

A Work Session of the Clarence Town Board was held on April 9, 2008 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 5:30 P.M. Members of the Town Board present were Council members Joseph Weiss, Bernard Kolber, Patrick Casilio and Peter DiCostanzo. Other town officials present were Director of Community Development James Callahan, Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Director of Administration and Finance Pam Smith, Planning Board Chairman Gerald Drinkard, Planning Board member Albert Schultz and Recycle Committee member Chuck Eckert.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss matters leading to the appointment of a corporation. Upon roll call - Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 6:04 P.M. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

The Work Session reconvened at 6:06 P.M.

Director of Community Development James Callahan

Public Hearings:

Frey's Old Time Furniture 9992 Main Street

Applicant is proposing a large addition to the existing retail furniture use. The proposed site is located on the north side of Main Street, east of Kraus Road in a Commercial Zone. The proposed addition will exceed 30,000 square feet; approval will require a Special Exception Use Permit. Per the Zoning Law, the Town Board has authority to approve Special Exception Use Permits after a required Public Hearing.

Formal agenda items:

Eric Ogren 6051 Transit Road

Applicant is proposing a Change in Use from vacant to salon. The proposed site is located on the east side of Transit Road, north of Clarence Center Road in an existing vacant structure (former Beauty Pools) in the Major Arterial Zone. Per the Zoning Law, the Town Board has authority to approve uses in the Major Arterial Zone as to functional plan and architectural style. Front parking in front of the store is being proposed and has been reviewed and recommended by the Planning Board with conditions of Engineering approval and Landscape review and approval. No changes are proposed to the architectural style of the building.

William Henderson 10055 Main Street

Applicant is proposing to develop a 4-unit apartment building on the property. The proposed site is located on the south side of Main Street, west of Rockland Avenue (entrance to Rock Oak Estates) in existing collision shop/automotive repair facility located on 1.5+/- acres in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve multiple family dwellings via a Special Exception Use Permit. Areas of concern include on-site sanitary facilities and access from private drive. (***Applicant asked to be removed from the agenda and rescheduled for the April 23rd Town Board meeting***).

Stanley Gembala 8785 Wolcott Road

Applicant is proposing to split one new residential lot from the parent parcel. The proposed site is located on the south side of Wolcott Road, east of Kenfield Road. The existing vacant land consists of 27.9+/- acres in the Agricultural Zone. Per the Subdivision Law, the Town Board has authority to approve lot splits. The proposed lot is in conformance with all zoning regulations. A Negative Declaration under SEQRA should be issued prior to approval.

Noel Dill 9015 Main Street

Noel Dill is requesting a Special Event Permit for a charitable event to be held July 18, 2008 in the barn at 9015 Main Street. This is the fourth year hosting the fundraiser and all money collected will support Meals on Wheels.

Robert Snyder

Mr. Snyder would like to address the Town Board regarding Time Warner Cable discount for Clarence Senior Citizens. Councilman Kolber stated that Time Warner Cable is honoring their contract by applying a 10% discount on the initial installation on Limited Basic and on Basic Plus service for residents 65 years of age or older.

Work Session items for consideration April 23, 2008

Dennis Garafalo 9181 Clarence Center Road

Applicant is proposing to split the property to create one additional residential building lot in the TND. The proposed site is located on the south side of Clarence Center Road, west of Thompson Road. The existing single-family residential use is located on .88 acres and 200+ feet of road frontage. Per the Subdivision Law, the Town Board has authority to approve lot splits. The property is located within Clarence Sewer District #2. Public sewer is available and the lot size in the TND is acceptable.

Ken Seitz 10090 County Road

Applicant is seeking approval to construct a second storage building on the property. The proposed site is located on the north side of County Road, west of Strickler Road at existing landscape operation located on 2.48+/- acres in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has authority to approve uses in the Industrial Business Park Zone as to architectural style and functional plan. The proposed plan meets all zoning requirements.

DASH'S Market 8845 Main Street

Applicant is seeking approval to relocate the drive-thru facility as previously approved. The proposed site is located on the south side of Main Street between Cameron and Roxbury Drive in the Harris Hill TND. Per the Zoning Law, the Town Board has authority to approve a drive-thru via a Special Exception Use Permit. A required public hearing was held on March 12, 2008. The matter was referred to the Planning Board for review and comment. The Planning Board has reviewed the proposal and has forwarded a recommendation with conditions. As no significant change to the drive-thru design has developed since the public hearing, there is no need for an additional public hearing.

Benchmark/Shops at Main and Transit 4401 Transit Road

Applicant is proposing to develop a drive-thru facility for a credit union within the previously approved outparcel. The proposed site is located on the northeast corner of Transit Road and Main Street in existing shopping plaza located in the Major Arterial Zone. Per the Zoning Law, the Town Board has authority to approve drive-thru facilities via a Special Exception Use Permit in the Major Arterial Zone. No change to architectural style is proposed. Adequate stacking and setbacks are incorporated within the proposed design.

