

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, June 6, 2012, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 8:00 A.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town officials present were Deputy Supervisor Kathleen Hallock, Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Deputy Town Attorney Steven Bengart, Town Engineer Timothy Lavocat, Director of Administration and Finance Pam Smith and Planning Board Chairman Albert Schultz.

Supervisor David Hartzell

Supervisor Hartzell reminded the Town Board that their three month calendar is due by this Friday for newly elected officials.

Councilman Bernard Kolber

Councilman Kolber will not be able to attend the June 13th Town Board meeting. With all the apartment projects that are coming down the pipe line or rumored to be presented to the Board, we have no MFR Zoning categories. Councilman Kolber would like to adopt a Local Law imposing a six month moratorium on multi-family residential units in the Town of Clarence with the possibility of a six month extension on these type projects until we get our zoning laws in place. Councilman Kolber has the Local Law written if someone would like to make a motion at the next Town Board meeting.

Councilman Casilio stated that he is concerned as well; there are currently five projects on the table for apartments. Apartments can be built quickly (within five months) five apartment complexes could mean 5,000 new people in the town within the year and sewer capacity is an issue as well. An increase in the population could put a strain on the town. Councilman Kolber stated that multi-family residential units are allowed in three categories without any control – Commercial, Major Arterial and Restricted Business. If they meet the guidelines, there is almost nothing we can do with it. This would allow the Board to look at a project, designate that property and then let it go forward. The Planning Board is working on guidelines and MFR Zoning category. It would make sense to get that in place before these projects all come through and the Board has no control on what goes on.

Councilman Casilio stated that if we allow these apartments in Sewer District #5, we would be taking sewer taps away from Harris Hill. He would hate to establish all these apartments and find out we do not have sewer capacity for Harris Hill Gardens.

Supervisor Hartzell stated that the Board should take a hard look on apartments but he did not feel that a moratorium was the answer. Clarence has a reputation of being "business unfriendly" and a moratorium would further label the town. Apartments on Transit Road, Wehrle Drive on the out-skirts of town are one thing they are not being proposed for the middle of Clarence. We have an excellent Planning Board and Zoning Board of Appeals members who review these projects in depth and if the project is to big or if there is no sewer capacity or they feel it is not a good fit for the town they have no problem voting against a project that is not in the best interest of the residents. Councilman Casilio stated that while he agrees with Supervisor Hartzell, he does not feel the town has a grasp on sewer capacity. Councilman Geiger stated he does not want to see a boom town in high rises but would like to see more businesses. An apartment is a business but it adds to our population and demand on services.

Planning Board Chairman Al Schultz agreed with what the Board was discussing. Councilman Casilio stated that the town has to get a better grasp on sewer capacity. He would hate to add 5,000 more people to the town in apartments and then find out we are out of sewer capacity for developments that would generate better income for our residents.

Councilman Kolber stated that every other town has a MFR Zoning Code and it would be wise to put that in place before we move ahead with all these projects coming forward.

Councilman DiCostanzo concurs with the Board however; he understands Supervisor Hartzell's point. Do we want to make ourselves look unfriendly to businesses? If there is another way of going about this without going through a moratorium, he would like to look at that option as well.

Councilman Kolber felt a moratorium would allow the Planning & Zoning Department to get laws in place to have much better control when multi-family projects come forward.

Rotella Grant Management – Bernie Rotella

Mr. Rotella has met with all departments and has a list of projects that are grant fundable specifically a tree grant and recycling equipment for the highway department. There is a pretty hefty list on what projects they will pursue most of which are grant fundable. With the Town Board's permission, Mr. Rotella would like to submit a resolution for a tree inventory grant. Councilman Kolber asked Mr. Rotella for his background and resume which he will forward to all Board members.

Rotella Grant Management has been writing grants since 2004. They are the grant writer for the Town of Amherst, Lackawanna and seven towns in Niagara County. Most of Bernie Rotella background from 1998 to the present is writing Municipal Grants. They do all types of grants from recreation, infrastructure, planning etc. This entails an entire process, not like years ago when you wrote up a quick proposal and mailed it out. They work with departments; see what they are looking for specifically matching the request to any grants that are open. The Consolidated Fund application is currently open; there are twelve categories in that and sub-categories within that. Understanding the needs of the community and understanding what the needs of the department helps them write a better application. Before it was simple, you would write up a narrative and answer a few questions. Today they look for preliminary engineering reports, public input etc. it is an involved process compared to what was required years ago. Rotella Grant Management is here to work with the departments and prepare the applications and when a grant does open to make sure it is submitted with all the proper documentation.

Mr. Rotella has worked for the Town of Amherst for approximately five years and has obtained Hazardous Mitigation Grants, Energy Efficiency Grants and NYS Archive Grants. They have done much of the administrative work for them, to get the grant is one thing, most of the grants are reimbursable – they take care of all that paperwork to make sure the town is reimbursed the money for those grants. Rotella Management has a Client ID Form they create for all their clients. In that ID Form, they have all the information they collect when working with each department. They have a full-time grant researcher who will search for a particular grant that a client has requested. The information will be put on the ID Form. The ID Form becomes a living document so that as the grants come up and a project is identified, the information is readily available. As they talk to the Department of State, to the granting agency, this information is documented so that the Towns have a document showing what is being done. They will meet with the departments regularly to keep communication open; all information comes back to the town.

