

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, June 11, 2014, 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 and Robert Geiger. Councilman DiCostanzo and Councilman Casilio were absent. Other Town Officials present were Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, Confidential Secretary to the Supervisor Karen Jurek, Director of Administration and Finance Pamela Cuvillo.

### **Junior Planner Jonathan Bleuer**

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

A Public Hearing is scheduled for 7:45PM to consider a Local Law amending the Code of the Town of Clarence Chapter 83. Dogs and Other Animals, Article II §83.7 regarding increasing fees.

Cozy Café 9060 Main Street-Rob Schofield

A Public Hearing is scheduled for 7:50PM to consider a Temporary Conditional Permit for outside dining at 9060 Main Street. The proposed site is located on the north side of Main Street, east of Shimerville Road at existing restaurant located in the Commercial Zone. Per the Zoning Law, the Town Board may consider outside dining with a Temporary Conditional Permit. Applicant is proposing approximately eight tables to the rear of the property. Hours of operation will need to be addressed. Permit initially valid for one year.

Zoning Code Amendment

A Public Hearing is scheduled for 7:55PM to consider a Local Law amending the Code of the Town of Clarence, Chapter 229 Zoning, Article XV. Special Exception Use Permits, §229-126 Multiple-Family Residential Developments D. (1) c. The proposed amendment would define the density calculation for Multiple Family Residential to those areas proposed for multiple family residential only. The Town Board has final authority for Local Law Amendments.

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

Metzger Civil Engineering/Ralph Lorigo 5731 Transit Road

Applicant is seeking approval to undertake wetland mitigation in advance of the project proposed for the site at existing vacant property located on the east side of Transit Road, south of Highland Farms Drive in the Major Arterial, Commercial and Restricted Business Zones. A proposed mixed use project is currently under environmental review for the property. Per the Clearing, Filling and Grading Local Law, the Town Board has authority to approve permits. This project will require a full environmental review.

#### ***Work Session items for consideration June 25, 2014:***

Douglas McCall 10360 Main Street

Applicant is proposing to display and sell vehicles at existing residential property located on the north side of Main Street, west of Hillcrest Drive in Clarence Hollow TND. Per the Zoning Law, the Town Board may consider the use with a Temporary Conditional Permit. Display area location and operational details will have to be discussed. A public hearing is required to consider the request.

Fireworks Display Permits

Clarence Hollow Association at Clarence Town Park on Main Street – July 4, 2014

Brookfield Country Club – July 4, 5, 12/August 16 and 20, 2014

All required paperwork is on file. Supervisor Hartzell requested that no Chinese Lanterns be allowed in the Town Park for Day in the Park or Hollowfest, it is a fire hazard.

Supervisor Hartzell received a complaint regarding a BBQ operation on County Road. He inquired as to whether or not the owner obtained a permit for outside dining. Councilman Kolber stated that he had.

Supervisor Hartzell thanked Senior Building Inspector David Metzger and Town Engineer Tim Lavocat for meeting with him on site over the weekend regarding the erosion of Tonawanda Creek.

#### **Town Engineer Tim Lavocat**

Councilman Casilio will set a Bid Date for the Sawmill Road Box Culvert Replacement Project for July 15, 2014 at 10:00AM in the Office of the Town Clerk.

Town Engineer Lavocat has one personnel item and one Attorney Client item to discuss in Executive Session.

#### **Town Attorney Lawrence Meckler**

Town Attorney Meckler has several personnel items (Employment History of a particular person) and two Attorney Client items to discuss in Executive Session.

#### **Supervisor David Hartzell**

- Approve the request for a Block Party to be held on June 21, 2014 on Trailing Drive
- Set Public Hearing to consider the purchase of vacant land at 6170 Heise Road. The land will be used for a parking area for those wishing to use the bike path.

#### **Councilman Bernard Kolber**

Councilman Kolber stated that the town has not received any information about Goodrich Road or Conner Road. He has been reviewing the NYS DOT guidelines for road construction (Chapters X and XI) that dictate how ditches have to be constructed and protected with guard rails. The way Goodrich Road is presently, the County would have to guard rail the entire stretch of the road. Councilman Kolber is hoping to get an update from the County to see where the Goodrich Road and Conner Road reconstruction project stands.

