

**June 10, 2015**

The Town Board of the Town of Clayton held their regular meeting in the Opera House on the 1<sup>st</sup> floor, 403 Riverside Drive, with the following persons present:

Justin A. Taylor	Lance Peterson	Robert W. Cantwell III
Christopher D. Matthews	Mary Zovistoski	Kathleen E. LaClair
Bill Sherman	Joe Russell, Atty.	Janet Sullins
Jeff Garnsey	Larry Aubertine	Mary Bowman
David Bowman	Pam McDowell	Ellen Stiefel
Dean Hurley	Harvey Hurley	David Storandt
Miriam Bowes	George Bowes	Tom Bogenschutz
Cathy F. Gail	John M. Riley	Mary Luck
Paul Luck	Linda McCausland	Art Cady
Phil Beattie	Janice Beattie	Bruce Beattie
Mary Mascott	Ken Knapp	Donna Patchen
Kevin Patchen	Jody Garrett	Fran M. Garrett
Jean P. Baird	Bill Wood	Jane Carver
Ron Cooper	Michael Docteur	Katie Ross
Cindy Grant	Jeff Zoller	Cayme Wood
Dennis Weller	Patricia Gouge	Henry LaClair
Thomas Tinney	Julie Tinney	Megan Woodward
Kay Woodward	Victoria Woodward	Toni Gibson
Doug Mcghee	Mary Paul	Phil Randazzo
Donna M. Dundon	Myrna R. Carter	Robert Marr
Chet Massar	Sharon Dilworth	Don Dilworth
Paul Webb	Twyla Webb	Bill Moth
Jim Eschenberg	JoAnne Eschenberg	Duane C. Hazelton

**Pledge of Allegiance:** Supervisor Taylor called the meeting to order at 5 p.m. and led the assembly in the Pledge of Allegiance.

**Guests:** Jefferson County Legislator Michael J. Docteur spoke briefly on the ¼% raise with the Sales Tax. Jefferson County is seeking to raise the local sales tax from 3.75% to 4%, which would bring the total sales tax paid by consumers from 7.75% to 8%. The Jefferson County Board of Legislators voted 12-0 on Tuesday to enact home-rule legislation requesting the state extend its sales tax rate of 3.75 percent that was implemented in 2005. This resolution from the County has gone to our two State Representatives in the state Senate and Assembly, who need to bring this measure forward for a vote in their respective bodies. For the Town of Clayton this would be a little over \$100,000 income.

**Supervisor Taylor announced** that tonight there will be two (2) Public Hearings: At 6:00 p.m. will be the Route 12 Sewer Extension SEQRA and Negative Declaration Resolution(s) and at 6:15 p.m. will be public input concerning Amendment #37 to the Zoning Ordinance. Amendment #37 has been “withdrawn”, but public comments will be accepted.

**Town Clerk:**

**Correspondence:**

- Jefferson County Dept. of Planning sent a letter concerning the review of the Town of Clayton Zoning Amendment, MR-2 District. (See attachment file).
- Received Justice Clif James- May 2015 Comptroller Report. (See attachment file).
- Time Warner sent supporting documentation of the 1<sup>st</sup> qtr, 2015 Franchise Fee Worksheet. (See attachment file).
- Time Warner Cable monthly letter apprising of developments affecting subscribers in the Central NY Division. (See attachment file).
- Sly & Burrows – Atty. Robert Slye: has sent three (3) acknowledged Protest to the Town Board from Ronald Cooper, Jeff K. Zoller and Harvey C. Hurley & A. Sherry Hurley concerning their protest of proposed Amendment #37 to the Zoning Ordinance intending to create a new zoning district classification identified as MR-2 (Marine Residential 2) and further amending the Town Zoning Map to change the current zoning on a particular parcel from the current MR (Marine Residential) classification to the new MR-2 classification. (See attachment file).
- Notice from the American Red Cross – free 2-day course offered for Babysitting Certification Course on August 10<sup>th</sup> & 11<sup>th</sup> at the Clayton Library from 9-3 both days, for ages 11-15. You must attend both days and bring your own lunch. (See attachment file).
- Save the River – is having their Annual run for 5K/10K on Saturday, July 25<sup>th</sup>. Registration will begin at 7:30 a.m. with the race beginning at 9 a.m. (See attachment file).
- Cohen Law Group – Bid by Charter Communications to acquire Time Warner Cable: How it will Impact Your Community.
- Received Justice Will Ramseier – May 2015 Comptroller Report. (See attachment file).

