

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, July 25, 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 Deputy Supervisor Kathleen Hallock, Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek, Senior Building Inspector David Metzger, and Planning Board Chairman Al Schultz.

Director of Community Development – James Callahan

Public Hearings:

Main/Barton Master Plan 2015 Amendment 9105 and 9125 Main Street

Applicant is seeking a Master Plan Amendment to allow for a commercial zoning classification on the two corner lots. The parcel is located on the south side of Main Street at the intersection with Barton Road on existing residential property located in the Residential Single-Family Zone. The area is currently identified as residential per the original map cover for the White Acres Subdivision approval. As stewards of Master Plan 2015, the Town Board has ultimate authority to amend the Future Land Use Map within MP 2015. The Planning Board has forwarded a recommendation to amend the Future Land Use Map at 9105 and 9125 Main Street to identify commercial zoning. As a part of the recommendation it is identified that a specific zoning classification would be considered at a future date under a separate application for a change in use on the property. Limiting factors associated with the future land use of the property include lot size and required setbacks to adjoining residential properties as well as the lack of public sewers.

Multi-Family Housing Moratorium

The proposed moratorium has been structured as a temporary town-wide suspension on the review and approval of multi-family housing projects. Multi-family housing is currently a permissible land use in commercial zoning districts only with the issuance of a Special Exception Use Permit as per the Town Board. The town wide moratorium has been advertised for a six month time period with a potential six month extension. As land use moratoria are treated as local law adoptions, the Town Board has final authority over adoption and amendment of local law.

While there is no mention of moratorium or moratoria within the New York State zoning and land use enabling laws, previous New York Court of Appeals rulings, decisions, and orders have established a procedural basis for the issuance of moratoria on the behalf of local jurisdictions on the basis of Municipal Home Rule. Previous case history has established that the drafting of a moratorium must include at a minimum the activity affected, must specify any components of Town or Village Law to be superseded, establish a valid public purpose for the moratorium with a preamble that recites the nature of the particular land use issue, clearly identify the need for additional time to allow community officials to comprehensively address the issue at hand, should include a date certain termination, and should provide a relief mechanism allowing affected landowners the opportunity to apply to a local board for relief from its restrictions (the Zoning Board of Appeals as a possible relief body for example). Said officially drafted moratorium must be made available to the public 10 days prior to a mandatory and duly scheduled public hearing. Official notice of said moratorium must be provided to the Clerks of all Counties and Municipalities within 500' of any land area possibly affected by said proposed moratorium. Finally, prior to issuance of said moratorium, the proposal would be subject to referral to the Erie County Department of Environment and Planning in association with the requirement of New York State General Municipal Law Section 239 m. Bearing in mind these regulatory requirements, if in fact these procedures have not been adhered to, the public hearing would be held more so for public comment relative to the drafting of an official moratorium than consideration for issuance of said moratorium.

Councilman DiCostanzo arrived

Formal agenda items:*Jonathan Priset 6425 Salt Road*

Applicant is proposing to construct an in-law apartment addition to an existing residence. The proposed site is located on the east side of Salt Road, north of Keller Road in an existing single-family residence located in the Agricultural Rural Residential Zoning District. Secondary Living Units in the residential zone will require a Special Exception Use Permit. Per the Zoning Law, the Town Board has approval authority over Special Exception Use Permits. A public hearing will be required to consider the use. Adherence to required conditions stipulated in the Zoning Law is required.

Kelly Marquart 6105 Salt Road

Applicant is proposing to develop a single-family home and is requesting a secondary living unit be developed as a part of the permit. The proposed site is located on the east side of Salt Road, north of Clarence Center Road on an existing vacant parcel located in the Agricultural Rural Residential Zoning District. Per the Zoning Law, the Town Board may consider a secondary living unit with a Special Exception Use Permit. The Public Hearing regarding this item was previously held and closed by the Town Board at the July 11th meeting of the Board. At this point the Board may consider approval provided adherence to stipulated conditions within the Zoning Law being required as a condition of approval.

Work Session items for consideration August 8, 2012:*Cimato Enterprises – Woodland Hills Subdivision*

Applicant is requesting a Clearing, Filling and Grading Permit as well as an Excavation Permit to allow for the excavation of a proposed storm water detention area that is planned in connection with the development of a proposed 77-lot major subdivision. The excavated fill is intended to be utilized for grading a proposed right of way in connection with the proposed major subdivision. In association with the local Clearing, Filling, Grading and Excavation Laws, the Town Board has final authority for the consideration of issuing permits in relationship with applications under both Laws.

