

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, December 1, 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, Senior Building Inspector David Metzger, Planning Board Chairman Al Schultz, Director of Administration and Finance Pam Smith, Town Engineer Joseph Latona and Confidential Secretary to the Supervisor Karen Jurek.

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

##### ***Public Hearings:***

A Public Hearing is scheduled for 7:45 PM to consider entering into a three year contract with East Amherst Fire Department, Inc. for fire protection in the Town of Clarence.

##### ***Formal Agenda items:***

Proposed amendments to the Subdivision Law

Overview: final approval authority for both minor and major subdivisions will be the responsibility of the Town Planning Board.

Proposed amendments to the Town Zoning Law

Overview: Land use Concept and Development Plan approvals become Planning Board responsibility. Exceptions that shall remain the authority of the Town Board include:

- Open Space design overlays
- Special Exception Use Permits
- Temporary Conditional Permits

The Town Board shall act as "gate keeper" for all applications

The Planning Board shall consist of seven (7) members with one alternate as currently structured, with a three (3) member Executive Committee.

Natale Home Builders/Rivera Greens 8230 County Road

Applicant is seeking Development Plan approval on a 35 lot Open Space Design subdivision. The proposed site is located on the north side of County Road, east of Stahley Road on existing vacant land consisting of 19+ acres in the Swormville TND. The proposed Open Space Design Subdivision was originally introduced to the Town Board on 12/20/2006. A density yield of 35 units was established on 2/17/2007. A Negative Declaration under SEQRA was issued on 5/28/2008. Per the Subdivision Law, the Town Board has final authority to approve Development Plans after a recommendation of the Planning Board and approval by the Town Engineer.

The Town Engineer has reviewed and approved the Development Plans and the Planning Board has forwarded a recommendation on the Development Plan with conditions. Open Space and Recreation Fees – Recreation Fee established at \$1,000 per lot (12% of the predevelopment assessed value of the land).

There was a late request from the developer. The project was approved with 25' front and rear yard setbacks and 10' side yard. The developer is asking if the Town Board would consider reducing the side yard setbacks. There is also a recommendation on building size and the number of units that can be above 2,500 up to a maximum 2,700 square feet. All the other conditions would remain.

Norm Castine/Margaret Kiesel - 5145/5175 Harris Hill Road

Applicant is proposing to develop an additional residential structure via a one (1) lot Open Development. The proposed site is located on the east side of Harris Hill Road, south of Greiner Road at existing day care facility located on 6.5+/- acres in a residential classification. Two previous splits of the parent parcel created 1 acre lots for duplexes. As the property has no additional frontage lots available, the only option to the owner is for an approval for an Open Development area.

There exists adequate lot size to create an open development lot however the existing private driveway intended to service the additional lot is not adequate as per the required open development private road specifications. Considering the driveway is currently constructed and servicing three (3) other residential structures, the Planning Board recommended a variance to allow for a private road to service the additional open development lot that is less than the required Town of Clarence specifications. This approval would additionally require the condition of a Homeowner Agreement as reviewed and approved by the Town Attorney to ensure maintenance of the common driveway.

#### Patrick Development/Waterford Estates

Applicant is requesting final plat map acceptance and public road dedication of the final portion of Monaghan Lane. The proposed site is located east of Galway Terrace, west of Renaldo Circle in a residential classification. Per the Subdivision Law, the Town Board has authority to approve subdivisions and road dedications. The Town Engineer has identified that the section of road proposed for dedication is constructed to Town standards. This action would involve the dedication of 1,100.82 feet of roadway and the addition of 25 building lots in the Waterford Village development.

#### Sarah J. Carr-Mansouri 8290 Main Street

Applicant is requesting a Change in Use to allow for the operation of a salon. The proposed site is located on the north side of Main Street, east of Westwood Road at existing vacant residence that was previously utilized as a doctor's office in the Traditional Neighborhood classification. Per the Zoning Law, the Town Board has the authority to approve the Change in Use of existing commercial operations. Parking, hours of operation, potential landscaping improvements are areas to be addressed.

#### ***Work Session items for consideration December 15, 2010:***

##### Main-Transit Plaza 8200 Main Street

Applicant is proposing to relocate the Mercedes-Benz Collision Shop to the plaza in the former Dunn Tire Shop. The proposed site is located on the northeast corner of Main Street and Bryant and Stratton Way at existing plaza located in the Commercial Zone. Per the Zoning Law, the Town Board has final authority to approve Special Exception Use Permits or Temporary Conditional Permits. A public hearing will be required prior to taking final action on the application.

