

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, March 16, 2016 at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Patrick Casilio called the meeting to order at 6:00 PM. Members of the Town Board present were Councilmember's Peter DiCostanzo, Robert Geiger, Christopher Greene and Paul Shear. Other Town Officials present were Director of Community Development James Callahan, Junior Planner Jonathan Bleuer, Assistant to the Supervisor Karen Jurek, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Senior Building Inspector David Metzger and Director of Administration and Finance Pamela Cuviallo.

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

#### *Public Hearings:*

Two public hearings are scheduled to consider Local Laws amending the Code of the Town of Clarence Chapter 107 Flood Damage Prevention and Chapter 121 Improvements, Public and Private. This will allow the Town Board from time to time to revise the fee schedule and not have to amend the Local Law. Currently there are actual fee amounts identified in the Local Law, the fee amounts will be deleted so that anytime in the future the Town Board can amend the fee schedule by resolution without going through the Public Hearing process to change the Local Law.

#### *Formal Agenda items:*

Braunscheidel LGS Property Services – 9610 County Road

Applicant is seeking approval to construct a new commercial structure in the Industrial Business Park Zone to accommodate an existing property management service company. The proposed site is located on the north side of County Road east of Goodrich Road in the Industrial Park Zone. Per the Zoning Law, the Town Board has the opportunity to review new proposals prior to forwarding the Planning Board for formal review and approval. Referral to the Planning Board will initiate formal review of the project.

Enterprise Automotive - 6755 Transit Road

Applicant is proposing a small addition and a façade update to the existing structure. The proposed site is located on the southeast corner of Transit and County Road at existing automotive sales and leasing operation located in the Traditional Neighborhood District. Per the Zoning Law, the Town Board has final review and approval authority for architectural style in the TND. The proposed addition will meet all setbacks, the existing use is allowed via a Special Exception Use Permit that is currently valid. **(Supervisor Casilio has a business relationship with Enterprise Leasing and will recuse himself from any discussion on this project).**

Bristol Village 8455 Clarence Center Road

Applicant is proposing to add duplex units and additions to the memory care and assisted living portions of the existing use. The proposed site is located on the south side of Clarence Center Road, east of Newhouse Road at existing long term care facility located in a Planned Unit Residential Development (PURD). As the PURD Zoning no longer exists, per the Zoning Law the Town Board has the authority to approve amendments within existing PURDS. Referral to the Planning Board will initiate formal review of the proposal. Councilman DiCostanzo has concerns with the location of the driveway and its proximity to a residential home, Supervisor Casilio concurred. Director of Community Development James Callahan stated that the initial plans had the driveway exiting onto Clarence Center Road and the applicant was asked to redesign the exit location.

Councilman Shear has concerns of the driveway running along a pond and suggested preventative measures be put in place to make sure no one drives into it.

#### Windsor Ridge Partners – Harris Hill Commons

Applicant has completed the installation of infrastructure per the approved Development Plans for Phase I of Harris Hill Commons and is seeking Final Plat approval for the phase which included approximately 2220 linear feet of Anfield Road and approximately 560 linear feet of Eastmoor Road to accommodate 16 residential building lots. The proposed site is located on the west side of Harris Hill Road south of Greiner Road in existing previously approved subdivision located in the Residential Single Family Zone. Per the Subdivision Law, the Town Board has final approval authority for final plats and final acceptance authority for publicly dedicated roads. The Town Highway Superintendent and Town Engineer have reviewed and approved the infrastructure installation. Town Engineer Lavocat stated that Windsor Ridge has submitted a letter indicating that because of the weather, there are two items that are yet to be completed. Completion of these two items should be conditions of their approval.

