

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, January 19, 2011 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, Senior Building Inspector David Metzger, Planning Board Chairman Al Schultz, Director of Administration and Finance Pam Smith, Town Engineer Joseph Latona and Town Attorney Steven Bengart.

Director of Community Development – James Callahan

Public Hearings:

A Public Hearing is scheduled for 7:45PM to consider the request for a Temporary Conditional Permit for an automotive collision shop at 8200 Main Street. The proposed site is located on the northeast corner of Main Street and Bryant and Stratton Way at an existing plaza located in the Commercial Zone. Applicant is proposing to relocate the Mercedes-Benz Collision Shop to the plaza in the former Dunn Tire Shop. Per the Zoning Law, the Town Board has final authority to approve Special Exception Use Permits or Temporary Conditional Permits. Outside storage should be adequately screened. Any interior renovations are subject to the Building Department review and approval.

Formal Agenda items:

Michael Drennan 5810 Thompson Road

Applicant is proposing to coordinate with Waterford Village PURD to extend the designed Donegal Manor further south onto the applicants property to terminate in an extended cul-de-sac, creating 10+/- additional lots at the southern end of the extended Donegal Manor. The proposed site is located on the west side of Thompson Road, south of Curry Lane/Waterford Village PURD on existing residential property consisting of approximately 19+/- acres in the Residential Single Family Zone. Per the Subdivision Law, the Town Board acts as gate keeper for major subdivision review. Project would be classified as a Major Subdivision and subject to full environmental review. Number of lots on a dead end street and coordination with existing infrastructure will be issues that will need to be addressed.

Given the character of the surrounding area, Supervisor Bylewski stated that single family was the route to go instead of the Open Space Design.

Town Engineer Latona stated that this proposed development would be tributary to the Heise-Brookhaven Trunk Sewer. Our contract with the Heise-Brookhaven Trunk Sewer states that anyone in this position would require an approval from Heise-Brookhaven and the Town of Clarence. The Town Board should not refer this project to the Planning Board without approval from Heise-Brookhaven Trunk Sewer - the referral to the Planning Board should be conditioned on this approval.

Director of Community Development James Callahan stated that we not only have to make sure there is enough capacity but identify that it is in the sewer district. This may also require a supplement to the Environmental Impact Statement.

Work Session items for consideration February 9, 2011:

Clarence Fire District #1 10355 Main Street

Applicant is undertaking an environmental review towards undertaking a public referendum and ultimately constructing an addition to the existing facility. The proposed addition would involve construction of a new truck bay on property recently acquired. The proposed site is located on the south side of Main Street, east of Shisler Road at existing fire house located on 5+ acres in the TND and Commercial District within the Clarence Hollow overlay. The Town Board will be an involved agency in the project review and approval. The proposed addition will be subject to a Special Exception Use Permit review and approval by the Town Board as the cumulative square footage total will exceed 10,000 square feet in the TND. In addition, the project involves demolition of a structure built prior to 1950, which identifies that the project is considered a Type 1 Action under SEQRA per local legislation.

Action required at this time is to agree to allow the Fire District to act as Lead Agency in the SEQRA process.

Stephen Development/Rock Oak Estates – Rock Oak West expansion - 10065 Main Street

Applicant is requesting preliminary concept review of an expansion to the existing manufactured housing park as well as additional rental apartment units and mixed use commercial development at 10065 Main Street.

Supervisor Scott Bylewski

Supervisor Bylewski has a correction to the Organizational meeting minutes.

A human resource intern from UB School of Management MBA Program will be talking with various department heads about using interns.

Supervisor Bylewski will appoint Councilman DiCostanzo as official delegate and Town Attorney Bengart as alternate delegate for the 2011 Association of Towns annual meeting.

Supervisor Bylewski received the 2011 CDBG Action Plan. The CD is available in the Supervisor's office if anyone is interested in what CDBG is being spent on.

Based on a communication Supervisor Bylewski received, he will make a motion granting approval for the Flight 3407 run.