Rotella Grant Management charges a flat fee; it is not based on performance. They do all the research and up-front work and preparation of the grant. If they are successful with the grant, they take care of all administration work on the opposite end of the grant. If the grant is unsuccessful, they will meet with the granting agency and find out why it was not awarded, review it with the department, see if that matches the time frame for re-submittal or look for something else. This is an on-going process. Once Mr. Rotella sees the Capital Project list, he can identify any future grants that come up.

All municipalities Rotella Grant Management is contracted with are charged a flat fee. The charge for the Town of Clarence is \$1,800 a month which is what he also charges the Town of Amherst.

Councilman Casilio stated that before he could move forward with this, he would have to see something better than the hand-out that was presented. He would like to see a resume that shows Mr. Rotella's success in other towns over a five year period and the dollar amounts. Councilman Casilio asked if the

Town of Clarence would be competing against other towns for these grants. Mr. Rotella stated that each municipality is unique with different demographics and needs.

Councilman Kolber stated that he believes in incentive based compensation structure. With a flat fee, the less you do the better, the more work you do the more it dilutes your compensation. Mr. Rotella stated that he has been doing this since 2004, there are five grant writers on his staff, and he has not lost a client. If he cannot do a good job, he can be fired. Councilman Casilio stated that he has no problem taking the gamble once he reviews the resume and makes some phone calls. He has no problem spending \$20,000 a year if we can get \$20,000 back. After a year if nothing is happening, he will be the first one to make the motion to terminate the contract.

Supervisor Hartzell stated that he received a very detailed proposal from Bernie Rotella and he will copy it for whoever would like to review it. Councilman Casilio stated he wanted phone numbers and Mr. Rotella's success rate and names of people to call.

Mr. Rotella stated that he cannot guarantee that the town will receive every grant applied for, it is very competitive today. He can however submit a competitive application and make sure it is the best you can get.

Councilman DiCostanzo stated that there are grants that the town is not even aware of that Mr. Rotella could research.

Mr. Rotella will forward his information to Supervisor Hartzell who will in-turn forward it to the Board. If the Board has any questions they should contact Mr. Rotella directly.

Michael Metzger – Metzger Civil Engineering/Multi-family housing project-Wehrle Drive

Councilman Casilio asked why Mike Metzger was on the Work Session agenda vs. a Town Board meeting. Supervisor Hartzell stated that several Council members had some questions about this proposed project. One of the problems that occur during the Work Session is lack of time so he asked Mr. Metzger to come to the Work Session to present his project to the Board. The Board can ask any questions and not be under any time constraints.

Mr. Metzger introduced his client Mark Stevens. Mike Metzger apologized the way the project was presented at the May 23, 2012 Town Board meeting, he should have been more prepared to provide more information.

The applicant is proposing a multi-family apartment complex. The proposed project would be situated on the north side of Wehrle Drive, east of Transit Road on approximately 15 acres of existing vacant land in the Commercial Zone. The plans showed 128 units which is an allowed use with a Special Exception Use Permit. The applicant is trying to keep the entrance further away from the intersection of Transit Road and Wehrle Drive as opposed to having an entrance near the busier part of Transit Road. They are proposing a long, very nicely landscaped entrance way similar to Coventry Green. It would be a mixture of 2 and 3 bedroom units, 1,300+ square feet. The buildings themselves are two-story unit town homes. The occupier would have control of both upstairs and downstairs. Each unit would have a garage with individual driveway. The buildings are staggered and set up mostly in 4 and 6 units together. The project will include a swimming pool area, play ground and doggie play ground area as well. The site itself already has some storm water injection wells that were installed years ago. Those wells would be incorporated into the storm water management system.

The plan itself meets or exceeds all zoning requirements with the exception of the green belt. There is supposed to be a 45' green belt between commercial use and residential use. They plan on landscaping along the driveway and feel this could fulfill the green belt requirements. Otherwise, the project is fully compliant and the applicant feels it is a great use for the area.

Councilman Kolber stated that he has met with the applicant and likes the concept of the project. One of the things he looked at was pulling the units along Wehrle Drive back and flipping the detention basins increasing the green belt buffer along Wehrle to enhance the street scape area but with the injection wells that are already in place that would not be an option. In looking at the site, Councilman Kolber noted many hardwood trees especially around the parameter of the property. He would like to see more of the hardwoods left in place as a buffer. Some of the trees are ash and will become infected with the Emerald Ash Borer. Councilman Kolber stated that he is not against the project but the town has received a deluge of multi-family projects without having any multi-family zoning codes in place. There are two single family houses that will be somewhat impacted by this project even though they are in a commercial zone.

Mr. Metzger stated that his client is currently under agreement with the two homeowners to purchase the two residential properties. He has not had the opportunity to see how that would impact layout of the project but they would like to incorporate those properties into the proposed development, this would take away the issue regarding the green belt.

Councilman Casilio stated that he would not be in favor of replacing the two houses with more apartments but would rather see more green space towards Wehrle Drive. Councilman Casilio stated that he has concerns in Sewer District #5 taking away taps from the Harris Hill area that might be available in the future. He would like to have SD#5 looked at and the impact this project would have on Sewer District #5. Three of these type projects including this project are going into SD#5, he is afraid we will lose capacity and until we get a grasp on that. Councilman Casilio is not interested in tapping that capacity.

