

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, December 5, 2012, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Sr. Building Inspector David Metzger and Director of Administration and Finance Pam Smith.

Director of Community Development – James Callahan

Town Board agenda items for consideration December 19, 2012:

Jehovah's Witnesses – Ross Harbison

Applicant is requesting preliminary concept review of a proposed 4,000 square foot Kingdom Hall to be located on the northeast corner of Shimerville and Roll Road.

Town Engineer Tim Lavocat

Eastern Hills Corridor Plan (Bryant Stratton Way) – there has been discussion on pursuing the north-south connection to Eastern Hills Mall and to determine whether or not there is still money available. The goal would be to get public right of way to the mall for connection from Main Street. This would open up opportunities along that route for additional commercial development. James Callahan stated that there are a least five commercial lots with public road frontage. Town Engineer Lavocat is working on the details, this project is still on the NYS Transportation Improvement Program. Supervisor Hartzell was in favor of this project and suggested moving forward with it.

Councilman Kolber felt that this would take pressure off our roadways, eliminate excessive traffic and improve safety.

Town Engineer Lavocat thanked Assistant Planner Brad Packard for putting the information together; he will continue to work with James Callahan and Brad Packard to move forward with this project.

Councilman Casilio recused himself from discussion on this project because part of this roadway connects to property him and his family own.

Town Engineer Lavocat has a Change Order for Milherst Construction for the Keller Road Pump Station Elimination Project in the amount of \$21,381. This change order is for sewer realignment and associated additional material and additional storm drainage work along Goodrich Road. Once the construction crews got into the ground, they discovered the intersection (Goodrich and Keller Road) has so many utilities (water lines, gas lines) in the ground so the sewer had to be shifted towards Goodrich Road. Erie County is allowing us to do this so the entire trench has to be backfilled with select material because it is up against their road. Along with that, some additional pavement restoration work, modification to some manholes and storm-drainage work along Goodrich Road had to be done. The Health Department requires we maintain certain separation distances from water lines.

Town Engineer Lavocat is requesting an increase to the Sanitary Sewer Permit Fee for all Town of Clarence Sewer Districts from \$750 to \$900 effective January 1, 2013. Erie County operates and maintains all Clarence Sewer Districts. This fee increase is due to an increase in Erie County's fee to the Town of Clarence and increased administrative costs. This is the only increase in sewer fees since 1985.

Supervisor David Hartzell

Upon recommendation from Highway Superintendent Ted Donner, Supervisor Hartzell will appoint two Laborers in the Highway Department. Councilman Kolber would like to discuss these appointments in Executive Session.

Supervisor Hartzell will make several line item transfers in the General Fund.

Councilman Bernard Kolber

Councilman Kolber commented on the petition received regarding the proposed indoor soccer facility at Memorial Park. He noted that many of the signatures were from people that do not live in the area of the park. The proposed project is currently being reviewed by the Recreation Advisory Committee.

Councilman Patrick Casilio

- Approve the transfer of funds in the Engineering Budget
- Increase the Sanitary Sewer Permit Fees effective January 1, 2013
- Authorize Change Order No. 1 to Milherst Construction for the Keller Road Pump Station Elimination Project
- Hydrant Maintenance Fee for Spaulding Greens Subdivision Phase IIB-Garden Walk Extension

Councilman Casilio has one item to discuss in Executive Session regarding the employment history of an individual.

Councilman Peter DiCostanzo

Councilman DiCostanzo had no report.

Councilman Robert Geiger

Councilman Geiger will make a motion to authorize Supervisor Hartzell to sign the 2013-2014 renewal agreement for software maintenance and control between U & S Services Inc. and the Town of Clarence.

Twenty-three people attended the Deer Nuisance Permit meeting on Monday.

Multiple Family Residential Overlay

Councilman Kolber felt the Board is more comfortable with the overlay than he is. James Callahan stated that the overlay is more of an integration into the Zoning Law as opposed to creating separate stand alone zones where you don't know in the future if that is going to be proper land use or not. The overlay allows the Town Board to have the final say as to whether or not multiple family development would be allowed.

The goal has always been to try to avoid rezoning if possible and preplan our community to know where projects can be located.

