

A Work Session of the Clarence Town Board was held on December 3, 2008 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 5:30 P.M. Members of the Town Board present were Council members Joseph Weiss, Bernard Kolber, Patrick Casilio and Peter DiCostanzo. Other town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Director of Administration and Finance Pam Smith and Planning Board Chairman Gerald Drinkard.

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

Motion by Supervisor Bylewski, seconded by Councilman Casilio to recess the Executive Session until the end of the Work Session. Upon roll call – Ayes: All; Noes: None. Motion carried.

The Work Session reconvened at 6:10PM.

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

##### ***Formal agenda:***

##### Brookfield Flying Club 8600 Roll Road

Applicant would like to continue the private club to allow for radio controlled airplanes to fly in area. The site is located on the north side of Roll Road, east of Harris Hill Road on former Gypsum landfill in an industrial classification. The flying club currently utilizes the closed landfill as a base for flying radio controlled airplanes. Complaints from adjoining land owner have necessitated the notice of violation for continuing a use without appropriate use permits. ***(Applicant submitted a request to be removed from the agenda).***

##### Master Plan 2015 amendments – Transit Road Corridor Segment B

Proposed amendments to Transit Road Corridor were developed by the Planning Board after comments received at the annual public hearing on Master Plan 2015. Town Board adopted recommendations as forwarded by the Planning Board for which a Negative Declaration under SEQRA was issued, except for Segment B, which was referred back to the Planning Board for review and comment due to the introduction of new information received at time of adoption of recommended changes.

Currently the frontage along Transit Road is Zoned Major Arterial to a depth of 500+/- feet and the rear portion is zoned Residential Single-Family. Proposed amendments as forwarded by the Planning Board would maintain the same depth of commercial zoning and downzone from Major Arterial to Commercial and maintain the rear as Residential Single Family.

Per Master Plan 2015, the Town Board has authority to adopt amendments to the plan per Chapter 11 as adopted.

The Planning Board has forwarded a recommendation that consideration of new information, not received at the annual public hearing on Master Plan 2015 would violate adopted process. The Planning Board has forwarded a recommendation to downzone Segment B from Major Arterial to Commercial and maintain the same depth of commercial zoning as currently exists and as previously recommended.

***Work Session items for consideration December 17, 2008:***

West-Herr Toyota 8129 Main Street

Applicant is requesting a building permit and architectural approval to renovate existing facilities. The proposed site is located on the south side of Main Street, east of Transit Road at existing automotive sales operation located in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve building permits in the Commercial Zone as to architectural style and functional plan. All setbacks and use permits are in order.

Steve Andres 10837 Main Street

Applicant is requesting approval to convert existing diner car (former Mazia's Pizza) to an office and possibly apartment.

Clarence Bi-centennial Committee

The Clarence Bi-Centennial Committee is requesting approval for a Fireworks Permit for December 31, 2008. All required paperwork has been submitted.

**Supervisor Scott Bylewski**

A copy of the 2009 Organizational Meeting minutes was distributed. Supervisor Bylewski asked that the Town Board review and comment. A meeting has been scheduled for December 12<sup>th</sup> and December 18<sup>th</sup> at 3PM to review and make any necessary adjustments to the minutes. Supervisor Bylewski asked that each Board member contact their liaison assignments to make sure each committee member has submitted their letter requesting reappointment/resignation.

Supervisor Bylewski will meet with Town Engineer Latona on Friday to discuss reconfiguration of the east end of Town Hall.

Supervisor Bylewski reminded all department heads of the Christmas luncheon scheduled for December 18<sup>th</sup>.

A public input meeting is scheduled for December 9<sup>th</sup> at 6:45 PM at the Clubhouse to discuss the Parks Mini Master Plan.

Supervisor Bylewski reminded the Board that the December 17<sup>th</sup> Work Session will begin at 5:30 PM.

Supervisor Bylewski will set a public hearing for January 21, 2009 at 7:45 PM to consider the purchase by the Town of Clarence of approximately 101+/- acres of vacant land located on Kelkenberg Road and Rapids Road.

Supervisor Bylewski has two items to discuss in Executive Session regarding the history of a particular person and the history of a particular corporation.

