

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, October 9, 2013, 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 Patrick Casilio, Peter DiCostanzo and Robert Geiger. Councilman Kolber was absent. Other Town Officials present were Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, Confidential Secretary to the Supervisor Karen Jurek and Director of Administration and Finance Pamela Cuvillo.

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

#### ***Public Hearings:***

Woodland Hills and Harris Hill Commons

Applicants are requesting the formation of a Town Sewer District to service the developments Woodland Hills and Harris Hill Commons. The proposed site is located on the east and west side of Harris Hill Road between Greiner Road and Sheridan Drive on existing conceptually approved residential subdivisions consisting of 77 and 66 lots. The Town has the authority to create sewer districts per NYS Law. The finalization of an agreement between the applicants and the Town to provide a mechanism and funding for a future trunk sewer line must be addressed.

#### ***Formal Agenda items:***

S & S Auto body 9727 County Road

Applicant is proposing to relocate an existing collision shop on County Road to the new location. The proposed site is located on the south side of County Road, east of Goodrich Road at existing commercial building (former Francis Heating & Cooling) located on 1.2+/- acres in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has approval authority for collision shops in the Industrial Business Park Zone with a Special Exception Use Permit. A public hearing will be required to consider the use.

Douglas Klotzbach 8185-8195 Sheridan Drive

Applicant is proposing to develop a 90,000+/- square foot professional office building with associated parking and landscaping. The proposed site is located on the south side of Sheridan Drive, east of entrance to Eastern Hills Mall on existing residential and commercial property containing 6.2+/- acres located in the Restricted Business Zone. Per the Zoning Law, the Town Board will have final review and approval authority via a Special Exception Use Permit based upon the size of the proposed building. Size and scale of the proposed development, public sewer access, traffic and connectivity between projects in the vicinity are all issues that need to be addressed.

#### ***Work Session items for consideration October 23, 2013:***

Robert Castellani 9854 Keller Road

Applicant is proposing to develop a pond on the north side of Keller Road, east of Herr Road at existing residential property located in the Agriculture Rural Residential Zone consisting of 19.98+/- acres. Per the Excavation Law, the Town Board has final review and approval authority for ponds. The Engineering Department has reviewed the application and approved the design with conditions, including all spoils remaining on the property, total land disturbance of under 1 acre and the setbacks from all property lines to be a minimum of 100'.

### **Supervisor David Hartzell**

- Grant a five month leave of absence to James Dussing from the Civil Service Heavy MEO position in the Highway Department effective September 26, 2013 to

continue in the position of Deputy Highway Superintendent as appointed by the Town Board on September 25, 2013

- Transfer Todd Trapper from the position of Security Officer PT in the Security Department to Laborer PT Seasonal at the Highway Department effective October 15, 2013 at the rate of \$8.61 per hour

Ginger Lindner sent a letter thanking Supervisor Hartzell for the use of the Clubhouse to pack supply boxes for our troops.

Supervisor Hartzell met with the Highway Department regarding the striping of intersections where the bike path intersects with the road. Previously Supervisor Hartzell spoke to Erie County Director of Engineering Charles Sickler (the Highway Department can stripe town roads but not county roads). Mr. Sickler has given the town permission to stripe county roads where the bike paths intersect and has provided the department with a template to use. Supervisor Hartzell will meet again with the County to see if they will pick up the cost.

Supervisor Hartzell has one item to discuss in Executive Session.

#### **Councilman Patrick Casilio**

- Post position of Security Officer PT non-competitive for the Court at the budgeted rate of pay
- Shadow Woods Subdivision Phase I – activate street lights on Kristina Circle
- Authorize Supervisor David Hartzell to sign the proposals submitted by Amherst Alarm Inc.

Councilman Casilio has one item to discuss in Executive Session regarding the employment history of any individual.

#### **Councilman Peter DiCostanzo**

- The Speaker Series sponsored by the Youth Bureau is scheduled for November 4<sup>th</sup> in the Town Hall auditorium
- Lead Agency Status for Kenyon's Convenience Store at 8250 Main Street
- Lead Agency Status for Brother's of Mercy Senior Housing at 4520 Ransom Road

The Ethics Committee met this morning and several people will be leaving the Committee at the end of the year.

