

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, October 26, 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 Bernard Kolber. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith, Town Attorney Steven Bengart, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek and Planning Board Chairman Al Schultz.

**Director of Community Development – James Callahan**

***Public Hearings:***

A public hearing is scheduled for 7:45 PM to consider an amendment to Master Plan 2015 to extend the Traditional Neighborhood District along the Goodrich Road corridor north of Maple Street to the Peanut Line. The proposed change would be consistent with remaining section of the Clarence Center hamlet along Goodrich Road and Clarence Center Road that are already zoned TND. The TND Zoning Classification was specifically designed for the hamlet areas of the town to identify historic characteristics and uses. In forwarding its recommendation, the Planning Board has identified the adoption of an overlay zoning district to further protect the hamlet area. Such an overlay would include architectural guidelines and use details to protect the existing residents and would be managed by a local Community Character Protection Board. A Negative Declaration under SEQRA was previously issued by the Town Board on 9/14/11 on the proposed amendment.

A public hearing is scheduled for 7:55 PM to consider an amendment to the exiting Loch Lea Planned Unit Residential Development to allow for 20+/- patio homes at the corner of Harris Hill Road and Roll Road. The existing previously approved PURD identified 45,000+/- square feet of commercial space at the corner of Harris Hill and Roll Road however; the commercial component was never constructed. The Planning Board has forwarded a recommendation on the proposed amendment. A Negative Declaration under SEQRA was previously issued by the Town Board on 9/14/11.

Councilman Casilio received a request from a resident to make that section of Harris Hill Road a no passing zone just before the driveways to the intersection. Town Engineer Lavocat stated that he will talk to the County Engineer regarding this request.

***Formal agenda items:***

***Richard Dorr/Niagara County Produce 8555-8615 Transit Road***

Applicant is proposing to construct a new facility at existing retail produce market located on the east side of Transit Road, south of Tonawanda Creek Road within the Major Arterial Zone. As the full build out will exceed 50,000 square feet, a Special Exception Use Permit as issued by the Town Board will be required. Referral to the Planning Board will initiate the formal review process.

***Dino & Debora Sciascia - 6700 Conner Road***

Applicant is proposing to construct a new home and would like a secondary living unit approved on the property. Previously approved minor subdivision lot in the Agriculture Rural Residential Zone located on the west side of Conner Road, south of County Road. Secondary living allowed via a Special Exception Use Permit. Per the Zoning Law, the Town Board has authority to approve secondary living units after a required public hearing.

***Spaulding Green- Goodrich Road***

Applicant is seeking Town Board approval to proceed with dedication of 1,336+/- linear feet of Bent Grass Run and 385+/- linear feet of Ferncrest Drive construction for this phase of the Subdivision. The proposed site is located on the east side of Goodrich Road, north of Roll Road in a residential classification. Previously approved Development Plan for Phase I including public roads to accommodate 10+/- single family lots and initial phases of quad-plex development. The Town Board has final authority to accept roads for public dedication and to approve final plats. The Town Engineer and Highway Superintendent have inspected the developed roads allowing the Town Board to proceed with approving the proposed dedication, subject to Town Attorney review and approval.

**Supervisor Scott Bylewski**

Supervisor Bylewski asked Town Attorney Bengart for a follow up to the resident that has been farming Beaman Creek Park – Town Attorney Bengart is waiting for a call back from Erie County to see if they had a legitimate agreement with this person.

With the resignation of Councilman Weiss, his liaison assignments (Animal Control, Assessor's Office, Environmental Management Council, Insurance and Parks Department) for the interim will be turned over to Councilman Casilio to handle.

Supervisor Bylewski will announce that anyone interested in joining the Erie County Agricultural District must apply during the month of November. This is the 30-day period within which a landowner can request that predominantly viable agricultural land be added to the district.

Supervisor Bylewski has received a request for a snowboarding event at the Main Street town park. The event would be scheduled for the end of November; snow would have to be trucked in. Supervisor Bylewski stated that there is a concern with insurance and liability and he suggested that this event would be more appropriate at Eastern Hills Mall. Councilman Kolber is concerned with the liability aspect as well as damage to the park.

