

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, November 6, 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, Confidential Secretary to the Supervisor Karen Jurek and Director of Administration and Finance Pamela Cuvillo.

Director of Community Development – James Callahan

Public Hearings:

S&S Autobody 9727 County Road

A public hearing is scheduled for 7:45PM to consider a Special Exception Use Permit for an automotive collision shop at 9727 County Road. Applicant is proposing to relocate an existing collision shop on County Road to the new location at existing commercial building (former Francis Heating and Cooling). The proposed site is located on the south side of County Road, east of Goodrich Road on 1.2+/- acres in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has approval authority for collision shops in the Industrial Business Park Zone with a Special Exception Use Permit.

Formal Agenda items:

Tim Horton's Restaurant 9220 Main Street

Applicant is proposing an area for outside dining at existing restaurant located on the northeast corner of Main Street and Thompson Road in the Commercial Zone. Per the Zoning Law, the Town Board may consider the use with a Temporary Conditional Permit. A Public Hearing is required prior to taking action on the request.

Domenic Piestrak – Spaulding greens Open Space Design Subdivision

The applicant is proposing to amend the previously approved concept plan by including recently acquired sewer taps to increase the total number of lots and maintain the overall green space to meet Town Code. The proposed site is located on the east side of Goodrich Road, north of Greiner Road at existing open space design development identifying 380+/- lots with a previously approved concept plan approval on the overall project. Per the Zoning Law, the Town Board has final approval authority to approve/amend Open Space Design Developments. An action under SEQRA will be required to amend the concept, identifying sewer taps, green space and lot configuration. Referral to the Planning Board would initiate a formal review of the proposal.

Director of Community Development James Callahan said that Dominic Piestrak is requesting an amendment to Phase X. It was previously tabled however; he has resubmitted a new design. Supervisor Hartzell stated that he had lunch with Mr. Piestrak attorney and he said that the condo's are selling really well so they want to flip Phase X to condo status. He said they could conceivable flip the rest to condo status. James Callahan stated that the number of units is going to be predicated on green space. It has to remain fifty-percent open space.

Work Session items for consideration 11/20/13:

Gary Gugino - 8330 Main Street

Applicant is proposing to build an accessory structure to the rear of his existing building located at 8330 Main Street (east of the Red Mill restaurant). Town Board approval on architectural style is required in the TND however the proposed accessory building will be located behind his current garage and will be used for personal storage.

Buffalo Exterminating - 7841 Transit Road

Applicant is requesting a Change in Use from vacant to Buffalo Exterminating office to include an expanded parking lot in the front to park his vehicles. The Town Board requested that parking be limited in the front of the building and the treed area remain intact.

Town Engineer Timothy Lavocat

Town Engineer Lavocat stated that he is in the process of finishing up several projects including the library, parking lot at the library and the Brookhaven sewer project. There will be one final Change Order for the library rehabilitation project.

Planning Board Chairman Robert Sackett

A public hearing is scheduled for November 13th relative to sign proposals. One issue that has come up is the flag type signs along Transit Road which are illegal.

A traffic study has been ordered for the proposed Kenyon's gas station at Main Street and Westwood at the expense of the applicant.

Supervisor David Hartzell

- Close Capital projects and move remaining balance to the General Fund Debt Reserve Account
- Grant unpaid leave of absence to Nancy Meyer
- November is the 30-day period which landowners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district

Councilman Bernard Kolber

The Historic Preservation Commission met on November 5th and is requesting that the Town heat the town owned house at 10375 Main Street through the upcoming winter to help preserve it and prevent deterioration. They are hoping to have volunteer help and solicit donations to help with the improvements on the house.