**Councilman Joseph Weiss**

Parks Crew Chief John Burns is requesting approval to post a Recreation Attendant position in the Parks Department at the budgeted rate of pay. This job position is not a new hire.

Highway Superintendent Ted Donner is recommending the bid of \$3.61 for removal of leaf compost be rejected due to non-performance and is requesting that the next highest bidder of \$3.01 per yard from F. Cimato Topsoil be accepted.

Highway Superintendent Ted Donner is requesting a transfer of funds from Equipment Rental Account to Gas and Oil Account.

Councilman Weiss will make a motion awarding the design and bidding assistance for Project #1- Sanitary Sewers on Ransom Road, Boyd Drive and Sawmill Road approximately 3,630 lineal feet of sanitary sewer to Donald Gallo consulting engineer in accordance with their proposal dated November 17, 2008

in the amount of \$73,700 to be paid from Clarence Sewer District #9 and grant funds.

Councilman Weiss will make a motion awarding the design and bidding assistance for Project #2 – Sanitary Sewers on Bickert, Boyd and Schurr Road approximately 3,110 lineal feet of sanitary sewer to Nussbaumer and Clark consulting engineer in accordance with their proposal dated November 17, 2008 in the amount of \$62,000 to be paid from Clarence Sewer District #9 and grant funds.

Town Engineer Latona is recommending the hiring of Mike Sabbotis as winter intern in the Engineering Department starting 12/8/08 at \$10. per hour.

#### **Councilman Bernard Kolber**

Councilman Kolber will report on correspondence he received from Time Warner regarding new interactive technology they are implementing within the local franchising area.

#### **Councilman Patrick Casilio**

Councilman Casilio has decided on the antenna height and design for the video cameras. He will check with Karen Jurek and Steve Flaminio regarding internet connections.

Councilman Casilio has received numerous requests for street lights around town. He received a request to have the town maintain some street lights in Rock Oaks however that is private property.

Councilman Casilio received a response back from the Traffic Safety Board regarding crossing guards at Transit Middle School. They gave him a contact person at the NYS DOT to consult with. Councilman Casilio is working on a letter to submit to the Williamsville School District.

Councilman Casilio has one Attorney-Client item to discuss.

#### **Councilman Peter DiCostanzo**

Councilman DiCostanzo will make a motion authorizing the Supervisor to sign the Annual Working Agreement for the Clarence Green print Program between the Western NY Land Conservancy and the Town of Clarence.

Councilman DiCostanzo will make a motion authorizing the Supervisor to file an application for funds from the NYS Office of Parks, Recreation and Historic Preservation in accordance with the provisions of the Recreational Trails Program in an amount not to exceed \$1,400,000 - the Town's portion would be 20%. Town Engineer Latona stated that the trail would go through Waterford, down Roll Road east to Thompson Road, south down Thompson Road across the Town's property.

The Historic Preservation Commission has received a request from the Clarence Historical Society requesting historic designation for the Log Cabin, Historical Museum, Town Park Clubhouse and the Gerber Library. The Town owns these buildings so the Town will have to request historic status.

There was discussion regarding the paintings. If the Town is going to keep them, the Historical Society would like to explore preserving them and displaying them.

Councilman DiCostanzo thanked Assistant Planner Brad Packard for putting pictures of all historic designated houses on the town's web site.

Councilman DiCostanzo has one item to discuss in Executive Session regarding the employment history of an individual.

**Town Engineer Joseph Latona**

The WNY Storm Water Coalition is asking their members of which the Town of Clarence is a participant to endorse a resolution for the coalition to apply for a grant to conduct inspections of our outfalls of which we have 59 of them. They want to use college students to do this and they also want to use illicit charge track down. Town Engineer Latona is recommending that the Town not participate. We do our own inspections we also have a mechanism via town ordinance to enforce illicit discharges. In addition to this, the County is leaning toward Storm Water Utility Districts that they would administer. Town Engineer Latona is opposed to both districts. The Town of Clarence has its own Storm Water District and we do our own inspections. The town would not gain anything with this consolidation. Town Engineer Latona will draft a letter to be signed by the Supervisor indicating that the town is not interested in participating.