**Councilman Bernard Kolber**

The Senior Center Board of Directors election is scheduled for November 1<sup>st</sup> – 4<sup>th</sup>. The Senior Center also has several interesting events scheduled for November.

Time Warner has come out with a new rate increase which will show up in your monthly bill.

Councilman Kolber will mention several corrections to some items that were mentioned at the Candidates Forum on Monday night.

In today's Wall Street Journal there was an article titled "New Tricks for Old Malls." Trying to stabilize malls is not only unique to Clarence but throughout the Country.

**Councilman Patrick Casilio**

We have many development style street lights on our own poles that were put in and turned over to NYSEG. Many lights are out and the Town is having great difficulty getting them serviced by NYSEG. In the past NYSEG gave us the light bulbs for free and the town would replace them. They no longer give us the bulbs and when a call is placed to NYSEG to service these poles they do not show up for months. This is something we may have to address in letter form to them.

Councilman Casilio attended the Clarence/Newstead Fire Chiefs meeting and there was discussion about a cellular 911 call that was made from the north end of Clarence Center. In general, Councilman Casilio feels the 911 system does not work fast enough for us since this was switched to downtown. The direct line to Amherst Fire Control is 689-1212; they answer the phone immediately for dispatch of fire and ambulance. The fire chiefs are considering a "sticker" campaign for residents similar to what they had before 911 (phone stickers would be mailed to all residents with the phone number for Amherst Fire Control).

**Councilman Peter DiCostanzo**

Clarence Little League President Jamie Dussing is arranging a meeting on November 15<sup>th</sup> between the league and the Harris Hill Homeowners Association relative to the new concession stand and improvements to the field at Sunset Park. Town Attorney Bengart met with a member of Clarence Little League Football regarding financial issues.

The October 5<sup>th</sup> Planning Board meeting regarding Rock Garden Properties on the corner of Goodrich and Main Street did not go very well. The applicant had too many buildings proposed for this property and it did not meet code. The applicant has since proposed a smaller project which will be a good fit for that corner.

The applicants for Northwood's Subdivision (Greiner, Roll Road and Shimerville Road) were present at the Planning Board meeting and received direction on density for their development.

Youth Director Dawn Kinney is requesting Town Board approval to attend a conference.

Upon recommendation of the Audit Committee, Councilman DiCostanzo will make a motion authorizing the Supervisor to enter into and sign a contract with Lumsden & McCormick LLP to provide audit services to the Town.

Councilman DiCostanzo questioned whether a bill for \$20,000+/- for Shadow Woods Subdivision was for the landscaping. Town Engineer Lavocat stated that it was not for landscaping but for wetland mitigation (grass and trees) that Sewer District #2 is responsible for. The remainder of the restoration where there are pine trees etc. is a separate item that we have not paid for yet – Mr. Lavocat is waiting for some minor corrections by the contractor.

Youth Board member Stephen Sharkey will finish out the year, he has family obligations and will not be able to serve on the board any longer.

**Town Engineer Tim Lavocat**

Mr. Lavocat announced that the Miles Road Bridge will be opening soon. There were some residents who were upset with the length of time it has taken to repair the bridge however this was a unique bridge construction project, there was a lot of utility work involved, deep foundations and soils. The guard rail was completed today. Weather permitting; the highway department will pave Miles Road from Stahley Road to Transit Road, these are not ideal paving conditions and this project may have to wait until spring.