##### Pradeep Arora 5514 Pine Loch Lane

Applicant is requesting a Public Hearing for consideration of a Special Exception Use Permit for the construction of a secondary living unit (in-law apartment). The proposed site is located in the Loch Lea Subdivision, intersection of Pine Loch Lane and Pinestone Court at existing single family residence in the Planned Unit Residential Zoning District. Per the Zoning Law, the Town Board has final authority to approve all Special Exception Use Permits. The applicant has been made aware of all relevant conditions including deed restrictions. The proposed addition encroaches upon the required minimum front yard setback; the applicant has made application with the Zoning Board of Appeals and will have a variance determination on the evening of December 14, 2010.

##### William Warmingham 8575 Goodrich Road

Applicant is requesting minor subdivision approval for the creation of one additional building lot. The proposed site is located on the east side of Goodrich Road, north of Brauer Road at existing single family residence consisting of 9 acres in the Agricultural Flood Zone. Per the Subdivision Law, the Town Board has final authority to approve all Minor Subdivisions. The Town Engineering Department has reviewed the proposal for floodplain considerations. The Assessor's Office is currently coordinating the issuance of an address. The proposal meets minimum zoning requirements and the NYS Realty Subdivision Law.

**Supervisor Scott Bylewski**

Supervisor Bylewski has scheduled a meeting for December 16 and December 21<sup>st</sup> to review and discuss Organizational Meeting items. The second meeting scheduled for December 21 may not be needed. Draft copies of the Organizational Meeting should be available by the end of the week.

Supervisor Bylewski received a Special Event Request for a 5k run scheduled for June 11, 2011. Pending further details, Councilman Casilio asked that this request be put on the December 15<sup>th</sup> Town Board agenda.

Supervisor Bylewski has two items to discuss in Executive Session regarding the Employment History of individuals and several Attorney-Client items to discuss as well.

**Councilman Joseph Weiss**

Councilman Weiss will make a motion awarding the bid for architectural design services for the dog kennel addition.

Councilman Weiss will make a motion to authorize Supervisor Bylewski to enter into and sign the Agreement of Sale between the County of Erie and the Town of Clarence for the transfer of Beeman Creek Park to the Town of Clarence.

**Councilman Bernard Kolber**

Because of budget cuts, the Clarence Public Library plan was to cut their hours of operation from 55 to 45 hours per week. They have plans to institute a fundraising campaign to try to raise enough money increase their hours of operation.

Councilman Kolber spoke to several fire chiefs and they are very concerned because as of January 1, 2011 they do not feel they will be able to respond to calls due to insurance and lack of a contract. They will meet this Thursday to see where this goes to. They are obtaining legal counsel and will make a decision as to where they stand.

**Councilman Patrick Casilio**

After several e-mails with NYSEG, they are now working on changing lights (not the lamps but the fixtures themselves) because they are having problems getting the parts. We are having problems with NYSEG servicing other lamps around the town. Town Attorney Bengart stated that he obtained new information this afternoon and suggested a meeting with Town Engineer Joseph Latona and the Parks Department to discuss this in detail.

Councilman Casilio stated that we are doubling the size of the dog kennel and with that many animals, he questioned at what point will we need 24 hour supervision for these animals. This is something we need to be aware of because along with increasing the size of the building other parameters of the project could change as well. Currently the kennel has ten animal pens; we will be adding ten more for a total of 20 pens so we are essentially doubling the size of the operation. The Highway Department will build the kennel. Town Engineer Latona stated that he will sit down with everyone to make sure they are all on the same page and work together. Councilman Casilio stated that when the dog kennel is complete, it will cost approximately \$120,000. It was originally presented as a \$60,000 project but with lavatory facilities, they should be tied into the sewer system and be done with it so we are not revisiting this in a couple of years from now and making more changes.

In discussing other Capital Projects, the Community Center was discussed and Councilman Casilio stated that we have to decide whether or not we have the will to move forward or not. The architect is at a critical point of starting the design phase for the project. Councilman Casilio did not want to spend money for the design phase if the Town Board is not in favor of moving forward with a Community Center.

Town Engineer Latona stated that we are looking at schematics, trying to get something on paper that you can see how much you are getting. Everyone has been interviewed numerous times and the Senior Center has been active in these meetings.

Supervisor Bylewski stated that this is a shared facility; it is not just for seniors.