Town Attorney Meckler stated that after his meeting with the County regarding Conner Road, the town is waiting for the County to come back with their consultant's report on the proposed cost estimate to repair the road.

Councilman Kolber has been receiving complaints about coyotes in the area, he suggested that residents be vigilant and watch their pets.

A resident who lives in the Hunting Valley area would like to be taken out of the Aquatic District even though he lives in that area he does not feel he should be part of the district. Residents in that district pay annually to maintain the ponds.

#### **Councilman Robert Geiger**

- Award the proposal for Clarence Youth Bureau addition project in the amount of \$22,070. to Joseph W. Kausner. Town Engineer Lavocat stated that he received the information from Executive Director Dawn Kinney, there were three proposals.

Mr. Lavocat was just facilitating the process for them. The project will be funded through the Youth Bureau budget

- Approve the Clarence Youth Bureau 2014 Summer Series “Just Girls Program” sleepover

In Councilman DiCostanzo absence, Councilman Geiger will announced his motions.

- Issue a Negative Declaration on proposed Local Law to amend Code of the Town of Clarence Chapter 229 Zoning
- Change effective date for Recreation Attendant PT Seasonal
- Change effective date for Recreation Specialists PT Seasonal appointments
- Change effective date for Recreation Attendants PT Seasonal appointments
- Remove Lifeguard PT-Seasonal Appointment
- Appoint Shannon Martinsen and Joseph Lawrence to the position of Lifeguard PT Seasonal at the rate of \$10.28 per hour effective June 14, 2014
- Correct the rate of pay for Lifeguards PT-Seasonal Christina Weber and Joseph Kleinmann from \$10.59 per hour to \$11.18 per hour

The Clarence Hollow Association is requesting permission to hang a banner on each side of the bike path bridge that crosses Ransom Road advertising Hollowfest. The banner would be attached to the bridge and not hang down from it. Councilman Geiger will follow through with the County to get permission, he has a verbal commitment from Erie County Director of Engineering Charles Sickler but will get something in writing as well.

The Hollow Association will not have a July 4<sup>th</sup> parade this year but will go forward with fireworks. Jean O’Connell has raised over \$4,500 of their own money to pay for the fireworks. Their application has been submitted to the town for approval however there are several items that must be submitted and finalized before the next Town Board meeting.

#### **Planning Board Chairman – Robert Sackett**

There is an opening on the Planning Board for an alternate position. In Councilman DiCostanzo absence, Councilman Kolber will make a motion announcing the opening on the Planning Board.

Chairman Sackett suggested the Planning Board Executive Committee and Director of Community Development James Callahan conduct pre-interviews. They would conduct interviews only if the applicant would add value to the Board. The people interviewed will be interviewed based on their knowledge of the Master Plan, the mapping exercise on growth and their interaction with the Planning Board.

Councilman Kolber suggested reviewing the applications currently on file and advertise for the opening as well. Supervisor Hartzell felt it was a good idea to have the Planning Board Executive Committee pre-interview the applicants and then make their recommendation to the Town Board.

There was discussion regarding the proposed exit onto Greiner Road from Eastgate Plaza. Councilman Kolber suggested a traffic light. The Planning Board put out a scope to several traffic engineers. They met with them on June 2 and received clarification on several issues. They will look at the traffic study to see if a traffic light is warranted for that location plus the implications of making a left turn if a traffic light is installed. Initially, Benderson's traffic study indicated that a traffic light was not warranted based on their design.

Planning Board Chairman Sackett was looking for direction from the Town Board relative to sidewalks in future developments. When the Planning Board receives a plan, they take direction from how it was sent to them, Town Code and the Master Plan and they have to be in-sync.

With the Northwood's project, the Planning Board thought they were doing the right thing. But if the Town Board does not want sidewalks within these types of projects, they have to be careful with how they word the Master Plan. For example they might say sidewalks are required if a project is within one mile of commercial development. There seems to be some confusion as to where the town wants and does not want sidewalks.

Supervisor Hartzell stated he missed the last Town Board meeting and asked for some clarification as to why the Town Board asked the developer of Northwood's to remove the sidewalks when he had already agreed to install them. Councilman Geiger stated that the developer agreed to put sidewalks on one side of the street so the Board felt people would have to cross the street to get to the sidewalk so why have them in the first place. The Planning Board felt there was a great difference between walking on the street and crossing the street. If you have sidewalks on one side, you have to cross. If there are no sidewalks, you have to walk in the street. The Homeowners Association would be responsible for maintenance. Councilman Kolber said that his biggest concern with sidewalks is the liability aspect to the town if they are not maintained and plowed in the winter. He further stated that main roads such as Main Street with dense development, sidewalks make sense.