The project site in question has previously been and is currently the subject of a Major Subdivision review. While the project has previously received a Negative Declaration under SEQR and Concept Plan approval, the project has not received nor been the subject of an official Development Plan review and approval. Additionally, the property, while currently planned for a 77-lot major subdivision, is not currently within a sanitary sewer district. It is important to note that as per the Local Clearing, Filling and Grading Law (Section 79-6(G)), the following provision is stated: "Any site that is proposed for development **may not** be cleared until development plan approval has been granted by the Town Board and a building permit has been obtained from the Building Department." Additionally, as per the Local Subdivision of Land Law (Section 193-15(E) (3)) the following provision is stated: "No construction activity shall commence without first obtaining development plan approval from the Planning Board and the appropriate regulatory agency and departmental permits." The proposed action would require the Town Board permit construction activity in association with a Major Subdivision proposal not serviced by a sanitary sewer district and without Development Plan approval having first been obtained.

(Applicants Attorney Jeffrey Palumbo asked that discussion on this item be postponed for a future Work Session).

Clarence Center VFC – 9415 Clarence Center Road

Applicant is seeking approval for fireworks display permit on September 2, 2012.

The fireworks display is in association with an annual Labor Day Fair event held on the grounds of the Clarence Center VFC campus located on the south side of Clarence Center Road, west of Goodrich Road in the Traditional Neighborhood hamlet. The Town Board has local authority to approve fireworks display permits. The required application, fees, site plans, insurance certificates and fire chief approvals are on file.

Joseph Swiatek - 6205 Heise Road

Applicant is proposing to construct an in-law apartment addition to an existing residence. The proposed site is located on the east side of Heise Road, north of Clarence Center Road.

Supervisor David Hartzell

Supervisor Hartzell will make a motion to adopt a resolution pertaining to the NYS Retirement System establishing the number of hours for standard work day for retirement purposes for elected and appointed officials.

Councilman Bernard Kolber

Councilman Kolber will make a motion relative to the Clarence Library grant for the expansion of the parking lot.

Funding for the Clarence Public Library may be cut further. The State and County will be adjusting funding to areas that are not as economically as successful as Clarence; challenged areas will be getting a larger portion of the funding.

Councilman Kolber distributed copies relative to land-use moratorium.

Councilman Kolber referenced the property at 9620 County Road. It is his opinion that there was no effort at all to protect the neighbor on Martin Road whose property abuts the Industrial Zone on County Road. Councilman Kolber is looking at what can be done to mitigate the situation and correct it and also put a plan in place so this type situation does not happen again.

Councilman Patrick Casilio

- Special Event request by the Clarence Center VFC Benevolent Association for their annual Labor Day Parade
- Authorize the Supervisor to sign the CSEA Employee Benefit Fund Contract for the Blue Collar/White Collar Dental and Vision Plans
- Authorize Change Order No. 1 to Milherst Construction, Inc. for sidewalk preparation work associated with the Goodrich Road Sidewalk Project
- Authorize Change Order No. 1 to William Schutt & Associates, P.C. engineering design contract for the Keller Road Pump Station Elimination Project

Town Engineer Lavocat stated that currently they are designing the Keller Road Station Elimination Project which will take some of the burden off of Sewer District #2. While they were reviewing this, there is an opportunity to reroute another pump station where it is flowing to. Currently it pumps down Herr Road to Clarence Center Road which goes to the four corners (Goodrich and Clarence Center Road). This design change will give us the option of rerouting that flow into the new gravity sewer that is being installed as part of Keller Road Project which would further relieve some of the burden on SD#2.

Between 60 & 70 illegal for-profit signs were removed over the weekend. Planning and Zoning will contact the vendors.

Town Engineer Lavocat arranged a meeting with Councilman Casilio and Grant Writer Bernard Rotella relative to a grant for sidewalks along Main Street. Town Engineer Lavocat stated that under the Safe Routes to School Program the town could qualify for a sidewalk grant being that Harris Hill Elementary School, Sheridan Hill and Nativity BVM School are located on Main Street or within a two mile radius. Mr. Lavocat is working with Mr. Rotella in putting together cost estimates and mapping for the grant application. It was also discussed that there may be opportunities for sewer grants to finish up Sewer District #9 and possibly help with Sewer District #2. Supervisor Hartzell suggested adding Clarence Center Elementary School in the sidewalk grant as well to get sidewalks extended down Clarence Center Road to the Soccer Center.

Assistant Planner Brad Packard along with intern Michael Hutchinson did a great job in preparing a schematic of locations for possible cameras. Councilman Casilio is trying to pursue free cable service from Time Warner; they have indicated that the Town could be successful in getting some type of

limited service which would enhance our current system. Councilman Casilio has to do some tweaking on this and then he will be ready to present the package to the Board. Supervisor Hartzell stated that Karen Jurek has also been working on a grant package from the state that would provide extra cameras for town hall. She has been in touch with the alarm company to basically evaluate town hall to make sure there are no dead spots. They will also update the DVR.

