

TOWN OF CLARKSON  
TOWN BOARD MEETING  
April 9, 2013

The Town Board of the Town of Clarkson held their regular meeting on Tuesday, April 9, 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.

**OPEN FORUM**

Harold Mundy discussed the possibility that the Town's defibrillators may be obsolete, therefore needing replacement at the end of 2013.

**PUBLIC HEARING; LOCAL LAW #1-2013**

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 Olson reported that this change is basically just adding apartments to the list of dwellings that can be on private drives. It appears to be an omission from law passed approximately ten years ago. It is a SEQR Type II because it is considered a non-change.

**RESOLUTION ADOPTING Local Law #1-2013**

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

**ABSENT:** Councilperson Filipowicz

Introduced by Councilperson Hoy

Seconded by Councilperson Tantalo

**LOCAL LAW #1-2013**

**A LOCAL LAW TO AMEND THE SUBDIVISION AND DEVELOPMENT OF  
LAND LAW OF THE TOWN OF CLARKSON**

**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 #1-2013 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 9<sup>th</sup> day of April, 2013, all interested parties were heard concerning the subject matter thereof; and

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**WHEREAS**, the Town Board has determined that this action is an Type II Action under the State Environmental Quality Review Act Regulation §617.5(c) (20) and not subject to further review under said regulations; 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 #1-2013 of the Town of Clarkson, Monroe County, New York which local law amends the subdivision 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, Didas and Tantalo

Nays: None

**AUTUMN WOODS AGREEMENT**

Attorney Olson is in the process of accepting a Letter Of Credit from the developer for \$34,665. The agreement proposed is that the Town would hold the money, as we have done in the past with other developers. The Town would retain any interest incurred to cover administrative fees. In addition, there would be a charge to the developer of \$100 per draw to further help offset any administrative fees associated with this Letter Of Credit.

**AUTUMN WOODS AGREEMENT**

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

**ABSENT:** Councilperson Filipowicz

**RESOLUTION APPROVING AUTUMN WOODS DEPOSIT AGREEMENT**

Introduced by Councilperson Tantalo

Seconded by Councilperson Hoy

**TOWN OF CLARKSON, MONROE COUNTY**

**WHEREAS**, Outlook Development, LLC (“the Developer”) has applied to the Planning Board for approval of a 296 Unit Apartment Complex; and

**WHEREAS**, on April 2, 2013, the Planning Board granted Preliminary Approval for the entire project and Final Approval for Phase I; and

**WHEREAS**, said approvals were conditioned on the Developer providing financial security in the amount of \$ 34,622.25 in accordance with §§116-26 (C) of the Clarkson Code; and

**WHEREAS**, the Developer has elected to deposit cash in the amount of \$ 34,622.25 as and for the security; and

WHEREAS, the Attorney for the Town has prepared the attached Deposit Agreement.

Now, therefore, be it resolved:

**Section 1.** That the Town Board of the Town of Clarkson hereby approves the attached Deposit Agreement and authorizes the Supervisor to sign the same.

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**Section 2.** That upon the Developer signing the agreement, making the deposit and paying any and all application and building permit fees which are due and payable, the Building Inspector is authorized to issue the Building Permit.

**Section 3.** That this resolution shall take effect immediately

Vote of the Board

AYES: Supervisor Kimball, Councilpersons Hoy, Didas and Tantalo

NAYS: None

**AUTUMN WOODS DEPOSIT AGREEMENT**

This Agreement is entered into on April \_\_\_\_\_, 2013, by and between the Town of Clarkson, Monroe County, New York a Municipal Corporation with offices at 3710 Lake Road, Clarkson, New York 14430 (“Town” or “Clarkson” and Outlook Development LLC, a New York State Limited Liability Company with offices at 61 LeGrange Avenue, Rochester, New York (“Outlook” or “Developer”)

**RECITALS**

- A. Outlook has applied to the Town for the development of property known as Autumn Woods, located on Sunset Center Lane in the Town of Clarkson, NY. The proposed development is of approximately 296 apartment dwelling units on 22 acres of land;
- B. On April 2, 2013, the Town Planning Board granted preliminary approval for the entire project and final approval for Phase I of the project which consists of 12 buildings containing 60 dwelling units, an accessory structure to be used as maintenance/storage facility and an ancillary structure to be used as clubhouse/recreation center.
- C. As a condition of such approval and in accordance with §116 of the Clarkson Code, the Planning Board, after consultation with its’ engineer, required the amount of \$34,622.25 to be provided as financial security in any one of the forms provided for in §116-26 (C) of the Clarkson Code; and
- D. The Developer has informed the Town that it wishes to post a cash deposit; and
- E. This deposit is made to guarantee the performance of the work shown on the plan with respect to the facilities to be dedicated to the Town of Clarkson and the payment of any and all cost fees associated with such work including inspection and engineering fees incurred by the Town. A list of items is attached hereto as Exhibit A.