Supervisor Bylewski will make a motion authorizing approval for Town Attorney Steven Bengart to attend the Association of Towns annual meeting with all reasonable and necessary expenses. Town Attorney Bengart stated that he is driving to NYC.

This is the first official meeting of the year with an item on the agenda called the *Consent Agenda*. There are two resolutions regarding the WNY Storm water Coalition authorizing the Supervisor to sign the Storm water Coalition by-laws and the Memorandum of Agreement.

Supervisor Bylewski has several items for Executive Session regarding employment history of individuals, purchase of real property, collective negotiations.

Councilman Joseph Weiss

Town Assessor Christine Fusco is requesting approval to attend the Association of Towns Annual Meeting in NYC. As President of the NYS Assessor's Association, the NYSAA will cover all her expenses.

Councilman Weiss talked to Animal Control Officer Jerry Schuler regarding snow removal on sidewalks. Mr. Schuler is currently handling this on a call by call basis. We do not have the man-power to take this any further.

Supervisor Bylewski stated that in the past, we have considered a Sidewalk District (similar to what the Town of Amherst is considering) and suggested that if this is what the residents want they should circulate a petition however nothing materialized.

Councilman Bernard Kolber

Councilman Kolber congratulated the in-coming board of directors and officers at the Senior Center.

Councilman Patrick Casilio

The Town will see a slight increase in hydrant charges because of some new hydrants not because of the hydrant replacements that Councilman Casilio reported on last meeting.

Councilman Casilio has one Attorney-Client item to discuss.

Councilman Peter DiCostanzo

There was discussion at the Planning Board meeting regarding the future plans of the former Frey's Old Time Furniture building.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) E of the Open Meetings Law to discuss collective negotiations pursuant to Article 14 of the Civil Service Law (The Taylor Law); § 105(1)F the employment history of a particular person/corporation and § 105(1)H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. On the questions, Town Attorney Bengart, James Callahan, Brad Packard and Town Engineer Latona 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 6:24 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:34 PM. Upon roll call – Ayes: All; Noes: None. Recuse: Councilman Casilio. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, January 19, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:39 P.M. Pledge to the flag was led by Councilman Joseph Weiss, followed by a moment of silence in honor and memory of those who serve the public, in light of what happened in Tuscon, for their own lives and the lives of their families.

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, Town Assessor Christine Fusco and Planning Board Chairman Al Schultz.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meetings held January 5, 2011. On the question, Supervisor Bylewski said there was a typographical error on page 10, item 29 – Ronald Bosela was not appointed as Security Officer PT. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said this is the first meeting with the new agenda format. Item 6 is the Consent Agenda for items that are unanimously consented to be on the agenda in the work session. They will be brought to the public in summary as opposed to detailed information. The items tonight are to give authorization for the Supervisor to sign off on various agreements.

There are two items for public participation, with item 11 limited to Town Board and Department Reports only. Item 13 will allow for public participation on each item after the presentation to speak or ask questions with a limit of three minutes.

Supervisor Bylewski announced that we have entered into a relationship with the University of Buffalo by bringing in a 4-credit, unpaid volunteer intern from the UB School of Management in the MBA program. She will be looking at our current internship program and looking at further opportunities to help UB and ourselves.

Supervisor Bylewski said we have the 2011 Community Development Block Grant action plan. A copy of the plan is available in his office for anyone interested.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to authorize approval for the Town Attorney to attend the Association of Towns with all reasonable and necessary costs paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to appoint Councilman Peter DiCostanzo as Official Delegate and Town Attorney Steven Bengart as Alternate Delegate at the 2011 Association of Towns Annual Meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant the Special Event Request for the 3407 5K Run on June 12th from 9:00 a.m. to 3:00 p.m. On the question, Supervisor Bylewski said the route will be the same as last year and all appropriate authorities will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to authorize the Supervisor to sign the Western New York Stormwater Coalition Memorandum of Agreement for a period of five years and the Stormwater Coalition By-Laws. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to authorize Town Assessor Christine Fusco to attend the Association of Towns Training School and Annual Meeting to be held in New York City February 20 – 23, 2011. On the question, Councilman Weiss said that as President of the New York State Assessor's Association, her expenses will be paid by the Association. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the following 2010 General Fund Account transfer for the Highway Department: \$9,500 from