Supervisor Hartzell stated that he did not feel a moratorium was the answer but maybe putting a cap on the number of apartment complexes is the answer. Maybe that number is two a year or its three a year. Somehow we want to limit the number of apartment complexes, hopefully without a moratorium. Hopefully the Board can come together and agree on what that number is. Councilman Casilio stated that "if they get a chance to get together he is in agreement but if the Board is getting slammed every meeting on it, then that is a different story."

Planning Board Chairman Al Schultz stated that they do not know what the build out capacity is for Erie County Sewer District #5. There have been studies on it (Woodland Hill and Harris Hill Commons Study). Any time an applicant makes a proposal; the applicant goes to the County and asks if there is capacity for their particular project. The County looks at a "very static situation" indicating there is capacity. What we do not have is a detailed comprehensive analysis of everything available in SD #5 and when you use these taps, where are they coming away from. The Town needs to spend the money to have someone do this comprehensive analysis. We have the data; we just have to feed into it. Amherst is also adding a lot of out of district customers to EC SD#5. Erie County SD#5 is in trouble, any time we add anything, we are required to do something to reduce the in-flow to get more room on Dodge Road where it is surcharging however, we don't know if that works. Town Engineer Lavocat said it will take awhile to do this study because you not only have to look at EC Sewer District #5 but all the Town of Clarence sewer districts and all the private agreements put in place and who owns what. It all has to be sorted out and put on the table. Town Engineer Lavocat stated that he is currently working with Planning and Zoning setting up the initial meeting with all involved to tell them what the town needs so we can review and start the process.

Planning Board Chairman Al Schultz stated that we need someone to manage Erie County SD#5 in the Town of Clarence the same way Mr. Lavocat manages Heise-Brookhaven. The sewage plant in Amherst is not the problem, they are not at capacity. The problem is the pipes that carry the sewage to the plant.

Mike Metzger stated that it would be very easy for the Town of Clarence to segregate his proposed project out and not make it a part of this discussion. He agrees that the town needs to get a handle on where they are at in Sewer District #5. In 2003 the EPA came down on the DEC and the DEC came down

on any municipal sewage treatment operator and started reigning in new development projects. There was an agreement reached, the DEC was trying to stop any development in areas where there are wet weather problems (4 to 1 trade-off). Any project that was proposed in an area where there were "wet weather" problems, the developer was forced to take four gallons of water out of the system for every new gallon they put in. This allowed the development to occur but at the same time it made improvements to the system. This opened things up again and it was a win-win situation unfortunately on the backs of the development community but it allowed them to move forward with their projects and it was a net benefit to the system. This applied to any areas where there were known problems. Since then, last year the Department of Environment and Planning put into their guidelines a provision for any project that is within one of their areas must provide the 4 to 1 trade-off so effectively allowing development in problem areas is to the betterment of those areas from a flow standpoint because it takes the excess flows out at 4 gallons for every gallon that goes into the system. Mr. Metzger stated that they will be mandated to do this for this project.

Planning Board Chairman Al Schultz stated that this was adopted by Erie County SD#5 two or three years ago. The developer has to identify laterals that are leaking and then send a contractor in to fix them. The reason it is done this way is because the County cannot go on private property to fix the laterals (basically what Erie County is currently conducting in Clarence Center). Mr. Metzger stated that they will not get an approval from DEP (Department of Environmental Protection) until those areas are identified where the fixes are going to occur. The DEC has to sign off prior to that. They are very proactive about it.

Councilman Casilio stated that in fairness to this Town Board he had doubts about the sewer capacity and would also like to see new drawings of what the applicant plans on doing with the entire parcel including the site where the two residential homes are located. He would like to see more green space rather than adding more apartment units.

Mr. Metzger stated that this project does not flow through Sewer District #5. There is an existing sewer along the west property line which flows south into Sewer District #4. It gets to Wehrle Drive and when it gets to Transit Road it enters into the Town of Amherst system which is unrelated, it does not go into Dodge Road.

Councilman Casilio stated that the Town Board downsized TEQR from a full board that met on a monthly basis. Councilman Casilio asked if we have the capacity to do a proper TEQR review and give these type projects justice. Town Attorney Bengart stated that he has confidence in our Planning Board and the members of the TEQR Committee. Planning Board Chairman Al Schultz stated that they do a thorough TEQR review. Planning Board Chairman Schultz stated that we are in need of a commercial property inventory map. The Town Board can control multi-family and automobile/collision shops just by denying the Special Exception Use Permits.

Councilman DiCostanzo brought up the possibility of the developer acquiring more land on the edge of the property and provide a possible connection from Wehrle Drive to Main Street. Mr. Metzger stated that it was talked about extensively and they did not feel that it was conducive in a residential neighborhood. Councilman Casilio stated that at a minimum the developer should be providing the roadway for the occupants of the apartment complex. Mr. Metzger stated that during site plan review they could look at pedestrian connectivity.

Director of Community Development James Callahan stated that the Land Use Access Management Plan always identifies the connection that goes behind Transitowne Plaza through Home Depot to Wehrle Drive. From a traffic standpoint, it makes sense. It is a long range planning issue that should be addressed. In anticipation of that, Mike Metzger brought displays and plans to show how this could be done without involving his clients' project. Councilman DiCostanzo would not propose the roadway go through the development but along the property.