The new owner of the building next to Clarence Bistro has applied for a demolition permit. He does not have a design plan yet but his long term goals are to expand the Bistro and create more parking. For the immediate future, he would like to demolish the structure. Because it is a building constructed prior to 1950 it is a Type I Local Action under SEQRA. It was introduced to the Planning Board and referred to the Historic Preservation Commission and the Clarence Hollow Community Character Protection Board.

**Councilman Robert Geiger**

The Deer Abatement Program will be starting soon; Councilman Geiger has requested a list of all participants since some individuals are being paid by the town.

**Planning Board Chairman – Robert Sackett**

The Planning Board is working on the Sign Law and will have an update before the end of the year.

**Jay Whopper – Sewers**

Mr. Whopper is a resident of Meadow Brook Road. He and his neighbors have concerns regarding the Town Board's consideration of the formation of a Town Sewer District for the proposed Woodland Hills Subdivision and Harris Hill Commons subdivision. Mr. Whopper feels that the entire town needs to be sewered. Older existing houses should be allowed sewer hookup before the Town allows more development, there seems to be money available. Supervisor Hartzell will check with Grant Writer Bernard Rotella to see if there is money available.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio, Supervisor Hartzell; Noes: None. Absent: Councilman Kolber. Motion carried.

There being no further business, the Work Session adjourned at 6:21PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Executive Session at 6:59PM. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio, Supervisor Hartzell; Noes: None. Absent: Councilman Kolber. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, October 9, 2013 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Bernard Kolber. Prayer was given by Councilman Robert Geiger.

Members of the Town Board present were Council Members Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, and Town Engineer Timothy Lavocat.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the work session and regular meetings held September 25, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to grant a 5 month leave of absence to James Dussing from the Civil Service Heavy MEO position in the Highway Department effective September 26, 2013 to December 31, 2013 to continue in the position of Deputy Highway Superintendent as appointed by the Clarence Town Board on September 25, 2013. On the question, Supervisor Hartzell said this has been approved by the Erie County Department of Personnel as it is a temporary leave of absence to an exempt position. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell received a letter from Ginger Lindner, President of the American Legion 838 Auxiliary thanking the Board for allowing them to use of the Town Clubhouse for their overseas project of assembling care packages. These packages are a small way of letting our military know that we have not forgotten them and that we are so proud of them. They have received notes from some of them and received a flag several months ago. The Auxiliary has sent over 3,000 packages, not counting the 471 boxes they packed this week going to Afghanistan.

Supervisor Hartzell added that his son received one of their packages when he was in Afghanistan. Ginger is a tireless hard working lady who truly cares about our troops.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to transfer Todd Trapper from the position of Security Officer PT in the Security Department to Laborer PT Seasonal at the Highway Department effective October 15, 2013 at the rate of \$8.61 per hour. On the question, Supervisor Hartzell said PT Seasonal can work up to five months. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the transfer of funds from the 2013 Law Department Budget as follows: \$1,000.00 from account – 001.1420.0471 – Legal and Professional Fees to account – 001.1420.0423 – Books and Supplements. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to post the position of Security Officer PT-non-competitive for the Court at the budgeted rate of pay. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate nine (9) street lights in Shadow Woods Subdivision Phase 1 on Kristina Circle per the approved street light layout, NYSEG proposal and “as-built” conditions. Standards, fixtures and underground conductors were installed by the developer. Conductors, fixtures and standards to be owned and maintained by the Town of Clarence. Connection, energy lamps and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions of NYSEG’s street light agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to authorize Supervisor David Hartzell to sign the proposals submitted by Amherst Alarm Inc. for the following for the Clarence Senior Center at 4600 Thompson Road:

1. Purchase and installation of equipment for an Alarm System at a cost not to exceed \$2,076.00; and
2. Purchase and installation of a Camera System at a cost not to exceed \$2,688.00.

On the question, Councilman Casilio said there will be an additional annual fee for Alarm monitoring services. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said the Youth Bureau is putting on a speaker series again on November 4<sup>th</sup> in this room. They will be discussing the youth court that they are setting up and some items on substance abuse.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board seeks Lead Agency Status and commences a coordinated review among involved agencies on the proposed Kenyon's Convenience Store with Tim Horton's Drive-thru located at 8250 Main Street. This Unlisted Action involves the demolition of existing structures on the property and the construction of a new 3,000+/- square foot convenience store with Tim Horton's Drive-thru, new gas fueling station, and new gas tanks. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board seeks Lead Agency Status and commences a coordinated review among involved agencies on the proposed Brothers of Mercy/Regent Contracting Senior Housing Project located on the Brothers of Mercy Campus at 4520 Ransom Road. This Unlisted action involves the construction of 111 independent senior apartment units with the potential for 36 additional senior apartments as well as future potential for 60-80 units of assisted living units. Upon roll call – Ayes: Councilmembers Geiger, DiCostanzo, Kolber and Supervisor Hartzell; Noes: None. Recuse: Councilman Casilio. Motion carried.

