

A Work Session of the Clarence Town Board was held on October 8, 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, Deputy Town Attorney David Donohue, Town Engineer Joseph Latona, Director of Administration and Finance Pam Smith, Senior Building Inspector David Metzger, Planning Board Chairman Gerald Drinkard and Confidential Secretary to the Supervisor Karen Jurek.

**Director of Community Development – James Callahan**

***Public Hearings:***

A public hearing is scheduled for 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 at a purchase price not to exceed \$320,000 plus any closing costs.

A public hearing is scheduled for 7:50 P.M. to consider the purchase by the Town of Clarence of approximately 96+/- acres of vacant land located on Salt Road at a purchase price not to exceed \$705,000 plus any closing costs. Nancy Smith from WNY Land Conservancy will be present to give some background information on both parcels.

A public hearing is scheduled for 7:55 P.M. to consider a local law amending the Code of the Town of Clarence Chapter 181 – Signs § 181-7 (O).

***Formal Agenda items:***

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.

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 Jurek Christmas Tree Farm). The Town Board had previously issued a fill permit.

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. There is no public water down Kenfield Road. 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.

Metzger Engineering – 8100 Lapp Road east of Transit Road

Applicant is seeking a fill permit in advance of the building permit. Several weeks ago the Town Board approved three lots. There is a great deal of concern because of floodplain issues. Town Engineer Latona stated that he has strong reservations against this and suggested that no fill be allowed on site until a development plan or a building permit has been applied for. The proposed site is located on the north side of Lapp Road, east of Transit Road.

***Work Session items for consideration October 22, 2008:***

Clay Ertel 8196 County Road

Applicant is seeking to demolish the existing home for future residential development. The proposed site is located on the north side of County Road, east of Stahley Road in the Swormville TND. The existing residential structure is greater than 50 years old. Per the Demolition Law, the demolition of a structure greater than 50 years old is considered a Type I Action under SEQRA and TEQR.

Michael McHugh 10335 Clarence Center Road

Applicant is seeking approval to split the property to create an additional residential building lot in conformance with Zoning. The proposed site is located on the south side of Clarence Center Road, east of Strickler Road on existing residential property consisting of 26+/- acres in the Agriculture Rural Residential Zone. Per the Subdivision Law, the Town Board has authority to approve minor subdivisions to create new residential lots.

Aegis Development/Dan Furmanek 8230 County Road

Applicant is seeking Concept Approval on a 35-lot Open Space Design subdivision. The proposed site is located on the north side of County Road, east of Stahley Road on existing vacant land consisting of 19+ acres in the Swormville TND. Proposed Open Space Design Subdivision was originally introduced to the Town Board on 12-20-06. A density yield of 35 units was established on 2-17-07. A Negative Declaration under SEQRA was issued on 5-28-08. The Planning Board has forwarded a recommendation on the Concept Plan with conditions. Per the Subdivision Law, the Town Board has final authority to approve Concept Plans after a required public hearing.

9065 Wolcott Road

Applicant is requesting a Special Exception Use Permit for a secondary living unit for an in-law apartment.

Towne BMW

Applicant is requesting Town Board approval to place a mini cooper on the top of their building; this will require an amendment to the previous motion.

**Supervisor Scott Bylewski**

Supervisor Bylewski reminded the Town Board of the scheduled budget meeting tomorrow at 2PM.

Supervisor Bylewski circulated a memo in accordance with a conversation he had with Justice Michael Powers regarding a driver safety program. The program would be a revenue generator for the town and also would be a great convenience for town residents and people living in nearby towns to attend court ordered driver safety programs. Supervisor Bylewski has given Judge Powers the go ahead to proceed with this program – it will be a benefit to the town.

Supervisor Bylewski met with a representative from ISO this morning regarding the fire departments. One item that came out of the meeting was the possibility of going out for Request for Qualifications for a fire company consultant to take a look into a Shared Municipal Services Grant or consolidation effectiveness.

Professor Samina Raja will meet with the Town Board on October 16, 2008 at 2PM to go over the Fiscal Impact Report.