Benchmark/Shops at Main and Transit 4401 Transit Road

Applicant is seeking final architectural approval for the previously approved outparcel within the plaza. The proposed site is located in the northeast corner of Transit Road and Main Street in existing shopping plaza located in the Major Arterial Zone. Per the Zoning Law, the Town Board has final authority to approve the architectural style within the Major Arterial Zone. Development Plan approval was granted on plaza redevelopment in 2004.

John Hayne/Sun Enterprises 6855 Transit Road

Applicant is seeking approval to display and sell storage sheds and gazebos on the vacant parcel. The proposed site is located on the east side of Transit Road, south of Stahley Road intersection adjacent to St. Mary's School. The existing vacant parcel consists of approximately 2 acres in the Traditional Neighborhood District. Per the Zoning Law, the Town Board may authorize temporary

structures or Temporary Conditional Permits for term limit activities of this nature. Duration of permit and size of display area should be determined.

Charles Incorvia 8485 Transit Road

Applicant requests a Public Hearing to consider a Temporary Conditional Permit for outside dining. The proposed site is located on 4+/- acres on the east side of Transit Road, south of Tonawanda Creek Road intersection in the Major Arterial Zone.

Norm Castine Lapp and Goodrich Road

Norm Castine is proposing a minor subdivision on Lapp near Goodrich Road. Currently it is one property that he is looking to split in two.

Nathan Raupp 8575 Roll Road

Applicant is proposing to relocate an existing automotive repair operation to vacant structure on Roll Road. The proposed site is located on the south side of Roll Road, east of Harris Hill Road on 4.47+/- acres in the Industrial Business Park Zone. Per the Zoning Law, the Town Board has authority to approve automotive repair operations via a Special Exception Use Permit. A public hearing will be required to consider a Special Exception Use Permit.

Director of Community Development James Callahan stated that he requested proposals for the Parks Mini-Master Plan. He received one proposal from Wendel-Duchscherer. They will look at five parks and then the inventory, needs assessment, public notification and development of the action plans for the parks at a cost of \$43,050. The money has been budgeted. These are the parks that we need to prioritize immediately and plan for future development of these parks such as water lines at Memorial Park and fields for football. The sports coalition will be interviewed along with town staff and departments. A public meeting will be held and then an action plan will be developed. The Town Board will review the proposal and will take action at the next Town Board meeting.

Clayt Ertel 10687 Main Street

Applicant is seeking to acquire town owned lands to straighten out property lines. Town Attorney Bengart stated that because this parcel is designated park land, we need approval from the state legislature. Clayt Ertel met with the attorney at Senator Mary Lou Rath office and he informed Mr. Ertel of the paperwork required. Mr. Ertel needs a copy of the Resolution indicating the Town has agreed to sell this parcel and a letter indicating that the \$1,000 remuneration that the town is receiving will be put into parkland.

Supervisor Scott Bylewski

Supervisor Bylewski asked that those Board members wishing to attend the Bicentennial Ball contact him by Friday so reservations can be made.

Supervisor Bylewski announced that the Court grant monies were used to install a window in the justice court office, a shredder and safe have been purchased, security cameras have been strategically placed as well as silent alarms.

Supervisor Bylewski has been meeting with various committee chairmen pursuant to the letter he sent out to find out their goals for the year and to provide direction for the year.

Building Inspector David Burk submitted a quarterly residence report; he is in the process of moving into town.

Supervisor Bylewski received information from Wendel-Duchscherer regarding a Transportation Enhancement Program grant for a bike path grant from Tillman Road adjacent to Strickler Road to Beeman Creek Park. The grant request will encompass initially some detailed requests from Memorial Park to the Main Town Park. This is an opportunity to get the north-south connection. Town Engineer Latona stated that this path will be much more complicated than the rails to trails because there are drainage ditches, driveways, mailboxes etc. to deal with.

Supervisor Bylewski will mention the motions passed at the April 2nd 2008 Work Session:

- Grant approval to the Bicentennial Committee to place a temporary sign in front of Town Hall advertising the Bicentennial Ball.
- Approval for the Bicentennial/Heritage Days Committee to hold a Heritage Day parade along Main Street on July 27th, 2008.
- Pursuant to Article 8 of the Environmental Conservation Law, the Town seeks Lead Agency Status and commences a coordinated review of the proposed acquisition, lease or other inter-municipal agreement regarding Beeman Creek Park.
- Set a bid date of Tuesday, April 22, 2008 for the purchase of (2) 4-door, 4-wheel drive SUV.

There was Bee Heard in the Clarence Bee today that is incorrect. The caller indicated that the Town Attorney gave advice that was disregarded by the Town Board. This is incorrect.

Supervisor Bylewski stated that he has received information and payment from Erie County Comptroller Mark Poloncarz regarding sales tax revenue.

The Board of Elections will be holding their annual Campaign Finance Seminar on Tuesday, May 13, 2008 at the Buffalo/Erie County Public Library.

