

A Work Session of the Clarence Town Board was held on January 21, 2009 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 6:00 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, and Senior Building Inspector David Metzger.

Director of Community Development – James Callahan

Public Hearings:

A public hearing is scheduled at 7:45 PM to consider the purchase of approximately 101+/- acres of vacant land located on Kelkenberg Road and on Rapids Road at a purchase price not to exceed \$95,000 plus any and all costs and disbursements for open space purposes. A recommendation has been forwarded by the Recreation Committee to pursue the acquisition.

Formal agenda items:

Clayt Ertel 8225 Tonawanda Creek Road

Applicant is seeking approval to split one residential building lot from the parent parcel. The existing farmland with farmstead consists of 109+/- acres in the Agriculture Flood Zone and is located within the density flood way. The proposed site is located on the south side of Tonawanda Creek Road, east of Transit Road. Per the Subdivision Law, the Town Board has authority to approve minor subdivisions. ***(Applicant informally requested this item be removed from the agenda).***

Mary Feeney 9155 Main Street

Applicant is seeking approval to open an automotive sales operation that must include a display area for three vehicles. The proposed site is located on the south side of Main Street, west of Sheridan/Thompson intersection. The existing commercial building is located on 1+/- acres in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve automotive sales operations via a Special Exception Use Permit or a Temporary Conditional Permit.

Greatbatch Inc. 10000 Wehrle Drive

Applicant is proposing to construct an addition and remodel existing space to match the overall architecture of the recently completed project. The proposed site is located on the north side of Wehrle Drive, west of Shisler Road in the Industrial Business Park Zone, all setbacks are met. Per the Zoning Law, the Town Board has authority to approve building permits in the Industrial Business Park Zone as to architectural style and functional plan.

Work Session items for consideration February 11, 2008:

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 proposed site is located on the north side of Roll Road, east of Harris Hill Road on former Gypsum landfill. Complaints from adjoining land owner have necessitated the notice of violation for continuing a use without appropriate use permits. Per the Zoning Law, the Town Board has the authority to approve uses in the Industrial Business Park Zone.

Jacob Chameli Tonawanda Creek Road

Applicant is proposing to split a 10+/- acre parcel with 150+ feet of road frontage to create a new residential building lot. The proposed site is located on the north side of Tonawanda Creek Road, west of Salt Road. There is an existing residential home and vacant land located on 23.72+/- acres in the Agriculture Flood Zone. The proposed new and remaining lots are in conformance with all land use regulations. Per the Subdivision Law, the Town Board has authority to approve minor subdivisions of land.

6045 Goodrich Road

Marta Carney is in the process of moving her restaurant Noveltea to the site where her bookstore, Crossroads Books was located and new applicant is requesting a Change in Use from restaurant to a stationery/print shop.

Mike Metzger Lapp Road

At the September 10th 2008 Town Board meeting, Metzger Engineering sought approval to split 4 residential building lots from a larger parcel on Lapp Road. The proposed site is located on the north side of Lapp Road, east of Transit Road on an existing vacant parcel of 26+/- acres and 1795'+/- of Lapp Road frontage in the Agriculture Flood Zone. The Town Board issued a Negative Declaration on the proposed Minor Subdivision creating four residential building lots in the Agricultural Floodway. At the time the Board approved the minor subdivision, Mr. Metzger stated that he had no plans for the remainder of the property. He is now seeking approval to split the remainder of that property. What he has proposed will technically violate the subdivision law requiring 5 acre minimums without access to public sewers.

Supervisor Scott Bylewski

Supervisor Bylewski has several corrections/changes to the minutes.

The first two Lean Six Sigma training classes begin January 22 – 23, 2009.

Supervisor Bylewski received notice from the Community Development Consortium indicating that the Town of Clarence was not successful with our grant application for the Legion Hall. An application will be submitted this coming year which may be more successful.

There has been some discussion regarding the Bicentennial Committee donating fund raising money to restore the Fery paintings however, they do not want to spend the money restoring the paintings if the Town plans on selling them. Doug Kohler is looking for assurances from the Town Board that the paintings will not be sold.