Councilman Kolber would like to see the section regarding Exceptions – Unsewered Lots removed from the overlay. James Callahan stated that the Board can always come back and revisit this if there is a need.

The allowed density in a Commercial Zone was amended to read:

- A. 1 bedroom – 8 units per acre
- B. 2 bedroom – 5 units per acre
- C. 3 bedroom or greater – 4 units per acre

The allowed density in a Restricted Business Zone was amended to read:

- A. 1 bedroom – 8 units per acre
- B. 2 bedrooms – 5 units per acre
- C. 3 bedrooms – 4 units per acre

James Callahan stated that he does not put a lot of stock in the density number; it is going to be more driven by open space, unit size and by the other bulk requirements in that zone, the density will follow. Thirty percent green space is the minimum requirement.

The maximum density for multiple family housing in a Traditional Neighborhood District will remain as is: 4 units per acre; additionally, there shall be no more than 16 units on any land parcel.

There was a discussion regarding building caps to include multifamily development. Currently 240 building permits are allowed each year (170 within a subdivision and 70 outside). James Callahan stated that this is a separate issue from the proposed Multiple Family Residential Overlay.

Councilman Kolber stated that we are trying to control the town's growth to a manageable level that our roads and NYS Police can handle.

James Callahan stated that he e-mailed a draft resolution to the Town Board limiting residential permits to 225. Each apartment would be counted as a unit. Senior housing units would count as .75 of a unit. The draft includes all types of housing including limits on multiple family, single family, manufactured housing and quad duplexes. This is not a law; it would be a policy of the Town Board.

Councilman Kolber said that our building permit cap for single family housing is followed but not written in stone and does not apply to manufactured housing or multi-family housing. Councilman Kolber suggested that between now and the next Work Session the Board should decide whether or not we want one number that is accumulative of everything. Town Engineer Lavocat stated that one multi-family housing project could use up all building permits for the year. Supervisor Hartzell suggested a building cap for just multi-housing. Senior Building Inspector David Metzger stated that many of the bigger projects are built in phases over several years.

Councilman Casilio asked what would stop someone from building manufactured homes instead of multi-family housing. James Callahan stated that the town has a separate Manufactured Housing Law which is only allowed in the Commercial Zone (you have to have fifty units and they are not allowed outside a manufactured housing park). Density is determined by on-site septic system.

Director of Community Development James Callahan will amend the Multiple Family overlay draft and will forward the resolution to the Town Board regarding building cap.

Motion by Supervisor Hartzell, second by Councilman Geiger to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of an individual. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 7:01 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Councilman Casilio, second by Councilman Kolber to adjourn the Executive Session at 7:16PM. 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 on Wednesday, December 5, 2012 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Patrick Casilio, followed by a prayer given by Supervisor Hartzell.

Members of the Town Board present were Councilmembers Bernard Kolber, Patrick Casilio, Peter DiCostanzo, Robert Geiger and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Asst. Planner Brad Packard and Sr. Building Inspector David Metzger.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the work session and regular meeting held November 28, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to approve the following line item transfers: \$2,826.00 from account A1320.0446 - Actuarial Services to account A1981 - Grant Writing; \$5,782.69 from account A1930 Judgments and Claims to account A1950 - Taxes on Town Owned Property; and \$3,300.00 from account A1930 Judgments and Claims to account A1954 – EAP, Hiring Costs and Testing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said we received a petition from people opposing the indoor soccer facility at Memorial Park. It is before the Recreation Advisory Committee for review. He found it interesting that many of the people who signed the petition do not even live in that area.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Change Order No.1 to the Milherst Construction Contract for the Keller Road Pump Station Elimination Project in the amount of \$21,381.00. On the question, Councilman Casilio said this change order is for sewer realignment and associated additional material and additional storm drainage work along Goodrich Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Town of Clarence agrees to pay the annual fire hydrant maintenance fee to the Erie County Water Authority for one (1) fire hydrant within Spaulding Greens Subdivision Phase 2B Garden Walk Extension upon Final Plat approval and formal public infrastructure acceptance by the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to increase the Sanitary Sewer Permit Fee for all Town of Clarence Sewer Districts from \$750.00 to \$900.00 effective January 1, 2013.