Councilman Peter DiCostanzo

Upon recommendation of Youth Bureau Director Dawn Kinney, Deanna Brace will be appointed to the position of Youth Activities Leader PT and Daniel Polino will be appointed to the position of Youth Activities Leader RPT-Provisional.

The Planning Board will be discussing multi-family housing codes at their August 1st, 2012 meeting.

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

Councilman DiCostanzo commented on the 9620 County Road property. If the Landscape Committee recommended certain conditions and the applicant did not comply, then he would have an issue. The complainant at 9665 Martin Road built her house on land butting up to the Industrial Zone and should take responsibility for her own property – you have to look at both sides.

Councilman Robert Geiger

Councilman Geiger and Town Engineer Lavocat will meet on Friday morning to investigate all the dead trees in Clarence Hollow. They are hoping to obtain a grant to replace the trees however, if that is not possible they will have to come up with a way to remedy the situation.

There are some issues with the traffic signal at Greiner and Shimerville Road. The Freeman family contacted Councilman Geiger with concerns that the pole was on their property. Councilman Geiger contacted the County; they surveyed the property and found that the pole is three feet on Freeman's property. Being this signal is being installed using federal funds the signal has to be constructed as proposed. There are several issues with moving the pole - gas lines, water lines and over head wires. At this point in time, the resolution seems to be to take the pole down and reinstall it in the proper location. This will delay the signal for at least another 30 days or more.

Councilman Geiger visited Beeman Creek with a Conservation Officer today. There is potential hog weed on the property. The officer took a picture of the plant and will forward to the State. If it is hog weed, they will come in, remove the hog weed and reclaim the area so it does not grow back. The Parks Department installed signs at the park as well.

Councilman Casilio will follow-up with Assemblywoman Jane Corwin relative to the 35MPH speed limit in Clarence Hollow.

Motion by Supervisor Hartzell, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105(1) F the employment history of a particular person and § 105(1)C information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Executive Session at 6:50 PM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

The Work Session reconvened at 6:55 PM.

There was further discussion regarding 9620 County Road and a resident at 9665 Martin Road. Councilman Kolber referred to the minutes pertaining to F & B Construction (Paul Bonito). Director of Community Development James Callahan stated that the building at 9620 County Road was built in 1991; in 2003 a second story addition approved by the Town Board was added. There are no specific

minutes on the 1991 approval and the 2003 approval did not address outside storage. In 2010 the Town Board approved a fill permit for Mr. Bonito's adjoining lot at 9650 County Road. In 2011 Mr. Bonito came in for approval to construct a building at 9650 County Road, it went through a full Planning Board and Town Board review with conditions including a berm and then he changed his plans and decided not to move forward with a new building. He then came back requesting an addition to his existing building at 9620 County Road. A Special Exception Use Permit was issued to Chris Caito for an automotive business. Mr. Callahan has spoken to Chris Caito and he has indicated that there are no more than ten vehicles parked outside the building on the paved surface at one time. He cannot control anyone who drops their vehicle off after hours or first thing in the morning however, when Mr. Caito leaves at 6PM each night, there are no more than ten cars parked outside on the paved surface. Mr. Caito has assured Mr. Callahan that he has been watering the trees on the berm. He is a tenant in Mr. Bonito's building and said he would do whatever he could to help the situation. Mr. Callahan has spoken to Mr. Bonito and explained the circumstances however; Mr. Bonito has fulfilled his requirements by planting 21 trees as recommended by the Landscape Committee.

Councilman DiCostanzo stated that F & B Construction built in the Industrial Zone and was established before the resident built her house on Martin Road. If you are going to build up against an Industrial Zone, you should be prepared to protect your property and build your own berm if you don't want to look at the businesses behind you.

In order to close out Mr. Bonito fill permit, Mr. Callahan will talk to him and see if the topsoil he has piled on his property could be used to create a berm to the east of his property. The complainant's property backs up to this property and this is what she sees from her backyard. The 21 trees that were planted protect the residents to the west and directly behind him. If Mr. Bonito is willing to create a berm on the vacant property to the east, this may resolve the situation however, Mr. Callahan has not been able to contact him.

Councilman Kolber referenced the Clearing, Filling, and Grading Law and suggested sending Mr. Bonito a letter indicating the requirements of his Clearing, Filling, and Grading Permit. Town Engineer Lavocat stated that the conditions of the Engineering Departments approval in 2010 stipulated that if a drainage issue arises, the owner agrees to resolve it in accordance with engineering recommendations. Councilman Geiger stated that there is a drainage issue from water draining off the large topsoil pile on this site. Town Engineer Lavocat stated that the fill operation is not complete. Councilman Kolber stated that it is time to put down 8" of topsoil and reseed according to the Clearing, Filling, and Grading Law. James Callahan stated that we can require Mr. Bonito do this but it does not address the issue of blocking the view of the industrial use.

James Callahan and Tim Lavocat will work together with Mr. Bonito to come up with some type of resolution.

