

A Work Session of the Clarence Town Board was held on May 13, 2009 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Council members Joseph Weiss, Bernard Kolber, Patrick Casilio and Peter DiCostanzo. Other town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona and Director of Administration and Finance Pam Smith.

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

#### ***Public Hearings:***

##### *Cody Covey 6585 Transit Road*

Applicant is proposing to utilize the existing facility for an automotive sales operation and is seeking a Temporary Conditional Permit. The proposed site is located on the east side of Transit Road, north of Miles Road (former Belknap Heating/Cooling building). The existing commercial structure is located on 1.87 acres in the Major Arterial Zone. Per the Zoning law, the Town Board has authority to approve automotive sales uses in the Major Arterial Zone.

##### *A Marta Carney 6010 Goodrich Road*

Applicant has requested a Temporary Conditional Permit for outside dining. The proposed site is located on the west side of Goodrich Road, north of Clarence Center Road in existing structure utilized for retail. The area is identified in the TND Zoning District and the Clarence Center hamlet. Per the Zoning Law, the Town Board has final authority to approve Temporary Conditional Permits.

##### *Sala Restaurant 9780 Main Street*

Applicant is seeking a Temporary Conditional Permit for outside dining. The existing restaurant located in the Commercial Zone on the north side of Main Street, east of Spaulding Drive. A site plan has been submitted. Number of outdoor seats, hours of operation and noise limitations should be established.

##### *Ranchview LLC/Rubino Brothers Clarence Center & Shimerville Road*

Applicant is requesting Concept Plan approval for an Open Space Design subdivision. The proposed site is located on the southwest corner of the intersection of Clarence Center and Shimerville Road. The proposed Open Space Design Subdivision has previously received a Negative Declaration under SEQR and a positive recommendation of the Planning Board based upon the current design with certain alterations. The area is identified in the Residential Single Family Zoning District. As per the Subdivision Law, a public hearing must be held prior to Concept Plan approval. The project has been presented as a patio home development. Consideration must be made for building envelope, building size, setbacks, and a recreational component prior to the applicant pursuing the development of engineering plans. The Planning Board recommendation suggested that open space between lots within the center of the subdivision be reallocated to other more substantial portions of open space.

##### *Shadow Woods Subdivision west side of Goodrich Road north of Keller Road*

Applicant is requesting Concept Plan approval for an Open Space Design Subdivision. The proposed site is situated on the west side of Goodrich Road, north of Keller Road. The proposed Open Space design subdivision has previously received a Negative Declaration under SEQR and a positive recommendation of the Planning Board based upon the current design. Per the Subdivision Law, the Town Board has the final authority to approve major subdivisions. A public hearing must be held prior to Concept Plan approval. The project has been presented as a patio home development. Consideration must be made for building envelope, building size, setbacks and a recreational component prior to the applicant pursuing the development of engineering plans.

#### ***Formal agenda items:***

- *Towne BMW Mini 8200 – 8230 Main Street*

Applicant is seeking a Temporary Conditional Permit for the outside storage of new autos. The proposed site is located on the north side of Main Street, west of Westwood Road at existing commercial plaza (Main-Transit Plaza) consisting of

8.88 acres in the Commercial Zone. Per the Zoning Law, the Town Board has final authority to approve Temporary Conditional Permits

- *Noel Dill/Intertech Cable Holdings*

Applicant is seeking a Special Event Permit for an annual charity music event (Rock the Barn). The proposed site is on the south side of Main Street, east of Shimerville Road on existing vacant property (excluding accessory barns) consisting of 45 acres in the Commercial and Restricted Business Zone. Per the Zoning Law, the Town Board has authority to approve Special Event Permits. Consideration should be given to traffic coordination and hours of operation.

- *Dan Snyder 5655 Newhouse Road*

Applicant is proposing a fireworks display on his property on July 4<sup>th</sup>. The proposed site is located on the northwest corner of Roll Road and Newhouse Road on existing residential and agricultural property. The Town Board has final authority to approve display permits. All required fees, insurance and fire chief's approval are in order.

