

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, July 23, 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, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town Officials present were Director of Community Development James Callahan, Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, Planning Board member Steven Dale, Confidential Secretary to the Supervisor Karen Jurek, and Highway Superintendent James Dussing.

**Director of Community Development – James Callahan**

Clarence Center VFC Benevolent Association Inc.

The Clarence Center Volunteer Firemen's Benevolent Association is requesting a Fireworks Display Permit for August 31, 2014 at 10:00 PM at existing fire hall located at 9415 Clarence Center Road in the Traditional Neighborhood District and Residential Single Family zoning classification. All required paperwork including fees, bonds, insurance and fire chief approvals are on file.

*Work Session items for consideration August 13, 2014:*

Spaulding Green Open Space Design Subdivision

Applicant is proposing to amend the previously approved concept plan while maintaining the overall green space to meet Town Code. The existing Open Space Design Subdivision identifies 380+/- lots with a previously approved concept plan approval on the overall project. The project site is located on the east side of Goodrich Road, north of Greiner Road. 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. The Planning Board has forwarded a recommendation to issue a negative declaration under SEQR for the proposed amendment. The Planning Board has also forwarded a recommendation to approve the amendment to the concept plan regarding phases 4A, 4B and 10 with several conditions.

Sign Law Amendments

Adoption of amendments to the Town of Clarence Sign Code. The proposed changes relate to temporary signage, LED regulations, nonconforming signs, base landscaping and freestanding signage. Per the Zoning Law, the Town Board has the final approval authority to approve/amend the Sign Law. An action under SEQRA will be required to amend the Sign Code. The Planning Board has forwarded a recommendation to issue a Negative Declaration under SEQR for the proposed amendments. The Planning Board has also forwarded a recommendation to adopt the amendments to the Town of Clarence Sign Code as drafted by the Planning Board, subject to review by the Town Attorney's office.

Main Ingredient 9980 Main Street

Applicant is requesting approval for outside dining. The proposed site is located on the north side of Main Street east of Kraus Road in the former Berrafato's Restaurant.

**Town Attorney Lawrence Meckler**

Town Attorney Meckler has one item to discuss in Executive Session relative to Collective Negotiations pursuant to Article 14 of the Civil Service Law (The Taylor Law).

Town Attorney Meckler has obtained a signed copy of the agreement between the NYS Police and the Town of Clarence relative to the proposed NYS Police Barracks'. By the end of September, they should have a work schedule and cost estimates.

**Town Engineer Tim Lavocat**

Several months ago, the Town Board authorized Architecture Unlimited LLC to do a study on the mechanical systems at the library. There have been several issues over the years. Mr. Lavocat will report back to the Board at the August 13<sup>th</sup> meeting with recommendations on how to improve the system.

**Highway Superintendent James Dussing**

The Highway Department is currently working on various projects including oil and chipping, ditching, installing culverts etc. Millings have been spread out at the Girl Scout Camp on Sheridan which will make it easier on the equipment and the equipment operators. Road surface wear and tear determines when a road gets oiled and chipped.

Highway Superintendent Dussing recently spoke to the vendor regarding the grapple truck and he has been assured that it will be delivered in time for fall leaf pickup.

**Supervisor David Hartzell**

- Approve the request of Karen Jurek to attend a KVS 2014 WNY Regional User Conference to be held on August 13, 2014 at 9:00 AM at the Cheektowaga Central High School
- Approve a Special Event Request – Meet in the Center Merchants Association Fall Festival on September 26, 2014 from 5:30PM until 9:30PM
- Present a Certificate of Excellence to Ledgeview School for their ranking as 2014 Top Elementary School in WNY

**Councilman Bernard Kolber**

- Library Report
- Multi-Family Density motion

**Councilman Patrick Casilio**

- Award the bid for the Sawmill Road Box Culvert Replacement Project to Redman Construction, Inc. of Brockport, NY
- Councilman Casilio is working with Town Engineer Lavocat relative to the installation of street lights at two intersections on Shimerville Road

**Councilman Peter DiCostanzo**

- Upon recommendation of the Planning Board, the Town Board seeks Lead Agency Status and commences a coordinated review among involved agencies on the proposed Waterford Campus/Landings residential development located north of Roll Road, west of Dana Marie Parkway
- Authorize the Supervisor to sign Agreement for Professional Services with URS Corporation-NY for the Eastgate Plaza Access driveway traffic impact study review
- Approve Fireworks Display Permit to Clarence Center VFC for August 31, 2014 for their annual Labor Day Fair

Several members of the Historic Preservation Committee would like to volunteer to do clean-up work at the town owned house at 10375 Main Street (next to the Main Street Town Park). Town Attorney Meckler stated that the Board should decide what they plan to do with the building first and then inquire as to what type of work the volunteers want to do. Councilman Geiger stated that the Committee wanted to keep the house on the park campus however the use is undetermined at this time.

