's responsibility to correct the issues. There are intersections that are already bad, the build out of these developments will make it worse.

Planning Board Chairman Robert Sackett stated that Traffic Safety Engineer Michael Asklar from Erie County DOT gave a preliminary review. He did not know which mitigations he would recommend but he felt that some mitigation was needed. He will submit in writing indicating what mitigation he recommends. Once the letter is received, the Town Attorney can draft a letter to all responsible parties to get their reaction. Councilman Casilio stated that as gate keeper, the gate should be closed until all of this is straightened out. Chairman Robert Sackett stated that he did not feel the town could do anything until the Traffic Study under SEQR is satisfied.

Supervisor Hartzell suggested waiting for the County's recommendations.

### **Hans Mobius**

Mr. Mobius presented a map showing from Heise Road to Salt Road is six miles. Within those six miles there are two blind intersections. Coming from Akron, the speed limit is 45MPH. When they hit Salt Road, they go 55MPH. The only way to control this is to lower the speed limit on County Road. Mr. Mobius is requesting the Town petition the County to lower the speed limit from Salt Road to Heise Road to 45MPH. Supervisor Hartzell suggested Councilman Geiger submit a letter to Erie County requesting the speed limit be reduced from 55MPH to 45MPH.

### **Councilman Robert Geiger**

- Approve the request of Youth Bureau Director Dawn Kinney and Program Leader Jessica Notarius to attend the 2015 Youth Leadership forum in Albany, NY
- Authorize the Supervisor to sign the 2015 Youth Agreement with County of Erie for the 2015 Youth Development Grant
- Authorize the Supervisor to enter into and sign an agreement with Rotella Grant Management for professional services for a term of 12 months

Councilman Geiger has two candidates for the Senior Center Board. Their applications will be forthcoming prior to the next Town Board meeting.

Councilman Geiger has received the Time Warner franchise agreement. The Legal Department is reviewing the document. Councilman Kolber requested a copy of the agreement.

Councilman Geiger met with the Clarence Hollow Redevelopment Committee. Jean O'Connell and Chamber of Commerce President Judy Sirianni both wrote letters to the Town relative to changing the speed limit in the Hollow. They said their letters were never answered. Dominic Cortese would like to attend a Town Board Work Session to discuss the striping on Main Street as well. Supervisor Hartzell stated that Main Street is the jurisdiction of the NYS DOT.

Director of Community Development James Callahan suggested the Clarence Hollow Redevelopment Committee have an engineering firm design corrective measures to reduce the impacts in the Hollow and then submit that to the NYS DOT to see if anything can be done.

**Youth Bureau Director – Dawn Kinney and Program Leader Jessica Notarius**

Dawn Kinney is requesting approval to put information regarding the Youth Bureau on an app created by Jennifer D'Alessandro called Home Run Creative. The Town of Clarence would have its own tab that would say "Clarence Youth" and will list all upcoming events/programs sponsored by the Youth Bureau. The cost will be \$150 per year which is 50% off what they would normally charge. Dawn said she has the money in her budget. The Town Board was in agreement with this request.

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

There being no further business, the Work Session adjourned at 7:15PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Executive Session at 7:29PM. 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, January 21, 2015 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 7:30 p.m. Pledge to the flag was led by Supervisor Hartzell, followed by a prayer by Councilman Robert Geiger.

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.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to accept the minutes of the work session held December 29, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to accept the minutes of the work session and organizational meeting held January 7, 2015. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell reported that there was a meeting of the Capital Projects committee yesterday morning. One of the projects discussed is an extension of the Waterford bike path which will be finished this year. He attended the Master Plan 2025 focus group held at the high school and was pleased and surprised to hear how much the students enjoyed using the bike path. The new section will be an additional link in the north/south progression of the bike path, which runs primarily east and west at this point.

Supervisor Hartzell said the Clarence Chamber of Commerce will hold its annual ‘State of The Town’ luncheon tomorrow at Orazio’s. Tickets are still available, and the cost is \$25.

