

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, August 27, 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, and Confidential Secretary to the Supervisor Karen Jurek.

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

#### Spaulding Green Open Space Design Overlay

Applicant is proposing an amendment to the previously approved subdivision layout. The action was referred to the Planning Board for review, comment and recommendation. The Planning Board has forwarded a recommendation to approve the proposed amendment identifying that all previously approved conditions of the original approval must be maintained. Overall the total number of lots remains unchanged. An action under SEQRA to amend the design has also been forwarded by the Planning Board. (The original project was approved under a FEIS and Final Findings Statement. The proposed amendment does not impact any past findings on the project). Conditions associated with the Planning Board recommendation include requiring the required mitigation to the Greiner Road/Thompson Road intersection (as per Final Findings) and construction of the recreational trail through the project with specific timelines identified. Per the Zoning Law, the Town Board is the final approval authority to create an open space overlay.

Councilman DiCostanzo stated that he was willing to move this forward if a compromise can be worked out. He suggested putting conditions on the cul-de-sac, change the small lots and not open the road for a while. Donald Powell, attorney for the applicant stated that Councilman DiCostanzo compromise is not acceptable to his client Mr. Piestrak.

Director of Community Development James Callahan stated that the applicant is not changing the design, they are changing the phasing in of that section of the development.

Donald Powell, attorney for the applicant stated that Mr. Piestrak has done everything to address the concerns of the residents on Green Valley. They will not build or connect the road until the project is complete. He is willing to construct a berm or some type of barrier. Councilman Kolber stated that the developer is not phasing the development as was originally agreed to. Mr. Powell did not feel Mr. Piestrak was outside his rights to request this change. Mr. Piestrak is not the one who requested the connectivity between Green Valley and the development, the Town requested the connection. They are willing to leave it unconnected.

Councilman DiCostanzo agreed with Councilman Kolber that his recollection of the 2008 meeting was that Phase X would be the final phase built and the residents on Green Valley were aware of this as, it is very clear in the minutes.

Councilman Geiger clarified what Mr. Powell was saying – Mr. Piestrak would not connect Green Valley Road until all the construction was complete.

Domenic Piestrak stated that he did not feel that the residents were concerned about the houses being constructed, they were concerned about all the traffic through Green Valley. They don't want their street connected.

Mr. Powell stated that Councilman DiCostanzo resolution is not acceptable. Phasing the project as was suggested by Councilman DiCostanzo would mean there would be construction behind the residents on Green Valley Drive on two occasions, once the road is dedicated, they will have to bring in all the construction vehicles to construct the road and the last cul-de-sac. The way this is designed works with the economic environment that we face today.

Domenic Piestrak stated that the residents on Green Valley only concern is the connectivity of Green Valley and Spaulding Green. They wouldn't care if he built a five story building, they don't want their street connected. Councilman Kolber said that is not what he is hearing from the residents.

Mr. Piestrak stated that the Town is forcing him to build high-end houses that there is no market for at this time.

Councilman Geiger questioned whether Mr. Piestrak anticipated any more major changes to this project, he said he did not anticipate any changes other than digging another lake.

Councilman Kolber suggested putting the patio home development into Phase VII which keeps Phase X within the original agreement. The roadway has to go in anyway because you have to run power to it. Councilman Kolber stated that he is trying to find a compromise to make this happen so the developer can get a return on his investment, a compromise that is in keeping with the original agreement promised to the residents of Green Valley. Phase X would be the final phase developed.

Don Powell said they would build everything around the cul-de-sac in Phase X construct the road but dead end it at the nearest point that they can to give the fire department a turn around. That way there will be no traffic going back and forth on Green Valley. Once the entire development is completed, they will put in the last section of the road connecting to Green Valley.

Domenic Piestrak stated that the housing market has changed in the last eight years. Spaulding Lake has an oversupply of houses, the market for high end housing does not currently exist. Mr. Piestrak is willing to cut the road 200' back and put a berm across it and install a sign indicating a Dead End. Mr. Piestrak will have to seek other sources because he cannot afford to make a "stupid" decision and that is what the Town Board is telling him to do, it is wrong for today's housing market.

Excavation Permit – annual renewals

Per the Excavation Law, the following applicants are applying for their annual permit:

Buffalo Crushed Stone, Emeritus Holdings, 10001 Grand Corporation and Lakeside Sod. All requirements as identified in the Town Excavation Law, including applications, tax receipts, NYSDEC Permits and fees are in order.

