

Work Session of the Clarence Town Board was held on November 18, 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, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith.

Director of Community Development – James Callahan

Public Hearings:

Patrick Open Development area –Roll Road west of Shimerville Road

Applicant is seeking concept approval to develop a 4-lot Open Development Area. The proposed site is situated on the south side of Roll Road, west of Shimerville Road on existing vacant land consisting of 8.37+/- acres in the Residential Single-Family Zone. Per the Subdivision Law, the Town Board has final authority to approve Concept Plans. The Planning Board has forwarded a recommendation on the concept with conditions.

Formal Agenda items:

Neil Kavanaugh 5375 Transit Road

Applicant is seeking a Temporary Conditional Permit for an automotive detailing operation. The proposed site is situated on the east side of Transit Road, north of Greiner Road at existing vacant commercial structure located in the Major Arterial Zone. Per the Zoning Law, the Town Board has authority to approve automotive uses via a Temporary Conditional Permit. ***(Applicant asked to be removed from agenda).***

Kausner Open Development – 4180 Ransom Road

Applicant is proposing a 3-lot Open Development. The proposed site is situated on the west side of Ransom Road, south of Tillman Road on existing residential property consisting of 8+ acres in the Agricultural Rural Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve Open Development Areas. The Planning Board has forwarded a recommendation on the proposed design with conditions.

Janice Carson 10589 Main Street

Applicant is proposing to sell vehicles in the front yard of existing operation. The proposed site is located on the south side of Main Street, west of Ransom Road at existing automotive detail operation located in the Clarence Hollow TND and Overlay. Per the Zoning Law, the Town Board may consider an automotive sales operation via a Temporary Conditional Permit. Areas to be addressed are number of vehicles in proposed display area.

Michael Brady 8780 Stahley Road

Applicant is proposing to split the property to create a second residential single-family lot. The proposed site is located on the north side of Stahley Road, west of Conner Road with existing single-family residential home located on 8+/- acres in the Residential Single Family Zone. Per the Subdivision Law, the Town Board has final authority to approve minor subdivisions. The property has sufficient frontage and lot size to be subdivided however a second home would require a setback variance and would place a second home in a federal wetland area. The lot lines would need to be atypical to accommodate the split.

Work Session items for consideration December 2, 2009:

Martin Pecoraro 6031 Transit Road

Applicant is requesting approval to add a temporary structure to house his sales office. The proposed site is situated on the east side of Transit Road, north of Clarence Center Road at existing commercial property located in the Major Arterial Zoning District.

Supervisor Scott Bylewski

The installation of the solar panels on the town hall began on Monday. Supervisor Bylewski stated that he plans on pursuing additional grant money for other facilities within the town.

A memo was circulated for anyone wishing to attend the 2010 Association of Towns annual convention.

The Christmas luncheon is scheduled for December 21, there is a slight change this year, RSVP by December 11th and department heads are asked to donate \$20.

There will not be a December 2nd morning Work Session.

The Ethics Board would like to meet with the Town Board regarding a change to the Ethics Disclosure Statement. Supervisor Bylewski asked that Town Clerk Nancy Metzger be on hand to discuss any changes.

The Town Board received two thank-you letters. Mike Koeppel thanked the Board for extending the bereavement time for parks employees to attend William Sheldon's funeral. Shirley Giglia thanked the town for their show of respect upon Carl's passing.

Judge Robert Sillars is requesting permission for Marilyn Taton, Mary Zimmerman and Nancy Meyer to attend a Records Management Seminar on Friday, November 20th, 2009 at the Ceremonial Courtroom 95 Franklin Street.

Supervisor Bylewski will make a motion approving the request for a Flight 3407 Memorial Race to be held Saturday, June 5, 2010 at Town Place Park.

Supervisor Bylewski will declare several copiers as surplus and set a bid date of December 8, 2009 to accept sealed bids for the sale of said equipment.

Supervisor Bylewski has two items to discuss in Executive Session regarding the employment history of an individual and the employment history of a corporation.

Councilman Joseph Weiss

Councilman Weiss commented on the memo he received regarding several committees within the town. The Recycling Committee never met this year and several members on the Conservation Committee do not show up to their meetings. Councilman Weiss suggested eliminating some of the committees. The Plumbing Board meets twice sometimes three times a year to evaluate the candidates who are applying for plumbing license.