Councilman Kolber stated that the Senior Center has long range plans that include provisions for expanding their facility if the Community Center does not go forward.

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

**Councilman Peter DiCostanzo**

The Youth Bureau has posted the position of Youth Activities Leader PT. The information is on the Town's website.

The Speaker Series will be held in March, April and May. Several nationally renowned guest speakers have been scheduled.

The Youth Board is recommending the appointment of Stephen Sharkey to the Youth Bureau. Councilman DiCostanzo will make that appointment at the December 15<sup>th</sup> meeting.

The Youth Bureau has 263 student volunteers and Jessica Notarius looking for more places to schedule the volunteers.

Winterfest is scheduled for January 30, 2011.

Councilman DiCostanzo has two Attorney-Client items to discuss.

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 and the employment history of a corporation. On the question, Town Attorney Bengart, James Callahan and Dave Metzger were asked to remain for parts of the Executive Session for various items. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:29PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:19 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 1, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:32 P.M. Pledge to the flag was led by Boy Scout Troop 250, followed by a prayer given by Father John Leising of Nativity of the Blessed Virgin Mary Church.

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 Weiss, seconded by Councilman Casilio to approve the minutes of the previous meeting held November 17, 2010. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that the pre-organizational meetings have been set for December 16<sup>th</sup> & 23<sup>rd</sup> at 2:30 p.m.

If anyone is interested in applying for a volunteer position on any of the boards or committees, there is information on the Town website. An application should be submitted to the Supervisor's office as soon as possible.

Supervisor Bylewski added that current members of boards with terms about to expire should also notify his office or their liaison if they are interested in continuing or not.

Motion by Councilman Weiss, seconded by Councilman Casilio to authorize Supervisor Scott A. Bylewski to enter into and sign the Agreement of Sale between the County of Erie and the Town of Clarence for the transfer of Beeman Creek Park to the Town of Clarence. On the question, Town Attorney Steven Bengart said a lot of discussion has taken place and the agreement has been reviewed by his office. We look forward to owning this spectacular piece of property. Supervisor Bylewski said there were a number of people involved who made this happen. There was a problem with the title and waiting for the State approval. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to award the bid for the design of the addition and alteration to the Town Animal Control Facility to W. L. Henderson, Architect in the amount of \$8,500 to be paid from A1440.434 Professional Services. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss asked the Town Engineer, in the project for the alteration to the animal control facility, there are additional costs involved. You would include in the overall cost of the project pay of the Town employees who work on it. Mr. Latona said yes.

Councilman Weiss referred to a letter from Councilman Kolber that was in the Bee last week regarding the cost for the adequate public facilities law. Councilman Weiss believes that all costs must be included when determining the cost of a project, not just the fee that was paid out to the consultant. Other costs included the Town Planner and Asst. Planner salaries and benefits; the Councilman who spent his time; meetings with school districts, sewer districts and fire districts; planning board meetings and legal fees. These costs amount to approximately \$62,060 and that does not include the Town engineer, attorney and assessor. He does not appreciate being accused of being inaccurate when only a portion of a cost is being reported.

Councilman Weiss said he has gone through each statement made and is going to refer this issue to the Ethics Board. The Supervisor asked the Town Attorney to contact our labor consultant to research lowering the salaries of the Town Board and some department heads based on a suggestion from Councilman DiCostanzo. He is going to ask that Mr. Kolber be removed. He feels the statements that were made are deceptive to the public.

Motion by Councilman Kolber, seconded by Councilman Casilio to authorize Supervisor Scott Bylewski to sign the 2011 Erie County Van Contract for the Going Places Van subject to Town Attorney review and approval. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said the cutbacks being proposed by the county executive for libraries will heavily impact the Clarence Public Library. If it goes through, one of the proposals

to reduce costs is to reduce the hours from 55 to 40. He heard on the news that some of the legislators are trying to get the funding restored. The library is also considering a mass fundraising effort. It is difficult to move forward when you do not know what the budget will be.

Councilman Kolber said they have been trying to get Time Warner to add some areas of the Town that do not have cable service. They have strict density requirements. The Cable Committee has a meeting set with Time Warner for December 14<sup>th</sup>.

Councilman Kolber said he is an avid watcher of Fox News and thinks they are fair and balanced. He distributed copies of his letters to the Bee and some quotes from minutes. Councilman Kolber said he goes by the facts and the public record. He contacted the accounting office and was told the Town paid Robert Freilich \$9,585 and Tyson Smith \$29,490 for the adequate facilities law.