#### ***Work Session items for consideration April 13, 2016:***

##### Dunn Tire 6585 Transit Road

Applicant is proposing to renovate and add on to the existing structure to accommodate a new Dunn Tire store. The existing commercial structure is located on the east side of Transit Road, north of Miles road on 1.87+/- acres in the Commercial Zone. Per the Zoning Law, the Town Board has final approval authority for automotive uses via a Special Exception Use Permit. The Planning Board has issued a Negative Declaration on the project and approved the site plan with numerous conditions. The Planning Board has also forwarded a recommendation for a Special Exception Use Permit. A variance for a front yard setback will need to be approved by the Zoning Board of Appeals prior to action by the Town Board.

##### Bammel Architects – Notorious D.O.G 8625 Main Street

Formerly an insurance agency, the applicant is proposing to update the current façade and operate a retail pet sales and service business at 8625 Main Street. The proposed site is located on the south side of Main Street, west of Circle Court in existing commercial plaza located in the Traditional Neighborhood District (hamlet of Harris Hill). Per the Zoning Law, architectural approval is the purview of the Town Board in the TND. Consideration should be given to proposed building materials and the overall integration into the existing character of the Harris Hill Hamlet. The Planning Board has forwarded a recommendation on the proposed architectural style. Tim Bammel from Bammel Architects was present to see if there was anything that could be done to help his client move forward with their project, they have to be moved in by May. They are currently in the middle of doing demolition work inside the building however there is a water leak on the roof which is shorting out several lights. In order to find out where the leak is, the façade will have to be torn off, Mr. Bammel is hoping his clients can move forward with investigating where the water leak is before they get final approval from the Town Board. Supervisor Casilio stated that the applicant can do basic maintenance work on the building. Mr. Bammel said that the façade would have to be pulled apart to see where the water leak is and it will look as if they are underway without approval. Town Attorney Meckler stated that if the applicant was not updating the façade, it would not be an issue. Town Engineer Lavocat asked if the applicants were just trying to find the leak or are start the project, Mr. Bammel stated that they would like to do both, in order to find the leak the façade has to be torn off. Supervisor Casilio did not want the applicant tearing the entire façade off, if there is a leak, they should address the leak and follow the process to get architectural approval from the Town Board. Town Attorney Meckler stated that procedurally, the Town Board cannot approve this request today.

### **Supervisor Patrick Casilio**

#### *Motions:*

- Approve the transfer of funds from the 2016 Shared Services Budget
- Appoint Laborers Part Time Seasonal – Highway Department

The April 6<sup>th</sup>, 2016 morning Work Session will be cancelled if there are no agenda items forthcoming.

The April 13, 2016 Work Session will begin at 5PM.

A Department Head meeting was held this morning, there has been some vandalism in one of the Town parks. The Active Shooter Drills were well attended and informative.

There was a discussion regarding pre-written motions. Motions will be pre-written so all conditions of approvals are noted.

Because of past history, Supervisor Casilio is recommending contributing \$500 towards a portable lavatory for The Clarence Farmers Market.

Supervisor Casilio distributed a listing of public donations made to various service organizations throughout the town.

Floss Insurance Agency has submitted revised LOSAP changes. Basically it is a \$500,000 impact on the fire companies which can be paid over time. Ultimately it will be a \$30,000 a year increase in pay after the \$500,000. Further discussion will take place at a later meeting. Town Attorney Meckler stated that the Town of Amherst is involved with two of the fire companies if the Board wanted to proceed, you would need concurrence with the Town of Amherst. Both Towns would have to have a referendum.

Director of Administration and Finance Pam CuvIELLO distributed an updated schedule showing the original quotes and the cost per break down. Once you start splitting the changes, it gets more expensive. Pam is waiting for one more quote because the mortality table was not broken down.

### **Councilman Peter DiCostanzo**

#### *Motions:*

- Authorize Supervisor to sign renewal leases with Kreher's Poultry Farm, John Kelkenberg and Anchor Farms

At the March 2, 2016 morning Work Session, Capital Markets Advisor Rick Ganci gave a presentation on Municipal Bonds. He mentioned that Pittsford, NY had a higher Moody's Rating than the Town of Clarence. Councilman DiCostanzo has obtained a copy of their report to find out what they are doing to receive such a high rating. He will forward his findings to the Board after he reviews Pittsford's Moody Report.