Supervisor Hartzell said the Clarence School District will hold the first of three of their budget discussions on Monday, January 26<sup>th</sup>, 7:00 p.m. at Clarence High School. He urges everyone to attend to see where the 2015-2016 budget dollars are being spent.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to amend the motion made December 17, 2014 to award the bid for the Tandem Hamm Roller for the Highway Department, that upon further review it was determined that all specifications were not met and to reject all bids received on October 17, 2014. This equipment will be rebid at a later date. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell stated that no bids were received for the sale of the 2007-GEM Electric Car at the bid opening held on December 29, 2014. The vehicle was declared surplus on November 5, 2014 no longer needed for Town purposes and a bid date was set to sell the vehicle. Therefore, the Electric Car will remain in inventory at the Parks Department.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to grant a Special Event request for the “Ride for Roswell” Cycling fundraiser to be held, Saturday, June 27, 2015 from 7:00 a.m. until 3:00 p.m., subject to Town Attorney review and approval and receipt of the appropriate certificate of insurance.

On the question, Supervisor Hartzell said the location for the ride will include portions of routes 33, 44, 62.5 and 104 mile routes through the Town of Clarence. All the appropriate agencies will be notified.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to appoint Councilman Robert Geiger as the Official Delegate for the Town of Clarence at the Annual Association of Towns 2015 Meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the request of Supervisor David Hartzell, Jr. and Councilman Robert Geiger to attend the Association of Towns 2015 Training School and Annual Meeting from February 15-18, 2015 in New York City with all reasonable and necessary expenses to be paid as per the Town’s policy. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to adopt a Bond Resolution of the Town of Clarence, New York, dated January 21, 2015, authorizing the acquisition of a parcel of real property for open space/recreation purposes; stating the estimated maximum cost thereof is \$2,627,385; appropriating said amount for such purpose, including the expenditure of other available Town funds to finance a part of said appropriation; and authorizing the issuance of \$344,000 bonds to finance the balance of said appropriation.

THE TOWN BOARD OF THE TOWN OF CLARENCE, IN THE COUNTY OF ERIE, NEW YORK, HEREBY RESOLVES AS FOLLOWS:

Section 1. The Town of Clarence, in the County of Erie, New York (herein called the "Town"), is hereby authorized to acquire a parcel of real property consisting of approximately 170+/- acres of vacant land located on the west side of Kraus Road, east side of Herr Road between Clarence Center Road and Keller Road (SBL No. 44.00-4-3, SBL No. 44.00-4-4 and SBL No. 44.00-4-20.11) for open space/recreation purposes. A public hearing has been duly held in connection therewith pursuant to Section 247 of the General Municipal Law. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,627,385 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of \$2,182,900 bonds pursuant to a prior bond resolution adopted on June 27, 2012, and the expenditure of approximately \$100,485 general fund and/or recreation fund moneys, to finance a part of said appropriation. The balance of said appropriation shall be financed by the issuance of bonds in the principal amount of not to exceed \$344,000 pursuant to this bond resolution. The plan of financing also includes the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of \$344,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (referred to herein as the "Law"), to finance a part of said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 21 of the Law, is thirty (30) years; however, the bonds authorized pursuant to this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds, shall mature no later than five (5) years after the date of original issuance of said bonds or notes.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board as to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the "*Clarence Bee*," a newspaper having a general circulation within said Town and hereby designated as the official newspaper of the Town for such publication.

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

Councilman Kolber said he will appoint Jamie Brawdy as a member of the Historic Preservation Commission at the next meeting. She was previously involved in historic preservation in the Town of Amherst and should be a great asset to this committee.

Motion by Councilman Casilio, seconded by Councilman Kolber to encumber funds from the 2014 Engineering Department Budget as follows:

\$4,750 from account A1440.434 - Professional Fees for Sutton Architecture proposal dated December 22, 2014 (Scope Change Parks Restroom and Shop Facility Project).

\$2,450 from account A1440.434 – Professional Fees applied to Nussbaumer and Clark proposal dated December 12, 2014 (EPA mandated Spill Prevention Countermeasures and Control Plan for Parks Department Fueling station).