Councilman Weiss met with the Clarence Sports Complex committee. They made a presentation to several sports groups (football, lacrosse, soccer and hockey). A company will come in set-up and manage the sports complex however; they are looking for financial backing from the town. Supervisor Bylewski stated that he is not interested in meeting with any group unless they have a business plan in place.

Councilman Weiss met with a group called Heart and Hands; they provide transportation service for senior citizens. They are already serving other towns and get their funding from religious organizations. Councilman Weiss met with the Senior Center and they would welcome this organization. Councilman Weiss will contact Heart and Hands and have them submit a letter to the Town.

Councilman Weiss will meet with Fred Piasecki of Orchard Park Department of Public Works and Terry Hannon from Lackawanna regarding the formation of a Public Works Department to see how it works and how they coordinated their departments.

Councilman Bernard Kolber

Councilman Kolber will copy the Board on the contract between Erie County Water Authority and the Town of Clarence.

Councilman Kolber contacted the NYS DOT about changing the signal in front of Clarence Fire Hall and making it a cross-walk. The DOT said they will do it however; it is not a high priority.

Councilman Kolber spoke with Mark Perna regarding a hockey rink. They are looking into a joint venture with the Town of Clarence and the Town of Lancaster.

Councilman Kolber has one Attorney-Client item to discuss.

Councilman Patrick Casilio

The Morlando Committee has been discussing the removal of the pillars at the entrance to Nottingham Terrace. They have not been able to raise money for that project. They obtained an estimate of \$60,000 to duplicate the original pillars. Supervisor Bylewski suggested capping the pillars.

Councilman Casilio announced that John Leamer will be president of the Clarence Hollow Merchants Association in 2010.

The camera hookup at Farmers Market failed to reach the Engineering Department. Councilman Casilio is working on a grant to get Wi-Fi hookup for free which would lower the cost for the camera. We already have the pole, the camera and concrete. The existing cameras are Wi-Fi capable. Councilman Casilio received a \$12,000 check for the video system however he has to work out the details with Pam Smith.

Councilman Casilio has two items to discuss in Executive Session regarding the appointment of an individual, discipline of an individual and current litigation.

Councilman Peter DiCostanzo

Director of Community Development James Callahan is requesting a transfer of funds from Professional Services to Master Plan Expenses.

The November 25th Planning Board Work Session will begin at 6PM and the regular meeting will begin at 6:30PM.

Councilman DiCostanzo will report on the residential building permits for the month of October.

Councilman DiCostanzo spoke with Supervisor Bylewski and Karen Jurek about opening a twitter account.

Town Engineer Joseph Latona

Town Engineer Latona sent a memo to the Board regarding Sewer District #2. On September 28th, there was a huge rain storm and we experienced a sanitary sewer overflow. Mr. Latona met with the state and the town has to come up with some type of a program for removal. To remove it, you have to find it so the initial step would be to locate where the water is getting into the system and come up with a plan. The overall effect of this currently is that there is a moratorium on any developments in sanitary sewer district #2 until we can come up with a practical program. Supervisor Bylewski stated that this is an environmental issue but questioned whether we needed a local law for a moratorium and if there is no local law, do we still allow a project to go forward for concept review. Do we let the project in the door knowing that right now it needs to be mitigated and we do not have a plan in place for that mitigation.

Town Attorney Bengart stated that the project could come forward but advise the applicant of the situation before going forward. The project will get a Positive Declaration and maybe the applicant becomes part of the solution.

Councilman Kolber stated that approximately two years ago there was an issue with sewer flow after a heavy rain fall. Town Engineer Latona had a smoke test done at the time but he did not like the way it was done so he is going to have it done again but they will do it free of charge.

Town Attorney Steven Bengart

The Kausner case has been adjourned until January 12, 2010.

Town Attorney Bengart has one item to discuss in Executive Session regarding the acquisition of real property and one Attorney Client item to discuss.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person, the employment history of a corporation, the appointment of a particular person and the discipline of a particular person; § 105(1) D current litigation – Marinaccio vs. Town of Clarence; § 105(1) H the proposed acquisition of real property when publicity would substantially affect the value thereof. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:35 PM.

