

TOWN OF CLARKSON
TOWN BOARD MEETING
April 23, 2013

The Town Board of the Town of Clarkson held their regular meeting on Tuesday, April 23, 2013 at the Clarkson Town Hall, 3710 Lake Road, Clarkson, NY at 6:00 PM.

PRESENT:

Paul Kimball	Supervisor
Allan Hoy	Councilperson
Christa Filipowicz	Councilperson
Patrick Didas	Councilperson
Scott Tantalo	Councilperson
Sharon Mattison	Town Clerk
Robert Viscardi	Highway Supt.
Richard Olson	Attorney for the Town

ALSO:

Kristin Coon	Ass't to Supervisor
Christopher Lyon	Assessor
** Chad Fabry	Building Insp/Code Enf.

**excused

Supervisor Kimball opened the meeting, and Sharon Mattison, Town Clerk led all those present in the Pledge of Allegiance. A moment of silence was observed for those serving in the military and for the victims of the Boston bombing.

OPEN FORUM

No one spoke

PUBLIC HEARING LOCAL LAW #2-2013

Supervisor Kimball opened the public hearing at 6:05 P.M. No one spoke. Supervisor Kimball closed the public hearing at 6:06 P.M. Attorney for the Town, Richard Olson, briefly reviewed this local law which is basically an amendment to previous telecommunications tower law. The Town will still obtain engineering review and be compensated for that. The Town will still receive compensation for application fees, but proposed changes that are considered insignificant do not necessarily have to go before the Planning Board or Zoning Board of Appeals. Supervisor Kimball added that we did receive comments back from Monroe County Planning and Development that this is a local matter.

RESOLUTION ADOPTING NEGATIVE DECLARATION

PRESENT: Supervisor Kimball, Councilpersons Hoy, Filipowicz, Didas and Tantalo
ABSENT: None

WHEREAS, the Town Board has before it the following local law:

LOCAL LAW #2-2013 "A Local Law to Amend the Zoning Code of the Town of Clarkson"; and

WHEREAS, this Board is the only involved Agency and has determined that it is the Lead Agency; and

WHEREAS, this project is an Unlisted Action for the purposes of SEQRA; and

WHEREAS, the Supervisor has prepared and submitted Part 1 "Project Information" of the (short) Environmental Assessment Form; and

WHEREAS, this Board having thoroughly reviewed the Environmental Assessment Form and considered each and every impact in accordance with SEQRA.

04.23.13

NOW, upon consideration of the above and all of the previous documents, discussion and debate, upon the Motion of Councilperson Filipowicz, seconded by Councilperson Hoy.

BE IT RESOLVED

1. That the adoption of this local laws will not have a negative impact on the environment
2. That the Town Board adopts a Negative Declaration.
3. That this resolution shall take effect immediately.

VOTE OF THE BOARD

AYES: Supervisor Kimball, Councilperson Hoy, Filipowicz, Didas and Tantalo

NAYS: None

Whereupon the resolution was declared adopted

LOCAL LAW #2-2013 A LOCAL LAW TO AMEND THE ZONING CODE OF THE TOWN OF CLARKSON

PRESENT: Supervisor Kimball, Councilpersons, Hoy, Filipowicz, Didas and Tantalo

ABSENT: None

Introduced by Councilperson Filipowicz

Seconded by Councilperson Hoy

WHEREAS, the Town Board of the Town of Clarkson did adopt a resolution at a regular Town Board meeting calling for a public hearing to consider the adoption of Local Law #2-2013 of the Town of Clarkson, Monroe County, New York; and

WHEREAS, pursuant to such resolution duly adopted, the Town Clerk did give due legal notice of such public hearing as required by law; and

WHEREAS, at such public hearing, held and conducted by the Town Board of the Town of Clarkson at the Town Hall, 3710 Lake Road, Clarkson, New York on the 23rd day of April, 2013, all interested parties were heard concerning the subject matter thereof; and

WHEREAS, the Town Board has determined that this action is an Unlisted Action under the State Environmental Quality Review Act and has, on this date, issued a Negative Declaration; and

WHEREAS, the Town Board, has reviewed the proposed local law and believes that it is in the best interest of the Town to enact the same at this time.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Clarkson, Monroe County, New York, as follows:

SECTION I: The Town Board does hereby enact Local Law #2-2013 of the Town of Clarkson, Monroe County, New York which local law amends the zoning law of the Town of Clarkson.

