

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, June 8, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio, and Joseph Weiss. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Senior Building Inspector David Metzger, Deputy Town Attorney David Donohue, Director of Administration and Finance Pam Smith and Planning Board Chairman Al Schultz

Director of Community Development – James Callahan

Public Hearings:

Gene Metzinger 8325 Transit Road

A public hearing is scheduled for 7:45 PM to consider a Temporary Conditional Permit for automotive service at existing trucking/equipment operation at 8325 Transit Road.

Applicant is seeking a permit to perform NYS vehicle inspections on larger equipment/trucks. The proposed site is located on the east side of Transit Road, south of Tonawanda Creek Road at a pre-existing commercial truck/equipment operation located in the Restricted Business Zone. The area identified is in a commercial classification and within the Density Flood Zone. Per the Zoning Law, the Town Board may approve automotive service operations via a Temporary Conditional Permit.

Gene Metzinger 6031 Transit Road

A public hearing is scheduled for 7:50 PM to consider a Temporary Conditional Permit for outside display of landscaping materials at 6031 Transit Road.

Applicant is seeking approval to sell mulch and bagged landscaping products at the existing car wash (Buggy Wash). The proposed site is located on the east side of Transit Road, north of Clarence Center Road at existing carwash located in the Major Arterial Zone. Per the Zoning Law, the Town Board may approve outside display of products.

Sturdy Sheds – Eastern Hills Mall 4545 Transit Road

A public hearing is scheduled for 7:55 PM to consider a Temporary Conditional Permit for Outside Display of sheds at 4545 Transit Road.

Paul Bonito/Dave Sutton 9620 County Road

A public hearing is scheduled for 8:00 PM to consider a Temporary Conditional Permit for automotive service at 9620 County Road.

Applicant is proposing an addition to existing structure to accommodate an automotive service operation. The proposed site is located on the north side of County Road, east of Goodrich Road at existing industrial structure located in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has final authority to approve automotive service operations. Applicant is proposing an addition to existing building as opposed to previously approved new building.

Councilman Kolber arrived at 6:08 PM.

Larry Matteson 4715 Thompson Road

A public hearing is scheduled for 8:05 PM to consider a Temporary Conditional Permit for a site development excavation company at 4715 Thompson Road.

Applicant is seeking approval to continue operation of excavation business. The proposed site is located on the east side of Thompson Road, north of Main Street at existing vacant former trucking business that previously operated under a Temporary Conditional Permit. The property has been split and the

new owner of northern property is seeking approval to operate a similar business to the one that currently operates immediately south of this property. Per the Zoning Law, the Town Board may consider the application via a Temporary Conditional Permit. Issues include the fact that a new owner/operator is seeking to operate under similar conditions to operation that immediately adjoins property to the south. **(For the record, Councilman Kolber stated that this property adjoins his property).**

Ann Marie Turello 10500 Miland Road

A public hearing is scheduled for 8:10 PM to consider a Special Exception Use Permit to allow for a secondary living unit at 10500 Miland Road.

Applicant is seeking permission to construct a secondary living unit at existing residential property located on the west side of Miland Road, north of Salt Road in the Agriculture Rural Residential Zone. Per the Zoning Law, the Town Board may consider secondary living units via a Special Exception Use Permit. The applicant is fully aware of all conditions described in the Zoning Law.

Formal agenda items:

Dan Snyder – 5655 Newhouse Road

Applicant is requesting approval of a Fireworks Permit for July 4, 2011 at 5655 Newhouse Road. All required paperwork has been submitted for this permit. No commercial fireworks will be used.

Neda Hadisadegh 5961 Goodrich Road

Applicant requests a public hearing for the consideration of a Temporary Conditional Permit for Outside Dining.

Work Session items for consideration June 22, 2011:

- AVR Builder Inc./Hollows at Loch Lea
This is part of the overall Loch Lea PURD (Planned Unit Residential Development) located at the southwest corner of Harris Hill and Roll Road. It was previously approved under the PURD as the Commercial portion of Loch Lea Development however, it was never developed. After 20 years, Mr. Randaccio has indicated that this is no longer a viable commercial location so he is proposing patio homes to match the Hollows at Loch Lea. This change will require an amendment to the existing PURD.
- Laura Wade DVM 10822 Main Street
Dr. Wade is doing renovations to the property at 10822 Main Street. The property is located in the TND and will require review by the Clarence Hollow Architect Review Board
- Paul Marinaccio 8905 Lapp Road – applicant is requesting a fill permit
- Tim Kulbacki 10440 Keller Road – applicant is requesting a fill permit for the front of his property for future residential home
- Joseph Mattina 7141 Salt Road - applicant is requesting a Pond Permit; the preliminary designs have been submitted. This will require review and approval by the Town Engineer
- Pinnacle Automotive 6585 Transit Road - applicant is requesting use of existing building for automotive sales (former Belknap Heating and Cooling and former Mid City Auto)
- Clarence Center VFC is requesting approval of a fireworks display for their annual Labor Day Fair
- 2011 Excavation Permits

Supervisor Scott Bylewski

Supervisor Bylewski announced that Town Engineer Lavocat and Town Attorney Bengart will not be present at this evening's meeting due to prior commitments.

Supervisor Bylewski has several corrections to the minutes.