Rick Divita 10550 Keller Road

Applicant is seeking an amendment to have the Town Board approve a two lot open development area as an alternative to the Special Exception Use Permit. The proposed site is located on the north side of Keller Road, east of Strickler Road at existing residential property located in the Agriculture Rural Residential Zone. Applicant received a Special Exception Use Permit to construct a secondary living unit on the property in 2013. As the Town Board approved the previously approved project, the Town Board can modify the previous approval.

The reason for the change is the cost to the owner associated with placing a second power pole on a single property. Separating the ownership of the parcels reduces the cost. All requirements of the Open Development Area code can be met with the proposed design. An agreement to allow for the shared driveway must be reviewed and approved by the Town Attorney's Office.

Brookfield Country Club 5120 Shimerville Road

Approval of a Fireworks Display Permit for September 6, 2014. All application materials including site location map, insurance and bonding, fees and fire chief approvals are in order.

***Work Session items for consideration September 10, 2014:***

Open Space Design Development Overlay District amendments

The Planning Board has forwarded a recommendation to amend the Zoning Law to make some updates to the Open Space Design Overlay Section (Article XIII of Chapter 229). These updates come after the Town Board has referred the review of this section of the Town Code on February 12, 2014. A copy of the proposed law with amendments was distributed to the Town Board.

Phil Silvestri 8353 Main Street

Applicant is proposing a Change in Use from the previously approved nail salon to a professional office building. The proposed site is located on the southeast corner of Main Street and Susan Drive on existing vacant land consisting of .52+/- acres in the Residential Single Family Zone. A use variance was granted in 2007 to allow for a nail salon with the condition that any future change in use would require Town Board review and approval. In addition, the use variance identifies that the Traditional Neighborhood District Zoning Classification should be used to guide design of the property development. Per the use variance granted in 2007, the Town Board has authority to approve any proposed change in use to the property. Referral to the Planning Board to detail site development details would initiate a formal review of the proposed use.

Elliott Lasky – Roxberry Subdivision Phase II Gentwood Extension

As a corridor road for Eastern Hills Mall is no longer being pursued, the applicant is proposing to develop the residential subdivision as previously conceptually approved. The proposed site is located on the west of Gentwood Drive, east of Eastern Hills Mall on existing vacant land proposed as an extension to the existing Gentwood Drive which received concept approval in 1998 and was tabled at Development Plan approval by the Town Board to pursue development of a proposed access road to Eastern Hills Mall. The applicant agreed to table the action until such time that a corridor plan for the Eastern Hills Mall was developed. As the item was tabled at the Town Board on 6/26/2002, the Town Board must take action to take the matter off the table. As there has been 12+ years since the matter was last publicly discussed, the public should be notified of any action.

Michael Development – Wehrle Drive west of Shisler Road

Applicant is proposing to develop an Industrial Business Park on the property. The proposed site is located on the south side of Wehrle Drive, west of Shisler Road on existing vacant property consisting of 24.69 acres in the Industrial Business Park Zone containing an active sand and gravel mine. The Town Board initiates all project reviews by identifying any concerns associated with the proposed development prior to initiating formal review. Referral to the Planning Board would initiate formal review of the project

### **Shadow Woods**

Applicant is requesting Final Plat approval for Phase II of the previously approved Open Space Design Subdivision located on the west side of Goodrich Road, North of Keller Road. The previously approved Open Space Design subdivision is located within the residential single family zone and contains a total of 68 acres. Total approved lots at 64, Phase II contains 28 lots.

### **Town Attorney Lawrence Meckler**

Town Attorney Meckler along with Supervisor Hartzell, Councilman Geiger and Highway Superintendent Dussing attended a meeting with representatives from Erie County regarding Conner Road. The County came in with a cost estimate of \$500,000. for drainage and \$300,000 for mill and overlay. They proposed that they do the \$500,000 worth of drainage work this year however before they would do the drainage work, they wanted a commitment from the Town that we would take over ownership of Conner Road. If that occurred, next year they would possibly seek the funding through the County budget process for the additional \$300,000 for the mill and overlay. The only way we would get to that point is if the Town agreed (even before they did the drainage) to take over Conner Road. Even if the Town agreed to take over the road and the county paid the \$500,000 there is still the issue of whether or not they would fund the mill and overlay. There was no discussion of a complete reconstruction which may also be necessary. The County basically said if the Town did not accept their offer, they would spend the \$500,000 elsewhere. Town Attorney Meckler did not feel it made sense to move forward, it would set a precedence – the County wants to turn the road over to the Town but will not make the necessary repairs to their road.