Supervisor Bylewski received a letter from the Office of the State Comptroller regarding employees and independent contractors. For every employee that is an attorney, architect, engineer, accountant or auditor, there is a new form that they must fill out.

Supervisor Bylewski received a UB Regional Institute policy brief. There are several interesting facts listed and if anyone is interested, a copy is in the Supervisor's office.

Supervisor Bylewski reminded Town Board members to be sure all their committee assignments have submitted their annual Ethic's Disclosure forms. A reminder mailing was sent out on March 12th. There are still 5 appointees that have not submitted their disclosure forms.

Supervisor Bylewski introduced Andrea Kimbriel, the new Clarence Bee editor.

Supervisor Bylewski has not heard back yet from Marta Carney regarding her request for an "Author's and Artist" Community Street Fair.

Town Clerk Nancy Metzger is requesting Town Board approval to transfer funds in the General Fund to cover costs for the recent project to shred 151 boxes of records.

Deborah Naylor is requesting Town Board approval for a Block Party in Martha's Vineyard on June 14, 2008.

Court Clerk Mary Zimmerman has fulfilled her probationary requirements. Judge Waible is recommending that she receive an increase in salary to the 2008 budgeted rate of pay.

Town Justice William Waible has submitted his letter of resignation effective May 31, 2008.

Supervisor Bylewski stated that the Town Justice position is a Town Board appointment, he suggested a 30 day application period to fill the vacancy.

The Conservation Advisory Board should be submitting an annual report; Supervisor Bylewski spoke to Steve Murtaugh about this.

Supervisor Bylewski received information from Erie County SD#5 regarding the sewer merger. Town Engineer Latona and Director of Administration and

Finance Pam Smith have some concerns about some of the numbers being used. Town Engineer Latona stated that there are some areas that are not completed and other areas that are not accurate. Mr. Latona and Ms. Smith will sit down with Erie County and discuss these issues. Supervisor Bylewski stated that there is a morning Work Session scheduled for May 7th, if anyone has any questions or concerns regarding the sewer merger forward them to Town Attorney Bengart or Town Engineer Latona so that the information can be coordinated and forwarded to EC SD #5.

Given our new conference room was the former tax receivers office and the last elected tax receiver had a long term serving the town as the bookkeeper, Tax Receiver and the Supervisor, it was decided In honor of the service she has provided to the Town to name the room the Kathy Hallock Conference Room. The Town Board was in agreement with this.

A resident stopped by the Supervisor's office to discuss the deteriorating condition of the house on Railroad near High Street. Director of Community Development James Callahan will follow-up on this complaint.

Councilman Joseph Weiss

Chuck Eckert provided a report on Day in the Park. The report indicated the expenses for the day along with what several organizations netted for the day. Mr. Eckert also provided an itemized list of savings initiated on his behalf through his connections. Councilman Casilio asked that the report be submitted in a different format on one page. He also would like to see the revenue generated for the non-for-profits. Mr. Eckert does not get paid to manage Day in the Park; he only gets paid if there is any money left over. Mr. Eckert negotiates for things that are sold internally. The town donates between \$6,500 and \$10,000 for fireworks.

Councilman DiCostanzo stated that he has been involved with Day in the Park for the last 10 – 15 years and Mr. Eckert has been able to obtain major donations beyond what anyone else has ever been able to do.

Councilman Kolber stated that his main concern is that everything is being run "above board" and everything is accounted for.

Councilman Weiss suggested Councilman DiCostanzo and Chuck Eckert come up with a spread sheet.

Councilman Weiss received a letter from Disaster Coordinator David Baumler regarding Reverse 911. The contract does not expire until 2009.

Councilman Weiss has a resolution awarding the design of the Clubhouse sprinkler system and the historical building sprinkler system to M.E. Engineering, PC. The design fee for the clubhouse will be for construction documents and bidding per their proposal dated February 4, 2007, Revision No. 1 not to exceed \$9500. The design fee for the Historical building will be for construction documents and bidding as per their proposal dated February 14, 2008 not to exceed \$6,700.

Last fall Councilman Weiss was contacted by a concerned resident about work being done by Carmen Cimato in a wet land area off Kraus Road. Councilman Weiss and Town Engineer Joseph Latona visited the site. Mr. Cimato was installing drain tile in the wet lands. A letter was sent to the Army Corps of Engineer and Mr. Cimato was instructed to fill in the drainage area he created by January 30th. Councilman Weiss revisited the area recently and Mr. Cimato has continued to drain the wet lands. Councilman Weiss suggested Town Attorney Bengart send a letter to the Army Corps of Engineers explaining that the situation has not changed.

Dennis Londos has reported that 109 deer have been taken through the deer abatement program.

