

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, November 2, 2016 at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Patrick Casilio called the meeting to order at 5:30 PM. Members of the Town Board present were Councilmember's J. Paul Shear, Christopher Greene, Robert Geiger, and Peter DiCostanzo. Other Town Officials present were, Assistant to the Supervisor Karen Jurek, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Director of Administration and Finance Pamela Cuvillo, Director of Community Development James Callahan and Assistant Planner Jonathan Bleuer

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

#### ***Public Hearing:***

Ray Garcia 8714 Stahley Road

A Public Hearing is scheduled for 7:20 PM to consider the request for a Special Exception Use Permit for a secondary living unit at 8714 Stahley Road. Applicant is seeking approval to construct a home with a secondary living unit. The proposed site is located on the north side of Stahley Road, west of Conner Road on existing vacant lot located within the Residential Single Family Zone. Per the Zoning Law, the Town Board may consider secondary living units via a Special Exception Use Permit. The applicant is aware of the limitations listed in the Town Zoning Law to deed restrict the property to not allow a future rental unit.

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

Domenic Piestrak – Spaulding Green Open Space Design Development Ph3A & 4A

Applicant is seeking Final Plat Approval on these phases. Phase 3A includes approximately 300 linear feet of Firefly Court and approximately 500 linear feet of Waterlefe Court including 22-patio home lots. Phase 4A includes approximately 1300 linear feet of Spaulding Green Parkway and approximately 900 linear feet of Herons Glen including 14-sublots. Per the Zoning Law, the Town Board has final approval authority to accept roads for public dedication and approving Final Plats. A condition of Development Plan approval identified that Final Plat approval is conditioned on completion of the recreation trail to the gas line and installation of a traffic signal at Thompson and Greiner Road intersection. The applicant has submitted a performance bond to ensure the installation of the traffic signal. The signal is scheduled to be installed the week of December 11<sup>th</sup>.

Town of Clarence Comprehensive Plan 2030

On August 24, 2016, the Town Board initiated coordinated review for the action to adopt Comprehensive Plan 2030 under the State Environmental Quality Review Act (SEQRA), the 30 day comment period has now expired. The only pertinent comments received are from Erie County. The consultants along with the Planning Department have addressed the comments received and a Part II and Part III Environmental Assessment Form has been completed identifying the comments received and how they will be addressed in the final document. The final step in the adoption process is to schedule a public hearing and consider fully adopting Comprehensive Plan 2030.

#### ***Work Session items for consideration November 16, 2016:***

Joseph Pandolfino 5036 Shale Bluff

Applicant is proposing to add a secondary living unit (in-law apartment) to the existing single family home. The proposed site is located on the east side of Shale Bluff south of Rockledge in the Spaulding Lake Subdivision at existing residential home located in the Spaulding Lake Planned Unit Residential Development (PURD). Per the Zoning Law, a secondary living unit may be considered via a Special Exception Use Permit. A public hearing will be required.

Geoffrey Mohring – Stay and Play Café LLC 5635 - 5647 Harris Hill Road

Applicant is seeking to fill space in the existing plaza with an animal day care facility that may include overnight boarding. The proposed site is located on the east side of Harris Hill Road, south of Roll Road at existing commercial plaza located in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has approval authority for uses in the Industrial Business Park Zone. While the use may be permitted, the issue of overnight boarding has historically been concern due to noise issues.

### **Supervisor Patrick Casilio**

*Motions:*

- Road Acceptance of Gentwood Drive, Anfield Road and Eastmoor Lane

There is a Public Hearing at 7:15PM to consider the 2017 Preliminary Budget. The budget has been filed with the County and we have stayed within the tax cap.

Federal funding has become available to stabilize and repair Tonawanda Creek Road which has been closed for two years.

### **Councilman Peter DiCostanzo**

November 14, 2016 the Clarence Public Library presents: Alexander Hamilton – Accomplishments and Fall from Power presented by Robert Poczik.

Supervisor Casilio stated that the diseased Ash Tree problem is state wide. There may be grants available as well as tax savings that NYS might be offering. The town does not go on private property to take down trees. The town will pick up brush at the road (even if it is diseased Ash) or if there are diseased trees in the right-of-way. Not all trees taken down in the right of way are Ash Trees. There are Maple trees in the right of way in Clarence Center that are at the end of their life span that the town has taken down as well. Currently there is no program or money to replace the trees. Highway Superintendent Dussing suggested the Town of Clarence become a Tree USA Community through the Arbor Day Foundation however, you would have to have a budget in place for the replacement of right-of-way trees. Highway Superintendent Dussing further reiterated that his department does not go on private property to take down diseased/dead trees and generally do not take private contractor generated waste put out to the road.