### **Town Engineer Tim Lavocat**

Town Engineer Lavocat was notified last week that the EPA will be doing a complete audit of the Towns Stormwater Phase II program on September 23, 24 and 25, 2014. Mr. Lavocat will keep the Board informed along the way.

### **Supervisor David Hartzell**

Supervisor Hartzell received a request by Betty Murtaugh to limit the number of dogs residents of the town are allowed to have. Councilman Geiger reminded the Board that this was presented to the residents several years ago and residents were against it. Councilman Kolber stated that he is against infringing on people's rights. Supervisor Hartzell concurred with Councilman Kolber however he felt up to ten dogs is fair but anything more would require a Kennel License.

### **10375 Main Street**

Jeffrey Perdziak presented a proposal relative to the use of the town owned house at 10375 Main Street. Mr. Perdziak is requesting permission of the Town Board to allow him and his son's use of the house as an art gallery. His son has extensive experience in old home renovation and is willing to fix up the house so that they can open and operate an art gallery. Their mission with the gallery will be to display and sell artwork and offer commissioned projects as well. On September 6<sup>th</sup>, Casey Perdziak will have a display of his work at the Clarence Farmer's Market. With the Town Board's approval, he would like to advertise the "Coming Soon" of the art gallery. As they continue to grow, they would like to use the Gallery to hold fundraisers for local charitable events. A percentage of art sales and/or admission fees will be given to the events that need funding. Examples of local groups that could use their help are Clarence Concert Association (summer concert series), Presbyterian Food Bank and/or Hearts and Hands. Their first step with the house will be to clean it up and make it gallery ready. They will clean up the yard and do some painting touch ups on the outside. They will paint all the inside walls, pull up the old carpet and polish the hardwood floors. The two

large rooms on the first floor would be the main gallery rooms and several rooms upstairs would be used to show additional larger works as well as creating an in-house art studio. Their mission is to bring art to the forefront in Clarence and give others an opportunity to present and promote themselves.

Councilman Kolber felt this was a good idea and he would like to see something done to the house to keep it usable and functioning. As a town owned property, he questioned how to legally go about a public/private partnership.

Town Attorney Meckler reviewed the Bond Resolution, the town authorized the expenditure of \$241,000 for the acquisition of land for town recreational purposes. Paralegal Cindy Rosel has a call into Bond Counsel to see exactly what the definition of "recreational purposes" entails and what the town is able to use the building for.

Councilman Kolber asked how the town can allow private individuals to lease/rent, make improvements on a building owned by the town.

Councilman Casilio asked Mr. Perdziak his financial commitment to the house. He said it had not been discussed yet. Councilman Casilio felt this should all be spelled out before we spend the time researching what the building can and cannot be used for.

Supervisor Hartzell stated that one of the things he discussed with Mr. Perdziak is that Casey Perdziak would fix up the inside and outside of the house in lieu of rent for the first year.

Mr. Perdziak said did not plan on paying rent and did not know who would be paying the utilities. Councilman Casilio wanted all these issues resolved before any decisions are made.

Senior Building Inspector David Metzger stated that the building would have to be converted to a commercial building including making it handicap accessible.

Town Attorney Meckler stated that he will have to get the definition of "recreational purposes" to see how broad it is and then the Town would have to put out an RFP to define what the building could be used for. At that time, Mr. Perdziak proposal would be accessed with any other proposals that come in. The Town Board would then make a decision as to whether they would want to move forward or not.

Supervisor Hartzell suggested waiting to see what the decision is from Bond Counsel and proceed from there.

Councilman Kolber suggested looking into forming a 501c3. Then the town would be working with a non-profit. Councilman Casilio stated that it will still take approximately \$50,000 to maintain the building per year. Supervisor Hartzell stated that the IDA would support this venture.

