

A Work Session of the Clarence Town Board was held on September 24, 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 Assistant Planner Brad Packard, Deputy Town Attorney David Donohue, 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:***

A public hearing is scheduled for 7:45 P.M to consider amendments to Master Plan 2015 regarding the Transit Road corridor. The Planning Board is recommending the down-zoning of multiple segments from Major Arterial to either Commercial or Restricted Business.

***Formal Agenda items:***

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. The proposed structure will match the existing building.

William Henderson - Clarence Wine & Spirits 10060 Main Street

Applicant is seeking preliminary concept approval to develop a new commercial retail structure at 10060 Main Street. The proposed site is located on the north side of Main Street, west of Pine Ledge Drive on existing vacant land consisting of .55 acres with 80+/- feet of road frontage in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve uses in the commercial zone as to architectural style and functional plan. Small size of the parcel limits the functional plan for the property. A previous plan was denied a variance by the ZBA. Applicant has redesigned and is seeking TB review. Revised design will also require a side yard variance.

Chalets at Red Rock/Stephen Development – Applicant is proposing to construct 6 additional units on the property. The proposed site is located on the north side of Main Street, west of Shimerville Road. The existing detached apartment complex is located on 2.5+/- acres in the Harris Hill Traditional Neighborhood District and Residential Zones. A variance was granted by the ZBA to allow for additional units as designed. The Planning Board has forwarded a recommendation with several conditions including buildings sized to meet minimum requirements in the TND Zone of 600 square feet.

***Work Session items for consideration October 8, 2008:***

Verizon Wireless 8630 Main Street

Applicant is proposing to construct a new satellite communications tower on the north side of Main Street, west of Harris Hill Road behind the Harris Hill Fire Hall on existing Erie County Water Authority property located on 2+/- acres in the TND. Per the Zoning Law, the action will require a Special Exception Use Permit as issued by the Town Board as well as site plan approval by the Planning Board. Height and setback are issues that must be addressed.

**Dawn Swetz 5940 Goodrich Road**

Applicant is seeking approval to occupy the front space for an Arcade Business. The proposed site is located on the west side of Goodrich Road, south of Clarence Center Road in existing commercial structure in the Clarence Center TND. Per the Zoning Law, the Town Board has authority to approve uses in the TND. While the structure is a pre-existing commercial space in the TND, a high volume traffic generating use may cause some conflicts with adjoining residential uses.

**Bob Szulis – Kenfield Road**

Applicant is seeking approval for an additional residential lot split off the parent parcel. The proposed site is located on the east side of Kenfield Road, north of Lapp Road on existing vacant parcel consisting of 16+ acres in the agriculture Rural Residential Zone. Five previous residential lot splits have been approved off the parent parcel. The Planning Board has forwarded a recommendation to deny the splits as proposed based upon Zoning, Subdivision and Master Plan 2015 guidance. The property does not have a great deal of depth, there are few alternatives for residential uses other than the frontage lots that have occurred over the previous 5 years however, the application could be considered a Major Subdivision. The applicant has identified that the proposed 2 splits would be the only residential splits off this parent parcel.

**Milherst Construction – County Road**

Applicant requests Preliminary Concept review of a proposed new industrial business park facility. The proposed 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). The Town Board had previously issued a fill permit.

**Metzger Engineering – 8100 Lapp Road east of Transit Road**

Applicant is seeking a fill permit in advance of the building permit. The proposed site is located on the north side of Lapp Road, east of Transit Road.

**Supervisor Scott Bylewski**

The Tentative Budget has to be in the Town Clerk's office by the end of business on September 30<sup>th</sup>.

Supervisor Bylewski and Senior Building Inspector David Metzger met with a representative from ISO to take a look at the building department. Supervisor Bylewski has tentatively scheduled a meeting to have an ISO Fire Department representative conduct a workshop – he will probably be looking at all the fire departments within the town. It has been awhile since some of them have been surveyed. Supervisor Bylewski would like the representative to look into a town-wide fire protection district to see what the difference would be between ISO for the individual departments and ISO for the town. ISO is a for profit organization.

Supervisor Bylewski briefly discussed the IDA budget relative to their advertising line item. The IDA felt that the figure was appropriate given the programs that they would like to undertake in trying to attract business to the town and given the number of potential leads that are coming off of the IDA ads.

Supervisor Bylewski expressed his strong concern regarding the Economic Development Officer position in how it has been structured as well as how it has been executed. At this time, Supervisor Bylewski has indicated that he can not fund the EDO position in his budget; he has however tentatively proposed a stipend.

Supervisor Bylewski and Councilman Casilio met with Jack Willert and his representatives along with representatives from the Erie County Sheriff's Department, the police foundation and the NYS Troopers regarding a Memorial Walk that will be conducted and sponsored by Jack Willert's group on a not-for-profit basis to help raise money for bike path safety program. Currently, it is not clear what the money will be dedicated for other than the bike path. The walk is being designated as the Pat Casilio Sr. Memorial Walk.

On Friday, September 12<sup>th</sup> there was a loud blast at Buffalo Crushed Stone. The Planning & Zoning Office received numerous complaints which James Callahan followed up on. A representative from Buffalo Crushed Stone indicated that low cloud cover accentuated the blast creating more of a shaking effect.

