

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, August 14, 2013, 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, Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, and Youth Director Dawn Kinney.

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

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

William Lorenz 4715 Harris Hill Road

A Public Hearing is scheduled for 7:45PM to consider applicants request for a Special Exception Use Permit for a secondary living unit (in-law apartment) at 4715 Harris Hill Road. The proposed site is located on the east side of Harris Hill Road, south of Sheridan Drive at existing single family residential home in the Residential Single Family Zone. Per the Zoning Law, the Town Board may consider the proposed secondary living unit with a Special Exception Use Permit. Conditions as required in the Zoning Law must be met, including deed restrictions.

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

McGuire Development 8321 Main Street

Applicant is proposing to demolish the existing structures and construct a new 19,000 +/- square foot professional office building. The proposed site is located on the south side of Main Street, west of Susan Drive on existing residential property consisting of 2.3+/- acres located in the Traditional Neighborhood District. Per the Zoning Law, the Town Board has authority to issue Special Exception Use Permits for structures greater than 10,000 square feet in the TND. The Planning Board has forwarded a recommendation on the project. A public hearing is required to consider the request.

Northwood's Open Space Design Subdivision

Applicant is proposing to develop a 148+/- lot Open Space Design Subdivision. The final step in the SEQRA review process is the adoption of a Final Findings Statement. The proposed site is located on the north side of Greiner Road between Shimerville Road and Thompson Road on existing vacant agricultural land located within the Residential Single Family Zone. The Town Board is Lead Agency under SEQRA and makes the final determinations and findings associated with the development proposal. The Planning Board has forwarded a recommendation on the Final Findings Statement. ***(Applicant asked to be removed from the agenda).***

Excavation Permits – annual renewals

Per the Excavation Law, the following applicants are applying for their annual permit: Buffalo Crushed Stone, Clinton Excavating, Emeritus Holdings and Lakeside Sod. All applications, including fees, bonds, tax receipts, NYSDEC permits and removal limits have been filed.

Spaulding Green LLC Phase II-C

Applicant is seeking Final Plat Approval for Phase II-C for 18 patio home lots and the dedication of two patio home courts. The proposed site is located at the southeasterly extension of Meadowglen Drive in a residential classification. Per the Subdivision Law, the Town Board has final authority to dedicate new streets and accept Final Plats. Town Engineer and Highway Superintendent approval of street construction required.

**Work Session items for consideration August 28, 2013:****Essex Waterford Greens – Waterford PURD**

Applicant would like to amend the previously approved plans by eliminating sidewalks throughout this phase of the development. The proposed site is situated on the north side of Roll Road, east of Dana Marie Parkway on existing vacant land that previously received site plan approval for development of 100+/- patio home units. The area is identified in a residential zoning classification. Per the Zoning Law, the Town Board has final review and approval authority for amendments to the existing Planned Unit Residential Development (PURD).

The Planning Board had previously recommended the proposed amendment to eliminate sidewalks from this phase. Final site plan review will require Engineering Department review and approval of the detailed civil drawings which are pending.

**Stephen Development 9560 Main Street**

Applicant is proposing a mixed use development, including multiple family housing on the commercial portion of the property (approximately 3.04 acres). No plans are identified for the Residential Single Family portion of the property. The proposed site is located on the north side of Main Street across from Clarence Senior High School. The existing vacant motel is located on 7.4+/- acres with split zoning identifying the frontage as Commercial and the rear of the property as Residential Single Family. Per the Zoning Law, the Town Board has final review and approval authority for multiple family residential projects in the commercial zone. As submitted, the proposed site plan is in violation of the required density for unsewered commercial zones. The proposed density for the project is approximately 8 units per acre and the recently adopted regulations identify a maximum density of 4 units per acre. If the entire property is utilized for the density calculation, the project will meet requirements. Councilman Kolber stated that he would like to see the entire project laid out utilizing the entire parcel.

**Regent Development/Brothers of Mercy 4520 Ransom Road**

Applicant is proposing to develop additional senior housing on the property. The proposed site is located on the northwest corner of Ransom Road and Bergtold Road at existing nursing/rehabilitation and residential property located on a 92+/- acre campus in the Restricted Business Zone. Multiple Family Residential use will require a Special Exception Use Permit as issued by the Town Board. The proposed project does not add the required commercial component to the plan and the third story is in violation of the recently adopted code – these items will most likely require review and approval by the ZBA to vary the code accordingly. A supermajority approval by the Town Board will be required.