### **Councilman Bernard Kolber**

At the August 13, 2014 Town Board meeting, a motion was made to set a bid date for September 3, 2014 to accept sealed bids for the removal of leaf compost from the Town recycling area on Sheridan Drive. The bid price submitted will be per cubic yard loaded and hauled offsite by the successful bidding within 60 days. The volume of material consists of piles totaling 6,100 cubic yards. Councilman Kolber thought this was a large amount compared to what it has been over the last several years. They lumped together the piles of compost and the piles of ground mulch. There was an error in the

bid. He talked to Highway Superintendent Dussing about it and he was going to let it go. Councilman Kolber stated that there is a substantial difference, 2500 yards is owned by someone else so that is not available. In essence, the bid should only be advertised for 4,000 cubic yards. This may deter bidders from bidding.

Councilman Kolber has brought concerns to the Highway Department where the bike path crosses the road. The Highway Department has marked the areas and it has made a big difference. Motorist are now stopping and slowing down because they are aware of the crossings.

### **Councilman Patrick Casilio**

Councilman Casilio has been working with Councilman Geiger regarding the garage at the Senior Center. The building has been heated because of the video surveillance system and for the storage of the disaster supply trailer. At times the heating bill was \$600 per month to keep the video camera running. Councilman Casilio explained to Senior Center Director that if the Disaster Coordinator could move their trailer, the garage could be heated using electricity.

### **Councilman Peter DiCostanzo**

- Approve the request of Assessor, Christine Fusco to attend the NYS Assessor's Association Annual Meeting and seminar to be held in Lake Placid from October 5 – October 8, 2014
- Proclamation proclaiming that the month of September 2014 be known as Childhood Cancer Awareness Month in the Town of Clarence
- Issue a Negative Declaration on the proposed Wehrle Dome Mixed Use Project
- Issue a Negative Declaration on the proposed amendments to the Spaulding Green Open Space Design Overlay District
- Set a Public Hearing for changes to the Ethics Code

### **Councilman Robert Geiger**

Councilman Geiger is working with the NYS DOT for a pedestrian crossing at the farmers market.

Councilman Geiger is also working on getting power to the bridge on Ransom Road for Christmas lights, the cost will be incurred by the Hollow Association. He is also working on getting a pole at the farmers market so they do not have to use generators. This was researched in the past but the problem was cost however, this may be done by several individuals not the Town.

Councilman Geiger has concerns regarding Building and Ground Maintenance. The town has many properties with different contracts and not all with the same person. He suggested getting a listing of all town owned properties and their maintenance contracts.

The Town Board has several Attorney-Client items to discuss.

There being no further business, the Work Session adjourned at 7:20PM.

Darcy A. Snyder  
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, August 27, 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 Robert Geiger, followed by a prayer given by Councilman 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 Kolber to accept the minutes of the work session and regular meetings held August 13, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell thanked Councilman DiCostanzo and Councilman Geiger for their participation in the ALS Ice Bucket Challenge. Checks are still coming in for this worthy cause. Anyone who would like to contribute can do so until Friday, August 29<sup>th</sup>.

Supervisor Hartzell said Highway Supt. James Dussing, Town Attorney Lawrence Meckler and Councilman Robert Geiger met with Erie County Commissioner John Loffredo regarding Conner Road. The offer made by Erie County was unacceptable by the Town of Clarence, but we urge them to fix the road to ensure the safety of the residents.

Supervisor Hartzell announced that the new grapple truck has arrived for the Highway Department. We look forward to improved efficiency in our brush pickup operations.

Supervisor Hartzell said the Clarence Industrial Development Agency has been working to try and add new businesses to the Clarence Hollow. They are reviewing proposals for an art gallery and a brew pub and hope to have at least one by Christmas 2014.

Supervisor Hartzell said the Town Board met with the School Board on Monday for their annual meeting. They discussed possible areas the School District and the Town can work together for the betterment of both. Additional follow up meetings will be held.

Supervisor Hartzell said the Parks Department has been very busy this summer working on several major projects. He congratulated Parks Supt. James Burkard and his crew for a job well done.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to grant a Special Events request from Zion Lutheran Church for the “Miles for Haiti – 2 Mile Run” Fundraiser to be held September 28, 2014 from 2:00 p.m. until 4:00 p.m.

On the question, Supervisor Hartzell said the route will be as per the submitted map. All appropriate agencies will be notified.

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

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the following special event:

**Flight 3407 Memorial 5-K Run:**

Date: October 4, 2014 – 7:00 a.m. until 2:00 p.m.

