

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, August 11, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Joseph Weiss. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith and Planning Board Chairman Al Schultz and Confidential Secretary to the Supervisor Karen Jurek.

Director of Community Development – James Callahan

Formal Agenda items:

John Krantz – Martin Road east of Heise Road

Applicant is proposing to subdivide the parent parcel to create two new residential building lots. The proposed site is located on the south side of Martin Road east of Heise Road on existing vacant land consisting of 20.8+/- acres in the Agriculture Rural Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve lot splits. The proposed lots meet the minimum requirements in the Agriculture Rural Residential Zone.

Waterford Village LLC, Renaldo Circle

Applicant is requesting that the Town Board consider amending the previously approved plan to relocate a community center within the circle. Previously a gazebo and open space was proposed within the area. The proposed site is located in the central part of the Waterford PURD, north of Roll Road. Per the PURD Zoning requirements, the Town Board has the authority to amend the Development Plans. The proposal should be thoroughly reviewed for traffic flow and safety, parking requirements and locations as well as snow storage concerns. Referral to the Planning Board to address these issues may be in order.

Ronald Alberico 4775 Goodrich Road

Applicant is proposing to construct a large accessory structure to service the existing home. The proposed site is located on the east side of Goodrich Road, north of Main Street at existing residential single family home located within the Spaulding Lake Estates Subdivision and within the PURD Zone. Per the Zoning Law, the Town Board must approve any amendments to the PURD. As the PURD Zone is approved via a site plan approval, any amendment to the site plan must be authorized by the Town Board. A large accessory structure would constitute an amendment to the previously approved site plan. All setbacks within the Residential Single-Family Zone are met, by means of comparison to surrounding zones. The proposed accessory structure to include a garage area, a kitchen and a bath as well as a covered patio is adjacent to the existing pool.

Donald Metz – 5745 Kraus Road

Applicant is requesting Minor Subdivision approval for the creation of 1 additional residential building lot. The proposed site is located on the east side of Kraus Road, south of Clarence Center Road at existing vacant property located within the Agricultural Rural Residential Zoning District. Per the Subdivision Law, the Town Board has the authority to review and approve Minor Subdivisions within the Agricultural Rural Residential Zoning District. The proposed lot meets the minimum requirements in the Agricultural Rural Residential Zoning District.

Work Session items for consideration August 25th, 2010:

Essex Homes – Shadow Woods Subdivision west side of Goodrich Rd., north of Keller Road

Applicant is requesting Development Plan approval of a proposed 64 lot Open Space design Major Subdivision. The proposed site is located on the west side of Goodrich Road, north of Keller Road on existing vacant land consisting of 68+/- acres in the Residential Single Family zoning district in Clarence Sewer District No. 2. Per the Subdivision Law, the Town Board has final authority to approve Major Subdivisions.

This project previously received a Negative Declaration under SEQR and Concept Plan approval as per the Town Board. On August 4th, the Planning Board positively unanimously recommended Development Plan approval of this project. Sanitary sewer is proposed to service this project via construction of a gravity sewer line within Clarence Sewer District #2; those plans have been reviewed and approved by all involved agencies. The proposed roads designed to service this project have been recommended as public roads, ultimately to be accepted by the Town Board. As recommended by the Planning Board and approved via the Concept Plan, building setbacks are to consist of the following: 30' front and rear yard; minimum 10' side yard, 20' minimum combined side yard. As this is an Open Space Design subdivision, all open space set aside as a function of the lot yield calculations will be subject to a conservation easement. Due to a lack of connectivity to existing public parks and bike paths at this specific location, the project has been made subject to Open Space and Recreation Fees to satisfy the required recreational component.

Patrick Development – Fairfield Park – East Howard Drive

Applicant is requesting Concept Plan approval for the development of a 4-lot Open Development. The proposed site is located on the west side of East Howard Drive, east of Fairfield Road on existing vacant property located in the Residential Single Family Zone. Per the Subdivision Law, the Town Board has discretionary authority to approve Open Developments. This project has previously received a Negative Declaration under SEQR and has been unanimously positively recommended by the Planning Board for Concept Plan approval. The proposed private road designed to service the Open Development is planned to be accessed via an existing Town of Clarence reserved right of way at the west end of East Howard Drive.