Councilman Kolber discussed banning the use of waste water injection wells for the treatment of sewage effluent. Supervisor Bylewski stated that the Master Plan is designed to steer development toward subdivisions with sewers. Councilman Kolber is afraid that with some of the new larger developments the effluent coming out of their sand filters is going down to the aquifers. Town Engineer Lavocat stated that injection wells are widely considered to be the best method for disposal of treated waste water and a properly functioning system will treat the water. Town Attorney Bengart will research this further.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to enter into Executive Session pursuant to §105(1)A matters which will imperil the public safety if disclosed; 105(1)H the proposed sale /lease of real property but only when publicity would substantially affect the value thereof. On the question for various items, Tim Lavocat, James Callahan and Brad Packard were 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 6:40 PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Casilio to adjourn the Executive Session at 7:07 PM. 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, October 26, 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 and Supervisor Bylewski. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Tim Lavocat, Sr. Building Inspector David Metzger, Planner Brad Packard and Planning Board Chairman Al Schultz.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held September 28, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held October 5, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held October 12, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said given the resignation of a councilmember we have vacancies in liaison assignments. He is appointing the following to Councilman Casilio through the end of this year: Animal Control, Assessor's Office, Environmental Management Council, Insurance and Parks Department.

Supervisor Bylewski said it is the time of year for the annual 30-day period during which landowners may submit a request to be included in the agricultural district. He read the notice into the record as requested and will make mention of it throughout the month of November.

#### Public Notice

Per New York State Agriculture and Markets Law Section 303-b, the Erie County Legislature designated November 1 through November 30 as the annual thirty-day period during which landowners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district.

Copies of the application form have been provided to Municipal Clerks, Assessors and Chief Elected Officials for distribution to interested landowners. The application is also available on the DEP website at [www.erie.gov/environment](http://www.erie.gov/environment).

The Erie County Department of Environment and Planning will accept applications from November 1 through November 30. Any questions on this process should be directed to the Erie County Department of Environment and Planning.

A hearing on the submitted applications for inclusion will be held on December 5, 2011 at Clarence Town Hall, One Town Place, Clarence, NY 14031 at 7:00 p.m.

CONTACT: Rachel Chrostowski, Planner, Erie County Environment & Planning  
Phone: (716) 858-8002

Supervisor Bylewski announced that due to the holidays, the Town Board meetings for November and December will be held on the first and third Wednesdays of the month. The next meeting will be held November 2<sup>nd</sup> with the work session that night beginning at 6:30 p.m.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to approve the following transfer of funds for the Parks Department: \$5,000 from A7110.265 Permanent Improvements to A7110.416 Gas and Oil. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said he was given authorization at a previous meeting to sign off on a settlement agreement with respect to the LOSAP program. It is the program for firefighters based upon points earned for service to have a vested right to obtain some benefits. As a result there is documentation that must be signed.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to authorize Pam Smith, Nunc Pro Tunc, to act on behalf of the Sponsor, Town of Clarence, for the Length of Service Awards Program (LOSAP) to sign off on all of the post entitlement paperwork for this one occurrence. On the question, Councilman Kolber asked what that means. Supervisor Bylewski said Nunc Pro Tunc is then as now. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to approve the transfer of funds from the 2011 Law Department Budget as follows: \$700 from A1420.449 Recording Fees to A1420.423 Books and Supplements. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he is liaison to the Senior Center and they have their election of officers coming up.

The Senior Center also has many interesting programs coming up including “Should New York State Call a Constitutional Convention”, Town Engineer Tim Lavocat is going to give a presentation on solar panels, Theodore Roosevelt, etc.

Councilman Kolber said he received correspondence from Time Warner saying they are going to have another rate increase on cable bills. People can make phone calls if they would like. It may not help, but it won't hurt.

Councilman Kolber said two days ago we had a forum and there is a lot of misinformation out there. One comment was that the 2012 budget is going up \$2 million. Actually, the budget appropriations for the general fund are \$11,116,000 for 2011 to \$11,782,000 for 2012. The employees benefit portion is going up by over \$200,000 and a transfer to the Highway Department over \$200,000. So, without those two, the increase is about \$200,000.

Another thing mentioned was that Eastern Hills Mall assessment is down to \$8 million. The information on line shows that the mall is assessed at \$20 million, but the Assessor said it is actually \$22 million without the May Department Store and Sears. The total of all is \$34,400,000.