In 2006, Jason Capozzi approached the Town Board about a skate park. Councilman Weiss and Recreation Director Dawn Kinney researched other skate

parks and compiled information to put a skate park together. A public meeting was held and approximately 5 young people from the Skate Park Committee and 5 people from the Arboretum Committee spoke. At the end of the meeting Councilman Weiss gave the information he compiled on skate parks to the Skate Park Committee and told the group to come up with a design for the park. Once the design was submitted, it would go to the Town Engineering Department for review. In the mean time; Councilman Weiss had secured \$25,000 for the skate park. After several months, Councilman Weiss contacted Mr. Capozzi however; he never received a response or a design plan. At budget time, Councilman Weiss still had not received a response from Mr. Capozzi so he felt that the need or the desire was no longer there and a letter was sent to Mr. Capozzi indicating the money was no longer available. Mrs. Capozzi has recently contacted Councilman Weiss asking the status of the skate park and where the money went.

Councilman Bernard Kolber

Councilman Kolber has been contacted by Friends of the Library regarding a changeable sign for the library. They are not sure of the design or location yet. Councilman Kolber will suggest the committee submit a design and possible location for the proposed sign.

The library is in need of a storage area for all the donated books they receive for their annual used book sale. Councilman Kolber suggested storing the books at their own risk at the town owned building on Thompson Road. Currently the library is renting a storage facility at a cost of \$100+ per month. Councilman Kolber will meet with Town Attorney Bengart to discuss this further.

Councilman Patrick Casilio

Councilman Casilio has 4 items to discuss in Executive Session.

Councilman Casilio will make a motion to authorize NYSEG to activate seven street lights in the Spaulding Lake Subdivision Part IV, Phase III.

With the better weather approaching, Councilman Casilio has been working with the Parks Department to schedule the installation of street lights in the Harris Hill area.

Councilman Casilio along with the Highway Department and the Engineering Department has been working on a drainage issue in Loch Lea subdivision. Part of the problem was a receiver in the street that was clogged.

Councilman Casilio received a complaint regarding fees being charged to non-for-profit groups for use of the Clubhouse. The applicant was under the impression that non-for-profit groups got to use the Clubhouse free of charge. There is a \$50 user for any service organization using the Clubhouse except for regularly scheduled monthly meetings.

Councilman Casilio contacted NYSEG regarding the upgrade to the street lights. Mercury Vapor lights are not being supported any longer, as they burn out our lights are being upgraded. NYSEG is proposing to upgrade a large portion of mercury lights at no labor charge to the town however; our town contract which is approximately \$220,000 per year could possibly change by upgrading the lights. NYSEG is recommending high pressure sodium lights, they give off lower light levels but cost more money to run. Most of the town has high pressure sodium lights. This impact will not happen all at once, NYSEG will change lights as they go through the summer and fall months. As of January 1st we can budget for the increased dollar amount.

Councilman Peter DiCostanzo

The Historical Society is in the beginning stages of constructing a Conestoga wagon inside the museum.

The Historical Museum has land available to the south-east of the building if they were ever in the position to expand or acquired a barn, it would be located there. They had concerns as to the location of the sewers. Town Engineer Latona

stated that the sewers would come out the back of the building around to the front.

Clinton Brown and Associates presented a draft report of all the potentially significant historic properties in town. The Historic Preservation Committee has just begun going through the draft.

Councilman DiCostanzo will make a motion approving the request by two members of the Historic Preservation Committee to attend the "Maintaining Hometown Character in the 21st Century" seminar on April 26th in Canandaigua, NY.

Councilman DiCostanzo commended Gerald Drinkard and Al Schultz for the work they do on the Planning Board. Their presentation scheduled for April 30th is very impressive.

On Monday, April 21, Town Assessor Christine Fusco is holding an informational class on the assessment process and how to challenge your assessment. Seating is limited and registration is required.

Erie County Comptroller Mark Poloncarz put out a press release indicating how much money tax payers would save if the county took over assessments. Councilman DiCostanzo, Town Assessor Christine Fusco and Supervisor Bylewski will be attending a meeting where this will be discussed further.

Director of Administration and Finance Pam Smith was able to summarize all the over time reports by month and by department.

Councilman DiCostanzo has several items to discuss in Executive Session regarding pending litigation relative to A.J. Baynes and potential land acquisition.

Town Attorney Steven Bengart

Town Attorney Bengart has one item to discuss in Executive Session regarding pending litigation as it relates to the recent Cimato law suit and two items to discuss under Attorney-Client.

Town Assessor Christine Fusco was involved in an automobile accident with the town vehicle. Town Attorney Bengart received an estimate totaling \$7800. in damages.

There being no further business, the Work Session adjourned at 7:30 P.M.

Darcy A. Snyder
Deputy Town Clerk

The Regular meeting of the Town Board of the Town of Clarence was held Wednesday, April 9, 2008 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:38 P.M. Pledge to the flag was led by Councilman Bernard Kolber, followed by a prayer given by Roy Wisnoski of St. Augustine's Catholic Church.