The Historic Preservation Commission also discussed the demolition permit request for 10647 Main Street. The Historic Preservation Commission never did any research on this property and it was never identified on the Clinton Brown Survey for historical properties. Councilman Kolber and Councilman Geiger will meet with the building Simon Yu and discuss how to keep the original structure which was built before the Civil War and try to integrate the proposed new building into this project. Director of Community Development James Callahan stated that Mr. Yu applied to the Building Department for a Demolition Permit which has nothing to do with any Boards. Senior Building Inspector David Metzger has the ability to issue demolition permits. However if a building was constructed prior to 1950, it is automatically a Type I Action under SEQRA. The Type I Action refers the demolition to involved agencies NYS DOT, NYS DEC, our local Historic Preservation Commission and Erie County as well. That is all the Town is required to do. The Community Character Protection Board would become involved with this project for whatever is reconstructed there; they are not an involved agency for the demolition. If a Negative Declaration is issued under SEQRA, the applicant can proceed with the demolition. If a Positive Declaration is issued, the Town Board would have to take an action to identify the building as a historic structure and that would prevent the demolition.

Councilman Patrick Casilio

- Hydrant installation and agreement at 9185 County Road

Councilman Casilio will contact Jean O'Connell relative to erecting sign poles in Clarence Hollow. She has to fill out an application for the town to review/sign off and then submit to the NYS DOT. It is Councilman Casilio belief that the State will not allow lights to be strung across a road. Town Engineer Lavocat stated that he would review the application before the Town signs off.

Councilman Casilio would like to appoint James Dussing as Highway Superintendent. Several e-mails were generated relative to pay increases. A motion is prepared to adopt the budget tonight. Councilman Casilio asked when the budget had to be adopted. Pam CuvIELLO stated that the budget has to be adopted tonight or the Town Board would have to call a special meeting. It has to be filed by November 19th at the County. Councilman Casilio stated that Mr. Dussing has thirty employees and twenty years experience with the highway department. He did not feel he should have employees under him making more money than the Highway Superintendent. Councilman Casilio is suggesting the budget be amended to reflect a higher salary for Mr. Dussing. He will make a motion to appoint Mr. Dussing Highway Superintendent with an increase in his salary.

Supervisor Hartzell stated that Director of Administration and Finance Pam CuvIELLO has already submitted the Tax Caps to the state.

Pam said that in speaking with Supervisor Hartzell he informed her that there would be no more changes to the budget so she went ahead and filed the Tax Cap with NY State. She further stated that the Board can shift money around in the budget as long as they do not change the amount of appropriations or the tax rate. The money would come from General Fund and not the Highway Department Budget. Councilman Casilio stated that he does not want to change that at all, he asked Pam to find \$2,000 to get the Highway Superintendent's pay straightened out. He further stated that he would not have sent the budget to the state without town board approval and since Pam sent the budget in early she should find the money for these additional changes.

Town Security Officer Joseph Meacham has sent e-mails regarding his budget; \$78,000 was taken out of his budget. The budget he had in 2013 was the budget he has always had. Mr. Meacham wanted an increase of \$14 - \$15 for everyone on his force, his employees are seasonal. This is the future of our Security Department more demand in the summer and less in the winter. Supervisor Hartzell and Pam CuvIELLO will be meeting with him.

Beginning the first of the year and with new leadership in the Highway Department, Councilman Casilio would like to get the GPS system under control for all town vehicles. Further Councilman Casilio would like to see consistent branding on all town vehicles. We have a town symbol; however it is not displayed on the vehicles.

Councilman Peter DiCostanzo

- Appoint Winter Recreation Staff
- Transfer funds in the Town Clerks 2013 budget
- Approve Brite-Way Janitorial Services for cleaning services at the Youth Bureau 10510 Main Street

Councilman Robert Geiger

- Award the bid for the Clarence Senior Center Entrance Improvements Project

Town Engineer Lavocat stated that he received three bids on the Senior Center Entrance Improvement Project, lowest bidder being Ledge Creek. There were two bid options in the bid packet. The grant came through from HAVA (Help America Vote Act) and a Community Development Block Grant that James Callahan applied for which will allow for the better option. Mr. Lavocat stated that as a condition of the CDBG, he has to be under contract and the project has to be substantially completed by the end of the year.

