

A Work Session of the Clarence Town Board was held on September 10, 2008 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 6:00 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, Assistant Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Director of Administration and Finance Pam Smith, Senior Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

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

#### ***Public Hearing:***

Christopher Smith 5940 Goodrich Road

A public hearing is scheduled for 7:45 PM to consider the request for a Temporary Conditional Permit for automotive sales at 5940 Goodrich Road (formerly Pow-R Devices, Inc.). The proposed site is located on the west side of Goodrich Road, south of Clarence Center Road in existing vacant retail building (former automotive facility) located on .416 acres in the Traditional Neighborhood Zone. Generally issues that are conditioned within the Temporary Conditional Permit include the number of vehicles to be displayed at any given time, hours of operation etc. Director of Community Development James Callahan received one comment regarding this request. This person feels the Clarence Center TND is already overburdened when it comes to traffic.

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

Millherst Construction – County Road

Applicant is seeking permission to commence a fill operation in advance of a future industrial use of the land (proposed location of Milherst Construction Co. yard and headquarters). The propose site is located on the south side of County Road, west of Strickler Road on existing vacant land located in the Industrial Business Park Zone (part of the former Jurek Christmas Tree Farm). Per the Clearing, Filling and Grading Local Law, the Town Board has authority to approve fill operations. Town Engineer Latona has reviewed this proposal and has submitted his comments and recommendations.

Patrick Development – Roll Road

Applicant is seeking approval for a 4-Lot Open Development Area. The proposed site is located on the south side of Roll Road, west of Shimerville Road on existing vacant land consisting of 8.37+/- acres in the Residential Zone. Four frontage lots were previously approved on the east side of the parcel. Per the Subdivision Law, the Town Board has authority to approve Open Development areas.

Metzger Engineering - Lapp Road east of Transit Road

Applicant is seeking approval to split 4 residential building lots from the parent parcel. Technically this proposal creates five lots which puts it in a Major Subdivision category. The proposed site is located on the north side of Lapp Road, east of Transit Road on an existing vacant parcel consisting of 26+/- acres and 1795' +/- of Lapp Road frontage in the Agriculture Flood Zone.

Jurek Builders-Hidden Springs Manor LLC 4900 Goodrich Road

Applicant is proposing to split the parent parcel to create an additional residential building lot. The proposed site is located on the west side of Goodrich Road, north of Main Street. The existing family residence is located on 13.67+/- acres in the Residential Zone. The proposed new lot and remaining old lot will both conform to minimum requirements in the Residential Zone.

### **Work Session items for consideration on September 17, 2008**

John Dibrog 10407 Clarence Center Road

Applicant is seeking a permit to clear the lot to develop a horse farm. The proposed site is located on the south side of Clarence Center Road, east of Strickler Road on existing vacant lot located on 5+/- acres and 200' of road frontage in the Agricultural Rural Residential Zone. Per the Clearing, Filling and Grading Local Law, the Town Board has authority to approve land clearing. Areas of concern include the removal of mature trees.

**Techniflo 9730 County Road**

Applicant is seeking a permit to construct an accessory structure on the property. The proposed site is located on the north side of County Road, east of Goodrich Road at existing industrial operation located in the Industrial Business Park Zone. All setbacks in the Industrial Business Park Zone are met.

**Supervisor Scott Bylewski**

Supervisor Bylewski will announce several vacancies on various boards and committees.

Supervisor Bylewski will make a motion to pass a resolution regarding Increased Freight Rail Hauling capacity.

Supervisor Bylewski will make a motion to adopt § 610 of the Policy Manual pertaining to breast and prostate cancer screening as approved by our labor attorney.

Supervisor Bylewski will set public hearings for October 8, 2008 to consider the purchase of vacant land at 10800 Rapids Road and 10715 Clarence Center Road.

Supervisor Bylewski has one item to discuss in Executive Session regarding the employment history of an individual and several Attorney- Client items to discuss.

**Councilman Joseph Weiss**

Councilman Weiss will make a motion authorizing Supervisor Bylewski sign the service agreement between Northeast Mechanical Inc. and the Town of Clarence for the HVAC units at the Youth Bureau.