**Minutes:**

**Motion** by Mary Zovistoski, seconded by Bob Cantwell III, to approve the minutes of May 27<sup>th</sup> as written. Motion carried.

**Supervisor:**

**Bills & Transfers:**

**Motion** by Chris Matthews, seconded by Lance Peterson, to approve the payment in the amount of \$141,809.80 for Abstract #6. Motion carried.

**Supervisor’s Report for May 2015 & Bank Reconciliations:**

**Motion** by Bob Cantwell III, seconded by Lance, to approve the Supervisor’s Report and Bank Reconciliations for May, 2015 as presented. Motion carried.

**Transient Dock Update:**

Moffat & Nichols are hoping to complete the re-designs of the attenuator by the end of this week. They will then send them to the Contractor. We’re anticipating that this will be at no cost to the Town of Clayton.

**Floating Docks:** these are being put in next week and then will do a pour of concrete right away. The electrical and water will be added at this time.

**Transient Dock Rates & Rules:**

We’re anticipating that at the end of July and into August to have space available for renting.

**TIERS Support Letter – NBRC:**

**Motion** by Bob Cantwell III, seconded by Chris Matthews, to authorize the Town Supervisor to write a letter of Support for T.I.E.R.S. to the Northern Border Regional Council, in their quest for funding,. Motion carried.

**Government Efficiency Report Filed:**

The Government Efficiency Report was filed on May 31<sup>st</sup>. We have just recently saved \$3600 by changing from Verizon to Westelcom for our phone services. Efficiencies that we have accomplished for years, jointly with the Village, could not be used.

**RJ Marine Dock Extension Notice:**

Notice of Application was received from Fourth Coast Inc-St. Lawrence Engineering DPC for a dock extension at RJ Marine, 690 Riverside Drive. The completed application will be submitted to the NYS Office of General Services 20 Days following this letter notice (June 17<sup>th</sup>). Town Board had brief discussion and no action was taken on this notice.

**Route 12 Sewer Easement Update:**

We are moving forward on getting the last seven parcel easements for the Route 12 Sewer District.

**Lifeguard Hires & Rates:**

**Motion** by Lance Peterson, seconded by Mary Zovistoski, to hire the following lifeguards and their rates, as proposed by Keith Wood, Recreation Park Supervising Foreman:

Hayley (Messenger) Ascough	Director	\$12.50 p/h
Darien Frederick	Head Guard	\$11.50 p/h
Miranda Bechaz	Head Guard	\$11.50 p/h
Kim Korcz	Guard	\$10.00 p/h
Karley Sherman	Guard	\$10.00 p/h
Mary Ierlan	Guard	\$10.00 p/h
Allyson Aiken	First Year Guard	\$ 9.50 p/h
Erica Sullivan	Sub	\$ 8.75 p/h
Claire Sheley	Sub	\$ 8.75 p/h
Mikael Ann Melfie	Sub	\$ 8.75 p/h
Anna Hoover	Sub	\$ 8.75 p/h
Kelsey Bannister	Sub	\$ 8.75 p/h
Steffaine Korcz	Sub	\$ 8.75 p/h
Seth Hisel	Sub	\$ 8.75 p/h
Maclean Crossley	Sub	\$ 8.75 p/h

Motion carried.

**Town Justice Appointment:**

**Motion** by Mary Zovistoski, seconded by Bob Cantwell III, to appoint Village Justice Janet Brick to fill the vacancy position of Town Justice, the vacancy position was created due to Justice Clif James, who had resigned as of the end of the business day on May 29<sup>th</sup>, 2015. Motion carried.

**Bid Awarded:**

**Ford 3000 Tractor:**

- 1) Wayne M. Denny \$3,617.00

2) David C. Johnson	\$3,176.00
3) John Donovan	\$2,905.00
4) Robert A. Bero	\$2,860.00
5) Paul & Nancy Patchen	\$2,750.50

**Motion** by Bob Cantwell III, seconded by Lance Peterson, to award to the highest bidder being Wayne M. Denny at \$3,617.00. Motion carried.