Supervisor Bylewski received notification from National Fuel regarding their legislative meeting on October 16<sup>th</sup> at 2PM. The meeting is an informative meeting to let officials know how things are going and what to expect for the year. Councilman Casilio will attend in place of Supervisor Bylewski.

Supervisor Bylewski has one item for Executive Session under proposed litigation regarding Spaulding Green.

**Councilman Joseph Weiss**

Councilman Weiss has a resolution granting Town Board approval for the Northern Erie County Sno-Seekers Snowmobile Club's use of town bike paths for the 2008-2009 seasons.

Youth Director Dawn Kinney is requesting a transfer of funds within the 2008 Youth Department budget.

Councilman Weiss will be meeting with the Recycling Committee. Before the committee goes any further with a solid waste referendum, they would like input from the Town Board. Supervisor Bylewski said that based on the comments received at the public hearing and the comments received afterwards, he is not in favor of pursuing a referendum at this time. Councilman Kolber stated that he would be in favor of the referendum as long as we have the information laid out for the residents. Councilman DiCostanzo concurred with Councilman Kolber. He did not want to rush something through; he would rather wait and do it properly. Councilman Casilio stated that he is in favor of the referendum if it can be done properly. He would like the committee to do their homework and lay it all out. Councilman Casilio stated that he feels there is a need for a garbage district however the only problem he has is going against the original referendum vote. He would like to see residents have to bring in their garbage receipt/bill to be eligible to vote. After meeting with the vendors, we realized that there are approximately 1,000 residents who do not use a garbage service which means they are not recycling.

Councilman Kolber stated that more people expressed their desire for a garbage district via e-mails than those that were against it, so he did not think that the Board would be going against people's wishes by putting it to another vote.

Supervisor Bylewski reminded the Board about the vacancies on various committees.

**Councilman Bernard Kolber**

Councilman Kolber will announce a vacancy on the Zoning Board of Appeals.

Councilman Kolber will announce an upcoming Erie County Department of Senior Service public hearing.

**Councilman Patrick Casilio**

Councilman Casilio has one item to discuss in Executive Session regarding the employment history of a corporation.

Councilman Casilio will announce a vacancy on the Avoidable Alarm Committee.

Councilman Casilio has several comments regarding the political sign law.

**Councilman Peter DiCostanzo**

Councilman DiCostanzo has one item to discuss in Executive Session regarding the employment history of a corporation.

The new roof has been installed on the Log Cabin however, a pile of old shingles still remain. Councilman Weiss stated that some of the shingles are being used to make birdhouses. Supervisor Bylewski asked Town Engineer Latona to contact Jon Conlin and request that the shingles be removed within one week.

The Historic Preservation Committee has set three Public Hearings for three property owners requesting historic designation: 4830 Thompson Road, 10525 Clarence Center Road and 10847 Main Street.

Someone had submitted a property on Ransom Road for historic designation consideration however; the Historic Preservation Committee felt the property needed some maintenance before it was given consideration.

The new historic landmark plaque design was distributed. Supervisor Bylewski stated that the design that Doug Kohler showed him was different from the one presented.

The Museum/Meeting House Board is working on a letter to the Town Board requesting the Museum, Log Cabin and the Gerber Library be considered for historic designation.

Councilman DiCostanzo commented on the Planning Board meeting – there was a lengthy discussing regarding the difference between **conditions** and **considerations**.

Councilman DiCostanzo corrected the minutes of September 10<sup>th</sup>, 2008 on page 276, 10<sup>th</sup> paragraph: *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 **not** enforceable.*