Town Engineer Lavocat stated that there was an administrative issue with Civil Service so the Civil Engineer will not be appointed until the next Town Board meeting.

There being no further business, the Work Session adjourned at 7:25PM.

Darcy A. Snyder
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, November 7, 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 Patrick Casilio and Boy Scout Troop 93. A prayer was read by Councilman Robert 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, Deputy Town Attorney Steven Bengart, and Town Engineer Timothy Lavocat.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the work session and regular meetings held October 9, 2013. On the question, Councilman Kolber said he had a modification to the work session that he was present for the executive session. Upon roll call – Ayes: All; Noes: None. Motion carried.

The minutes of the October 23, 2013 meeting were not yet distributed and will be approved at the next meeting.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to close the following projects and move remaining balances to the General Fund Debt Reserve Account:

<u>Project #</u>	<u>Project</u>	<u>Amount</u>
16	Memorial Park Waterlines	\$ 28.05
25	Clarence Center/Goodrich Rd. Sidewalks	0
27	Parks Office Roof	\$113.45
30	Main Park Paving	0

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

Motion by Supervisor Hartzell, seconded by Councilman Casilio to grant an unpaid leave of absence to Nancy Meyer from her position as Messenger for a period not to exceed two months commencing on November 9, 2013 to and including January 3, 2014. The Town will not provide and/or pay for Nancy Meyer's health, vision and dental insurance and/or any other employee benefits during this period.

On the question, Supervisor Hartzell said the granting of this request is due to extreme, extenuating circumstances for Ms. Meyer and is subject to the provisions of Article 24 – sections 1 through 6 of the Town of Clarence White Collar Unit Contract. Any future requests by Ms. Meyer or other persons in the future will be taken on a case-by-case basis at the discretion of the Town Board. The Town Board is not creating a precedence setting policy by granting this request.

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

Supervisor Hartzell stated that as a reminder, November is the 30-day period during which landowners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district. A hearing on the submitted applications for inclusion will be held on Thursday, December 12, 2013 at 6:00 p.m. at the Erie County Cornell Cooperative Extension Office located at 21 South Grove Street, East Aurora, NY. The contact person is Rachael Chrostowski, Planner with the Erie County Dept. of Environment and Planning at (716) 858-8002.

Councilman Kolber said all of the modifications to the library have been completed. There were only minor, if any, inconveniences to library patrons. It was done under budget. He thanked Town Engineer Tim Lavocat for getting this completed.

Councilman Kolber said he attended the Historic Preservation Commission meeting and they are in the midst of the barn survey project. They will hopefully be ready to award the contract for that very soon. They are also looking at an old farmhouse and trying to come up with ideas for that. The last thing they want to do is tear it down, but we need to have a viable reason to keep it.

Councilman Kolber said he also discussed with Councilman Geiger and Robert Sackett about a building that is up for a demolition permit. They are meeting with the owner to see if they can get him to incorporate it into their project. A portion of the house dates back to before the civil war. It will leave a major void in the Hollow.

Councilman Casilio said the results of the election yesterday placed him and Councilman DiCostanzo into another 4-year term on the Town Board. Also, James Dussing was elected as Clarence Highway Superintendent. In the past, once the election was over, Ron Witnauer and Ted Donner were both appointed to the position for the remainder of the year.

Motion by Councilman Casilio, seconded by Councilman Geiger to appoint James Dussing as Highway Superintendent effective November 9, 2013 at a salary of \$75,000 per year. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

That the Town of Clarence requests the Erie County Water Authority to install a hydrant to be located in front of the property located at 9185 County Road for which the Town agrees to pay the annual fire hydrant maintenance fee. The Town will be reimbursed for said annual fees pursuant to the terms and conditions of an Agreement between the Town of Clarence and Edward J. Militello or such other owner of record of the property located at 9185 County Road, Clarence Center, NY.

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

Councilman Casilio thanked the residents of the Town of Clarence for voting him back in to office for a third term. Councilman DiCostanzo was also re-elected. This Town Board works hard to have good government for the residents.