SECTION II: That the Town Clerk shall give due notice of the enactment of this local law by filing the same with the Secretary of State as provided by statute.

VOTE OF THE BOARD

AYES: Supervisor Kimball, Councilpersons Hoy, Filipowicz, Didas and Tantalo

NAYS: None

04.23.13

**MOTION AUTHORIZING CHATFIELD ENGINEERS REVIEW
MISCELLANEOUS LETTERS OF CREDIT**

Motion by Councilperson Hoy

Seconded by Councilperson Didas

To authorize Chatfield Engineers to review all outstanding Letters of Credit.

Unanimously carried

Discussion: Supervisor Kimball stated that there are several outstanding Letters of Credit that go back a number of years. Attorney Olson suggested that Chatfield Engineers review all pending letters of credit with any cost incurred in doing so to be deducted from the balance of the Letters of Credit.

PROPOSED DISASTER RECOVERY PLAN

This matter has been tabled until May 14, 2013 as proposals have been requested from Spectrum Computing Solutions, EFP Rotenberg LLP, and Advanced Technology Solutions.

NYS OFFICE OF STATE COMPTROLLER AUDIT

The Town's current accounting system, as well as the previous accounting system, were encrypted and downloaded to the State. The majority of the audit will be done electronically. Supervisor Kimball stated it will be approximately three months before any results become available.

INTRODUCTORY LOCAL LAW #3-2013: INCENTIVE ZONING

Attorney Olson explained the concept of Incentive Zoning. When a project is brought before the Town that does not exactly fit our zoning requirements, the zoning requirements can be lessened in exchange for something that is in the community's interest. We are one of the few towns in Monroe County that do not have this in place.

**RESOLUTION SETTING PUBLIC HEARING; INTRODUCTORY
LOCAL LAW #3-2013**

PRESENT: Supervisor Kimball, Councilpersons Hoy, Filipowicz, Didas and Tantalo
ABSENT: None

Introduced by Councilperson Hoy

Seconded by Councilperson Tantalo

INTRODUCTORY LOCAL LAW #3-2013
TOWN OF CLARKSON, MONROE COUNTY
THE INCENTIVE ZONING LAW OF THE TOWN OF CLARKSON

WHEREAS, the Town Board has before it a proposed Local Law to amend Chapter 140 "Zoning" of the Clarkson Code; and

WHEREAS, in order to adopt said Local Law, the Town Board of the Town of Clarkson is required to hold and conduct a public hearing thereon;

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. That the Town Board of the Town of Clarkson shall hold and conduct a Public Hearing on the 14th day of May, 2013, at 6:00 p.m. at the Town Hall, 3710 Lake Road, Town of Clarkson, New York, 14430 to consider the attached Local Law; at which Public Hearing all interested persons will be heard concerning the subject matter thereof.

SECTION 2. That the Town Clerk shall cause due notice of such public hearing to be published as required by law.

VOTE OF THE BOARD

AYES: Supervisor Kimball, Councilpersons Hoy, Filipowicz, Didas and Tantalo

NAYS: None

04.23.13**DISCUSS 5K RACE CONCERN**

The Town received a complaint from a resident regarding the race route and questioned whether or not it could be moved. Discussion regarding alternative routes took place. It was mentioned that Town roads must be utilized as we would have to pay for permits to use any State road. There is concern whether or not there are other residents who feel the same way. The Town Clerk's office does send out notices to residents on the route before the race informing of the dates and times to help them plan ahead. One purpose of the race is to promote attendance at Good Neighbor Days. It was decided to refer this matter to Sheldon Meyers and invite him to attend the next Board meeting.