Planning Board Chairman – Al Schultz

The Planning Board will be reviewing the proposed Multi-Family Zoning Code revision at their August 1st meeting.

Mr. Schultz also commented that the 5K race sponsored by St. Mary's Church on July 22nd blocked off all roads in Manchester Park, Stahley Road, Miles Road and County Road – you could not get in or out during the race.

For lack of agenda items, the August 1, 2012 morning Work Session is cancelled.

There being no further business, the Work Session adjourned at 7:15PM.

Darcy A. Snyder
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, July 25, 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 Robert Geiger, 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 Tim Lavocat, Asst. Planner Brad Packard, Sr. Building Inspector David Metzger and Planning Board Chairman Al Schultz.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held July 11, 2012. On the question, Supervisor Hartzell had a correction as follows: Work Session Minutes under Supervisor David Hartzell in the 6th paragraph, 1st line should read "...from Aa2 to Aa1..." and the Regular meeting in the 4th paragraph, 3rd line should be "...our bond rating was raised from Aa2 to Aa1..." Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, the New York State and Local Retirement System requires that the Town of Clarence establish by Resolution the number of hours which constitute a standard work day for retirement reporting purposes for all elected and appointed positions,
NOW, THEREFORE, BE IT

RESOLVED, that the Town of Clarence hereby establishes the standard work days for elected and appointed officials as per the attached table and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body. (See Attached 4 pages RS 2417-A and RS 2417-B)

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

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

WHEREAS, the New York State Department of Education, Division of Library Development, under the Public Library Construction Grant Program ("State Grant") is offering funds up to 50% of approved costs for renovation or rehabilitation of public libraries in New York State; and

WHEREAS, the Town of Clarence is the owner of the building that houses the Clarence Public Library located at Three Town Place in the Town of Clarence and maintains the building and grounds under an agreement with the Buffalo and Erie County Public Library System; and

WHEREAS, the Clarence Public Library is one of the busiest libraries in Erie County given patron use, hosting of programs, meetings, and events that fill the present parking areas to capacity and is need of an expansion of these parking areas.; and

WHEREAS, the Clarence Public Library is in charge of its library operations in cooperation with the Buffalo and Erie County Public Library System, and per the guidelines for the New York State Construction Grant, must be the applicant for such grants; and

WHEREAS, the Town of Clarence as owner of the Clarence Public Library building and grounds would benefit from the aforementioned grant since renovation/rehabilitation to the Town owned parking areas on the grounds will be made: and

WHEREAS, the Town of Clarence will be providing matching funds in an amount to be determined to complete the expansion of the parking area.

Now, Therefore, Be It

RESOLVED, that the Clarence Town Board agrees and covenants that the Library Building at Three Town Place in the Town of Clarence shall be legally available for use as a public library building for at least ten (10) years from the anticipated date of the completion of the aforementioned renovation/rehabilitation project.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the following special event as requested by the Clarence Center Volunteer Fire Company Benevolent Association, Inc.

Annual Labor Day Parade:

Date: September 3, 2012 – Parade will begin at 1:00 p.m. to end at approximately 2:00 p.m.

Parade Route: *Lineup will begin at 12:30 p.m. in the Pine Breeze subdivision. The parade starts at 1:00 p.m. sharp from the Pine Breeze subdivision travels south on Goodrich Road, east on High Street, south on Elm, and west on Clarence Center Road to the Clarence Center Volunteer Fire Company.*

On the question, Councilman Casilio said all appropriate authorities will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize the Supervisor to sign the CSEA Employee Benefit Fund Contract for the Town of Clarence Blue Collar Unit for Dental and Vision Plans for the period from January 1, 2011 through December 31, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize the Supervisor to sign the CSEA Employee Benefit Fund Contract for the Town of Clarence White Collar Unit for Dental and Vision Plans for the period from January 1, 2011 through December 31, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to authorize Change Order No.1 to the Milherst Construction, Inc. Contract for Sidewalk preparation work associated with the Goodrich Road Sidewalk Project in the amount of \$500.00 for the installation of additional yard drains.

On the question, Councilman Casilio said this change order is to be paid from Capital Project 25. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to authorize Change Order No.1 to the Wm. Schutt & Associates, P.C. engineering design contract for the Keller Road Pump Station Elimination Project in the amount of \$4,000.00 for additional design services to include alternate No.1 to the bid documents for the possible rerouting of the Forestview Pump Station Force Main.

On the question, Councilman Casilio said this change order is to be paid from the Engineering Department Professional Services budget. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said in regard to signs in the right-of-ways, we had a contractor come in on Sunday night and place signs around Town. We picked up 60 or 70 of them.