**Kenyon Brothers 8250 Main Street**

Applicant is proposing a complete reconstruction of the property (existing gas station) including new tanks, gas service island with canopy and a convenience store with drive thru. The proposed site is located on the northwest corner of Main Street and Westwood Road in the Harris Hill TND. Per the Zoning Law, the Town Board has final approval authority for architectural style in the TND and approval of drive-thru via a Special Exception User Permit. The existing use of a gas station is considered a pre-existing non conforming use. The convenience store is considered a permitted use in the TND but site plan and Special Exception Use Permits are Town Board approval matters.

**John and Flora Leamer 6150 Goodrich Road**

Applicant is proposing to split the existing single family residential home and develop a 16 unit multiple family residential project on the vacant parcel. The proposed site is located on the west side of Goodrich Road, south of the Peanut Line Recreational Trail on existing vacant

residential property consisting of 4.5+/- acres within the Clarence Center Traditional Neighborhood District and Overlay Zone. Per the Zoning Law, the Town Board may approve Multiple Family Residential projects in the TND with a Special Exception Use Permit. The Planning Board has forwarded a recommendation to approve the project with conditions.

#### Woodland Hills and Harris Hill Commons

Applicants are requesting the formation of a Town Sewer District to service the developments. The proposed site is located on the east and west side of Harris Hill Road between Greiner Road and Sheridan Drive. The conceptually approved residential subdivisions consist of 77 and 66 lots in the Residential Single Family Zone. The Town has the authority to create sewer districts per NYS Law. There needs to be finalization of an agreement between the applicants and the Town to provide a mechanism and funding for a future trunk sewer line.

#### Rick DiVita 10550 Keller Road

Applicant is seeking approval to construct an in-law apartment on the property. The proposed site is located on the north side of Keller Road, west of Salt Road at existing residential property located on 4.9+/- acres in the Agricultural Rural Residential Zone. Per the Zoning Law, the Town Board may consider a secondary living unit with a Special Exception Use Permit. A Public Hearing will be required.

#### **Supervisor David Hartzell**

- Resolution in support of resolving issues with the Contract for Snowplowing/De-icing Services between the Erie County DPW and twenty-five towns within the County.
- Approve Special Event request by the Center Merchants Association for their Fall Fest
- Set a bid date for August 27, 2013 for the purchase of a new Aerial Bucket Truck for the Highway Department
- Resolution renaming Glenwood Park to Fogelsonger Park

#### **Councilman Bernard Kolber**

Councilman Kolber attended the Historic Preservation meeting last night. Their biggest concern is the future of the house at 10375 Main Street that adjoins the Town Park. They are looking into creative adaptive uses for the house. Historic Preservation Commission Chairwoman Linda Mosher was introduced. In June of this year, the Commission was told that there was the possibility that the house at 10375 Main Street was slated for demolition. At that time, the Historic Preservation Commission voted to request the Town Board consider designating the house as a town landmark. The Clinton Brown survey that was conducted several years ago listed this house as a significant property. The Historic Preservation Commission would like some time to develop some numbers and see what kind of adaptive reuse they can come up with. Carol Conwall who is also on the Commission has done a lot of work developing a plan for Cultural Tourism which is a commercial aspect of the town that has not lived up to its full potential. They feel the town has a great deal to offer.

Councilman Kolber mentioned that there are organizations within the town that are short on meeting rooms. The house is an asset to the town and with minimal amount of funding and possible grants the Commission feels the house could be usable. The Historical Society has mentioned that for some time they have been looking for an annex to do a house museum and at one time looked into buying the property to the east of the Historical Museum. This house

would be on the same campus and give them a place to display more of their collection. They are not looking to separate from the main park but enhance the campus by complementing the other buildings. The Historical Museum has a surplus of furniture and other items to be able to furnish a historical house. The house is situated on town property adjacent to the town park.

Councilman Geiger stated that the intent is to construct three lacrosse fields on the land behind the house and to leave the stone walls intact.

Councilman Casilio stated that his concern is what it will cost to maintain this house per year.

Linda Mosher stated that the Commission's goal is to use the house to increase sales tax revenue for the town. To bring in tourists that would come in to see the historic buildings, take a historic tour through town and get information about the businesses in town. Itself would not be a business but a place to promote business so that they can get more outside dollars coming into the town to support our town businesses.