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

Motion by Councilman Casilio, seconded by Councilman Kolber that the Town of Clarence agrees to pay the annual fire hydrant maintenance fee to the Erie County Water Authority for two (2) fire hydrants within Roxberry Subdivision Phase 2 on the Gentwood Drive Extension upon Final Plat approval and formal public infrastructure acceptance by the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to approve Change Order No.1 to the existing Nussbaumer & Clarke contract for Inspection Services associated with the Sawmill Road Box Culvert Project in the amount of \$4,600.

On the question, Councilman Casilio said this is due to the lengthened construction time, which saved us from having to replace the existing waterline.

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

Motion by Councilman Casilio, seconded by Councilman Geiger to approve Change Order No.1 to the existing contract with Sutton Architecture for re-design and re-bidding services relative to the Main Town Park Restroom and Shop Facilities Project in the amount of \$8,000.

On the question, Councilman Casilio said the re-design and re-bidding is in an effort to get bids closer to the budgeted amount.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Wm. Schutt Associates Engineering, P.C. of Lancaster, NY to provide professional services to assist with the Design, Construction Documents and Bidding for the Construction of the new Salt Barn Project for the Highway Department at a cost not to exceed \$12,400.00 and to authorize the Supervisor to sign the proposal.

On the question, Councilman Casilio said this is to be paid from Highway Fund Balance.

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

Motion by Councilman Casilio, seconded by Councilman Kolber that the Town of Clarence requests the Erie County Water Authority to install a hydrant to be located in front of the property located at 5817 Transit Road for which the Town agrees to pay the annual fire hydrant maintenance fee. The Town will be reimbursed for said annual fees pursuant to the terms and conditions of an Agreement between the Town of Clarence and Gabe's Collision located at 5817 Transit Road, Clarence, NY. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to encumber funds from the 2014 General Fund Budget as follows:

\$13,000.00 from the 2014 Law Department Budget account A001.1420.0471 Legal and Professional Fees to the 2014 Zoning Budget account A8010.472 2014 – Master Plan Expenses for the Wendel Contract for the Memorial Park Expansion Master Plan Development.

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

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to authorize Supervisor David Hartzell to sign the ESI Employee Assistance Program Renewal Agreement for the period of February 1, 2015 through January 31, 2016 subject to review and approval by the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo read a letter of resignation from Michael Rizzo from the Board of Assessment Review. Mr. Rizzo did a great job for us for the last 10 years.

Anyone interested in applying for this position should have a real estate appraisal background.

Motion by Councilman Geiger, seconded by Councilman Kolber to approve the request of Dawn Kinney, Executive Director Clarence Youth Bureau to attend the Youth Leadership Forum sponsored by the Association of NYS Youth Bureaus, NYS Partnership for Children, Youth and Families, and NYS Office of Children and Family Services to be held in Albany, NY on February 9 and 10, 2015 along with Jessica Notarius, Program Leader, Clarence Youth Bureau and four high school students who are members of the Youth Bureau.

On the question, Councilman Geiger said the cost for the seminar has been budgeted for in the Youth Bureau 2015 departmental budget. The forum is an interactive leadership and educational seminar being offered to youth and Youth Bureau personnel from across New York State.

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

Motion by Councilman Geiger, seconded by Councilman Casilio to authorize the Supervisor to sign the 2015 Youth Agreement between the County of Erie, through the Erie County Department of Social Services, and the Town of Clarence for the Youth Development Grant. On the question, Supervisor Hartzell thanked County Legislature Ed Rath for getting some additional funds for the Youth Department to fund this. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to authorize the Supervisor to enter into and sign an agreement with Rotella Grant Management for professional services as a Consultant to provide grant writing services to the Town of Clarence for a term of 6 months commencing January 1, 2015 and ending December 31, 2015 at a cost not to exceed \$1,800 per month, subject to review and approval by the Town Attorney's Office. On the question, Councilman Kolber said he would like to have a meeting with him so that we know what is in the works. Supervisor Hartzell said he will contact him about attending a work session in February. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger said we are reviewing, along with the Town Attorney, a new franchise agreement with Time Warner. There will be more information at a later date.