Town Engineer Latona announced that the County has opened bids for repairs to Tonawanda Creek. The low bidder was Acadia Site Contracting Inc. – they will begin some of the work this winter.

Supervisor Bylewski received a report from the State Comptroller indicating that despite recent developments in the financial markets, the NYS Common Retirement Fund remains strong and the benefits are secure.

Senator Schumer office has provided information regarding an EPA grant regarding Brownfield's Assessment and Cleanup Cooperative Agreement Program. Supervisor Bylewski forwarded the information to Town Engineer Latona.

Supervisor Bylewski will announce the resignation of Steve Murtaugh from both the Ethics Board and the Conservation Advisory Council. As a result of this vacancy, Debra Fine is acting Chairman on the Ethics Board.

Supervisor Bylewski will make a motion to amend a motion of September 10, 2008 due to a ministerial error for the proposed purchase of certain real property by the Town of Clarence. The information we received was incorrect as to the address, the property location however was correct.

Supervisor Bylewski has a resolution from the Town Clerk's office opposing the proposed changes to the Public Health Law consolidating Local Registrars of Vital Statistics.

Supervisor Bylewski will set a Public Hearing for October 22, 2008 at 8:00 PM regarding the use of Federal Community Development Funds in the Town of Clarence.

Supervisor Bylewski will make a motion approving two Special Event requests.

Supervisor Bylewski has one item to discuss in Executive Session.

### **Councilman Joseph Weiss**

Councilman Weiss inquired as to a joint Town Board – Chamber of Commerce meeting. Supervisor Bylewski stated that the Chamber of Commerce has not set a meeting date. Councilman Kolber will inquire at the next Chamber meeting.

Councilman Weiss spoke to Planning Board Chairman Gerald Drinkard about signs along Main Street specifically the two signs that were recently put up at the toy store and the day spa. Councilman Weiss questioned why the Town can not have more input as to what goes on a sign in the town. You don't see this kind of signage in downtown East Aurora and if we can not correct this, all is lost. Councilman Weiss commented that he has been on the Town Board for five years and Main Street looks worse today than it did five years ago from the amount of signs tacked on poles etc. Councilman Kolber stated that the Planning Board came up with a Sign Law which regulated this and came up with more monument type signs. Assistant Planner Brad Packard stated that the Town Board can not regulate context or color unless specifically stated within the law. Councilman Weiss questioned how other towns regulate signage, our Planning Board should contact these towns to see how they enforce their sign laws namely East Aurora.

Councilman Weiss commented on the article in the Clarence Bee regarding emergency services and the possible implementation of an AM radio station dedicated specifically to providing emergency information to the town at a cost of \$30,000. Councilman Weiss was of the opinion that if we are impacted by some type of emergency, generally it will not be within the boundary lines of Clarence. Councilman Weiss feels our radio stations do a good enough job. They have helicopters in the air and people calling in - they warn us enough without

spending \$30,000 to have a Clarence emergency radio system – just like the Reverse 911 system, it is a “vestigial vessel of some other past time.”

Councilman Weiss questioned whether the Board received the 990 Forms from the fire departments. Director of Administration and Finance Pam Smith stated that she still has not received Clarence Center VFC forms.

Councilman Weiss will make a motion authorizing payment of \$1,990. for metering of Tonawanda Creek at Rapids Road as part of our joint funding agreement with the Town of Amherst.

Councilman Weiss will make a motion awarding K2 Architecture the contract to provide schematic plans and budget estimate for an addition to the animal shelter for a fee of \$1,500. They will also provide a schematic budget for the renovation of the Town Hall auditorium for new seating and new flooring for a fee of \$2,200.

Highway Superintendent Ted Donner is requesting approval to install a new Stop Sign at Nottingham Terrace and Oakwood Drive. The sign will replace a yield sign on the northwest corner.

Highway Superintendent Ted Donner thanked Parks Crew Chief John Burns and the Parks Department for the landscape work they did at Nottingham Terrace and Oakwood Drive.

Greg Ribbeck is donating a backstop to the Town. Parks Crew Chief John Burns will install it at Parker playground.

Boy Scout Troop #92 is requesting approval to camp at the Clarence Town Park on Main Street from November 14<sup>th</sup> – 16<sup>th</sup>. The parks are closed but they are asking that the Town make an exception for them. Park Crew Chief John Burns has indicated that the water will be turned off and the large pavilion will be closed for storage.

Erie County is sponsoring an E-Waste & Computer Recycling Drop-Off Day on Saturday, September 27, 2008 at Erie Community College South Campus in Orchard Park.

Councilman Weiss has a Resolution regarding county funding for retaining the position of Recycling Coordinator.

Youth Director Dawn Kinney is requesting Town Board approval to attend the State Association of Youth Bureaus 38<sup>th</sup> Annual Conference on Monday, October 27<sup>th</sup>, 2008 through Wednesday, October 29<sup>th</sup> in Liverpool, NY.

Youth Director Dawn Kinney is still interviewing for the Program Coordinator position left vacant by Michelle Orvis.

Under the Vehicle Replacement Program, Building Inspector David Metzger is requesting a bigger car when his vehicle is up for renewal. The Ford Focus does not provide enough room to carry around drawings, tools and a computer. Councilman Weiss stated that he has seen the conditions in which Dave Metzger drives around in and safety is an issue. Supervisor Bylewski stated that in his budget, he is considering the larger vehicle.