- *Brookfield Country Club*

Applicant is proposing a private fireworks display on May 23, 2009. The proposed site is located on the west side of Shimerville Road, north of Sheridan Drive at existing Country Club. The Town Board has final authority to approve display permits. All required fees, insurance and fire chief approvals are in order.

**Work Session items for consideration on May 27, 2009**

- *Eastern Hills Wesleyan Church 8445 Greiner Road – Tomasso Briatico*

Applicant is proposing to develop a Christian Counseling Service Center on the vacant land south of the church in a separate building on church owned property. The proposed site is located on the south side of Greiner Road, west of Harris Hill Road in a residential classification. Per the Zoning Law, the Town Board has authority to approve religious uses in the Residential Zone.

- *Martin Peccoraro 6031 Transit Road*

Applicant is proposing a new car sales operation (Trifun Vehicles) along with pre-owned vehicle sales. The proposed site is located on the east side of Transit Road, north of Clarence Center Road at existing carwash located in the Major Arterial Zone. Previously the used car sales operation was denied by the Town Board. The property has been recommended to be down zoned by the Planning Board to Commercial Zoning. Per the Zoning Law, an automotive sales operation is allowed with a Special Exception Use Permit or a Temporary Conditional Permit as issued by the Town Board after a required public hearing. Display area, landscaping and hours of operation should be determined.

- *Douglas Klotzbach/Duane Chaffee 10838 Bodine Road*

Applicant is seeking approval to update the existing operation and is seeking a building permit and architectural approval to allow same. The proposed site is located on the north side of Bodine Road, west of Schurr Road. The existing commercial operation is located in the Residential Single-Family Zone. Per the Zoning Law, the Town Board may allow for the continuation or rehabilitation of a non-conforming use or structure.

- *Robert Nucherino west of Boncrest Drive West*

Applicant is seeking approval to clear the land in advance of a future formal approval of a residential development. The proposed site is located on the south side of Sheridan Drive, west of Boncrest West on existing vacant land consisting of 20+/- acres in the Residential Single-Family Zone. Per the Clearing, Filling and Grading Local Law, the Town Board has authority to approve clearing operations. Grading and drainage impacts are areas of concern.

- *John Kausner 4180 Ransom Road*

Applicant is proposing a 3-lot Open Development area. The proposed site is situated on the west side of Ransom Road, south of Tillman Road on existing residential property consisting of 8+/- acres in the Agriculture Rural

Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve Open Development areas. The Planning Board has forwarded a recommendation on the proposed design with conditions.

- Tom Witnauer – County & Goodrich Road  
Mr. Witnauer is proposing a fill operation on County Road just west of the John Deere dealership.

#### **Supervisor Scott Bylewski**

Supervisor Bylewski will mention the two motions passed at the May 6<sup>th</sup> Work Session.

Supervisor Bylewski has been attending the NTSB public hearings regarding Flight 3407.

Supervisor Bylewski has received numerous e-mails regarding the proposed Master Plan rezoning/Wegman's.

The Town of Clarence received the Buffalo Niagara Preservation award; the town was recognized both locally and nationally as a result of our Historic Preservation Law.

Based upon the recommendation of the Clarence Community Center Committee, Supervisor Bylewski will make a motion to retain DeWolffe Partnership Architects to conduct a facility needs assessment study for a Clarence Community Center.

Judge Powers is requesting approval for Mary Zimmerman to attend Domestic Violence training on Friday, May 15, 2009 at the Erie County Court Building.

Supervisor Bylewski will make a motion approving a stipend in the amount of \$250 annually for Guy Fleming for coordinating the scheduling of security staff, uniforms and equipment.

Supervisor Bylewski will make a motion to create 10 Recreation Attendant PT (Labor Class) positions and 20 Recreation Attendant PT seasonal (Labor Class) positions for Civil Service purposes.

Karen Jurek is requesting several computer items be declared surplus.

Zion Lutheran Church is requesting approval to host a Triathlon on May 17<sup>th</sup> and a Prayer Walk on May 24<sup>th</sup>.

Supervisor Bylewski has two items for Executive Session regarding the employment history of a corporation and the employment history of a particular person.