Councilman Casilio said there are many street lights out around Town. We have been in contact with NYSEG quite often, but they are not going fast enough. We are trying to work through the attorney's office to get them to expedite the repairs.

Councilman Casilio said there was a 911 call made from a cell phone in Town where the people had to spend about 7 minutes to get a dispatcher to get an ambulance on the way. We are investigating the matter to see why it would take that long. The Clarence Newstead Chiefs and Amherst Control discussed this and you can call them direct at 689-1212. This is direct to the Amherst Control dispatch office.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Town of Clarence requests the Erie County Water Authority to install a hydrant to be located near the property located at 9700 County Road for which the Town agrees to pay the annual fire hydrant maintenance fee. The Town will be reimbursed for said annual fees pursuant to the terms and conditions of an Agreement between the Town of Clarence and Loewer Paving, Inc. or such other owner of record of the property located at 9700 County Road, Clarence Center, New York. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor Scott A. Bylewski to sign the Intermunicipal Sanitary Sewer Agreement between the Town of Clarence (Clarence Sewer Districts Nos. 2, 4, 6 & 9) and the Town of Amherst (Amherst Sewer District No. 16) subject to Town Attorney review and approval.

On the question, Supervisor Bylewski said this culminates about 14 years of a dispute with the Town of Amherst that we have hopefully come to a resolution.

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

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to grant permission for Dawn Kinney to attend the Annual Youth Bureau Director's Retreat and State Association Conference in Albany October 26 – 28, 2011 with use of a Town vehicle and conference cost of \$240. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that upon recommendation by the Audit Committee, authorization is given for the Supervisor to enter into and sign a contract with Lumsden & McCormick LLP to provide audit services to the Town for a period not to exceed 5 years beginning with the year 2011 through and including the year 2015 subject to review and approval by the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski thanked the Audit Committee for reviewing the proposals and making the recommendation.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider an amendment to Master Plan 2015 to extend the Traditional Neighborhood District along the Goodrich Road corridor north of Maple Street to the Peanut Line. James Callahan said this is existing residential property in the Clarence Center hamlet area. The Planning Board has forwarded a recommendation that the corridor be changed in that location to Traditional Neighborhood District classification to match the other County roads in the hamlet.

The proposal was brought up at the annual master plan review in February. The Planning Board recommendation identifies the Goodrich Road corridor north of Maple Street and includes consideration of adopting design guidelines and an overlay district to further protect the character of the hamlet. A Negative Declaration was issued by the Town Board on September 14, 2011.

Supervisor Bylewski said as he mentioned at the last meeting, he received a letter by Dr. Clinton Eliason outlining a number of concerns with the potential rezoning. A phone call was received from Don Coppola stating that he was against the rezoning. An email was received from Doug Kohler in support of the rezoning and being able to have housing for aging people.

Speaking to the subject:

Nick Tangelder said the intent of a Traditional Neighborhood District is to encourage the community to get together by walking or biking. He believes the extension of the District is in line with the intent. He supports the rezoning.

Paul Shear said he believes this is a difficult decision to make. He personally does not think it is unreasonable. His only concern is that if the decision is to move forward, he suggests that an overlay district is also created and a committee of local residents put together similar to the Hollow. They would oversee and make recommendations to future buildings to fit in with the character of Clarence Center. The 2006 guidelines for Clarence Center outlines restrictions to the design and construction of new buildings in the TND. It would be appropriate to set this up to give the opportunity to have a say in what happens.

Supervisor Bylewski said we have talked about that for all of the hamlets to have overlay districts put into place along with a community protection board.

James Callahan said the Traditional Neighborhood District was a function of the Master Plan originally and developed specifically for our hamlet areas. A misconception is that it is a commercial zoning classification and it is not. It is a residential classification that allows a traditional type of development. It is the proper move going forward.

Supervisor Bylewski said the intent is to provide incentives to encourage adaptive reuse of existing structures, allow and encourage a mixture of uses and mixed-use structures, accomplish and continue a sense of community, provide a walkable, pedestrian-friendly environment and so on.