The motions made at the June 1st, 2011 morning Work Session will be announced.

The Clarence Chamber of Commerce is sponsoring Clarence Community Night at the Ball Field on Friday August 19, 2011.

The Employee Health and Wellness Fair is scheduled for Friday, June 10th. Employees will be informed about changes in their insurance program.

A meeting with the fire companies is scheduled for June 21st at 7:00 PM at the Library to discuss fire company budgets. Notices have been forwarded to the media.

A meeting with the Farm Bureau is scheduled for June 13th at 6:30 PM at Hans Mobius farm at 6879 Salt Road.

Supervisor Bylewski has two Special Event Permit requests to announce.

The Town Board has received a petition circulated by Ted McHugh of Tillman Road with respect to the Town's goose program. There is a lot of information that has been circulated about the Goose Abatement Program which has been ongoing for the last five years where we primarily use non-lethal means such as addling of the eggs. Based on the concerns that have come up, Supervisor Bylewski suggested the Conservation Advisory Council review the Geese Abatement Program for the Town of Clarence.

Councilman Weiss stated that there was some misinformation printed in the article in the Buffalo News which stated that 45 geese were killed last week in a single day. Morgan Dunbar, founder and director of Animal Allies of WNY stated that she spoke with Mr. McHugh and he explained that 45 geese were killed last year however; she said the number does not matter. Mr. McHugh was keeping track of the number of animals including goslings and adults – one day they were there and the next day they were not. Councilman Weiss stated that four geese were taken, not 45 nor has there ever been 45 geese taken from that area. Further, Councilman Weiss stated that he lives in that general area as well and the geese trans-locate. They can be on his lawn one day and on his neighbor's lawn the next. Again Councilman Weiss stated that 45 geese were not killed.

Ms. Dunbar stated that "there are alternatives, not one goose should have died, this is 2011."

The Canada goose is an invasive species. Councilman Weiss stated that Hacking is where they take a young bird from one area and deposit them in another area where they become imprinted to that area. These geese were taken from Alaska and brought here and have become somewhat problematic. We have the Lesser Canada Goose which is migratory. The Hacking program has caused a lot of problems on golf courses, for municipalities and homeowners. The Concert Association couldn't hold concerts in the park because of all the goose droppings which are infested with bacteria – people were slipping on the grass. We also had problems on our athletic fields.

The Town had a demonstration using a border collie but it did not work, the cost was \$10,000 for one season, and the town did not want to cause a problem for someplace else by shagging the geese from one spot to the other. The town tried addling of the eggs (you put oil on the eggs and they do not hatch) but if there is predation by another animal or something else, the geese will re-nest. The town tried oiling the eggs but the geese left and re-nested elsewhere so we are not combating the problem.

The town has continued to have problems with this invasive species which would be no different than Purple Loosestrife or Zebra Mussels invading the Great Lakes.

The goose situation has become problematic as has the deer population. The town has tried to combat these issues as minimal as possible. Councilman Weiss stated that the Board is willing to review the Geese Abatement Program for the Town.

Geesepeace is an organization that deals with non-lethal methods of controlling geese. Councilman Weiss requested an example of what Geesepeace would recommend the town do. We have discussed hazing, using Border Collies however this method is expensive and just relocates the geese to another location, adding the eggs is problematic as the geese are very secretive, they are hard to find and they lay their eggs in deep water.

Ms. Dunbar stated that just one resident has complained about geese on her property, she questioned how four geese can be a nuisance problem. Councilman Weiss stated that if you eliminate three or four out of a flock, they are smart enough to know not to come back to that area. The geese were not shot on a Nature Preserve; they were shot on private land.

Ms. Dunbar stated that this is a reoccurring problem on one woman's property. The Town should suggest this person contact the SPCA, Joel Thomas has a wealth of information on how to deal with nuisance wild life. Ms. Dunbar suggested placing boulders around the ponds. Councilman Weiss stated that he has boulders around his pond and he still has geese. Ms. Dunbar suggested that the resident in question redevelop her pond.

Councilman Casilio stated that he understands what Ms. Dunbar is saying and that is why we will review our procedures with the Conservation Advisory Committee. The residents living in Meadow Lakes are being held hostage by the geese. When you live in a more condensed area and the geese are running all over leaving their droppings all over – there definitely needs to be a program in place. While he is not saying the situation on Tillman Road was right or wrong but there has to be a program in place and that is why the Town has agreed to review our abatement policy.

Ms. Dunbar stated that she is not professional on wild life but she has had only one day headway on this issue. There are a number of national organizations that the town can work with. There are grants to help with any funding. She further stated that the killing should stop, that should not be the first step in solving this problem. Councilman Weiss stated that this was not the first thing that was tried.

Ms. Dunbar will be submitting a FOIL request as to when this resident made the first phone call and when the town responded to it – if it was an immediate response with the shooters, then that is unacceptable because we are talking about four geese.

Supervisor Bylewski has several items to discuss in Executive Session regarding the employment history of particular people, collective negotiations and acquisition of real property.

Councilman Joseph Weiss

Councilman Weiss will make a motion to appoint Jessica Viola to the position of Senior Clerk in the Assessor's Office effective June 13, 2011.

Councilman Weiss thanked Assistant Planner Brad Packard for helping with Zoe's Restaurant.