Mark Ladon - 5701 Transit Road

Applicant is requesting a Change in Use for the operation of a cigar/smoke shop retail outlet. The proposed site is located on the east side of Transit Road, north of Roll Road in a Major Arterial Zoning classification. The existing vacant property in the Transit Road commercial corridor was previously utilized for the operation of a salon (Salon Gigante). Per the Zoning Law, the Town Board has the authority to authorize Change in Use permits for permitted uses in structures considered for a different occupancy or those structures that have been vacant greater than one year. Confirmation that sufficient parking exists on site for expected business volume. Consideration for potential landscape enhancements associated with the Change in Use. Supervisor Bylewski suggested that because of the nature of this business, Transit Middle School should be notified.

Waterford Village PURD

Applicant requesting Final Plat approval for Waterford Village PURD.

Supervisor Scott Bylewski

Karen Jurek has been working very diligently on a phone transfer. It was approved as a Capital Project item. The change-over was scheduled to occur tonight however one of the vendors involved is not ready so the change-over will now take place next Monday evening.

Supervisor Bylewski received a letter requesting sidewalks be installed on Old Goodrich Road.

Councilman Casilio will look at the area in question. Supervisor Bylewski felt it was a rural area with a horse farm and questioned if sidewalks were really necessary.

Supervisor Bylewski has had discussions with Councilman DiCostanzo relative to capital improvements to be made at the pool house and the pool itself. A field trip to the pool will take place at the September 1st. morning Work Session to look at the condition of the pool. The integrating of the newly purchased property to the west of the pool will also be discussed as possible parking. Councilman DiCostanzo suggested getting input from Recreation Directors Chip Trapper and Chris Durr.

A survey was distributed to the Town Board regarding the USDA. The USDA is going through a compliance audit; this survey is relative to some loans that were taken out many years ago.

The Justice Court Office is requesting permission for Court Clerks Mary Zimmerman and Marilyn Taton to attend the Stop DWI Lendras Law Briefing on August 13, 2010.

Supervisor Bylewski has several items to discuss in Executive Session regarding matters leading to the appointment of an individual, employment history of an individual(s), purchase of real property and several Attorney-Client items to discuss as well.

Councilman Joseph Weiss

Highway Superintendent Ted Donner is recommending F. Cimato Topsoil & Grading, Inc. be awarded the bid for removal of leaf mulch.

At the last Town Board meeting there was a discussion regarding the Planning Board voting on land use issues. Too much time and money is wasted by having discussions about land use issues. The Planning Board members sit down with the applicant and go through everything and ask the right questions and then the Town Board makes a decision based on a thumbnail sketch. The Town Board asks some of the same questions that were already answered at the Planning Board. Councilman Weiss asked Town Attorney Bengart to see what changes would have to take place to make this happen. Town Attorney Bengart stated that the Planning Board has put this on their agenda for further discussion and look at the overall picture, see what sections of the law has to be changed. The Planning Board will make a recommendation to as to whether this should be pursued or not.

Councilman Bernard Kolber

The ZBA approved the request for a LED sign in a Traditional Neighborhood District for Passport Wines subject to very strict restrictions. The sign will change every three minutes during one four hour stretch each day.

For the last two years, the Senior Center has been trying to get their parking lot sealed and correct the ingress and egress. Councilman Kolber spoke with Highway Superintendent Donner and he hopes to take care of this within the next couple of weeks.

The Clarence Senior Center is hosting a Community Day and Open House on Friday, August 27, 2010 from 4PM – 8PM at the Senior Center.

Councilman Kolber will report on correspondence he received from Time Warner Cable.

Councilman Patrick Casilio

Clarence Hollow Association has invited Senior Code Enforcement Officer David Metzger to their next meeting to discuss the 21 homes in question, they would like an update. The meeting is scheduled for September 2, 2010 in the Clubhouse. They also asked about the possibility of narrowing Main Street.