#### **Councilman Joseph Weiss**

Upon recommendation of Highway Superintendent Ted Donner, Councilman Weiss will appoint several part time seasonal employees to the Highway Department.

Highway Superintendent Ted Donner is requesting a bid date of June 9, 2009 for the sale of several town surplus vehicles.

Upon recommendation of Parks Crew Chief John Burns, Councilman Weiss will appoint several part time seasonal employees to the Parks Department.

Councilman Weiss will make a motion to discontinue the Reverse 911 contract when it comes due in July.

It was noted that two sex offenders are living together in Rock Oaks. There is concern that they are living in close proximity to the bike path and Clarence High School.

**Councilman Bernard Kolber**

There is one opening on the ZBA for the alternate position. Councilman Kolber has one application and will contact that person to see if they are still interested.

**Councilman Patrick Casilio**

Councilman Casilio will appoint Steven Piotrowski to the Public Safety Committee, there is still one opening.

John Gaulocher has agreed to help Councilman Casilio apply for an AM Radio Station Grant to cover Amherst, Clarence and Newstead. The estimated cost for this project is \$100,000. As soon as Councilman Casilio compiles the necessary information, Mr. Gaulocher will prepare the grant application. Councilman Weiss was not in favor of this. He was of the opinion that in the event of a disaster, most information would be broadcast over local television stations which have more ability to get the information out.

Supervisor Bylewski stated that there is a disagreement with the affectivity of it. The grant would be a three municipality agreement that could be operated by the three municipalities - (Amherst, Newstead, Clarence). There was an issue during the October storm when former Supervisor Hallock was put on hold for one hour waiting to get information to the radio stations. Most people have backup generators and know they should have a battery supply or crank radio to deal with disasters.

Councilman DiCostanzo stated that when there is an emergency, he has a crank radio and listens to the local radio station. Councilman Weiss stated that most TV. and radio stations have their people all over reporting on emergencies. He can not see spending tax dollars for another radio station when our local TV and radio stations do a tremendous job.

Councilman Casilio stated that the Public Safety Committee came up with the idea of a local radio station.

Supervisor Bylewski will have to see if the Reverse 911 contract is about to expire, we do not have to renew the contract because of the NY Alert System. Currently there are approximately 10,000 Clarence numbers that are hooked up to the NY Alert System.

Councilman Weiss stated that the Reverse 911 contract expires in 65 days. Councilman Casilio stated that he would be in favor of cancelling the Reverse 911 contract because in 60 days we can figure out what to do about the NY Alert System however; he would like to get input from our Disaster Coordinators on this. Town Attorney Bengart will review the Reverse 911 contract to see when it expires.

Councilman Kolber questioned what the Public Safety Committee intent was for the radio and do they know where this stands with the other municipalities. It was brought up at the Clarence-Newstead Fire Chief's Association meeting and they would welcome it. Councilman DiCostanzo stated that if it is only used in the event of an emergency, we would be duplicating the services we receive from AM radio. Councilman Casilio stated that it would be like radio station 1610; you could be notified of a road closing or road reconstruction work and would cover three municipalities. Councilman Weiss asked who would man the radio.

Supervisor Bylewski stated that a decision will be made at the next Town Board meeting whether or not to continue the Reverse 911 contract. Councilman Casilio will notify the Disaster Coordinators that the Town Board does not wish to renew the Reverse 911 contract and will go forward with the NY Alert System. A motion will be made at the next Town Board meeting.

**Councilman Peter DiCostanzo**

The Planning Board is going to work on the Sign Law and will review the amendments and report back to the Town Board with their recommendation.

Councilman Weiss stated that every sign that goes up is being grandfathered in.

The Youth Volunteer Recognition Ceremony will be held on May 26, 2009 at the Youth Bureau at 6:30 PM.

Councilman DiCostanzo has a correction to the minutes.

Councilman DiCostanzo has one Attorney-Client item to discuss in Executive Session.

**Town Attorney Steven Bengart**

Town Attorney Bengart has two items to discuss in Executive Session regarding pending litigation Gordon vs. Town of Clarence and Marinaccio vs. Town of Clarence and three items to discuss under the employment history of a particular person or corporation and one Attorney-Client item to discuss.