Councilman DiCostanzo said a reminder that school taxes are due next Tuesday, October 15<sup>th</sup>.

Councilman Geiger said the deer abatement program will be starting soon and he will have the list of eligible hunters at the next meeting.

Councilman Geiger said the FBI seminar that was held last week was a great success.

Supervisor Hartzell added that they did a great job. There were four or five different police agencies represented. It was a fantastic seminar.

Motion by Councilman Kolber, seconded by Supervisor Hartzell that after proper audit and review by the Town Board, the following bills of October 10, 2013 are approved for payment: General Fund - \$92,772.54; Highway Fund - \$156,884.83; Water District - \$34,886.97; Drainage District - \$66,201.00; Lighting Districts - \$773.00; and Capital Fund - \$307,631.98 for a total of \$659,150.32. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Friends of Ed Rath – Oct. 2, 2013; B. Clarence Bulldogs Cheerleaders – Nov. 10, 2013; Legion Hall Applications – A. Hena Hossain – Oct. 20, 2013; B. Cub Scout Pack 568 – Oct. 28, 2013; C. Dawn Weitz – Nov. 9, 2013; D. Irene Toloue – Nov. 16, 2013; E. Andrew Smith – Dec. 28, 2013; and Nature Center Lodge – A. Clarence Rotary – Oct. 11, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider formation of a Town Sewer District to service two proposed subdivisions, Woodland Hills and Harris Hill Commons based on the submitted Map, Plan and Report for Harris Hill Road and Sheridan Drive Parcels. James Callahan said the two properties are located on both sides of Harris Hill Road between Greiner Road and Sheridan Drive. This area is comprised of two previously approved concept plans for subdivisions known as Harris Hill Commons and Woodland Hills. The applicant is requesting that the Town Board create a new sewer district to service the two new subdivisions.

Mr. Callahan said the previously approved Negative Declaration for the proposed Woodland Hills development will need to be amended to include both proposed developments.

Sean Hopkins, attorney was present on behalf of Windsor Ridge Partners, and Jeffrey Palumbo, attorney was present on behalf of Cimato Brothers Development. Mr. Hopkins said they are seeking formation of a sewer district to service the four parcels shown, including both subdivisions. The biggest issue facing these projects has been getting them into a sewer district. Both projects currently have out-of-district agreements with Erie County Sewer District No. 5. The process itself is the result of a cooperative effort. One of the key aspects of the discussions was their client's willingness to enter into a voluntary contribution agreement that would assist the Town in connection with future installation of a trunk sewer down Harris Hill Road. The way the Town reaches its goals for sewer priorities is on a step-by-step basis. This would get the sewer line a mile closer to where it needs to go. These are both good projects and he asked that the Town approve the district as submitted, subject to the voluntary contribution agreement of which the Town Attorney's office has been provided executed copies.

Jeffrey Palumbo said the contributions were made by both landowners here. There is a different issue with the Woodland Hills development in that there was a Negative Declaration issued in August 2010. There were two conditions at that time. One is that they prove that there is sewer capacity and they have the documentation from the engineer and from Erie County. The second condition was that there is an expansion of the boundary of Erie County Sewer District No. 5 to include Woodland Hills. In order to create a new district, the Negative Declaration would have to be amended so that the expansion is no longer required. One benefit is that the sewer is being brought closer to Meadowbrook along Greiner Road to their most eastern border line of the proposed subdivision.

Councilman Kolber said we are all quite familiar with these projects as they have been under review for some time. He believes the Harris Hill Commons project is a very good project for the Town in that the land along the road will remain in its current state. The development is set back in the property. Also, the voluntary contribution by both developers really helps the cause of the Town to get a sewer trunk line to the Harris Hill area.

Sean Hopkins said the Town will have that financial benefit of the developers paying for the infrastructure privately.