Councilman Geiger said he will be making two new appointments to the Senior Center at the next meeting. They will be John Crawford and Rose Ruhland.

Town Clerk Nancy Metzger announced that the Town & County Tax bills are out. If anyone did not receive one, they should call her office.

A Public Hearing was held to consider a Local Law amending the Code of the Town of Clarence, Chapter 131 Landscape and Tree Conservation, §131-4 Landscape Review Committee.

James Callahan said the proposed amendment is to allow for a more broad membership pool. Currently, a member had to be a Planning Board member, Conservation Advisory Committee member and a person with a professional affiliation in a related field to landscaping and/or landscape design.

The proposal is for one Planning Board member and two at large members.

Councilman Kolber said one of the problems was landscapers were working on projects that came before the board and they could not participate in the review. Therefore, they are reluctant to be on the board.

Councilman DiCostanzo said it changes it, but we will still look for someone with knowledge in this area.

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

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

RESOLVED, that after a public hearing duly held on January 21, 2015, and after all interested parties having been heard, the Clarence Town Board adopts Local Law No. 1 of the year 2015 amending the Code of the Town of Clarence Chapter 131, §131-4 - Landscape Review Committee.

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

A Public Hearing was held to consider the designation of 6110 Salt Road as a local historic landmark.

James Callahan said the location is on the west side of Salt Road, north of the peanut line consisting of a residential/agricultural property in the Agricultural Rural Residential Zone. The Town Board has final approval authority. The Historic Preservation Commission has forwarded a recommendation for approval.

Sarah and David Kraatz were present.

Councilman Casilio said we did discuss this property extensively when the hearing was set.

Supervisor Hartzell said it is an excellent property and he thanks them for bringing it in for historic designation.

Councilman Kolber said the Historic Preservation Commission is very thankful that they are doing this. It will be a great asset to the Town.

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

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

WHEREAS, the property located at 6110 Salt Road and locally known as “Bodine Homestead” has been the subject of an Intensive Level Survey as prepared by Clinton Brown Company Architecture, PC; and

WHEREAS, the property at 6110 Salt Road has been identified to have historic value, association with Historic Personages, and contains significant Historic value through its Architectural Style and method of construction; and

WHEREAS, The Town of Clarence Historic Preservation Commission has unanimously forwarded a recommendation to officially designate the home located at 6110 Salt Road as an Historic Landmark within the Town of Clarence; and

WHEREAS, The Clarence Town Board has held a duly advertised public hearing on the proposed designation per the Clarence Town Board Notification Policy.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board, approves the designation of 6110 Salt Road, known as “Bodine Homestead,” as a Local Historic Landmark per the Town of Clarence Historic Preservation Local Law; and be it further

RESOLVED that the affected site be designated on the official Zoning Map of the Town of Clarence filed for recording in the office of the Erie County Clerk.

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

A Public Hearing was held to consider a Temporary Conditional Permit for outside dining at 9500 Main Street. James Callahan said this property is located at the northeast corner of Main Street and Goodrich Road within the Willow Square Development. This is a commercial and residential development currently under construction in the Commercial Zone.

Mike Burger, Sutton Architects was present representing Drew Brown. The hours of operation will be 3:00 p.m. to 11:00 p.m. They have no plans for outside music. There may be very low key music inside. They plan for five tables with 14 seats.

Councilman Geiger said he had some concerns regarding the barrier. He does not want there to be any problems with the parking area.

Mr. Burger said the site plan shows the area that they are using as a landscaped area. There will still be 24 ft. clearance to the parking area. The curb is going to be 6" high and a foot wide. The paving is going to be removed in this area. When they did it, they just kept going with it.