The Clubhouse will be celebrating its Centennial in 2011. Discussions are underway as to how to celebrate the 100 year anniversary.

Supervisor Bylewski will appoint Councilman Kolber as liaison to the fire companies.

Supervisor Bylewski has to prepare the RFQ regarding the consultant for the fire companies.

Some information from Swormville VFD was circulated at the last meeting reiterating their request to reduce the entitlement age from 62 to 55. Further discussion may take place at the February 4th morning Work Session.

Supervisor Bylewski copied the Town Board on a letter he received from John Kavanagh regarding the extension of a public water line for Kenfield Road.

The Town Board, Engineering and Highway Department received a letter regarding drainage issues on Boncrest Drive. Town Engineer Latona stated that he will look into this.

Because of flight scheduling, Supervisor Bylewski will make a motion appointing Town Engineer Latona as delegate and Councilman DiCostanzo as alternate for the Association of Towns annual meeting.

Supervisor Bylewski will make a motion amending the Towns LOSAP plan for all the fire companies and also adopt LOSAP Investment Policies and Procedures for the Town of Clarence.

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

Councilman Joseph Weiss

Councilman Weiss will make an appointment to the Conservation Advisory Board at the next Town Board meeting.

Upon recommendation of Parks Crew Chief John Burns, Councilman Weiss will make a motion to appoint Brian Matteson as Recreation Attendant effective January 24, 2009 at the budgeted rate of pay.

Councilman Weiss will report on the NEST meeting that he attended.
Councilman Weiss will report on the Deer Abatement Program.

Councilman Weiss has two items to discuss in Executive Session regarding the employment history of a particular person.

Councilman Bernard Kolber

John Sean O'Mahony has submitted his letter of resignation from the Library Board.

Hans Mobius has submitted his letter of resignation from the Zoning Board of Appeals.

Councilman Kolber received the 2008 Annual Fire Company Reports.

Councilman Patrick Casilio

Councilman Casilio obtained a cost for the poles for the video cameras. The cost is \$2,500. for 30' high galvanized steel poles. Clarence Rotary raised the money for this project.

The gas lights for Willow Brook have been ordered. National Fuel will be installing the lights when they come in.

Winterfest is scheduled for February 8, 2009 from 12pm – 5pm at Clarence Town Park on Main Street.

Councilman Peter DiCostanzo

Councilman DiCostanzo will appoint Michelle Orvis to the Youth Board.

Councilman DiCostanzo will announce the final 2008 building permit figures.

Councilman DiCostanzo commented on the letter the Town Board received from Clarence Fire District Fire Commissioner. Clarence Fire District will not be involved in the grant the town is trying to obtain however, the letter stated that "we as the Board of Fire Commissioners are open to partnering with the Town and other government entities and fire companies in the Clarence community and surrounding towns to look at efficiencies that may be available and beneficial to all". Councilman DiCostanzo stated that he was of the opinion that this is what the grant was all about and it appears that Clarence Fire District is open to working with the Town. Supervisor Bylewski stated that we will have to see how the consultant wants to structure it however; we need input from all sides to get the appropriate level of services.

Councilman DiCostanzo has several prospective applicants for the Audit Committee.

Councilman DiCostanzo has one item to discuss in Executive Session regarding the employment history of a particular person.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person(s). On the question, Town Attorney Bengart was asked to remain in the meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:31 PM

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:23 P.M. 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, January 21, 2009 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:30 P.M. Councilman Joseph Weiss led in the pledge to the flag, followed by a moment of silence in honor and memory of all the fallen servicemen and servicewoman who have served this country.

Members of the Town Board present were Councilmembers Peter DiCostanzo, Patrick Casilio, Bernard Kolber, Joseph Weiss 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 and Building Inspector David Metzger.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held January 7, 2009. On the question, Supervisor Bylewski had the following corrections and clarifications: page 1 – budget meeting will be on February 4th; page 5 – the Town Board also received the Town Clerk’s Annual Tax Collection Report; page 12 – Senior Center Board appointments, item 65 should expire in 2011; page 13 – item 69 Youth Board appointments should be three year terms to expire 2011. 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 February 15, 2009 as received. On the question, Councilman DiCostanzo said he will recuse because he was not at the meeting. Upon roll call – Ayes: Councilmembers Casilio, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman DiCostanzo. Motion carried.