Darcy A. Snyder
Deputy Town Clerk

Councilman Casilio left the Executive Session at 7:21 PM.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:23 PM. Upon roll call – Ayes: Councilman DiCostanzo, Councilman Kolber, Councilman Weiss, Supervisor Bylewski; Noes: None. Absent: Councilman Casilio. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, November 18, 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. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a prayer given by Supervisor Bylewski.

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 Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held October 28, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to accept the minutes of the previous meeting held November 4, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski stated that as we prepare for the annual reorganizational meeting in January, there are a number of committee positions with terms that have expired, as well as some vacancies. Anyone interested in applying for one of these positions should submit an application as soon as possible. Applications are available online or at the Town Hall.

Supervisor Bylewski said solar panels are currently being installed on the south side of the Town Hall and should be completed in the next week or so. We are also exploring grants for further solar panels on other Town facilities.

Supervisor Bylewski announced that there will not be a morning meeting on December 2nd, but the regular meeting will be held in the evening.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant permission for the court staff, Marilyn Taton, Mary Zimmerman and Nancy Meyer to attend the Records Management Seminar given by the NYS Unified Court System on November 20, 2009 with all reasonable and necessary expenses paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve a Special Event Request for the Flight 3407 Memorial Race to be held Saturday, June 5, 2010 at Town Place Park. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to declare the following copiers as surplus office equipment: E1362 from Animal Control – Model 3560/Duplex; E1554 from Town Historian – Model 3560/Duplex; E1901 from Youth Department – Model 3560/Finisher; E2236 from Town Board Room – Model 3560/Letter & Legal Drawers; E2662 from Building Department – Model EStudio 35/Staple, Sort & Duplex; E2663 from Highway Department – Model EStudio 35/Sort & Staple; E2669 from Parks Department – Model EStudio 35/Sort & Staple. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a Bid Date of Tuesday, December 8, 2009 at 10:00 a.m. to accept sealed bids for the sale of surplus office equipment with a minimum stated for each as follows: E1362 – Model 3560/Duplex; Min. Bid \$200.00; E1554 – Model 3560/Duplex; Min. Bid \$200.00; E1901 – Model 3560/Finisher; Min. Bid \$200.00; E2236 – Model 3560/Letter & Legal Drawers; Min. Bid \$175.00; E2662 – Model EStudio 35/Staple, Sort & Duplex; Min. Bid \$475.00; E2663 – Model EStudio 35/Sort & Staple; Min. Bid \$475.00; and E2669 – Model EStudio 35/Sort & Staple; Min. Bid \$475.00. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski stated that item 12 on the agenda for Neil Kavanaugh is removed from the agenda at the applicant's request.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date for the purchase of a new Plow Truck including box, plow and salter for the Highway Department on Tuesday, December 1, 2009 at 10:15 a.m. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date for the purchase of a new Rubber Tire Wheel Loader for the Highway Department on Tuesday, December 1, 2009 at 10:00 a.m. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said they are looking at the possibility of forming a Department of Public Works. He will be meeting with the Highway Superintendent, our current head of Parks, Town Engineer and department heads from other municipalities who have this to see if it would make sense for our Town to consider. He will report back on those meetings.

Councilman Weiss said he met with people from a non-profit group called Heart and Hands that provides transportation for people in rural areas to take them to their doctor appointments and things like that. They are on the verge of getting funding from Greatbatch and will be sending a letter to the Supervisor.

He contacted the Senior Center and they would be interested. There are a few other transportation providers, but this is a little more extensive in that they take people in to their appointments and assist them as needed.

Councilman Weiss said he attended a meeting with one of the many groups that proposes a hockey rink. They want the Town to come up with funding. He said that is a real issue when we have people trying to decide if they should buy food, prescription medication or pay their mortgage. It is very difficult for the Town to fund a hockey rink at this time. He believes we do need to have ice, but they would have to come up with the funding.

Councilman Kolber said we received a letter from the New York State Dept. of Transportation, in response to the request to allow residents to use the traffic light in front of Clarence Fire Hall to cross Main Street to have access to the park, stating that they will make the necessary improvements to allow for that.