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

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

RESOLVED, that after a public hearing duly held on January 21, 2015 and after all interested parties being heard, the Clarence Town Board grants a Temporary Conditional Permit to the applicant, Drew Brown, for outside dining for the new restaurant currently under construction at 9500 Main Street subject to the following conditions:

1. The Temporary Conditional Permit is granted for one year.
2. Hours of operation: Monday through Friday 3:00 p.m. to 11:00 p.m. and Saturday and Sunday 3:00 p.m. to 11:00 p.m.
3. Outdoor seating not to exceed 5 tables and 14 seats.
4. No live entertainment permitted.
5. No outside music.

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

A Public Hearing was held to consider the proposed fee revisions to the following: 1. Building Department Fee Schedule; 2. Engineering Department Fee Schedule; and 3. Plumbing Permit Fee Schedule. Town Engineer Tim Lavocat said that at the request of the Board, they analyzed the fees on these schedules to see how we compared to other towns and most importantly how much time is spent on the tasks involved. They are proposing increases in many of the fees. The last time the Building Department underwent a review was 2006 and the Engineering Fees was 15 years ago. It was time to bring them more in line with what we do today.

Councilman Casilio asked if we addressed the multi-family because each unit is similar to inspecting an individual home.

Mr. Lavocat said they were included. The building permits have been raised to 35¢ per square foot from 25¢. We recently increased the recreation fee per unit instead of per structure.

Councilman Kolber said this is in no way an attempt to make money, but just trying to correlate the costs to the work being performed.

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

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

RESOLVED, that after a public hearing duly held on January 21, 2015, and after all interested parties being heard, the Clarence Town Board approves the revisions to the following fee schedules:

1. Building Department Fee Schedule.
2. Engineering Department Fee Schedule.
3. Plumbing Permit Fee Schedule.

On the question, Councilman Kolber said a copy of the revised fee schedules are attached hereto and will be posted in the Office of the Town Clerk and the Building Department. The newly adopted fee schedules are effective February 1, 2015.

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

McGuire Development requests Preliminary Concept Review of a proposed commercial plaza at 5989 Transit Road including a Tim Horton's drive-thru requiring a Special Exception Use Permit. James Callahan said the location is the southwest corner of Transit Road and Clarence Center Road consisting of a vacant residential and commercial use in the Commercial Zone. The Town Board would be lead agency for this review.

Al Hopkins, Metzger Civil Engineering was here to introduce the project. South of this property is the existing MASH facility and east is a rental property. They are proposing a Tim

Horton's on one end, retail in the middle and a pub at the other end. They have two entrances proposed with one on Clarence Center Road and one on Transit positioning them as far from the intersection as possible. There is also a proposed access to the MASH facility that they hope to incorporate. The plan has changed since it was first presented with a smaller building. The position is further to the south and west of the property. Heavy landscaping is being proposed along with a large cueing area for Tim Horton's.

Councilman Casilio thanked them for making the changes. It is an improvement from the first plan.

Councilman Kolber said they do need a setback variance to the east property line.

Mr. Hopkins said there is a rental property to the back. It is better than it was. They propose 25 ½ ft. versus the 45 ft. code requirement. The other is for the parking with 61 spaces. They hope to have the interconnection to MASH also.

James Callahan said part of the original approval for MASH was the interconnection.

Councilman Kolber said the different types of uses require different parking situations. Depending on the other tenant there could be a parking issue.

Al Hopkins said Tim Horton's is more of a morning use and the pub is evening, so that should would out.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to refer the request from McGuire Development for Preliminary Concept Review of a proposed commercial plaza at 5989 Transit Road including a Tim Horton's drive-thru to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Emerling Insurance requests Preliminary Concept Review of a proposed office building at 9092 Main Street. James Callahan said the location is the north side of Main Street west of Thompson Road consisting of an existing vacant residential property in the Commercial Zone. The applicant proposes constructing a new one-story office building. The Planning Board will act as lead agency on this project review.

Councilman Casilio said there was a question about historical significance that we ruled out. The building has gone through many modifications.

Councilman Kolber said it will still be looked at as part of the review.