Councilman DiCostanzo has attended Main Street Redevelopment Project meetings and many ideas are being presented. He questioned how this would impact the Main Street Sidewalk Project. Town Engineer Lavocat stated that the sidewalk project is funded and moving forward. Supervisor Casilio said that the Board may have to address a Sidewalk District once the sidewalks are installed.

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

### **Councilman Robert Geiger**

Councilman Geiger will read a thank-you letter from Discover Main Street thanking our Parks Department and Councilman DiCostanzo for all their help in making the Creepy Crawler Bicycle Pub Crawl a great success.

Town Engineer Lavocat will meet with Parks Crew Chief Robert Linde to discuss options for the storage of the Senior Center Van.

**Councilman Christopher Greene***Motions:*

- Appoint Jocelyn Mogavero Youth Activities Leader PT Seasonal at the Youth Bureau

**Councilman J. Paul Shear**

Councilman Shear had no report.

Supervisor Casilio stated that funding is coming through for 800 fire hydrant markers. He has to figure out how to distribute them throughout the town and suggested the fire companies install the markers since they are more aware of where the problem areas are. Councilman DiCostanzo suggested getting volunteers from the Youth Bureau, Lions Club or Rotary Club to help the fire departments install the markers.

Supervisor Casilio was awarded a grant for security cameras for Clarence Hollw and will be meeting with the vender to do an antenna test. They are trying to get Wi-Fi to the Youth Bureau.

**Town Engineer Tim Lavocat**

Recently through litigation, the EPA has passed down more stringent requirements under our Storm Water Program. The requirements were passed down to the State and in turn, the State has passed them down to the town. In April of 2017, it appears that there will be more items to come into compliance with on the administrative end including training for employees, data tracking, new local laws etc. There are 66 action items, the compliance schedule is anywhere from 30 days to five years. At this time, the State has this out for public review and comment. Through the Storm water Coalition of WNY, comments are being compiled to forward to the State.

Town Engineer Lavocat announced that Frank Cirillo is the new NYSDOT regional director.

The Police and Courts Facility Building is on schedule, the shingles will be installed next week, the brick work is almost complete.

Motion by Supervisor Casilio, seconded by Councilman Geiger to enter in Executive Session pursuant to § 105 (1) F of the Open Meetings Law to discuss the employment history of a corporation, § 105(1) H the proposed acquisition of real property. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:06 PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Casilio, seconded by Councilman Geiger to adjourn the Executive Session at 6:45PM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, November 2, 2016 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Patrick Casilio called the meeting to order at 7:03 p.m. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a prayer given by The Rev. Vicki Zust of St. Paul's Episcopal Church.

Members of the Town Board present were Councilmembers J. Paul Shear, Christopher Greene, Robert Geiger, Peter DiCostanzo and Supervisor Patrick Casilio. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler and Town Engineer Timothy Lavocat.

Supervisor Casilio said the minutes of October 26, 2016 have not yet been completed due to the workload in the Town Clerk's Office at this time.

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

WHEREAS, the construction of Gentwood Drive has been completed in accordance with as-built drawings and has been accepted for maintenance by the Town of Clarence and is currently open to vehicular traffic for the public.

NOW, THEREFORE, BE IT

RESOLVED, that 1,260 +/- linear feet of Gentwood Drive shall be included in the 2016 Local Highway Mileage inventory of the Town of Clarence; and be it further

RESOLVED, that the New York State Department of Transportation is requested to include 1,260 +/- linear feet of Gentwood Drive on the Town of Clarence's Inventory of Streets.

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

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

WHEREAS, the construction of Anfield Road has been completed in accordance with as-built drawings and has been accepted for maintenance by the Town of Clarence and is currently open to vehicular traffic for the public.

NOW, THEREFORE, BE IT

RESOLVED, that 2,200+/- linear feet of Anfield Road shall be included in the 2016 Local Highway Mileage inventory of the Town of Clarence; and be it further

RESOLVED, that the New York State Department of Transportation is requested to include 2,200+/- linear feet of Anfield Road on the Town of Clarence's Inventory of Streets.

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

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

WHEREAS, the construction of Eastmoor Lane has been completed in accordance with as-built drawings and has been accepted for maintenance by the Town of Clarence and is currently open to vehicular traffic for the public.

NOW, THEREFORE, BE IT

RESOLVED, that 560+/- linear feet of Eastmoor Lane shall be included in the 2016 Local Highway Mileage inventory of the Town of Clarence; and be it further

RESOLVED, that the New York State Department of Transportation is requested to include 560+/- linear feet of Eastmoor Lane on the Town of Clarence's Inventory of Streets.

On the question, Supervisor Casilio said these are done for CHIPs money from the State. Some of them are road extensions leading into major developments.

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

Councilman DiCostanzo said this month the Board meets on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday because of the Thanksgiving holiday.