Councilman Weiss briefly discussed the dog runs and having the Parks Department do the work. There are time constraints and the Parks Department is busy this time of year so the project will be deferred until a later date.

**Senior Building Inspector Dave Metzger**

The Soccer Club is constructing a pavilion at the Soccer Center and has asked that the town waive their building permit fee (Building Permit fee \$95. and the Open Space fee is \$57). Dave Metzger stated that in the past the Town just waives the Open Space fees. The pavilion is being erected on Town property. This will be discussed at the next Town Board meeting.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a corporation, the employment history of particular person(s); § 105(1) D pending litigation regarding Gordon vs. Town of Clarence and Marinaccio vs. Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:45 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Councilman Casilio left the meeting at 7:30 P.M.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:35 P.M. Upon roll call – Ayes: Councilman Weiss, Councilman Kolber, Councilman DiCostanzo, Supervisor Bylewski; Noes: None. Absent: Councilman Casilio. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held Wednesday, May 13, 2009 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:39 p.m. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by prayer given by Pastor David Kofahal of Clarence United Methodist Church.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held April 22, 2009. On the question, Councilman DiCostanzo had a clarification on page 111 regarding the house approved for demolition that it was included in the historical survey, but not considered contributing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said as is the past practice of the Town Board to bring out any motions that were made at a work session, the following motions were made at the morning work session held May 6, 2009: Mike Sabbatis was hired as a summer intern in the Engineering Department at the budgeted rate of pay; and a resolution awarding the bid for the electric door operators at the Library to Imperial Door Controls.

Supervisor Bylewski announced that the ATF conducted training on blasting materials at Buffalo Crushed Stone today for anyone who may have heard all the blasting.

Supervisor Bylewski said the NTSB hearings are ongoing with a lot of information coming out. Many family members of the victims have been attending and he asked that everyone continue to keep them in their thoughts and prayers.

Supervisor Bylewski said we have been recognized as a Town by the Preservation Buffalo Niagara and received an award for our Preservation Ordinance. He thanked everyone who was involved to bring this about.

Motion by Supervisor Bylewski, seconded by Councilman Kolber that based upon the recommendation of the Clarence Community Center Committee, DeWolff Partnership Architects will be retained to conduct a facility needs assessment study for a Clarence Community Center at a fee of \$30,000 paid in 25% completion steps and a scope of work in accordance with their proposal dated February 11, 2009. On the question, Supervisor Bylewski said this is the first phase and depending on what comes out of the needs assessment we will determine if we move on. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss that upon the request of Town Justice Michael Powers, Mary Zimmerman is granted permission to attend Domestic Violence Program Training on Friday, May 15, 2009 from 12:30 p.m. to 4:30 p.m. at the Erie County Court Building with all reasonable and necessary expenses paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve a stipend in the amount of \$250 annually for Guy Fleming for coordinating the scheduling of security staff, uniforms and equipment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to create the following positions for Civil Service purposes:

10 – Recreation Attendant PT (Labor Class) positions; and 20 – Recreation Attendant PT (Labor Class) positions.

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

Motion by Supervisor Bylewski, seconded by Councilman Weiss to declare the attached list of computer items as surplus. Also included are 16 keyboards not on the list. Most items are