Jim Bammel, architect said they propose a 2,600 sq. sq. building with plenty of greenspace behind. They would like to make proper accommodations now for a possible future addition at the rear of the building. There is space upstairs for storage only.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to refer the request by Emerling Insurance for Preliminary Concept Review of a proposed office building at 9092 Main Street to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Towne Maserati requests Preliminary Concept Review of a proposed automotive dealership at 8215 Main Street. James Callahan said the location is the south side of Main Street east of Transit Road behind the BMW dealership. It is within a previously approved professional office park located in the Commercial Zone. The applicant proposes to change the use to an automotive dealership. The Town Board will act as lead agency on this review requiring a special exception use permit.

Bill Wincott from D R Chamberlin was present. They are proposing a Maserati showroom. There are only about five cars a month. It is a 2-car showroom. There is an area for detailing and some repair work. No body work will be done. There is a building on the site that they do not have any plans for as yet. The showroom will be constructed on a footprint that was previously approved.

Councilman Kolber questioned future uses on the site.

James Callahan said it has been approved as an office building. If there is a change to that they would have to come back before the Board.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to refer the request for Towne Maserati for Preliminary Concept Review of a proposed automotive dealership at 8215 Main Street to the Planning Board. On the question, Councilman Kolber said it should be noted that any modification to the existing office building shell on the site would require other exception use permits. Upon roll call – Ayes: All; Noes: None. Motion carried.

Spaulding Green, LLC requests an amended Final Plat Approval for Phase 5 of the Spaulding Green Open Space Design Subdivision. James Callahan said this is generally located

east of Goodrich Road, north of Greiner Road. This amendment is related to subplot 92 to add depth to this lot.

Domenic Piestrak said they are asking to add 15 ft. to the back of a lot to accommodate a large ranch.

Motion by Councilman Geiger, seconded by Councilman Kolber to approve the amended Final Plat for Phase 5 of Spaulding Green Open Space Design Subdivision to add an additional 15 ft. to subplot 92, which included the previously dedicated 1,000 linear feet of Meadowglen Drive, 300 linear feet of Willowleaf Court and 260 linear feet of Glenview Drive. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Town Heritage – Jan. 22; Jan. 28, 2015; B. Clarence Soccer Club – Jan. 26; Feb. 24; Mar. 25, 2015; C. Youth Bureau – Feb. 7, 2015; D. Clarence Senior Center – Feb. 27, 2015; E. Clarence Citizens for Veterans – Apr. 18, 2015; Legion Hall Applications - A. Clarence Wrestling Boosters – Jan. 24, 2015; B. David L. Meichenbaum – Jan. 31, 2015; C. Mark Priebe – Feb. 8, 2015; D. Harris Hill Social Club – Feb. 21, 2015; E. Valerie Wery – Feb. 27, 2015; F. Hena Hossain – Apr. 18, 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 January 15, 2015 are approved for payment: General Fund - \$85,974.65; Highway Fund - \$10,716.89; and Water District - \$219.01 for a total amount of \$96,910.55. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

James Blum read something that said “the Town of Clarence recognizes the value of trees”. He thinks it would be logical for the Town to consider being a tree city. Amherst, Lancaster, Tonawanda, North Tonawanda, East Aurora, Buffalo, etc. have the designation. We could easily meet the requirements for the designation. The Landscape Review Committee would be the logical committee to work on it. Mr. Blum said his suggestion is to become a tree city.

Councilman DiCostanzo thanked Chief Bill Major and the Clarence Fire Company for inviting him to their dinner. He truly appreciates their service. It can be tedious sitting through the presentation, but the hours these people spend to do what they do is incredible.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:40 p.m.

Nancy C. Metzger  
Town Clerk

**TOWN OF CLARENCE BUILDING DEPARTMENT**

**FEE SCHEDULE – 2/1/15**

**RESIDENTIAL CONSTRUCTION**

Filing Fee (new structure)	\$ 50.00
New Home/Duplex (per sq. ft.)	\$ .30
Fireplace – solid or gas	\$ 75.00
Addition (per sq. ft.)	\$ .25
Enclosed addition – minimum \$200.00	
Unenclosed addition – minimum \$100.00	
Fire Sprinklers	\$ 100.00
Accessory Building – 200 sq. ft. and under	\$ 50.00
Accessory Building – 201 sq. ft. and over (per sq. ft.)	\$ .20
Minimum \$100.00	
Maximum \$500.00	
Recreation Fee	\$ 450.00
Open Space Fee	\$ 450.00