He reminded everyone to get out and vote next Tuesday.

Councilman Geiger welcomed the Clarence High School students who are present.

Councilman Geiger read a letter from Noel Dill, president of Discover Main Street Clarence Inc. thanking the Parks Department for the fine work in helping them during the recent

Creepy Crawler Bike Pub Crawl. They wanted to express sincere appreciation for everyone who went beyond to help them put on a great show.

Councilman DiCostanzo said he was not able to attend, but heard it was a great success.

Councilman Geiger announced that Noel Dill will be the Chamber of Commerce Citizen of the Year recipient. The Hollow Bistro is the Business of the Year, The Clarence High School Academy of Finance is the Organization of the Year and Father Leising of Nativity is receiving the Lifetime Achievement Award. The recipients will be honored at the annual dinner in March.

Motion by Councilman Geiger, seconded by Councilman DiCostanzo to appoint Jocelyn Mogavero to the position of Youth Activities Leader PT-Seasonal at the budgeted rate of \$9.78/hour effective November 7, 2016, subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Greene announced that on Monday, November 14<sup>th</sup> the Clarence Library will host the second half of Bob Poczik’s presentation on Hamilton.

Councilman Greene announced that on November 21<sup>st</sup> at 7:00 p.m. the Youth Bureau is hosting a session entitled “Addiction Kills” in the Town Hall Auditorium. At the end of the session there will be Narcan training for anyone over 18 interested.

Councilman Shear said the Server’s Halloween fundraiser drew a lot of people to Clarence Center on Halloween Night. For the most part, they left Clarence Center the way they found it and they all appreciate it.

Motion by Councilman DiCostanzo, seconded by Councilman Greene to approve the following: Legion Hall Applications - A. Jaime Nuara – Jan. 15, 2017; B. Shirley Hoehman – Feb. 25, 2017; C. Patricia Raquet – Mar. 11, 2017. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Shear that after proper audit and review by the Town Board, the following bills of November 3, 2016 are approved for payment: General Fund - \$106,001.22; Highway Fund - \$84,487.45; Lighting Districts - \$551.25; Sewer Districts - \$200.00; Capital Fund - \$539,999.27; and Trust & Agency 203 - \$8,820.48 for a total amount of \$740,059.67. Upon roll call – Ayes: All; Noes: None. Motion carried.

#### Domenic Piestrak/Spaulding Greens Open Space Design Development

- Requests Final Plat Approval for Phases 3A and 4A.
  - Phase 3A – 22 Patio Home Lots; Dedication of approximately 300 linear feet of Firefly Court and approximately 500 linear feet of Waterlefe Court
  - Phase 4A - 14 Large Lots; Dedication of approximately 1,300 linear feet of Spaulding Green Parkway and approximately 900 linear feet of Herons Glen

James Callahan said the location is east of Goodrich Road, north of Greiner Road consisting of a previously approved open space design development. Phases 3A and 4A have been completed and the applicant is seeking Final Plat approval. Both phases were conditioned on completion of the recreational trail, which is completed; and installation of a traffic signal at Thompson and Greiner Roads in which a performance bond has been filed.

Domenic Piestrak was present. Phase 3B is under construction. The streetlight will be in December 11<sup>th</sup>. It has taken 1 ½ years to get the streetlight approved by the County.

Motion by Councilman Shear, seconded by Councilman Geiger to approve the request of the applicant, Domenic Piestrak, for Final Plat Approval for Phase 3A of the Spaulding Green Open Space Design Development including the dedication of approximately 300+/- linear feet of Firefly Court and approximately 500 +/- linear feet of Waterlefe Court to accommodate 22 Patio Home lots, subject to the following conditions:

1. All conditions as approved by the Town Engineer.

2. All applicable fees.
3. All documents for the road dedication and any easements are to be submitted to the Town Attorney for review and approval prior to recording.
4. No building permits shall be issued until the road deeds and easements are filed with the Erie County Clerk's Office and proof of same is submitted to the Town Attorney's Office. All original, recorded documents to be returned to the Town Attorney's office.
5. The completion of the recreation trail to the gas line.
6. The recording of the Deed conveying the recreation trail to the Town of Clarence and proof of same to be submitted to the Town Attorney's office. All original, recorded documents to be returned to the Town Attorney's office.
7. The installation of a traffic signal at the Thompson Road/Greiner Road intersection.
8. Receipt, review and approval of the final Maintenance Bonds.

On the question, Councilman Shear said the applicant has submitted a Performance Bond and associated schedule for completion dated October 31, 2016 to ensure the installation of the traffic signal. All in accordance with the approved plan dated October 24, 2016.