MOTION AUTHORIZING PROPOSAL FOR ARCHITECTURAL SERVICES; DAVID STRABEL R.A.

Motion by Councilperson Hoy

Seconded by Councilperson Didas

To approve the contract with David Strabel, R.A. for architectural services not to exceed \$2,000.

Unanimously carried

Discussion: A short discussion was held and it was agreed that the proposal is not to exceed \$2,000 for architectural services regarding the highway garage.

VETERANS MEMORIAL PARK GRANT

This matter has been tabled until May 14, 2013

MOTION TO CHANGE LOCATION OF MAY 28, 2013 TOWN BOARD MEETING

Motion by Councilperson Didas

Seconded by Councilperson Hoy

To change the May 28, 2013 meeting location to the Clarkson Courthouse, 3655 Lake Road. The meeting will be held at 6:00 P.M.

Unanimously carried

ASSESSOR REPORTS

C. Lyon had nothing to report.

SUPERVISOR REPORTS

Supervisor Kimball reported that the final grant payment request for Ridgewood Park was approved by the State for \$85,352.20.

HIGHWAY SUPT. REPORTS

Superintendent Viscardi reported that brush pickup began this week using three-man crews. Highway staff has been preparing equipment for the May 11th auction. Monroe County prisoners have been scheduled for 12 weekends and will continue roadside cleanups. The Town only has to supply two staff members to supervise. Our own highway staff will be doing the cleanup on Gilmore Road on an upcoming Friday when they work one-half day.

MINUTES

Motion by Councilperson Didas

Seconded by Councilperson Hoy

To approve April 9, 2013 minutes.

Unanimously carried

AUDIT—4-2-2013

Motion by Councilperson Hoy

Seconded by Councilperson Tantalo

To authorize payment of audit 4-2-2013 to include the following:

Vouchers 20130360-20130397; Total \$26,485.64; Gen. \$10,960.08; Hwy. \$15,402.32; SS \$123.24

For distribution checks from 25097 - 25134

Unanimously carried

04.23.13

EMPLOYEE HANDBOOK

The Board reviewed the employee handbook and minor revisions were made.

BROCKPORT AMBULANCE PRESENTATION

Brockport Ambulance President, Dave Rice and other staff members appeared and gave a presentation to the Board regarding services they have to offer.

EXECUTIVE SESSION

Motion by Councilperson Filipowicz

Seconded by Councilperson Didas

To enter executive session at 7:40 P.M. to discuss possible litigation.

Unanimously carried

RETURN TO REGULAR SESSION

Motion by Councilperson Hoy

Seconded by Councilperson Filipowicz

To return to regular session at 7:45 P.M.

Unanimously carried

AUTHORIZATION OF FINAL PAYMENT TO EARTHSPONSE

PRESENT: Supervisor Kimball, Councilpersons, Hoy, Filipowicz, Didas and Tantalo

ABSENT: None

Introduced by Councilperson Hoy

Seconded by Councilperson Filipowicz

WHEREAS, the Town contracted with Earthspouse, LLC for the installation of solar panels on the Clarkson Courthouse and Highway Garage; and

WHEREAS, Earthspouse LLC has requested a final payment of \$19,560.83; and

WHEREAS, due to the incorrect information provided by Earthspouse, LLC and the manufacturer of the panels, the Attorney for the Town and the Town's auditor expended considerable amount of time to rectify the errors costing the Town approximately \$5,000.00 in legal and accounting fees; and

WHEREAS, Earthspouse, LLC has agreed to reduce the amount owed to them by \$5,000.00 for a balance due of \$14,560.83.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Clarkson, Monroe County, New York, as follows:

SECTION I: That upon final review by the Supervisor, Assistant to the Supervisor and Attorney for the Town this board authorizes final payment to Earthspouse, LLC in the amount of \$14,560.83.

SECTION II: That this resolution shall take effect immediately.