The Taste of Clarence was a huge success. Approximately 7000 people were in attendance. Councilman Casilio thanked the Parks Department and Town Security for their help in handling the traffic.

Eighty – nine more culverts were discovered throughout the town. Councilman Casilio will make a motion to approve payment of Change Order No. 1 to TVGA Consultants for the work required for the additional culverts. Councilman Casilio would like to see a dedicated crew maintaining the culverts, Town Engineer Latona stated that it could be outsourced as well; he is trying to develop options so we could have the flexibility.

Councilman Casilio spoke with Parks Crew Chief James Burkard regarding the newly acquired property to the west of the Main Street Park; he would like to see it functional by next year for the Taste of Clarence. He would also like to discuss the possibility of selling the trees on this property; there are approximately 100 trees that could be easily moved.

Councilman Peter DiCostanzo

There are two openings on the Youth Bureau Board, two students are being interviewed.

There is an opening on the Historic Preservation Board.

Upon recommendation of the TEQR Committee, Councilman DiCostanzo will make a motion recommending the Town Board issue a Negative Declaration on the proposed Woodland Hills Sewer District formation.

Councilman DiCostanzo commented on the NIMER Report.

Councilman Weiss commented on a Resolution from the Town of Barker regarding drilling for natural gas in the Marcellus Shale region in northwestern Pennsylvania. Councilman Weiss would like to wait and see about the science behind it. "Some environmentalists are concerns that the millions of gallons of water, mixed with sand and chemicals used in hydraulic fracturing could contaminate ground water".

Councilman Kolber stated that the Senior Center van does not have a running board however, the Youth Bureau van does. Supervisor Bylewski suggested the Senior Center provide portable steps for their passengers however they do not want that.

Town Attorney Steven Bengart

Town Attorney Bengart has several Attorney-Client items to discuss along with one pending litigation item- Marinaccio vs. Town of Clarence.

Maryann Marzo and Boy Scout Troop #93 is requesting Town Board approval to have a cook-out at the Nature Center lodge on August 26th. The Rules and Regulations on the Nature Center application specify "No fires are permitted inside or outside of the building." Senior Building Inspector David Metzger was in agreement with this request as long as the fire was contained outside the building and properly extinguished upon leaving the site. Town Security will check the site afterwards.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to enter into Executive Session pursuant to 105(1) F matters leading to the appointment of individuals; employment history of individuals; 105(1)D pending litigation, Marinaccio vs. Town of Clarence; 105(1)H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. On the question, Joseph Latona, James Callahan, Brad Packard and Steve Bengart were 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 6:30P.M.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:28 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, August 11, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:33 P.M. Pledge to the flag was led by Councilman Patrick Casilio, followed by a moment of silence in memory and honor of the loved ones we have lost.

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, Sr. Building Inspector David Metzger, Planner Brad Packard and Planning Board Chairman Al Schultz.

Motion by Councilman Casilio, seconded by Councilman Weiss to accept the minutes of the previous meeting held July 28, 2010. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski reminded everyone that the joint meeting of the Town Board and the School Board will be held on Monday, August 23rd at 5:00 p.m. at the Clarence Middle School.

Supervisor Bylewski said the Town Board and the Capital Improvement Committee will be meeting to discuss capital improvements to the Town pool on Wednesday, September 1st at the morning work session with this item tentatively scheduled at 11:30 a.m.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant permission for Court Clerks Mary Zimmerman and Marilyn Taton to attend the Stop DWI Lendras Law Briefing on Friday, August 13, 2010 at Erie County Court in Buffalo with any reasonable necessary expenses paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a Public Hearing for September 22, 2010 at 7:45 p.m. to consider the purchase of Development Rights by the Town of Clarence of approximately 118+/- acres of land located at 10270 and 10450 Rapids Road in the Town of Clarence, Erie County, NY and further being described as portions of SBL 19.00-1-3.2 and SBL 19.00-2-14.1, including approximately 8+/- acres of said land to be transferred by the seller as an outright donation of a fee title interest therein. The purchase price shall not exceed \$500,000 plus any closing costs, processing costs, baseline studies, future stewardship fees and any and all costs and disbursements for open space purposes. All funds are to be allocated from the open space bond resolution, general fund and recreation fees (if it is determined that any portion of the property will be used for recreation purposes). Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to award the bid for Removal of Leaf Mulch to F. Cimato Topsoil & Grading, Inc. at his bid of \$1.00 per cubic yard for a total 750 cubic yards. All material to be removed within 90 days upon full payment and submission of insurance certification to the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said hunting licenses go on sale on Monday, August 16th.