Councilman Weiss asked Deputy Town Attorney Donohue about C & F Development draining the wetlands on a parcel of land east of Herr Road and north of the bike path. Mr. Cimato alleges he restored the area however; Councilman Weiss questioned whether he dug up the pipe. He put the receiver right at the edge of the wetlands to make sure that he is actually draining the wetlands from one foot away from the wetlands. The Army Corps of Engineers has indicated that they did a site visit and it was determined that the restoration activities performed on the subject parcel were satisfactory. Councilman Weiss questioned whether Mr. Cimato actually dug up the pipe or did he bury it and is essentially draining the wetlands. Councilman Weiss stated that Mr. Cimato is actually draining the wetland from the receiver he has got off the wetland. If you look at the contour he is doing exactly what he wanted to do. Councilman Weiss would like the Army Corps of Engineers to come back to make sure Mr. Cimato actually dug up the pipe and can he still effectively drain the wetland using what he had done. Town Attorney Steve Bengart will follow up on Councilman Weiss request.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105 (1) D of the Open Meetings Law to discuss proposed litigation regarding Spaulding Green and § 105 (1) F the employment history of a corporation. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:33 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:23 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, October 8, 2008 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:30 P.M. Pledge to the flag was led by Councilman Joseph Weiss, followed by a moment of silence in honor of our service men and women.

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, Deputy Town Attorney David Donohue, Town Engineer Joseph Latona and Building Inspector David Metzger.

Motion by Councilman Weiss, seconded by Supervisor Bylewski to accept the minutes of the previous meeting held September 10, 2008. On the question, Councilman DiCostanzo had a correction on page 276, 3<sup>rd</sup> paragraph from the bottom – should be unenforceable. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said there was a meeting held this morning with a representative from ISO to discuss fire company safety and effectiveness. We hope to go out for a request for qualifications for a consultant to look at fire company effectiveness in the Town. It could possibly be under a shared municipal services grant.

Supervisor Bylewski announced the meetings set to discuss the budget will be October 9<sup>th</sup> at 2:00 p.m.; and October 16<sup>th</sup> will include Samina Raja, a professional consultant assisting us with fiscal impacts regarding planning.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve a transfer of funds in the Youth Department budget as follows: \$1,500 from A7310.470 Expense & Travel to A7310.450 Maintenance of Buildings & Grounds. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Whereas, the Northern Erie Sno-Seekers Inc. Snowmobile Club has requested permission from the Clarence Town Board for the use of specific Town owned property for the 2008-2009 Snowmobiling season as follows:

1. “West Shore Line” bike path that runs from Salt Road to Davison Road for use as an insured New York State Class A corridor snowmobile trail.
2. Trail running through Memorial Park between the parking lots and baseball diamond and the northern side of east/west main driveway.
3. Allow for parking on the Salt Road Parking area for “Drop and Ride” lot.
4. Allow for parking on the stone parking lots at Memorial Park between the baseball diamonds and the north side of the main driveway of for a “Drop and Ride” lot.

Resolved, that the Clarence Town Board grants permission to the Northern Erie Sno-Seekers Inc. Snowmobile Club for the use of the above Town owned property subject to the following conditions:

1. The Northern Erie Sno-Seekers Inc. Snowmobile Club is to provide the Town of Clarence with a certificate of insurance naming the Town as additional insured on the Northern Snow Seekers, Inc. Snowmobile Club’s insurance and name the above areas on said certificate.
2. This use is approved and authorized with the understanding that snowmobiles are allowed only on the right-of-way of the bike path and absolutely not allowed on the paved portions of the bike path.

3. That all trails will be clearly marked with signs and barrels and the path maintained throughout by the Northern Erie Sno-Seekers Inc. Snowmobile Club.

4. That the season will run from December 15, 2008 to April 1, 2009.

On the question, Councilman Weiss said for the past several years we have allowed this group to use the trails. According to our departments, they have been doing a pretty good job on our properties and we have not had any kind of problems. Supervisor Bylewski said any problems that have come up have been resolved with the group. Councilman Weiss added that there are people using the trails that are not a part of the club that have caused some problems.

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

Councilman Weiss announced that October 25<sup>th</sup> the Youth Board and Recreation Department are holding a Halloween event for the children at the Main Street Park. We are looking for a donation of smaller pumpkins, hay bales and cornstalks.

Councilman Kolber welcomed Darlene Feinen, the new director of the Clarence Chamber of Commerce. We look forward to working with her.

Councilman Kolber said the Meeting House Board has been working on the log cabin and have done a nice job. He thanked John Conlin and all the volunteers who helped out.

Councilman Kolber said there are openings on the Zoning Board of Appeals and the Senior Center Advisory Board.