Number of persons expected to attend: 550+/- plus 30-50 volunteers

*Route: – start at 9:00 a.m. on Old Goodrich Road; proceed north to Roll Road; west on Roll Road to Thompson Road; north on Thompson Road to Clarence Center Road; east on Clarence Center Road to Goodrich Road; south on Goodrich Road to Town Place; Town Place to Finish Line.(as per submitted route)*

On the question, Supervisor Hartzell said all appropriate authorities will be notified and Certificate of Insurance is on file in the Town Clerk’s Office.

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

Motion by Supervisor Hartzell, seconded by Councilman Kolber to set a bid date of Tuesday, September 23, 2014 at 10:00 a.m. to accept sealed bids for a Trailer Mounted Vacuum Leaf Collector for the Highway Department.

On the question, Supervisor Hartzell said bid packages will be available at the Highway Department and the Town Clerk's Office.

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

Motion by Supervisor Hartzell, seconded by Councilman Kolber to approve the following special event:

**Brothers of Mercy October Fest and 5-K Nature Run.**

To be held on September 19, 2014 from 4:30 p.m. to 11:00 p.m. at 4520 Ransom Road

Number of People Expected: approximately 700+/-

On the question, Supervisor Hartzell said the route for 5K-run is as per the submitted map. Certificate of Insurance on file. All the appropriate authorities will be notified.

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

Councilman Kolber said the Highway Department recently took delivery of the grapple truck, which he believes will extremely streamline our brush pickup program. They send out five or six trucks with crews and now they can send out one. He thanked Highway Supt. Dussing for following through with that. It should be a great asset.

Councilman Kolber said he has brought up the safety issue of where our bike trails cross roads. The concern was that vehicles traveling on the roads did not know they were there. The Highway Department put additional marking on the roads to make people aware.

Supervisor Hartzell recognized Alayne Donner from the Clarence Chamber of Commerce.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to approve the request of the Assessor, Christine Fusco, to attend the New York State Assessors' Association Annual Meeting and Seminar to be held at Lake Placid, New York, from October 5 through October 8, 2014 with all reasonable and necessary costs covered by the Town.

On the question, Councilman DiCostanzo said there are funds in the budget to cover expenses and the State reimburses the Town for a portion of the expenses.

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

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to adopt the following proclamation:

*WHEREAS, the month of September is designated as "National Childhood Cancer Awareness Month"; and*

*WHEREAS, Childhood Cancer is, by far, the leading cause of death by disease for American children under the age of 15; and*

*WHEREAS, great strides have been made in the fight against pediatric cancer thanks to significant advances in treatment over the last thirty years increasing the combined five-year survival rate by 20% for children with cancer; and*

*WHEREAS, although, progress is being made in the fight against Childhood Cancer, there is much more work to be done to eradicate this disease through extensive research into the causes of Childhood Cancer; and*

*WHEREAS, every child and young person with this disease deserves to anticipate a time when their illness will be in long-term remission or cured altogether so they have the chance to dream, discover and realize their full potential; and*

*WHEREAS, the Clarence Town Board offers its support to these brave young people who are fighting this disease, to their families and in memory of every young person lost to cancer, we unite behind improved treatment, advanced research and brighter futures for young people everywhere.*

**NOW, THEREFORE, BE IT**

*RESOLVED, that the Clarence Town Board encourages the residents of the Town of Clarence and all of WNY to support this cause in any way they can in the battle against Childhood Cancer; and be it further*

*RESOLVED, that the Clarence Town Board, in order to raise public awareness and support, hereby, proclaims that the month of September 2014 be known as "Childhood Cancer Awareness Month" in the Town of Clarence.*

On the question, Councilman DiCostanzo said there was a Clarence mother who asked that we support this worthy cause.

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

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendation of the Planning

Board, the Clarence Town Board issues a Negative Declaration on the proposed Wehrle Dome Mixed Use Project. This Type I Action involves the approval and development of a mixed use project including a maximum of 124 units of multiple family residential housing units. After thorough review of the submitted site plan and Environmental Assessment Forms, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant impact upon the environment.

On the question, Councilman DiCostanzo said a post development traffic analysis, as requested by the Erie County Department of Public Works, will be required to determine whether traffic mitigation measures will be necessary after the full build out of the project. The timing of the post development traffic analysis will be at the direction of the Erie County DPW with input from the Town of Clarence.

James Callahan said the whole project has to go through the ZBA for a variance. The Neg Dec has to take place first.

Councilman Kolber said we have a limit on single family residences per year for slow controlled growth. He believes we are close to 1,000 apartment units approved or in the pipeline. We are not looking at the sum total of all of these and the impact on our town. He would like to see a growth cap number that keeps the character of our town intact.