The High School field project is going to begin soon so the high school will be using some of the Town's fields.

There was a meeting regarding the Main Street Corridor Project. Members were broken up into groups to discuss funding, advocacy and physical design. This is a diverse group of people sharing their thoughts and ideas.

### **Councilman Robert Geiger**

#### *Motions:*

- Grant approval to Jerome Schuler and Anne Cimato to attend a training seminar on April 20, 2016 at Alfred State University

Councilman Geiger met with the Clarence Hollow Association this morning. There was discussion regarding the Farmer's Market including the installation of a bike rack and portable lavatories.

Councilman Geiger thanked the Parks Department for repairing a sewage issue at the Senior Center.

### **Councilman Christopher Greene**

- Appoint Morgan Switzer to the position of Youth Activities Leader PT
- Approve proposal by Sunrise Landscaping of WNY for landscaping services at the Youth Bureau 10150 Main Street

The Library will be installing a Children's Reading Garden and are looking to the Town and the Arboretum Committee for approval for them to begin the work.

Councilman Greene met last Friday with representatives from both Clarence Football and Clarence Soccer regarding potential use of a proposed facility on Kraus Road. It was agreed to go back to the architect to update the design plans.

### **Councilman Paul Shear**

*Motions:*

- Approve the transfer of funds from the 2016 Town Clerk Budget

### **Town Engineer Tim Lavocat**

The Town was not awarded the grant for the Hollow Sewer Project last year for Alexander Drive and Elmcroft. Mr. Lavocat is recommending the Town reapply for the grant again this year it is a 75/25 grant. A resolution will be presented at either the April 6<sup>th</sup> or April 13<sup>th</sup> Town Board meeting. The grant has to be submitted by April 15<sup>th</sup>, 2016. Sewer District #9 has the funds to cover the match.

Last week representatives from FEMA and the NYS DEC held a meeting regarding the adoption of preliminary flood maps for towns in Erie County including the Town of Clarence. The process is moving forward, it has been dormant for six years since the preliminary maps came out. They will be notifying the town when we have to adopt the new maps and the new ordinance to remain participants in the Flood Insurance Program. There are no opportunities for appeals on these maps.

Motion by Supervisor Casilio, seconded by Councilman Greene to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person and § 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 6:47PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Casilio, seconded by Councilman Shear to adjourn the Executive Session at 6:59PM. 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, March 16, 2016 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Patrick Casilio called the meeting to order at 7:04 p.m. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a prayer given by Ruth Wilder of First Baptist Church of Clarence.

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

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to accept the minutes of the work session and regular meetings held February 24, 2016. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Shear, seconded by Councilman Geiger to accept the minutes of the morning work session held March 2, 2016. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Casilio, seconded by Councilman Shear to accept the minutes of the work session and regular meetings held March 2, 2016. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Casilio, seconded by Councilman Greene to approve the following transfer from the 2016 Shared Services-Buildings Budget: \$268.00 from account 001.1620.0251 - Shared Services-General Equipment to 001.3989.250 - Emergency Services Equipment.

On the question, Supervisor Casilio said this is to cover the cost of replacement batteries for the portable radios for the Disaster Coordinator.

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

Motion by Supervisor Casilio, seconded by Councilman Geiger that upon the recommendation of Highway Superintendent, James Dussing, to appoint the following to the position of Laborer Part Time Seasonal for the Highway Department at the rate of \$9.00 per hour effective May 2, 2016, subject to receipt of all pre-employment paperwork and pre-employment requirements being met: Brian Pulli, Thomas DiCostanzo, Robert Biel, Nicholas Schreiber, Jeffrey Smith, James Walleshauser and Brian Cummiskey. Upon roll call – Ayes: Councilmembers Shear, Greene, Geiger and Supervisor Casilio; Noes: None. Recuse: Councilman DiCostanzo. Motion carried.