Members of the Town Board present were Councilmembers Joseph Weiss, Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Supervisor Bylewski. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Planner Brad Packard and Planning Board Chairman Gerald Drinkard.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held March 26, 2008 as received. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held April 2, 2008 as received. On the question, Councilmembers Kolber and Weiss said they will recuse as they were not present at that meeting. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio and Supervisor Bylewski; Noes: None. Recuse: Councilmembers Kolber and Weiss. Motion carried.

Supervisor Bylewski announced that item 13, the request by William Henderson is removed from the agenda at the applicant's request.

Supervisor Bylewski said he read a comment made in the Bee Heard today stating that, "the town attorney advised the Town Board that it would lose any lawsuit brought by the applicant..." That is incorrect and he wanted the record to be clear.

Supervisor Bylewski said it has been the practice of the Town Board to announce motions that were made at a morning work session. These work sessions are open to the public, but due to the time of day some may not be able to attend. The following motions were made at the April 2, 2008 work session:

- Approved a temporary Bicentennial Ball sign to be located at the town hall.
- Approved a change in the Heritage Days Parade route to be from the high school to the Main Street Town Park.
- Set a Bid Date for two 4-door, 4-wheel drive sport utility vehicles.
- Seek a coordinated review regarding the potential acquisition, lease or other inter-municipal agreement regarding the acquisition of Beeman Creek Park.

Supervisor Bylewski announced that the Town received the sales tax checks for January, February and March of 2008 in the amount of \$1,415,021.31. It is based on 4.75% sales and compensating use tax. We also received \$460,956.67 from the 1% sales and compensating use tax revenue sharing with local governments.

Supervisor Bylewski announced that the Erie County Board of Elections is holding their annual Campaign Finance Seminar on Tuesday, May 13, 2008 from 9:30 am to 12:30 pm at the Erie County Public Library Auditorium. If you need further information, call 858-7786.

Supervisor Bylewski said as everyone knows Kim Karcher is leaving her job at the Clarence Bee. He introduced and welcomed Andrea Kimbriel who will be taking her place.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant a Block Party to be held June 14, 2008 in Martha's Vineyard between 5622 Martha's Vineyard and Meriul Lane. On the question, Supervisor Bylewski said all appropriate authorities will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve the following transfers of funds in the Town Clerk's accounts: \$246 from A1410.220 – Office Equipment and \$200 from A1410.479 – Other Unclassified for a total of \$446 to A1410.404 – Records Management. On the question, Supervisor Bylewski said the purpose is for a project to

shred approximately 151 boxes of records no longer required according to the New York State Archives Records Retention and Disposition Schedule. He also thanked the Town Clerk for doing a great job with records management. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber that upon recommendation of Town Justice William Waible, Court Clerk Mary Zimmerman has fulfilled her probationary requirements and her status is full time permanent, effective April 19, 2008 at the 2008 budgeted rate of pay. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said we received a letter of resignation from Justice William Waible effective May 31, 2008. In his letter, Mr. Waible said he has enjoyed serving the people of the Town of Clarence and is certain that he will miss it, but it is time to spend more time with his grandchildren.

Supervisor Bylewski said the Town will accept applications for 30 days for the position of Town Justice to fill the vacancy. An election will be held in November for the position for a 4-year term.

Motion by Councilman Weiss, seconded by Councilman Kolber to authorize the Supervisor to sign an Agreement between the Town of Clarence and the FWS Custom Cabinetry & Millwork, LLC for finish carpentry and millwork for the Town Park Clubhouse subject to Town Attorney review and approval. On the question, Councilman DiCostanzo said this seems quite broad without any detail. Supervisor Bylewski said we already approved the bid. This is authorizing signing of the agreement. Councilman Weiss said he believes the bid was about \$18,000. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to award the design of the Town Park Clubhouse sprinkler system to M/E Engineering, P. C. The design fee will be for construction documents and bidding per their proposal dated February 4, 2007, Revision No. 1 not to exceed \$9,500. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to award the design of the Historical Building sprinkler system to M/E Engineering, P. C. The design fee will be for construction documents and bidding per their proposal dated February 14, 2008 not to exceed \$6,700. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said he would like to thank Dennis Londos and all of the people who volunteered for the deer abatement program. There were 109 deer taken from various properties resulting in a reduction of deer/car accidents and the predation on landscaping. The meat was processed at the Buck and Doe Shop and taken to the food bank. Everyone did a great job.

Councilman Weiss announced that there will be Recycling Day for computers and electronics on Saturday, April 26, 2008 from 9:00 am to 1:00 pm at Central Park Plaza. It is being sponsored by Erie County and the City of Buffalo. They will accept computers, monitors, printers, keyboards, televisions, VCRs, cell phones, etc. For more information, you can call 858-6996 or recycle@erie.gov.