Councilman Casilio said maintaining the vistas along the roads are a major plus and a goal of Master Plan 2015. You cannot even see Spaulding Green across the street from the town hall.

Supervisor Hartzell said Harris Hill is one of the top priorities for sewers in the Town and this takes care of 1/3 of that project. He appreciates their contribution.

Speaking to the subject:

Kenneth Pestka said he has a septic system on Glenwood. His question is how is this going to benefit him or adversely affect him.

Town Engineer Timothy Lavocat said the district would be limited to these areas. The lots on Glenwood are large enough to replace a failing system according to Health Department standards. He is not aware of any failing systems on Glenwood. Glenwood would be outside of the proposed district. They are looking at Meadowbrook and Glenwood for future districts.

Mr. Pestka said the Town does not have the plan for his septic system. Mr. Lavocat said septic systems are under the jurisdiction of the Erie County Health Department and they would have any records that exist.

Jay Wopperer said he and his neighbors have followed this project for many years and are against it for many reasons. One of the reasons is that there are currently residents in Clarence that do not have sewers. He believes that existing homeowners should have priority over new housing developments. The Harris Hill area is challenged with the need to update and improve their existing septic systems.

Mr. Wopperer said there are funding alternatives available to the Town of Clarence. He saw that Verona town officials procured funding from the EPA, the Empire State Development

Corporation and a USDSA rural development loan for a new sewer project. There was no need for private developers to fund with the contingency that their developments are hooked up.

Mr. Wopperer said there are some homeowners in Erie County Sewer District No. 5 that are paying sewer taxes that do not have sewers. They should also have priority.

Mr. Wopperer said there is an article in the information he submitted stating that the Amherst sewage plant is currently facing many challenges. It states that it is aging and has reached its useful life expectancy. He asked what responsibility and liability does the Town of Clarence have adding to an aging and failing sewage plant? This question was answered and we only have 1.8% flow to Amherst. It is still a concern.

Mr. Wopperer said he is concerned about sewers. He believes we should follow our Master Plan. He does not think anyone wants to become another Amherst. If we were fully sewerred, the town could explode with development.

Councilman Kolber said he read through his letter and supporting documents. Fox Trace and Eastbrooke do have sewers. We do try to operate and manage our growth. These projects were conceptually approved many years ago. We cannot stop growth, but we want to keep it slow and managed. We have looked into grants and he believes we used some in the Hollow. There are grants, but we are competing with cities with raging pollution problems that take priority with the limited funds that are available.

Our Master Plan identifies that our number one sewer priority is getting sewers to the areas that do not have them, such as Harris Hill. Clarence Center has them, the Hollow is 85% done and Harris Hill is next. However, we have to have the money to do it. Our efforts right now are to get that trunk line in to help us get sewers to areas that need them. We have a grant writer and our Town Engineer looking into grants.

Jay Wopperer said he asks that if anyone on the Board received campaign funds from Woodland Hills or Harris Hill Commons developers, that they recuse themselves from voting on this tonight.

Margaret Pestka said she is greatly opposed to the Harris Hill Commons project for many reasons. It is going to be a very large development with over 100 housing units. They plan to put in an access road at the end of Galbraith Avenue. Glenwood Road is a very narrow rural road with no shoulders or sidewalks. They will have an increase in traffic including school buses, garbage trucks, etc. She is fearful how this will affect the children in her neighborhood. They will lose greenspace and the quietness of the area. The sewer district will run along Glenwood, but none of the residents will be allowed to connect. They will be negatively impacted in their quality of life and in turn are not being offered to tie into the sewer district. This is the only residential area being impacted directly and she feels that the Town should be looking out for the existing residents.

Supervisor Hartzell said we cannot control growth in the Town. If a developer purchases the land, they can develop it. The Town can put some demands on them, such as, to cut down the number of lots, and preserve greenspace. In this case, they are putting in a sewer line. We are fortunate that the developers are willing to work with us. This development will not be seen from Harris Hill Road. It is a good development and the type of development we want to see in Clarence.

Sean Hopkins said the Harris Hill Commons site is approximately 70 acres in size and they are proposing 66 lots. The greenspace is at least 50% of the site.

Supervisor Hartzell said they could have gone lot line to lot line as they do in other towns.

Councilman Kolber added they also could have sold off lots all along Harris Hill Road and then there would not be the greenspace corridor.