Councilman Casilio said we are working with the State Police regarding of number of break-ins in the Meadowlakes area related to the bike path. It seems as though they are taking metal objects. Residents should leave lights on and lock up garages to help.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that upon the recommendation of Dawn Kinney, Director of the Clarence Youth Bureau, Daniel Polino is appointed to the position of Youth Activities Leader RPT-Provisional, effective July 30, 2012, at the rate of pay of \$10.77 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements for the position being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that upon the recommendation of Dawn Kinney, Director of the Clarence Youth Bureau, Deanna Brace is appointed to the position of Youth Activities Leader-PT effective August 20, 2012, at the rate of \$9.79 per hour, subject to receipt of all pre-employment paperwork and pre-employment requirements being met for the position. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo announced that there is a Planning Board meeting next Wednesday at the Town Hall and one of the items is to discuss proposed Zoning Code amendments regarding multi-family housing.

Councilman DiCostanzo said people are stealing things all over Town. A friend of his had a trampoline stolen out of his yard.

Councilman Geiger said he has a meeting on Friday with the Town Engineer to survey the trees in the Clarence Hollow that need to be replaced.

Councilman Geiger said he was at Beeman Creek Park today with a Conservation Officer to identify hog weed and to make a plan for proper removal.

Councilman Geiger said the pole at the southeast corner of Shimerville and Greiner Roads for the new traffic light is on the landowner's property. They are in the process of resurveying and putting it in the proper place. This will delay the completion of that project.

Councilman Geiger said the Irish Dancers will be at the Asa Ransom House this Thursday evening. Also, a reminder that the Taste of Clarence is coming up on August 6th at the Main Street Park.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of July 19, 2012 are approved for payment: General Fund - \$1,094,623.36; Highway Fund - \$444,359.16; Water District - \$35,826.19; Fire Protection Districts - \$4,025.57; Drainage District - \$42,766.00; Lighting Districts - \$703.42; Sewer Districts - \$15,000.00; Capital Fund - \$78,904.04; Aquatic Growth District - \$380.00; and Trust & Agency 205 - \$20.00 for a total amount of \$1,716,607.74. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider an amendment to Master Plan 2015 to allow for a Commercial Zoning classification at 9105 and 9125 Main Street at Barton Road. James Callahan said the location is the south side of Main Street at the corner of Barton Road consisting of residential properties in the Residential Single Family Zone. After a thorough analysis of Master Plan 2015, the Planning Board recommends that these corner lots be identified as commercial on the future land use map in Master Plan 2015. A Negative Declaration was issued by the Town Board. The Town Board has authority to amend the Master Plan after conducting a public hearing on the proposal.

Speaking to the subject:

Edward and Debra Popp said they live in the house behind one of the properties. They already have to deal with the doctor's office behind them and do not understand why this residential neighborhood should be surrounded by commercial. It is tough getting out on to Main Street now. They asked if this would become a parking lot and more lights. They believe it should remain residential.

Anthony Pacenzia said he is the new owner of 9105 Main Street and thanked the Board for how this was handled to consider the change to commercial. The property will remain residential for the time being. He would never do anything that would be offensive to a neighbor. If he has a plan in the future, he will not insult the neighbors.

James Callahan said the proposed change is an amendment to the Master Plan and does not change the zoning on the property. It offers the opportunity in the future for someone to change the use. They would have to come before the Town Board for a change in zoning and a change in use. The size of the lot and building restricts what can be done there.

Craig Tierney said there are other locations on Main Street at Susan Drive and Connection Drive that are like this.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on July 25, 2012, and after all interested parties having been heard, approves an amendment to Master Plan

2015 and the Future Land Use Map to identify a commercial zoning classification at 9105 and 9125 Main Street.

On the question, Councilman Geiger said a specific classification will be considered at a future date under a separate application for a change in use on the property.

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

A Public Hearing was held to consider initiating a moratorium for a six-month period with the possible extension of another six months on multi-family housing developments in the Town of Clarence.

Speaking to the subject:

Bruce Wisbaum, representing the owners and residents of Stonegate Apartments said he is concerned for the safety of the residents. He is not in favor of a moratorium, but the Town should table the two requests for apartment complexes while they work out guidelines that should be consistently applied to all projects. The original developers of Stonegate had to stay within the guidelines of 8 units per acre, and Coventry Green was about 12 ½ units per acre. A recently approved project was approximately 15.4 units per acre. He asked that the following be considered especially in the Wehrle/Transit area: traffic, sewer capacity, water pressure, drainage, parking, blasting of rock, sidewalks on Wehrle, greenspace, two means of ingress/egress, no sharing of golf dome entry, density, buffers, building facades facing existing buildings and lighting. He does not believe that two-story walkup units will work for seniors.

Councilman Kolber said he has been on the Town Board for 8½ years and he cannot recall a single major project that has been brought forward. In the last six months we have been inundated with multi-family projects. Our zoning code does not have specific guidelines for multi-family housing. Other towns have specific zoning.