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

Be It Resolved, that the Supervisor of the Town of Clarence is authorized to sign the Erie County Stop-DWI contract for 2009.

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

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

Authorizing the Natural Disaster Services Coordinator, David Bissonette and the Area Director of Civil Defense, David Baumler, to be paid at the rate of \$78 per hour per the adopted 2010 Budget – Long Term Disaster budget line with said payment to occur only in operations exceeding four (4) hours with the intent that the Town may possibly be reimbursed by FEMA, state aid, or insurance including third-party insurance.

On the question, Councilman Weiss asked if this was for actual event hours or does it include training and things like that.

Supervisor Bylewski said it is for actual events.

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

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to authorize the following transfer of funds for the Planning Department: \$3,600 from account A8020.434 Professional Services to A8010.472 Master Plan.

On the question, Councilman DiCostanzo said there were some additional expenses associated with the greenprint program.

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

Councilman DiCostanzo announced that there is a Planning Board meeting set for November 25th at 6:30 p.m. with a work session at 6:00 p.m. The only item on the agenda is Master Plan amendment.

Councilman DiCostanzo received the Single Family Dwelling Building Permit report. January to June there were a total of 11 permits issued. July to October there were 31 permits issued. During October there was one inside a subdivision and five outside of subdivisions.

Councilman DiCostanzo said the Youth Bureau is working on a speaker series dealing with substance abuse. Once the schedule is set he will announce it.

Supervisor Bylewski thanked all department heads present for attending. He also recognized Robert Geiger from the Chamber of Commerce.

Public Participation

Laura Pfennig spoke regarding item 13. She reiterated her request for the Town Board to vote no once again for this project. She does not want to see a precedent set in a neighborhood where all of the lots are similar to have a house behind a house behind a house.

John Lindemann spoke regarding item 13. He understands that this is brought back for a vote because there was not a quorum when it was voted on last time. There is also a grievance filed against the Town because it was a tie resulting in a denial.

Supervisor Bylewski said there is an Article 78 that is pending against the Town based on the lack of approval for the development. There was a quorum.

Mr. Lindemann said in other cases people were denied approval based on a tie vote. They had to accept the vote even if they did not like it. Now lawyers are involved. If this is the case then all of the previous denials should be allowed to come back. He hopes that in the future all the members will be present to vote on agenda items to avoid this.

A Public Hearing was held to consider the request for Concept Plan Approval for a 4-Lot Open Development Area west of 8795 Roll Road. James Callahan said the location is the south side of Roll Road, west of Shimerville Road in the Residential Single Family Zone. A Negative Declaration has been issued by the Town Board. The Planning Board has forwarded a recommendation on the plan that is being presented.

Kevin Curry said his proposal is to build four homes.

Michael Metzger, engineer said the parcel consists of 8.34 acres. There is a single road coming in. This is a unique property and they are going to preserve as much of the natural rolls to it as possible. All of the lots are two acres. There are no sewers.

Supervisor Bylewski asked what the recommendation would be for an easement for the ditch that runs through the property.

James Callahan said this is here for Concept Plan on the design. As it moves forward and is reviewed by engineering that would be discussed.

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 Casilio, seconded by Councilman Weiss to adopt the following resolution:

RESOLVED, that the Clarence Town Board grants the request of the applicant, Patrick Development, for Concept Plan Approval for a 4-lot Open Development area on the south side of Roll Road, west of Shimerville Road, subject to the following conditions:

1. Open Space and Recreation Fees.
2. Concept identified as CP-3 dated October 31, 2008 from Metzger Civil Engineering.
3. All conditions as established in the Environmental Review under SEQR.
4. Trees along the southern boundary to be preserved.
5. Driveway maintenance agreement reviewed and approved by the Town Attorney.

On the question, Supervisor Bylewski asked if the applicant understands the conditions and can live with them. Michael Metzger said yes.

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

John Kausner requests Concept Plan Approval for a 3-Lot Open Development Area at 4180 Ransom Road. James Callahan said the location is the west side of Ransom Road, south of Tillman Road consisting of existing residential property in the Agricultural Rural Residential Zone. A Negative Declaration was issued by the Town Board. The Planning Board has forwarded a recommendation for approval on the design. A Public Hearing is required.