Councilman Casilio stated that if the Board is even interested in moving forward with this he would like to see new plans inclusive of the additional property and exactly how many apartments will eventually be built.

Councilman DiCostanzo stated that he does not know if this is the right location for an apartment complex. Mr. Metzger stated that the Towns Zoning Ordinance clearly allows this type use at this location.

Buffalo Niagara Builders Association 2012 Horizons Home Show- Joe Mclvor

A number of home shows have been held in Clarence, they have worked well with the Town in coordinating an event that everyone could be proud of. The location of the 2012 Home Show will be in Spaulding Green, the developer spokesman is Domenic Piestrak. The subdivision ultimately is over 450 lots and is unique in that it will offer a variety of different housing and life styles. In the show they are anticipating for later this summer, they will have quad apartment condo units, single family homes priced in the \$350,000. - \$400,000. range, single family homes priced in the \$600,000. - \$700,000 range and patio homes under condominium status priced between \$400,000 and \$600,000.

The developer has indicated that the site will accommodate parking where they anticipate having their entrance gate. The dates they are running the show will be a preview opening on August 2nd, opening to the public on August 4th ending on August 19th. In the past the show has contributed a portion of their proceeds to Camp Good Days however the committee has not made that designation yet. Although people will not have to be shuttled to the site, they will be shuttled through the show to the different areas where the different housing styles are located. During the show hours, they would like to close down the streets that may be used as a cut through instead of coming out through Hidden Pond or Boxwood. Mr. Mclvor will meet with the fire department and the highway department to make sure that they agree with what is being planned. There are several streets that run from the older area of Hidden Pond that the trolleys will be using to get to several of the home show houses because the streets do not all interconnect within the subdivision yet. Security is hired to maintain the gates. The Builders Association has been assured that out of the twelve houses in the show, ten of them will be ready, possibly eleven. The Builders Association on behalf of the home show takes out a special liability policy to cover any unforeseen catastrophe. Town Attorney Bengart asked that if the Builders Association does find a need to use the town hall parking lot, they list the Town of Clarence as additional insured on the liability policy. The area behind the quads will provide ample parking. The cost to shuttle people through the event could cost several thousand dollars per day so the Builders Association is looking at all their options and is in the process of looking for sponsors. Joseph Mclvor stated that he is looking into renting tents so that people have shade to stand under incase of extreme weather. There will also be park benches and concession areas throughout. For the most part, they do not envision people walking from one house to another.

American Legion

James Schultz, Jacque Georger and John Mosher from the American Legion had three issues to discuss with the Town Board. The American Legion Post had a plaque on it indicating that the American Legion donated the building to the Town. During renovation, the plaque was removed and never put backup. The Post would like the plaque installed on a stone in front of the building. Supervisor Hartzell spoke with Parks Crew Chief James Burkard and as soon as he gets the plaque, it will be put up.

The contract between the American Legion and the Town was for 25 years which runs out in 7 years. There are enough young guys who will still be active and able to use the post. If they have to pay a fee to use the building, it will cause a hardship for them. Mr. Schultz prepared a proposed contract between the American Legion and the Town requesting an extension to the lease allowing the Legion free use of the building three times a month and certain holidays. Town Attorney Meckler will review the proposed contract.

James Schultz stated that in December they do not use the American Legion Post but instead hold their annual Christmas party in the Clubhouse and would like the town to waive the \$50 user fee. Councilman Casilio and Councilman Kolber offered to pay the user fee for the Post.

John Mosher stated that he heard a rumor that all the pictures and plaques were going to be removed from the American Legion building. Jacques Georger stated that some of the pictures and plaques were going to be loaned to the Historical Museum on a temporary basis. The American Legion Post does not want their plaques or pictures taken down or removed.

Floss Insurance Agency – Joseph Floss

Joseph Floss is the insurance agent for the Town of Clarence. At the request of the Town Board, he prepared and distributed a summary of the towns insurance and what is covered. Included in the summary is Mr. Floss cell number and his office numbers should anyone have to contact him at any time.

Floss Agency has been bidding on the towns insurance since 1968. They have survived multiple bids since 1996. Being the insurance agent for a municipality Mr. Floss is well aware of the fact that he has to continue to earn the towns business. Floss Agency continuously evaluates the market for the best coverage and cost available to the Town.

The Town has received one-hundred percent of the initial capital contribution to be a member/subscriber of NYMIR.

Property limits are up; the house at Beaman Creek has recently been added. All the vacant land the town wants to buy will not increase the premium until there is a structure on it. There is a deductible on the liability insurance; it is not a “per claim” deductible but a combined bodily injury/property damage per occurrence deductible.

There is full replacement cost on the Clubhouse. The Animal Shelter has recently been increased by \$100,000 for a total of \$142,000. Newly acquired buildings or newly constructed buildings are automatically covered up to one million dollars in coverage for 180 days from the start of construction or the purchase date.

Councilman Kolber questioned whether an inventory has been done on all town properties to make sure we are adequately insured. NYMIR will hire a firm to come out and do an appraisal on any building on the schedule listed at \$100,000 or above free of charge. The only risk is they may say you need more coverage or there may be instances where a building may be over-insured.

Town Attorney Meckler asked how many property claims are filed each year. Mr. Floss stated that there are not many property claims filed, mainly General Liability and Workers Compensation. Mr. Meckler suggested possibly changing the deductible to save some money. Mr. Floss stated that he will look at the options.