Councilman Kolber read from a document he received from Brad Packard regarding enactment of a land use moratorium. It states that a moratorium temporarily suspends a landowner's right to obtain development approvals while the community considers and potentially adopts changes to its comprehensive plan and/or its land use regulations to address new circumstances not addressed by its current laws. The objective of municipal land use controls is to promote community planning values by properly regulating land development. During this time, demand for a particular use of land may arise for which there are inadequate or nonexistent controls. If the community allows development during that time, the ultimate worth of the eventual plan could be undermined. That is why it is often needed to "freeze" development until a satisfactory final plan or regulations are adopted.

The enactment of temporary restrictions on development has been a valid exercise of police power where the restrictions are reasonable and related to public health, safety or general welfare. Local governments can enact a moratorium for a broad range of reasons including: prevent rush to development; prevent inefficient and ill-conceived growth; address a new kind of use in comprehensive plans and land use laws; prevent hasty decisions that would disadvantage landowners and the public; and prevent immediate construction that might be inconsistent with the provisions of a future plan. The moratorium may be general or specific to one land use or to a particular zoning district.

Councilman Kolber said it is a tool to allow time to implement regulations to benefit the town. There are many steps that need to take place before a moratorium can be put in place. This hearing is more for gathering information.

James Callahan said the Planning and Zoning Office did not produce that document.

Councilman Kolber said it is from the NYS Department of State.

Joe McIvor said he is here to speak against the moratorium. It has not been that long since the Town put a moratorium on all new development because they thought they were building too many houses in what is one of the premier communities in Western New York. He believes multi-family housing is a choice that is needed. It was said that it would place a burden on services and schools. He finds that difficult to believe. It is tough to find a building lot under six figures in this community. The nature of the units is not conducive to raising a family.

Mr. McIvor said a moratorium was referred to as a tool, but it does not seem to have worked so well the last time. There are a number of people with investments in property who may be looking at a window of at least six months. He believes the Town Board already has the tools to deal with multi-family housing. You have commercial businesses coming in because you have the people here with a higher than average income.

Councilman Kolber said he does not look at the last moratorium as a failure. We were inundated with projects with no comprehensive zoning or subdivision codes in place. It gave the

Planning Board time to put that in place. He said it may have been an oversight because we did not have any multi-family projects presented.

Councilman Casilio said if you add 5,000 people, it is going to put a burden on the Town.

Mr. McIvor said he believes they will support the services.

Councilman Kolber said that allowing multi-family housing in the commercial and restricted business zones eats up the commercial space.

Dan Locche, public affairs director for Buffalo/Niagara Association of Realtors said realtors do not have a direct benefit from rentals or apartments, but are opposed to a moratorium. Apartments enhance a community. He understands the concern for impact, but Clarence is known as being development unfriendly. It is said that planning is not done to foresee problems such as this. This is a major concern for them when it would bring people and dollars into the Town. There are legal steps in place to force developers to abide by whatever restrictions to guide them into areas that you see fit. He believes a moratorium is a tool that is overused by this community.

Councilman Kolber said it was only used once and it was because that is what the people wanted.

Mr. Locche said you should plan better rather than stop everything. These are not the first apartments built here.

A resident of Stonegate said he believes everything is about money. He is concerned about his complex and the traffic and safety of the people who live there.

Sean Hopkins said he represents the developer of the proposed senior housing project at 8230 Wehrle. This is not a hearing about a particular project, but it does have ramifications on actual projects. The property is zoned commercial. The proposed project is for 96 units with 65 - 70% of the site remaining as greenspace.

Mr. Hopkins referred to the NYS Land Use Moratorium Guide that Councilman Kolber referred to. Any moratorium that this Board considers should not include senior housing. Some of the items referring to why you would adopt a moratorium included preventing a rush to development. His client is not in a rush, but would like to begin the lengthy review process. The Town does have regulations in place that deal with multi-family projects. It does require a special exception use permit. Senior housing is not a new type of use. He cannot think of any adverse impacts associated with senior housing. If the Town continues to work on amendments to the zoning code, those processes would be completed before they received any approvals.

Mr. Hopkins said it is their position that senior housing is a need in this community based on the number of seniors. There are various categories of senior housing. His client is proposing modern senior housing with the targeted market of independent living for active seniors. The site is perfect given the proximity to Wehrle and Transit.

Mr. Hopkins said to his knowledge there are only two multi-family proposals currently before this Board. He does not think that the Town is inundated at this time. Another concern was sanitary sewers and their site is within a sewer district.

Councilman Casilio said he disagrees with him about the lack of senior housing in the town. There are vacancies already.

Mr. Hopkins said his client's project would be dead because it is contingent upon this project moving forward. He believes senior housing should be considered separately from all multi-family housing. There would be no impacts on schools. He asked that the Board not consider a moratorium and allow their project to move forward in the process.