Supervisor Hartzell stated that the Master Plan talks about Clarence being a livable, walkable, bikeable community. Northwood's is the second largest subdivision where the Town Board has decided to do away with sidewalks. Clarence is one of the richest communities in WNY and the Board consistently votes to strip sidewalks out of residential housing projects.

Planning Board Chairman Sackett would like the Master Plan to be consistent with directions they get on projects. They would like some general guideline as to when to recommend sidewalks vs. when it is okay to walk in the street. Councilman Geiger stated that he would recommend sidewalks in the area of the proposed road out of the Eastgate Plaza to Greiner. Councilman Kolber and Councilman Geiger have received numerous calls from residents in favor of this exit road. He would like to find a way to make this happen but also protect the safety concerns of the residents living in that general area.

Once again Chairman Sackett asked that the alternate position on the Planning Board be advertised and that Supervisor Hartzell get back to him as to the interview process.

Referencing the proposed resolution regarding the density calculation for Multiple Family Residential Developments, Planning Board Chairman Sackett asked the Town Board how they want the Planning Board to interpret the law. If there was commercial on the bottom and housing on the top for the entire development how does the Town Board want the

Planning Board to apply the law. The clearer the Town Board makes it, the easier it will be for the Planning Board to apply. Councilman Kolber said that you could do the eight units per acre on the entire parcel and the commercial element is the bonus.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of an individual and two Attorney Client items. Upon roll call – Ayes: Councilman Geiger, Councilman Kolber, Supervisor Hartzell; Noes: None. Absent: Councilman DiCostanzo and Councilman Casilio. Motion carried. Deputy Town Clerk Darcy Snyder was asked to stay in the meeting.

There being no further business, the Work Session adjourned at 6:45PM.

Darcy A. Snyder  
Deputy Town Clerk

Councilman Casilio arrived at 7:15PM.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Executive Session at 7:30PM. Upon roll call – Ayes: Councilman Geiger, Councilman Casilio, Councilman Kolber, Supervisor Hartzell; Noes: None. Absent: Councilman DiCostanzo. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, June 11, 2014 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 7:35 p.m. Pledge to the flag was led by Councilman Patrick Casilio, followed by a prayer given by Ryan Verity, Director of Youth Ministry at St. Mary's Church.

Members of the Town Board present were Council Members Robert Geiger, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Councilman Peter DiCostanzo was absent. Other Town officials present were Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler and Town Engineer Timothy Lavocat.

Motion by Councilman Kolber, seconded by Councilman Geiger to accept the minutes of the work session and regular meetings held May 28, 2014. Upon roll call – Ayes: Council Members Geiger, Casilio and Kolber; Noes: None. Absent: Councilman DiCostanzo; Abstain: Supervisor Hartzell. Motion carried.

Supervisor Hartzell read a letter from a resident thanking him for his follow through regarding their neighbor's fence. Jonathan Bleuer did an excellent job to resolve the situation.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to approve the request for a Block Party to be held on June 21, 2014 from 10:00 a.m. until 11:00 p.m. on Trailing Drive between Howard Drive and Nottingham Terrace.

On the question, Supervisor Hartzell said all appropriate agencies will be notified and they expect approximately 25 to 30 persons to attend.

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

Motion by Supervisor Hartzell, seconded by Councilman Kolber to set a public hearing for July 9, 2014 at 7:45 p.m. to consider the purchase by the Town of Clarence of approximately .97 +/- acres of vacant land located at 6170 Heise Road, SBL No. 44.13-1-20, for recreation purposes for an amount not to exceed \$5,000 plus any closing costs and disbursements. Funds to be allocated from the General Fund and/or Recreation Fees. On the question, Supervisor Hartzell said the Town has wanted to buy this parcel for quite some time to use for additional greenspace and four or five parking spots near the recreation trail. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Councilman Kolber announced that we have an opening for an alternate member to the Planning Board. We have several applications on file and will ask those people if they are still interested. Also, we will open it up for 30 days to July 11, 2014 for residents to apply.