At the November 19<sup>th</sup> Town Board meeting, Eliot Lasky requested Development Plan Approval for a 19-lot subdivision off Gentwood Drive in Roxberry Subdivision. Several residents got up and spoke. Jim Morabito had several concerns regarding the sewer lines. Town Engineer Latona stated that the sewer lines are in Erie County SD #5 however, he will inspect the lines to see if there are any problems.

Supervisor Bylewski informed the Town Board about an anonymous flyer that was circulated indicating a developer for Wegman's wants to change the Town's Master Plan to accommodate a megastore on Transit Road east of Transit Middle School. Supervisor Bylewski has received a couple e-mails both in support and against this proposal.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to resume the Executive Session at 7:45 PM to discuss the employment history of a particular person, the employment of a corporation and several Attorney-Client issues. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 7:45 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:30 PM. 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 Wednesday, December 3, 2008 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:36 P.M. Pledge to the flag was led by Councilman Joseph Weiss, followed by a prayer given by Pastor Steve Biegner of Zion Lutheran Church.

Members of the Town Board present were Councilmembers Joseph Weiss, Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Supervisor Bylewski. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Planner Brad Packard, Assessor Christine Fusco, Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

Motion by Councilman Weiss, seconded by Councilman Kolber to accept the minutes of the previous meeting held November 5, 2008 as received. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Weiss to accept the minutes of the previous meeting held November 19, 2008 as received. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that item 12, Brookfield Flying Club, has been removed from the agenda at the request of the applicant.

Supervisor Bylewski said we are preparing for reorganization for next year and there are a number of people who have terms expiring. If people are interested in being reappointed, they should notify their liaison or the Supervisor's office of their intent. There are also a number of vacancies for anyone interested.

Supervisor Bylewski announced that there is a Mini Master Plan meeting set for Tuesday, December 9<sup>th</sup> at 6:45 p.m. in the Town Park Clubhouse to discuss parks throughout the Town.

Supervisor Bylewski announced that the Town Board Work Session will begin at 5:30 p.m. on December 17<sup>th</sup>.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to approve the transfer of \$1,789 from A1420.471 Legal and Professional Fees to A1355.472 Legal Challenges. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a public hearing for January 21, 2009 at 7:45 p.m. to consider the purchase by the Town of Clarence of approximately 101+/- acres of vacant land located on Kelkenberg Road more particularly described as SBL No. 19.00-3-3 and on Rapids Road more particularly described as SBL No. 19.00-3-4 in the Town of Clarence, Erie County, NY, at a purchase price not to exceed \$95,000.60 plus any closing costs, processing costs, baseline studies and any and all costs and disbursements for open space purposes. Funds to be allocated from the open space bond resolution, general fund and recreation fees (if it is determined that any portion of this property will be used for recreation purposes). Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to post the position of Recreation Attendant in the Parks Department at the budgeted rate of pay. This position is not a new hire. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Supervisor Bylewski to reject the bid from Kolberco Holdings for removal of the leaf compost due to non-performance; and award the bid to the next highest bidder, F. Cimato Topsoil at his bid of \$3.01 per cubic yard. On the question, Councilman Kolber said he would recuse as this is a relative of his. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Kolber. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following transfer of funds in the Highway Department budget: \$10,000 from A5142.433 and A5110.433 Equipment Rental to A5100.416 Gas and Oil. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to award the design and bidding assistance for Project No. 2, Sanitary Sewers on Bickert, Boyd and Schurr Roads for approximately 3,110 lineal feet of sanitary sewer to Nussbaumer and Clark, Consulting Engineer in accordance with their proposal dated November 17, 2008 in the amount of \$62,000 to be paid from Clarence Sewer District No. 9 and grant funds. On the question, Councilman Weiss said this was brought up a few weeks ago and has gone through a lot of scrutiny and has been determined that it is a fair and reasonable bid. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to award the design and bidding assistance for Project No. 1, Sanitary Sewers on Ransom Road, Boyd Drive and Sawmill Road for approximately 3,630 lineal feet of sanitary sewer to Donald Gallo, Consulting Engineer in accordance with their proposal dated November 17, 2008 in the amount of \$73,700 to be paid from Clarence Sewer District No. 9 and grant funds. On the question, Councilman Weiss said this also went through scrutiny and has been determined that it is a fair and reasonable bid. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to hire Mike Sabbotis as Winter Intern in the Engineering Department starting 12/08/08 at \$10 per hour. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said the Clarence Youth Bureau and Chamber of Commerce are pleased to announce the 4<sup>th</sup> Annual Winterfest to be held February 8, 2008 from Noon to 5:00 p.m. Further details will be announced at a later date.