Councilman Weiss said he read in the Amherst Bee today an article regarding Sweet Home Schools talking about tax hikes unlikely in their new budget. He added that there are 40 school districts in Erie County. The schools say that some of their expenses are paid by the State, which still is coming from the taxpayers. He asked that people become more involved in the school budget votes. There are people trying to figure out if they are going to pay for prescriptions, rent or food these days. The highest costs in the towns are the school district taxes. He believes they should be doing some form of consolidation.

Motion by Councilman Kolber, seconded by Councilman Casilio that the funds from the sale of the premise located at 10687 Main Street shall be used exclusively for parkland. On the question, Councilman Kolber said at the last meeting there was a public hearing to discuss selling a portion of the old railroad right-of-way to go with the house on this particular property. It must be approved by the State Legislature and the law states that any funds received would have to be put toward parkland. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio reported that now that the weather is a little better, the Parks Department is scheduling installation of the storm-damaged street lights in the Harris Hill Gardens area.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for May 14, 2008 at 7:45 p.m. to consider the renewal of the Hydrant Rental agreement between the Town of Clarence and the Town of Lancaster and the Consolidated Water District of the Town of Lancaster on behalf of the Harris Hill Fire Protection District for a term of five (5) years. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate seven (7) street lights in the Spaulding Lake Subdivision Part 4 Phase 3, on Cobblestone and Rockledge, per the street light layout approved on March 5, 2004, as per the NYSEG proposal and as per “as-builts” submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures, and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG’s street lighting agreement with the Town of Clarence. On the question, Councilman Casilio said he thinks we need to make sure that we have the proper specs for the street lights. They are donated to the Town and then we have to maintain them. We want street lights that we do not have to touch for years. This is just something that we should be aware of. He believes these are the upgraded lights for this neighborhood. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate three (3) street lights in the Spaulding Lake Subdivision, Part 4 Phase 5 on Stonecliff Court, per the street light layout approved on September 14, 2005, as per the NYSEG proposal and as per “as-builts” submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG’s street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate two (2) street lights in the Stone Creek Subdivision Phase 4 Part 2, (between 8811 and 8805 Stonebriar Drive and between 8818 and 8824 Stonebriar Drive) per the street light layout approved on February 10, 2003, as per the NYSEG proposal and as per “as-builts” submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG’s street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate nine (9) street lights in Strickler Estates Phase I, II on Shamus Lane per the approved street light layout dated October 2005, as per the NYSEG proposal and as per “as-builts” submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG’s street lighting agreement with the Town of Clarence. Activation is subject to receipt of proof of filing of the Road deed for Shamus Lane to the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, a resolution was adopted by the Clarence Town Board on September 26, 2001 wherein the Town agreed with NYSEG proposal to change the street lights of the Town of Clarence from Mercury Vapor Lights converting to the more energy efficient high pressure sodium or metal halide lights at a rate of 5 % per year; and

WHEREAS, the resolution provided that replacements be done only when the mercury vapor bulbs/lights failed; and

WHEREAS, the Town has been selected by NYSEG to participate in an environmentally friendly lighting initiative to replace all of its mercury vapor lights with the more efficient high pressure sodium or metal halide lights instead of waiting for the mercury vapor light to fail; and

WHEREAS, replacing the all the lights will provide significant environmental benefits and improve the Town's overall lighting level; and

WHEREAS, the proposal provides that NYSEG will not charge for replacing the head and lamp, even though the lamp has not failed; and

WHEREAS, the only price changes to the Town of Clarence will be any monthly billing charges that are different from the mercury vapor light changes.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board would like to participate in NYSEG's Environmentally Friendly Lighting Initiative to replace of it Mercury Vapor Lights with the more energy efficient high pressure sodium or metal halide lights; and be it further

RESOLVED, the Clarence Town Board agrees that the Town will pay for any changes in billing rates as a result of this replacement program and authorizes the Supervisor to sign the agreement.

On the question, Councilman Casilio said mercury lights will not be supported any more because of the effects on the environment when they are disposed of. Our concern was that this was not budgeted. After discussion with NYSEG, it will take months to replace all of the lights. It will not have a significant impact on the budget this year. The lights will all be the same color when the project is finished.

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

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to grant approval for two members of the Historical Preservation Commission to attend the "Maintaining Hometown Character in the 21st Century" in Canandaigua on April 26th for a total cost of \$80. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo announced that the Assessor will hold an informational class on how your house is assessed and how to challenge your assessment on April 21st at 6:00 pm. Registration is required by calling the Assessor's office at 741-8941.

Councilman DiCostanzo said there were several requests submitted for changes to the Master Plan. The Planning Board has been asked to review these requests. He wanted to praise the members who have been out looking at properties, taking pictures and doing a thorough review. A joint meeting of the Town Board and Planning Board will be held on April 30th to review their presentation.

Councilman DiCostanzo said his 10 year old son broke his arm in two places last week. He wanted to acknowledge all of the people who were there to help including Harris Hill Firemen, EMT's, the principal, the coaches, etc. You hear a lot of bad things, but this is still a great place to live.