#### **Councilman Bernard Kolber**

Councilman Kolber spoke to Time Warner representative Sharon Hanson regarding a cable drop for the Museum. He submitted a letter to Time Warner requesting it as stated in their contract. They will also provide a drop for the Gerber Library. Councilman Kolber stated that the Youth Center was also noted in the contract however, that was when they were previously located on Sheridan Drive. He will talk to Sharon Hanson to see if they would be willing to provide a drop for the Youth Bureau new facility on Main Street as well.

Councilman Kolber reminded the Town Board of the Public Forum meeting scheduled for 7:00PM on September 29<sup>th</sup> in the Town Hall auditorium.

**Councilman Patrick Casilio**

Councilman Casilio said that the Chamber of Commerce is undergoing internal changes and Darlene Feinen has been named Executive Director.

Town Engineer Latona is looking into a Clarence AM radio system per the request of the Public Safety Board. The local radio system was welcomed at the Chief's meeting. Councilman Casilio will inquire as to any grant money that may be available.

Rock Oak's is hosting their first Neighborhood Watch meeting on October 1<sup>st</sup> @ 7PM.

Councilman Casilio distributed Standard Operating Procedures and recommended changes for the Public Safety Board. He asked that the Board review it and make any comments.

Councilman Casilio will set public hearing dates for the fire department budgets.

The Morlando Committee is meeting on Saturday morning. Councilman Casilio thanked Highway Superintendent Ted Donner for all the work his department did on repaving and downsizing the entrance to Nottingham Terrace.

Councilman Casilio spoke to Senator Mary Lou Rath's office and will set up a meeting with her to discuss the availability of grant money for sidewalks along Main Street from Thompson to Main and Transit. Councilman Casilio has been informed that there is money available.

Councilman Casilio received a budget proposal from NYSEG for electric lights in the Willow Brook gas light district. Councilman Casilio will meet with residents in the neighborhood to discuss the possibility of changing over from gas to electric lights. It costs each resident in that district \$400 a year for gas lights.

Councilman Casilio has been talking to National Fuel about providing gas service down Salt Road. National Fuel has been inundated with requests now that propane has increased.

Traffic Safety is investigating the frequency of accidents at the intersection at Salt and County Road following the horrific accident that took place last weekend. Highway Superintendent Donner is currently speaking to the County regarding sign improvements at that intersection.

Clarence Hollow Merchants Association sponsored Wine, Wheels and Song and raised money for the bike path – over 600 people were in attendance at this year's event.

Councilman Casilio and Senior Building Inspector David Metzger have identified several locations along Main Street in Clarence Hollow that are in need of attention.

Councilman Casilio has two items to discuss in Executive Session regarding matters leading to the discipline of an individual and collective negotiation pursuant to Article 14 of the Civil Service Law.

**Councilman Peter DiCostanzo**

The Historic Preservation Commission would like to purchase plaques for any house designated historic. The price of each plaque is estimated at less than \$300. Three different choices have been presented to the Board. Supervisor Bylewski indicated his choice would be a modified #3 with the Town Seal and Log Cabin as depicted.

The Historical Society will meet and put together a long-term plan as to improvements they would like to see at the Museum.

Councilman DiCostanzo will set a Public Hearing to consider adopting a local law amending the Veteran's Exemption to provide for Exemption for Cold War Veterans.

Councilman DiCostanzo would like to see the final figures from Day in the Park. The town spends a lot of money on this event and he would like to see how the various groups did financially.

Councilman DiCostanzo referenced the Sign Law stating that he is in favor of making signs more restrictive in certain areas especially since we are trying to upgrade our hamlets. The problem we are facing is when the new Sign Law was proposed; the businesses community along Main Street rejected it. Councilman Weiss stated that other towns such as East Aurora and Orchard Park enforce their sign law. The town enforces architecture style etc. why can't we enforce the type of signage we would like to see along Main Street. Supervisor Bylewski stated that we have a Sign Review Board and a Sign Law that is under various stages of review in the legal department.

Councilman DiCostanzo and Councilman Weiss met with the Business Development representative Peter Martin from Waste Management regarding the formation of a garbage district. Councilman DiCostanzo stated that his take on the meeting was that Waste Management does not want the Town to form a garbage district. Waste Management also had a professional promotional consultant at the meeting.

Councilman DiCostanzo has two items to discuss in Executive Session regarding the employment history of a particular individual and the proposed acquisition of real property.

**Town Engineer Joseph Latona**

Town Engineer Latona and Director of Community Development James Callahan have proposed the formation of a sewer district for Spaulding Green. Upon review of the development, Town Engineer Latona noted that the district boundaries have to be expanded to Clarence Center Road tie into Sewer District #2.

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), matters leading to the discipline of a particular person; § 105 (1) E Collective negotiations pursuant to Article 14 of the Civil Service Law (the Taylor Law) and § 105 (1) H the proposed acquisition of real property when 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 7:09 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:24 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 24, 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 Peter DiCostanzo, followed by a prayer given by Pastor Kimberly Gladden 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 Town Planner Brad Packard, Deputy Town Attorney David Donohue, Town Engineer Joseph Latona, Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held September 3, 2008. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to amend the motion of September 10, 2008 due to a ministerial error for the proposed purchase of certain real property by the Town of Clarence incorrectly listed as and advertised as being located at 10715 Clarence Center Road to be corrected as follows:

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 on Salt Road, SBL No. 59.00-4-46, 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.