Councilman Kolber said he has received a few calls about coyotes in Town. They are out there and people should just be cautious.

Supervisor Hartzell thanked Deputy Supervisor Meckler for filling in for him while he was away.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Bid Date for the Sawmill Road Box Culvert Replacement Project for July 15, 2014 at 10:00 a.m. in the Office of the Town Clerk. On the question, Councilman Casilio said the Contract Documents will be available in the Office of the Town Clerk by June 12, 2014. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Councilman Casilio read a letter of resignation from Chief Security Officer Joseph Meacham with his last day being June 25, 2014. He has enjoyed working for the Town for the last 15 years.

Motion by Councilman Geiger, seconded by Councilman Kolber to change the effective appointment date for Anneliese Bienko to June 7, 2014 from June 21, 2014 for training purposes. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to change the effective date for the following Recreation Specialist PT Seasonal appointments from June 21, 2014 to June

19, 2014: Eric Kinney and Shannon Letina. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to change the effective date for the following Recreation Attendant PT Seasonal appointments from June 21, 2014 to June 19, 2014: Kailey Akin, Brock Delgato, Alexander Eaton, Luke Hoffman, Daniel Huben, Christopher Kruszynski, Jocelyn Maggavaro, Paul Martucci, Adam Moran, Kelly Quinn, Emily Senay, Jeff Schmidt, Vincent Taverna, Emily Vosburgh, Kristin Walleshauser. On the question:, Councilman Geiger said the change in the effective appointment date is due to a special activity that is taking place on June 19, 2014. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to remove Maddy Trjankowski from the position of Lifeguard PT-Seasonal for 2014 as she has decided not to accept employment with the Town for 2014. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to appoint the Shannon Martinsen and Joseph Lawrence to the position of Lifeguard PT-Seasonal at the rate of \$10.28 per hour effective June 14, 2014 subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to correct the rate of pay for Lifeguards PT-Seasonal Christina Weber and Joseph Kleinmann from \$10.59 per hour to \$11.18 per hour. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to grant permission to the Clarence Hollow Association to hang a banner on each side of the bike path bridge on Ransom Road advertising HollowFest. The banner will be attached to the bridge and not hang down from it. The next step is to get approval from the County. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to approve the Clarence Youth Bureau 2014 Summer Series “Just Girls Program” sleepover event to be held at the Youth Bureau from 7:00 p.m. Friday, July 18 until 8:30 a.m. Saturday, July 19, 2014. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

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

Resolved that the Town Board awards the proposal for the Clarence Youth Bureau Addition Project to Joseph W. Kausner of Clarence, New York as he submitted the lowest proposal in the amount of \$22,070; and be it further

Resolved, that the Supervisor is authorized to sign and enter into a contract with Joseph W. Kausner, subject to the review and approval of the Town Attorney’s Office.

On the question, Councilman Geiger said this project is funded by the Youth Bureau Budget.

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

Councilman Geiger congratulated John and Flora Leamer as they received the Erie County Citizen of the Month award.

The Asa Ransom House is holding a free concert, “My Cousin Toné” at 7:00 p.m. on June 19<sup>th</sup> sponsored by the Hollow Association.

The Senior Center just finished their 2013 audit and there were no problems reported and everything is in good shape.

Clarence Chamber of Commerce is hosting a ribbon cutting ceremony at Niagara Produce at 9:00 am on Saturday.

Town Clerk Nancy Metzger reported that a Notice of Highway Closure was received from Erie County Department of Public Works notifying the Town that a portion of Tonawanda Creek Road from Transit Road to Goodrich Road will be closed from June 5, 2014 for an undetermined

period of time for the purpose of a road slide. Local traffic only, one lane road at closure. The work will be done by the Erie County Highway Department.

A Public Hearing was held to consider a Local Law amending the Code of the Town of Clarence, Chapter 83. Dogs and Other Animals, Article II. §83.7 regarding fees.

Town Clerk Nancy Metzger said the fee changes are as follows: Trapping Fee - \$20 to \$25; Euthanasia Fee – Dogs \$25 to \$50 and Cats - \$20 to \$25. Jerry said the purpose of the increase is to cover his increases in costs.

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

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

RESOLVED, that after a public hearing duly held on June 11, 2014 and after all interested parties having been heard, the Clarence Town Board adopts Local Law No. 1 of the year 2014 amending the Code of the Town of Clarence, Chapter 83 – Dogs and Other Animals Section 83-7 Fees; Penalties for offenses. 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.