**Marine Transportation/Barging:**

1) Seaway Marine Group	\$250.00 One-Way Loaded	\$300.00 Two-Way Loaded
2) RJ Marine Associates LTD/ ABACO Marine Towing LLC	\$ 96.00 One-Way Loaded	\$144.00 Two-Way Loaded

**Motion** by Chris Matthews, seconded by Mary Zovistoski, to award to the lowest bidder being RJ Marine Associates LTD/ABACO Marine Towing LLC at: One-Way Loaded \$96.00 and Two-Way Loaded \$144. Motion carried.

**Telescopic Boom Lift:**

1) Clark Equipment Rental, LLC	\$49,000.00	2011 Genie Z60/34
2) United Rentals	\$49,000.00	2007 JLG 660 SJ

**Motion** by Bob Cantwell III, seconded by Chris Matthews, to award by recommendation of the Highway Superintendent to United Rentals @ \$49,000.00 (2007 JLG 660 SJ). The added features were the determining factor. Motion carried.

**Misc. Work Bid Opening:**

The RFP Bid is out for the Miscellaneous Construction Work for the 2015-2016 Fiscal Year. The bids are returnable by 2:00 p.m. on June 24<sup>th</sup>, 2015 at the Town Offices.

**Highway Superintendent Report:**

-  Road Trip is scheduled for this Friday, June 12<sup>th</sup>, leaving the Highway Garage at 9 a.m.
-  Working on Grindstone Island and at the Depauville Library.
-  Mowing sides of the roads.
-  PESH training will be June 22<sup>nd</sup> in Mexico.
-  Excavator from the County coming Thursday for working at the docks.

**Council Reports:**

**Lance Peterson:** Nothing at this time.

**Bob Cantwell III:** Everything was discussed under the Highway section.

**Chris Matthews:** Nothing at this time.

**Mary Zovistoski:** Depauville Library: Meeting tomorrow morning with Rob Campany, Nicole and Councilwoman Zovistoski and Supervisor Taylor.  
Clayton Chamber: Wine & Food Show this weekend.  
Border Patrol: If you are in Canadian waters, you need to report.

**Public: Submitted Requests to Address the Board:**

Cindy Grant had questions as to who was now the Executive Assistant since Mrs. Bach had left.

**Public Hearing:**

**Route 12 Sewer Extension: (SEQRA & Negative Declaration; Final Order authorizing)**

**Motion** by Chris Matthews, seconded by Bob Cantwell III, to open the Public Hearing for hearing all persons in regard to the proposed extension of the Route 12 Sewer District. Motion carried.

After several requests if anyone had any comments by Supervisor Taylor, no attending persons spoke on the matter.

**Motion** by Mary Zovistoski, seconded by Lance Peterson, to close the Public Hearing at 6:05 p.m. Motion carried.

Atty. Joseph Russell gave a brief overview of the proposed addition of the 4 lot addition to the Route 12 Sewer District. Then explained to the Town Board their procedure of accepting the Full Environmental Assessment Form (EAF), which would accept the SEQRA and then they would declare a negative declaration. After that is completed, the Board can then do a resolution to accept the Final Order authorizing an extension to the Town of Clayton Route 12 Sewer District.

The Town Board had all received and reviewed Part 2 & 3 of the EAF which had been completed by Atty. Joseph Russell. The entire Board agreed with the findings.

**RESOLUTIONS:**

**RESOLUTION #41 OF 2015** was introduced by Mary Zovistoski, seconded by Bob Cantwell III, a resolution to accept the SEQRA and Declare a Negative Declaration for the Route 12 Sewer Extension. Taylor-aye; Peterson-aye; Cantwell III-aye; Matthews-aye; Zovistoski-aye. **PASSED.**

**RESOLUTION #42 OF 2015** was introduced by Lance Peterson, seconded by Bob Cantwell III, a resolution and Final Order authorizing an extension to the Town of Clayton Route 12 Sewer district by the Town Board of the Town of Clayton. Taylor-aye; Peterson-aye; Cantwell III-aye; Matthews-aye; Zovistoski-aye. **PASSED.**

**Amendment #37 to Zoning Ordinance: (Amendment is withdrawn, but public comments were accepted).**

Supervisor Taylor stated that the Town Board of the Town of Clayton has been advised by the Town's Legal Counsel that they should withdraw Amendment #37 as they could be putting the Town into litigation.