Park Crew Chief James Burkard is requesting approval to purchase a 2011 Field Groomer from Moffett Turf and Equipment.

Councilman Patrick Casilio

Councilman Casilio has one item to discuss in Executive Session regarding public safety.

Councilman Peter DiCostanzo

Potential Master Plan amendments will be discussed at the next Planning Board meeting.

Councilman Bernard Kolber

There is a plant that is becoming invasive in the town called Pale Swallow-wort. It wipes out everything in its path. Eradication is difficult once a colony is established because plants form a dense, knobby mass of underground roots. Swallow-wort vines twine 3 – 6 feet high, often smothering nearby vegetation. Councilman Kolber would like to submit a letter to the DEC to see what can be done before this becomes the next Purple Loosestrife.

Planning Board Chairman Al Schultz

There was a meeting with representatives from Shadow Woods, one resident representing Pine Breeze and the Landscape Committee. The resident was very pleased with the outcome of the meeting.

The Clarence Center TND was discussed at the June 1st Planning Board meeting however very few residents attended. Chairman Schultz thanked Clarence Bee Editor Andrea Kimbriel for the superb job she did of explaining it in the Bee.

Senior Building Inspector David Metzger

Dave Metzger stated that the bid document will be ready for approval at the June 22nd Town Board meeting for the demolition of the house on Sheridan Drive. It is a substantial size project so it will have to go out to bid.

There have been several properties in the town with tall grass that the town will end up maintaining. Dave is looking into getting a contractor on board to take care of the properties. He will meet with Town Attorney Bengart to discuss the process.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105(1) A matters which will imperil the public safety if disclosed, § 105(1) E collective negotiations pursuant to Article 14 of the Civil Service Law (The Taylor Law); § 105(1) H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. On the question, Deputy Town Attorney Donohue was asked to remain in the meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:36 P.M.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:09 P.M. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, June 8, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:30 P.M. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a prayer read by Supervisor Bylewski.

Members of the Town Board present were Councilmembers Peter DiCostanzo, Patrick Casilio, Bernard Kolber, Joseph Weiss and Supervisor Bylewski. Other Town officials present were Director of Community Development James Callahan, Deputy Town Attorney David Donahue, Sr. Building Inspector David Metzger and Planner Brad Packard.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held May 11, 2011. On the question, Supervisor Bylewski had a correction on page 116 to the resolution regarding the Legion Hall. It should say grant monies will be used toward repaying the bond. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held June 1, 2011. On the question, Supervisor Bylewski had a correction on page 122, the third paragraph. It should say Councilman DiCostanzo thought it may be too cost prohibitive. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said as is our practice; the following motions were made at the June 1st morning work session:

- Appointment of two part time clerks
- Authorization to sign the DWI contract
- Appointment of two part time security officers
- Authorization to sign off on a settlement agreement
- Appointments to the Recreation Department, life guards and Parks Department summer help
- Greenhouse was declared surplus

Supervisor Bylewski announced that the Clarence Chamber of Commerce is holding their Friday Night Bash at Bisons baseball field on August 19th.

Supervisor Bylewski announced that this Friday is the annual health and wellness fair for Town employees.

Supervisor Bylewski announced that June 21st at 7:00 p.m. at the library, the Town Board will be meeting with the fire companies to discuss their budgets in general.

Supervisor Bylewski announced that on June 13th at 6:30 p.m. we will be hosting, in conjunction with the Erie County Farm Bureau, a farm conversation. More information is available online. They will discuss farming practices and tax assessments, vendors will be present, a representative from the Western New York Land Conservancy will be there and our Animal Control Officer Jerry Schuler will discuss some issues.

Supervisor Bylewski said the annual meeting with the School Board is tentatively set for Monday, August 22nd at 5:00 p.m.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant approval for a Block Party to be held July 4, 2011 from 1:00 p.m. to 11:00 p.m. on Garrock Road between Clearview Drive and Red Tail Run. On the question, Supervisor Bylewski said the request did not include tents. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant permission for the Clarence Center Fire Company Labor Day Parade to be held Sept. 5, 2011 beginning at 1:00 p.m. from Pine Breeze Subdivision, south on Goodrich Road, east on High Street, south on Elm Street and west on Clarence Center Road to the fire hall. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant an unpaid, leave of absence to Nancy Meyer from her position as Messenger for a period not to exceed three

months commencing on June 22, 2011 and including September 21, 2011. The Town will not provide and/or pay for Nancy Meyer's health, vision and dental insurance and/or any other employee benefits during this period.

On the question, Supervisor Bylewski said the granting of this request is due to extreme, extenuating circumstances for Ms. Meyer and is subject to the provisions of Article 24 – sections 1 through 6 of the Town of Clarence White Collar Unit Contract. Any future requests by Ms. Meyer or other persons in the future will be taken on a case-by-case basis at the discretion of the Town Board. The Town Board is not creating a precedence setting policy by granting this request.