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

A Public Hearing was held to consider a Temporary Conditional Permit for outside dining at 9060 Main Street for Cozy Café. Jonathan Bleuer said the location is the south side of Main Street, east of Shimerville Road consisting of an existing restaurant in the Commercial Zone. The location of the outside dining is approximately 250 ft. from the right-of-way in the grassy area.

The applicant was not present.

Speaking to the subject:

Cheryl Hart was present on behalf of her mother who lives next store. She wanted to ask the applicant what the hours of operation would be; does he have a liquor license; is there going to be a fire pit; how many tables and where were they going to be placed. She also wanted to ask if he would consider putting in a concrete pad instead of tables on the grass because she is concerned about rats. Her father had a problem with rats a few years back when the other café was operating. Mrs. Hart is going to sell the house in the future and would like to know what will be happening there. She also wanted to know if there was going to be any fencing.

Town Attorney Meckler said the public hearing could remain open and either continue later this evening if he appears or continue at the next meeting.

Councilman Casilio said he just heard from him and he is unable to attend this evening.

Supervisor Hartzell asked the Town Clerk to place this back on the agenda for June 25<sup>th</sup>.

Mrs. Hart said she will prepare a list of questions for the applicant. She can get them to the Town Attorney or reach out to the applicant.

A Public Hearing was held to consider a Local Law amending the Code of the Town of Clarence, Chapter 229 Zoning, article XV. Special Exception Use Permits, §229-126 Multiple-Family Residential Developments D. (1)(c) by adding “The density calculation and total number of units is to be determined by that portion of the project site being utilized for multiple-family residential development.” Jonathan Bleuer said this would be a sentence addition to the code to further clarify the difference between the commercial and residential portions of the code.

Councilman Kolber said we had some requests from Planning Board members looking for a sense of interpretation as to what our law says. It was stated when the law was adopted that as it is used, it may need some tweaking. There was a unanimous vote by the Town Board members at the last meeting to give the correct determination of that zoning density. This will make it part of our Town Code.

Speaking to the subject:

Ralph Lorigo said he owns property on Transit Road and has made application last November to develop the property. The project complies with the Zoning Code including a commercial component in the front and residential component in the back. The application provides the transitioning with 79 apartments being proposed. If this law passes, it would change from 79 to 39 apartments and the economics would not drive the project anymore. He asks that the Code remain as is, or at the very least projects in process be exempt from any changes.

Councilman Kolber said this is only an interpretation of what is written. It does not change the Code. There still is recourse through our Zoning Board of Appeals to modify densities.

Michael Metzger, engineer and resident said he would like to focus on the fiscal impacts of this change. There are projects that could have fiscal impacts on the viability of them being done. There are going to have to take a hard look to see if they should continue. This Board has spoken at length about our valuable commercial property to enhance the tax base. Changes like this will have an effect on the taxable commercial properties. It will have a negative impact on the assessed values. It was stated that there is the option to go through the Zoning Board of Appeals to make adjustments to density. The section of multi-family development is built into the Special Exception Use Permit which this Board has control over. It requires a supermajority for the project to move forward. Other projects only require approval by the Planning Board. An appeal should not be a normal part of the planning process.

Mr. Metzger said there was a lot of time and effort put into the law and he feels it is a workable code as it is now. It is not something that can be challenged, it allows the Board the control of approving or not.

Councilman Kolber said the multi-family law allows eight units per acre, which is very similar to other towns of our size. Mr. Metzger made it sound like the land is worth nothing if they cannot put in 16 units per acre.

Mr. Metzger said Amherst has many classifications. This would limit the upper end density where you may have a project that it makes sense to have a higher density. This Board has the control to allow it or not. He is not saying that any of the projects mentioned absolutely would not happen. He is saying the simple math of going from 79 units to 39 is going to have an impact.

Councilman Kolber said we have a rural or semi-rural residential town and what is the proper density. He believes that everyone who is going to speak tonight has a vested interest.

Mr. Metzger said as a taxpayer he believes we should maximize the commercial value for the town. We have a limited amount of commercial property.