Councilman Kolber said he received an announcement from Erie County Senior Services that a Public Hearing will be held on November 7, 2008 at 1:00 p.m. at the Amherst Senior Center regarding the annual planning process and feedback on current services.

Councilman Kolber said we have received correspondence from Time Warner Cable about the ongoing dispute with a few local channel stations.

Councilman Casilio said there is an opening on the Avoidable Alarm Committee. Applications are available at the Town Hall or on the Town's website.

Councilman Casilio said he, the Supervisor and the Public Safety Committee attended a meeting at Rock Oak Estates to organize the neighborhood watch for that area. Supervisor Bylewski said it was a nice turnout and should form a good program base for other neighborhoods to follow.

Councilman DiCostanzo said several years ago the roof was replaced on the log cabin with shingles that people sponsored with their name on them. If any of the sponsors would like their shingle, they should get it as soon as possible. They are sitting in a pile and will be removed in about a week.

Councilman DiCostanzo said the Historic Preservation Commission met on Monday and three more properties were presented for historic designation. They will hold a public hearing in November. They are also working on a revised design for the plaques for the designated properties and future designation of the museum, log cabin and clubhouse.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to grant permission to Brad Packard to attend the Annual New York Planning Federation Conference for 2008 in Saratoga Springs from October 12 – 14, 2008 with all reasonable and necessary expenses covered by the Town to include use of a Town vehicle. This is a budgeted item. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to grant permission to Tim Pazda of the Planning Board to attend the New York Planning Federation Annual Conference for 2008 in Saratoga Springs from October 12<sup>th</sup> through the 14<sup>th</sup> and for Greg Todaro of the Planning Board to attend the conference for one day only, October 13<sup>th</sup>, with all reasonable and necessary expenses paid by the Town. This is a budgeted item. On the question,

Councilman DiCostanzo said if there is a Town vehicle available, they could use it. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said he also attended the meeting with ISO this morning. The representative was very informative. He felt it was very helpful and productive.

Town Clerk Nancy Metzger reminded everyone that the school taxes are due October 15<sup>th</sup>.

Supervisor Bylewski thanked the department heads present for attending.

A Public Hearing was held 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 at a purchase price not to exceed \$320,000 plus any closing costs. James Callahan said the property is located along Rapids and Kelkenberg Roads fronting on Tonawanda Creek in the Agricultural Flood Zone.

Mr. Callahan introduced Nancy Smith from the Western New York Land Conservancy to further describe the properties.

Nancy Smith explained that the Western New York Land Conservancy is a not-for-profit land trust that serves the 8 counties of Western New York. They have protected about 4,000 acres of land over 17 years including forests, gorges, wetlands, working farms and wildlife habitats. They have been very pleased to work with the Town of Clarence on the development and implementation of the greenprint project.

Ms. Smith said the greenprint project is a plan to preserve and protect ecologically significant landscapes, valuable agricultural resources, aesthetic beauty and rural character of the Town while also maintaining a stable tax base and managing growth.

Nancy Smith said there are established ranking procedures to review natural lands or agricultural lands. The Alfred Owens Estate consists of two properties being reviewed as agricultural lands. The farm ranked 50.5 out of 100 points. One property spans both sides of Rapids Road. The conservation values of this property include that it is agricultural, open space and has scenic vistas. This property has been estimated as being actively farmed consistently for about 100 years. It includes 71 acres of prime agricultural soils and is adjacent to other parcels being actively farmed.

It is in the top 15% of parcels based on size. Open space, scenic vistas and keeping as farmland contribute to the rural character of the Town. Natural habitat – includes portions of the stream bank of Tonawanda Creek, hedgerows, small areas of forested land, small pond and fields when left undisturbed provide habitat for various plants and animals. The primary purpose to protect this land is agricultural, but the creek access provides an additional bonus. This combined with the forested areas contribute to water retention and improve water quality along the Tonawanda Creek watershed. Ms. Smith presented slides of the property.

Supervisor Bylewski said on October 17<sup>th</sup> at 1:00 pm, we will celebrate the closing of the development rights on the Spoth Farm. Ms. Smith added that it will be held at the farm and everyone is invited to come.