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

Supervisor Bylewski said a petition was received and submitted by Ted McHugh regarding our goose abatement program.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to request that the Conservation Advisory Council review the Geese Abatement Program for the Town of Clarence and provide recommendations. On the question, Councilman Weiss said we had a chance to talk about this and clear up some irregularities that were out in the media. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to appoint Jessica Viola to the position of Senior Clerk in the Assessor's Office effective June 13, 2011 at the rate of pay per the White Collar Unit Contract, Group 4, Step 1. On the question, Councilman Weiss said this is to replace someone who recently retired in that office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to award the bid for the 2011 Field Groomer for the Parks Department to Moffett Turf & Equipment Inc. at their bid of \$23,670. On the question, Councilman Weiss said the Toro unit from Grassland Equipment did not meet the specifications of a diesel engine and a ground clearance of 9 inches. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said he received a letter from Dave Geiger stating that he is not happy that we do not get the Clarence Bee for free. Other towns, such as Amherst and Cheektowaga are free. He asked Andrea to see if she can do anything about that.

Councilman Weiss said we receive complaints all of the time about the signs people put up all over town advertising their businesses. It is very difficult to regulate and we take down as many as we can.

Councilman Weiss thanked our Planning Department for the way in which they communicate and work with the businesses in the Town. They recently sat down with a new restaurant owner in Town and were very helpful.

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

WHEREAS, the corner of Strickler Road and County Road has been the location of several traffic accidents; and

WHEREAS, Strickler Road and County Road are owned by the County of Erie; and

WHEREAS, Theodore Donner, Clarence Highway Superintendent, has suggested that the Clarence Town Board request that the Erie County Department of Public Works construct a roundabout at this intersection; and

NOW, THEREFORE, BE IT

RESOLVED, the Clarence Town Board directs the Town of Clarence Highway Superintendent, Theodore Donner, to request, in writing, that the Erie County Department of Public Works look into installing a roundabout, traffic light or other appropriate traffic control device at the intersection of Strickler Road and County Road.

On the question, Councilman Weiss said he would like to see a traffic light with the strobe lights that flash. That type of light really stands out.

Councilman Casilio said the County has improved the stop signs. He is in agreement with a roundabout.

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

Councilman Kolber brought in a plant called Pale Swallow-wort that is invading the area around the escarpment. He spoke with someone at the Cornell Cooperative Extension who said it is very difficult to get rid of and it takes over everything. They grow up to six feet or more. He would like to write to the DEC to see if we can get some help in controlling this thing.

Councilman Casilio said we are very fortunate to have Dawn Kinney as our Youth Director. She was recognized at the Youth Bureau awards ceremony last week. We have seen this department evolve into a well run organization.

Councilman Casilio announced that “Day in the Park” will be held on July 2nd this year along with the 100 year celebration of the Town Park Clubhouse. There will be a car show and tours of the clubhouse.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor Scott Bylewski to sign an Agreement between the Town of Clarence and TVGA Consultants for On-Call Professional Services for Grant Writing subject to Town Attorney review and approval. On the question, Supervisor Bylewski said we primarily use Connie Minor for grant writing. There are occasions where we might want to use another grant writer. TVGA will do that if we have an agreement in place. There are no payments unless we use the service. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo thanked the community for attending the Rotary Lobsterfest last weekend.

The Chamber also held a successful golf outing this week.

Councilman DiCostanzo congratulated the Clarence High School sports teams on a great year.

Public Participation

Howard Melancon asked why someone couldn't write an ordinance to only allow non-profit organizations to put up temporary signs for a certain amount of time. He thinks you have to look at all of these signs all over Town and the ones where people are advertising a business have to come down.

Councilman Weiss said then we have to spend a lot of time researching who they are and what they do.

Councilman Casilio said the Planning Department is already working on the mattress signs. A lot of them go up over the weekends. We do have Town Security picking up some of them. We are aware of this.

Mr. Melancon said someone should be enforcing this. He does not understand why the rocks were on the sidewalk at Wilson Farms and no one made them remove them. Someone runs into it and they will sue the Town. We have a sidewalk ordinance.

Clare Sweeney said she is an enthusiastic animal lover and volunteers at Hawk Creek, the SPCA and the Buffalo Zoo. She is very disturbed and embarrassed because her hometown is going against everything she stands for. She does not understand eliminating a species because they are a public nuisance. There are non-lethal alternatives. She has experience in relocation techniques and would be willing to volunteer her services to assist the Town.

Joann Russ lives next to geese and there was never a problem. If you choose to co-exist with wildlife, you may have to clean up after them. We are invading their habitat and their land and have to look at the bigger picture. There are alternatives. It seems to be overreaction to one person complaining.

Jeff Termini said the organization Geese Peace specializes in dealing with geese. Alternatives to killing the geese include rearrangement of landscape and dogs. He believes years ago the Town of Clarence was an innovator to utilize non-lethal means to deal with the geese population.

Councilman Weiss said we did paint the eggs with oil but they would re-nest. We also tried the use of dogs to harass them, but that did not work. That only moves them off to bother someone else. He is open to a solution that would work, but he has not heard a viable one yet.

We had an issue at the park making it uncomfortable for people to attend the outdoor concerts and the sporting events. We took care of a few of the geese and none of the rest of them came back. They are smart birds. He lives on an 11-acre pond with boulders all around it and the geese sit on them.

Supervisor Bylewski said we made a motion to have the Conservation Advisory Council take a look at the program and the different methodologies.

Mr. Termini said other towns followed Clarence's model and it worked. Other methods have worked in areas all over the country.

Councilman Weiss said we do not have a model. We tried various methods that have not worked.