Domenic Cortese said he is a resident and chairman of a newly formed group of the Clarence Hollow Association, Clarence Hollow Redevelopment Association. Their function is to find ways to properly plan and work as a liaison between citizens, government, developers and real estate to resurrect the Hollow. They are committed to the idea that it can be brought back. They believe that part of that is the density component. It is an area where people can live, work and walk and part of that would be apartments above businesses. They wanted the Board to know of their existence and their goal. Density is the key to that redevelopment and bringing people to live and developers to develop. They want to bring back the squalor and vacant buildings to what it used to be.

Councilman Casilio said they would like to see that happen also. The Hollow is within the Traditional Neighborhood District which does allow more density.

Councilman Kolber said the hamlet areas are where the higher density exists. He believes the lot sizes in those areas should be smaller and get larger as they go out.

Mr. Cortese said in order to fulfill their goals, they realize that they have to look beyond the Hollow as well. A lot is going on along Main Street all the way to Transit Road. They have their own commitments, but are willing to help the Hollow as well. The Hollow needs all of the help it can get with density.

Jason Lahti said he is a resident and member of the school board and is concerned about unforeseen impacts of this on the town. Budgets are pressed everywhere and commercial growth would certainly help. He believes that, even though there are other mechanisms in place, one size fits all would be difficult for commercial projects going through the process. The Master Plan that we have in place helps preserve open space while also allowing more dense areas for development. We should see how some of these mixed use developments work and not stifle them before they have a chance.

Councilman Kolber said we already have eight units per acre and we are not downsizing that or changing it. All we are doing is interpreting density calculations for property in a commercial district that is being split with a multi-family development component.

Sean Hopkins, attorney said he is here to speak about the law in reference to his client, Dave Huck's project at 8230 Wehrle Drive. They presented this project in June 2012 and were basically told to wait while the Town looked at the multi-family law. The new law was adopted in June 2013 and they proceeded with planning based on the new law. The project is currently being reviewed by the Planning Board and going through the environmental review under SEQR. He does not view this as an interpretation, it is adding a whole new sentence. Now, you still have to set aside the 25% for commercial and that portion of the parcel cannot be used to calculate the multi-family density. He does not feel this is fair or what the intention of the law was.

Mr. Hopkins said Mr. Huck's project is proposed with 124 units and with this amendment it would be reduced to 93 units. At this point in the project, he does not think that is fair. While a good portion of the Town is rural; the location of his project is not. Next to their parcel is Stonegate Apartments with 119 units and Coventry Green with 219 units, both with a higher density than they are proposing. The project addresses the goals of Master Plan 2015.

Mr. Hopkins said he would like to know if there is a referral to Erie County Environment & Planning. The Short EAF on file is dated today. It is hard to tell if the environmental impacts were addressed. The Planning Board played an integral role in the current multi-family local law. He believes it would be appropriate for their comment given all the work they previously did. Mr. Hopkins said at the least, if this amendment is adopted, the projects in the pipeline should be exempt. They are well in to the review process. He asked that his comments be considered.

Howard Melancon said he thinks there should be a full board present to vote on this. It should be put out to the public.

Councilman Kolber said it was announced two meetings ago. The Planning Board was looking for direction and guidance. It could be interpreted in different ways. He made the motion to interpret it. This is to codify that interpretation into the Town Code.

Town Attorney Meckler said this issue was publicly noticed.

Corey Auerbach, attorney said he is asking that the Board keep the code the same. If the intent was to allow the density to be calculated for the entire parcel, it defies logic for what the intent of this provision was intended to do. It should be clarified if the intent is to be more or less than 8 units per acre. They ask that the Board provide guidance and clarify the intent.

Councilman Kolber said the Town Board voted on that interpretation two meetings ago when this hearing was set.

David Huck said he is in his second year going through the process with his project. He has already had to start over again after the current law was adopted. He did not draw up plans without following the code with the integrated commercial and residential project. He does not understand why that needs clarifying. He came to the Town Board and the Planning Board and no one ever said it did not meet the requirements. Now all of a sudden it is changing. He believes that anyone in the process should be allowed to continue as is. He followed all the rules and did what he was supposed to do. The open space requirements, two-story limits and other requirements will keep the density down.

Councilman Kolber said 8 units per acre is high density for Clarence.

Mr. Huck said he develops all over the country and that is not high density.