Councilman Kolber asked if there is a house on the property. We have to maintain the current use. Supervisor Bylewski said there has been discussion about the potential resale of the property but it would have to maintain the agricultural use.

James Callahan said the Recreation Advisory Committee had discussed that a farming activity could be sustained with a farm family to operate it. The details have not been worked out.

Supervisor Bylewski said the Town Assessor has reviewed this and found the estimates to be at a fair market value.

Councilman Kolber asked if we purchased the property could we sell off the portion with the house. Supervisor Bylewski said with the conditions to maintain the agricultural use. He also asked what happens if we can no longer find anyone to farm the land. James Callahan said details of the conservation easement can be addressed by the Town.

Councilman Casilio said he has had people question why we continue to purchase property in the north and not in the south end of Town.

Councilman DiCostanzo said he was on the committee and if you could find someone willing to sell, they would have been happy to buy it, but we also cannot overpay for it.

Nancy Smith said they are looking at several properties. It is great to be able to group agricultural properties together. There are many pieces to the puzzle and this is just a piece of it.

Supervisor Bylewski said a concern that has come up is that hunting would be prohibited on town owned land.

Supervisor Bylewski said the bond was for \$12.5 million and to date, we are under \$4 million for purchases.

Anthony Pacenzia said there is 58 acres off of Schurr Road that is for sale. It would be a great piece to save.

Supervisor Bylewski said if the landowner is interested, they would have to submit an application and go through the review and ranking process.

Bob Szulis said they have great soil in the north end of Town that would be great for parks. They do not have to build on rock. He believes part of that area should have a park for the entire town to enjoy, not just the people who live around it. He also believes Beeman Creek Park should be developed.

Supervisor Bylewski said all Town parks are open to all Town residents. Beeman Creek Park is still owned by Erie County. They are working on getting a legal description and then it has to be approved by the State Legislature. Once all of that is done, it is envisioned that it would be more of a passive conservation park with a trail going through it.

Mr. Szulis said Delaware Road is no longer a wet area. He thinks the Town should take it all over and develop it into a park.

Supervisor Bylewski said the Town does have a purchase of development rights program as well. He may want to consider that.

Mr. Szulis said he is not ready to do that yet. He owns about 200 acres and he does not want to give it up yet.

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

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration on the proposed purchase by the Town of Clarence on 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. After thorough review of the proposed acquisition 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 Councilman Kolber, seconded by Councilman Casilio to adopt the following resolution:

RESOLVED, that after a public hearing duly held on October 8, 2008 and after all interested parties behind heard, the Clarence Town Board approves the purchase 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); and be it further

RESOLVED, that the Supervisor, Scott Bylewski, be authorized to sign a conditional Contract subject to review and approval by the Town Attorney.

On the question, Councilman Weiss thanked the conservation group and anyone else involved in working on this project.

Councilman Casilio also thanked them for all of the work that went into it and for the presentation given tonight.

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

A Public Hearing was held to consider the purchase by the Town of Clarence of approximately 96+/- acres of vacant land located on Salt Road at a purchase price not to exceed \$705,000 plus any closing costs. James Callahan said the location is the east side of Salt between Howe Road and Clarence Center Road in the Agricultural Rural Residential Zone.

Supervisor Bylewski said the Town Assessor has reviewed the appraisal for the property and finds it at fair market value.

Nancy Smith said the farm ranked 66. The values for this property include agricultural, open space, scenic vista and natural habitat. All but one acre is actively farmed with 87 of the 96 acres being prime farm soils. It is in the top 13% in size of property. The parcel is adjacent to other farmland and is in close proximity to the family who is farming it. It is also within a ½ mile of the farm that was previously purchased for the greenprint program. This is a fairly flat open farm piece in the Agricultural District offering great vistas along Salt, Clarence Center and Howe Roads. The natural habitat is slight. Ms. Smith showed slides of the property.

Councilman Kolber asked if there is a segmentation problem or stormwater problem with this parcel. Ms. Smith said none were indicated in the review.