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

WHEREAS, the New York State Local Government Commission on Efficiency and Competitiveness has made certain recommendations to the Governor which affects the operation of local governments; and

WHEREAS, one of the recommendations of the Commission was to move all Registrar of Vital Statistics' duties to the County level under the direction of the New York State Health Commissioner; and

WHEREAS, New York State Department of Health has developed a program bill that would allow the Commissioner to consolidate the function of the local registrars of vital statistics; and

WHEREAS, the New York State Department of Health has inappropriately attached these proposed changes in the structure of the Registrar of Vital Statistics' duties to the "Pandemic Flu and Public Health Emergency Preparedness Law", and

WHEREAS, the Commissioner could consolidate these services without county legislative approval; and

WHEREAS, local city, town, and village Clerks have provided this service professionally and efficiently over the years; and

WHEREAS, losing this business would have a financial impact on the local governments; and

WHEREAS, many citizens are under financial stress due to high fuel costs; and

WHEREAS, the County's geography would increase this burden since services would be located further from the residents; and

WHEREAS, the local Registrars presently charge \$10.00 per certified copy and the State proposes that the County will charge \$30.00 per certified copy;

NOW THEREFORE, BE IT RESOLVED, that in the interest of good government, the Town Board of the Town of Clarence opposes the consolidation of the function of local registrars of vital statistics; and

BE IT FURTHER

RESOLVED, that a copy of this Resolution be forwarded to Governor David Paterson, Erie County Executive Chris Collins, Erie County Legislature, Erie County Clerk Kathy Hochul and the Western New York Delegation of the New York State Senate and Assembly.

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

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a public hearing for Wednesday, October 22, 2008 at 8:00 p.m. in the Town of Clarence in the Town Hall auditorium, One Town Place, Clarence, NY 14031 regarding the use of Federal Community Development Funds in the Town of Clarence.

The Town of Clarence is eligible for a Federal Community Development Grant under Title I of the Housing and Community Development Act of 1974, as amended.

The purpose of the Hearing is to provide an opportunity for citizens to express community development and housing needs and to discuss possible projects which would benefit low and moderate income persons in the Town of Clarence.

Citizens are urged to attend this meeting to make known their views and/or written proposals on the Town of Clarence's selection of potential projects to be submitted for possible funding by the Federal Community Development Grant Program.

The hearing will also present a review of prior Community Development projects and expenditures and a discussion of eligible activities. The meeting room is wheelchair accessible.

Those needing special arrangements should call the Town of Clarence at 716-741-8930 by October 17, 2008.

On the question, Supervisor Bylewski said projects we have looked at have been Rural Transit transportation service and ADA accessibility for the Legion Hall and a project for the Clarence Center area.

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

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant approval for the Bike Path Scavenger Hunt on October 11, 2008 from 9:30 a.m. to 12:00 noon to be held between the Soccer Center at Kraus and Clarence Center Road and the gazebo. On the question, Supervisor Bylewski said all necessary agencies will be contacted. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve the Special Event Request for the Clarence High School to hold the Homecoming Parade on October 11, 2008 to begin at the old Berrafato's/Pony's location to the high school starting at 12:30 p.m. On the question, Supervisor Bylewski said all necessary agencies will be contacted. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that a notice of retirement letter was received from Steve Murtaugh from the Ethics Board and the Conservation Advisory Board. Mr. Murtaugh has served on various committees in the Town, including chairman of the Ethics Committee for the past ten years.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to accept, with regret, the resignation of Stephen Murtaugh from the Ethics Board and the Conservation Advisory Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said we now have a vacancy on the Ethics Board for a member of any political party. The term left is through 12/31/2009.

A vacancy is also available on the Conservation Advisory Board. Anyone interested in these positions should submit an application.

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

WHEREAS, the State of New York Solid Waste Management Act of 1988, listed in Part 371 of the NYS Codes, Rules and Regulations (6 NYCRR) prepared in accordance with 6 NYCRR Part 360, established a statewide goal to maximize solid waste reduction and recovery to the extent economically and technically feasible; and

WHEREAS, the Act calls for all municipalities of New York to be part of a solid waste management unit and to develop, and have the State approve, a Solid Waste Management Plan; and

WHEREAS, consistent with this plan, the Northeast Southtowns Solid Waste Management Board (NEST) is to achieve a 50 percent or more recycling rate by 2012, the end of the ten-year planning period; and

WHEREAS, NEST, a designated Solid Waste Planning Unit recognized by the New York State Department of Environmental Conservation (NYSDEC), consisting of municipal

representatives and serving a region that includes 37 municipalities (22 towns, 14 villages, and one city) in Erie County, New York; and

WHEREAS, NEST is required to address the solid waste management needs of the municipalities within its borders; and

WHEREAS, the NEST Solid Waste Management Plan identifies Erie County as the administrator of the plan; and

WHEREAS, the State of New York and the local solid waste management boards have provided financial aid to Erie County to support a Recycling Coordinator position to serve Erie County municipalities; and

WHEREAS, the Recycling Coordinator for Erie County acts as the staff for NEST and has provided the administrative support for the implementation of the Solid Waste Management Plan; and

WHEREAS, Erie County, with the support of NEST, has prepared and submitted a grant application to the NYSDEC for the Recycling Coordinator position for 2009-2011; and

WHEREAS, the State of New York has delayed funding of the Recycling Coordinator position; and

WHEREAS, the local solid waste boards intend to continue to contribute financial support to offset costs associated with the Recycling Coordinator position; and

WHEREAS, the local solid waste boards are concerned with the possible loss of the position of Recycling Coordinator from the 2009 budget.