Motion by Supervisor Casilio, seconded by Councilman Shear that upon the recommendation of Highway Superintendent James Dussing, Nicholas J. Jurek be appointed to the open position of Laborer FT for the Highway Department effective April 4, 2016 at step 1 of the Blue Collar Unit Contract, subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, the County of Erie (“County”) is engaged in a highway reconstruction project involving Goodrich Road in the Town of Clarence (“Town”); and

WHEREAS, as part of the highway reconstruction project, the County previously entered into a Memorandum of Understanding with the Town allowing the County to construct and maintain a Wetland Mitigation Area within Beeman Creek Park; and

WHEREAS, the United States Army Corps of Engineers (“USACE”), as a condition of its permit, is requiring a guarantee that the Wetland Mitigation Area located within Beeman Creek Park remain as such; and

WHEREAS, attached hereto as Exhibit A is an explanation regarding both the allowable and prohibited uses of the Mitigation Area as defined by the USACE.

NOW, THEREFORE, BE IT

RESOLVED, that the Town shall allow the County to construct and maintain the Wetland Mitigation Area as provided for in the MOU; and be it further

RESOLVED, that the Mitigation Area is hereby set aside for conservation use and shall be designated as an undeveloped lot, buffer, open and common area or greenway and will not now, nor in the future, be made part of any single lot or lots in a residential or mixed use subdivision or a subdivided commercial development, but rather the Mitigation Area shall be held, maintained and managed as an open, common and undeveloped conservation area; and be it further

RESOLVED, that the USACE requirements provided for in Exhibit A are incorporated herein.

On the question, Supervisor Casilio said Schedule "A" is attached hereto and made part of the minutes of March 16, 2016.

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

Motion by Councilman DiCostanzo, seconded by Councilman Shear to authorize the Supervisor to sign the annual renewal leases for agriculture purposes to continue to farm Town owned property as follows:

Kreher's Poultry Farm for property located on Salt and Greiner Roads; Anchor Farms for the property located on Salt (bordered by Clarence Center Road and Howe Road) and John Kelkenberg for the property located on Keller Road.

On the question, Councilman DiCostanzo said the leases are for a period of 1 year from April 1, 2016 through March 31, 2017. The leases are subject to review and approval of the Town Attorney.

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

Councilman DiCostanzo announced that the Recreation Department will hold the Annual Fishing Derby on April 9<sup>th</sup> at the Main Street Town Park. Kids 15 years and younger are free. Prizes are awarded.

Councilman DiCostanzo said he recused on the previous motion to appoint PT-Seasonal help for the Highway Department because one of them is his son.

Motion by Councilman Geiger, seconded by Councilman Greene to grant permission to Jerome Schuler and Anne Cimato to attend a Training Seminar on Wednesday, April 20, 2016 from 9:00 a.m. to 4:00 p.m. to be held at Alfred State University of New York in Alfred, NY on Animal Hoarding, with the use of a Town vehicle and all reasonable and necessary expenses to be paid by the Town.

On the question, Councilman Geiger said the cost of the seminar is \$75.00 per person and is a budgeted item that includes breakfast and lunch.

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

Motion by Councilman Geiger, seconded Councilman Greene to appoint Anne Cimato as Dog Control Officer FT effective April 4, 2016 at Step 1 of the White Collar Union Contract. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Shear to pay the Farmers' Market \$750 for the Port-a-John Rental from May 1 – October 31, 2016. On the question, Supervisor Casilio said we have paid for this before. It is also used by people on the bike path. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger thanked the Parks Department for taking care of a septic tank issue at the Senior Center last week.