Councilman Kolber asked if there was development pressure. Ms. Smith said there is plenty of room for many houses on this site.

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

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law, the Clarence Town Board issues a Negative Declaration for the proposed 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. After thorough review of the proposed acquisition 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. On the question, Councilman DiCostanzo said box 7 on the EAF states 96. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that after a public hearing duly held on October 8, 2008 and after all interested parties behind heard, the Clarence Town Board approves the purchase 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); and be it further

RESOLVED, that the Supervisor, Scott Bylewski, be authorized to sign a conditional Contract subject to review and approval by the Town Attorney.

On the question, Councilman DiCostanzo said people ask about property purchases in the southern portion of Town. This is an example of the increased cost of the property as you go that way.

Supervisor Bylewski thanked the members of the Recreation Advisory Board who are present tonight and the WNY Land Conservancy.

Councilman Kolber asked if there is a time limit in regard to the people farming the property or would you go out to bid.

Supervisor Bylewski said it would have to be used for agricultural purposes. As we have done in the past, the prior lease holder rented from the Town at a fair market value.

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

A Public Hearing was held to consider a local law amending the Code of the Town of Clarence Chapter 181 – Signs, Section 181-7 (O) regarding political posters and signs.

Councilman Casilio said there were 21 political signs at Harris Hill Road and Sheridan Drive before the Primary. Many Clarence intersections were littered with excessive signs. It does not happen in the Town of Amherst where they have a simple political sign law. The proposed law would not eliminate political signs. It would regulate them to be on private residential or commercial properties and eliminate them from public property, right-of-ways and intersections. The Town is currently removing signs that do not meet the Town Code. We are

doing a good job regulating other signs and now we need to do something about the political signs that litter our Town.

Supervisor Bylewski said the proposed amendment deals only with political signs and not with not-for-profit signs. He has a concern with restricting free political speech and dealing with first amendment rights. One of the major purposes of the first amendment was to protect the free discussion of political affairs. There is a distinct difference between non-commercial speech and commercial speech. Municipalities may want to regulate the size, placement and number of signs, but may not single out political signs for differential less favorable treatment than others.

Supervisor Bylewski said he does understand the concerns with the view shed and public blight. However, to just regulate political signs and not to deal with the other non-commercial forms of speech, he believes we would be running afoul with the first amendment. He applauds Councilman Casilio for looking for a way to protect the view shed, but does not think this is the way to do it.

Councilman Weiss said he does agree that it is an eyesore, but it may be detrimental to the smaller political parties. Of course, we want to follow the law.

Councilman DiCostanzo said passing this law would definitely hurt him as a candidate. If it means to ban any signs in the right-of-ways, he would be in favor of that. We try to make the Town look better and it did look horrible.

Councilman Kolber said he cannot put a law in place that would be unconstitutional. There is also the issue of enforcement and sending personnel out to measure signs that may be in the right-of-way.

Councilman Weiss said we had difficulty with the Bicentennial banners because of DOT regulations.

Councilman Casilio added that at the same time, the DOT ignores political signs. This could also hurt him if he ran for re-election. It is more of the out of town people who come in and place their signs everywhere and then the Town employees have to pick them up.

Rene Desai said local people should be able to put their signs up, but County, State and others are a different story.

Supervisor Bylewski said again, that would be restricting political speech more than other forms. The amendment being presented is modeled after the Town of Amherst. Laws vary from town to town.

James Blum said we are spending a lot of money to protect and preserve the vistas and it is covered up with signs. His feeling is no signs and organizations should find other ways to reach the public.

Henry Becker said it makes the politicians feel good to see a lot of signs out. He also thinks it is the wrong thing to do. He does not believe we need so many. He also suggested that maybe only lawn signs in front of houses should be allowed.

Anthony Pacenzia suggested only one sign per person, per property and so many feet from an intersection. He believes cleaning things up is a good start and there also needs to be a compromise of some sort.

James Morabito said the topic of signs becomes so complicated. He said some of what everyone has said makes sense. We certainly should be able to do something that will satisfy everyone. It is great to see it being addressed because what we have now is not working.

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.