Councilman Chris Matthews read a prepared statement: The Town Board recognizes any change in zoning can become a very sensitive issue. They also recognize the zoning laws are not perfect and due to constant change within the community, they may never be. This has been proven by the 36 amendments over the past 25 plus years since zoning has been in place.

With regards to the Fairview Manor, Deluke Garden Center, and the property formerly known as Hayes Cottages, the Town Board felt it was in the best interest of the Town to change the zoning of those individual parcels in anticipation of them receiving a NYS Ag designation. They felt there was merit in

changing these parcels' zoning, due to the fact that when a property receives an Ag designation our local zoning laws must be seen as reasonable in the eyes of NYS Ag & Markets. Currently, within the Marine Residential (MR) district where all three properties reside, we feel our zoning laws will not be considered reasonable, and will then be subject to the zoning rules of NYS, not the Town of Clayton. Although the Board supports each of the businesses, the Town Board strongly believes there should be certain protections in place for neighboring properties.

The Marine Residential 2 or "MR2" district, which is proposed, is not supported by Jefferson County Planning or by the Town of Clayton's Planning Board. Additionally, neighboring property owners have hired an attorney who has interpreted the proposed amendments as "spot zoning" and communicated their intention to sue the Town of we proceed with the MR2 zoning change. Even more, Monday we received a formal protest to the zoning change by three of the neighbors. Based on these facts, our legal counsel has advised the Town Board to withdraw the proposed amendments. It would be irresponsible for the Town Board to proceed with these proposals at this time, as legal implications would be imminent.

The Town Board will continue to investigate the best manner in which to address our concern with the Ag district designation. As well, the Town Board will continue to work with all new business ventures as well as those already in operation. The Town Board fully supports all of our private businesses, including but not limited to, those that help promote our area, provide year around employment and drive our economic engine.

Councilman Matthews thanked everyone for their time and interest.

Town Board unanimously withdrew the proposed Amendment #37 from the table.

**Motion** by Lance Peterson, seconded by Mary Zovistoski, to open the Public Hearing at 6:15 p.m. for all those that wish to be heard on Proposed Amendment #37 to the Town of Clayton Zoning Ordinance. Motion carried.

Jeff Zoller stated he and his family were new members to the community as recently as the last several years. They took their time buying in this community, looking for the right place for them, being a peaceful, quiet, serene place to enjoy. He has seen an advertisement in the 2015 Chamber of Commerce Visitor Guide, which advertises Saint Lawrence Spirits – opening Spring 2015 for Weddings, special events, cocktail room and farm based distillery. Mr. Zoller feels that this could be very noisy for this quiet area. He doesn't feel any large event venues are needed in this location.

Jane Carver indicated that the improvements to the property are very much appreciated, however she doesn't support any outdoor events in this area. She and Mr. Cooper have had several parcels for sale, down by the river in front of Saint Lawrence Spirits. Potential purchasers changed their minds about the purchase after hearing about the outdoor event venues being proposed with up to 250 people. She doesn't feel this venue belongs in this residential area. She feels that with the influx of so many people at this location and alcohol being served, it could cause significant traffic safety issues in this residential area as well.

Harvey Hurley, owner of West Winds Motel & Cottages for many years, borders the Fairview Manor/St. Lawrence Spirits property. Some of his cottages are less than 100 feet from the new distillery and a little over 100 feet from the large outdoor patio where the Saint Lawrence Spirits party tent location is planned. They have 80-90 people daily during the summer months, which come for the scenic beauty of

the river and quiet serenity of the location. He is concerned for his business because of the plans for a commercial outdoor venue featuring a party tent with entertainment for weddings and other special events. The specific concern is the resulting “noise” pollution that will engulf the immediate neighborhood. He has no problem with the plans for a distillery, tasting room and an inn that would be acceptable and compatible with the residential neighborhood as they would be indoors in a permanent structure. It is very difficult to control noise outdoors.