Councilman Weiss will make a motion authorizing Supervisor Bylewski to sign the CDBG contract between Erie County and the Town of Clarence for \$135,000. to assist in the construction of a waterline for industrial site preparation for the Buffalo Filter Project subject to review and approval by the Town Attorney.

In light of a recent noise complaint, Councilman Weiss received and distributed copies of Grand Island noise ordinance. Director of Community Development James Callahan informed the Board that this is the fourth time over the last twelve years this same person has filed the same exact complaint. Former Supervisor Kathleen Hallock handled it by informing the complainant that this is an enforcement issue and the Board does not casually put new laws in place that are enforceable. Town Attorney Bengart stated that requests for a Noise Ordinance have come up in the past, there are several issues the Board must keep in mind – the Town does not have a police force and in order to have someone determine decibels (which is the only way to make these legal) you not only need the machinery but trained personnel who can then testify as to the decibels. The machinery has to be calibrated regularly.

Councilman Casilio will contact law enforcement in Grand Island to see how enforceable their Noise Ordinance is.

Councilman Weiss inquired as to part time help being available at the Youth Bureau during business hours to answer telephone calls. Supervisor Bylewski has met with Youth Director Dawn Kinney and they discussed having someone available during office hours.

The Deer Program will begin as soon as Dennis Londos receives the permits from the DEC.

The Clarence Youth Board and the Recreation Department are hosting Halloween in the Park on October 25<sup>th</sup> at the Main Street Park.

#### **Councilman Bernard Kolber**

Councilman Kolber will make a motion authorizing Supervisor Bylewski to send a letter to NYS Library Division of Library Development stating the Town of Clarence approves of the Clarence Public Library's application to the NYS Public Library Construction Grant Program and the Town owned library building will be available to the Library for a minimum of ten years from the date of the anticipated project.

Councilman Kolber will set a bid date of October 17, 2008 at 10:00 AM for the installation of a solar panel system for the Clarence Town Hall.

Councilman Kolber received information from Time Warner Cable regarding new interactive technology they are implementing within the local franchising area known as Switched Digital Video (SDV). This will make it possible for them to offer many additional services including new HD channels.

#### **Councilman Patrick Casilio**

Councilman Casilio thanked Town Engineer Latona and the Parks Department for getting the Goodrich Road water tank dismantled in a timely manor.

The Public Safety Committee held a special meeting last night concerning Reverse 911 and NY Alert. NY Alert is a free service which Supervisor Bylewski strongly encourages everyone sign up for. You can indicate the level of alert you want whether it be by e-mail, telephone, pager or text. It can be initiated locally and the State maintains it. You can pick from a menu of items you want to be notified of. If grant money is available, Councilman Casilio stated that he will be looking into possibly an AM Broadcast Station for announcing emergency alerts.

Rock Oaks is starting up a Neighborhood Watch Program. They will be the first neighborhood organizing under the new Public Safety Committee.

Councilman Casilio met with NYSEG regarding Willow Brook lighting district. NYSEG is working on a layout and possible budget pricing for switching from gas to electric lights. Two private contractors have been contacted for estimates as well. Councilman Casilio has been working with National Fuel to repair the three non-working lights so they can be up and running before the winter months.

Councilman Casilio will discuss scheduling a Public Hearing for possible amendment to our Sign Law regarding political signs.

Councilman Casilio met with Jeff Palumbo at Clarence Mall today regarding sealing and striping of their roadway. There still was no elimination of stop signs. Councilman Casilio feels the striped crosswalks are all that is needed. Benchmark has not followed the Boards request at all, Councilman Casilio asked Jeff Palumbo to look into it.

#### **Councilman Peter DiCostanzo**

Councilman DiCostanzo inquired as to whether or not meetings have been scheduled with Allied Waste and Waste-Management Disposal Companies. Councilman Weiss with contact Recycling Committee Chairman Chuck Eckert to see when the meetings will take place.

Vandals tried to break into the football equipment shed and the snack bar at Sunset Park. Parks Crew Chief John Burns will request Public Safety patrol the area more often.

Councilman DiCostanzo commented on an article he read in the paper where a house was broken into in Amherst and all that was stolen were prescription drugs. Two nights ago, an acquaintance of Councilman DiCostanzo house was broken into as well and again they just stole prescription drugs. It is obvious there is a drug problem around here.