Michael Metzger said he was waiting for another associate and asked for deferral until he arrives.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to defer item 13 until the end of the meeting as requested. Upon roll call – Ayes: All; Noes: None. Motion carried.

Janice Carson requests a Temporary Conditional Permit for Automotive Sales at 10589 Main Street. James Callahan said the location is the south side of Main Street, west of Ransom Road consisting of an existing automotive detail use in the Clarence Hollow Traditional Neighborhood District.

Janice Carson was here before and asks for same consideration.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a Public Hearing for December 16, 2009 at 7:50 p.m. to consider a Temporary Conditional Permit for Automotive Sales at 10589 Main Street.

On the question, Councilman DiCostanzo said there is a lot of junk behind her building. He asked if a condition of an approval was to clean that up, would it be a problem. Janice Carson said she uses the truck to clear the snow. She will get rid of some of the other junk vehicles.

Councilman Weiss said she has painted the building and cleaned up some of the stuff.

Councilman Kolber said there are people who live in that area and they do not appreciate the junk piled up.

Janice Carson said there are a lot of places in the Hollow that look worse than hers.

Upon roll call – Ayes: Councilmembers DiCostanzo, Weiss and Supervisor Bylewski; Noes: Councilmembers Casilio and Kolber. Motion carried.

Michael Brady requests Minor Subdivision Approval to create one additional Residential Building Lot at 8780 Stahley Road. James Callahan said the location is on the north side of Stahley Road, west of Conner Road consisting of an existing residential property in the Residential Single Family Zone.

Michael Brady said he would like to build a smaller house behind his current home. The property consists of a total of 8 acres and he would keep 5 acres with the existing home. He would extend the driveway back to the wooded area to build his new home. There are wetlands in the back, but he would be before that. Mr. Brady said there are others in the neighborhood with very large homes behind smaller homes. He is asking to do the opposite.

James Callahan said this configuration would not be allowed without a variance from the Zoning Board of Appeals as to the established setback line where the current house is.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the request for Minor Subdivision Approval to create one additional Residential Building Lot at 8780 Stahley Road to the Planning Board identifying the issues of wetlands, building size, and any right-to-farm issues as areas of concern. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Supervisor Bylewski; Noes: Councilman Weiss. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to grant approval for the following: Clubhouse Applications - A. Clarence Hollow Association – Dec. 1, 2009; B. Jasmine TWIG – Feb. 24, 2010; Legion Hall Applications – A. Gary George – Nov. 21, 2009; B. Anna Greco – Nov. 22, 2009; C. Jason & Carrie Holden – Dec. 13, 2009; D. Nehzat Goshtash – Dec. 30, 2009; E. Jamie Fricano – Jan. 2, 2009; F. Brian Decker – Feb. 13, 2010; and G. Mary Cirino – Feb. 21, 2010. 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 November 12, 2009 are approved for payment: General Fund - \$94,649.89; Highway Fund - \$17,694.47; Water District - \$34,657.25; Capital Fund - \$4,550.00; and Trust and Agency 203 - \$2,350.00 for a total amount of \$153,901.61. Upon roll call – Ayes: All; Noes: None. Motion carried.

Michael Metzger returned regarding item 13.

Supervisor Bylewski noted for the record that they received emails from Laura Pfennig and John Lindemann regarding their concerns.

Town Attorney Steven Bengart stated that Sean Hopkins had contacted his office and James Callahan. He is giving a seminar tonight and intended on coming here as soon as he was done.

Supervisor Bylewski said there is an Article 78 pending against the Town regarding this project.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a Public Hearing for December 16, 2009 at 7:45 p.m. to consider the request for Concept Plan Approval for a 3-Lot Open Development Area at 4180 Ransom Road. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber and Supervisor Bylewski; Noes: Councilmembers Casilio and Weiss. Motion carried.

“For the Good of the Town”

Councilman Weiss wished all of the resident deer hunters a safe and successful opening day on Saturday.

He also thanked Mr. Schultz for showing him the article on home improvement tax breaks. We will discuss that at our next meeting.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:10 p.m. in memory of two longtime Parks Department employees, William Sheldon and William Cook, who both recently passed away.

Nancy C. Metzger
Town Clerk