Linda Mosher asked the Town Board to give the Commission some time and hold off demolishing the building until they can figure out a way to make it economically feasible. The Commission will meet with the Town Board this fall to discuss this further. Councilman Casilio stated that this may require a roof repair or a new roof to give the Commission time. Ms. Mosher asked the Town Board to make the house a designated landmark to add to the other landmarks in that immediate area. The town has already designated the Meeting House building, the Log Cabin and the Clubhouse and asked that this house be added as well.

Carol Cornwall is requesting approval to move forward with the formation of a Cultural Heritage Tourism Committee. A handout was distributed requesting information on the town's requirements for the formation of a committee and what is expected of the committee. In the process, they would seek guidance from NY Cultural Heritage Tourism Network, Preservation Buffalo Niagara and Nation Trust for Historic Preservation etc.

While forming the committee, they are requesting a budget/funding for the printing of established literature of the town's historic designated landmarks and other historic landmarks for circulation to town residents and visitors.

Information will be gathered to create tour guides through collaboration with the Town of Clarence, Erie County Historians, the Historical Society, Clarence Historic Preservation Commission, local colleges and universities.

Phase II in the future would include the creation of a Welcome Center in part or whole, develop and schedule tours of the Town Park Clubhouse, other historic designated landmarks, buildings and structures, nature trail hike guides etc. By embracing tourism, the town can create sales tax revenue and support businesses in town. Clarence is one of the oldest towns in Erie County with many hidden treasures.

Councilman Kolber stated that the Historic Preservation Commission has requested a budget line for next year for training for their members. There are approximately eight members that have not received any training.

Councilman Kolber stated that the thruway toll barrier issue has gotten great press coverage. The editorial in the July 31<sup>st</sup> edition of the Buffalo News was well done. The toll barrier issue is

gaining momentum; Councilman Kolber has a meeting tomorrow that should have significant impact.

**Councilman Patrick Casilio**

Councilman Casilio will make a motion authorizing the Supervisor to apply and execute the application for funds from NYSDOT for Clarence Main Street Sidewalk Project.

Councilman Casilio received a letter from a concerned citizen about a fire call that occurred on Thompson Road one month ago. He will discuss this at the general meeting.

**Councilman Peter DiCostanzo**

- Reappoint Christine Fusco as Assessor for the Town of Clarence for a 6 year term.
- Issue a Negative Declaration on the proposed Leamer multiple family housing project at 6150 Goodrich Road.
- Issue a Negative Declaration on the proposed McGuire Development professional office building at 8321 Main Street

There was a request for a transfer of funds in the Recreation Department however Councilman DiCostanzo would like to speak with the Accounting Department before he approves this request.

Football practice has started and it is extremely busy at Harris Hill and Wehrle Drive.

**Youth Board Executive Director – Dawn Kinney**

Dawn Kinney inquired as to when the Youth Van would be replaced. The current van is five years old and has 29,292 miles on it. The van needs some work and the doors don't close properly. She may have money in her budget to use towards a new van. Supervisor Hartzell suggested Dawn meet with Charles McNiff in the Highway Department regarding the Vehicle Replacement Program.

**Councilman Robert Geiger**

- Approve the request by Dog Control Officers Jerome Schuler and Anne Cimato to attend the National Animal Control Association Training Academy Workshops in Albany, NY.
- The Town received a rebate check from NY Municipal Insurance Company in the amount of \$5,976.
- The Town also received a check from Time Warner Cable in the amount of \$123,816.

Erie County Department of Environment and Planning contacted Director of Community Development James Callahan about the Senior Center grant. It was not successful early on but now there is an opportunity for funding for the entrance way at the Senior Center. Town Engineer Lavocat stated that there was a "two prong" approach to the Senior Center entrance way. A grant was submitted under CDBG (Community Development Block Grant) and an application was submitted to the Board of Elections for a larger project (the Senior Center is used as a polling location for elections). Town Engineer Lavocat is proposing to bid the project both ways. It will cost approximately \$2,400 more for the architect to do the second bid

package, he has the money in his budget for this. We have funding from the County however we have to be under contract by the end of the year.

Senior Building Inspector David Metzger stated that the house at 8230 Clarence Center Road has been demolished.

Town Attorney Meckler stated that there were five individuals who have not filed their Code of Ethics Disclosure Forms. The list of names was distributed to the Town Board.

Supervisor Hartzell was approached by Paul Cambria regarding Hollow Fest 2014. Clarence Hollow is planning a large Memorial Day Parade. They are also suggesting having Day in the Park on Thursday and Hollow Fest would be Friday and Saturday with a parade on the Fourth of July. This has not been discussed with the Day in the Park Committee. Councilman Kolber suggested a meeting with all involved parties. Councilman Casilio stated that the American Legion would like someone to take over the Memorial Day Parade.