account 001.5132.0438 Light, Heat, Power & Water to 001.5132.0450 Building and Maintenance to cover the cost of the Fuel Farm Upgrade. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the request from Highway Supt. Ted Donner to encumber funds from the 2010 Budget in the amount of \$6,800 from Road Account 002.5110.0413 to cover the cost of the payment to Ledge Creek for the removal of an old gutter and replacement of a new gutter per Purchase Order #3170. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber congratulated the incoming Board of Directors and officers at the Senior Center.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for February 9, 2011 at 7:45 a.m. to consider a Local Law amending The Code of the Town of Clarence, Chapter 67 Building Code Administration. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said he is sorry to report that Town Engineer Joseph Latona has announced that he will be retiring as of March 26, 2011. He will be missed. Joe has many accomplishments under his belt.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law, the Town Board issues a Negative Declaration on the proposed Rock Oak Estates Manufactured Housing Park expansion plus additional residential and commercial development. This Type I Action involves the expansion of the existing manufactured housing park along with additional high density residential growth as well as commercial growth in the Commercial Zone. After thorough review of the submitted site plan and Environmental Assessment Form by the TEQR Committee, Planning Board and Town Board, including a coordinated review with comments from NYSDEC, NYSDOT and SHPO, it is determined that the proposed project will not have a significant impact upon the environment. On the question, Councilman DiCostanzo said this was the last recommendation made by the former TEQR Committee. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said the Youth Bureau is going to be sponsoring another speaker series and one of the main speakers is John Rosemond. He gives great advice on raising kids. Anyone who is interested in being involved or helping to sponsor the series should contact Dawn Kinney at the Youth Bureau.

Councilman DiCostanzo said he was at the Bistro and Brew in the Hollow and enjoyed another great meal. He encourages people to check it out.

Councilman DiCostanzo announced that there is ice skating at the Main Street Park on the tennis courts for anyone interested.

Town Clerk Nancy Metzger stated for the record that she has submitted the annual reports for 2010 to the Town Board. The total fees received in the Town Clerk's Office were \$539,756.24.

The total amount of taxes collected for the 2010 Town & County Collection and School Tax Collections was \$68,069,736.72.

A Public Hearing was held to consider the request for a Temporary Conditional Permit for an automotive collision shop at 8200 Main Street. James Callahan said the location is the northeast corner of Main Street and Bryant Stratton Way in an existing vacant store front in the Main Transit Plaza. The applicant is proposing to relocate his current business to this location.

Bob Lamastra, President of Mercedes Benz said they will be leasing the property. Gary Rasp said he will be the tenant. Chris Nichter is the general contractor.

Mr. Lamastra said they try to improve with every project they have done.

Supervisor Bylewski said they received an anonymous letter with concern about drainage, especially with regard to the vehicles that would be washed daily, washing down the shop and paint overspray filtering through the ventilation system.

Mr. Nichter said all of these concerns will be taken into consideration without interfering with the environment. They are also looking at façade improvements.

Mr. Lamastra said they will incorporate the look of the Mercedes Benz building across the street.

Councilman Weiss said he believes the drains are going to be problematic. The ventilation system is questionable also. We are relying on Mr. Metzger to look at these things.

Councilman Kolber said he is in favor of enhancing the façade. In terms of the paint booth, there are standards required. He would like to see what it will look like.

Mr. Lamastra said it is going to be associated with his business, so he is going to make sure it is done right.

Speaking to the subject:

Mr. and Mrs. Dan Kusz said they love their home and neighborhood, but are very concerned about the noise from the equipment that goes along with this business. They do not believe it is the right location for a collision shop and they ask that consideration be given to the residential neighbors.

David Metzger said the project has to go through engineering and architectural design. The DEC has requirements and it goes through Erie County Sewer.