Town Assessor Christine Fusco is requesting Town Board approval to attend an Assessor's Conference from September 21 to September 24, 2008.

Town Assessor Christine Fusco is looking into an exemption for Cold War Veterans.

The Historical Society has requested the museum be hooked up to sewers instead of septic. Town Engineer Latona stated that he discussed this with the Parks Department last year.

The Museum building had another leak in the roof. It was not leaking where the new repairs took place. The situation has been rectified.

The TEQR Committee has recommended a Negative Declaration on the proposed Hidden Springs Manor Minor Subdivision.

Councilman DiCostanzo has one item to discuss in Executive Session regarding the proposed acquisition of real property and one Attorney-Client item to discuss.

Councilman Kolber reminded the Town Board of the Annual Public Forum scheduled for September 29<sup>th</sup> at 7:00 PM.

Ray Skaine is resigning as Chairman of the Zoning Board of Appeals effective after the October meeting. Councilman Kolber will announce the opening if anyone is interested.

**Town Engineer Joseph Latona**

The proposed Spaulding Green project is currently not in any sewer district. Director of Community Development James Callahan and Town Engineer Latona have taken the liberty of drawing up proposed boundaries for the new sewer district which will be called Clarence Sewer District #4. If the Board agrees with the boundaries, the next step would be to have a description written by a licensed surveyor. Town Engineer Latona can create a Map, Plan and Report for the new district. The Map, Plan and Report would then be forwarded to our counsel in NY City who would draft an order calling a public hearing for the district.

Town Engineer Latona has two Attorney-Client items to discuss.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105 (1) F of the Open Meetings Law to discuss the employment history of an individual(s) and § 105 (1) H the proposed acquisition of real property which publicity would substantially affect the value thereof. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:37 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:26 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 Wednesday, September 10, 2008 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:31 P.M. Pledge to the flag was led by Councilman Patrick Casilio, followed by a prayer given by Pastor Richard Bennett of Eastern Hills Wesleyan 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 Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held August 27, 2008. On the question, Supervisor Bylewski had a correction on page 258, second full paragraph – should be Margaret Walker. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that there are openings on various committees including Avoidable Alarms, Community Residences, Ethics Board (non-Republican), Landscape Review Committee, and Senior Citizens Center Inc. Board of Directors. If anyone is interested applications are available on line or by stopping into the Supervisor's office.

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

**WHEREAS**, state and federal transportation officials and others project that United States freight volumes will increase by more than 67 percent over twenty years;

**WHEREAS**, the nation's highways are already stretched to capacity;

**WHEREAS**, the efficient movement of goods is directly related to the strength of a nation's economy and its citizens' quality of life;

**WHEREAS**, public policies promoting increased investment in freight rail infrastructure would result in increased freight rail hauling capacity;

**WHEREAS**, expansion of freight rail hauling capacity would yield impressive public benefits by relieving worsening congestion, reducing highway costs, providing a critical intermodal link to international trade, and improving air quality and fuel efficiency;

**WHEREAS**, relatively modest public investments in freight rail infrastructure would yield an impressive return on investment in the form of savings to motorists, businesses, and taxpayers;

**WHEREAS**, bi-partisan legislation was recently introduced in Congress that would create tax incentives to increase investment in freight rail infrastructure;

**WHEREAS**, this legislation is the type of proposal that the American Association of State Highway and Transportation Officials says is needed to accommodate increasing freight volumes and realize the public benefits that come from shipping more freight by rail; and

**WHEREAS**, Congress is considering proposals that would re-regulate freight railroads and these proposals would turn back the clock on the successes of deregulation, devastating the railroads and freight transportation in this country;

**NOW, THEREFORE BE IT**

**RESOLVED** that the Clarence Town Board endorses the Go21 mission of building a stronger economy, reducing highway congestion, improving air quality, using tax dollars more efficiently, and improving quality of life by advocating for increased use of freight rail transportation.