Supervisor Hartzell said he agrees and hopes the Board can come up with a number by the end of this year.

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

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to set a Public Hearing for September 24, 2014 at 7:45 p.m. to consider an amendment to the Code of the Town of Clarence Chapter 19 – Ethics Code, section 19.9. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said sadly this weekend is Labor Day which means the end of summer. It also is Clarence Center Fire Company's Labor Day Fair which is a great event.

Councilman Geiger said the Recreation Department did a great job at the pool this summer. He is very impressed by all of the activities available to the youth through our Recreation Department and Youth Bureau.

Councilman Geiger said he would like to contact the NYS Dept. of Transportation to see about a crossing on Main Street in front of the Farmer's Market.

Councilman Geiger announced that the Chamber of Commerce Golf Classic will be held September 15<sup>th</sup> at Brookfield Country Club.

#### Public Participation

Chuck McCarty asked what the notification process is for Town meetings for people living near projects that are being discussed on the agenda.

James Callahan said when a project is introduced to the Town Board there is no notification. The projects are referred to the Planning Board and the notification policy is followed.

Mr. McCarty said they did get notification for the Planning Board meeting, but not the Town Board. They were notified of every meeting in 2008.

Supervisor Hartzell said all meetings are posted in the Bee and on our website.

Mr. Callahan said the policy is notification for Planning Board, but not Town Board. We advertise all meetings.

Mr. McCarty said no one knew about the last meeting until the last minute.

Councilman Kolber said notification is within 500 ft. for Planning Board. The last time people asked to be notified.

Councilman DiCostanzo asked when the agenda goes on the website.

Town Clerk Nancy Metzger said it is on the website and posted in the building the Friday before the meeting. The meetings are generally the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of the month. Residents are also welcome to call the office to see if an item is on the agenda.

Mr. McCarty said so once an item is in the process, they have to pay attention.

Mr. McCarty said he understands that Green Valley is going to be opened up, but he asked that construction vehicles not be allowed to use it.

Councilman Kolber said even though this is not a public hearing, we have allowed public comment in the past on certain things. He thinks we should hear what their concerns are. He would rather hear it from them.

Spaulding Green Open Space Design Overlay requests Amended Concept Plan Approval for overall subdivision design. James Callahan said the location is the east side of Goodrich Road, north of Greiner Road consisting of a previously approved open space design overlay. The applicant is proposing an amendment to the design. The Planning Board has forwarded a recommendation to approve the amended design with conditions. An action under SEQOR is required along with final approval by the Town Board.

Councilman Casilio said he will recuse himself from all discussion.

Donald Powell was present representing Spaulding Green. They propose to modify phase 10 from 36 homes to 50 patio homes. They are doing that to bring a power line up to the courtyard. The power company will install the line along the road as it is built to get power to the back of the project. They still maintain a total build out of 380 lots of which they have sewer taps for. The project has 200+ acres of greenspace. They estimate that this project when completed will contribute \$171 million to the Town tax rolls. They are increasing the buffer between the existing neighborhood and will barricade access through Green Valley. The only reason the road is being constructed is for another access for emergency vehicles.

Mr. Powell said the amended design complies with all Town codes. Phase 10 will contribute more green space than the original plan. They agree with all of the conditions set by the Planning Board in their recommendation.

Councilman Kolber said the open space in the development will be owned by the homeowners association and not the Town. He asked about the power to the phases currently being developed.

Mr. Powell said there is enough power from Greiner Road. The line from Goodrich is for power to phases 6, 7, and 8.

Supervisor Hartzell said if they have enough for the back phases, then they could come back and do phase 10 last.

Mr. Powell said there is not enough for all of them. As the road is constructed they will put the power line in along with the other utilities.

Dominic Piestrak said he has power from Greiner Road for 63 lots. It will cover phase 11 and the entrance road off of Greiner. It is one mile from phase 5 to Goodrich Road. Phase 6 will be the last phase. There is not enough power for the entire phase.

Councilman Kolber said his contention is that if you say you are going to do something, you should do it. Phase 10 was to be the last phase of the development.

Mr. Powell said he takes offense to the attack on Mr. Piestrak's integrity.

Councilman Kolber said he is not doing that. He has complimented him on his projects many times.