Supervisor Bylewski said we received word from the project selection committee from the Community Development Block Grant Program. We were unsuccessful in our application for funding, but were encouraged to submit for next year.

Supervisor Bylewski said it is our policy to report on any action taken during special meetings. Two motions were made; one that effective January 1, 2009 a change to the civil service status of Robin Sendlbeck as Payroll Clerk RPT to Clerk PT at a rate of \$14.23 per hour; and a motion effective January 10, 2009 to change the rate of Robin Sendlbeck to \$13.00 per hour.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to appoint Town Engineer Joseph Latona as Delegate and Councilman Peter DiCostanzo as Alternate to the New York State Association of Towns Annual Meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, Councilman Kolber that the Clarence Town Board, as the Administrator for the Length of Service Awards Program (LOSAP), hereby adopts a “Town of Clarence Service Award Program Investment Policies and Procedures” attached hereto and made part of the minutes. On the question, Supervisor Bylewski said we do have an investment policy in place and it has been followed with the LOSAP issues. To make it clear, we are establishing a separate policy for LOSAP. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried. (See Attachment A)

Motion by Supervisor Bylewski, seconded by Councilman Weiss that the Town Board of the Town of Clarence, as Administrator, hereby amends the Adoption Agreements for the VFIS Length of Service Awards Program (LOSAP), as attached hereto and made a part of the minutes, for the Clarence Center Fire Protection District, the East Amherst Fire Department, the Harris Hill Volunteer Fire Company and the Swormville Fire Company, Inc. regarding when participants will begin receiving their Accrued Benefit. On the question, Supervisor Bylewski said we had a meeting regarding LOSAP and one of the participants had a question about how the program works. This clarifies that issue. Councilman Casilio said there was a representative from the Town of Amherst at that meeting who was going to bring some information to the Supervisor. Supervisor Bylewski said he has yet to receive it. Upon roll call - Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried. (See Attachment B)

Motion by Councilman Weiss, seconded by Councilman Kolber that upon recommendation of Parks Crew Chief John Burns, Brian Matteson be appointed to the position of Recreation Attendant effective January 24, 2009 at the budgeted rate of pay. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to authorize the Supervisor to sign the Annual License Agreement between the American Society of Composers, Authors and Publishers (ASCAP) at a fee not to exceed \$305.00 for 2009, subject to Town Attorney review and approval. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said he will make a motion at the next meeting to appoint Elizabeth Matteson to the Conservation Advisory Council.

Councilman Weiss reported that 80 deer have been taken to the food bank so far as part of our deer abatement program.

They cannot take on any new areas this late, but if people would like to include their property next year they should submit a letter in late August.

Councilman Weiss reported that he attended the Northeast Solid Waste Committee meeting along with Chuck Eckert and two representatives from each town. A DEC representative gave a presentation on a 20-year program. No one in the room had a single question. He said we live in one of the most toxic areas of the country and he believes that it is terrible that this is how things are being handled. The towns are going to have to be more vigilant in their own programs.

Councilman Kolber reported that he received the Central Alarm Annual Report for 2008. Town of Clarence fire companies responded to the following: 118 – Fires; 3 – False Alarms; 1,514 – EMS Calls; 140 – Motor Vehicle Accidents; and 470 – Miscellaneous Calls for a total of 2,245 alarms.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept, with regret, the resignation of Sean O'Mahony as a member of the Library Board of trustees effective 1/21/09. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept, with regret, the resignation of Hans Mobius as a member of the Zoning Board of Appeals. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said the Town will accept applications for the Library Board and for a regular member or alternate member to the Zoning Board of Appeals.

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

Be It Resolved, that the Clarence Town Board authorizes the Supervisor to sign the Erie County Department of Senior Services Van Contract between the County of Erie and the Town of Clarence for 2009 subject to Town Attorney approval.

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

Councilman Casilio said he has been given permission to purchase the video camera poles using money from donated funds. They should be up in about a month.

Councilman Casilio said the lights have been ordered for the entrance at Willow Brook.