Public officials are insured individually, the coverage extends beyond elected officials to the Boards they appoint.

Councilman Casilio brought up a “hidden expense” regarding the Green Print Program that he would hope the Board is all aware of. The cost of the WNY Land Conservancy and the insurance on some of the empty buildings which is an expense to the town. Town Attorney Bengart stated that some of the costs could be covered under the program. Councilman Casilio stated that it would be nice to know what all the expenses are. Mr. Floss stated that the Town pays \$23,000 for twenty-six million in coverage. Most of the property the town has purchased under the green print program is vacant property. Very few have buildings on them the most the town would pay for insurance on these properties is approximately \$1,000.

Councilman Kolber stated that his concern is catching anything that comes in so there are no voids in coverage. Mr. Floss stated that his agency is pro-active as they can be but there is a chance where something may not be caught which is why he encouraged the Town Board to read his proposal highlighting the towns' insurance coverage.

If outside contractors are hired to work for the town, it is extremely important that the town obtains a written agreement whereby the contractor holds the town harmless for the operations he is performing on the towns' behalf. A Certificate of Insurance must be secured from the contractor showing evidence of the coverage required.

The Town of Amherst suffered a significant loss due to a fall from a ladder which is why Mr. Floss reminds paralegal Cindi Rosel about collecting insurance certificates and getting contractual "hold harmless" agreements signed by any vendor that will be doing work on any town roofs because in NYS there is a provision in the Labor Law §240 and §241 that provides absolute liability to any commercial building owner that includes schools and towns.

The Town is covered for Public Officials Liability, Employment Practices Liability, Land-Use Liability, and Municipal Law Enforcement Liability.

The Town should be collecting "Hold Harmless" Agreements for each hall rental. Mr. Floss has samples of agreements to be used and also has provided samples to the town. NYMIR prefers the town obtain these agreements when any town building is rented out. Mr. Floss is willing to review certificates the town receives. Councilman Kolber asked if the Town should be looking at every Legion Hall and Pavilion rental. Mr. Floss stated that it is a one page "hold harmless" agreement; he has a very simplified form. If an applicant using a town facility is serving alcohol the town should be requiring proof of homeowners insurance. If they are selling alcohol on town property the town should require Liquor Legal Liability.

There is \$1,140,000 coverage for fine arts which covers the Rohlf's clock and two paintings; the policy carries a \$250 deductible. Town Attorney Meckler suggested increasing the deductible. Mr. Floss stated that he will review all the deductibles and provide a spread sheet of options.

Inland Marine Coverage protects against loss for specific types of equipment including the trucks with different type boxes on them. The policy carries a \$1,000 deductible.

For an additional \$1,700 the town can increase Crime Shield coverage.

Workers Compensation is with PERMA and currently renews August 1st. NYS Workers Compensation Ratings Board is looking for an increase in the lost cost modifiers of approximately 11%.

NYMIR just like the State Insurance Fund requires a 30-day notice if the town is going to leave them. Even though it is not a public bid year, Mr. Floss has the town out to market and to keep PERMA aware of the fact that the town has choices. Mr. Floss suggested the Supervisor sign a Reservation of Rights letter. Mr. Floss will forward the letter to Pam Smith. If he cannot find a viable market to compete with PERMA, it tells the underwriter that the town is serious about looking elsewhere. A Reservation of Rights letter is required 30 days prior to renewal. It states that the town reserves the right to leave PERMA on August 1st; PERMA has to receive the letter by July 1st. PERMA has been good, the town has been with multiple companies over the years since 1996 and PERMA and NYMIR have done a very good job. Several years ago the Town decided to go with a \$50,000 deductible which greatly reduced the cost for Workers Compensation. Mr. Floss has asked PERMA for an analysis on how that has been working and for a quote with and without the deductible.

The Town does offer voluntarily Disability Benefits, there is a correlation of when the Town started doing this and the reduction in potentially frivolous Workers Compensation claims.

A review of the premium summary indicates that premiums are significantly lower than they had been in 1996 despite the fact that the premium base has been increasing which is the budget for liability purposes, population for VFBL purposes, and town building values are constantly going up. This does not include Workers Compensation or NYS Disability. While liabilities are growing, the premiums have come down; this could change because the market is changing.

Since 2005, \$2.5 million dollars has been paid out between PERMA and NYMIR – a large portion of that was for one claim.

Michael Powers – Green Print Program

In 1998 former Supervisor Daniel Herberger approached the Clarence Recreation Advisory Committee and requested they find some additional baseball fields - from that came Memorial Park. The Recreation Advisory Committee felt a park was needed in the north end of Town as well. The committee started realizing that the Town of Clarence was in grave danger of becoming Amherst or something worse because they essentially had no plan, no Smart Growth initiatives, nothing was being done to protect the quality of life in the town or to protect against sprawl. The Recreation Advisory Committee on its own canvassed the entire state to find out what other communities were doing to address these problems. What they saw varied from nothing to valiant attempts with questionable success. The Recreation Committee went to the former Supervisor indicating they wanted to start a Green Print Program however they did not get very far.