Councilman Weiss said he has donated a deer head, a bear rug and a moose rug for the nature center lodge.

Councilman Kolber said we received a communication from Time Warner announcing the implementation of Switched Digital Video (SDV). SDV makes it possible to offer many additional services including new HD channels and HD versions of existing channels. A copy of the letter will be available in the Town Clerk's office for anyone interested.

Councilman Kolber thanked everyone for their condolences on the recent passing of his Mom. He and his family appreciated it.

Councilman Casilio said he is reviewing requests for street lights. They are also moving forward with the two entrance gas light replacements in Willow Brook.

Councilman Casilio said the Public Safety Committee was unable to get a recommendation from the DOT for crossing guards at the school on Transit Road. He will contact them and also work on a commitment from the school district.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to authorize Supervisor Scott A. Bylewski to sign the Annual Working Agreement for the Clarence Greenprint Program between the Western New York Land Conservancy and the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that Scott A. Bylewski, as Supervisor of the Town of Clarence, New York, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of the Recreational Trails Program, in an amount not to exceed \$1,400,000 and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the Town of Clarence, New York for the SAFETEA-LU Recreational Trails Program and, if appropriate, a conservation easement to the deed of the assisted property.

On the question, Supervisor Bylewski said this is for a grant application and the Town's portion is roughly 20%. It is an extensive project to continue our bike trail system.

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

Councilman DiCostanzo said there was a recent article in the paper regarding the Orchard Park Trail Task Force looking into rails to trails opportunities in the southtowns. They referred to the peanut line trail in Clarence as a great example of the rails to trails projects. We do have nice trails and people should use them.

Councilman DiCostanzo said as a reminder, three public hearings will be held on December 17, 2008 to consider three more properties for historic designation.

Councilman DiCostanzo said at the end of every meeting Councilman Weiss states that after careful audit and review of the bills to be paid for that week. He would like to commend Karen Jurek, the supervisor's secretary for going over the bills and recently using a 15% coupon for items from Office Depot. There are people here treating the expenditures as if they were their own.

Supervisor Bylewski thanked all of the department heads in attendance for coming, as well as Darlene Feinen, Executive Director of the Chamber of Commerce.

### Public Participation

Greg and Carolyn Ribbeck spoke regarding item 12. They presented a copy of a letter to the Town Board. (Dated May 16, 2005 from Steven Doleski, DEC) They have been flying (radio-controlled) planes on the old National Gypsum land fill on Roll Road. The owner of the property cut the cap of the landfill by putting in roadways and blocked the drainage. Nothing has been done about it. The landfill has been leaching into Gott Creek for years. The DEC is supposed to do some testing.

Supervisor Bylewski said his comments have been noted. He asked Mr. Callahan and Mr. Latona to follow up with the DEC to make sure that they are taking the proper course of action.

Mr. Ribbeck said that is only part of it. They are flying these planes over his land.

Khalid Mahran said they strongly object to the amendment to Master Plan 2015. The proposed project is anti-environment and will negatively impact the area.

Enas Eldesouki said she and her neighbor also strongly object. It would no longer be safe for children playing in their backyards with these big stores behind them. It will destroy the beautiful nature of the area.

Supervisor Bylewski said the item on the agenda is for an amendment to the Master Plan for the Transit Road Corridor Segment B. There has been misinformation circulated about what is going on tonight. There has been some discussion about possible projects coming forward, but right now the item on the agenda is for consideration of the Master Plan.

Joe Kleinmann said based on what was just said, he objects to any change in the Master Plan. It should be taken care of at the annual review in February. As far as future development on that property, he will forward a letter to the Board regarding his concerns about that.