**NOW, THEREFORE**, in consideration of the matters described above, the mutual covenants contained in this document, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Outlook agree as follows:

- 1. CONSTRUCTION OF IMPROVEMENTS.** Developer agrees to complete the construction and installation of the above described improvements in accordance with all of the provisions of the Clarkson Code, the New York State Building Code, the Clarkson Design Criteria and Construction Specifications for Land Development and the plans approved by the Planning Board in a timely manner. Such construction and installation shall be the Outlook’s sole expense.
- 2. DEPOSIT TO TOWN OF CLARKSON.** Concurrently with the execution of this agreement, Outlook shall deposit the sum of \$34,622.25 with the Town. Town shall hold this amount, together with any additional amounts deposited under this agreement until the Town Board authorizes payment, disbursement or reimbursement of these funds. Any interest earned on the funds deposited shall accrue to the Town of Clarkson as an administration expense.
- 3. INDEMNIFICATION.** Outlook agrees to indemnify and defend the Town and hold the Town harmless from any and all claims, actions, causes of action, judgments, damages, losses, liabilities, cost and expenses including, but not limited, to reasonable attorney fees, expenses and court costs, arising out of or in any way resulting from the construction and installation of the required improvements described above.
- 4. DISBURSEMENT OF FUNDS.** The Town shall disburse the funds as follows:

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- a. Upon recommendation of the Town Engineer and Building Inspector that various improvements have been complete by the Developer in accordance with the terms and conditions of the approval, the Town Board may authorize full or partial release of funds held.
- b. Upon written certification by the Town Supervisor that the Developer is in default under the permit and has failed to perform its obligations under such permit, in accordance with all plans, drawings and specifications, and other documents submitted to the Town as approved, with the time period set forth in such permit(s) and that, because of the default, the Town, is proceeding with the task of installing the improvements required by the permit and approvals on the property, in whole or in part, the Town shall pay the costs of any such materials and work from the funds so deposited. One hundred dollars (\$100.00) shall be deducted from each draw as and for administrative expenses.

**5. TERMINATION OF THIS AGREEMENT.** On the full completion of the construction and installation of the improvements shown on the plan, and upon the expiration of the twelve (12) month warranty period as provided by the Town Code, and upon review and recommendation of the Town Engineer and the Building Inspector, the Town Board may authorize release of any remaining funds to the Developer and no party shall have any further rights, duties or obligations under this agreement.

**6. INTENT OF THE PARTIES.** It is the intent that the funds deposited become the property of the Town until full performance of the work covered by this agreement and said funds may not be assigned, transferred, hypothecated or pledged without the express agreement of the Town Board of the Town of Clarkson.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed on the date indicated below.

TOWN OF CLARKSON, NEW YORK, OUTLOOK DEVELOPMENT, LLC

\_\_\_\_\_

By: Paul M. Kimball, Supervisor

(signature)

By: \_\_\_\_\_

(Print Name), Title

**RESOLUTION SETTING PUBLIC HEARING**

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

**ABSENT:** Councilperson Filipowicz

Introduced by Councilperson Hoy

Seconded by Councilperson Didas

LOCAL LAW 2-2013  
TOWN OF CLARKSON, MONROE COUNTY

**A LOCAL LAW TO AMEND THE ZONING CODE OF THE TOWN OF CLARKSON**

**WHEREAS,** the Town Board has before it a proposed Local Law to amend §140.16.1 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:**

**04.09.13**

SECTION 1. That the Town Board of the Town of Clarkson shall hold and conduct a Public Hearing on the 23<sup>rd</sup> day of April, 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, Didas and Tantalo

Nays: None

Discussion: Attorney Olson reviewed proposed changes to the telecommunications law. As previously discussed, any changes to the telecommunications facility deemed to be "not substantial" cannot be denied. The building inspector would make this determination and decide if Planning and Zoning approvals are required, after review by the RF engineer and Town engineer.

**LOCAL LAW #2-2013**

**A LOCAL LAW TO AMEND THE ZONING CODE OF THE TOWN OF CLARKSON**

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

**Section 1.** This Local Law is enacted pursuant to the authority contained in Article 2 of the Municipal Home Rule Law of the State of New York and Article 16 of the New York State Town Law.