Jack Cooper said he lives on Tillman Road near the nature preserve. He understands that if there are issues with the geese on the sports fields, they could be taken care of. You should not be going on the preserve because one person complains.

Councilman Weiss said the geese were not killed on the preserve.

Mr. Cooper said the geese do no harm and there is no reason to kill them. It is great to have them there and he loves them.

Morgan Dunbar said that since this was just brought to everyone's attention, she requests that a moratorium be put in place on any more geese being killed. Experts should be brought in to educate us, along with public input on the issue. There is a wealth of programs in the local schools with resources to assist in the educational process.

Councilman Weiss said we have a permit from the department of wildlife to take 85 geese per year and no more than five per day. We are working with the DEC and this program has been in force for five years. We also oil eggs and parks employees chase them away with trucks. In some instances we eliminate a few.

Adrian Rothenberg expressed her concern of a possible conflict of interest between Councilman Weiss and whether or not a bill will be passed controlling the goose population, since he has been involved in the current program.

Paul Shear asked what the Supervisor was referring to in the motion to sign a consent decree.

Supervisor Bylewski said it was consent to do with a sewer line. It was a settlement agreement between the Town of Clarence and the Hamlet of Clarence, LLC in regard to Pinyon Court and the unauthorized removal of trees. Trees were removed that should not have been and an agreement was reached to replace the trees.

Councilman Weiss added that the Planning Department, a consulting arborist and the Landscape Committee were also involved in reaching this agreement.

A Public Hearing was held to consider the request for a Temporary Conditional Permit for automotive service at existing trucking/equipment operation at 8325 Transit Road. James Callahan said the location is the east side of Transit Road north of Wolcott Road consisting of an existing trucking business in the Restricted Business Zone. The applicant is seeking permission to operate a large vehicle inspection station.

Gene Metzinger was present.

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

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

Be It Resolved, that the Clarence Town Board, after a public hearing duly held on June 8, 2011, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Gene Metzinger, for an automotive service operation at the existing trucking/equipment business located at 8325 Transit Road, subject to the following conditions:

1. The Temporary Conditional Permit shall be for a period of one year.
2. No outside display.

3. Outdoor storage limited to the existing paved surface area.
4. Hours of operation to be Monday through Friday from 7:00 a.m. to 7:15 a.m.

On the question, Councilman Casilio said he does have to post a sign on the building with the inspection number.

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

A Public Hearing was held to consider the request for a Temporary Conditional Permit for outside display of landscaping materials at 6031 Transit Road. James Callahan said the location is the east side of Transit Road north of Clarence Center Road consisting of an existing car wash in the Major Arterial Zone.

Gene Metzinger said the material is mulch which will be stored at the rear of the property in a container. He is considering 100 to 200 cubic yards on site at a time. Hours of operation would be about 7:00 a.m. to 5:00 p.m.

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 Kolber, seconded by Councilman Weiss to adopt the following resolution:

Be It Resolved, that the Clarence Town Board, after a public hearing duly held June 8, 2011, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Gene Metzinger, for outside display of landscaping materials at 6031 Transit Road, subject to the following conditions:

1. The Temporary Conditional Permit shall be for a period of one year.
2. No other outside storage and/or display shall be permitted.
3. Display area limited to the area represented on the diagram submitted to the Planning Department.
4. Hours of operation to be Monday through Saturday from 7:00 a.m. to 7:00 p.m. and Sunday from 7:00 a.m. to 4:30 p.m.
5. Bulk product to be contained within bin-type areas.

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

A Public Hearing was held to consider the request for a Temporary Conditional Permit for outside display of sheds at 4545 Transit Road. James Callahan said the location is the east side of Transit Road at the entrance to the Eastern Hills Mall.

Jeff Palumbo, attorney said his client, Dave Delagrange has been operating on a seasonal basis at this location for five years. The eleven sheds would be displayed from April through October with one serving as the business office. Once purchased, the sheds are shipped from another location. They believe this is a perfect location with ample parking available. It would hopefully help in drawing people to the mall.

Mr. Palumbo said the other part of their request is to extend the one-year permit because it would expire in the middle of their seasonal operation next year.

Mr. Palumbo said other applications may have been denied at other locations such as in the Traditional Neighborhood District. This is a good location in a heavily traveled area. The site is decorated to look appealing. They maintain the site throughout the time they are there.

Councilman Casilio said his concern is that they have denied similar requests by other people around Town. He would rather look favorably to people who own property and pay taxes. He asked if they would look at other locations on the mall property like the Boulevard Mall.

Mr. Palumbo said they would rather have the sheds near the entrance at the Boulevard Mall also, but it just does not work there. He cannot say that there is no other location at Eastern Hills Mall, but it makes no sense to place it where there is no traffic. They do not think it is detrimental to the Mall at all.

Supervisor Bylewski said in regard to the extension of a one-year permit their hands are pretty much tied according to the Town Code for initial approvals.

James Callahan said general practice is that if it is past the annual renewals in March, we would renew this permit in March of 2013.

Councilman Kolber said he is concerned about setting a precedent. How do we say yes to one and no to the other?

James Callahan clarified that they did not operate unpermitted. They were operating under a Peddler and Hawker License which has a 90-day limit. Since they are operating for a longer period of time we brought them in for a Temporary Conditional Permit.