Councilman DiCostanzo thanked the residents and everyone who came out to vote. He also thanked them for putting up with the sign war, although it was not as bad as in other towns.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to appoint the following to the position of Recreation Specialist-PT for the Winter Recreation Staff: Kelly Rusin – Recreation Specialist-PT at the rate of \$16.40 per hour effective October 14, 2013; Eric Kinney – Recreation Specialist-PT at the rate of \$16.40 per hour effective December 1, 2013; and Ron Kiener – Recreation Supervisor-PT at the rate of \$22.70 per hour effective December 1, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the transfer of funds from the 2013 Town Clerk's Budget as follows: \$225.00 from A1410.479 Other Unclassified to A1410.432 Dues and Subscriptions. On the question, Councilman DiCostanzo said the purpose of the transfer is to cover the cost of the Business First subscription, which is shared with the Planning and Zoning Department and for the Notary License expense for a Deputy Town Clerk. The Town Clerk's office notarizes more frequently, especially since the banks are not providing the service and have been referring people to the Town Clerk's office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the proposal of Brite-Way Janitorial Services to provide general cleaning services as per the proposal for the Youth Bureau at 10510 Main Street at a cost of \$365 per month subject to review and approval by the Town Attorney's office.

On the question, Councilman DiCostanzo said there will be an additional cost for the inside and outside windows and to strip and wax the tile floor. These services will only be performed upon request on an as needed basis. The company will provide the town with the necessary insurance certificates and name the Town as an additional insured.

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

Councilman DiCostanzo said kudos to the Youth Bureau on the substance abuse series. There was a good turnout.

Councilman DiCostanzo said Pesci's Pizza is trying to help the Clarence Schools Enrichment Foundation by donating 50% of pick-up only orders during November 4 – 10, 2013.

Councilman DiCostanzo reminded people to watch for deer. They are all over the place.

Councilman DiCostanzo announced that the Planning Board will be discussing possible changes to the Sign Law at their meeting November 13, 2013.

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

RESOLVED, that after holding an open competitive public bid, the Clarence Senior Center Entrance Improvements Project - Option 1 is awarded to Ledge Creek Development, Inc. of Clarence Center, New York for an amount not to exceed \$48,900 ; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into a contract with Ledge Creek Development, Inc, subject to the review and approval by the Town Attorney's Office.

On the question, Councilman Geiger said Ledge Creek Development, Inc. was the lowest responsible bidder. This project is funded by an Erie County Community Development Block Grant and Erie County Board of Elections Help America Vote Act grant.

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

Supervisor Hartzell recognized Robert Sackett from the Planning Board and Jonathan Bleuer from the Planning and Zoning Office.

A Public Hearing was held to consider a Special Exception Use Permit for an automotive collision shop in the Industrial Business Park Zone at 9727 County Road. James Callahan said the location is the south side of County Road, east of Goodrich Road consisting of an existing commercial building. The applicant proposed relocation of his business to this building.

Scott Gajewski said he will be making very minimal modifications to the building.

Councilman Casilio said he never heard of any complaints about his current location and he is moving next to a bus garage.

Councilman Kolber asked about outside storage of vehicles.

Mr. Gajewski said customer cars will be in the paved striped spaces. The repair vehicles will be at the rear or inside the building. Any unlicensed vehicles or items for storage would be in the fenced in area behind the building.

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

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

Resolved, that after a public hearing duly held on November 6, 2013, and after all interested parties being heard, the Clarence Town Board grants the request of the applicant, S & S Autobody, for a Special Exception Use Permit for an automotive collision shop in the Industrial Business Park Zone at 9727 County Road subject to the following conditions:

1. Outside storage limited to paved and striped areas.
2. Landscape Committee review and approval of screening of any outdoor storage.
3. All outdoor unregistered vehicles and/or parts to be stored behind in the fenced area to the southwest of the building.

On the question, Councilman Casilio asked the applicant if he is in agreement with the conditions set. Mr. Gajewski said yes he is.