Councilman Casilio said he will work on this amendment some more before presenting it for a vote.

Verizon Wireless requests a Special Exception Use Permit for a new telecommunications tower north of 8630 Main Street. James Callahan said the location is the north side of Main

Street, east of Harris Hill Road, behind the Harris Hill Fire Hall. The property is owned by the Erie County Water Authority.

Representatives were present on behalf of Verizon. The proposed site is actually on Harris Hill Fire Company property. Verizon is in the process of a major upgrade to its wireless communication infrastructure. They have to show a need for the service and if the proposed location serves the need. RF propagation maps are prepared. They first look for co-location opportunities in the designated search area.

Supervisor Bylewski asked if a view shed analysis has been conducted. The representative said it has been. The pole is 100 ft. and designed to collapse on itself. They have met the proper setbacks for the fall zone requirements. They do allow governmental agencies to co-locate on their towers at no cost.

Councilman Casilio said the Town may be interested in using them for the security camera system at some point.

Supervisor Bylewski said there are a number of conditions that would be set as part of a Special Exception Use Permit. This is the beginning of the process.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to refer the request by Verizon Wireless for a Special Exception Use Permit for a new telecommunications tower north of 8630 Main Street to the Planning Board for review. On the question, Councilman Kolber asked if the height is critical or could it be reduced. He also asked if the tower is designed to accommodate other providers. The representative said the tower is designed to accept three additional co-locators at the present height. There is no noise from the tower. Upon roll call – Ayes: All; Noes: None. Motion carried.

Dawn Swetz requests a Change-In-Use from vacant to arcade at 5940 Goodrich Road. James Callahan said location is on the west side of Goodrich Road, south of Clarence Center Road in the Clarence Center Traditional Neighborhood District.

Dawn and Darren Swetz were present. Dawn said she is proposing a youth entertainment facility geared to children from 11 to 16 years old with video games, pool tables, dartboards, lounge area with a TV, wireless internet, vending machines and background music. Hours of operation – not open every day during school year, late afternoons and extended hours for weekends, holidays and summer. There would be supervision at all times along with video surveillance and an alarm system. She is also considering renting it out for birthdays, sport team parties, etc.

Supervisor Bylewski asked how many patrons she is envisioning to be there and how much parking is available. Dawn said she does not know. Darren said there is plenty of parking. They do not have a site plan as this is the initial phase. They are here to see if this could happen and then would supply the Town with whatever is necessary.

Supervisor Bylewski said they would like more information including all of the things discussed. He suggests that they be referred to the Planning Board and if a recommendation came forward, it may be with a Temporary Conditional Permit to see how it works out.

Mr. Swetz said they want the Board to recognize that they live here too and do not want something that is a detriment to the Town. Loitering would be a huge concern and they do not intend to tolerate it. They will have adequate supervision and hours of operation would be worked out with the neighbors.

Councilman Weiss said we would have to have a solid proposal with all of the issues worked out.

Supervisor Bylewski said there will be certain conditions because it is in the Traditional Neighborhood District.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to refer the request for a Change-In-Use from vacant to arcade at 5940 Goodrich Road to the Planning Board for further review including hours of operation, parking, site plan, noise issues, etc. On the question, Dawn Swetz said her idea came about because of the issues in the neighborhoods with kids being bored and then destructive. There is nothing for this age group to do if they are not involved in sports. Upon roll call – Ayes: All; Noes: None. Motion carried.

Milherst Construction requests Preliminary Concept Review for a proposed office/shop/yard on the south side of County Road, west of Strickler Road. James Callahan said the location is an existing vacant property in the Industrial Business Park Zone. The applicant is relocating his construction company to this site.

Jason Knight of Greenman - Pedersen, Jim Collins, owner, and Jim Collins, Jr. were present. Jason said the applicant is seeking to purchase a 16.9 acre subplot from the large parcel.