Councilman DiCostanzo said that if they want to volunteer to paint or weed to improve the grounds, they should be allowed to do it. Town Attorney Meckler will check with the Towns insurance agent to cover any liability issues.

Councilman Kolber suggested having the Historic Preservation Committee meet with the Town Board to discuss the type of work they would like to do. Councilman Kolber will contact Carol Conwall to set up a meeting.

The Planning Board has seven members however they need an alternate. Karen Jurek has e-mailed the list of all interested candidates to the Town Board for their recommendation.

#### **Councilman Robert Geiger**

- Proclamation recognizing August 3 through August 9, 2014 as Farmer's Market Week in the Town of Clarence
- Councilman Geiger will make several appointments to the Youth Board

#### **Highway Supt. James Dussing/Sr. Code Enforcement Officer David Metzger**

##### *Garage Sales/Parking Issues*

Several pictures were presented showing vehicles parked on both sides of the street during a large garage sale at Spaulding Lake causing difficulty for emergency vehicles to get through not to mention people trying to walk down the street. Mr. Metzger stated that the problem has escalated over the last several years. He has received complaints from the Harris Hill Fire Chief, from residents in Hidden Pond and Spaulding Lake. He feels the town should take a pro-active stance and do something. Highway Superintendent Dussing stated that the Highway Department has fielded complaints on this situation as well. There is the potential for something happening where emergency personnel will not be able to get through. A situation occurred several weeks ago during a fire on Stone Briar.

Councilman Geiger suggested posting signs stating "Parking on One Side Only" during these events. Mr. Metzger that there is no way to track that, you can't issue Special Event permits for every social event and further, someone would have to police it.

Highway Superintendent Dussing suggested a town wide law stipulating no parking on the fire hydrant side of the street. If there is a law on the books, the police can enforce it. If there is parking on one side only, two vehicles can still pass through. Town Attorney Meckler did not feel the town needed a law in order for the police to enforce no parking.

Supervisor Hartzell disagreed with Town Attorney Meckler stating that there was an issue with someone hunting on town property, when the police were called, they said they could not enforce it unless the property was posted and there was a law on the books. Highway Superintendent Dussing will inquire as to how other towns handle these type situations. Code Enforcement Officer Metzger stated that if there was fire or a medical emergency and emergency vehicles could not get through, the liability would fall on the town.

Councilman Casilio felt the situation on Wehrle Drive was much more problematic than cars parking on both sides of the street in a subdivision. Highway Superintendent Dussing was asked to contact the County relative to installing No Parking signs on the north side of Wehrle Drive between David Road and Maple Road (south side of Wehrle Drive). Councilman Kolber stated that the town will pay for the signs and the labor to install them. He does not want the liability falling on the town because the Board did not take any action.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) E of the Open Meetings Law to discuss collective negotiations pursuant to Article 14 of the Civil Service Law (The Taylor Law). Upon roll call – Ayes: Council members Geiger, DiCostanzo, Casilio, Kolber and Supervisor Hartzell; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:50PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Executive Session at 7:10 PM. Upon roll call – Ayes: Council members Geiger, DiCostanzo, Casilio, Kolber and Supervisor Hartzell; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, July 23, 2014 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Patrick Casilio, followed by a prayer 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, Town Attorney Lawrence Meckler 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 July 9, 2014. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio, and Supervisor Hartzell; Noes: None. Recuse: Councilman Kolber as he was not present. Motion carried.

Supervisor Hartzell presented a proclamation to Ledgeview Elementary School Principal Keith Kuwik along with some of his staff and teachers. Ledgeview received the title of the 2014 top elementary school ranking number one out of 276 in Western New York graded by Buffalo Business First's Annual School Ranking.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the request of Karen Jurek to attend a KVS 2014 WNY Regional User Conference to be held on August 13, 2014 at 9:00 a.m. at the Cheektowaga Central High School, 3600 Union Road, NY at a cost of \$35.00 with all reasonable and necessary costs covered by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to approve the following special event: **Meet In the Center "FALL FEST"**.