Councilman Kolber said there was previously another collision shop that was not approved recently. The difference is the zoning district with a collision shop specifically listed as an approved use in the Industrial Business Park Zone.

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 2014. Supervisor Hartzell said he thinks it is a very good budget. The Board put in a tremendous amount of time putting it together. He is proud of the way it came out. The citizens of the Town will be happy with the reduction in

their taxes from last year. One of the nice things about this budget is when you can drop the tax rate and add services as well.

Councilman Geiger told the students in attendance that they could take a copy of the budget back to their teachers and let them know we are trying to keep our budget down.

Councilman Kolber said we have kept our budget flat for a number of years. He is very proud that we have also kept the spending down.

Councilman Casilio thanked the Supervisor for leading the charge to keep the budget flat.

Supervisor Hartzell said we did not have to cut any jobs or services this year. We were able to meet the department heads' requests.

Councilman Casilio said he knows we are testing out some new things, but he is sure we will be able to work the bugs out. He thanked Pam CuvIELLO for her help.

Supervisor Hartzell thanked Karen Jurek who is instrumental in the first few months to coordinate the process.

Councilman Kolber thanked the department heads for submitting frugal requests.

Supervisor Hartzell said not only the department heads, but the fire companies came in with flat or reduced requests. This is difficult for everyone when the costs are going up.

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

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

RESOLVED, that after a public hearing duly held on November 6, 2013 and after all interested parties being heard, the Clarence Town Board adopts the Preliminary Budget and Special Districts Assessment Roll for the Town of Clarence for the year 2014 as the Adopted Budget.

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

Tim Horton's requests a Public Hearing to consider a Temporary Conditional Permit for outside dining at 9220 Main Street. James Callahan said the location is the northeast corner of Main Street and Thompson Road consisting of an existing Tim Horton's restaurant and drive thru in the Commercial Zone.

Dan Blamowski said they are doing some exterior renovations to the building which includes an outdoor patio with five tables and 20 seats in the front of the building. It will be enclosed by a 3-4 ft. aluminum rail fence.

Councilman Kolber asked if they still meet the greenspace requirements. Mr. Callahan said they do. Councilman Kolber said he would like to see the greenspace enhanced with some color.

Motion by Councilman Casilio, seconded by Councilman Geiger to set a Public Hearing for December 4, 2013 at 7:45 p.m. to consider the request by Tim Horton's for a Temporary Conditional Permit for outside dining at 9220 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell said Tim Horton's raised over \$50,000 for the Chamber's 3407 memorial. He thanked them for that.

Mr. Blamowski said they take pride in helping out in those types of efforts.

Supervisor Hartzell thanked Clarence Chamber members Mark Medole and Carol Conwall who were present for all they do at the Chamber.

Deputy Town Attorney Steven Bengart said he spoke with the applicant regarding item 14 and they are in favor of delaying this action.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Clarence Youth Bureau – Nov. 21 & 24, 2013; B. Eagles' Wings – Dec. 13, 2013; C. Cub Scout Pack 27 – March 22, 2014; Legion Hall Applications – A. Amy Wertheim – Nov. 23, 2013; B. Philip Ratzel – Jan. 11, 2014; C. Debbie Singer – Jan. 18, 2014; and D. Kelly Klemann – Feb. 15, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of November 7, 2013 are approved for payment: General Fund - \$539,499.34; Highway Fund - \$14,114.42; Water District - \$37,034.66; Sewer Districts - \$100,636.26; Capital Fund - \$259,978.20; and Trust & Agency 203 - \$3,576.80 for a total amount of \$954,839.68. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Councilman Kolber congratulated Councilman Casilio, Councilman DiCostanzo and our new Highway Supt. James Dussing on their elections. He looks forward to working with them all.

Councilman Geiger congratulated everyone and is glad to continue working with them.

Supervisor Hartzell congratulated James Dussing on his election. He will do a great job and will be a good addition to our team.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:08 p.m.

Nancy C. Metzger
Town Clerk