There was a discussion as to whether or not a project should be put on the Work Session agenda if it does not meet town code. Supervisor Hartzell stated that when a project comes to the Work Session, the Board can work out the details before it gets forwarded to the Planning Board.

Planning Board Chairman Sackett stated that if a project comes before the Town Board, there is no compelling reason to take an action. If the Board does take an action, they should make it clear to the applicant that the project meet the code or make it clear that the project will be referred to the ZBA and give the ZBA some guidance. "Put some stipulations forward as to what the Town Board expects; do not be silent on the fact that it does not meet code."

Supervisor Hartzell stated that the opening of Beeman Creek is delayed until next spring. One of the ideas that has been mentioned is to run a parallel path next to the current path.

Councilman Kolber requested to go into Executive Session regarding an Attorney-Client issue.

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, August 14, 2013 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 read by Councilman Geiger.

Members of the Town Board present were Council Members Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, and Town Engineer Timothy Lavocat.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the work session and regular meetings held July 24, 2013. Upon roll call – Ayes: Council Members Geiger, Casilio, Kolber and Supervisor Hartzell; Noes: None. Recuse: Councilman DiCostanzo as he was not present. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Geiger to accept the minutes of the work session held the morning of August 7, 2013. Upon roll call – Ayes: Council Members Geiger, Casilio, Kolber and Supervisor Hartzell; Noes: None. Recuse: Councilman DiCostanzo as he was not present. Motion carried.

Councilman Kolber said they met with members of the Historic Preservation Commission regarding re-use of a house that the Town owns adjacent to the Town Park on Main Street. We are going to see what we can do with it, as it is a fabric of our Clarence Hollow area. They are diligently working on options for the best use as an asset for the Town.

Councilman Kolber said is working with a number of groups to try and re-locate the Williamsville toll barriers. A meeting is set for the 21<sup>st</sup> with the Thruway Authority. We will keep fighting that battle. He believes we are making quite a bit of progress.

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

Resolved, that David Hartzell, as Supervisor of the Town of Clarence, is hereby authorized and directed to file an application for funds from the New York State Department of Transportation, in an amount not less than 20% of the approved funding and upon approval of said request to enter into and execute a project agreement with the State of New York for such financial assistance to the Town of Clarence for the proposed Clarence Main Street Sidewalk Project.

On the question, Councilman Casilio said they are applying for funding to help with installation of sidewalks from Thompson Road to Transit Road. This would allow our citizens to walk the entire distance of the Town along Main Street.

Supervisor Hartzell said we usually have everything on the agenda as it appears in the Bee, but this came up after the fact. It was important to take action on it this evening.

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

Councilman Casilio said we received a letter regarding the response time to a recent house fire on Thompson Road. He was also approached at church by a neighbor who said it took 20 minutes for the fire company to respond. He investigated the call along with Fire Inspector David Metzger and found that it was 8 minutes response time. All fires are horrible, but this was a very windy day. He asked Mr. Metzger to explain what transpired.

David Metzger said the cause of the fire was by the son who was doing some welding in the garage. He is an experienced welder, but left some material near the wall and went inside. He had earphones on in the house and was alerted by the smoke detectors. By the time he got out of the house, the fire was coming out the overhead door of the garage that was open. The fire had a good start due to the contents in the garage and the delay until the smoke detectors went off. The call to Amherst was at 3:41 p.m. and after 8 minutes the trucks were on the road and the chiefs were already on location.

Mr. Metzger said the neighbors were saying 20 minutes, but it was not. He explained to them when you are standing there watching, it feels like it is a lot longer. When he arrived the fire was going out the back of the garage and up the back of the house. The propane tank on their grill was popping. The fire went up the back of the house, through the overhang and into

the attic. The fire companies did an excellent job. The fire only affected the siding on the neighbor's house. The wind was a driving factor that day.

Councilman Kolber said you could tell how windy it was from one of the pictures that the fire was shooting toward the neighbor's house sideways.

Mr. Metzger said Amherst went through the tape of the call and timed it by his watch to double check the time and it was adequate and normal for a daytime fire.

Councilman Casilio said there was a problem with the tones on the fire radio. The phones and pagers were working. The tones did not come through, but the voices were. They were still there in 8 minutes.