Councilman DiCostanzo said he is an accountant by trade. He does not deal with a lot of fraud, but one way it comes out is by someone reporting something that just does not seem right. He would like people to call the councilmen's number at 741-8929 to report anything they think may not seem right no matter how insignificant they think it may be. It will go to a machine at night. They do not want names. It may or may not lead to anything, but it gives people a place to call.

Supervisor Bylewski thanked all department heads present for coming tonight.

A Public Hearing was held to consider the request from Frey's Olde Time Furniture for a Special Exception Use Permit for a structure larger than 30,000 sq. ft. at 9992 Main Street. James Callahan said the location is the north side of Main Street, east of Kraus Road consisting of approximately 9+ acres in the Commercial Zone. A Negative Declaration was issued 2/27/08 and a recommendation was forwarded from the Planning Board.

Douglas Klotzbach, architect said the addition is to the rear and within the setback. There is also a 2,345 sq. ft. addition between the buildings. The purpose is to allow more space to display his product. The old time country aesthetic will continue on the addition.

Councilman Casilio said that at the last meeting they discussed issues with outside displays. He wanted to know if he had anything to add from the owner.

Mr. Klotzbach said they are providing space in the back to keep the storage sheds. Councilman Casilio asked if there is going to be display of any goods or anything in the front of this establishment.

James Callahan said he does have a Special Exception Use Permit that was issued by the Town Board 7 to 10 years ago to allow the outdoor display. There was a line drawn that he was to stay behind. There were very limited parameters placed on this permit.

Councilman Kolber said it would be helpful to discuss this with the applicant. Councilman Weiss said that is why we mentioned these things at the last meeting hoping that we would get some answers.

Councilman Casilio asked if he owned the old 7-11 building and he does not. It would be nice to get that cleaned up.

Speaking to the subject:

Jeanette Helms said she can see the back of the warehouses out her front windows. That is where all of the items in front will go to. She believes the building is too big. The landscaping that was put in is just about all dead.

Councilman Weiss said there is a history with this owner not maintaining this property.

Mr. Klotzbach said the landscaping will be new.

David Helms said they live directly across the street and what is supposed to be the buffer area is not maintained. The drainage flows are already killing the trees and he is afraid that the increased sizes of the building will only add to the problem. They would like to see a berm of some sort to block the view of the back parking lot, and to possibly help with the drainage onto his land. It is killing the trees at the back of his property.

Mr. Helms said gutters are hanging off the back of the warehouses. He is not totally opposed to the new building. He is concerned about the size, the buffer and the drainage.

Mike Haefner said his property backs up to Frey's property. His sump pump runs constantly and he has to have tubing running out to the storm drain. His biggest concern is the water. He lost three large pines because they were sitting in water. The tubing is to just keep the water away from the house because he cannot drain it fast enough. He wonders what the lighting will be for a 400-space parking lot.

Mr. Klotzbach said the lighting will be on the building directing downward.

James Callahan said that if a Special Exception Use Permit is issued, the next step is development plan approval which includes drainage and landscaping.

Councilman Kolber asked about the size and what it could be compared to. Mr. Klotzbach said there is approximately 60,000 sq. ft. now and with the addition it will be 110,890 sq. ft.

Councilman DiCostanzo asked if the square footage addition would add to the drainage issues or will it be the same. James Callahan said the impervious surface remains the same.

Mr. Klotzbach said there was a study done about 5 to 6 years ago. It showed that everything drains to the corner to a ditch and then to a catch basin system. Joseph Latona said they put deep wells in. Mr. Klotzbach said maybe there is an issue with them. It would be part of the process.

David Helms said the catch basin goes under the street and along his property line and drains off to the back. Mr. Frey did offer to put in a swale or ditch, but the previous owners would not let him. His only suggestion is that if that is done it is covered.

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.

Councilman Casilio said he would like to look at this a little further. There should be more discussion regarding the display out front, landscape maintenance and drainage. He does

not feel that the Board is being unreasonable when they are looking to approve a building of this size and address the code issues.

Supervisor Bylewski asked if there is anything else we would like to discuss with the owner, such as drainage and the hanging gutters. Councilman Casilio said he would like to look at the site. Councilman Kolber said it would be helpful to see view scapes of what the building would look like for the surrounding area.

Mr. Klotzbach said they are not touching any natural areas that exist. He will talk to the engineer about the drainage. Now that there is a new neighbor there is a chance to work some things out.

Councilman Casilio said he would like to see the applicant come in to address these issues. Councilman DiCostanzo agreed that this is the opportunity to take care of the issues. Councilman Weiss added that maintenance of the property has been an ongoing issue.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to table the request from Frey's Olde Time Furniture for a Special Exception Use Permit for a structure larger than 30,000 sq. ft. at 9992 Main Street to allow time for information to be brought back, to give the applicant the opportunity to come forward, and to give the applicant the opportunity to meet with the Town Engineer and the neighbors to discuss the drainage issues, as well as all of the issues discussed during the public hearing. On the question, Town Attorney Steven Bengart suggested that the applicant be present to agree to any stipulations or agreements on the record. Supervisor Bylewski asked that notification is sent out to the neighbors of future meetings where this is discussed. David Helms said the owner of the adjacent home lives in Florida and any agreements would probably have to be with him and not the tenant. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to table the request by Eric Ogren for a Change-In-Use from vacant former pool store to a salon at 6051 Transit Road until the applicant is available. Upon roll call – Ayes: All; Noes: None. Motion carried.