Date: Friday, September 26, 2014  
Event Hours are from 5:30 p.m. until 9:30 p.m.

Number of People Expected: approximately 1,000+/-.

On the question, Supervisor Hartzell said Goodrich Road from Clarence Center to Maple Street will be closed from 4:00 p.m. until 11:00 p.m. for the event. Approval is subject to receipt of the required Certificate of Insurance from the applicant naming the Town as an additional insured. All the appropriate agencies will be notified.

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

Supervisor Hartzell read a letter from a resident to Highway Supt. James Dussing complimenting his employee Dan Sutton. Mr. Sutton found a folder in the middle of the road that he mistakenly put on his car roof and it fell off. Mr. Sutton contacted him to return it. The resident was so pleased to know that we have trustworthy, honest people working for the Town.

Councilman Kolber said we had a public hearing on June 11<sup>th</sup> to amend the Zoning Code. He would like to first make a motion for a Negative Declaration on the SEQR issues.

Motion by Councilman Kolber, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration on the proposed amendment to Section 229-126 of the Code of the Town of Clarence. This Unlisted action involves a clarification as to the determination of density for Multiple Family Residential Projects. After thorough review of the proposed amendment and the Short Environmental Assessment Form as prepared by the Planning and Zoning Office, it is determined that the proposed action is consistent with the adopted Master Plan 2015 and will NOT have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio 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. 2 of the year 2014 amending the Code of the Town of Clarence, Chapter 229-Zoning Art. XV. Special Exception Use Permits, section 229-126 Multiple Family Residential Developments D. (1)(c) by adding “The density calculating and total number of units is to be determined by that portion of the project site being utilized for multiple-family residential development.”

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 Kolber said they held the public hearing, but delayed taking action until we had a full Town Board. We also had to notify the County along with a 30-day waiting period.

Upon roll call – Ayes: Councilmembers Geiger, DiCostanzo, Casilio and Kolber; Noes: Supervisor Hartzell. Motion carried.

Councilman Kolber said the Town has been made aware of a parking issue on Wehrle Drive. We would like to ask the County if we can post no parking signs on one side of the road.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to authorize the Clarence Superintendent of Highways to request authority to post “No Parking” signs on the north side of Wehrle Drive from Elma Road to the point opposite to North Maple Road. The Town of Clarence agrees to pay for labor and materials to facilitate placement of these signs. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber announced that the 2013 library statistics are out. The Clarence Library had 139,869 visitors to the library in 2013. They conduct several programs throughout the year. It is a very active building with a lot going on. He thanked the Library Board and employees for doing a great job.

Motion by Councilman Casilio, seconded by Councilman Kolber that after holding an open competitive public bid and upon the recommendation of Nussbaumer & Clarke, Inc. dated July 15, 2014, the Sawmill Road Box Culvert Replacement Project - Base Bid is awarded to Redman Construction, Inc. of Brockport, New York in an amount not to exceed \$161,928 and be it further resolved that the Supervisor is authorized to sign and enter into an agreement with Redman Construction, Inc., subject to review and approval of the Town Attorney’s Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendation of the Planning Board, the Clarence Town Board seeks Lead Agency Status and commences a coordinated review among involved agencies on the proposed Waterford Campus/Landings residential development located North of Roll Road, west of Dana Marie Parkway. This Unlisted Action involves the construction of 80 +/- residential units within the Planned Unit Residential Development (PURD). Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to authorize Supervisor David C. Hartzell, Jr., to sign the Agreement for Professional Services with URS Corporation – New York for the Eastgate Plaza Access Driveway Traffic Impact Study Review subject to review and approval of the Agreement by the Town Attorney’s Office.

On the question, Councilman DiCostanzo said Benderson Development Corporation will be responsible for all fees connected to the Impact Study Review and URS Corporation – New York will directly bill Benderson Corporation as per SEQR requirements.

Councilman Kolber said this is a very hot topic and the residents in that area are concerned about traffic and safety issues. However, when he talks to people in Town, he would guess about 95% want that to be in place. He requests that as they do the review they look at the potential of putting in a traffic signal to satisfy the safety concerns.