With no one else speaking to the subject, motion was made by Councilman Casilio, seconded by Supervisor Bylewski to close the Public Hearing. On the question, Mr. Rasp said his operation is five days per week from 7:00 a.m. to 4:00 p.m. and no weekends.

Councilman DiCostanzo said he is about the same distance from the current location as Westwood would be to the new one. He never hears anything from this operation.

Mr. Rasp said there are new clean air and clean water laws that he must follow. He does not believe noise is really an issue.

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

Motion by Councilman Kolber, seconded by Councilman Weiss to refer the request for a Temporary Conditional Permit for an automotive collision shop at 8200 Main Street to the Planning Board to iron out some details specifically with the façade and the drainage issues. On the question, Supervisor Bylewski said if this moves forward to the Planning Board, what will the process be. James Callahan said it would be put on the Planning Board agenda and then referred back to the Town Board for Temporary Conditional Permit approval. If there are no significant changes, another public hearing would not be required. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

Michael Drennan requests Major Subdivision Approval to create 10+/- Residential Building Lots as an extension of Donegal Manor in Waterford Estates. James Callahan said the location is the west side of Thompson Road between Curry Lane and Thompsonwood Drive consisting of an existing residential property in the Residential Single Family Zone. Major subdivisions are introduced to the Town Board for review and comment before being referred to the Planning Board for thorough review and approval.

Mike Drennan, owner of the property and Kevin Curry, developer were present.

Supervisor Bylewski said that if it is referred on as submitted, it would come back because of the variance for the length of the cul-de-sac that would be needed to go forward. An alternative suggested by Councilman Kolber was a connection from Kilkenny that would eliminate the need for a variance.

Kevin Curry said he would like to see how it shakes out, but he would give that consideration.

Councilman Kolber said they will need a letter from the principals of the Heise-Brookhaven Sewage Works Corp. stating the number of taps available for this project. Also, in speaking with the Planning Department, this is not an expansion of the PURD, but is an out parcel.

Motion by Councilman Kolber, seconded by Councilman Casilio to refer the request for Major Subdivision Approval to create 10+/- Residential Building Lots as an extension of Donegal Manor in Waterford Estates to the Planning Board for further review, to include a letter from Heise-Brookhaven Sewage Works Corp. allowing them to tap in. Town Engineer Joseph Latona added they will monitor the capacity and the number of taps. On the question, Supervisor

Bylewski said that because of the environmental impact study that was conducted with Heise-Brookhaven and Waterford, etc, it may have to be reopened. James Callahan said there will be an environmental review and if we are expanding the number of taps or relocating the taps, it would be a supplement to the existing environmental impact statement. It would not have to be detailed. He believes it states that additional taps could be included through a Negative Declaration. Councilman DiCostanzo asked if the alternative to the variance is a condition of this review. Supervisor Bylewski said it is something for them to look at, but not necessarily a condition of the project moving forward. Councilman Kolber said it could simplify the process. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to approve the following: Clubhouse Applications - A. Clarence Republican Committee – Feb. 1, 2011; B. Cub Scout Pack 27 – Feb. 19, 2011; Legion Hall Applications – A. Clarence Little League Football – Monthly Meetings for 2011; B. Clarence Girl Scouts – Jan. 24, 2011; C. Clarence Lacrosse – Jan. 29, 2011; D. Carin Mulvey – Feb. 5, 2011; E. Brian Decker – March 5, 2011; F. Tina Battaglia – March 20, 2011; G. Nargis Hossain – April 30, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of January 20, 2011 are approved for payment: General Fund - \$217,826.45; Highway Fund - \$90,910.91; Water District - \$1,614.39; Drainage District - \$10,094.00; Lighting Districts - \$867.96; Capital Fund - \$47,593.56; Trust and Agency 203 - \$1,550.00; and Trust and Agency 205 - \$146.42 for a total amount of \$370,603.69. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:20 p.m. in honor and memory of the floor cleaning contractor for the Town, Skip Beale.

Nancy C. Metzger
Town Clerk