Councilman Kolber referred to Town Board minutes from June 2007 where Councilman Weiss thanked the people who worked on the law. He voted for the project. He is hammering on this and on the six sigma project. He said a month and a half ago he felt that it was successful. You cannot have it both ways.

Councilman Weiss said Mr. Kolber is not giving all of the information.

Councilman Kolber referred to the letter in the Bee today. He does not understand where the \$60,000 figure comes from. The last four years he has suggested that they reduce their salaries. This year he said they cannot touch anyone else's salary until they change theirs. That is his report and he stands behind it.

Motion by Councilman Casilio, seconded by Councilman Weiss to award the bid for installation of a Fire Sprinkler System in the Town Park Clubhouse to Davis-Ulmer Sprinkler Co. at their bid of \$141,150, to be paid from the bond issue for Project 93. On the question, Councilman Casilio said this summer we are celebrating 100 years of the Clubhouse originally built by the Automobile Club. It is important for us to protect this treasure in our Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to award the bid for the Electrical Work for the Fire Sprinkler System for the Town Park Clubhouse to Goodwin Electric Corp. at their bid of \$12,915, to be paid from the bond issue for Project 93. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to award General Services during construction to M/E Engineering, PC for the Fire Sprinkler System and Electrical Work for the Town Park Clubhouse at an hourly rate with the total cost not to exceed \$10,000, to be paid from the bond issue for Project 93. On the question, Councilman Casilio said M/E is providing working drawings and supervision of the project. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Weiss to award the bid for installation of a Fire Sprinkler System in the Town Historical Museum to Allied Fire Protection at their bid of \$41,150, to be paid from the bond issue for Project 93. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to award the bid for the Electrical Work for the Fire Sprinkler System for the Town Historical Museum to Goodwin Electric Corp. at their bid of \$7,810, to be paid from the bond issue for Project 93. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to award General Services during construction to M/E Engineering, PC for the Fire Sprinkler System and Electrical Work for the Town Historical Museum at an hourly rate with the total cost not to exceed \$5,000, to be paid from encumbered funds from the Contingency Account. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to authorize Supervisor Scott Bylewski to sign and submit the Plan for Cyclical Reassessments for assessment roll years 2010 to 2013 to the New York State Department of Taxation and Finance, Office of Real Property Tax Services. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Town of Clarence Planning Department under the State Environmental Quality Review Act, the Clarence Town Board issues a Negative Declaration on the proposed demolition of the existing residence at 8051 Stahley Road. This proposed demolition has been reviewed by the Town of Clarence Historic Preservation Commission and they have unanimously approved a recommendation of a Negative Declaration and have determined no significant or contributing historical value associated with the existing residence. On the question, Councilman DiCostanzo said the home is owned by the church and no longer needed. Councilman Casilio said Father Yetter mentioned in his sermon a few weeks ago that the Town Board was holding up the installation of the parking lot. He did some research and called him as it was approved November 2<sup>nd</sup>. A set of drawings has not been submitted to the Engineering Department. They have a construction manager through the Diocese. He asked that the Town departments let him know what the procedures are. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo announced that there is an opening in the Youth Bureau for a Youth Activities Leader at an hourly rate of \$8.18 for 19 hours per week. Anyone interested should contact the Youth Bureau.

The Youth Bureau will be hosting another speaker series next year to include Mike Nerney on March 2<sup>nd</sup> & 3<sup>rd</sup>; John Rosmond on April 12<sup>th</sup>; and Monica Ferrara on May 9<sup>th</sup>. There will be more information coming out in the future. He hopes more people will turn out. These are all great speakers.

Councilman DiCostanzo said there are 260 kids in the youth volunteer program looking for opportunities. If anyone is interested in their service, they should contact the Youth Bureau at 407-2162.

Councilman DiCostanzo said the winter recreation schedule is out. Most activities take place on Saturday mornings. There are a host of activities available. The schedule is posted on the Town website or you can call the Youth Bureau or Recreation Department for more details.

Councilman DiCostanzo thanked the Boy Scouts for being here this evening to lead in the pledge to the flag and staying for the meeting.

Supervisor Bylewski thanked the department heads present for attending.

A Public Hearing was held to consider entering into a three year contract with East Amherst Fire Department, Inc. for fire protection in the Town of Clarence as follows: For the year 2011 for an amount not to exceed \$270,000; For the year 2012 for an amount not to exceed \$270,000; and For the year 2013 for an amount not to exceed \$270,000.