Motion by Councilman Greene, seconded by Supervisor Casilio to appoint Morgan Switzer to the position of Youth Activities Leader PT – Seasonal at the budgeted rate of \$9.78/hr. effective March 28, 2016, subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Greene, seconded by Councilman Shear to approve and authorize the Supervisor to sign the proposal from Sunrise Landscaping of WNY to provide Landscaping Services at the Clarence Youth Bureau located at 10510 Main Street for an amount not to exceed \$1,802.50 commencing May 1, 2016 through October 21, 2016. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Casilio thanked the Youth Bureau for holding the seminar last week regarding drug addiction. He thought it was well attended. There was a similar presentation in Buffalo that same night. The same speaker spoke at the Rotary Club a few weeks ago and he still learned more hearing her again.

Motion by Councilman Shear, seconded by Councilman Geiger to approve the transfer of funds from the 2016 Town Clerk Budget as follows: \$300.00 from account A1410.424 - Town Code Update to account A1410.465 - Dog License Tags. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider a Local Law amending the Code of the Town of Clarence Chapter 107 Flood Damage Prevention – Section 107-4 (C) Fees. Town Engineer Tim Lavocat said the amendment removes the amount of the fees from the code to allow the Town Board to amend the fees from time-to-time by resolution. It will bring this section of the code consistent with other sections regarding fees.

Supervisor Casilio said any changes would still be brought to a meeting for discussion and approval. The public would have an opportunity to speak.

Town Clerk Nancy Metzger said it would also save on the cost of updating the code every time.

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

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

RESOLVED, that after a public hearing duly held on March 16, 2016 and after all interested parties having been heard, the Clarence Town Board adopts Local Law No. 1 of the year 2016 amending the Code of the Town of Clarence, Chapter 107 Flood Damage Prevention, Section 107-4 C. Fees. This local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

On the question, Supervisor Casilio said the law will be attached to the minutes. It is also available in the Town Clerk's Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider a Local Law amending the Code of the Town of Clarence Chapter 121 Improvements, Public and Private – Section 121-7 Fees: Deposits. Town Engineer Tim Lavocat said this is the same as the previous law to remove the stipulated fees in the law. The Town Board has the ability to revise the fees without amending the local law.

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

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

RESOLVED, that after a public hearing duly held on March 16, 2016 and after all interested parties having been heard, the Clarence Town Board adopts Local Law No. 2 of the year 2016 amending the Code of the Town of Clarence, Chapter 121 Improvements, Public and Private Section 121-7. Fee; deposits. This local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

On the question, Councilman Shear said the law will be attached and available in the Town Clerk's Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Braunscheidel LGS Property Services requests Preliminary Concept Review of a proposed new building in the Industrial Business Park Zone at 9610 County Road. James Callahan said the location is the north side of County Road, east of Goodrich Road consisting of vacant property in the Industrial Business Park Zone. The applicant is proposing to construct a new commercial building on the property.

Brian Braunscheidel, owner said he would like to build a building to house his existing business and future office space. He would store his equipment in the building. He will not move the office at this time. It will look as though the front is office space.

James Callahan said ironclad buildings are allowed in this zone with decorative features facing the road. The Planning Board will look at it, but it does meet the requirements.

Supervisor Casilio said he would like to see the drawings in color.

Mr. Braunscheidel said they have not decided on a color yet. They have a few options they are looking at in earth tone colors. There will be stone on the front.

Councilman DiCostanzo asked if there are plans for the back of the property.

Mr. Braunscheidel said he has no plans at this time. He spoke with the lady behind him and told her he would put up a berm or whatever she wanted.

Councilman Shear suggested that he be prepared with the types of materials he is using for the building when he meets with the Planning Board.

Motion by Councilman Shear, seconded by Councilman Greene to refer the request of the applicant, Braunscheidel-LGS Property Services, for Preliminary Concept Review to the Planning Board for a formal review of the proposed new commercial structure located at 9610 County Road in the Industrial Park Zone to accommodate an existing property management service company.

On the question, Supervisor Casilio asked that he add color to the drawing, it does not have to be a rendering; and be prepared with the type of building materials to be used. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Casilio said he has a business relationship with Enterprise Leasing, so he will be recusing himself from all discussion and voting on this project.