Mr. Powell said we keep going back to 2008 and the fact of the matter is numerous projects have been approved for modifications. It has been six years and he has a right to change it. There is no rule or law that says once it is approved that it is set in stone and can never change.

Frank Cordaro said Mr. Piestrak stopped by and told him that he would like to do everything he can for the community. It is impossible because it has to have an emergency exit. He spoke to the fire chief and he never spoke to Mr. Piestrak. There are already several entrances off of Goodrich. He believes the connection to Green Valley is a waste of time and money. He suggested the Knox system for emergency use only.

Chuck McCarty said he is concerned about the extra traffic going through that area especially when the Middle School is in session. He said he does not want it at all but knows that it will happen.

Councilman Kolber said he is aware that the neighborhood does not want it there, but all of the traffic safety studies indicate that it should be. The Board was told that the only concern of the Green Valley residents was the connection and not the order of the build out.

Mr. McCarty said he is concerned about the extra traffic in the area. The proposal is to make that phase denser than it was which will produce more traffic.

Barbara Cordaro said in 2008 the discussion from their side of the issue was people going down Green Valley from Greiner Road. They do not have any racing in and out of the area now. The discussion now is that it would only be for emergency vehicles. Every effort should be made to do that.

Councilman Kolber said it is going to be a road no matter what. The discussion is the changing of the sequence of the development and changing of the lots. The road would be open from a traffic safety concern.

Barbara Cordaro said make it for safety only with some type of control system. If it is drive through traffic with the higher density, there will be more traffic.

Councilman Kolber said he does not know if changing it to emergency only would significantly change the plan.

James Callahan said it was approved with the road cut through as the last phase of the project. You do not want a dead end cul-de-sac that far out.

Councilman Kolber said the more you spread the access roads out, the less impact there is on one particular road.

James Callahan said it was always intended to be open and to spread out the traffic. Safety was also an issue. There are dead end streets throughout the Town that allow for the opportunity to be extended. That is why they were left that way.

Dominic Piestrak said it was not their decision to connect the street, it was the Town's decision. He understands that the people do not ever want the road. He does not think the Town has the right to stop people from using public roads. They are proposing not to do the road until the development is completed.

Councilman DiCostanzo asked if we could see how things go and do a traffic analysis at a later date.

James Callahan said the Planning Board recommended approval of the amendment with conditions.

Dominic Piestrak said they will not make the connection until the Town demands that they do so. It is not the houses the people are objecting to, it is the connection. They had a traffic expert analyze this and found that patio homes attract retirees, which generate less traffic than single family homes.

Councilman Kolber said the connection will have to be made or it would be an illegal cul-de-sac. The limit is 14 houses on a cul-de-sac.

Mr. Piestrak said that is a town requirement. He added that Orchard Park allows 48. He would be in favor of a knock down barrier as he has no desire to put in the road.

Councilman DiCostanzo asked if this is close to a decision if the road connection is the last thing built in the entire subdivision.

Don Powell said that is one of the Planning Board conditions and they agree with all of their conditions. Construction has begun on the trails. They are waiting for approval from Erie County for the traffic light.

Councilman DiCostanzo asked how things were going with the Teall's.

Mr. Piestrak said it is going along well. They have talked to the Town Engineer about putting in a stone wall on both sides of the street. Woodstream Nursery will design the landscaping. They have disrupted their lifestyle and are trying to mitigate it as best as they can. He would love to eliminate the road, but it is required by the Town.

Councilman DiCostanzo said there are 380 lots with 71 in the middle of patio home mods. The change to Phase 10 is 50 patio homes, Phase 11 is 33 courtyard lots and the 17 4-unit buildings with 68 total units. He personally would not entertain any more changes to make this development more patio homes. There would be 222 units out of the 380 that would be smaller lots. If we go ahead with this change, he would not be in favor of any more smaller lots.

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 issues a Negative Declaration on the proposed amendments to the Spaulding Green Open Space Design Overlay District. This Unlisted Action involves a design change to the previously approved Open Space Design Subdivision. After thorough and coordinated review it is determined that all conditions of the original Findings Statement and Final Environmental Impact Statement are maintained and the action is considered minor identifying no significant environmental impacts. Upon roll call – Ayes: Councilmembers Geiger and DiCostanzo; Noes: Councilman Kolber and Supervisor Hartzell. Recuse: Councilman Casilio. Motion lost.

Town Attorney Lawrence Meckler said without approval of the action under SEQR, they cannot go forward with the motion for the Amended Concept Plan Approval.