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

Motion by Supervisor Bylewski, seconded by Councilman Weiss to adopt Section 610 of the Policy Manual pertaining to Breast & Prostate Screening as approved by our labor attorney. On the question, Supervisor Bylewski said it is statutory law that all employees will be permitted paid excused leave, not to exceed four hours annually, to have these screenings done. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a public hearing for October 8, 2008 at 7:50 p.m. to consider the purchase by the Town of Clarence of approximately 96 +/- acres of vacant land located at 10715 Clarence Center Road in the Town of

Clarence, Erie County, NY at a purchase price not to exceed \$705,000 plus any closing costs, processing costs, baseline studies and any and all costs and disbursements for open space purposes. Funds to be allocated from the open space bond resolution, general fund and recreation fees (if it is determined that any portion of this property will be used for recreation purposes). Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said he would like the Town Assessor made aware of the possible purchases so that we can have her input. Town Attorney Steven Bengart said as always.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a public hearing for October 8, 2008 at 7:45 p.m. to consider the purchase by the Town of Clarence of approximately 68 +/- acres of vacant land located at 10881 Rapids Road and approximately 21 +/- acres of land and improvements located at 10800 Rapids Road in the Town of Clarence, Erie County, NY at a purchase price not to exceed \$320,000 plus any closing costs, processing costs, baseline studies and any and all costs and disbursements for open space purposes. Funds to be allocated from the open space bond resolution, general fund and recreation fees (if it is determined that any portion of this property will be used for recreation purposes). Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to authorize the supervisor to sign the Service Agreement between Northeast Mechanical, Inc. and the Town of Clarence for the HVAC units at the Clarence Youth Bureau at 10510 Main Street subject to review and approval by the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to authorize the Supervisor to sign the CDBG contract between Erie County and the Town of Clarence for \$135,000 to assist in the construction of a waterline for industrial site preparation for the Buffalo Filter Project subject to review and approval by the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said we will be conducting the deer abatement program again this year where volunteers go in to certain areas to shoot deer. They are then taken to the Buck and Doe Shop for processing and the meat is turned over to the food bank. The program will begin depending on when the DEC provides the permits. It has resulted in a reduction in damage to crops, landscaping and vehicles.

Councilman Weiss said the Youth Board and Recreation Department will sponsor Halloween in the Park on October 25<sup>th</sup> from 6:30 to 9:30 P.M. at the Main Street Park. There will be events for the younger children and scarier events for the older children.

Councilman Weiss said he saw someone driving down the bike path today and when he caught up to them it happened to be an unmarked State Trooper car. They are patrolling the bike paths on a regular basis.

Motion by Councilman Kolber, seconded by Councilman Casilio to set a Bid Date of October 17, 2008 at 10:00 A.M. in the Town Clerk's office for the installation of a solar panel electrical generating system for the Clarence Town Hall. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber announced that the Annual Public Residents Forum will be held on Monday, September 29<sup>th</sup> at 7:00 P.M. in the Town Hall. Residents will have the opportunity to talk about any topic they would like to discuss.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept, with regret, the resignation of Ray Skaine from the Zoning Board of Appeals, effective after the October meeting. On the question, Supervisor Bylewski thanked Mr. Skaine for his years of service on behalf of the Town of Clarence, as well as the exemplary manner in which he conducted himself as a member and as chairman. Councilman Kolber and Councilman Casilio agreed with the comments. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said for the next few weekends the Meeting House Board will be whitewashing and re-chinking the log cabin. They are looking for volunteers to help out.

Councilman Kolber said there are openings on the Zoning Board of Appeals for a member, alternate member and Chairman. Applications will be accepted through October 10<sup>th</sup> for those positions.

Motion by Councilman Kolber, seconded by Weiss to authorize Supervisor Scott Bylewski to send a letter to the New York State Library Division of Library Development stating that the Town of Clarence approves of the Clarence Public Library's application to the New York State Public Library Construction Grant Program and said letter certifying that the Town owned library building will be available to the Library for a minimum of ten years from the date of the anticipated project. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said we received a communication from Time Warner Cable regarding their new Switched Digital Video (SDV) interactive technology which they hope to begin implementing in mid-October through December. It makes it possible for them to offer many additional services, including new HD channels and HD versions of popular existing channels.