Supervisor Bylewski said the fire company was here previously and at that time approval was given for entering into a contract for one year. They indicated that they would like consideration for a three-year contract. The \$270,000 figure is a reduction from the current year budget of \$273,372. East Amherst did have a three-year contract that is expiring.

Councilman Weiss asked if they have agreed to in the contract to allow the Town Board a right to refuse for purchases over \$100,000.

Town Attorney Steven Bengart said the language has not been submitted for the contract. They had discussion with the Town Board saying that they would be interested in working that out. There is no contract yet.

With no one else speaking to the subject, motion was made by Supervisor Bylewski, seconded by Councilman Kolber to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, a public hearing was duly held on October 27, 2010 wherein all interested parties present were heard; and

WHEREAS, the Town Board approved entering into a one year contract with the East Amherst Fire Department, Inc. on November 3, 2010; and

WHEREAS, East Amherst Fire Department, Inc. is interested in entering into a 3-year contract with the Town of Clarence for fire protection for an amount not to exceed \$270,000 for

2011; for an amount not to exceed \$270,000 for 2012 and for an amount not to exceed \$270,000 for 2013; and

WHEREAS, a public hearing was duly held on December 1, 2010 to consider entering into a 3-year contract between the Town of Clarence and the East Amherst Fire Department, Inc. for 2011 for an amount not to exceed \$270,000; for 2012 for an amount not to exceed \$270,000 and for 2013 for an amount not to exceed \$270,000; and  
NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board agrees to enter into a contract with the East Amherst Fire Department, Inc. for fire protection in the Town of Clarence for the year 2011 for an amount not to exceed \$270,000; for the year 2012 for an amount not to exceed \$270,000 and for the year 2013 for an amount not to exceed \$270,000 subject to review and approval by the Town Attorney.

On the question, Councilman DiCostanzo said in their correspondence they showed a willingness to try to get more life out of their equipment. They did lower their numbers and agreed to hold it for the three years, so he will vote in favor.

Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

Consider adoption of a Local Law amending Chapter 193 of the Code of the Town of Clarence, Subdivision of Land, related to the project review process.

James Callahan said as part of the Master Plan 2015 amendments for 2010 as forwarded from the Town Board, and as part of the six sigma greenbelt project and with full Planning Board recommendations, the proposed amendments to the Subdivision Law will give final authority for major subdivision and open area development approvals to the Planning Board after initial review and comment by the Town Board. It would also give final approval authority to the Planning Board for minor subdivision approvals. A Negative Declaration was issued by the Town Board on November 17, 2010. A 239m review was completed by the Erie County Department of Environment and Planning on the proposed changes. A public hearing was held on November 17, 2010. A final version of the proposed law does not have any substantive changes from the version on which the public hearing was held.

Supervisor Bylewski said he incorporates, by reference, all of the comments that were made during the public hearing of November 17<sup>th</sup>.

Al Schultz, Planning Board Chairman was present.

Supervisor Bylewski thanked the Planning Board and the Planning Department for their work on this project.

Councilman Casilio thanked Jim Callahan and Mr. Schultz for the time spent with him on this proposed law. He does not agree with every aspect of the law, especially the closing factor that he would like to see. This is an effort to move forward and streamline the process. He does not think that there is a huge financial savings, but it will be more efficient in our operation. Maybe we can readdress the closing of that door in a year.

Councilman Kolber said he is opposed to this. He has attended planning board and town board meetings on a regular basis since 1993. He remembers the days when the Town was run by the planning board chairman. This went on for years. Also, in his opinion, there was a town board that was not representing the people of the Town. The reason he and Joe were elected is because the people felt the same way.

He believes that final decisions should be made by a town board elected by the people to make the best decisions for the Town. This proposal removes this representation. He believes that the time and cost savings have already been achieved by the planning board taking over the TEQR Committee duties. The total time savings to the applicant is three weeks and one meeting. The only financial savings to the Town is to not have someone who is already employed type it onto the schedule. There is absolutely no other savings.

Councilman Kolber said he brought up the Roxbury issue that right before they were to vote on it a neighbor said he tried to buy the land from the Town. Why is there no record? We made a good catch.

Councilman Kolber said the more concentration of power, the more chance for abuse of power. The time savings is not worth the lack of an elected body to grant approval for projects. He believes that some items such as conforming lot splits would not have to come back. He suggested a compromise where at project initiation, The Town Board could identify the projects

that do not have to come back. In conclusion, Councilman Kolber said little time savings, no financial savings, bad idea.