Mr. Metzger said the delay in the tones was due to a power failure from the day before that dispatch was unaware of. It worked fine a few hours before. Most of the firemen receive a text message.

Councilman Casilio said the reason we are bringing this out is due to a complaint, otherwise the companies handle hundreds of calls a year that are not reported on here. He added that Clarence, Clarence Center, East Amherst and Main-Transit were there to assist Harris Hill. The issues were the heat and wind of that particular day. Dave added that because of that you have to change personnel going in constantly.

Supervisor Hartzell thanked Councilman Casilio and David Metzger for the explanation and the volunteer service for the community. We appreciate all that the volunteers do.

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

WHEREAS, the appointment of Christine Fusco as Assessor for the Town of Clarence expires as of September 30, 2013.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board hereby appoints Christine Fusco to the position of Assessor for the Town of Clarence for a 6-year term beginning October 1, 2013 and ending September 30, 2019.

On the question, Councilman DiCostanzo said the 6-year term is according to State Law.

Councilman Kolber said Christine has done a great job as assessor for our Town. She is very professional. The number of challenges has dropped considerably during her tenure. He is very happy to reappoint her.

Councilman Casilio said she is also being utilized by the Town of Lancaster and they are very happy to have her also. He thanked her for her services.

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

Councilman DiCostanzo said there is a resolution for a transfer of funds for the Recreation Department, but he is going to hold that one until the next meeting. He is going to check with our accountant on that one and she is out of town.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board issues a Negative Declaration on the proposed Leamer Multiple Family Housing Project located at 6150 Goodrich Road. This Unlisted action involves the development of a 16-unit multiple family housing project in the Clarence Center Traditional Neighborhood District. After thorough review of the submitted site plan and EAF, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board issues a Negative Declaration on the proposed McGuire Development Professional Office Building located at 8321 Main Street. This Type I Action involves the demolition of a structure built prior to 1950 and the construction of a 19,000 +/- square foot Professional Office Building with associated parking and landscaping. After thorough review of the submitted site plan and Environmental Assessment Form, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to approve the request of Dog Control Officers Jerry Schuler and Anne Cimato to attend the National Animal Control

Association Training Academy Workshops in Albany, New York on September 19 & 20, 2013 with use of a Town vehicle and all reasonable and necessary expenses to be paid by the Town.

On the question, Councilman Geiger said the workshops are for Oleoresin Capsicum Aerosol (Pepper Spray) Training at a cost of \$105.00 each and Tactical Baton (Bite Stick) Training at a cost of \$180.00 each. Certificates of Completion will be awarded to participants by NACA.

He was informed that the bite sticks were used when a dog goes after the officer to deter the animal from attacking.

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

Councilman Geiger said the Town received a check in the amount of \$5,976 from New York Municipal Insurance Company representing the interest on the investment into the program.

Councilman Geiger said the Town also received a check from Time Warner Cable in the amount of \$123,816.

Councilman Geiger congratulated Daniel and Patricia Gamin on winning 10 ribbons at the Erie County Fair for their apples.

Councilman Geiger said demolition is almost completed on the house on Clarence Center Road.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to approve the request of Justice Michael B. Powers for Court Clerk's Marilyn Taton and Mary Zimmerman to attend the Town & Village Court Clerk's Training Seminar on Wednesday, August 21, 2013 from 9:00 a.m. to 2:00 p.m. with all reasonable and necessary expenses paid by the Town. On the question, Councilman Kolber said the training seminar is given by the NYS Unified Court System and will be held at the Erie County Courthouse in Buffalo, New York. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, the Town of Clarence recognizes that plowing and de-icing town roads, as well as county roads, is in the best interest and safety of its residents; and

WHEREAS, Erie County and the 25 towns within the county have negotiated contracts which ensure that the majority of the county roads within the towns would be maintained according to the same snow and ice control methods used on all town roads; and

WHEREAS, such methods have been approved by the Erie County Department of Public Works; and

WHEREAS, in the past, all costs of manpower, equipment, and materials have been calculated to the satisfaction of all parties; and

WHEREAS, any issues that have arisen during snow and ice control in previous years have been resolved by all parties involved; and

WHEREAS, a new contract between the Towns and Erie County is currently being negotiated; and

WHEREAS, on March 20, 2013, there was a tentative agreement between the towns and Erie County which included a 3-year term with an annual increase of 5.0% as was past practice; and

WHEREAS, this agreement was considered fair and within the budgeting confines of Erie County; and