Councilman Casilio thanked Town Engineer Joseph Latona and Parks Crew Chief John Burns for the speedy removal of the water tank in Clarence Center that has not been used for years. A number of bids were received ranging from the contractor paying the Town \$2,200 to the Town paying over \$30,000. The Parks came in to landscape and there is grass already growing. It greatly improves the appearance as you enter Clarence Center.

Councilman Casilio said the Public Safety Committee is meeting regularly. We are looking at different options for emergency warnings for residents.

Rock Oaks will be starting the community watch in their area beginning in October.

Councilman Casilio said they are looking at the possibility of changing the street lights in Willow Brook from gas to electric. The gas lights are deteriorating and the electric lights may be a cost savings for that neighborhood.

Councilman Casilio said Hans Mobius is interested in gas service on Salt Road rather than using propane. He has gone out in his neighborhood looking for other residents who might be interested. The cost is on the residents over a 10 year period.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Clarence Town Board supports the homes owners' request of National Fuel to extend natural gas service to certain areas in the Town of Clarence, New York as follows: Salt Road from Keller Road to Tonawanda Creek Road, including extending east to the homes on Hunts Corners and Miland Road. On the question, Supervisor Bylewski thanked Mr. Mobius for expending the time and effort to get the signatures for the petition asking National Fuel to consider it. Councilman Casilio also thanked him. He said the process is, upon submission of the signatures, National Fuel will contact the residents who are interested and give them a cost. If they agree, they can proceed. If a resident joins in within the 10 years, they would back pay for the previous years. The more people the cheaper it is. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor Scott Bylewski to sign the Annual STOP-DWI Memorandum of Understanding for 2008 between the Town of Clarence and the County of Erie. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said he was taken back by the number of political signs that were up during the primary races. It was unusual because there were so many candidates running. The Town works very hard regulating construction and development, real estate signs, car lots, etc. Then we have to go through three months of this unregulated signage everywhere. Other towns regulate political signs and he would like to do something about it. They block the intersections and are not always taken down in a timely manner.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to set a public hearing for October 8, 2008 at 7:55 p.m. to consider a local law amending the Code of the Town Clarence, Chapter 181 – Signs. A copy of the proposed amendment is available for review.

On the question, Supervisor Bylewski said he has stated his resistance to singling out political signs because, in his opinion, would be an unconstitutional regulation of free speech. It would be treating political entities different than not-for-profits which there are a long line of opinions that say you cannot do that. He applauds the effort to clean up the view shed, but he thinks the law as written is unconstitutional. He is not in favor of setting the public hearing.

Councilman Casilio said the law allows political signs on private property. He would like to stop what is going on in intersections. We say that realtors cannot put their signs up for taxpayers who are trying to sell their house, then we should be trying to control these signs also.

Councilman Kolber said he agrees with Supervisor Bylewski's comments. It also becomes difficult for enforcement.

Councilman Weiss said he has mixed feelings, but is in favor of a discussion. He does think it is an eyesore.

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

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to grant permission for Assessor Christine Fusco to attend a conference September 21 – 24, 2008 Hudson Valley with all reasonable and necessary expenses. On the question, Councilman DiCostanzo said the Assessor's budget can cover the cost, but the State Association is reimbursing a good portion of the trip. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo added that Christine is being installed as the 2<sup>nd</sup> Vice President of the New York State Assessor's Association at this conference. Congratulations to her.

Councilman DiCostanzo said the Assessor is looking into a Cold War Veterans Exemption for property taxes. He will report more at a future meeting.

Ms. Fusco left notices regarding the change in status date at the back of the room for anyone interested.

Councilman DiCostanzo said he was at Little League Football the other night and they discovered that someone has attempted to break in to the snack bar building. There were also two house break-ins with people looking for prescription drugs. We do have a drug problem in the Town and it is only going to get worse.

He complimented John Burns and his department on the great condition of the fields.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider the request for a Temporary Conditional Permit for automotive sales at 5940 Goodrich Road. James Callahan said the location is the west side of Goodrich Road, south of Clarence Center Road in the Clarence Center Traditional Neighborhood District. It is an existing commercial property on .4 of an acre.