VOTE OF THE BOARD

AYES: Supervisor Kimball, Councilpersons Hoy, Filipowicz, Didas and Tantalo

NAYS: None

04.23.13

MOTION TO ADJOURN

Motion to adjourn at 7:50 P.M. by Councilperson Hoy
Seconded by Councilperson Filipowicz
Unanimously carried

Respectfully submitted,

Sharon S. Mattison
Town Clerk

APPROVED 05-14-2013

INCENTIVE ZONING

Introductory Local Law #3-2013

Be it enacted by the Town Board of the Town of Clarkson as follows:

Section 1. Title.

This Local Law shall be known as Local Law #3 - 2013 "The Incentive Zoning Law of the Town of Clarkson".

Section 2 Purpose.

This local law is intended to create a system of Incentive Zoning as authorized by Section 261-b of the Town Law of the State of New York.

Section 3. Authority.

This Local Law is adopted pursuant to Article 16 of the Town Law of the State of New York and the Municipal Home Rule Law of the State of New York.

Section 4. Changes to Code

Article VIII, "Zoning, Incentive" is added to Chapter 140 of the Code as follows

SEE ATTACHED

Section 5. Repealer.

All local laws or parts of local laws inconsistent or in conflict with this local law are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Severability.

If any clause, sentence, phrase, subdivision, paragraph, section or any part of this section shall for any reason be adjudicated finally by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this section, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy or action in which said judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this section would have been adopted had any such provision been excluded.

Section 7. When effective.

This Local Law Chapter shall become effective upon its adoption and upon filing with the New York State Secretary of State.

Chapter 140

ZONING

Article VIII

ZONING, INCENTIVE

- § 140-89. Title.
- § 140-90. Purpose and intent.
- § 140-91. Legislative authority.
- § 140-92. Applicability.
- § 140-93. Definitions.
- § 140-94. Benefits or amenities.
- § 140-95. Incentives or bonuses.
- § 140-96. Criteria and procedure for approval.
- § 140-97. Expenses of Compliance with SEQRA.

§ 140-54. Title.

This law shall hereinafter be known and cited as "The Incentive Zoning Law of the Town of Clarkson."

§ 140-55. Purpose and intent.

The Town Board has determined that it may be appropriate to make adjustments to permissible use, density and area requirements for the specific purpose of encouraging development using principals set forth in the Town of Clarkson's Comprehensive Plan while providing amenities to the Town at a minimum cost to the residents and taxpayers. It is the intent of this chapter to empower the Town Board to grant incentives or bonuses to advance the vision and policies articulated in the Town of Clarkson's Comprehensive Plan and the following objectives:

- A. The preservation and enhancement of natural and cultural features.
- B. The accommodation of land uses and physical site arrangements which are not contemplated under conventional zoning but which would further the land use goals of the Town.
- C. The creation of usable open space and public access to recreation lands and trails.
- D. The orderly development of Parks.

E. The preservation of scenic viewsheds, water resources, forests, meadows, geologic features, environmentally sensitive areas, significant plant and animal habitats, and important ecological resources.

F. The provision of a more desirable environment than what would be possible through the strict application of existing zoning regulations.

G. The promotion of the general health, safety and welfare of the Town.

§ 140-56. Legislative authority.

In accordance with §261-b of the Town Law of the State of New York, the Town Board of the Town of Clarkson is empowered to provide for a system of zoning incentives or bonuses in exchange for specific social, economic, or cultural benefits or amenities as the Town Board deems necessary and appropriate and which are consistent with the intent and purpose set forth in § 140-55.

§ 140-57. Applicability.

This chapter shall apply to all zoning districts in the Town of Clarkson.

§ 140-58. Definitions.

For the purpose of this chapter, the terms used are defined as follows:

COMMUNITY BENEFITS OR AMENITIES

Open space, parks, Historical Overlay District enhancements, off street parking and other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the Town Board.

INCENTIVES OR BONUSES

Adjustments to the permissible density, area, height, use or other requirements of the Zoning Code for the Town of Clarkson and any amendments thereto in exchange for a specific community benefit or amenity. These adjustments may incorporate two or more noncontiguous parcels of land.