David Huck said the Town has a responsibility to provide housing for a variety of residents and apartments are a part of that. He built Coventry Green years ago and did not have any problems. The Planning Board had resources and guidelines to deal with it. They do a good job and he believes they should be allowed to do it. They are trying to meet a community need. He is opposed to a moratorium because he does not believe it would serve any more purpose than the resources that area already available.

Councilman Casilio said he would like the Planning Board to review the open space design, which he believes Mr. Huck's project is closer to. We need time to look at those things. Developers are impatient.

A resident of Stonegate Apartments said he is in favor of the moratorium to develop the guidelines. Then the new policies would be applied to the proposed projects.

A resident of Stonegate said she is very concerned about the increase to traffic. It is already difficult to turn left out of the development. She said it would be nice to have sidewalks in that area also. Safety must be a consideration.

A resident of Coventry Green said she is opposed to the moratorium because as a senior, she feels she has a very limited choice for housing. She would be thrilled to move to a new modern senior housing complex. The people will be an asset to the community by shopping and using the restaurants.

Councilman Casilio said we have five or six senior complexes available in the Town.

Patricia said places like the Brothers of Mercy attract older seniors who require more of an assisted living atmosphere. She is referring to the 55+ group that is still active and not ready for that yet.

Judy Walkowiak said these people do not seem to get it. It would impact the sewers, the quality of life and all the other things that were mentioned. They are bent on building. She believes we need the moratorium to take the time to review everything rather than building, building, building.

Howard Melancon said to have a moratorium now is trying to hide from development. This Town has had the time to plan for sewers, growth, etc. There are no plans for east/west roads. If you do a moratorium, there should be a defined plan in place with someone guiding it through. He believes it is just an easy way out. There is no sewer plant.

Councilman Kolber said many years ago Federal and State money was spent for a regional plant in Amherst that was supposed to take care of Amherst, Clarence and Newstead, rather than having several plants. The money has since dried up. We have not had any major multi-family housing complex come forward.

Mr. Melancon said that is what planning is all about.

Councilman Kolber said we have to deal with it now before it eats up all our valuable commercial land. There is no money to pay for sewers.

Eric Vetter said he can see both sides of this. There seems to be a lot of unresolved issues. He does not see a problem with stepping back a moment. No one is against apartments or unplanned development. He felt the last moratorium went very well.

Councilman Casilio said apartments have been built in all the surrounding towns and it seems it is now our turn. We want to be prepared to move forward. He does not want to see vacancies down the road and other problems that go along with that.

William Schuster said he believes there is a need for multi-family and senior housing. He also believes that we need this moratorium to create a reasonable comprehensive zoning code to deal with it. If it is allowed to grow uncontrolled, it could have negative impacts on the Town. It will eliminate the need for spot zoning and future amendments.

With no one else speaking to the subject, motion was made by Councilman Kolber, seconded by Councilman Casilio to close the Public Hearing. On the question, Councilman Kolber said they will not be taking any action because of the notification legalities that have to be done, posting the law and noticing Erie County on. Upon roll call – Ayes: All; Noes: None. Motion carried.

Jonathan Priset requests a Public Hearing to consider a Special Exception Use Permit for a secondary living unit at 6425 Salt Road. James Callahan said the location is the east side of Salt Road, north of Keller Road consisting of an existing home in the Agricultural Rural Residential Zone. The applicant is seeking approval for an in-law apartment.

Jonathan Priset said he would like to add on to the property so that his parents could live with them. It would be attached at the side through the mudroom.

Motion by Councilman Geiger, seconded by Councilman Casilio to set a Public Hearing for August 22, 2012 at 7:45 p.m. to consider the request for a Special Exception Use Permit for a secondary living unit at 6425 Salt Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Kelly Marquart requests a Special Exception Use Permit for a secondary living unit at 6105 Salt Road. The Public Hearing to consider this request was previously held July 11, 2012. James Callahan said the location is the east side of Salt Road, north of the Clarence Center Road consisting of a vacant parcel in the Agricultural Rural Residential Zone. The applicant is seeking approval for an in-law apartment.

Kelly Marquart was present. She would like to build a ranch-style home with an in-law suite for her mother.

Elizabeth Lombardo said she had been concerned about two driveways and if it was attached. She is concerned that if it is sold later on it could become a rental.

James Callahan said there is a deed restriction that it cannot become a rental unit or sold as a two-family building.

Ms. Marquart said it will be a portion of her home. You will not even know that it is there.

Ms. Lombardo said she is also concerned about water if that house was higher than hers.

Town Engineer Tim Lavocat said there are guidelines so that does not happen. It is all looked at in the permit process.