Mr. Palumbo said they have no problem adding additional fencing.

Speaking to the subject:

Howard Melancon said we have ordinances about outdoor displays and he does not think the Town should allow it. It is the entrance to the Town. If you allow this, what if one of the other plazas want to put something up or the flea market comes in. It should go to the back of the mall if anything. It is not fair to the established businesses that own property and pay taxes.

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 Weiss, seconded by Councilman DiCostanzo to adopt the following resolution:

Be It Resolved, that the Clarence Town Board, after a public hearing duly held June 8, 2011, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Dave Delagrange/Sturdy Built Sheds, for outside display of sheds at 4545 Transit Road, subject to the following conditions:

1. The Temporary Conditional Permit shall be for a period of one year.
2. No other outside storage and/or display shall be permitted.
3. Hours of operation to be Monday through Friday from 11:00 a.m. to 6:00 p.m., Saturdays from 10:00 a.m. to 4:00 p.m. and Sundays from Noon to 4:00 p.m.
4. Landscape Committee Review and Approval.

On the question, Councilman Weiss asked if they pay the mall for use of the property. Essentially, the mall does pay taxes.

Councilman Casilio said the taxes are based on the occupancy of the mall. We limit the use of people who own property and pay taxes. It does help the mall.

Councilman Kolber said he has a big concern that these areas turn into a big flea market.

Jeff Palumbo said the precedence has been set in this case as they have been there for five years. It will help attract people in.

Councilman Kolber said he hears complaints from residents all the time about the sheds.

Mr. Palumbo said this is a good use for the mall.

James Callahan said Joe Frey received a Special Exception Use from this Town Board to allow the outside storage of the sheds at his location. It was allowed.

Howard Melancon said when you talk Home Depot or Walmart, they have a sales room and they are paying taxes for their property. The parking lot is not paying the taxes. It is not the same.

Upon roll call – Ayes: Councilmembers DiCostanzo, Weiss and Supervisor Bylewski, Noes: Councilmembers Casilio and Kolber. Motion carried.

A Public Hearing was held to consider the request for a Temporary Conditional Permit for automotive service at 9620 County Road. James Callahan said the location is the north side of County Road east of Goodrich Road consisting of an existing industrial building in the Industrial Business Park Zone.

Paul Bonito and Chris Caito were present. This is the same request and conditions previously set for the property next store, now moved to this location.

Speaking to the subject:

Richard Voelker said he came to make sure that everything will be the same including the U-Shape berm. He wanted to know if the berm had to be completed before the permit is issued.

Councilman Kolber said he would like to see that done.

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 Kolber, seconded by Councilman Casilio to adopt the following resolution:

Be It Resolved that the Clarence Town Board, after a public hearing duly held on June 8, 2011, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Paul Benito/At Your Service, for the operation of an automotive service operation at the existing trucking/equipment business at 9620 County Road subject to the following conditions:

1. The Temporary Conditional Permit shall be for a period of one year.
2. No outside display.
3. No Automotive Sales.
4. Storage area on paved/striped area
5. No more than 10 vehicles stored at any given time.
6. Hours of operation will be from 7:00 a.m. to 6:00 p.m. Monday-Friday and from 9:00 a.m. to 5:00 p.m. on Saturday.
7. Landscaping to buffer the residential property to the North per approval of the Landscape Committee.
8. No firearms discharged on the premises.
9. Landscaping buffer to be completed prior to occupancy of the project.

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

A Public Hearing was held to consider the request for a Temporary Conditional Permit for a site development excavation company at 4715 Thompson Road. James Callahan said the location is the east side of Thompson Road, north of Main Street in the Residential Single Family Zone.

Larry Mattison said he would like to continue the last use of the building with no outside storage of materials. He purchased this on a foreclosure and is looking at possible uses for the property.

Councilman Kolber said he owns the property adjacent to this so he will recuse himself from all discussion.

Councilman Casilio said he has a problem with him not knowing what type of operation he is looking at. This was originally set up as owner occupied along with his business.

Mr. Mattison said they have been having a problem selling the property. If he rented it to someone else they would have to come in for a permit. He would like to store construction materials in the building including kitchen cabinets. The DEC has been there and the cleanup began on the oil spill. The former owner rented from them until last September and he left the tank there. The DEC is investigating where the oil came from.

Councilman DiCostanzo said the grass is a foot high and he agrees until we have a plan of what is going to go in there he does not want to make a decision.

Councilman Casilio said this is in a residential neighborhood.

Mr. Mattison said he just wants to store his construction materials at this time. He has kitchen cabinets, flooring, carpeting and wood.

Councilman Casilio said he sees it as it was with the owner living there with their business and taking care of the property.

Mr. Mattison said the grass has been cut a few times but it was pretty wet for a while.

With no one else speaking to the subject, motion was made by Councilman Weiss, seconded by Councilman Casilio to close the public hearing. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Kolber. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to deny the request for a Temporary Conditional Permit for a site development excavation company at 4715 Thompson Road. On the question, Councilman Weiss said he would like to see the DEC documentation that the cleanup of the property has been completed. Councilman Casilio said he is uncomfortable issuing a Temporary Conditional Permit when we do not know what it is for in a residential neighborhood. Supervisor Bylewski said he can come back when there is a plan. Mr. Mattison asked if he can store anything in the building. It should be left empty until the Town Board approves something. Mr. Mattison asked what can be done about the dump site next store. It is also a residential property filled with rubble. Supervisor Bylewski said that is a

question for the Planning and Zoning Department and Code Enforcement. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Kolber. Motion carried.