Enterprise Automotive requests a Building Permit and Architectural Approval for an addition to an existing structure for automotive sales/leasing in the Traditional Neighborhood District at 6755 Transit Road.

Dave Sutton of Sutton Architecture; and Philip Snyder of Enterprise Rent-a-Car were present.

James Callahan said the location is the southeast corner of Transit Road and County Road consisting of an existing business in the Swormville Traditional Neighborhood District. They are operating under an existing Special Exception Use Permit. The proposal is for an addition and façade upgrade.

Dave Sutton said it is a 900 sq. ft. addition at the rear of the property to house a couple bays for the business. The entire inside will be renovated to operate the same type of business. They do not propose any changes to the paved area. There will be a façade upgrade on the front and side.

Councilman DiCostanzo said this is in a TND and we would be looking for something that fits in to that classification.

Mr. Sutton said they are trying to give it an upgrade while maintaining some of the character. The purpose of the addition is for detailing cars and displaying cars inside during inclement weather.

Councilman Shear said Clarence Center and the Hollow have oversight committees that take a look at how things are proposed to fit in with the TND classification. It does not apply to Swormville at this time, but there is a document that they use available in the Planning and Zoning Office.

Councilman DiCostanzo said the cupola is probably the best part and they are removing it.

Mr. Sutton said they were told that and are prepared to take a look at it to see if they can incorporate it back in. There will not be any mechanical work.

Motion by Councilman Shear, seconded by Councilman Geiger to refer the request of the applicant, Enterprise Automotive, to the Planning Board for a formal review of the proposed project located at 6755 Transit Road for a small addition and a façade update to the existing structure that would require a building permit and Architectural Approval. On the question, Councilman Shear said it is the understanding that there will not be any mechanical work done within the addition at the rear of the building; and they will look at saving the cupola. Upon roll call – Ayes: Shear, Greene, Geiger and DiCostanzo; Noes: None. Recuse: Supervisor Casilio. Motion carried.

Bristol Village requests an Amendment to the existing Planned Unit Residential Development (PURD) to add 10+/- duplex units and additions to the exiting assisted living and memory care facilities at 8455 Clarence Center Road. James Callahan said the applicant is proposing to add 10 new independent living duplex units and additions to the memory care and assisted living in the main complex.

Mike Helbringer, president said they are looking to add a roadway to the 7 new units and a roadway around the property to the additional three units. The additions in the main building

join dead ends together. There are also renovations to the memory care area to increase the common area.

Councilman Geiger asked if the new road could come up to the intersection of the parkway. Supervisor Casilio said no one is in favor of the roadway like it is.

Mr. Helbringer said it originally went out to Clarence Center Road. They could change it. They want the roadway to go all around the building to access the new units.

Motion by Councilman Shear, seconded by Councilman Geiger to refer the request of the applicant to the Planning Board for a formal review of the proposed project amending the existing Planned Unit Residential Development (PURD) for the construction of 10 +/- additional duplex units and for additions to the existing long term care facility at 8455 Clarence Center Road to the Planning Board for a formal review of the project. On the question, Supervisor Casilio said the Town Board would like to see the road closer to the building. Upon roll call – Ayes: All; Noes: None. Motion carried.

Windsor Ridge Partners requests Final Plat Approval for Phase I of Harris Hill Commons including road dedication for approximately 2,220 linear feet of Anfield Road and approximately 560 linear feet of Eastmoor Lane to accommodate residential lots. James Callahan said the location is the southwest corner of Harris Hill Road and Greiner Road for a previously approved open space design subdivision.

Al Randaccio said he has been working with all involved to wrap things up so they can get started.