Councilman Weiss said in looking back, the town board was just as corrupt as the planning board in those days. There was no differentiation. The second issue is the wisdom of the people who are making the decisions. The planning board members take courses, meet with the applicants, walk the properties and spend the time in deliberations. These are the people who should be entrusted with this.

Councilman Kolber said the planning board members are sharp people, but it is not about these people. The more you remove the concentration of power the better.

Councilman Weiss said there were three meetings to discuss all of this and Councilman Kolber did not attend any of them.

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

WHEREAS, a public hearing was duly held on November 17, 2010 and after all interested parties being heard, the Clarence Town Board voted to table the adoption of the proposed Local Law; and  
NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board adopts Local Law No. 4 of the year 2010 amending the Code of the Town of Clarence, Chapter 193 titled Subdivision of Land. This local law shall become effective January 1, 2011 and upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

On the question, Councilman Casilio said he and Councilman Kolber do not agree on this issue, but he speaks from compassion. This is an ongoing process to initiate a change. We can revisit this in a year.

Councilman Kolber said there are no financial savings with this proposal. The time savings is only three weeks. The trade-off is people who are elected by the people of the Town.

Supervisor Bylewski said this has been the subject of much debate. We are here to do what is in the best interest of the Town. He believes Councilman Kolber's heart is in the right place about the Town. He also has concerns regarding this. Based on the study and research that was done, this is the best that we can do for now. It is a continuous improvement process.

Councilman DiCostanzo said he takes issue with the Fair Field Park street issue. He went back in the file and it was identified and they knew it. He believed it was under control. We, the Town Board did not catch anything. It was a resident that asked the question, not anyone on the Town Board. Residents have the opportunity to go to Planning Board meetings and speak also.

Councilman Weiss said you cannot just come in and look at this stuff every few weeks and make a decision. These people live it.

Councilman DiCostanzo said the point is the Town Board did not catch anything.

Councilman Casilio said we were ready to make the decision and would have had a private road on Town property.

Councilman Weiss said there is a difference between concept approval and development approval. It would have been worked out in the process.

Councilman Kolber said he believes it was in the final stage.

James Callahan said it was for concept approval.

Councilman DiCostanzo said he thinks the time save of three weeks and a meeting would be valuable to a lot of people. He believes it is their job, now more than ever, to make sure we have the best people on the planning board to do the job.

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

Consider adoption of a Local Law amending Chapter 229 of the Code of the Town of Clarence, Zoning, related to the project review process. James Callahan said the proposed amendments give final approval authority for concept plan approval, development plan approval and site plan review to the Planning Board after initial review and comment by the Town Board. The Town Board would retain authority for final action on open space design developments, special exception use permits and temporary conditional permits. A Negative Declaration was issued by the Town Board on November 17, 2010. A 239m review by the Erie County Dept. of Environment and Planning is completed. A Public Hearing was held November 17, 2010. A

final version of the proposed law does not identify any significant substantive changes from the version on which the public hearing was held.

Supervisor Bylewski said all comments made at the public hearing and all meetings regarding this subject are incorporated by reference.

Al Schultz said he appreciates the effort Mr. Bengart put into these amendments. He and Mr. Callahan spent hours going through his comments and believe that they have a better product.

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

WHEREAS, a public hearing was duly held on November 17, 2010 and after all interested parties being heard, the Clarence Town Board voted to table the adoption of the proposed Local Law; and

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town board adopts Local Law No. 5 of the year 2010 amending the Code of the Town of Clarence, Chapter 229 Zoning. This local law shall become effective January 1, 2011 and upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

On the question, Supervisor Bylewski said this will be part of the annual review as to the effectiveness of this local law.

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

Angelo Natale requests Development Plan Approval for a 35-Lot Open Space Design Subdivision east of 8230 County Road known as Rivera Greens. James Callahan said the location is the north side of County Road east of Stahley Road consisting of approximately 19 acres in the Traditional Neighborhood District and within Erie County Sewer District No. 5. A Negative Declaration was issued by the Town Board on May 28, 2008. Concept Plan Approval was granted November 19, 2008. The Planning Board has forwarded a recommendation on the submitted design.