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

Resolved, that the Clarence Town Board, after a public hearing was duly held on July 11, 2012, and after all interested parties having been heard, grants a Special Exception Use Permit to the applicant, Kelly Marquart, for the construction of a secondary living unit as part of the permit for the construction of a single-family home located at 6105 Salt Road, subject to the following conditions:

1. Unit must be secondary to the principal dwelling and not converted to a rental unit.
2. Occupancy shall be limited to family members, paid employees or temporary guest.
3. Occupancy shall be restricted to 2 persons to occupy the unit.
4. Deed restriction to be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language **is to be submitted and approved by the Town Attorney prior to the filing the deed.**
5. Proof of filing of the approved deed is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.
6. Single structure.
7. Single driveway.

On the question, Councilman Casilio said the specific language for the deed restriction may be obtained from the Town Attorney's office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Concert Association – July 29, 2012; B. American Legion Auxiliary – Aug. 10 -13, 2012; C. Clarence Welcome Wagon – monthly meetings for 2013; D. Clarence Women's Club – monthly meetings for 2013; May 6 & 7, 2013; E. Clarence Soccer Club – monthly meetings for 2013; F. Clarence Book Review Club – monthly meetings for 2013; G. Clarence Log Cabin Quilters – monthly meetings for 2013; Dec. 13, 2013; Legion Hall Applications – A. Jennifer Moyer – Aug. 12, 2012; B. Connie Cimato – Sept. 22, 2012; C. Clarence Democratic Committee – monthly meetings for 2013; D. Clarence Log Cabin Quilters – monthly meetings for 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Howard Melancon congratulated the Town on getting the signs off the public easements. He hopes that it is enforced at election time also.

He is concerned about a plumbing truck that is parked at Eastern Hills Mall. He cannot believe they are doing plumbing work seven days a week.

Councilman Casilio said he is working on a resolution for the Town Board to adopt in support of no political signs at intersections and right-of-ways.

They looked into the plumbing truck at the mall and he has a kiosk at the mall, so he is a tenant.

Mr. Melancon said what about cars for sale in the right-of-ways.

James Blum said he hopes there is enough time to have a clear definition of what senior housing means, particularly for active senior citizens. The federal government law states that certain categories cannot totally deny children from being in those units. He would like to see some of the federal definitions removed.

Councilman Casilio said if they do not follow the HUD guidelines, such as for Brothers of Mercy, they could take the building back.

Councilman Kolber suggested that he comes to the Planning Board meeting next week with some of his suggestions.

Supervisor Hartzell said it is nice to see the boy scouts here tonight to see democracy in action.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:15 p.m. in memory of Jerry Bugenhagen, brother of Diane Chalmers who is a secretary at the Highway Department.

Nancy C. Metzger
Town Clerk



Office of the New York State Comptroller
 New York State and Local Retirement System
 Employees' Retirement System
 Police and Fire Retirement System
 110 State Street, Albany, New York 12244-0001

Standard Work Day and Reporting Resolution RS 2417-A (12/10)

BE IT RESOLVED, that the Town of Clarence / Location code 30148 hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the time keeping system records or the record of activities maintained and submitted by these officials to the clerk of this body:

Title	Name	Social Security Number (Last 4 digits)	Registration Number	Standard Work Day (Hrs/day)	Term Begins/Ends	Participates in Employer's Time Keeping System (Y/N)	Days/Month (based on Record of Activities)	Tier 1 (Check only if member is in Tier 1)	Not Submitted (Check box if no record of activities completed or timekeeping system)
Elected Officials									
Supervisor	David C. Hartzell Jr.			6	01/01/2012-12/31/2015	N	27.86		<input checked="" type="checkbox"/>
Councilmember	Bernard Kolber			6	01/01/2012-12/31/2015	N	23.56		<input checked="" type="checkbox"/>
Councilmember	Patrick Casillo			6	01/01/2010-12/31/2013	N	21.75		<input checked="" type="checkbox"/>
Councilmember	Peter DiCossanzo			6	01/01/2010-12/31/2013	N			<input checked="" type="checkbox"/>
Appointed Officials									
Zoning Board of Appeals	David DiAmato			6	11/06/2008-12/31/2012	Y			<input checked="" type="checkbox"/>
Zoning Board of Appeals	Daniel Michnik			6	01/01/2008-12/31/2013	Y			<input checked="" type="checkbox"/>
Zoning Board of Appeals - Alternate	Jonathan Hickey			6	01/04/2012-12/31/2012	Y			<input checked="" type="checkbox"/>

If additional rows are needed, please use form RS2417-B and attach.

On this 26th day of July, 2012 Date enacted: July 25, 2012

I, Nancy C. Metzger (Signature of clerk) clerk of the governing board of the Town of Clarence (Name of Employer) of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board, at a legally convened meeting held on the 25th day of July, 2012 on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.

I further certify that the full board, consists of 5 members, and that 5 of such members were present at such meeting and that 5 of such members voted in favor of the above resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Clarence (Name of Employer)

This document consists of 4 page(s) (see additional RS2417-B forms attached).

(seal)