A Public Hearing was held to consider the request for a Special Exception Use Permit to allow for a secondary living unit at 10500 Miland Road. James Callahan said the location is on the west side of Miland Road north of Salt Road in the Agricultural Rural Residential Zone.

Ann Marie and Anthony Turello were present. They are aware and in agreement with the conditions.

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

Motion by Councilman Kolber, seconded by Councilman Weiss to adopt the following resolution:

Resolved, that the Clarence Town Board, after a public hearing duly held on June 8, 2011, and after all interested parties having being heard, grants a Special Exception Use Permit to the applicant, Ann Marie Turello, for the construction of a secondary living unit as an addition to the existing structure for an in-law apartment on the residential property located at 10500 Miland Road subject to the following conditions:

1. Unit must be secondary to the principal dwelling and not converted to a rental unit.
2. Occupancy shall be limited to family members, paid employees or temporary guest.
3. Occupancy shall be restricted to two persons to occupy the unit.
4. Deed restriction to be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language **is to be submitted and approved by the Town Attorney prior to the filing the deed.**
5. Proof of filing of the approved deed is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.

On the question, Councilman Kolber said the specific language for the deed restriction may be obtained from the Town Attorney's office.

Councilman Casilio said he knows we keep track of these, but he still believes that it is going to be a problem in the future.

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

Carol Landreville re: Fireworks Display Permit on Newhouse Road. Ms. Landreville said she has horses in her care. She has gone back on her decision to not object to the fireworks display because it would put her horses in harm's way. She has signatures from neighbors who agree with her. She would especially be going against the right-to-farm. Her vet said it is detrimental to her horse's health and she has a letter from her. Cars parking along the roads in that area are dangerous. She has been fighting this for five years and is getting weary from coming in here every year.

Ms. Landreville said the applicant claims to have 500 signatures. Last year when she was here she had to have security walk her to her car because of the harassment from the people supporting his application. Nothing has changed since last year, so why should this be approved this year.

Councilman Casilio said he is once again offering his barn down the street to keep her horses for the night.

Supervisor Bylewski asked what the terms of the agreement were that she made with them previously.

Ms. Landreville said she was trying to be nice and consider their offer to shoot the fireworks further back and toward the east using a lower volume type of fireworks. She was trying to be a nice and considerate neighbor but the welfare of the horses is more important.

Supervisor Bylewski asked if she would consider the offer to walk them down the street.

Ms. Landreville said she does not want to move them at all. They have not left the property for a very long time.

Councilman DiCostanzo asked if this is still about fireworks or a neighbor issue.

Councilman Weiss asked if we have issued permits to residents in the past.

Councilman Casilio said we have in Pineledge but no one said no. She did and we have to respect that.

Dan Snyder requests a Fireworks Display Permit for July 4, 2011 at 5655 Newhouse Road. James Callahan said the location is the northeast corner of Newhouse Road and Roll Road consisting of a residential and agricultural property located in the Residential Single Family Zone. Application, insurance, fire chief approval and fee are in order.

Dave Saleh, attorney for Mr. Snyder said the family is moving into the house at this location. Fireworks were not used on the property last year. However, the party was held as it has been for several years and you could see fireworks displays all around the area. It is difficult to accept the denial. Fireworks on the fourth are part of the celebration of freedom in this country. Dan Snyder has lived in Town for a long time and is now moving to this property because of the recreation options he would have. It is done safely and professionally. They surveyed the neighbors prior to the application being submitted.

Supervisor Bylewski asked how long the fireworks would last. Mr. Saleh said twenty minutes.

Councilman Weiss said he believes it is still a right-to-farm issue. Nothing has changed this year except that it is an election year. He is still going to vote no because this woman does not want to move her horses. It was easy when we all sat here and adopted the right-to-farm law and now when it is time to enact it everyone is back on their heels.

Councilman Casilio said he offered his barn but she does not want to move the horses. He agrees with the purpose of the right-to-farm law so that people are not stopped from doing what they do.

Mr. Saleh said right-to-farm applies to agricultural districts and this is residential. It will accommodate the display. He realizes that the horses are there but it is a nonconforming property.

Councilman Weiss said the horses were there before Mr. Snyder.

Supervisor Bylewski said our right-to-farm law refers to property within one mile of any working farm.

Mr. Saleh said he takes exception to that. They have complied with the provisions of the penal law. They met with Carol and showed her the location and looked for a vendor with less smoke and lower noise. They will abide by what they said.

Councilman Casilio said as long as the horses are there he agrees with Councilman Weiss and we have to go along with her wishes.

Councilman Kolber said if they were doing it for that long and then why did she all of a sudden complain.

Ms. Landreville said she has been complaining because it got bigger each year.

As far as the petition goes one lady told her that she signed because they said the horses were going to be moved. He went to another neighborhood to get all those signatures.

Jeff Taylor, property manager said they use a goose cannon that is louder than the fireworks. He has had horses for many years and they get used to noises. The fireworks do not go high enough to be able to reach her house. He believes some of the accusations are out of line.