Motion by Supervisor Casilio, seconded by Councilman DiCostanzo to approve the request of the applicant, Windsor Ridge Partners, for Final Plat Approval for Phase I of Harris Hill Commons including the dedication of approximately 2,200 +/- linear feet of Anfield Road and approximately 560 +/- linear feet of Eastmoor Lane to accommodate 16 residential 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.
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.
5. Completion of items referenced and listed in letters by Windsor Ridge Partners, LLC dated February 3, 2016 and February 22, 2016.

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

Motion by Councilman DiCostanzo, seconded by Councilman Greene to approve the following: Clubhouse Applications - A. Rotary Club of Clarence – June 3 & 4, 2016; B. Clarence Track Boosters – June 12, 2016; C. Clarence Concert Association – June 16 & 17, 2016; D. John Newman Mission – Oct. 23, 2016; Legion Hall Applications - A. Peter Cournan – June 4, 2015; B. Hena Hossain – May 8 & July 17, 2016; Park Pavilion Special Requests - A. Town of Clarence Baseball Association (TCBA) – May 13, 2016; B. Garden Friends of Clarence – May 19 – 21, 2016; C. Rotary Club of Clarence – June 3 - 5, 2016; D. Day in the Park – June 24 -26, 2016. 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 March 10, 2016 are approved for payment: General Fund - \$105,176.75; Highway Fund - \$104,533.76; Fire Protection Districts - \$1,800.00; Drainage District - \$9,878.00; and Trust and Agency 203 - \$154.32 for a total amount of \$221,542.83. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Phil Petruzzo asked that the Town do something about Conner Road. The Town is allowing the County to have a dangerous road. School buses full of kids travel on that road. He

asked the Supervisor if he has done anything since he was here last or if he has talked to Mr. Poloncarz.

Supervisor Casilio said the Town has been trying to get access to his property to work on the drainage. Mr. Petruzzo has not given them permission. The road cannot be repaired until the drainage is corrected.

Mr. Petruzzo said he told them they have to do it his way, not their way.

There being no further business, Supervisor Casilio adjourned the meeting at 7:52 p.m.

Nancy C. Metzger  
Town Clerk

## EXHIBIT A

### Mitigation Area as Open and Common Area

The Mitigation Area is set aside for conservation use and shall be designated as an undeveloped lot, buffer, open and common area or greenway and will not now, nor in the future, be made part of any single lot or lots in a residential or mixed use subdivision or a subdivided commercial development, but rather the Mitigation Area shall be held, maintained and managed by the owner, developer, corporation, homeowner or business association as an open, common and undeveloped conservation area. There shall be no legal or de facto division, subdivision or partitioning of the protected Mitigation Area used as mitigation unless approved by USACE and addressed in the permit.

### Prohibited Uses

Except as necessary (1) to carry out wetland/stream and/or buffer restoration, enhancement and/or establishment in keeping with the mitigation plan of the permit as approved by USACE; or, (2) to fence the mitigation area to keep out livestock, domestic animals, trespassers, or for protection or enhancement of the mitigation area; or, (3) to carry out management and maintenance of the mitigation area as approved in writing by the USACE; the actions encompassed as prohibited by this covenant shall include, but shall not be limited to the following:

- A. Clearing, cutting or mowing;
- B. Earthmoving, grading, removal of topsoil, cultivation, burning, filling or changes in the topography of the land in any manner;
- C. Placement of refuse, wastes, sewage, dredged spoil, solid waste, incinerator residue, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, or agricultural waste on the Mitigation Area;
- D. Draining, ditching, diking, dredging, channelizing, pumping, impounding, excavating;
- E. Diverting or affecting the natural flow of surface or underground waters within, or out of the Mitigation Area; manipulating or altering any natural water course, body of water or water circulation and any activities or uses detrimental to water quality;
- F. Mining, drilling;
- G. Burning, systematically removing or cutting timber or otherwise destroying any vegetation. Upon approval from the USACE, selective pruning, unsafe trees or exotic non-native vegetation may be removed in accordance with current scientific best management practices as set out by the U.S. Forest Service or the New York Forestry Commission;
- H. Spraying with biocides or use of herbicides or pollutants that violate water quality standards;
- I. Introducing exotic species on the Mitigation Area, altering the natural state of the wetlands or streams or causing erosion or sedimentation;
- J. Grazing or use by domesticated animals such that animal wastes enter soil and water;
- K. Construction of any kind in the wetlands, streams, buffers or upland, whether temporary or permanent.
- L. Use of off-road vehicles and use of motorized vehicles except on existing roadways is prohibited.