Speaking to the subject:

Garth Davis said he did not know anything about this until yesterday when he got the notice from his mother-in-law. He had a permit and he was never informed of the meetings when his permit was rescinded a year ago. All of the mail went to his mother-in-law. Supervisor Bylewski asked what address he was referring to. Mr. Davis said 4945 Goodrich Road. The public hearing is in regard to 5950 Goodrich Road.

Supervisor Bylewski said he may have received a notification but it was for an application made by Mr. Smith.

Christopher Smith said he would like to start with 10 cars in the backyard. He has spoke with some of the neighbors and they voiced some concerns relating to some things that have been going on there. Their concerns included additional traffic, people pulling in at a high rate of speed. There are two driveways and he believes he will only use the one. He does not anticipate a lot of traffic. He does not need this as part of his license. The hours of operation would be daily with longer hours in the summer.

Supervisor Bylewski said he received an email from Martha Dippold with a number of concerns including traffic and the safety of the children in the neighborhood. She is opposed to any business that would add to the already dangerous and noisy conditions of living in Clarence Center.

Councilman Weiss asked if he would be working outside on any of the cars. Mr. Smith said the only work done on the cars would be cleaning the inside. Any mechanical work would be done at his other location in Depew.

Speaking to the subject:

Douglas Errick said he lives next door to this location with a driveway in between that goes to the home in back of them. There is no easement for them to use it. He presented pictures of what he has witnessed going on there. There is a repo truck racing in and out of there at all hours of the night. He has no problem with Chris, but does not feel this is an appropriate location for a used car business.

Mr. Errick said their backyard is their escape from the excessive traffic noise on Goodrich Road. They do not want people walking all around at all hours of the night. They have also been doing collision work in there. He just does not feel this is the right place for a used car lot. There is a daycare right down the street and many children going by all the time.

Garth Davis said as a lessee of property across the street, Mr. Smith's approval is dependent upon having a license. Mr. Davis said he was harassed for a year over permission to have one car over a weekend. He will be upset if Mr. Smith gets approval for ten cars and he was harassed over one car.

Councilman Casilio asked if Mr. Davis was in compliance. Mr. Davis said he was told there was a complaint. He ended up in court for an unregistered vehicle. It brought people to Clarence Center who would go to the coffee shop, Pizza Inn, etc. and did not know these places were here. The communications were sent to his mother-in-law and he did not receive them. His permit was rescinded and he did not feel he had a fair hearing.

Janice Errick said she lives next door. It has always been a quiet neighborhood with previous owners of the building. They do not have the right to use the driveway that goes to the home in the back. The fireman installed a nice fence that gives them some privacy and now there could be a used car lot next door. People shop for used cars all hours of the day and night. They do not need this type of business in their neighborhood.

Jean Doane said they are against this business for all the reasons previously stated. We are trying to keep Clarence Center quaint. There are lovely small shops that already exist and businesses like that could come in. The traffic on Goodrich Road is horrendous already. She sees young people hanging around there now and trucks whipping in and out. Chris seems like a nice young man, but used car lots should be along County Road or in another commercial area.

Mr. Errick asked if Mr. Smith had previously applied for a location on Main Street that was denied. Councilman Casilio said he applied, but never brought it forward for approval.

Supervisor Bylewski asked Chris Smith to tell the Board about New Era Recovery. Mr. Smith said his brothers own the building and the front portion is used as storage for their copier business. The middle portion they allow one of their sons and his friend to work on their cars. It is not a business at this point. His only part is to detail car interiors. Not one vehicle on that lot right now has anything to do with his used car business. His nephew's friend drives the New Era Recovery vehicle and has it 24 hours.

Councilman Casilio suggested that the owners of the building come in to discuss what is going on there.

Mr. Smith said he is sure that there is not a business going on there. He did see a truck pull in there on Sunday going too fast. He spoke to the kids and then to his brother. There is a picture with a vehicle on a truck but he does not believe it was left at this location.

Councilman Casilio said pictures were presented and they need to know what is going on there in order to make a decision.

Mr. Smith said he has a dealer's license and he does not need this location for that license.

Councilman Casilio said they would never approve cars being displayed out front. We need further clarification.

Councilman Weiss said he has strong reservations about this. He is concerned about what will happen with ten cars there.