Mr. Saleh said they did not tell people that her horses were being moved. Many of the signatures on the petition are from the surrounding area that could be affected. People were very supportive. They knew what was going on and feel that Mr. Snyder has a right to do it. There were two different petitions; one for the immediate neighbors and another for farther away.

Jacqueline Fatta said she went to every house on Newhouse. Carol agreed to everything on Friday including a call to let her know when they were going to start and when they were over.

Councilman Kolber said where do we draw the line. Permits are issued in other areas of Town. He wonders if there is a compromise here to please everyone.

Ms. Landreville said she cannot put her horses in jeopardy. She submitted the letter from her vet.

Mr. Saleh said they will try to work out anything for Carol. He does not believe that her horses will be harmed in any way. They have met the legal obligation in every way.

Motion by Councilman Kolber to table the request for two weeks in the hope that both parties can reach some agreement to make everyone happy. Motion lost due to lack of a second.

Councilman Weiss asked Carol if anything would change over the next two weeks and she said no.

Councilman DiCostanzo said he has been to displays that have some that are quiet and others that are extremely loud.

Mr. Saleh said it is their intent to get fireworks that a much quieter.

Motion by Councilman Weiss to deny the request. Motion lost due to lack of a second.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to table the request for a Fireworks Display Permit for July 4, 2011 at 5655 Newhouse Road for two weeks. On the question, Councilman Casilio said he would like a fresh opinion from the Right-to-Farm Committee. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Supervisor Bylewski; Noes: Councilman Weiss. Motion carried.

Neda Hadisadegh requests a Temporary Conditional Permit for Outside Dining at 5961 Goodrich Road. James Callahan said the location is the east side of Goodrich Road south of Clarence Center Road in the Traditional Neighborhood District.

Neda Hadisadegh said they have a single picnic table in front of the building. They gathered 30 signatures in support of the picnic table.

Speaking to the subject:

Linda Nastasi said there were a number of close residents who made comments when this was approved back in March. Their concerns were congregation of youth around the building. There is not much space to allow for congregating around the picnic table and the safety of kids with the driveways on either side. She feels the applicant misrepresented what actually stands there today. Ms. Nastasi asks that this request be denied.

James Callahan said they received complaints from the immediate neighbor and Linda.

Linda Nastasi said it is costing her additional money for lighting to protect her property from kids cutting through her yard to go to the coffee shop.

Councilman Kolber said he does not think the property is conducive to outside dining. It could be creating a hazard.

Motion by Councilman Casilio, seconded by Councilman Weiss to set a Public Hearing for July 13, 2011 at 7:50 p.m. to consider the request for a Temporary Conditional Permit for Outside Dining at 5961 Goodrich Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Mary McConnell said she lives a couple doors away. She does not think that the picnic table is any closer to the street than the coffee shop patio. Kids park bikes against the trees close to the road. There is a lot of foot traffic during the summer. She does not think one picnic table is a cause for concern about noise and congregation. She sees parents with younger children go there for an ice cream cone. There is a couple yard between the picnic table and the sidewalk. They have been running a community and family friendly operation and they have improved the property. It is an asset to the area.

Tara McConnell said Charades is a nice place and they need a picnic table. She goes there almost every day. She would like to sit at the picnic table to eat her ice cream rather than sit on the grass.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Day In The Park Committee – July 1 & 2, 2011; B. Hollows At Loch Lea – June 15, 2011; C. Clarence Youth Bureau – Aug. 3, 4 & 5, 2011; D. Clarence Swim Club – Aug. 21, 2011; Legion Hall Applications – A. Loni DeCarlo – July 3, 2011; B. Terese Dolan – Aug. 6, 2011; C. Claudia Kile – Aug. 13, 2011; D. Clara Weber & Albert Weber – Dec. 30, 2011; Park Pavilion Special Requests – A. Day In The Park Committee – July 1, 2 & 3, 2011; Nature Center Lodge Applications – A. Clarence Contemporary Club – Sept. 20, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review, the following bills of May 26, 2011 are approved for payment: General Fund - \$160,942.80; Highway Fund - \$52,924.14; Water District - \$1,614.39; Central Alarm - \$243,249.27; Fire Protection Districts - \$222.10; Lighting Districts - \$818.59; Sewer Districts - \$178,646.98; and Capital Fund - \$13,127.18 for a total amount of \$651,545.45. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review, the following bills of June 9, 2011 are approved for payment: General Fund - \$83,988.61; Highway Fund - \$21,036.28; Water Districts - \$34,737.91; Sewer Districts - \$780.00; Capital Fund - \$8,688.24; Trust and Agency 203 - \$24,834.55 and Trust and Agency 205 - \$10.00 for a total amount of \$174,075.59. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Chris Green said he would like to bring up again, the condition of Goodrich Road. Over the past month we had two more cars go in the ditch. Since he has lived there we have had three deaths. It is just an accident waiting to happen.

Supervisor Bylewski said the County has been notified and in contact with our Highway Department and Town Engineer regarding drainage. This is a much larger project due to drainage and the height of the road.

There being no further business, Supervisor Bylewski adjourned the meeting at 10:10 p.m. in memory of Rick Drumheller, former chief of Parks Security and a former chief of Harris Hill Fire Company.

Nancy C. Metzger
Town Clerk