A Public Hearing was held to consider adopting a local law to exempt residential real property improvements that serve to facilitate the use and accessibility of such property by physically disabled residents. Supervisor Bylewski said the Town Assessor is here. The local law would exempt improvements going forward and not include improvements made prior to enactment of the local law.

With no one speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. On the question, Supervisor Bylewski said this was brought to our attention by a parent of a handicapped child. He felt it was a good item to move forward. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, New York State Real Property Tax Law section 459 allows a town to adopt a local law that provides a partial exemption from general municipal taxes to residential real property including improvements that serve to facilitate the use and accessibility of such property by physically disabled residents to the extent of any increase in value attributable to such improvements, but is liable for special ad valorem levies and special assessments.

WHEREAS, the Clarence Town Board held a public hearing on Wednesday, December 3, 2008 to consider adopting a local law to allow for the partial exemption for Real Property of persons who are physically disabled pursuant to the provisions of New York State Real Property Law section 459.

NOW THEREFORE, BE IT

RESOLVED, that the Clarence Town Board, after a public hearing duly held on December 3, 2008, after all interested parties being heard, adopts Local Law 4 of the year 2008, amending Chapter 199 – Taxation; adding Article II-B – Physically Disabled Persons that would allow for a partial exemption from general municipal taxes to residential real property including improvements that serve to facilitate the use and accessibility of such property by physically disabled residents to the extent of any increase in value attributable to such improvements, but is liable for special ad valorem levies and special assessments; and be it further

RESOLVED, that this local law shall apply to those improvements constructed after the effective date of this local law; and be it further.

RESOLVED, this local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

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

Supervisor Bylewski said item 12 for Brookfield Flying Club was removed at the request of the applicant.

Master Plan 2015 – to consider an Amendment to Transit Road Corridor Segment B – Roll Road to Highland Farms Drive. James Callahan said Master Plan 2015 identifies a specific process by which amendments to the Master Plan are to be made. It begins with the annual public hearing. At the public hearing held February 27, 2008, several recommendations to the land use map were presented related to properties along Transit Road. The Planning Board reviewed and analyzed the Transit Road Corridor and developed a proposal based upon information and input. A Negative Declaration was issued on the proposed changes and the Town Board adopted the proposed changes with the exception of Segment B. It was referred back to the Planning Board and their recommendation is that the procedures in Section 11 of Master Plan 2015 require that new information submitted outside the annual public hearing not be considered and the previous recommendation for Segment B should be adopted.

Supervisor Bylewski thanked the Planning Board for all of the work that has been done. The Town Board felt that the new information should go back to the Planning Board for further review. Given that additional comments came up afterward and that the Town Board was interested in the Planning Board exploring the options, it may be wise at this time to not act or table the discussion or act upon the original recommendation.

Councilman Weiss said he agrees with the Planning Board, but he would rather see a commercial application there than an additional number of houses.

Councilman Kolber said it is a very valuable piece of property. It is a question of what is the best use for the residents of the Town.

Councilman DiCostanzo said a single family development could butt right up to the existing houses also.

James Callahan said 500 ft. from the center line of Transit is commercial. The rear of the property is residential single family.

Supervisor Bylewski said there has been some talk, but no application has been submitted. The general area being discussed for a possible plaza or shopping market was to the south of Highland Farms Drive. The Master Plan would have to be amended first.

No action was taken.

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval for the following: Clubhouse Applications - A. Harris Hill Mothers' Club – Dec. 6, 2008; B. Clarence Soccer Club – Jan. 25, 2009; Legion Hall Applications - A. Clarence Public Library – Dec. 10, 2008; and B. Patricia Raquet – March 7, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of November 26, 2008 are approved for payment: General Fund - \$404,607.91; Highway Fund - \$173,793.58; Water District - \$2,080.26; Drainage District - \$71,996.00; Lighting Districts - \$1,145.61; Sewer Districts - \$511.38; and Trust & Agency 203 - \$4,828.50 for a total amount of \$658,963.25. On the question, Councilman DiCostanzo said \$400,000+ was for retirement obligation. It is expected to be much bigger next year. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:20 p.m. in honor and memory of Councilman Kolber's Mother who passed away on Thanksgiving Day.

Nancy C. Metzger  
Town Clerk