- M. Any other use of, or activity on, the Mitigation Area which is or may become inconsistent with the purposes of this agreement, the preservation of the Mitigation Area substantially in its natural condition, or the protection of its environmental systems, is prohibited.
- N. As permitted or approved in writing by USACE the Mitigation Area may have: (1) a narrow pedestrian walking trail in the uplands or upland buffer using pervious materials, (2) minimal structures and boardwalks for the observation of wildlife and wetland/stream ecology, (3) crops for wildlife or placement of temporary hunting stands in uplands.
- O. Display of billboards, signs, or advertisements on or over the Mitigation Area, except for the posting of no trespassing signs, temporary signs indicating the property is for sale, signs identifying the trees, vegetation, wetlands or conservation values of the Mitigation Area and/or signs identifying the owner of the property.
- P. Conservation and wildlife habitat management plans may be implemented by the New York Department of Environmental Conservation, US Forest Service, conservation land trusts holding conservation easements, or other conservation management entities where the habitat, wildlife or forest management does not result in any impacts to the wetlands/streams/riparian corridors and its buffers, or to property protected for its historical, cultural and/or archeological value, and where the proposal would enhance the management of the Mitigation Area for its conservation use.

## Local Law No. 1 of 2016

## Chapter 107

## FLOOD DAMAGE PREVENTION

**Be it enacted by the Town Board of the Town of Clarence as follows:**

**Section 1. Purpose.**

The purpose of this local law is to amend the Code of the Town of Clarence, Chapter 107 – Flood Damage Prevention; Section 107-4 C. Fees.

**Section 2. Provisions.**

The provisions of Chapter 107; section 107-4 subsection C. Fees. Shall read as follows:

C. Fees.

1. All applications for a floodplain development permit, including applications for floodplain development within the density floodway, shall be accompanied by an application fee. Application fees are as established by resolution of the Town Board. Such fees may therefore be amended from time to time by like resolution.
2. Applications for a floodplain development permit for larger or nonresidential projects shall be charged on time expended by the local administrator and engineering consultants.
3. Applicants are also responsible to pay any fees or other costs assessed by FEMA.

**Section 3. Severability.**

If any provisions of this Local Law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Local Law shall remain in effect.

**Section 4. Effective date.**

This local law shall become effective upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

## Local Law No. 2 of 2016

## Chapter 121

## IMPROVEMENTS, PUBLIC AND PRIVATE

**Be it enacted by the Town Board of the Town of Clarence as follows:**

**Section 1. Purpose.**

The purpose of this local law is to amend the Code of the Town of Clarence, Chapter 121 – Improvements, Public and Private 121-7. Fees; Deposits.

**Section 2. Provisions.**

The provisions of Chapter 121; section 121-7 Fees; deposits. Shall read as follows:

§121. Fees; deposits.

A. The permit fee, due upon application, shall be as established by resolution of the Town Board. Such fees may therefore be amended from time to time by like resolution.

B. Inspection costs.

- (1) The applicant shall be responsible for the actual cost of full-time inspection.
- (2) The applicant shall deposit an amount equal to 5% of proposed construction costs for each improvement.
- (3) Upon written request from the applicant, within 60 days of completion, any deposit surplus shall be returned to the applicant; or, if there is a deficit, upon written request from the Town, the applicant shall pay to the Town sufficient additional to pay the actual total cost of inspections.

**Section 3. Severability.**

If any provisions of this Local Law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Local Law shall remain in effect.

**Section 4. Effective date.**

This local law shall become effective upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.