James Callahan said it is at a residential village scale. No large structures are allowed in a TND.

Deborah Michnik said she no longer lives in this area of Town, but there are a lot of people who want to move to the one-floor plan and stay in their home community. She thinks it fits in perfectly with the Clarence Center area. She does not see a problem with it. It will keep our seniors here and give them the opportunity to get out and be able to walk around the community.

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

RESOLVED, that the Clarence Town Board, after a public hearing duly held October 26, 2011 and after all interested parties being heard, approves the Master Plan Amendment, as recommended by the Planning Board, to amend the Future Land Use Map to extend the Traditional Neighborhood District north from Maple Street to the Peanut Line along the Goodrich Road Corridor with the following condition:

1. Prior to adoption of any zoning changes reflecting this amendment, that a Zoning Overlay be prepared to cover the Clarence Center Traditional Neighborhood District in total, to require minimum design standards/guidelines along with the formation of a local community character protection board to ensure that future land use actions protect the character of Clarence Center Hamlet.

On the question, Councilman Kolber said this is an extension in to an area that is not already built out, but it takes it to a natural demarcation line to the peanut line. He thinks it is an enhancement to that area.

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

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to authorize the Planning Board to study and recommend a Zoning Overlay District to cover the Clarence Center Traditional Neighborhood District. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider an amendment to the existing Loch Lea Planned Unit Residential Development to allow for 20+/- patio homes at the corner of Harris Hill Road and Roll Road. James Callahan said this property is an existing Planned Unit Residential Development allowing for 45,000 sq. ft. of commercial use. The applicant is requesting an amendment to allow 20 patio homes. A Negative Declaration was issued by the Town Board on September 14, 2011. The Planning Board is recommending the amendment as proposed.

Leann Voit of Greenman Pederson was present representing AVR, Al Randaccio and Bill Tuyn were also present. Ms. Voit said this revision to the PURD fits in with the character of the surrounding area. It is the intent to maintain the berms along the southern and western borders of the parcel. They have met with the Planning Board several times.

Supervisor Bylewski said there have been discussions in the past about condo status. He asked what relevance of that discussion would have with a land use decision.

James Callahan said the type of housing has not come up yet. Past history would tell us that we cannot discriminate against housing type. The addition of 20 homes is a zoning amendment to that PURD.

Speaking to the subject:

Claire Stiegler said she is concerned about the berm. It would be beneficial for both sides. They planted evergreens on top of the berm at quite an expense.

Bill Riordan said they have reviewed the drawings. They still have concerns about the berms, drainage, safety and value of their properties. They have had discussion with the Planning Board and the engineer for the applicant and feel that they have been cooperative. The issue of condo status has been an ongoing for the existing homeowners. He believes that with continued cooperation it can become a nice project.

Councilman Casilio said the striping on Harris Hill was discussed at the work session. They will ask the County Highway Department to review it.

Mr. Riordan said he is the president of the association. He thinks that the double lines should go from Roll Road and continue past the entrance of the development. If the Town cannot do anything, they would like clarification of why not.

Nathaniel Jacobs asked if this is approved, what timetable do they have for completion of the homes.

Supervisor Bylewski said that is a question for the developer. He also asked what the next step in the process would be if approved.

James Callahan said a PURD is site plan specific. Once the PURD is amended to allow the patio homes, the detailed development plans would be submitted and approved by the Planning Board. He believes it would be an approval of the Planning Board.

Joan Johnson said they have concerns about the condo status if the new homes have it and they do not. She would like to know if they are tapping in to the existing sewer system. She thinks there should be more concern for their feelings on the project. She would like to know if the homes are going to be like the existing or different.

Councilman Kolber said the only action that can be taken at this time is if they believe it is appropriate for the site versus the commercial space. The land use laws changed and the Planning Board will make the decision based on what is proper.

Councilman Casilio said they will be able to attend the Planning Board meetings and comment. The condo status is out of our control and handled by the State.