The project was revived with former Supervisor Kathleen Hallock. The Clarence Recreation Advisory Committee put together a very well considered, well thought out idea for how the committee could add preservation and green space to what the town hopefully was going to be doing in the future to develop some smart growth policies both to save the town money and to protect the quality of life. The Recreation Committee recommended to the Board and they agreed that it should be put to referendum because they were spending a lot of money on a very innovative idea. Mr. Powers stated that he is not aware of any place in NY State that has a program like the Town of Clarence.

In 2002, the Green Print Program was approved in a public referendum by 2/3 vote of Town residents. Bond funds of \$12.5 million were secured as part of a 10 year Green Print Preservation program. If after ten years the budget is not expended, the Town Board has the option to extend. There is a provision in General Municipal Law that addresses specifically this type of project where every dollar of that money that is allocated pursuant to the referendum with respect to that General Municipal Law has to remain green space. No one has any authority now or in the future to change this.

Mr. Powers stated that at the time, they identified all parcels of land having 25 acres but then they looked at what all the other towns did and how they allocated these projects. Originally a letter went out to all property owners having 25 acres or more, the last group of letters went out to property owners having 10 acres or more. The Committee was surprised with the response received.

The RAC thought they should borrow higher rather than lower because they were not obligated to borrow and at the expiration of the ten year term they did not want to have to do a new referendum and repeat the entire process. It would be much easier to just extend the term. To date, \$6 million dollars has been spent on the Green Print Project. If the entire \$12.5 million bond was spent the first day, the Committee estimated an increase of \$52 in additional annual taxes for a property assessed at \$100,000. The anticipated benefits include increased property values, reduction of municipal expenses through decreased demand on services, balanced economic growth, tax stabilization, green space preservation and enhanced quality of life. The costs have been far less and the benefits far more.

It is an extensive process which begins by reaching out to willing property owners; have them complete a participation interest survey. The RAC in conjunction with the WNY Land Conservancy analyzes property data, screens interest of the applicant, assesses development potential, natural land, wetland, agricultural, open space, possible recreational use/bike paths, size and scenic consideration of the property. The committee decides whether the property fits within the goals and parameters of the

program and is suitable for further consideration. The Town Office of Planning and Zoning and Land Conservancy provide parcel data and an environmental review for the consideration of the Committee.

The Land Conservancy evaluates and ranks each property with a point matrix analysis form arranged in two categories.

- Natural Land Form – analyzes natural land features: wetland and riparian corridors, scenic views, unique ecological communities, wildlife habitat, mature forests, open space and creek corridors
- Agricultural Land Form – analyzes agricultural land: value to the local agricultural economy, soil type, size and proximity to adjacent farms

Based upon all data received and land rankings, the Committee decides whether to request a fair market property appraisal. The Committee then reviews the property appraisal and discusses with the property owner whether to purchase outright and/or to place a conservation easement on the property or purchase development rights. The Committee provides the Town Attorney's Office with a *not to exceed* value and authorizes negotiations. The negotiated price may not exceed appraised value.

Supervisor Hartzell asked if any parcels were purchased above the assessed value. Mr. Powers stated that it has happened. Often times you get a property that is appraised at \$200,000. but is only assessed for \$100,000. Sometimes assessments do not keep up with appraisals, which is why the RAC goes by appraised values. In the beginning, there were wider fluctuations in assessments than what they see today. They pay what the property is worth and no more. Assistant Planner Brad Packard stated that typically there is a five – seven year lag in catching up to full market value because you cannot reassess the entire community every year. They look at specific market sales per district basis and try to get an honest assessment based on those market sales; you cannot equate that for every single property. There is typically a 10% - 15% differential between assessed value and full market value. Mr. Powers stated that the committee has had remarkable success with the parcels they have targeted and their efforts to acquire them. Mr. Powers stated that the RAC does not always buy the property because they can purchase the Development Rights and put a Conservation Easement on the property instead. This way the property stays on the tax rolls. The WNY Land Conservancy monitors it to make sure the land owner does not start building on the property; the town pays less for these parcels. The goals of keeping the open space/green space intact are still accomplished. The RAC has looked at some of the properties they have purchased and possibly selling them with Conservation Easements on them to protect them. Not only does this generate a return of the purchase price but it generates some additional taxes.

After agreement with the property owner, the Committee recommends acceptance by the Town Board. The Board decides whether to conduct a public hearing to receive public comment. The Town Board makes the final decision whether to contract with the property owner. If the Town Board decides to purchase, the property or development rights are acquired and the land is preserved as forever green.

The view of the RAC was that if the Town of Clarence did not have a Green Print Program in place as part of the Master Plan the town would be "choked with congestion, noise and traffic." There would be enormous tax burdens because of sprawl along with a lot of problems other communities are experiencing.

Because the RAC has only spent \$6.8 million of the bond, the tax impact is \$14.10 per \$100,000 of assessed value. Cost reduction can be achieved by reselling purchased property with conservation easements in place ensuring continued protection of green space.

The availability of open space/green space directly affects our quality of life which is a significant factor in the purchasing decisions of many consumers. Local sales data reflects an average 15% increase in property sale value of those properties directly adjacent to open space or permanently conserved property compared to similar non-adjacent housing.

The average appreciation rate of existing property within the Town of Clarence is five times that of comparable towns in the region. Furthermore, the Town has sustained an average 3% positive appreciation rate for the past decade. When comparing the Town of Clarence to similar communities across the region, residents in other communities are paying an average of 30% more in total property taxes. They are getting less but are paying more. When you have unlimited development, you create sprawl.