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

Motion by Councilman Shear, seconded by Councilman DiCostanzo to approve the request of the applicant, Domenic Piestrak, for Final Plat Approval for Phase 4A of the Spaulding Green Open Space Design Development including the dedication of approximately 1,300+/- linear feet of Spaulding Green Parkway and approximately 900+/- linear feet of Herons Glen to accommodate 14 large residential home sublots, subject to the following conditions:

1. All conditions as approved by the Town Engineer.
2. All applicable fees.
3. All documents for the road dedication and any easements are to be submitted to the Town Attorney for review and approval.
4. No building permits shall be issued until the road deeds and easements are filed with the Erie County Clerk's Office and proof of same is submitted to the Town Attorney's Office. All original, recorded documents to be returned to the Town Attorney's office.
5. The completion of the recreation trail to the gas line.
6. The recording of the Deed conveying the bike trail to the Town of Clarence and proof of same to be submitted to the Town Attorney's office. All original, recorded documents to be returned to the Town Attorney's office.
7. The installation of a traffic signal at the Thompson Road/Greiner Road intersection.
8. Receipt, review and approval of the final Maintenance Bonds.

On the question, Councilman Shear said the applicant has submitted a Performance Bond and associated schedule for completion dated October 31, 2016 to ensure the installation of the traffic signal. All in accordance with the approved plan dated October 24, 2016.

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

A Public Hearing was held to consider the Preliminary Budget and Special Districts Assessment Roll for the Town of Clarence for the year 2017. Supervisor Casilio said a budget

summary was available at the back of the room for anyone interested. He thanked Karen Jurek and Larry Meckler for helping him on the budget.

We are below the tax cap for 2017 and the rate has dropped by almost a penny. We followed the union contracts for 2% raises for employees. The Town Board did not take a raise this year, nor have they for several years.

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

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

RESOLVED, that after a public hearing duly held on November 2, 2016 and after all interested parties being heard, the Clarence Town Board adopts the Preliminary Budget and Special District Assessment Roll for the Town of Clarence for the year 2017 as the Adopted Budget.

On the question, Councilman DiCostanzo said if anyone had questions or concerns about the budget, this was the opportunity to be heard. Since no one has come forward we will adopt the budget presented.

Supervisor Casilio said the Town Board is not taking a raise and our rate has gone down. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider the request for a Special Exception Use Permit for a secondary living unit at 8714 Stahley Road. James Callahan said the location is on the north side of Stahley Road west of Conner Road consisting of vacant land in the Residential Single Family Zone. The secondary living unit would be part of this new construction.

Ramon Garcia was present. He is building the house for himself and his son would occupy the secondary living space. He is aware of the deed restrictions that he must follow.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on November 2, 2016, and after all interested parties having been heard, grants a Special Exception Use Permit to the applicant, Ray Garcia, for the construction of a secondary living unit as an addition to the home that will be located at 8714 Stahley 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 prior to the filing the deed.**
6. An Agreement shall be entered into between the applicant and or applicants (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 Greene said the specific language for the deed restrictions and the Agreement may be obtained from the Town Attorney's office.

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

#### Town of Clarence Comprehensive Plan 2030

- Issue a Negative Declaration under SEQRA
- Set a Public Hearing for formal adoption

James Callahan said the Town has been working for the last several years developing the comprehensive plan. The Draft Document has been completed and a coordinated review under the State Environmental Quality Review Act was initiated in August of this year. The review has been completed and all comments addressed.

Motion by Councilman Shear, seconded by Councilman Greene that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board hereby issues a Negative Declaration on the adoption of Comprehensive Plan 2030. This Type I Action involves the adoption of an updated comprehensive plan for the Town of Clarence. After thorough review of the plan and the Environmental Assessment Forms and upon recommendation of the Planning Department and the Comprehensive Plan Steering Committee it is determined that the adoption of Comprehensive Plan 2030 will not have a significant negative impact upon the environment.

On the question, Councilman Shear said comments from Erie County through the Erie County Department of Environment and Planning have been addressed and the final plan document includes language and amendments to address these comments.

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

Motion by Councilman Geiger, seconded by Councilman DiCostanzo to set a public hearing for Wednesday, December 14, 2016, to consider adoption of Comprehensive Plan 2030 for the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Casilio adjourned the meeting at 7:43 p.m. in memory of Robert Fogelsonger, a 98 year old lifelong resident of Clarence Center. He was a current member of our Arboretum Committee, and former owner of Mosher Lumber (formerly Fogelsonger Lumber). His Father was a former Clarence Highway Superintendent. Councilman Shear lives in the house his Father built in the 1920's. Supervisor Casilio said Mr. Fogelsonger would always handwrite a request each year to be reappointed to the Arboretum Committee and when he was 95 he told him that he didn't have to write it anymore because he had a lifetime renewal after that.

Nancy C. Metzger  
Town Clerk