Councilman Kolber received a letter from Time Warner Cable. They are informing us, according to regulations, about agreements with programmers and broadcasters that are about to expire.

They will also be making technical changes to the cable system around September 1, 2010 that may disrupt channels on a digital television or other device that includes a QAM tuner. Customers using digital cable set-top boxes will not notice any changes.

Councilman Kolber announced that the Senior Center is having a Community Day and Open House on Friday, August 27th. They will be having entertainment, hot dogs, refreshments, etc. All are welcome.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve payment of Change Order No. 1 to TVGA Consultants for the work required for the additional 89 culverts that have been located and for associated work of mapping, culvert capacity and storm modeling in the amount of \$18,530 to be paid from the Town-Wide Drainage account. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio thanked Judy Siriani and the Chamber of Commerce for the Taste of Clarence. It was a great event.

He also thanked the Parks Department and Town Security for all their help with the event.

Councilman DiCostanzo said there is an opening on the Historic Preservation Commission for anyone interested.

He also thanked Andrea for the article in the Bee about the Commission.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the TEQR Committee, the Clarence Town Board issues a Negative Declaration on the proposed Woodland Hills Sewer District formation. This Unlisted Action involves the formation of a sewer district to service the proposed Woodland Hills Subdivision located on the south side of Greiner Road, east of Harris Hill Road and outside of any existing sewer districts. After thorough review of the submitted request and the developed Parts 1, 2, and 3 of the Environmental Assessment Form (EAF) by the TEQR Committee, Planning Board and Town Board, it is determined that the formation of a sewer district is contingent upon adequate sewer capacity existing at peak flows to fully build out Erie County Sewer District No. 5 and such expansion should be an extension of Erie County Sewer District No. 5 and not the creation of another Town district. This determination is based upon local review as well as coordinated review involving Erie County Sewer District No. 5 and the New York State Department of Environmental Conservation (DEC) and is consistent with Master Plan 2015, identifying that the top priority for use of sewer capacity is to fully build out existing districts. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski thanked department heads present for attending.

John Krantz requests Minor Subdivision approval for the creation of two additional residential building lots on the northeast corner of County Road and Heise Road. James Callahan said the location is the south side of Martin Road, east of Heise Road consisting of approximately 20 acres of vacant land in the Agricultural Rural Residential Zone.

John Krantz, Sr. and his granddaughter were present.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Planning and Zoning Department, the Clarence Town Board issues a Negative Declaration on the proposed Krantz Minor Subdivision located on Martin Road (south side of Martin Road, east of Heise Road at corner of County Road and Heise Road). This Unlisted Action involves the approval of a minor subdivision in compliance with existing land use regulations. After thorough review of the submitted supporting information and the Environmental Assessment Form (EAF) by the Planning and Zoning Department and Town Board, it is determined that the proposed action is consistent with Master Plan 2015 and local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, John Krantz, Sr. for Minor Subdivision approval to create two (2) new residential building lots located on the south side of Martin Road, east of Heise Road, in the Agriculture Rural Residential Zone, subject to the following condition: 1. Open Space and Recreation Fees.

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

Patrick Development requests an amendment to an existing Development Plan Approval for the relocation of a community center to Renaldo Circle in Waterford Estates. James Callahan

said this is a previously approved Planned Unit Residential Development located on the north side of Roll Road between Shimerville Road and Thompson Road. The amendment is to locate a community center within the circle.

Kevin Curry and Al Hopkins of Metzger Civil Engineering were present.