Councilman Casilio said Woodland Hills was brought to the Town before Kathy Hallock was supervisor. Once they are in the system, we cannot go back on them. It is important to him that it brings the sewers closer to the Harris Hill area.

Carol Conwall asked if the trunk line being proposed will be substantial enough to support what the Town has proposed for the future, with no added expense to the Town.

Town Engineer Timothy Lavocat said the lines will be sized for a certain service area, including Meadowbrook and the Harris Hill area. The way that happens is by first forming a district, putting in the infrastructure and then charging back to the property owners. There is a cap on how much can be charged to property owners according to State Law. It is very difficult to get a project in under that cap without grant funds. The State will shut it down.

Carol Conwall said this is from Greiner to Sheridan and when it is extended toward Wehrle Drive, will this be sufficient to accommodate more customers on that line.

Mr. Lavocat said yes it will be sized to handle the Harris Hill area.

Councilman Kolber said Harris Hill is built out already, so there are no unknowns. The engineers will know what size pipe they will need.

Carol Conwall said she just wants to be sure that what they do now is as perfect as it can be for the future.

Steve Noyes said he thinks what they are doing is great. He has been in the wastewater and treatment business for many years. You go through the growing pains. He came from a town similar to the size of Clarence. He has a septic system and he would jump at the opportunity for a sewer. He asked what the unit rate would be for the homes going in. He asked what the size of the receiving trunk line is where this line would go into.

Mr. Lavocat said it is 24 inches. It is 100% gravity.

Mr. Noyes asked if there would be odor control measurements in place because of the length of the line.

Mr. Lavocat said they follow whatever regulations are in place. Our sewer system is maintained by Erie County Sewer Authority. He added that 90% of Meadowbrook could be added by gravity sewers. We contract with Erie County for the operation and maintenance and treatment. These developments would not have a debt cost. The operation and maintenance costs vary by district.

Mr. Noyes asked if another district would be created in the future.

Mr. Lavocat said either that or the other areas could be included as an expansion of this district.

Jeffrey Palumbo said the concept plan for Woodland Hills was approved in March 2004. There are 54 acres with 73 units.

With no one else speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to adopt the following resolution:

WHEREAS, on August 11, 2010, the Clarence Town Board, as the designated Lead Agency for the Woodland Hills Subdivision, issued a Negative Declaration stating that sanitary sewerage from the Woodland Hills Subdivision would be conveyed directly into an extension of Erie County Sanitary Sewer District No. 5; and

WHEREAS, Negative Declarations have previously been issued for the proposed Woodland Hills Subdivision and the proposed Harris Hill Commons Subdivision after the completion of comprehensive and lengthy coordinated environmental review of these residential subdivisions pursuant to the State Environmental Quality Review Act (“SEQRA”) and both of these residential projects have previously received Concept Plan Approval from the Planning Board and Subdivision approval from the Town Board; and

WHEREAS, sanitary sewer capacity has been verified as available to connect these projects through the Erie County Sewer District No. 5 public sewer system and Erie County Sewer District No. 5 had previously approved these projects as out of district customers; and

WHEREAS, upon final approval of the Harris Hill Commons and Woodland Hills residential subdivisions, the project sponsors for these projects have agreed to participate in the funding of a future trunk sewer line along Harris Hill Road to aid in the future extension of public sewers to service unsewered areas of the Town of Clarence in a manner consistent with the Town’s sanitary sewer priorities contained in amendments to Master Plan 2015, and

NOW, THEREFORE, BE IT

RESOLVED, pursuant to SEQRA, the Clarence Town Board hereby amends the previously issued Negative Declaration of August 11, 2010 to identify the following:

1. District Boundaries of the lands to be included in the proposed Town Sanitary Sewer District to include only those lands as described in the Map, Plan and Report prepared and filed with the Town of Clarence in connection with the proposed formation of a new Town Sanitary Sewer District.
2. Creation of a Town of Clarence Sewer District with sewer capacity to be provided through Erie County Sanitary Sewer District No. 5.

3. Subject to the execution of the Agreement to fund the installation of the sewer from Greiner Road to Sheridan Drive; and be it further

RESOLVED, that the Town Board has thoroughly evaluated the identified potential adverse impacts associated with the creation of a new Town Sanitary Sewer District as described in the filed Map, Plan and Report and determined that no potentially significant adverse environmental impacts will result from the district creation and the Town Board has also determined that the amendment of the Negative Declaration previously issued by the Town Board on August 11, 2010 will not result in any potential adverse environmental impacts since the sole reason for the amendment to the previously issued Negative Declaration is because sanitary sewerage from the Woodland Hills Subdivision will be conveyed into a new Town Sanitary Sewer District instead of directly into Erie County Sanitary Sewer District No. 5 via an extension of Erie County Sanitary Sewer District No. 5.