WHEREAS, on April 16, 2013, Erie County made a counter proposal to increase the contract from 3 years to 5 years and to reduce the monetary increase to 0.5%; and

WHEREAS, the county proposed rate is one the towns cannot afford; and

WHEREAS, the budgetary planning for 2014 is going to be starting in many municipalities; and

WHEREAS, the deadline for towns to order road salt de-icer is now past.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Clarence calls on the Erie County Executive and the Erie County Legislature to help resolve the issue between the Erie County Department of Public Works and the 25 towns within the County of Erie with regards to snow removal and de-icing of county roads within the towns that is fair and equitable to all parties, and be it further

RESOLVED, that the Town Clerk of the Town of Clarence be directed to forward a copy of this resolution to Erie County Executive Mark Poloncarz; Erie County Legislator John Mills; Erie County Legislature Chairwoman Betty Jean Grant and Erie County Department of Public Works Commissioner John Loffredo and to the other towns within Erie County.

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

Motion by Supervisor Hartzell, seconded by Councilman Kolber to approve the following special event:

**Meet In the Center “FALL FEST”.**

Date: Friday, September 27, 2013

Event Hours are from 5:30 p.m. until 9:00 p.m.

Number of People Expected: approximately 500 +/-.

On the question, Supervisor Hartzell said Goodrich Road from Clarence Center to Maple Street will be closed from 4:30 p.m. until 9:30 p.m. for the event. All the appropriate agencies will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to set a bid date for August 27, 2013 at 10:00 a.m. for the purchase of a new Aerial Bucket Truck for the Highway Department. Bid packages will be available at the Highway Department and the Town Clerk's Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Whereas, Robert and Virginia Fogelsonger donated 6 acres of vacant land to the Town of Clarence located on Greiner Road in 1985 that is known as Glenwood Park; and

Whereas, the land was donated in memory of Benjamin F. Fogelsonger who served as Town of Clarence Highway Superintendant from 1935 to 1962; and

Whereas, there has been a request made by Robert Fogelsonger to change the name of Glenwood Park to Fogelsonger Park.

Now, therefore, be it

Resolved, that pursuant to New York State Law section 64(9), the Clarence Town Board hereby grants the request and renames Glenwood Park to Fogelsonger Park and directs the Town Clerk to notify all the appropriate agencies in the Town and County as well as the United States Post Office of said change.

On the question, Supervisor Hartzell said the Fogelsonger family has been around Clarence for years. They have a record of service going back to 1935. The donation of this land for a park has been beneficial to the Town for many years. He also recognized Robert Fogelsonger who was present.

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

Town Clerk Nancy Metzger said she received the minutes of the Erie County Water Authority meeting held August 8, 2013 amending the Tariff effective August 15, 2013. The amendment is to section 13.03 Flat Rate Private Fire Protection rate by adding a 16 inch connection at \$2,100.00 per annum. A complete copy of the Tariff is on file in the Town Clerk's Office.

Public Participation

Jim Blum thanked the Board for renaming Glenwood Park to Fogelsonger Park. He was a resident on Glenwood Drive when this park was donated. He believes the land is worth hundreds of thousands of dollars now making it a great donation of land by a family who has been here for over a 100 years. It is a good thing to give them recognition.

Supervisor Hartzell thanked Mr. Blum for his participation in making this happen.

A Public Hearing was held to consider a Special Exception Use Permit for a secondary living unit at 4715 Harris Hill Road. James Callahan said the location is the east side of Harris Hill Road, south of Sheridan Drive consisting of a single-family residence in the Single-Family Residential Zone. The applicant is proposing to construct an in-law apartment. The Town Board can consider the use following a public hearing.

Bill Lorenz said this is for his mother-in-law. He is aware of the conditions.

Speaking to the subject:

Gerald and Kathy Goodrich said they own the property next door. They just did a major remodeling project to their home a few years ago. They have spent many hours going over the neighbor's project and feel they have more reasons to be against the proposal. One reason is the new square footage would be 800 sq. ft. larger than the largest of all 26 property owners in the area. Another issue is the 1,500 sq. ft. garage facing toward the back of their house. He feels he must object because it does not fit the character of the neighborhood. Mr. Goodrich presented copies of their research to the Town Board. This did not come easy for them because they are great neighbors.

Supervisor Hartzell asked if there were trees in-between the properties. Mrs. Goodrich said there are not. He asked if there were a row of trees, would that help.

Mr. Goodrich said it is still a very large structure. They designed their remodel with south facing windows and trees would block that. He does not feel that it fits the neighborhood by a long shot.