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

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to approve a Fireworks Display Permit for the Clarence Center Volunteer Fire Company for August 31, 2014 at 9415 Clarence Center Road for the annual Labor Day Fair.

On the question, Councilman DiCostanzo said all the appropriate paperwork, fees, insurance and fire chief approvals are on file in the planning and zoning office.

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

Motion by Councilman Geiger, seconded by Councilman Casilio to appoint the following to the Youth Board with terms as follows:

1. Dennis Priore - effective July 1, 2014 with a term to expire December 31, 2016 to fill the opening from Michele Mogavero.
2. Emma Switzer (student) – effective July 1, 2014 term to expire June 30, 2015.
3. To re-appoint the following students effective July 1, 2014 – June 30, 2015:  
Magdaline Anderson, Victoria Cirillo, Alexander Raymond and Adam Singh.

On the question, Councilman Geiger said the Youth Board voted on the two new appointments at their June 24, 2014 meeting.

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

Councilman Geiger read a proclamation in appreciation of the Clarence Hollow Farmers' Market and designating August 3 through August 9, 2014 as "Farmers' Market Week" in the Town of Clarence.

Councilman Geiger announced that the Chamber of Commerce annual Taste of Clarence will be held on Monday, August 4<sup>th</sup>.

Councilman Geiger announced that the Reigle/Lapp Farmstead meeting will be held tomorrow at the Clarence Town Park at 7:00 p.m.

Town Clerk Nancy Metzger received a Certificate and Notice of Highway Closure from Erie County Commissioner of Public Works notifying the Town that the portion of Goodrich Road from Lapp Road to Tonawanda Creek Road will be closed from Thursday, July 24, 2014 through Friday, September 19, 2014 (or until complete) in order to replace the bridge over Black Creek. CATCO will be the contractor doing the work.

#### Public Participation

David Huck said he would like to speak regarding the clarification on Councilman Kolber's motions. He asked if either of his motions affected the residential density law.

Councilman Kolber said it is a clarification of the law.

Mr. Huck said we already had an interpretation of the law.

Councilman Kolber said this clarifies and codifies it into our laws.

Mr. Huck said he believes it is being changed. He is most bothered by the fact that there was so much interest in this at the time of the public hearing and now you do not put it on the agenda and just slide it in for approval. It seems very deceptive to him.

Councilman Kolber said they did not slide it through at all. We could not take action at the time because we had to notify Erie County.

Mr. Huck said there are a lot of people who have an interest in this and it was not even on the agenda.

Councilman Kolber said it was mentioned at the time that action would be taken after the 30 days.

Mr. Huck said you knew what you were doing by not putting it on the agenda.

Councilman Kolber said it was a clarification of the law. This is something that a majority of the people in Town want.

Mr. Huck said he disagrees because the majority of the people who attended the public hearing were not in favor of what you are talking about.

Councilman Kolber said the majority of the people that were there were special interest people.

Mr. Huck said he is a resident just like everyone else. He is discounted because he has a business. That is inappropriate.

Councilman Kolber suggested he go door-to-door and see what people tell you.

Mr. Huck said a public hearing was held and the majority of the people were against it. It was not even on the agenda so people could see it. Let's not try to make this look clean. It was an important topic for a lot of people.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Carol Conwall – July 24, 2014; B. Edward Rath – Oct. 1, 2014; C. Eagles Wings – Dec. 8, 2014; Legion Hall Applications - A. Vincent and Jessica Ricchiazzi – Sept. 21, 2014; B. Michele Peterson – Sept. 27, 2014; C. Mary Ann Strickland –

Oct. 4, 2014; D. Nehzat Goshtasb – Oct. 19, 2014; E. Clarence Mustangs Hockey – 2015 Monthly Meetings. 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 July 17, 2014 are approved for payment: General Fund - \$202,810.30; Highway Fund \$130,134.82; Fire Protection Districts - \$50,265.00; Drainage District - \$35,908.00; Capital Fund - \$1,004.30; and Trust & Agency 203 - \$25,297.35 for a total amount of \$445,419.77. On the question, Councilman Kolber said he will recuse as he was out of Town and did not review the bills. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:03 p.m.

Nancy C. Metzger  
Town Clerk