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

Motion by Councilman Casilio, seconded by Supervisor Hartzell to adopt the following resolution:

WHEREAS, on August 11, 2010, the Clarence Town Board, as the designated Lead Agency for the Woodland Hills Subdivision, issued a Negative Declaration stating that sanitary sewerage from the Woodland Hills Subdivision would be conveyed directly into an extension of Erie County Sanitary Sewer District No. 5; and

WHEREAS, Negative Declarations have previously been issued for the proposed Woodland Hills Subdivision and the proposed Harris Hill Commons Subdivision after the completion of comprehensive and lengthy coordinated environmental review of these residential subdivisions pursuant to the State Environmental Quality Review Act (“SEQRA”) and both of these residential projects have previously received Concept Plan Approval from the Planning Board and Subdivision approval from the Town Board; and

WHEREAS, sanitary sewer capacity has been verified as available to connect these projects through the Erie County Sewer District No. 5 public sewer system and Erie County Sewer District #5 had previously approved these projects as out of district customers; and

WHEREAS, upon final approval of the Harris Hill Commons and Woodland Hills residential subdivisions, the project sponsors for these projects have agreed to participate in the funding of a future trunk sewer line along Harris Hill Road to aid in the future extension of public sewers to service unsewered areas of the Town of Clarence in a manner consistent with the Town’s sanitary sewer priorities contained in amendments to Master Plan 2015, and

NOW, THEREFORE, BE IT

FOUND, ORDERED AND DETERMINED, by the Town Board of the Town of Clarence:

1. The Legal Notice of the public hearing was published as required by law, and is otherwise sufficient;
2. The petition is signed and acknowledged or proved as required by law, it complies with the requirements of the Town Law as to sufficiency of signers and is otherwise sufficient;
3. The creation of Sanitary Sewer District No. 10 is consistent with Sewer Priority #3 as contained in the Town’s adopted Sewer Expansion Priorities Report that constitutes a part of Master Plan 2015, the Town’s adopted Comprehensive Plan pursuant to NYS Town Law Section 272-a;
4. It is in the public interest to create Sanitary Sewer District No. 10;
5. The creation of Sanitary Sewer District No. 10 will have positive fiscal impacts to the Town since the sanitary sewer improvements in the District to provide sanitary sewer service to the parcels in the District will be constructed at no cost to the Town and future development of the parcels included in the District will generate property tax revenues for the benefit of the Town and other taxing jurisdictions;
6. The property and all property owners within the proposed District are benefitted by the creation of Sanitary Sewer District No. 10;

7. All the property and property owners benefitted are included within the limits of the proposed district;
8. The future installation of a trunk sewer along Harris Hill Road in furtherance of providing future sanitary sewer service to the Harris Hill Area south of Sheridan Drive in accordance with the Town's adopted Sewer Expansion Priorities Report ("Sewer Priority #2) is not a condition or prerequisite of the creation of Sanitary Sewer District No. 10; and
9. The approval of Sanitary Sewer District No. 10 is subject to the terms and conditions of the Sanitary Sewer Trunk Line Contribution Agreement entered into between Windsor Ridge Partners, Harris Hill Development, LLC and Cimato Enterprises, Inc. and the Town of Clarence dated October 10, 2013.

On the question, Councilman Kolber said there is no mention or discussion of the portion of this property along Sheridan Drive.

Mr. Lavocat said it is part of this district.

James Callahan said the Map, Plan and Report describes the four parcels included for Harris Hill Commons and the parcel for Woodland Hills. The two proposed developments that have concept approval are being shown.

Councilman Kolber said there seems to be exclusion. It seems deceptive to the public.

James Callahan said the Map, Plan and Report have been in the Town Clerk's office for a month now showing the four parcels in Harris Hill Commons. The only development shown is the one that has concept plan approval. It is vacant land.

Sean Hopkins said it has always been included and a part of all discussion with interested parties. There is nothing new.

Councilman Kolber said it seems deceptive. There is a lot of frontage on Sheridan Drive. It is a game changer on what could go along Sheridan Drive.