Since 2011, the Town of Clarence has a 2.32% increase in existing property assessed valuations. This increase resulted in an additional \$78,499,025. in assessed valuation within the community. Assuming only 10% of the overall assessed valuation increase on existing properties can be attributed to open space preservation; the program is responsible for \$1,712,700. in additional tax revenue for the community over a 20 year period.

If the Board exercised the option to resell properties protected by conservation easements, the Town would recoup approximately \$1,250,000. while still ensuring the land is permanently protected as open space. Additional tax revenue from resold land over years - \$226,280. The total potential Green Print Program cost reduction that could be realized through resale of protected properties and additional tax revenues would total \$3,188,980. Applying this cost reduction to the actual current expenditure of \$6,802,328. would yield an actual cost to the taxpayers of only \$6.60 per \$100,000 of assessed valuation annually.

Since 1980 developed area in WNY increased by 38%, households increased by only 5.5% and population declined by 5.8%. This suburban sprawl has caused a dramatic increase in demand for expensive municipal services while the tax base required to pay for the increased demand has decreased. The Green Print Program is a significant toll in the battle against suburban sprawl by preserving open space, creating balanced growth patterns, reducing the demand for and costs of services and preserving the tax base by protecting property values.

The Green Print Program supports a balanced growth pattern that impedes residential sprawl, reduces traffic and human congestion, noise, exhaust emissions and protects aesthetic and scenic vistas. Lands protected thus far include working farms, forests, stream corridors, meadows, State and Federal wetlands, vernal pools, areas containing endangered flora and fauna and other areas that provide habitat for fish and wildlife and act as filters to cleanse water, decrease flooding and provide recreation and wildlife viewing opportunities for the general public.

Open Space preservation and balanced residential development were identified as primary concerns of local residents during the Master Plan visioning and drafting process. To accommodate the concerns of the public, the following considerations were made through the adoption of Master Plan 2015 in August Of 2001:

- Development of an Open Space Preservation Plan, prioritizing parcels based upon their size, natural features, developmental pressure, current and potential utilization etc.
- Consideration of creating a committee to analyze the cost and viability of a development rights acquisition program
- Development of updated zoning laws and districts that take into account agricultural district consideration and uses
- Development of subdivision laws that require Open Space and Recreational components through density regulations

Mr. Powers stated that we are coming to the end of our ten year Green Print Program and he is requesting the program be extended. He has explained all the reasons why it makes sense to do this. The program has been extraordinarily successful. Extending the program does not cost the taxpayers unless the town approves the purchase of a property. The Recreation Advisory Committee is requesting

the program be extended another ten years and give them the opportunity to use the remaining money that is in this fund under the same program with the same controls, policies and procedures.

Supervisor Hartzell suggested putting this out for referendum and let the tax payers decide if they want to continue with the program. Mr. Powers stated that could be done but given the fact that the tax payers have decided that \$12.5 million is the number, the RAC thought it was more appropriate to do what the tax payers told them to do in the first place, to spend the \$12.5 million and then if that money gets spent go to referendum to request new money. The tax payers said the RAC could spend \$12.5 million in ten years when they only spent \$6.5 million. Mr. Powers felt it would be redundant to go back and ask the tax payers to spend the remaining \$6 million over the next ten years.

Councilman Kolber stated that this is one of the best programs the town has ever done in that we are retaining the quality of life for the future. It shows tremendous restraint that the RAC did not go out and spend the entire \$12.5 million.

Motion by Councilman Casilio, seconded by Councilman Geiger to set a Public Hearing for July 27, 2012 at 7:45 PM to consider extending the Green Print Program for an additional ten years. On the question, Councilman Kolber asked if a public hearing was necessary. Town Attorney Bengart stated that it was the recommendation of the Recreation Advisory Committee. Michael Powers suggested the RAC be available at the public hearing to explain what they have been doing for the past ten years. Supervisor Hartzell stated that when the Town of Clarence spends this amount of money it should go to referendum and everyone should get a vote not just the people that can show up at town hall, there are a lot of people that would like to have a vote one way or the other and he feels this should go to referendum. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio, Councilman Kolber; Noes: Supervisor Hartzell. Motion carried.

Councilman Patrick Casilio

Councilman Casilio has previously talked about the town's Sign Law especially illegal signs in the right of ways. Over the weekend he witnessed an Amherst Police Officer removing signs in the right of way and that is where he would like to see the Town of Clarence law cleaned up. The Town of Amherst has police officers and code enforcement picking up illegal signs and the Town of Clarence has town security to police our right of ways. The one problem is that picking up all these signs is causing damage to the back of the vehicles. Councilman Casilio hopes that in the near future the Town of Clarence can set a public hearing to review our Right of Way Sign Law particularly before the upcoming political season.

Town Engineer Lavocat has been progressively going after revitalizing the request from the State of NY concerning sidewalks on Main Street. There are possible grant possibilities to help fund the project.