Annual Excavation Permit Renewals: A. Buffalo Crushed Stone; B. Emeritus Holdings; C. 10001 Grand Corporation and D. Lakeside Sod. James Callahan said the Town Board has final approval of excavation/small mining operations in the Town. All applicants have provided applications, fees, bonds, tax receipts and required DEC Permit.

Councilman Kolber said 10001 Grand Corporation is being sold to Michael Development. He asked if that permit can be transferred.

James Callahan said the bond and DEC Permit are under Michael Development.

Councilman DiCostanzo said if the proposed industrial park is forwarded to the Planning Board in two weeks, it will start a lengthy process and he thinks it would be a year before they did anything there.

James Callahan said 10001 Grand has not pulled anything out of there in years.

Councilman Kolber said he would feel more comfortable if Michael Corporation came in and applied for it under their own name.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve Excavation Permit Renewals to the following for a period of one year: A. Buffalo Crushed Stone, 8615 Wehrle Drive; B. Emeritus Holdings, 10051 Wehrle Drive; C. 10001 Grand Corporation, 10001 Wehrle Drive and D. Lakeside Sod, 6660 Goodrich Road.

On the question, Councilman Casilio said he knows that Buffalo Crushed Stone has changed hands a few times and it never comes up. He does not think this rises to the level that we need to investigate.

Councilman Casilio added that all required bonds, tax receipts, NYSDEC Permits, estimated removal amounts and associated fees are in order. This is an annual renewal permit and all applicants must comply with conditions as established by NYS DEC and the Town of Clarence Excavation Law.

Councilman Kolber said 10001 Grand is a change in ownership to Michael Corporation.

Councilman Casilio said he knows nothing about Michael Corporation and it is not stated in the motion. If he begins operating as Michael in two weeks then he can shut down and come in to apply.

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

Rick Divita requests a Two-Lot Open Development Area at 10550 Keller Road. James Callahan said the location is the north side of Keller Road east of Strickler Road in the Agricultural Rural Residential Zone. The applicant previously received approval for a Special Exception Use Permit for a secondary living unit. The applicant is now proposing to amend that approval to a two-lot open development.

Richard Divita, Sr. said part of the reason for this is the utility installation costs were very high. It will also allow his estate to be sold as a separate house in the future if they so desire. It makes a lot of sense to do this now.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the request of the applicant, Rick Divita for a two-lot Open Development Area at 10550 Keller Road subject to the following conditions:

1. Rescind the motion of September 25, 2013 granting the applicant a Special Exception Use Permit for a secondary living unit as an addition to the existing home.
2. Town Attorney review and approval of a Homeowners Agreement for Common Drive maintenance.

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

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to approve the request of the applicant, Brookfield Country Club, for Fireworks Display Permit for September 6, 2014, at 5120 Shimerville Road.

On the question, Councilman Kolber 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 DiCostanzo, seconded by Geiger to approve the following: Clubhouse Applications - A. Clarence Youth Bureau – Sept. 24, Dec. 5, 12 & 19, 2014; B. Clarence Chamber of Commerce – Oct. 22, 2014; Legion Hall Applications - A. Swallow Creek

Homeowners Assoc. – Jan. 13 & July 14, 2015; B. Lisa Bonaventura – March 21, 2015; C. Wendy Johnson – March 22, 2015; D. Barbara Frey – May 2, 2015; Park Pavilion Special\_Request - A. Eastern Hills Sunrise Rotary – Oct. 4, 2014; Nature Center Lodge - A. Clarence Lions Club - April 23, 2015. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo that after proper audit and review by the Town Board, the following bills of August 28, 2014 are approved for payment: General Fund - \$187,957.91; Highway Fund - \$64,381.27; Water District - \$1,351.92; Fire Protection Districts - \$314.11; Drainage District - \$652.12; Lighting District - \$753.56; Sewer Districts - \$244.43; Capital Fund - \$212,263.90; Aquatic Growth District - \$410.00; and Trust and Agency 203 - \$11,042.50 for a total amount of \$479,371.72. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Daniel Gamin said in regard to Spaulding Green, the traffic at Greiner and Kraus Roads is already backed up during school session. Traffic backs up on Kraus Road trying to make the turn on Greiner. There is a traffic problem even before the access road is completed. He believes we need a traffic light at that intersection now.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:50 p.m.

Nancy C. Metzger  
Town Clerk