Mr. Smith said this type of approval is a one-year Temporary Conditional Permit. Then if there are issues they can be worked out. His attitude is to have the best interest of the Town in mind and not only for himself. He has addressed the speeding vehicles. He is not trying to do

something to make the neighbors unhappy. There are empty buildings there that businesses could go into. He can guarantee that there is not a business in there now.

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

Motion by Councilman Kolber, seconded by Councilman Weiss to deny the request for a Temporary Conditional Permit for automotive sales at 5940 Goodrich Road. On the question, Councilman Kolber said he does not feel this is the right place for a used car facility. Councilman Weiss said he feels it would be too problematic for the residents to have this type of business in their neighborhood. Supervisor Bylewski said he sees the difference from the situation across the street. He understands the concerns and thinks some of them could be addressed by the landowners. Councilman Casilio said he has a concern about the number of cars for display. There would have to be some clarification and maybe some landscaping and blocking off the one driveway. Councilman DiCostanzo said he may consider beautifying the location somewhat. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Weiss; Noes: Supervisor Bylewski. Motion carried.

Milherst Construction requests a Fill Permit in advance of building permit on County Road, west of Strickler Road. James Callahan said the location is the south side of County Road, west of Strickler consisting of vacant land in the Industrial Business Park Zone.

Jim Collins was present.

Supervisor Bylewski said a site plan has been submitted for the potential layout of a new business location. James Callahan said it has been reviewed by the Town Engineer and he stipulated some conditions.

Supervisor Bylewski said one of his concerns was the layout making sure that we were not engaging in any segmentation issues environmentally, as well as, the driveway separation. His understanding is that it has been reviewed and it appears appropriate to go forward.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant a Fill Permit in advance of a building permit on County Road, west of Strickler Road to Milherst Construction, subject to review and approval by the Town Engineer. Upon roll call – Ayes: All; Noes: None. Motion carried.

Patrick Development/Metzger Engineering requests Preliminary Concept Review of a 4-Lot Open Development Area on Roll Road, west of Shimerville Road. James Callahan said the location is the south side of Roll Road, west of Shimerville consisting of approximately 8.3 acres in the Residential Single Family Zone.

Michael Metzger, Engineer and Kevin Curry were present. Mr. Metzger said there have been several variations of the project proposed. The minimum lot size is over two acres with a common driveway for all four lots.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to refer the request for Preliminary Concept Review of a 4-Lot Open Development Area on Roll Road, west of Shimerville Road to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Metzger Engineering requests Minor Subdivision Approval to create four new residential lots in the Agricultural Flood Zone on Lapp Road, east of Transit Road. James Callahan said the location is the north side of Lapp Road consisting of 26 +/- acres in the Agricultural Density Flood Zone.

Michael Metzger, Engineer said the proposal is for four lots split from the parent parcel. The minimum width for each lot is 200 ft. with the minimum lot at 3.07 acres. The option they would take is to apply for a map revision, which allows you to bring in fill to build up the site where the home will go. It brings the home up above the base flood elevation. It is compacted and tested to make sure it is sound. The request is made to FEMA for the map revision.

Mr. Metzger said the Town established minimum lot requirements for building in the Density Flood Zone. There is also a maximum amount of fill that can be brought in.

Supervisor Bylewski said that upon conversation with the Town Attorney and Planning Department, it is actually five lots that would be created making it a Major Subdivision.

Michael Metzger said they did not realize it would be considered five lots. He asked if it could be amended to three lots eliminating the easterly lot. Supervisor Bylewski said it would then comply with the Minor Subdivision.

(A motion to refer the request for a Major Subdivision was rescinded.)

James Callahan said a Short EAF Form was filled out identifying the 4-lot split. As long as it is in conformance with the Density Floodway, it is in conformance with the Master Plan and zoning requirements there would be no significant environmental impacts.

Motion by Supervisor Bylewski, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration on the proposed Minor Subdivision submitted by Metzger Engineering creating four residential building lots in the Agricultural Floodway on Lapp Road, east of Transit Road. After thorough review of the submitted survey and Environmental Assessment Form (EAF) by the Town Board, it is determined that the proposed action is consistent with the adopted Master Plan 2015 and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant Minor Subdivision Approval to create four new residential lots in the Agricultural Floodway on Lapp Road, east of Transit Road, subject to Engineer review and approval and open space and recreation fees. On the question, Supervisor Bylewski said the three lots to be split from the parent parcel based on the submitted site plan with the three to the west and the parent parcel to the east. Upon roll call – Ayes: All; Noes: None. Motion carried.