Supervisor Bylewski said his concerns are parking, architectural appearance and things of that nature that would be appropriate for further review by the Planning Board.

Motion by Councilman Weiss, seconded by Councilman Kolber to refer the request by Patrick Development for an amendment to an existing Development Plan Approval for the relocation of a community center to Renaldo Circle in Waterford Estates to the Planning Board. On the question, Supervisor Bylewski said if there is to be a facility in the center of that circle, he hopes that it would be in keeping with the area. Upon roll call – Ayes: All; Noes: None. Motion carried.

Ronald Alberico requests an amendment to the Planned Unit Residential Development Zone to allow for the construction of a large accessory structure at 4775 Goodrich Road. James Callahan said the location is the east side of Goodrich Road, north of Main Street in the Spaulding Lake Estates Subdivision.

Samuel Copece, Jr. said the proposed structure is to include a garage area, kitchen and bath with a covered 16' x 16' patio adjacent to the pool area.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, Ronald Alberico, to amend the previously approved site plan in the PURD Zone for the property located at 4775 Goodrich Road for the construction of an accessory structure to include a garage area, kitchen and bath as well as a covered patio area adjacent to the existing pool.

On the question, Supervisor Bylewski said the PURD zoning classification no longer exists, but this is grandfathered in and this is the mechanism to amend what is there.

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

Donald Metz requests Minor Subdivision approval for the creation of one additional building lot at 5745 Kraus Road. James Callahan said the location is the east side of Kraus Road, south of Clarence Center Road consisting of vacant land in the Agricultural Rural Residential Zone.

Donna Metz and Brandon Metz were present.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Planning and Zoning Department, the Clarence Town Board issues a Negative Declaration on the proposed Metz Minor Subdivision located at 5745 Kraus Road, east of Kraus Road and south of Clarence Center Road. This Unlisted Action involves the approval of a minor subdivision in compliance with existing land use regulations. After thorough review of the submitted supporting information and the Environmental Assessment Form (EAF) by the Planning and Zoning Department and Town Board, it is determined that the proposed action is consistent with Master Plan 2015 and local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, Donald Metz, for Minor Subdivision approval to create one (1) new residential building lot located at 5745 Kraus Road, east of Kraus Road, south of Clarence Center Road in the Agriculture Rural Residential Zone, subject to the following condition: 1. Open Space and Recreation Fees.

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

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval of the following: Clubhouse Applications - A. "Our Town" – Various Organizations and WNED – Sept. 7, 2010; B. Clarence Kiwanis – April 23, 2011; C. Clarence Concert Association – July 10, 17, 24, 31 & Aug. 7, 2011; 1st Tuesday each month; D. American Legion Post – May 30, Nov. 11, Dec. 14, 2011; E. Girl Scout Troop #591 – 3rd Thursday each month of 2011; F. Clarence Women's Club - 1st Monday each month of 2011; May 2 & 3, 2011; G. Clarence Welcome Wagon – 2nd Wednesday each month of 2011; H. Clarence Conservative Committee –

Sept. 15, 2010; Legion Hall Applications – A. Swallow Creek Homeowners Association – Jan. 18, July 12, 2011; B. American Legion Post – 2nd Wednesday & 4th Monday each month; May 30 & June 11, 2011; C. Clarence Mustangs Hockey – 3rd Monday each month of 2011; D. Father/Child Group – 1st Thursday each month of 2011; and E. Daisy Scouts – Monthly meetings for 2011. On the question, Supervisor Bylewski said by way of disclosure, he is a member of the Swallow Creek Homeowners Association. However, this is ministerial and he will be voting. 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 August 5, 2010 are approved for payment: General Fund - \$133,278.95; Highway Fund - \$45,908.47; Water District - \$36,168.12; Sewer Districts - \$137.77; Capital Fund - \$854,930.30; Aquatic Growth District - \$290.00; Trust and Agency 203 - \$4,650.00 and Trust and Agency 205 - \$160.00 for a total amount of \$1,075,523.61. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 7:58 p.m.

Nancy C. Metzger
Town Clerk