Kathy Goodrich said many of the homes in this area do not have any garage.

Councilman Kolber asked if they talked to the neighbor to see how they could work out a better situation for both.

Kathy Goodrich said they have not. She said they are approachable, but she does not know what the resolution would be.

Supervisor Hartzell asked what they would like.

Councilman Casilio asked if the addition meets the Building Code.

James Callahan said it would have to be approved by the Building Department. In terms of size, it has to meet the Zoning Code. The zoning does not change.

Councilman Kolber said this is the first time we have had a neighbor complain in this type of situation. He suggests that the project be tabled to allow the neighbors to get together.

Supervisor Hartzell said they need to think about what they want because the project does meet the code.

Councilman Casilio said they are building houses behind houses on that street already. He is not proposing that. There are also larger houses in that area. He commends the investments people are making in remodeling their homes and Mr. Lorenz certainly has the right to do this.

Councilman DiCostanzo asked if there is a maximum size for an addition if he meets the setback.

James Callahan said there is a maximum size on the garage but in terms of the lot size, it can accommodate a good size home.

Councilman DiCostanzo said they really did the same thing.

Councilman Kolber asked Mr. Lorenz if there is a way to discuss a modification. Mr. Lorenz said the addition is actually within the existing footprint of the house. He is adding the garage and removing the dilapidated shed in the back. He would like to angle the garage off of the existing garage where the additional living space will be. He is going to be working with an architect.

Councilman Casilio said to remind everyone, we are not voting on the garage. We are voting on whether or not he can add an in-law apartment. It must be part of the deed and never used as a rental unit. As far as the garage, he must meet the code requirements and it is not an issue for the Town Board to act on. We are not designing his project.

Councilman Kolber asked what the maximum size is for a garage. Mr. Callahan said he is not positive.

Councilman DiCostanzo said it is not relevant to this request.

Councilman Casilio asked the neighbors if they objected to the in-law apartment and they said absolutely not.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on August 14, 2013, and after all interested parties having been heard, grants a Special Exception Use Permit to the applicant, Bill Lorenz, for the construction of a secondary living unit as an addition to the existing home located at 4715 Harris Hill Road, subject to the following conditions:

1. All conditions as required in the Zoning Law must be met.
2. Unit must be secondary to the principal dwelling and not converted to a rental unit.
3. Occupancy shall be limited to family members, paid employees or temporary guest(s).
4. Occupancy shall be restricted to 2 persons to occupy the unit.
5. A Deed restriction shall 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.**
6. An Agreement shall be entered into between Bill Lorenz (and others if applicable) and the Town of Clarence, which agreement shall require that the applicant (and others if applicable) to prepare and record a Deed Restriction incorporating the conditions as spelled out in this resolution which shall be placed into their Deed. The Agreement and deed restrictions shall continue in perpetuity. A copy of the Agreement is required to be filed as an attachment to the Deed. **A copy of the Agreement is to be submitted to the Town Attorney prior to the filing of the Deed for approval.**
7. Proof of filing of the approved deed and attachment is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.

On the question, Councilman Casilio said the specific language for the deed restrictions and the Agreement may be obtained from the Town Attorney's office.

Councilman Kolber said this is the first time he recalls having a concern from a neighbor for this type of request. He recognizes the concern of the neighbor, as well as the desire of the applicant. He hopes that this can be done to the satisfaction of both parties.

Councilman Geiger asked if it was possible to modify the garage.

Mr. Lorenz said he thinks he may have to in order to be compliant with the code.

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

Mc McGuire Development Inc. requests a Public Hearing to consider a Special Exception Use Permit for a structure larger than 10,000 sq. ft. in the Traditional Neighborhood District at 8321 Main Street. James Callahan said the location is the south side of Main Street west of Susan Drive consisting of a residential property in the Traditional Neighborhood District. The applicant is proposing to demolish the existing home to construct a 19,000 +/- square foot office building. The Planning Board has forwarded a recommendation.

Michael Metzger, engineer was present representing the applicant. His client has spent a lot of time talking to the neighbors. They have made adjustments accordingly and believe they have a good project. Demolition should be happening very soon.

Motion by Councilman Casilio, seconded by Councilman Geiger to set a Public Hearing for September 11, 2013 at 7:45 p.m. to consider the request for a Special Exception Use Permit for a structure larger than 10,000 sq. ft. in the Traditional Neighborhood District at 8321 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell said the request by Cimato Brothers for a Final Findings Statement for the proposed Northwoods Open Space Design Subdivision is removed at the request of the applicant.