Sean Hopkins said nothing has been submitted. Anything that takes place has to go through the process for approval.

Councilman DiCostanzo said it was always included and a part of any discussions he was present at. They did not slip it in tonight.

Councilman Kolber said we were always told that there were different owners.

Sean Hopkins said that there are different entities, but common ownership. Mr. Laskey is an owner of both. Harris Hill Commons was started over 20 years ago.

Councilman Casilio said he does not agree with Councilman Kolber. It has always been talked about. The code has changed for multi-family development. There is nothing being approved for Sheridan Drive tonight. The sewer line does not go all the way to Sheridan Drive. This is to approve the creation of the district.

Councilman Kolber said they could put a sewer line up to it. That is his concern with multi-family and now that opens it up.

Mr. Hopkins said the law made it stricter on multi-family development.

Councilman Casilio said they have to be smaller buildings.

Jay Wopperer said this is confusion and the Board should wait to know what they are voting on. This is something that none of us have seen.

Supervisor Hartzell said the plans have been available. This is nothing under the table.

Jay Wopperer said he did not know and they were not involved. He believes the Board is shoving it through.

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

S & S Autobody requests a Public Hearing to consider a Special Exception Use Permit for an automotive collision shop in the Industrial Business Park Zone at 9727 County Road. James Callahan said they are proposing to relocate to the south side of County Road, east of Goodrich Road to an existing structure in the Industrial Business Park Zone.

Scott Gajewski was present.

Councilman Kolber said we had a long and contentious discussion for an auto collision shop on Transit Road. One of the reasons for denial was that it was not an allowable use in a Commercial Zone. However, the Industrial Business Park Zone specifically allows for this use following a public hearing and issuance of a Special Exception Use Permit.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for November 6, 2013 at 7:45 p.m. to consider a Special Exception Use Permit for an automotive collision shop in the Industrial Business Park Zone at 9727 County Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Douglas Klotzbach/Sheridan Office Park requests Preliminary Concept Review of a proposed professional office building at 8185 – 8195 Sheridan Drive. James Callahan said the location is the south side of Sheridan Drive, west of Helenwood Drive consisting of an existing 6- acre residential property in the Restricted Business Zone.

Douglas Klotzbach, architect and Cliff Jones were present. They renovated the original residence to a commercial property. There are three additional phases to this project. They are proposing a 2,100 sq. ft. addition to maintain Velocity's presence along Sheridan. The next phase is a three-story building of 10,000 sq. ft. per floor. It will appear as a two-story structure from the road. The fourth phase consists of three stories including parking underneath.

Mr. Jones said the building next store is the offices of the day care center that is down the street.

Councilman Kolber said his concern is the character of the abutting residential area of Sheridan Drive and a 90,000 sq. ft. building.

Douglas Klotzbach said there is the Syms building and the Uniland building not that far away.

Councilman Kolber said it transitions to smaller buildings as you go away from Transit Road. We want to promote business, but at the same time protect the character.

Councilman DiCostanzo asked if there was a timeline of when they would build out to the 90,000 sq. ft.

Mr. Klotzbach said they are looking to building the 2,100 sq. ft. in the spring of 2014 and the 30,000 sq. ft. would be next. He is not sure if they would be ready by fall for that. It will then depend on whether they have tenants. They would probably bank the parking at the east end until it was needed.

Mr. Jones said Velocity is an internet company with customers all over the country. The owner is a Clarence native. They would occupy 15-20,000 sq. ft. for office space.

Councilman DiCostanzo asked if this was forwarded, could we refer part of it.

James Callahan said you could do Velocity's addition as a separate referral. The other two separate buildings would have to stay together because they are on the same parcel.

Douglas Klotzbach said that is why they are presenting the entire project to let the Board know what the intent is for all of the parcels involved. They would not have a problem with separating the addition.

Councilman Kolber said by separating the review process, the addition will move through much quicker to be ready in the spring.

James Callahan said the larger building will have to go through the environmental review process.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to refer the request for an addition to the commercial building at 8195 Sheridan Drive to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to refer the request for preliminary concept review of the proposed professional office building at 8185 Sheridan Drive to the Planning Board. On the question, Councilman Kolber said they should review the minutes of this meeting to be aware of the concerns regarding the scope and size of the building. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:00 p.m.

Nancy C. Metzger  
Town Clerk