Janice Beattie also fears an outdoor venue. She lives on Washington Island, and O’Brien’s is across the river from her location. We’re not as close neighbors to O’Brien’s as those to Fairview and that noise is loud. Possibly a “Noise Ordinance” in Clayton similar to what Kingston, Ontario, has, will be of help. This area is small village/town and basically a summer community with short season for businesses in the area to make their living.

Henry LaClair explained that the zoning ordinance came into being in 1975. It could be considered that this portion of Amendment #37 is more like “spot zoning”, which is bad. He is glad to see that the Town Board has withdrawn Amendment #37. However there are other worthwhile components of Amendment #37 that should be considered and re-introduced.

Linda McCausland feels that the marine district along route 12 is the proper place for special use permits instead of spot zoning changes. She doesn’t feel that wineries, farming and other commercial entities belong in the Marine Residential districts and only single family homes and private docks should be allowed. She has concerns about a parcel that is zoned Marine Residential that is in close proximity to theirs. Any farming use would result in the use of pesticides, fertilizers, etc. draining into their yard, septic systems and into the St. Lawrence River. This is in evidence every time it rains hard. This is an environmental hazard. They are also concerned with an increase of traffic that would be generated by a commercial entity in that location. Their area is a quiet residential cul-de-sac that should remain as is. This is the purpose of zoning laws to protect the interests of business and private land owners. They are very much against the proposed new amendment for allowing either agricultural use or commercial use in their Marine Residential area even with a special use permit.

Supervisor Taylor stated that this Board tried to protect the neighbors with our zoning ordinance revisions. These entities can go the State Ag & Markets and apply/receive a State Agricultural Designation. That designation trumps our local zoning and we will lose controls over anything unless reasonable zoning regulations for controls of activities are implemented.

Jody Garrett is also a resident of Clayton in the Palisades area. There are two kinds of spot zoning, legal and illegal. The “legal” is the kind that goes hand in hand with the Comprehensive Plan. It will take about one (1) year to have the Comprehensive Plan updated and in place. In 1989, the zoning was changed and made conforming properties non-conforming. Residential now, but assessed as commercial but you can’t do anything commercial enterprise. We should be able to make this property useable. We are willing to do sound testing to see if we can comply. The lot down front, that the proposed buyers backed out of the purchase, had no proof of what might happen on our property.

Ron Cooper had similar concerns, in that properties that were commercial were rezoned. The area was zoned residential and his properties are being sold as residential. This topic only came up because of the advertisement of St. Lawrence Spirits and what it had to offer starting this season. When Mr. Cooper sold Fairview Manor to the Garrett’s, it was sold as residential, but was assessed as commercial. There should be some common ground.

Mary Bowman, a neighbor, stated she does not want to spoil the tranquility of their property.

Supervisor Taylor stated we need to find a process to find a middle road for all concerned.

Twyla Webb, a Village resident, considered this "spot zoning". If allowed, would it not also be available to have and use in other portions of the Town & Village?

Supervisor Taylor stated that on the question of being assessed from "commercial" to "residential" is up to the Assessor and not the Town Board.

Ken Knapp stated it is a struggle to pay taxes and bills as it is. On the matter of "lawsuits", this is a distressed topic. When you sue the Town, you're suing everyone in the town and that is a hardship on everyone. Economic changes do happen, but all, of the town needs to be considered.

It was originally intended the Comprehensive Plan would be updated by the end of 2016. The Comprehensive Plan Committee started out meeting once a month and now has been meeting twice a month to get this completed. The Committee put out a "survey" to which a 100+ people responded. These considerations are being looked at to help complete the Comprehensive Plan.

Supervisor Taylor stated that the current Comprehensive Plan is on the Towns Website as well as the committee's survey.

**Motion** by Bob Cantwell III, seconded by Chris Matthews, to closed the public hearing at 7:07 p.m.  
Motion carried.

**Public: Comment on Agenda Items:** None

**Adjournment:** Motion by Bob Cantwell III, seconded by Chris Matthews, to adjourn this regular meeting at 7:08 p.m. Motion carried.

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Kathleen E. LaClair, Town Clerk