Bruce Wisbaum said he is a developer and representative of the owners and residents of Stonegate Apartments. He is very supportive of the proposed amendment dealing with multi-family developments. One of the main purposes was to provide design standards to ensure multi-family residential developments are properly integrated into the character of the Town. He believes it is to be sensitive to the neighboring residents.

Mr. Wisbaum believes the proposed Golf Dome Apartments contradicts the goals of the new zoning law amendment. Two years ago when this was proposed the Town stepped back and said they wanted to review the density requirements. Now the developers are trying to increase their density from 100 units to 124 units. It needs to be determined if you want 8 units per acre on the residential portion or on the entire parcel including commercial.

Mr. Wisbaum said a higher density will negatively affect the quality of life with increased traffic, sewer capacity, water pressure, safety, etc. The density should remain at 8 units per acre for residential. There are a number of developers here who want the interpretation to remain as is. It is a dangerous precedent. He believes that this should wait for all members to be present to vote because it is an important issue.

Paul Stephen said he appreciates everyone speaking here tonight. Some of the developers, such as him, would like to change the look of Clarence and bring it back. He has already received a lot of compliments on his project at Main and Goodrich. If he presented this project with the new law, he would not be able to do it. Sometimes change is good. There are businesses along Main Street that cannot make it. The idea is to bring people in with the mixed use to help support the commercial.

Mr. Stephen said we are all concerned about taxes. We want our kids to have a good education. We are trying to keep the taxes reasonable and create a new look for this town. He lives here and loves this town. He said he will benefit from his project, but he believes everyone will benefit also. They will have 25 apartments on that site.

Noel Dill said the project will include 16 townhouses and 9 apartments in the mixed use portion. There are no sewers along that area of Main Street, so we need to have stepping stones so we do not have further decay. There is the commercial restriction and now dividing that again, you are creating more density down to two units per acre. You end up consuming more land. Density in the right areas, such as the commercial corridor creates a desirable area to live and work, while maintaining more open space. This new interpretation of the law can result in a density of two units per acre. He would hate to see the only commercial corridor in the Town that contributes to the school taxes get caught up in the competition between two developers. Main Street needs a lot of work and there are a lot of people willing to step up and do that. You need to have the commercial with the residential revenue stream to support it.

Mr. Dill said the question of the “magic” number of how many units would be appropriate came up when the multi-family law was developed. Erie County has 35% rental units, 32% in the Village of Williamsville and Clarence has 15.7%. It means we have a need for more, and that we have the ability to absorb them without overdoing it. It gives people who want to stay here other opportunities for housing. He asked that the Board consider everything that was said here tonight. This amendment will restrict viable projects from happening.

Councilman Kolber said this is not a change to the law. The Planning Board said they are not an interpretive body. They asked for the guidance. The interpretation was made at a previous meeting and voted on by the Town Board and passed unanimously. The public hearing is to codify it into the Town Code.

Mr. Dill said in areas where there is no public sewer, it changed to a more restrictive four units per acre.

Councilman Kolber said according to Master Plan 2015, residential development was to be pushed toward areas with sewers.

Mr. Dill said there is clearly a need to do something in the Main Street area and it will further decay while we wait for sewers to be available. It would be a shame to close out the opportunity for change to make things better along the historic commercial corridor of our town.

Councilman Casilio said he is excited about their project and believes the commercial portion will go quickly. Some people were not happy about the mixed use element, but he thinks it will be a great asset. There are some good things happening along Main Street.

Joe Genco said he thinks it may be a little too hasty to be voting on this tonight. We are on the verge of turning the corner and should be looking at the economic impact this could have in the Hollow and along Main Street.

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

Motion by Supervisor Hartzell, seconded by Councilman Casilio that following the public hearing just held to consider a Local Law amending the Code of the Town of Clarence, Chapter 229 Zoning, article XV. Special Exception Use Permits, §229-126 Multiple-Family Residential Developments D. (1)(c) by adding “The density calculation and total number of units is to be determined by that portion of the project site being utilized for multiple-family residential development,” the Town Board will look at this in the future. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Metzger Civil Engineering requests a Clearing, Filling and Grading Permit in advance of project approvals to undertake wetland mitigation prior to existing permit expiration at 5731 Transit Road. Jonathan Bleuer said the location is the east side of Transit Road, south of Highland Farms Drive consisting of approximately 10 acres of vacant property in the Major Arterial, Commercial and Restricted Business Zones. The applicant is proposing to fill approximately two acres of wetland.