NOW, THEREFORE, BE IT

RESOLVED that the Clarence Town Board joins the Board of NEST in urging the Erie County Executive, Chris Collins, to continue to provide support to assist in implementing the mandatory requirements of the Solid Waste Management Plan; and be it further

RESOLVED, that the Clarence Town Board joins the Board of NEST in requesting the County Executive of Erie County to utilize its funding support to convert the position of Recycling Coordinator to a county-line position until grant funding is reinstated; and be it further

RESOLVED, that the Clarence Town Board directs the Clarence Town Clerk to forward a copy of this resolution to County Executive, Chris Collins.

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

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to authorize payment in the amount of \$1,990 for metering Tonawanda Creek at Rapids as part of the joint funding agreement with the Town of Amherst. On the question, Councilman Weiss said this is coordinated through Town Engineer Joseph Latona to make sure the affluent leaving the Town of Clarence is correctly measured and to measure levels in the creek for downstream flooding. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to award a contract to K2 Architecture to provide schematic plans and budget estimate for an addition to the animal shelter at a fee of \$1,500; and to provide a schematic budget for the renovation of the town hall auditorium for new seating and new flooring at a fee of \$2,000. Both fees to be paid from Engineering Account A1440.434 Professional Services. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to award a contract to Frandina Engineering to conduct a bridge inspection of the pedestrian bridge over Ransom Road in accordance with their proposal dated September 8, 2008 for a fee of \$1,400 to be paid from the Bike Path Maintenance Account. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to award a contract to Buffalo Drilling Co., Inc. for soil boring for sewers on Ransom Road, Boyd Road, Bickert Road, Sawmill Road and Schurr Road in Clarence Sewer Dist. No. 9 in accordance with their proposal dated September 12, 2008 for an amount not to exceed \$14,000, and to be paid from Clarence Sewer Dist. No. 9. Upon roll call – Ayes: All; Noes: None. On the question, Councilman Weiss said this is to determine the amount of rock they have to deal with in that area. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to award the contract to KD Equipment Corp. for drainage work at 8823 Stonebriar Drive in accordance with their proposal dated August 28, 2008 in the amount of \$8,000. All materials to be supplied and the contract paid from the Town of Clarence Drainage District. On the question, Councilman Weiss

said this has been a problematic flooding area for a while. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to declare the following vehicles as surplus: 2005 Ford Taurus, VIN #1FAFP53U35A297032; 1998 Ford 15-Passenger Van, VIN #1FBSS31LXWHA60069; and 2005 Dodge Caravan VIN #1D4GP21R95B124754. On the question, Councilman Weiss said this is part of our vehicle replacement program. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date of October 7, 2008 at 10:00 a.m. for the sale of the following surplus vehicles: 2005 Ford Taurus, VIN #1FAFP53U35A297032; 1998 Ford 15-Passenger Van, VIN #1FBSS31LXWHA60069; and 2005 Dodge Caravan VIN #1D4GP21R95B124754. Vehicles will be available for inspection at the Highway Department, 6185 Goodrich Road and the Town Clerk will do all necessary advertising. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date of October 7, 2008 at 9:30 a.m. for the purchase of two 10-Foot Dump Bodies Installed. Bid specifications will be available at the Highway Department and the Town Clerk will do all necessary advertising. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to authorize the Highway Department to install a new stop sign at Nottingham Terrace and Oakwood Drive to replace a yield sign on the northwest corner. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss received a report from Highway Supt. Ted Donner regarding the reconfiguration of the intersection of Nottingham Terrace and Oakwood Drive to reduce the width of the entrance and intersection for safety reasons. They also milled and resurfaced the road. The Parks Department performed the landscape portion of the project. The departments work together often enjoying a great cooperative working relationship. The Highway Department will be doing some blacktopping work for them next week in the Main Park parking lot. He thanked John Burns and his department for their assistance.

Motion by Councilman Weiss, seconded by Councilman Casilio to grant permission for Dawn Kinney, Youth Director to attend the State Association of Youth Bureaus Annual Conference October 27 – 29, 2008 in Liverpool, New York at a cost of \$112.50 and any additional necessary expenses. The State Association provides one free registration to dues-paying Youth Bureaus, which we are. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said we received notice from Erie County that they will be hosting a computer, electronics, appliance, textile and bicycle recycling drop-off on Saturday, September 27, 2008 at Erie Community College South Campus in Orchard Park from 9:00 a.m. to 2:00 p.m.

Councilman Weiss said he has taken items to the drop-offs and they move along quite quickly and efficiently. People should not be alarmed if they see a long line.

Councilman Weiss said the deer abatement program should be starting up very soon. We have a few more people interested this year.

Councilman Kolber announced that the Town is accepting applications for the Zoning Board of Appeals through October 10<sup>th</sup>.