On the question, Councilman Casilio said Erie County operates and maintains all Clarence Sewer Districts. This fee increase is due to an increase in Erie County's fee to the Town of Clarence and increased administrative costs. This is the only increase in the sewer fee since 1985.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the transfer of funds from the Engineering Department 2012 Budget as follows: Transfer \$1,803.00 from account A1440.470 – Expense and Travel to account A1440.475 - Building Maintenance. On the question, Councilman Casilio said this is to pay for the security system for that building. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo had nothing to report.

Motion by Councilman Geiger, seconded by Councilman Kolber to authorize Supervisor David Hartzell to sign the 2013-2014 renewal Agreement for software maintenance and control between U & S Services Inc. and the Town of Clarence for preventative maintenance for HVAC system at the Clarence Town Hall and the Clarence Library subject to review and approval by the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger said the snowflakes were hung in the hollow and they look great. Holiday in the Hollow is Saturday from 2 – 5 p.m.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Citizens for Veterans – Dec. 10, 2012; B. Youth Bureau – Jan 26 & 27, 2013; Legion Hall Applications – A. Cynthia Rosel – Dec. 15, 2012; B. Cynthia Puglisi – Jan. 13, 2013; Nature Center Lodge – A. Venture Crew 93 – Dec. 21, 2012 & Jan. 29, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of December 6, 2012 are approved for payment: General Fund - \$795,800.53; Highway Fund - \$319,214.23; Water District - \$35,883.52; Fire Protection Districts - \$2,417.51; Drainage District - \$1,712.84; Sewer Districts - \$17,995.19; Capital Fund - \$20,437.00; Trust and Agency 203 - \$46,641.98 for a total amount of \$1,240,102.80. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Andrew Kirisits of Tonawanda Creek Road said he is here because on two separate occasions his house has been hit by vehicles in the last nine months. The last was this past Saturday when an allegedly drunk driver went over the signs into his yard and hit the front porch. The driver then fled the scene.

It has become apparent that the signs at the end of Goodrich are not sufficient. The previous owner said he had a problem with the same thing. He is concerned for his family.

Supervisor Hartzell said he would call Erie County tomorrow and see what we could do to help him out.

Councilman Kolber said he may want to put boulders or something in his lawn.

Councilman Casilio encouraged him to try to do it with landscaping or boulders, because he would not have any control over what the County would put there, such as guardrails.

Janet and Larry Vito presented the Town Board with a petition from Clarence Senior Center Members and Taxpayers requesting that all Senior Citizens, Inc. board members be held accountable for inappropriate actions denying Senior Center members the privilege to elect board members. They feel the action should be reversed.

Janet Vito said this is a conflict with the law and not in the best interests of the members or the taxpayers. The petition has 153 signatures with 90 being center members. They hope there will be action taken regarding this petition soon.

Councilman Kolber asked how they were elected this year.

Janet Vito said the Senior Center Board had their own nominations and elected their own Board without input from the members.

Councilman Casilio asked what law she felt was broken.

Janet Vito said they are a 501C3 and are exempt. They are incorporated under the laws of New York State. The members have a right to elect the board. They did it for three or four years.

Councilman Kolber said this is new to him. This seems to take away the representation.

Supervisor Hartzell said the Town Attorney will look into this matter.

Mr. Meckler said he recalls giving an opinion about six months ago stating that the actions of the Senior Center Board were in compliance with the law, but he will look into it again.

Councilman Kolber said he knows there is a lot of contention over there, but it makes no sense to him that the board should appoint the next board.

Councilman DiCostanzo said the Town Board received a letter from Mr. Westley, Chairman of the Senior Center Board submitting recommendations for members to the Board. The Town Board actually appoints the members.

Councilman Kolber said the goal was to get the Senior Center Board to represent and be accountable to the members of the center.

Councilman Casilio said he believes there is more to this.

Janet Vito said the members do not feel they have a say as to who their representatives are.

There being no further business, Supervisor Hartzell adjourned the meeting at 7:53 p.m.

Nancy C. Metzger
Town Clerk