Item 13, William Henderson request for a Public Hearing to consider a Special Exception Use Permit for multiple-family housing in the Commercial Zone at 10055 Main St. was removed from the agenda at the applicant's request.

Stanley Gembala requests Minor Subdivision Approval to create one additional building lot in the Agricultural Flood Zone at 8785 Wolcott Road. James Callahan said the location is the south side of Wolcott Road, east of Kenfield Road.

Mr. Gembala's daughter was present and said her father would like to split approximately three acres so that she and her husband can build a new home. They are not interfering with the creek in any way. They have also spoken with the engineering department regarding the floodway.

Motion by Councilman DiCostanzo, seconded Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration under SEQRA for the proposed Gembala Minor Subdivision located at 8785 Wolcott Road. After thorough review of the submitted site plan and EAF, it is determined that the proposed action is consistent with local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Resolved, that the Clarence Town Board grants Minor Subdivision approval for 1 additional residential building lot to the applicant, Stanley Gembala, for the property located at 8785 Wolcott Road subject to the following condition: 1. Open space and recreation fees.

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

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to grant a Special Event Permit for an annual outdoor music festival on July 18, 2008 at 9015 Main Street to Noel Dill/Rock Oak LLC. This is an annual fundraiser to benefit Meals on Wheels. All appropriate agencies will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

Robert Snyder was present to discuss the Time Warner Cable discount for Clarence Senior Citizens. He has had an ongoing fight with Time Warner about paying \$120 for the same thing other people get for \$110. The application for the senior citizen discount states that a 10%

discount is given to the individual for the initial installation, on Limited Basic and on Basic Plus Service. What it really means is 10% off of approximately \$50 worth of service. Ms. Hanson from Time Warner says the discount is 10% of Basic Cable on a \$15 service. If you get anything more, you are not eligible for the discount.

Mr. Snyder asked that the Town let people know that there is a discount available and see if we can figure out what the discount really is. He finds it interesting that Time Warner pays a 3% fee to be able to do business in Clarence and they actually pass the 3% onto all of the residents. They are actually paying nothing.

Councilman Kolber said the contract says a 10% discount is on Basic, Limited Basic or its equivalent. Mr. Snyder said Time Warner is much narrower on the limitations than what the application from Adelpia said.

Town Attorney Steven Bengart said we do have a contract, and unfortunately, Time Warner is interpreting it as it reads. Adelpia may have done more, but Time Warner is not legally obligated to do other than what is in the contract.

Supervisor Bylewski said Time Warner did not have to negotiate in the senior discount. It is not negotiable.

Councilman Kolber said he has mentioned the potential for the discount at various meetings.

Motion by Councilman Weiss, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. TCBA – April 22, 2008; Legion Hall Applications – A. Gary George – April 11, 2008; B. Hai Family – April 26, 2008; C. Robert Diegelman – April 18, 2008; D. Jake Stepniak – May 10, 2008; E. Rachael Singer – May 16, 2008; F. Ann Houseman – June 15, 2008; Pavilion Special Request - A. Day In The Park – July 5, 2008. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of April 3, 2008 are approved for payment: General Fund - \$125,630.13; Highway Fund - \$77,613.63; Water Districts - \$1,823.93; Lighting Districts - \$1,075.19; Sewer Districts - \$465.08; Special Revenue - \$1,460.00; and Trust & Agency 203 - \$569.77 for a total amount of \$208,637.73. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

James Blum said he has read the Time Warner commitment to service many times, and in the fine print it says there is no guarantee of anything. He believes that is where the real problem is and when negotiating for a franchise agreement that should be considered.

Supervisor Bylewski said dealing with a franchise agreement is very limited on our part.

There being no further business, Supervisor Bylewski adjourned the regular meeting at 9:05 P.M. in memory of Carlton Danitz, a former longtime Assessor for the Town of Clarence.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session at 9:05 P.M. pursuant to the Open Meetings Law section 105(1)(f) to discuss the employment history of an individual, 3 matters leading to the appointments of corporations; section 105(1)(d) to discuss pending litigation with A. J. Baynes, and the recent Cimato lawsuit; and section 105(1)(h) to discuss acquisition of land when the publicity would substantially affect the value thereof. Upon roll call – Ayes: All; Noes: None. Motion carried.

Nancy C. Metzger
Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 10:17 P.M. No action was taken. Upon roll call – Ayes: All; Noes: None. Motion carried.