Hidden Springs Manor/Henry Jurek requests Minor Subdivision Approval to create one new residential building lot at 4840-4900 Goodrich Road. James Callahan said the location is the west side of Goodrich, north of Main Street consisting of approximately 13 acres in the Residential Zone with one existing single family residence.

Henry Jurek said he built the existing home and is now set to build a new home for the owner's sister.

Councilman DiCostanzo complimented him on the stone walls on this property.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration on the proposed Hidden Springs Manor Minor Subdivision creating one additional residential building lot on the west side of Goodrich Road, north of Main Street. After thorough review of the submitted survey and Environmental Assessment Form (EAF) by the Town Board, it is determined that the proposed action is consistent with the adopted Master Plan 2015 and will not have will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Resolved, that the Clarence Town Board grants Minor Subdivision approval for one additional residential building lot to the applicant, Hidden Springs Manor-Henry Jurek, for the property located at 4840-4900 Goodrich Road, subject to the following: 1. Open space and recreation fees.

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

Motion by Councilman Weiss, seconded by Councilman Di Costanzo to approve the following: Clubhouse Applications - A. Destination Imagination – Oct. 4, 2008; B. Cub Scout Pack #563, Wolf Den – Monthly meetings for 2009; C. Girl Scout Troop #215 – 3<sup>rd</sup> Wednesday each month 2009; D. Girl Scout Troop #1005 – 3<sup>rd</sup> Monday each month 2009; E. Clarence Jaycees – March 28 & 29, 2009; F. Clarence Concert Association – Sundays in July & 1<sup>st</sup> in August; 1<sup>st</sup> Tuesday each month 2009; Legion Hall Applications - A. Susan Tomassi – Oct. 11, 2008; B. Hena Hossain – Oct. 19, 2008; C. René Herrscher – Nov. 9, 2008; and D. Nancy Miller – Nov. 15, 2008. On the question, Supervisor Bylewski said members of the Town Board are also members of various organizations, however this is ministerial and they will be voting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo that after proper audit and review by the Town Board, the following bills of September 4, 2008 are approved for payment: General Fund - \$48,390.45; Highway Fund - \$28,765.93; Water District - \$34,462.29; and Trust & Agency 203 - \$258.86 for a total amount of \$111,877.53. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

James Blum said he would like to know the schedule of the overlay for the Clarence Center TND. He is proud of what the Board did on item 11. If you carefully read the zoning law under motor vehicle and implement sales exceptions there are side lot line requirements that would be in violation. If you had the overlay for Clarence Center it would be much easier to turn down.

Supervisor Bylewski said he has strongly encouraged, as we have done in the Clarence Hollow, a community character board to be formed in Clarence Center and Harris Hill. It does not mean that we cannot proceed with drafting the overlays but it should be done in conjunction with the residents.

Henry Becker said in regard to the sign situation and he is actually addressing one person who is running for office this year and the other who will run next year, he implores them to get together with the people they have put signs up. They should not place them on any corners and keep them on private property or property with an established building on it.

Suzanne and Robert Zelin proposed to the Town that they adopt a noise ordinance. They have sent letters and a copy of an ordinance from Grand Island. They have dealt with noise issues for the last 15 years.

Supervisor Bylewski said they have discussed this and they will continue to look at. They will review Grand Island’s ordinance. The concerns are always equipment, training, certification and enforcement.

Mr. Zelin asked if they should do a petition drive. Supervisor Bylewski said that is up to them. The Town Board will look at the ordinance and continue reviewing this issue.

Councilman Kolber said in looking at the ordinance the daytime noise is at 65 decibels and two people talking could reach that.

Mrs. Zelin said that would make a difference at how far away people are from you. They are talking about continual noise.

There being no further business, Supervisor Bylewski adjourned the meeting at 9:15 P.M. in honor and memory of the all victims of Sept. 11, 2001.

Nancy C. Metzger  
Town Clerk