Motion by Councilman Casilio, seconded by Councilman Kolber to award the clearing phase of the Town of Clarence ditching project at 8905 Lapp Road to Milherst Construction, Inc. of Clarence, NY for an amount not to exceed \$6,700. per their proposal dated June 5, 2012. On the question, Milherst Construction Inc. was the lowest responsive proposal received. The project is to be funded by the Town wide Drainage District. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber the Town of Clarence agrees to pay the Annual Fire Hydrant Maintenance Fee to the Erie County Water Authority for four (4) fire hydrants within Spaulding Green Subdivision, Phase V 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 Councilman Kolber to adopt the following resolution:

RESOLVED, that after holding an open competitive bid, the Town Board, awards the bid for the Clarence Parks Office Building HVAC Project to Northeast Mechanical Inc. of Depew, New York, for an amount not to exceed \$27,999. to be funded from Capital Project 27; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into a contract with Northeast Mechanical, Inc. subject to the review and approval of the Town Attorney's office. On the question, Northeast Mechanical Inc. was the lowest responsive bidder. 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 holding an open competitive bid, the Clarence Town Board awards the bid for the Clarence Parks Office Building Insulation Project to Algaier Construction Corp. of Clarence, New York in an amount not to exceed \$25,000. to be funded from Capital Project 27; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into a contract with Algaier Construction Corporation subject to review and approval of the Town Attorney's office. On the question, Algaier Construction Corporation was the lowest responsive bidder. 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 holding an open competitive bid, the Clarence Town Board awards the bid for the Clarence Parks Office Building Roof Project to Parco Building Systems Inc. of Newfane, New York, for an amount not to exceed \$65,030. to be funded from Capital Project 27; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into a contract with Parco Building Systems, Inc. subject to the review and approval of the Town Attorney's office. On the question, Parco Building Systems Inc. was the lowest responsive bidder including all three alternate bid items. Upon roll call – Ayes: All; Noes: None. Motion carried.

Town Engineer Lavocat stated that there were issues with the first bids and these projects were rebid a second time. The three bids combined saved the Town well over \$10,000 over the previous bid package so it was worth it to rebid the project.

Councilman Peter DiCostanzo

Councilman DiCostanzo spoke to Parks Crew Chief James Burkard relative to boarding up the house at Beeman Creek Park. The Parks Department is currently busy paving the Main Street Park parking lot and opening the pool for the summer so it may be another week before he can get to it. Town Engineer Lavocat stated that he received a price of \$600 - \$800 from an emergency enclosure company. Supervisor Hartzell stated that he spoke with Mr. Burkard and he was going to go out to the site to see how much material he needed. Unless he can come in under that price we should go ahead and have Emergency Enclosures do the work. Councilman Kolber stated that it will cost more in employee travel time. Mr. Lavocat will speak with Mr. Burkard about having Emergency Enclosures do the work.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to appoint Chelsea Reinhardt as a Recreation Attendant-PT Seasonal at the rate of \$8.11 per hour as of June 9, 2012 subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call - Ayes: All; Noes: None. Motion carried.

The town pool is tentatively scheduled to open June 17th.

Councilman Robert Geiger

Councilman Geiger questioned whether any work has been done at Beeman Creek Park relative to identifying trails. He has acquired some old maps of the park which he will forward to Parks Crew Chief James Burkard.

The Senior Center is hosting a Flea Market and Baked Good Sale on Saturday, June 9th.

Supervisor Hartzell stated that he has received some complaints about running late with the Wednesday night Work Sessions. He would like to adjourn the meeting at 7:20PM which will allow the Town Board meeting to begin promptly at 7:30PM. Councilman DiCostanzo stated that if there is an Executive Session item, that session can be adjourned at 7:25 and can be reconvened after the Town Board meeting.

Councilman Casilio has been working with Erie County relative to Shimerville and Greiner Road intersection. Paving should be done by the weekend.

Town Attorney Lawrence Meckler

In February of this year, the Town Board approved installing a spill-way at the Royal Oak Subdivision. The Board knew after they approved the installation a legal action would be filed to prevent the town from moving forward. Mr. Meckler received a decision from the Judge in favor of the town in all respects. Based on this decision, Town Engineer Lavocat will have the contractor install the spill-way. Deputy Town Attorney Bengart stated that the town can move forward at their own peril, there is a chance this could be over-turned. The applicant has thirty days to file an appeal.

Town Attorney Meckler stated that even if they did file an appeal, it is a nine month process. He suggested the town move forward, put the spill-way in. Councilman Casilio was in agreement with moving forward because of the personal property damage that is being caused by the uncontrolled water levels. Town Engineer Lavocat will contact the contractor to begin the work.

Councilman Kolber has one Attorney-Client item to discuss with both Town Attorney Meckler and Deputy Town Attorney Bengart.

Town Engineer Timothy Lavocat

Town Engineer has reviewed the RFP for the Library with Town Attorney Meckler. If the Board is in agreement, Mr. Lavocat will send out the RFP to five firms today. According to the schedule, proposals will be in by the end of July. Once the proposals are received, they will be evaluated based on three components, the technical part, statement of qualifications and fee. The Town Board was in agreement and authorized Mr. Lavocat to go ahead and mail out the RFP for the Clarence Public Library.

Town Engineer Lavocat obtained a price for an asbestos survey relative to the house in Beeman Creek Park. The cost for the survey is approximately \$2,000. Mr. Lavocat can proceed with getting the asbestos survey if the Board wishes to move forward. Regardless of what is done with the structure, a survey will be required. Supervisor Hartzell suggested moth-balling the structure and contacting the grant writer to see if there are any grants available relative to asbestos surveys and removal.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Work Session at 11:30 A.M. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 11:30 A.M.

Darcy A. Snyder
Deputy Town Clerk