Jeff Palumbo, attorney was present to represent Natale. Mr. Palumbo said they would like to ask the Board to reconsider the side yard setback from 10 ft. to 7 ft. It would allow for a 14 ft. separation between the buildings. The reason for this request is that the most popular home Mr. Natale is considering for this development is 53 ft. in width. There are two different size lots with 70 ft. lots on the interior and 75 ft. lots on the exterior. Mr. Palumbo said it is in the TND and houses are generally spaced closer together. They would not object to keeping the 10 ft. setback on the exterior lots.

Mr. Palumbo said the second issue is with respect to the recreation fee of \$1,000 per lot. This was approved as an open space design and approximately 9 ½ acres are set aside for open space. They feel that adding a \$1,000 on top of that is unnecessary. They are trying to keep these patio homes at a price range less than others. The discussion has been had that people are paying more for the patio homes than what they can sell their single-family homes. The size of the homes will range from 1,900 sq. ft. to 2,700 sq. ft. They will sell in a range of \$250,000 to \$350,000+ depending on any upgrades or add-ons. The lots will be in the \$70,000 range.

Councilman Kolber asked if they were applying for condo status.

Mr. Palumbo said no. They will have some type of homeowners association to handle the open areas.

Councilman Casilio said with that reduced setback are there provisions for generator installation if someone wants one.

Angelo Natale said they will have options for generators and have no intention of restricting what they can have on their lots.

Councilman Casilio said they may have to place the generators in the back to meet the requirements.

James Callahan said this project was submitted at 10 ft., so the Planning Board never discussed otherwise.

Councilman DiCostanzo asked if the plan for this development changed.

Mr. Palumbo said that the experience that Mr. Natale has had with similar developments is turning out that the 53 ft. model is the most popular. It is a two-story with the master bedroom on the first floor.

James Callahan said the fee set for recreation is set in the subdivision law based on a percentage of the pre-development value of the land. It is for active recreation purposes.

Supervisor Bylewski said the zoning law states that the Town Board may recommend a dedication of the land to the Town in lieu of the fees if the subdivision is located in an area close to another recreation area or public site. In this case, this is passive open space and not in an area we would pursue for active recreation.

Angelo Natale said the reason they are asking is that they did not choose to go condo status and create a better tax base for Clarence. He knows that his competitors are pursuing condo status.

Councilman Casilio said they have not received it as yet.

Councilman Kolber asked, what would the differential be over the years from having condo status, which would have a negative financial impact, from a taxing standpoint. He wonders if you would gain more over time by working with them to not pursue condo status.

Town Attorney Bengart said that is an interesting concept, but we have to follow the law.

Supervisor Bylewski said he wonders if this is a significant enough change to refer back to the Planning Board. He asked if the applicant had an objection to that.

Mr. Natale said they would prefer a decision tonight. It would just be for the interior lots.

Councilman Weiss said he has no problem with the 7 ft. setback, but the recreation fee is according to the law.

Councilman Kolber said each project stands on its own merit. He wonders if it will cause problems with other projects coming forward that we allowed it for this one.

James Callahan said this is unique in that it is in a traditional neighborhood district where the lot sizes and setbacks are reduced.

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

Resolved, that the Clarence Town Board, approves and grants the request of the applicant, Angelo Natale, Natale Home Builders, for Development Plan Approval of a 35-lot Open Space Design Subdivision located on the north side of County Road, east of Stahley Road and east of 8230 County Road, subject to the following conditions as recommended by the Clarence Town Planning Board:

1. Landscape Committee Approval required for Development Plan and to include a minimum of one tree per lot.
2. All applicable fees with the Recreation Fee established at \$1,000 per lot.
3. Installation of sidewalks on one side of the street going north and south around the entire perimeter.
4. Final Homeowners Agreement to specify and define locations and maintenance of common areas and to be reviewed and approved by Town Attorney.
5. Setbacks: 25 ft. front and 15 ft. rear, with utility approval; 7 ft. side yard setback for interior lot section and 10 ft. side yard setback for all others.
6. 2,500 sq. ft. maximum home size with 25% of total lots up to 2,700 sq. ft.

On the question, Mr. Palumbo said he questions the 25 ft. rear yard setback. There was extensive discussion with the Planning Board and he thought that they agreed to 15 ft. rear yard setback.

Supervisor Bylewski said the memo from the Planning Department does indicate the 15 ft. rear yard setback. (The motion was changed to 15 ft. rear yard setback.)

Councilman Kolber suggested this be tabled until we make sure everything is correct.

Planning Board members present verified that 15 ft. is correct.