Councilman Kolber announced that next Monday, September 29, 2008 at 7:00 p.m. is the Annual Resident's Forum for residents to speak on any topic they would like to talk about.

Councilman Casilio said the Public Safety Committee is looking at establishing an AM radio station for public alerts or notifications. There are towns that use this form of communication. We are also looking at the reverse 911 system.

Councilman Casilio said the Morlando Committee would like to thank Ted Donner and his department for all the work they did on the entrance to Nottingham Terrace.

Councilman Casilio said they have been talking to Mary Lou Rath's office about funding for sidewalks on Main Street from Thompson and Sheridan to Transit Road.

Councilman Casilio said we have preliminary figures from NYSEG to change Willowbrook from a gaslight district to electric. He is waiting for prices from two private contractors and once they are received will meet with the residents to discuss the issue.

Councilman Casilio said he is also working with National Fuel and Town resident Hans Mobius about a gas line extension on Salt Road.

Councilman Casilio said the Public Safety Committee received letters regarding a recent accident at Salt and County Roads. Highway Supt. Donner has contacted the County about sign improvements and checking sight lines to improve the safety at the intersection because they are county roads. He believes they may have done some work already.

Councilman Casilio said the Clarence Hollow Association held a fundraiser to help with bike path safety improvements. He congratulated them on a very successful event.

Councilman Casilio said he recently reviewed properties along Main Street with the Building Department. They are working diligently to get some properties into compliance.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to set Public Hearings for October 22, 2008 to consider entering into contracts with fire companies for fire protection in the Town of Clarence for the year 2009 as follows: 7:45 P.M. - Clarence Center Vol. Fire Company; 7:50 P.M. - Harris Hill Vol. Fire Company; and 7:55 P.M. - Rapids Vol. Fire Company. On the question, Councilman Casilio said Swormville and East Amherst have three year contracts, which began last year. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said that the Historic Preservation Committee is working on a plaque to be placed on buildings or homes that have been designated as historic.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to set a public hearing for November 5, 2008 at 7:50 p.m. to consider an amendment to the Code of the Town of Clarence adopting a local law providing for a partial exemption from general municipal taxes on the primary residence of a veteran of the United States armed forces who served during the Cold War. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo thanked Greg Ribbeck from Shimerville Road who is donating his backstop to the Town for placement at Parker Park. The Parks Department will take it down over the winter.

Councilman DiCostanzo said the Town Board had a "spirited" conversation at the previous Work Session regarding signs. The Town will do what it can to clean up some of these issues, but he asked property owners to do their part in maintaining their properties.

Supervisor Bylewski thanked department heads present for attending.

#### Public Participation

Veronica Schroeder spoke in regard to item 14, asking the Board to carefully consider construction of this plaza. She attended the Board of Appeals meeting and the applicants have made some concessions. However, she still believes that it is too close to her home and out of character with the neighborhood. There are still some unresolved issues.

Councilman Casilio asked if she preferred the building be on the west property line. Mrs. Schroeder said yes. She appreciates that they would move the building back to where her garage is.

A Public Hearing was held to consider amendments to Master Plan 2015 regarding the Transit Road Corridor. Brad Packard said the annual public hearing for the Master Plan review was held February 27, 2008 giving applicants the opportunity to propose zoning and land use changes. At that meeting, two applicants proposed changes along the Transit Road Corridor. Upon referral from the Town Board, the Planning Board decided that the best approach for

consideration of those applicants would involve analyzing the portion of Transit Road north from Greiner Road to County Road. After thorough review, the Planning Board forwarded a recommendation to the Town Environmental Quality Review Committee which segmented the overall portion of Transit Road into four segments. The proposed amendments received a Negative Declaration under SEQR. The basis of the recommendation is the down-zoning of certain segments from Major Arterial to Commercial or Restricted Business.

Supervisor Bylewski said he received communications from Eric Ogren regarding 6031-6051 Transit Road. He had a concern with down-zoning the property. He would like it zoned Commercial, not Restricted Business. We also received a letter from Sean Hopkins representing the applicant stating they would like to bring their concerns forward for the record.

Speaking to the subject:

Pat Cipolla requested that the Town Board omit Section B from the amendments. He has a proposal for a Wegmans and a small liquor store to go in south of the Summit Bank. They are ready to go forward with it. He brought a certified landscape professional with him to explain about the problem with the trees on the site. He believes the Planning Board wanted to maintain that area because of the trees and for it to remain residential. What he is proposing would bring in significant tax dollars to the Town.

The landscape professional said the trees may have been significant until the Asian bores have come in to the country, mainly in the Detroit area. They are destroying all of the ash trees. It has traveled to the Cleveland area and is coming this way. The destruction happens very quickly. There are few substantial trees on this property. He knows that Mr. Cipolla wants to plant trees to replace what is removed.

Pat Cipolla said Wegmans has promised him that they would spend over \$300,000 in landscaping. He believes it would be the nicest looking shopping center in Erie County.

Councilman Kolber said we are not looking at this particular site plan; we are looking at amendments to the Master Plan.

Arthur Edelman said he is not familiar with the plan for Wegmans. He is concerned that it would negatively impact the traffic situation in that area. It is also an increase in commercialization of the neighborhood. Segment C is closer to his neighborhood, but they would be concerned about both B and C.