Annual Excavation Permit Renewals: A. Buffalo Crushed Stone; B. 10001 Grand Corporation; C. Lakeside Sod; and D. Emeritus Holdings. James Callahan said per Town Law, the Town Board approves large scale excavation operations on an annual basis. All required paperwork and fees have been received. No complaints have been received.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the Annual Excavation Permit Renewals for the following: A. Buffalo Crushed Stone; B. 10001 Grand Corporation; C. Lakeside Sod; and D. Emeritus Holdings. On the question, Supervisor Hartzell said this is an annual renewal permit and all applicants must comply with conditions as

established by NYSDEC and the Town of Clarence Excavation Law. Upon roll call – Ayes: All; Noes: None. Motion carried.

Domenic Piestrak requests Final Plat Approval for Phase 2C of Spaulding Greens Open Space Design Development. James Callahan said this phase is located on the courts off Meadowglen Drive consisting of 18 patio home lots.

Domenic Piestrak said this is the last of Phase 2. He believes sidewalks are a great selling point.

Supervisor Hartzell thanked him for putting the sidewalks in.

Councilman Casilio said we have another subdivision with only 22 ft. of frontage and he does not see how sidewalks could possibly work in that space.

Mr. Piestrak said he will check into that. He said he asked people who bought in one of his subdivisions why they chose that particular place. He was surprised that 60% said because of the sidewalks.

Councilman Kolber said who is going to maintain the sidewalks. Who will accept the calls when they are not maintained.

Mr. Piestrak said there is a homeowners association.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, Domenic Piestrak and Spaulding Greens, LLC, for Final Plat Approval for Phase 2C of the Spaulding Green Open Space Design Subdivision and the dedication of public roads including approximately 720+/- linear feet of Meadowglen Drive; 260+/- linear feet of Golden Astor Court and 220+/- linear feet of Silver Birch Court to include 18 patio home lots subject to the following conditions:

1. No building permits will be issued until all the appropriate documents necessary to convey said roads to the Town of Clarence are submitted to, reviewed and approved by the Town Attorney.
2. Building permits will not be issued until proof of filing of the approved road deeds, easements and conservation easement and/or deed restriction are submitted to the Town Attorney.
3. Final Plan Approval must comply with all regulatory agency and local department conditions.
4. Appropriate fees paid by applicant.
5. Conditions of Town Engineer.

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 Log Cabin Quilters – Monthly meetings for 2014; Dec. 2, 2014; B. Clarence Concert Association – Monthly Meetings for 2014; July 6, 13, 20, 27, Aug. 3, 2014; C. Kwanis Club – April 19, 2014; D. Clarence Soccer Board – Monthly Meetings for 2014; E. Clarence Arts & Crafts Society – Monthly Meetings for 2014; Oct. 31, Nov. 1, 2, 2014; F. Garden Friends of Clarence – Monthly Meetings for 2014; G. Girl Scout Troop #30215 – Monthly Meetings for 2014; H. Clarence Women’s Club – Monthly Meetings for 2014; May 5 & 6, 2014; I. Clarence Book Review Club – Monthly Meetings for 2014 and Legion Hall Applications – A. Rachel Sandle – Aug. 30, 2013; B. Albert Nemmer – Oct. 5, 2013; C. Nehzat Gashtasb – Sept. 21, 2013; D. Bahai Faith – Oct. 19, 2013; E. Girl Scout Troop #586 – Monthly Meetings for 2014; F. Clarence Log Cabin Quilters – Monthly Meetings for 2014; G. Adventure Guides – Monthly Meetings for 2014; H. Clarence Democratic Committee – Monthly Meetings for 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo that upon proper audit and review by the Town Board, the following bills of August 15, 2013 are approved for payment: General Fund - \$114,369.32; Highway Fund - \$26,340.32; Water District -

\$34,886.97; Lighting Districts - \$878.07; Sewer Districts - \$260.98; and Capital Fund - \$370,424.61 for a total amount of \$547,160.27. On the question, Councilman Kolber said the bill pay for August 1, 2013 was approved at the August 7, 2013 work session. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Pattie Gamin said they had a little bit of a concern about the name change to the park. They understand the importance of that. It is also important that his uncle was Glen Weeks who built the houses on Glenwood Road. The liked the idea that the park was also named for Uncle Glen.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:40 p.m.

Nancy C. Metzger  
Town Clerk