INCENTIVE ZONING

The system by which specific incentives or bonuses are granted, pursuant to § 261-b of New York State Town Law, on condition that specific social, economic, or cultural benefits or amenities are provided to the community.

§ 140-94. Benefits or amenities.

A. The following benefits or amenities may be either on or off the site of the subject application:

- (1) Preservation of open space.
- (2) Construction, improvement and enhancement to Town buildings and grounds including parks.
- (3) Preservation of cultural or historic facilities in excess of those required to mitigate proposed development impacts.
- (4) Enhancement and preservation of the Clarkson Historical Overlay District.
- (5) Other facilities or benefits to the residents of the community which are consistent with the purpose and intent of this chapter, as determined by the Town Board.
- (6) If the Town Board finds that a community benefit is not suitable on site or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provision of the amenity or bonus. These funds shall be placed in a trust fund to be used by the Town Board exclusively for amenities specified in these provisions.
- (7) Any combination of above-listed amenities and/or cash in lieu of any amenity(s) for specific purposes identified.
- (8) Prior to the issuance of any permit, stripping of any ground cover, site grading, or any other site improvements or construction activities:
 - (a) Any property transfers shall have been made;
 - (b) Cash in lieu of amenities shall be made;
 - (c) If the amenities include construction by the developer, the Letter of Credit posted by the developer shall include provisions for such work.

B. These amenities shall be in addition to any mandated requirements pursuant to other provisions in the Code of the Town of Clarkson.

§ 140-59. Incentives or bonuses.

The following incentives may be granted by the Town Board to an application on a specific site:

- A. Increases in residential or nonresidential unit density.
- B. Changes in use.
- C. Increases in lot coverage.
- D. Changes in setbacks or height.
- E. Increases in floor area.
- F. Reduction of required buffer area.
- G. Modification of parking requirements.

§ 140-60. Criteria and procedure for approval.

- A. A preapplication conference is required prior to the submission of an application for incentive zoning. The purpose of a preapplication conference is to inform the applicant of applicable procedures, submission requirements, development standards and other pertinent matters before the applicant finalizes the incentive zoning proposal.
- (1) The preapplication conference will be coordinated through the Building Department and will normally be attended by the Supervisor, the Chairperson of the Planning Board (or designee), the Chairperson of the Zoning Board of Appeals (or designee), the Chairperson of the Conservation Board (or designee), the engineer representing the Town, the Highway Superintendent, the Building Inspector, the Town Attorney and other interested parties who may be designated by the Town Supervisor or Planning Board Chairperson. If the proposal impacts the Historical Overlay District, the Chairperson of the Architectural Review Board (or designee) shall be included.
 - (2) The applicant requesting consideration for incentive zoning is required to attend the preapplication conference and is encouraged to bring the project's design professional(s).
 - (3) Upon the request for the preapplication conference, the applicant shall pay a fee in an amount determined by the Town Board by resolution and as set forth in the Fee Schedule. This fee shall be non-refundable.

(4) Opinions presented during a preapplication conference are advisory in nature and do not represent a commitment on behalf of the Town Board or represented agency regarding the acceptability of the incentive zoning proposal.

B. An application for incentive zoning will consist of a letter of intent accompanied by the following information:

(1) One concept plan showing the site developed to its fullest extent under the zoning regulations in this Chapter of the Town Code, and one concept plan showing the site developed in a manner that incorporates the desired incentive and amenity to be provided. These plans shall show the following information:

- (a) Location and extent of all proposed land uses, including development areas and open spaces, with areas shown in acres.
- (b) All interior streets, roads, access easements and their planned private or public ownership, as well as all points of access and egress from existing public rights-of-way.
- (c) An area map showing adjacent parcels, that portion of the applicant's property under consideration; all properties, zoning districts, subdivisions, streets, access, easements, watercourses, drainage facilities, buildings, structures and other significant natural and built features within 300 feet of the applicant's property and all uses of abutting lands.