Sean Hopkins, attorney addressed two parcels. The Deni property in Segment D is zoned Restricted Business along the frontage and the rear is Residential Single Family. They are asking the Town Board to consider the amendment to the Master Plan to make the Residential portion Commercial in exchange for 16 of the 32 acres to be subject to a conservation easement. It is close to the creek and wetlands. It would be a benefit to all of the owners of the adjacent properties. They hope to have an agreement in the future with the property owners on Miles Road that will deal with many issues including no driveway on Miles, conservation easement filed to ensure no further development, lighting, setbacks, etc. There is a piece that, once the project received approval, his client would convey to the two adjacent property owners. They will continue to work with the neighbors. He understands they must go through the review process. This is to see if it makes sense from a land use perspective.

The original plan showed a parking lot near the adjacent parcels. They are asking to amend that portion to Commercial and that parking would be eliminated. If the amendments are approved, they would be back with the project.

Councilman Kolber asked what would happen if the project did not go forward.

Mr. Hopkins said the frontage is now Major Arterial which allows for big box development. The proposed amendment is to rezone to Commercial. They would have to come back if the plan is different. The Town has more protection than it does today. The neighbors get 16 acres of perpetual greenspace and the rezoning to Commercial.

Councilman Weiss said he believes this is a good use of this land and it offers protection of land.

Supervisor Bylewski said one thing to consider is to have the WNY Land Conservancy involved to monitor the protection of the greenspace area.

Mr. Hopkins said there are Federal Wetlands on the site and they also do not take violations lightly.

Councilman Kolber asked if the Master Plan amendment is approved, can we have an agreement that the rear of the property will remain forever wild. Supervisor Bylewski said we could indicate that in the amendment.

Councilman Kolber said his concern is that we are making a change in zoning and he would like assurance that the conservation easement will occur whether or not the project goes forward.

Deputy Town Attorney David Donohue said he understands the concerns. Something has to give first.

Sean Hopkins suggested that the Town make some findings that are the basis of the decision. They would have to come back several times in the future before anything takes place on the site.

Supervisor Bylewski said he thinks it would be appropriate to indicate in the amendment what we would like to see. The Master Plan is the guide for the Town and all laws should flow from it.

Sean Hopkins said in regard to Segment C, his client will retain ownership of 6031 Transit Road and just the frontage of 6051 Transit Road. The only thing they would ask is to rezone the parcel to Commercial for possible future use.

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

Supervisor Bylewski said we looked at four segments of the Transit Road Corridor being: Segment A – Greiner to Roll; Segment B – Roll Road to Clarence Center Road; Segment C – Clarence Center Road to Miles Road; and Segment D. – Miles Road to County Road.

Councilman Weiss said he feels that the presentations tonight are advantages to the Town. They propose saving greenspace and are adding to the tax base without causing additional expense to the services. It also gives residents the benefit of the additional greenspace behind their properties.

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

Be it resolved, that the Clarence Town Board, after a public hearing duly held on September 24, 2008, and after all interested parties having been heard, upon the recommendations of the Town of Clarence Planning Board, adopts the amendments to Master Plan 2015 regarding the Transit road Corridor.

Specifically, be it resolved that the Town Board accepts the recommendations as forwarded by the Planning Board regarding:

Segment A: The portion of Transit Road referred to as Segment A within the Transit Road Corridor Analysis 2008 as prepared by the Planning Board. Therefore the Town Board accepts no changes to the class or depth of the existing Major Arterial zoning along the portion of Transit Road spanning from Greiner Road to Roll Road.

Segment C: The portion of Transit Road referred to as Segment C within the Transit Road Corridor Analysis 2008. Therefore the Town Board amends the existing Major Arterial Zoning to be down zoned to Restricted Business, maintaining the depth of the current zoning along the portion of Transit Road spanning from Clarence Center Road to Miles Road with the exception of the following parcels:

- a. Down zone from Major Arterial to Commercial 6011 (SBL 43.17-5-3) and 6031 (SBL 43.17-5-2) Transit Road, maintaining the current depth of zoning.
- b. Down zone from Major Arterial to Restricted Business 6051 Transit Road (SBL 43.17-5-11), the parcel referred to as the Roy Jordan Proposal within the Transit Road Corridor Analysis 2008, extending the depth of Restricted Business Zoning 490', creating a total depth of 1,130' of Restricted Business Zoning off of Transit Road.

Segment D: The portion of Transit Road referred to as Segment D within the Transit Road Corridor Analysis 2008. Therefore the Town Board amends the existing Major Arterial Zoning

to be down zoned to Commercial, maintaining the depth of the current zoning along the portion of Transit Road spanning from Miles Road to County Road with the exception of the following parcel:

- a. Down zone from Major Arterial to Commercial the parcel referred to as the Deni Proposal (SBL 43.05-2-1.1) within the Transit Road Corridor Analysis 2008, extending the current depth of zoning 400', creating a total depth of 1,050' of Commercial zoning off of Transit Road **with an appropriate conservation area of 16+/- acres to provide buffering for the residents and the wetlands.**

On the question, Supervisor Bylewski said we could add a further clause at the end of Segment D: "with an appropriate conservation area of 16+/- acres to provide buffering for the residents and the wetlands."

Councilman Kolber said he did not mention Segment B because it is a new proposal, he will make a separate motion to refer it back to the Planning Board for further review.