Councilman Casilio announced that the Chamber of Commerce Citizen of the Year Dinner is tomorrow night honoring former Supervisor Kathleen Hallock.

Winterfest will be held on February 8th from Noon to 5 pm. This is a joint effort by the Youth Bureau and the Chamber of Commerce.

Councilman DiCostanzo announced that there are two openings on the Youth Board and he hopes to fill one of them with Michelle Orvis at the next meeting.

Councilman DiCostanzo received the single family dwelling statistics for 2008 from the Building Department. There were 62 building permits issued, 27 in subdivisions and 35 out. In 2004 there were 168 permits issued, 124 permits issued in 2005, 123 in 2006 and 130 in 2007.

Councilman DiCostanzo said we have created an audit committee which he will be a member of along with two others. He has one person interested who he hopes fills out an application. If anyone is interested it would be helpful if they had public accounting, but it is not necessary. A financial background would be helpful.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to set a public hearing for February 25, 2009 at 7:50 p.m. to consider adopting a Local Law amending the Code of the Town of Clarence, Chapter 117-Historic Preservation - §117-17 Tax Relief. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said the Lions Club Pancake Breakfast is coming up the weekend after Winterfest. That is always a nice event also.

Public Announcements

Town Clerk Nancy Metzger received a Notice of Order from NYS Dept. of Transportation that they are adding a 45 mph speed limit on Transit Road from the Erie/Niagara border to a point 0.7 miles +/- south.

Town Clerk Nancy Metzger said the tax bills should be out by Friday.

Supervisor Bylewski thanked the department heads present for attending.

A Public Hearing was held to consider the purchase of approximately 101 +/- acres of vacant land located on Kelkenberg Road and on Rapids Road at a purchase price not to exceed \$95,000.60 plus any and all costs and disbursements for open space purposes.

James Callahan said the location is the north side of Rapids Road, south side of Kelkenberg Road in the Agricultural Flood Zone.

Nancy Smith was present from the WNY Land Conservancy. The Town has purchased 7 properties and two more are being finalized for a total of nine properties in the greenprint project totaling 642 acres. Four are natural lands and three are farms.

Ms. Smith said the Baker parcel ranked 72 out of 100 points. The Bakers would like to protect this parcel with a conservation easement. There are two parcels, the first consists of 72 acres and the second consists of 25.5 acres.

The conservation values that will be protected include agriculture as the prime value along with open space, natural vistas, habitat and water quality. It is active farmland. The size of the parcel is in the top ten for the entire town. A priority for keeping agricultural land viable in Clarence is contiguous large parcels of land. This land is adjacent to a parcel that was recently approved for purchase resulting in 200 contiguous acres. It also contributes to the rural character of the Town.

The land contributes to water quality as well by retaining areas of annual flooding in its natural state to help protect water retention capabilities.

There are no structures on this property. A conservation easement is for the purchase of development rights.

Councilman Kolber said he does not see what the development pressure is on this land. Ms. Smith said it is not high in this area, but it keeps farming ongoing.

Town Attorney Steven Bengart explained the process of the greenprint program once again and how we get to this point in the process. Both parties being the Recreation Advisory Committee and the owners were interested in purchasing the development rights in this case. This case was to protect our agriculture and the fact that it was next to another piece already being purchased.

Councilman DiCostanzo said we already have a piece that has creek access.

Councilman Weiss asked if there is anything in place to monitor the farming practices such as what types of chemicals they are using and what is being planted.

Ms. Smith said the WNY Land Conservancy monitors the property but not for that type of thing.

Town Attorney Steven Bengart said that could be included in the easement.

Councilman Kolber asked what can they do or not do with the property in terms of the contract.

Town Attorney Bengart said the easement is very specific and they are very limited.

Supervisor Bylewski said we have purchased development rights before. This property rates very high in agricultural parcels in the Town. The issues could be addressed in the review and approval by the Town Attorney.

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

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

RESOLVED, that after a public hearing duly held on January 21, 2009, and after all interested parties behind heard, the Clarence Town Board approves the purchase of Development Rights 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); and be it further

RESOLVED, that the Supervisor, Scott Bylewski, be authorized to sign a conditional Purchase of Development Rights Agreement and Sales Contract subject to review and approval by the Town Attorney.