(2) A written description of the proposed amenity.

(3) The cash value of the proposed amenity.

(4) A narrative which:

- (a) Describes the benefits to be provided to the community by the proposed amenity.
- (b) Provides a preliminary indication that there is adequate sewer, water, transportation, waste disposal and fire-protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity may place on these facilities beyond the demand on them as if the site were developed to its fullest extent under the zoning regulations in this Chapter of the Town Code.
- (c) Explains how the amenity helps implement the vision and policies of the Comprehensive Plan and, where appropriate, the Clarkson Historical Overlay

District, and land use goals of the Town as supplemented by the laws and regulations adopted by the Town Board.

- (d) Describes in detail the requested incentive(s).
 - (e) Completed long environmental assessment form, Part I.
 - (5) Twenty sets of the application shall be provided to the Town for distribution and review. The Town Board, upon receipt of an application, and as part of its review, shall refer the application to the Planning Board for its review and recommendations.
 - (6) A check to the Town of Clarkson in an amount established by Resolution of the Town Board as set forth in the Fee Schedule. This shall be non-refundable.
 - (7) In addition to the fee above, the developer shall be responsible for all costs associated with reviewing the application including legal fees and engineering fees. To guarantee the payment of these costs, the developer shall be required to deposit the sum of \$1,500.00 with the Town at the time of application. Any unused portion shall be refunded to the developer upon completion of the project, or withdrawal of the application. The Town may request payment of additional fees as required and such payment shall be due within ten (10) days of request.
- C. The Planning Board shall forward a written recommendation to the Town Board indicating whether or not it supports the approval of the incentive and amenity. This recommendation shall consider the following:
- (1) The suitability of the site(s) for the type of open space preservation proposed, the physical characteristics of the land and the relation of the proposed development to surrounding existing and probable future development.
 - (2) The adequacy of major roads, utilities and other facilities and services to serve the development.
 - (3) That the proposal is conceptually sound, is consistent with the Town Comprehensive Plan, and meets local and area wide needs.
- D The application shall be referred to the Monroe County Planning Department for its review. The Town may also refer the application to the Town Engineer, as well as other local and county officials, representatives of federal and state agencies and consultants as deemed appropriate. These agencies may include, but are not limited to, the Monroe County Department of Transportation, the New York State

Department of Transportation and the New York State Department of Environmental Conservation.

E. Once the application has been determined to be complete, a public hearing will be scheduled before the Town Board. The Town Clerk shall give notice of the hearing in the official newspaper of the Town at least 10 days prior to the date of the hearing.

F. All applicable requirements of the State Environmental Quality Review (SEQR) Act shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sewer, water, transportation, waste disposal and fire-protection facilities to:

- (1) First, serve the remaining vacant land on the site as though it were developed to its fullest potential under the zoning regulations in effect at the time of the amenity/incentive proposal; and
- (2) Then, serve the on-site amenity and incentive, given the development scenario in Subsection F(1) above.

G. In order to approve an amenity/incentive proposal, the Town Board shall determine that the requirements of SEQR have been met and the proposed amenity provides sufficient public benefit to provide the requested incentive. In order to make this determination, the Town Board may require the completion of an environmental impact statement. Thereafter, the Town Board is authorized to act on an application for approval pursuant to this chapter.

H. The Town Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project.

Upon a favorable decision of the Town Board, an application shall be submitted to the Planning Board for subdivision and/or site plan approval pursuant to the applicable provisions of the Code and Regulations of the Town of Clarkson. Failure to submit the application to the Planning Board within 6 months of approval by the Town Board shall render any incentive zoning granted hereunder null and void unless extended by resolution of the Town Board for a maximum of 6 additional months.

§ 140-61. Expenses of Compliance with SEQRA.

In accordance with section §261-b of the Town Law, any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing any generic environmental impact statement prepared in conjunction with the project, and that such charge shall be added to any site-specific charge made pursuant to the provisions of §8-0109 of the Environmental Conservation Law.

FOR PUBLIC HEARING