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

Norm Castine/Margaret Kiesel requests approval for a One-Lot Open Development Area at 5145 – 5175 Harris Hill Road. James Callahan said the location is the east side of Harris Hill, south of Greiner Road consisting of existing day care center and residential uses. The applicant proposes one new residential building lot. The Planning Board has forwarded a recommendation with conditions on the project as proposed.

Mary Beth Kiesel was present.

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

BE IT RESOLVED, that the Clarence Town Board, grants the request of the applicants, Norm Castine and Margaret Kiesel, for Development Approval for a 1-lot Open Development Area located on the east side of Harris Hill road, south of Greiner Road at 5145-5175 Harris Hill Road, subject to the following conditions:

1. Open Space and Recreation Fees.
2. A variance to allow for a private road to service the additional open development lot that is less than the required Town of Clarence specifications.
3. Town Attorney review and approval of a Homeowners Agreement, to ensure maintenance of the common driveway.
4. Grading and drainage approval as part of Building Permit application.

On the question, Mary Beth Kiesel asked about the open space and recreation fees.

Councilman Casilio said they are required on every lot that is developed. It is part of the building permit fee.

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

Patrick Development requests Final Plat Approval for Phase 3, Part B of the Waterford PURD representing 25 sublots and dedication of approximately 1,100 linear feet of Monaghan Lane in Waterford Estates. James Callahan said the location is on the east side of Galloway Terrace, west of Renaldo Circle within the Waterford Estates portion of the Waterford Planned Unit Residential Development.

Jeff Palumbo, attorney was present representing the applicant.

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

Resolved, that the Clarence Town Board grants the request of the applicant, Patrick Development, for Final Plat approval consisting of 25 building lots in the Waterford Village development and the dedication of the final portion of Monaghan Lane, subject to:

1. Applicable fees.
2. All appropriate documents necessary to convey the final portion of Monaghan Lane to the Town of Clarence are to be submitted to, reviewed by and approved by the Town Attorney.
3. Building permits will not be issued until proof of filing of the approved road deeds are submitted to the Town Attorney.
4. Town Agrees to pay the Annual Maintenance fee to Erie County Water Authority for three new fire hydrants for Waterford, Phase 3, Part B at the locations approved by the Town Engineer.
5. Final Plat Approval must comply with all regulatory agency and local department conditions.

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

Sarah Carr-Mansouri requests approval for a Change-In-Use from vacant to a salon at 8290 Main Street. James Callahan said the location is the north side of Main Street, east of Westwood Road consisting of an existing vacant residential property in the Traditional Neighborhood District.

Sarah Carr-Mansouri said she plans to place a sign according to the requirements she has received from the Town. She also plans to generally clean up and do some simple landscaping.

Supervisor Bylewski said the parking lot will have to be striped.

Motion by Councilman Kolber, seconded by Councilman Casilio to grant a Change-In-Use from vacant to a salon at 8290 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Harris Hill Moms Club – Dec. 18, 2010; B. Clarence Contemporary Club – Sept. 26 & 27, 2011; C. Christ Lutheran Church – Dec. 4, 2010; and Legion Hall Applications – A. Gary George – Dec. 4, 2010; B. Wendy Kelkenberg – Jan. 7, 2011; C. Irene Toloue – Feb. 19, 2011. 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 24, 2010 are approved for payment: General Fund - \$142,605.47; Highway Fund - \$47,166.91; Water District - \$14,439.42; Lighting Districts - \$842.27; Sewer Districts - \$281.04; and Capital Fund - \$134,661.64 for a total amount of \$339,996.75. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Tim Pazda said it occurs to him that a few members of the Board are not playing very well with each other. He suggested they put on a pot of chili and enter the chili cook-off at Winterfest and settle it that way.

Councilman Kolber said one more thing he did not mention about the letter in the Bee that was not factual was the only way to reduce salaries was through a public referendum. He had a memo from Heather Giambra, Esq. stating that if the Town Board wishes to reduce the salary of elected town officials during a term of office, such can only be done by a local law subject to a mandatory referendum. He is going to move forward on this.

There being no further business, Supervisor Bylewski adjourned the meeting at 9:10 p.m. in memory of Marguerite Baumler, mother of Asst. Disaster Coordinator David Baumler; Donald Matteson, father of John Matteson and Brian Matteson, both Town employees; Rene Desai, a Town resident who was an active participant at Town Board meetings; and Kathy Koziel, cousin of Supervisor Bylewski’s father.

Nancy C. Metzger  
Town Clerk