**COMMERCIAL CONSTRUCTION**

Filing Fee (new structure)	\$ 100.00
New Construction & additions (per sq. ft.)	\$ .35
Open Space (per sq. ft.)	\$ .25
Operating Permit Fee	\$ 75.00
Remodeling (substantial) (per sq. ft.)	\$ .25
Remodeling (minor) of up to 2,000 sq. ft.	\$ 150.00
2,001 to 3,000 sq. ft.	\$ 250.00
3,001 to 5,000 sq. ft.	\$ 350.00
5,001 to 10,000 sq. ft.	\$ 450.00
10,000 sq. ft. or larger	\$ 500.00
Truss Construction Identification	\$ 50.00

- Level of commercial remodel will be determined during the plan review

## MULTIPLE DWELLINGS

Filing Fee	\$ 100.00
New Construction (per sq. ft.)	\$ .35
Open Space (per sq. ft.)	\$ .25
Recreation Fee - per dwelling unit	\$ 450.00
Fire Sprinklers	\$ 200.00
Install/Replace Fire Safety System:	
Under 10,000 sq. ft.	\$ 150.00
Over 10,000 sq. ft.	\$ 250.00
Tank Repair/Modification	\$ 150.00
Tank Install (\$.02 per gallon minimum)	\$ 100.00
Generator	\$ 75.00
Cell Tower	\$ 150.00
Cell Tower Equipment Change	\$ 100.00
Wind Turbine	\$ 150.00
Solar Power System	\$ 50.00
Demolition	\$ 100.00

A fee of 50% of the Building Permit Fee will be charged annually for permits/projects that are not substantially completed within one year of the issue date and a Certificate of Occupancy/Certificate of Compliance has not been issued.

A fee of \$150.00 will be charged for a lot or substantial plan changes prior to permit issuance.

A fee of \$200.00 will be charged per visit for projects progressing beyond a required inspection or scheduled inspection work is not completed.

A fee of 50% of the Building Permit Fee will be charged for starting a project without a Building Permit. Minimum of \$200.00

A fee of 200% of a Swimming Pool Permit Fee will be charged for starting a project without a Swimming Pool Permit.

A fee of \$100.00 will be charged to renew pool permits that are not completed within 3 months of issue date and a Certificate of Compliance has not been issued. **Exception: Weather related construction delays.**

A fee of \$500.00 per week will be charged to the contractor for structures occupied prior to issuance of Certificate of Occupancy.

**Exception: Residential Accessory Structures.**

Subsequent to permit issuance, if a contractor reduces in size, substantially changes the project or withdraws a permit, the issued permit will be voided. A new plan review will be conducted and a new permit issued with all appropriate fees. The applicant will be eligible for a 60% refund of the permit fee. Open Space and/or Recreation Fee will be refunded in full.

A fee of \$50.00 will be charged for changing contractors subsequent to the permit being issued.



**TOWN OF CLARENCE  
ENGINEERING DEPARTMENT  
FEE SCHEDULE – 2/1/15**

Floodplain Development Permit

Regulatory Floodplain	\$100
Density Floodway	\$125

Public Improvement Permit

Permit Fee	\$100
Inspection Deposit	5% of Estimated Construction Cost
PIP Administrative Fee	10% of Inspection Deposit

Private Improvement Permit

Permit Fee	\$100
Inspection Deposit	5% of Estimated Construction Cost
PIP Administrative Fee	10% of Inspection Deposit

Stormwater Pollution Prevention

Plan (SWPPP) Review Fee

Residential Subdivision & Commercial	0 -5 Acres \$800 Over 5 to 10 Acres \$1,600 10+ Acres \$1,600 + \$500 for each 5 acres
Multi-Phase Projects	\$750 per phase after first phase

Residential Lot with greater than 1 acre of land disturbance	\$200
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Revised 2/1/15