**Section 2.** That the purpose of this Local Law is to amend Section 140-16.1 of the Clarkson Code with respect to telecommunications towers.

**Section 3. §140-16.1 the Clarkson Code is amended as follows:**

**Paragraph E (4) (c) is amended as follows:**

**The sentence "In all cases, guyed towers shall be preferable to freestanding structures." shall be deleted.**

**Paragraph G is amended to read as follows:**

**G.** When an applicant wishes to make a change to an existing tower, and that the applicant contends that the modification does not substantially change the physical dimensions within the meaning of Section 6409 of the 2012 Middle Class Tax Relief and Job Creation Act, the following procedure shall apply:

- (1) The application shall be submitted to the Building Inspector accompanied by the required fee and deposit.
- (2) The Building Inspector shall forward the application to the following:
  - (a) Town Engineer for a written report regarding any structural changes or concerns.
  - (b) The RF Engineer selected by the Town Board for a written report with respect to the justification submitted by the applicant.
- (3) Upon receipt of the two written reports if, in the opinion of the Building Inspector, there is no substantial change being proposed, and upon the payment of any building permit fees and balances due for engineering, the Building Inspector shall issue the requested permit.

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(4) Upon receipt of the two written reports, if in the opinion of the Building Inspector, there is a substantial change being proposed, the Building Inspector shall refer the application to the Zoning Board of Appeals for modification of the Special Use Permit and the Planning Board for Site Plan Approval.

(5) Anyone aggrieved by the Building Inspector's decision under (3) or (4) above shall have the right to appeal the decision to the Zoning Board of Appeals which appeal may be concurrent with the application of modification of the Special Use Permit.

**Existing paragraph G shall be renumbered paragraph H and the text shall remained unchanged,**

**Section 4. Severability.** The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

**Section 5.** That this local law shall take effect immediately.

**BUILDING INSPECTOR REPORTS**

C. Fabry had nothing to report.

**ASSESSOR REPORTS**

C. Lyon had nothing to report.

**HIGHWAY SUPT. REPORTS**

Superintendent Viscardi reported that Dick Nurse recently assisted in updating the computerized snow program. He shared a copy of the snow program report and reviewed details. He stated that Drake Road has been cleaned up with the assistance of Monroe County prisoners. Superintendent Viscardi remarked on the current high scrap prices (\$280/ton). Highway has turned in \$2,700 of scrap metal over the past three weeks.

The Highway Superintendent's 2003 pickup is in need of major repairs and it may be more practical to purchase a new vehicle at this time. Superintendent Viscardi stated that currently on the State Bid a new truck would be \$22,000. He proposed we use monies obtained from the scrap metal as well as the auction (which will include the sale of two Army trucks, fire truck, dump truck, 1989 ten-wheeler, and an old track excavator).

**MOTION APPROVING PURCHASE OF NEW PICKUP ON STATE BID**

Motion by Councilperson Didas

Seconded by Councilperson Hoy

To purchase a new pickup for the Highway Superintendent on State Bid.

Unanimously carried

Discussion:

**MOTION APPROVING HIGHWAY SUPERINTENDENT ATTEND EDUCATIONAL CONFERENCE**

Motion by Councilperson Tantalo

Seconded by Councilperson Didas

For Bob Viscardi to attend Highway Supt. educational conference in Ithaca, NY from June 3<sup>rd</sup>-5<sup>th</sup>.

Unanimously carried

**MINUTES**

Motion by Councilperson Tantalo

Seconded by Councilperson Didas

To approve March 12, 2013 minutes.

Unanimously carried

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**MINUTES**

Motion by Councilperson Tantalo  
Seconded by Councilperson Didas  
To approve March 26, 2013 minutes.  
Unanimously carried

**AUDIT**—4-01-2013

Motion by Councilperson Hoy  
Seconded by Councilperson Didas  
To authorize payment of audit 4-01-2013 to include the following:  
Vouchers 20130302-20130359; Total \$38,112.30; Gen. \$24,633.19; Hwy. \$10,378.54;  
SL \$3,100.57  
For distribution checks from 25045 - 25096  
Unanimously carried

**MOTION TO ADJOURN**

Motion to adjourn at 6:20 P.M. by Councilperson Hoy  
Seconded by Councilperson Didas  
Unanimously carried

Respectfully submitted,

*Sharon S. Mattison*  
Town Clerk

APPROVED 04-23-2013