Leann Voit said the utility connections will be made from the main roads and not going through the existing yards. In terms of the timetable, it depends on how long it takes to go through the process. The goal is to begin construction next year. There is nothing definitive on the style of the homes, but it is understood that the homes will be of similar size and style. The plan is to keep the berms intact. It will all depend on the drainage and the analysis of the site and there may be some tweaks required. They also want to keep the berms.

Councilman Kolber said he has heard that there are serious drainage issues in the existing development. He does not want to see them complicated any further.

Ms. Voit said they will know more when they get into the site engineering. The new stormwater requirements require them to do more extensive design.

Councilman Kolber asked if a condition could be added that the berms must be retained.

Town Attorney Bengart said he does not believe you can do that as part of the rezoning issue. You would be better off waiting for it to get to the next level and the Planning Board deals with the entire development.

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

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

RESOLVED, that the Clarence Town Board, after a public hearing duly held October 26, 2011 and after all interested parties being heard, and upon the recommendation of the Planning Board, grants the request of the applicant and approves the amendment to the site plan on the existing Loch Lea Planned Unit Residential Development to allow for 20+/- patio homes as opposed to the 45,000 square feet of commercial space at the corner of Harris Hill Road and Roll Road.

On the question, Councilman Kolber said we want to strongly make everyone aware that we want to have the berms maintained behind the existing residential properties.

Supervisor Bylewski said a Negative Declaration under SEQRA was previously issued by the Town Board on September 14, 2011.

James Callahan said upon submittal of the development plan by the applicant the Planning Board will schedule a public meeting and the Planning and Zoning Office will notify everyone who has been notified to date.

Councilman Casilio said he believes this will be better than the commercial aspect in maintaining or increasing the values of the existing homes.

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

Richard Dorr/Niagara County Produce requests Preliminary Concept Review of a Special Exception Use Permit for construction of a new facility at 8555 – 8615 Transit Road. James Callahan said this property is located at the northeast corner of Transit Road and Tonawanda Creek Road consisting of an existing commercial use in the Major Arterial Zone. The applicant is proposing a redevelopment of the property.

Michael Metzger, engineer was present along with Richard Dorr, Jody Chesko and Brandon Houck of Niagara Produce. Mr. Metzger said Niagara Produce has been here since 1949 and evolved to what it is today. This project entails demolition of all of the buildings on the site and replaced by a single building just under 87,000 sq. ft. for retail, greenhouse and storage. The site itself is approximately 13 acres. They are currently working with the Corp of Engineers and the DEC regarding about 5 acres of wetlands.

Mr. Metzger said there are many reasons for this project. One of them is safety due to the closeness to the Transit Road intersection. They would relocate and consolidate access to one location on Transit and one to Tonawanda Creek Road. They have had some conversation with the DOT.

Supervisor Bylewski said we have communicated concerns to Erie County regarding Tonawanda Creek Road and they have forwarded them on to the DOT regarding a signal. To date they have not made a decision on that.

Mr. Metzger said another reason is the drainage issue on the site and the improvements needed. Another issue is the conditions of some of the buildings and the amount of work that would be required.

Mr. Metzger said the plan is within all of the requirements of the zoning classifications.

Supervisor Bylewski said it is great to see a commercial development come forward. It is a well-liked business in the Town.

Councilman Kolber said this is a tremendous success story and good to see it moving forward. He was not clear on the wetland impact.

Mr. Metzger said the southerly portion of the existing area is what would be impacted.

Motion by Councilman Kolber, seconded by Councilman Casilio to refer the request for Preliminary Concept Review of a Special Exception Use Permit for construction of a new facility at 8555 – 8615 Transit Road to the Planning Board for further review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Dino & Debora Sciascia requests a Public Hearing to consider a Special Exception Use Permit for a secondary living unit at 6700 Conner Road. James Callahan said the location is the west side of Conner Road, south of County Road consisting of a previously approved lot split in the Agricultural Rural Residential Zone.