They propose office space, a shop and storage for their equipment. Mr. Collins said his equipment would be stored outside. They are working on the plans for the building.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to refer the request for Preliminary Concept Review for a proposed office/shop/yard on the south side of County Road, west of Strickler Road to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Bob Szulis requests Subdivision Approval to create two additional residential building lots in the Agricultural Rural Residential Zone on the east side of Kenfield Road, north of Lapp Road. James Callahan said the parent property has already been split five times and any additional splits would be considered a major subdivision. The Planning Board denied the request as any further splits would violate the Subdivision Law because it is now identified as a major subdivision.

Supervisor Bylewski said that at the present proposed splits, they would need a variance from our Subdivision Law. It also came up that there may be a well water problem in that area. There is no public water down Kenfield Road.

Bob Szulis said he would like to sell two lots. He farms in this area but where these lots would be is clay and not suitable for farming.

Councilman Weiss said he would go along with the Planning Board due to the water issues.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a Public Hearing for November 5, 2008 at 7:55 p.m. to consider Subdivision Approval to create two additional residential building lots in the Agricultural Rural Residential Zone on the east side of Kenfield Road, north of Lapp Road. On the question, Supervisor Bylewski said if he pursued the 2-lot split, a supermajority vote would be needed to approve it. One split does not require a supermajority. Councilman Weiss said he is concerned about the well water and what could be draining into the aquifer. Craig Tourney said he sold most of the lots for Bob over the years. There is only one person who is complaining about the water. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Supervisor Bylewski; Noes: Councilman Weiss. Motion carried.

Metzger Civil Engineering - Requests a Fill Permit in advance of residential development on the north side of Lapp Road, east of Transit Road. James Callahan said the lots were previously approved in the Agricultural Flood Zone.

Mike Metzger said there are restrictions placed on lots in this zone. They would like to apply to FEMA to remove the areas where homes would be built by putting in fill and going through their requirements to do this. In order to do that they need a Fill Permit. The intent is to go through the FEMA permit process and have the lots ready for building prior to selling them. It would increase the marketability of the lots.

Councilman Casilio questioned where the fill would come from. Town Engineer Joseph Latona said they have to submit certification of the soil prior to bringing it in.

Supervisor Bylewski said they have preferred not granting the fill permit prior to application of a building permit.

Mike Metzger said in this case they do not have that, but would fill the lots for a home and septic system on each one.

Joseph Latona suggested tabling the request until we can evaluate the drawing that we have not seen yet. Mike Metzger said he would provide all of the necessary information.

Supervisor Bylewski said he should provide the information to the Town Engineer, who will report back to the Town Board when it is ready to come back.

Mike Metzger said the benefits to this with deeper lots and in anticipation of single family homes, the setback would be established for each lot. The Town would have the advantage of dealing with one entity, rather than each individual lot owner with their own ideas. There would less likely be the chance of someone else trying to push the limits and put more fill in.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to table the request for a Fill Permit in advance of residential development on the north side of Lapp Road, east of Transit Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to approve the following: Clubhouse Applications - A. Clarence Soccer Club – Oct. 18, 2008; B. Clarence American Legion Auxiliary 838 – Nov. 7 - 10, 2008; C. Cub Scout Pack 93 – Nov. 4, 2008; D. Clarence Youth Bureau – Nov. 20, 2008; E. Outspokin’ – Dec. 17, 2008; Legion Hall

Applications - A. Clarence Soccer Club –I Oct. 26, 2008; B. Kristina Holler – Dec. 13, 2008; C. Gary George – Dec. 14, 2008; Park Special Request - A. Clarence Youth Bureau/Recreation Dept. – Oct. 24 & 25, 2008. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review by the Town Board, the bills of October 2, 2008 are approved for payment: General Fund - \$177,686.38; Highway Fund - \$44,846.82; Water District - \$2,080.26; Sewer Districts - \$346.73; Capital Fund - \$2,520.00; Aquatic Growth District - \$316.00; and Trust & Agency 203 - \$17,274.43 for a total amount of \$245,070.62. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he would like to close the meeting in memory of a longtime friend, Roy Cesar who passed away this week.

There being no further business Supervisor Bylewski adjourned the meeting at 8:35 P.M., also in memory of Rollin Miller, a lifelong Clarence resident who was very active in many community organizations.

Nancy C. Metzger  
Town Clerk