Michael Metzger, engineer said they have a jurisdictional determination from the Army Corp of Engineers to clear, fill and grade this area within five years from issuance. It needs to be completed by August. For the most part, there is no substantial vegetation within this area and is centered on the property.

Councilman Kolber said the Town does not generally allow this type of permit without a project defining the parameters. However, recognizing the timeframe and this is a Transit Road property not known for wetlands. He asked if there is enough space for the buffer area.

Town Engineer Timothy Lavocat said they will file a Notice of Intent with New York State and the DEC for greater than one acre disturbance. He would hope that there is a grading plan.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to approve the request of the applicant, Metzger Civil Engineering, for a Clearing, Filling and Grading Permit for the property located at 5731 Transit Road. On the question, Councilman Kolber added the following conditions: 1. The permit is to be within 25 ft. of the referenced delineation on the drawings presented with the letter from Metzger Engineering dated June 10, 2014. 2. Hours of work on the site will be permitted Monday through Saturday from 7:00 a.m. to 8:00 p.m. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Log Cabin Quilters – 4<sup>th</sup> Tuesday each month; April 21 – 26; Dec. 1, 2015; B. Clarence Arts & Crafts Society – 2<sup>nd</sup> Thursday each month; Oct. 30 & 31; Nov. 1, 2015; C. Clarence Hollow Farmers Market – 2<sup>nd</sup> & 4<sup>th</sup> Tuesday Jan. – May 2015; D. Clarence Concert Association – 1<sup>st</sup> Tuesday each month 2015; July 12, 19, 26; Aug. 2, 2015; E. Clarence Book Review Club – 1<sup>st</sup> Wednesday each month of 2015; Legion Hall Applications - A. Clarence Bulldogs – June 22; July 16, 2014; B. Nehzat Goshtash – July 5, 2014; C. Caroline Wagner – Aug. 23, 2014; D. Clarence Log Cabin Quilters – (Thursdays) Monthly Meetings for 2015; E. Adventure Guides 1<sup>st</sup> Thursday each month of 2015. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of June 5, 2014 are approved for payment: General Fund - \$89,066.24; Highway Fund - \$117,217.16; Water District - \$35,602.61; Fire Protection Districts - \$4,308.75; Sewer Districts - \$100,643.94; and Trust & Agency 203 - \$38,079.27 for a total amount of \$384,917.97. Upon roll call – Ayes: All; Noes: None. Absent: Councilman DiCostanzo. Motion carried.

“For the Good of the Town”

Patti Gamin thanked the Town for repaving Town Place. It is very nice, but she asked that a white line be painted along the edges. It is difficult to see at night.

Mrs. Gamin also said it would be nice to get some work done on Conner Road.

Supervisor Hartzell said it is a County road and we cannot touch it.

Mrs. Gamin asked how we can get someone to do something.

Supervisor Hartzell said there is a group trying to get County Executive Poloncarz to do something. They are having signs made.

Town Attorney Meckler said we are waiting for the County to complete their study on Conner Road.

Felice Petruzzo said he personally spoke with the County Executive last week and he assured him that he is not going to do anything about Conner Road.

Supervisor Hartzell said that he and the Town Attorney met with the top people in the Erie County Highway Department about a month ago. They were told that they would do a study to see how much it would cost to redo the road. We are working on this behind the scenes to find out what it will cost.

Mr. Petruzzo said the Executive told him he has many lane miles of roads throughout the County and he cannot worry about this small road. He said so you do not care about the kids riding on buses down this road. Mr. Poloncarz got mad at him.

Supervisor Hartzell said he and the Town Attorney will continue to work behind the scenes and Mr. Petruzzo and the Conner Road Crusaders should continue making a lot of noise.

Councilman Kolber said he will join them.

Paul Wheeler of Kippen Drive said in regard to item 14 for the clearing, he is a little concerned about the buffer. He believes that giving them the additional 25 ft. will bring it too close to the property line.

Councilman Kolber said they cannot grade to the edge of the site. He did not want to give them unlimited access.

Mr. Wheeler said he is concerned because there is no project.

Councilman Kolber said there is a proposed project at the Planning Board.

Supervisor Hartzell said he has had the permit for five years and it expires in August.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:25 p.m.

Nancy C. Metzger  
Town Clerk