Dino and Debora Sciascia said they are in the process of purchasing this property and would like to have an in-law apartment included. It will look a single-family home and not separate at all. They are aware of some of the restrictions. Mrs. Sciascia said she would like to know if there has to be an entrance from the main portion of the house into the in-law apartment area. They are working with an architect and will need to know.

Supervisor Bylewski said that could be answered by the Building Department.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for November 16, 2011 at 7:45 p.m. to consider the request for a Special Exception Use Permit for a secondary living unit at 6700 Conner Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Spaulding Greens Open Space Design Subdivision requests Final Plat Approval for Phase I. James Callahan said the location is the east side of Goodrich Road north of Roll Road consisting of a previously approved phase of Spaulding Greens. The applicant is seeking final plat approval and road dedication. Phase I consists of 10 single family lots and five quad-plexes.

Domenic Piestrak and Susan Greene were present.

Town Engineer approvals are all in order.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant for Final Plat Approval for the Spaulding Greens Open Space Design Subdivision – Phase I and the dedication of public roads subject to Town Attorney review and approval and the following conditions:

1. Dedication of approximately 1,336 +/- linear feet of Bent Grass Run and approximately 385 +/- linear feet of Ferncrest Drive.
2. Acceptance of three (3) new fire hydrants.
3. The Town of Clarence agrees to pay the annual fire hydrant maintenance fee to the Erie County Water Authority for three (3) fire hydrants within Spaulding Greens Open Space Design Subdivision – Phase I.
4. A conservation easement and/or deed restriction for protection of permanent open space, subject to review and approval by the Town Attorney's office.

5. No building permits will be issued until all the appropriate documents necessary to convey said roads to the Town of Clarence are submitted to, reviewed and approved by the Town Attorney.
6. Building permits will not be issued until proof of filing of the approved road deeds, easements and conservation easement and/or deed restriction are submitted to the Town Attorney.
7. Final Plan Approval must comply with all regulatory agency and local department conditions.
8. Appropriate fees paid by applicant.
9. Conditions of Town Engineer.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the following: Clubhouse Application - A. Clarence JV Field Hockey Nov. 3, 2011; Nature Center Lodge Application - Venture Crew 93, Boy Scouts – Nov. 19, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of October 27, 2011 are approved for payment: General Fund - \$104,269.73; Highway Fund - \$97,224.50; Water District - \$707.70; Drainage District - \$66,025.25; Sewer Districts - \$20,375.12; Capital Fund - \$179,192.17; and Trust and Agency 203 - \$12,600.00 for a total amount of \$480,394.47. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Kathy DeRose said she would like to remind the Board members about their requests for proposals and the criteria set forth for the properties for purchase and resale of agricultural land as part of the greenspace program. The goals for this protected parcel included keeping the agricultural land actively farmed, supporting sustainable and viable operations, creating opportunities for startup farmers to start and grow their agricultural businesses, promoting diversity of farming and farmers in the community, ensure that these properties stay available and affordable for all farmers and protect scenic view sheds for the public benefit. She thinks the secrecy, the delays and the challenges that have been put forth have been unnecessary. She also believes that when a decision is reached that everyone is notified in a timely manner.

Flora Leamer said there are many events planned in our community over the holidays. There will be “Light Up The Center” on December 3<sup>rd</sup> at the four corners of Clarence Center. The Hollow Holiday Party will be on December 1<sup>st</sup> at the Town Park Clubhouse.

John Thur said he is here on behalf of the larger group that was here earlier but some of them had to go home and go to bed. They wanted to thank the Board for consideration of the ice rink proposal at Eastern Hills Mall. There were parents and players from the Mustangs, some high school hockey players and some high school girls who do not have ice and they help them out. They appreciate the time put in.

John Patterson said he is in support of the ice rink. He believes it will not only be good for Clarence, but the community around Buffalo because of the bad conditions of the existing rinks in the area.

Sherry Frost said she is in favor of the rink and thanks the Town for considering the proposal. She does not have children who play hockey, but she speaks for many friends and believes it would be a great project for Clarence.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:45 p.m.

Nancy C. Metzger  
Town Clerk