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

Motion by Councilman Kolber, seconded by Councilman Weiss to refer the following amendment to Master Plan 2015 to the Planning Board for further review due to the potential new development in that segment:

Segment B: The portion of Transit Road referred to as Segment B within the Transit Road Corridor Analysis 2008. Therefore the Town Board amends the existing Major Arterial Zoning to be down zoned to Commercial, maintaining the depth of the current zoning along the portion of Transit Road spanning from Roll Road to Clarence Center Road.

On the question, Supervisor Bylewski said all items brought up in the public hearing to be brought to the Planning Board's attention for proper study. Councilman DiCostanzo added that it may also be referred to the TEQR Committee. Supervisor Bylewski said that depends on whether anything being proposed would change the analysis that was done.

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

John DiBrog requests a Clearing Permit at 10407 Clarence Center Road to develop a horse farm. Brad Packard said the location is the south side of Clarence Center Road, east of Strickler Road consisting of approximately 5 acres in the Agricultural Rural Residential Zone.

John and Laura DiBrog were present. Laura said they would like to keep as many trees as possible, but they do need to clear out the pasture. It would be a private residence and they would like to board three horses.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant approval for a Clearing Permit at 10407 Clarence Center Road to develop a horse farm. Upon roll call – Ayes: All; Noes: None. Motion carried.

Techniflo requests a Building Permit and Architectural Approval for a new structure at 9730 County Road. Brad Packard said the location is the north side of County Road, east of Goodrich Road in the Industrial Business Park Zone.

Douglas Klotzbach, architect and Gary Zimmerman representing Techniflo were present. Mr. Klotzbach said they would like to put up a same structure as currently exists. The business is expanding and they need to separate some of their functions. It will match the existing architecture.

Supervisor Bylewski asked if the applicant would be willing to consider some aspect or feature of the stone wall fences that are throughout the Town.

Gary Zimmerman said they had not thought about that until it was just mentioned. He will take it back to the owner, but does not think he would have an objection.

Councilman Kolber said they are proposing another driveway. Mr. Zimmerman said it would go around both buildings in the rear. The distance between the two driveways is well over 100 ft. It provides space for large trucks to get through the property.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant a Building Permit and Architectural Approval for a new structure at 9730 County Road. On the question, Supervisor Bylewski asked if they will give consideration of the architectural feature of the stone wall, whether it is part of the landscaping or something else. Upon roll call – Ayes: All; Noes: None. Motion carried.

William Henderson/Clarence Wine & Spirits requests Preliminary Concept Review of a proposed new commercial building at 10060 Main Street. Brad Packard said the location is the

north side of Main Street, west of Pineledge Drive consisting of approximately a half acre vacant lot in the Commercial Zone.

William Henderson, architect and Diane Bloom, owner were present. Mr. Henderson said when they flipped the building to the west, it eliminates the need for the variances to the east and the only variance is for the setback from the residential property. They have changed the roof line so that it does not have the long appearance. Even though the liquor store and the party store will be one business, they have to have a separate entrance.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to deny the request for Preliminary Concept Review of a proposed new commercial building at 10060 Main Street. On the question, Councilman Casilio said it is a lot better looking building now and matches more to existing buildings in the area. Upon roll call – Ayes: All; Noes: None. Motion carried.

Chalets at Red Rock/Stephen Development requests Development Plan Approval for additional units at 8880 Main Street. Brad Packard said the location is the north side of Main Street, west of Shimerville Road consisting of a detached apartment complex in the Harris Hill Traditional Neighborhood District. A variance was granted by the ZBA to allow for additional units as designed. The proposal is for six additional units.

Douglas Klotzbach, architect was present. They have gone through several changes to get to this point.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant the request of the applicant, the Chalets at Red Rock/Stephen Development, for Development Plan approval for the construction of six additional units, as designed, to be located at 8880 Main Street subject to the following conditions:

1. Open Space and Recreations Fees.
2. Buildings sized to meet minimum requirements in the TND Zone of 600 square feet.
3. The woodland on the east side of the property will remain intact and undisturbed.

On the question, Councilman Kolber said as much as he likes the development, he cannot vote to approve this in a Single Family Residential Zone.

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

Brad Packard said the variance was for a reduced lot size for three additional units in the rear portion of the site.

Motion by Councilman Weiss, seconded by Councilman Casilio to grant approval of the following: Clubhouse Applications – A. Cub Scout Pack #568 – Feb. 13 & March 15, 2009; Clarence Garden Club – 3<sup>rd</sup> Wednesday each month of 2009; Legion Hall Applications – A. Stacey Anthony – Nov. 1, 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 September 18, 2008 are approved for payment: General Fund - \$150,274.52; Highway Fund - \$68,477.23; Water District - \$1,512.26; Drainage District - \$600.00; Lighting District - \$1,187.87; Sewer Districts - \$204.31; Capital Fund - \$147,216.52; and Trust & Agency 203 - \$74.07 for a total amount of \$369,546.78. Upon roll call – Ayes: all; Noes: None. Motion carried.

There being no further business Supervisor Bylewski adjourned the meeting at 9:15 P.M. in memory of John Brady, a longtime member and chairman of the Board of Appeals. He served well and will be missed.

Nancy C. Metzger  
Town Clerk