On the question, Councilman Kolber said he was under the impression that we were purchasing the property, not just the development rights. We have been looking at a lot of land in the north country and comments have been made that we are not purchasing land in areas that are under more development pressure. He is going along with the individuals who we have entrusted to go through the process of choosing the properties. Councilman Casilio said he would also like to see properties in the southern portion of the Town. Supervisor Bylewski said we can only pick from properties that become available and we must purchase for fair market value. Some may not be willing to sell and we cannot overpay. If anyone knows of someone interested, they should contact the Town.

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

Motion by Supervisor Bylewski, seconded by Councilman Casilio to table item 12, Clayt Ertel for a request for a Minor Subdivision to create one additional residential building lot at 8225 Tonawanda Creek Road based on the applicants request. Upon roll call – Ayes: All; Noes: None. Motion carried.

Mary Feeney requests a Public Hearing to consider a Temporary Conditional Permit for an automotive sales operation at 9155 Main Street. James Callahan said the location is the south side of Main Street, west of Sheridan and Thompson consisting of an existing commercial building on 1+ acre in the Commercial Zone.

Mary Feeney said this is a small operation for the sale of specialty automotive sales. There is space for 2 to 3 cars. She may have cars there sometimes. The specialty is the service, not necessarily the cars.

James Callahan said a Temporary Conditional Permit is for the applicant and not the location.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set a Public Hearing for February 11, 2009 at 7:45 P.M. to consider the request for a Temporary Conditional Permit for an automotive sales operation at 9155 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Greatbatch Inc. requests a Building Permit and Architectural Approval for an addition/remodeling project at 10000 Wehrle Drive. James Callahan said the location is the north side of Wehrle Drive in the Industrial Business Park Zone.

Curt Cashmore, Facilities Manager for Greatbatch Inc. and Domenic Palmisano, Architect were present. Mr. Cashmore said they just went through a major renovation over the past year and would like to continue that with a few more enhancements. The proposal is for an additional 3,000 sq. ft.

Mr. Palmisano said they are continuing the façade around the east side of the building. They are also re-working the roads and expanding the executive parking area a little bit.

Supervisor Bylewski said the improvements are tremendous and it looks very nice.

Curt Cashmore said their target date is June 1st. The addition will include 12 new offices.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant a Building Permit and Architectural Approval for an addition/remodeling project at 10000 Wehrle Drive. On the question, Councilman Weiss added that they have done a great job. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval for the following: Clubhouse Applications - A. Clarence Fillmore Cemetery – Feb. 25, 2009; B. Clarence Conservative Committee – March 14, 2009; Legion Hall Applications - A. Cub Scout Pack 568 – Jan. 29, 2009; B. Cub Scout Pack 563 – Feb. 4, 2009; C. Diane Moyer – Feb. 14, 2009; D. Tina Battaglia – March 22, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review by the Town Board, the following bills of January 22, 2009 are approved for payment: General Fund - \$174,218.19; Highway Fund - \$72,577.29; Water District - \$1,512.26; Drainage District - \$23,235.00; Lighting District - \$1,260.92; Capital Fund - \$20,760.00; and Trust and Agency 203 - \$6,204.66 for a total amount of \$299,768.32. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Howard Melancon said he would like to talk about the non-enforcement of the sidewalk ordinance. The ordinance is so vague and does not include a timeframe, how much or any details. There is still a problem out there.

Supervisor Bylewski thanked him for his comments. These issues were brought to the Town Attorney.

Mr. Melancon said his continuing issue is the vagueness of the ordinance itself.

Councilman Casilio said Mr. Melancon does a great job keeping his sidewalks clear. He asked if he would prefer to pay to have it done. Mr. Melancon said he believes it should be up to the property owners themselves. The ordinance says that anyone putting snow into the easement would be penalized. Then, the State should be penalized too.

Supervisor Bylewski said the Town Attorney has offered to discuss this with him further.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:35 p.m. in memory of Gretchen Stringer, who was active in many service organizations in the Town over the years.

Nancy C. Metzger
Town Clerk