pre-2005 and some back to approximately 1998. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve a Special Event Request for the Zion Lutheran Church Triathlon to be held May 17, 2009 at 12:00 p.m. beginning at the church on Clarence Center Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve a Special Event Request for a Prayer Walk on May 24, 2009 from Noon to 3:00 p.m. in the Clarence Center area per the enclosed map. On the question, Pastor Biegner from Zion made the application explaining that it is to help in the healing process for the community. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that upon recommendation of Parks Crew Chief John Burns, the following be hired as Seasonal Help in the Parks Department at the budgeted rate of pay, effective May 18, 2009: David Colicchia, Brian Couran, Matthew Frey, Casimir Lazickas, Kyle Mortek, Melanie Noon, Tyler Oehman and Richard Silvestro. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio that upon recommendation of Highway Supt. Ted Donner, the following be hired as Seasonal Help in the Highway Department at the budgeted rate of pay, effective May 18, 2009: Christopher Couran, Theodore Jarmuz, Edward Kohout, Justin Andzel and Aaron Andzel. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that upon recommendation of Highway Supt. Ted Donner, the following vehicles are declared as surplus: H-1 2004 Chevrolet ½ Ton Pickup, VIN#2GCEK19V741332399; H-8 1997 Ford F-350 4WD Dump Truck, VIN#1FDKF38GOVEB45569; H-9 1996 Ford F-350 4WD Dump Truck, VIN#2FDKF38G1TCA48464; T-3 2006 Ford E-250 Van, VIN#1FTNE24W36HA07357; T-17 2004 Ford Taurus, VIN#1FAFP52UX4A178216; T-20 2004 Ford Taurus, VIN#1FAFP52U14A178217. 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 June 9, 2009 at 10:00 a.m. for sale of the following surplus vehicles: H-1 2004 Chevrolet ½ Ton Pickup, VIN#2GCEK19V741332399; H-8 1997 Ford F-350 4WD Dump Truck, VIN#1FDKF38GOVEB45569; H-9 1996 Ford F-350 4WD Dump Truck, VIN#2FDKF38G1TCA48464; T-3 2006 Ford E-250 Van, VIN#1FTNE24W36HA07357; T-17 2004 Ford Taurus, VIN#1FAFP52UX4A178216; T-20 2004 Ford Taurus, VIN#1FAFP52U14A178217. Vehicles will be available for viewing beginning Monday, May 18, 2009 at the Clarence Highway Department, 6185 Goodrich Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said he met with the Animal Control Officer regarding some new fees. He also met with the Town Clerk and the parameters of these fees are handled in the Town Code. The only difference was a \$5 increase and they decided not to change it.

Councilman Weiss thanked everyone who works in the Parks Department for doing a great job in our parks. We have also heard from the various sports teams about the good condition of the playing fields.

Councilman Kolber said there are openings on a number of boards in the Town, including one for the Board of Appeals. If anyone is interested they should fill out an application.

Motion by Councilman Casilio, seconded by Councilman Kolber to appoint Steven Piotrowski to the Public Safety Committee with term to expire 12/31/09. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said he has been watching the public hearing regarding the plane crash. It is unprecedented the information being given to the public. He hopes that some good will come out of this in terms of training and regulations.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to refer the proposed amendments to the Sign Law to the Planning Board for further review and comment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo reported that the residential single family building permits issued through April 2009 is 5, with 4 in subdivisions and 1 outside. By comparison, April 2008 – 23; April 2007 – 36 and April 2006 – 40.

Councilman DiCostanzo announced that the Youth Bureau will hold the youth volunteer recognition ceremony on May 26, 2009 from 6:30 to 8:30 p.m. at the Youth Bureau, 10510 Main Street.

Councilman DiCostanzo thanked Judy Sirianni and Bob Geiger of the Chamber of Commerce for working hard to gain new membership.

Councilman DiCostanzo announced the Clarence Rotary Lobsterfest will be held at the WNY Event Center this year.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider the request for a Temporary Conditional Permit for automotive sales at 6585 Transit Road. James Callahan said the location is north of Miles Road consisting of a vacant commercial building in the Major Arterial Zone.

Cody Covey said he would like to take the existing building to use for auto sales and custom detailing. He would also like to offer automotive accessories. The building was designed for automotive use when it was built. He would like to improve the vacant building by adding a new roof, blacktopping the parking lot and adding green space. His proposal is to have up to 25 cars for sale.

Councilman Casilio asked how many parking spots are required.

James Callahan said the parking requirement is based on the amount of office space which is one car per 200 sq. ft. The office space is approximately 800 sq. ft.

Mr. Covey said hours of operation would be 9:00 am to 8:00 pm Monday through Thursday, 9:00 am to 6:00 pm Friday, 10:00 am to 5:00 pm Saturday and closed on Sundays.

Councilman DiCostanzo is not in favor of used car lots in this area of Transit but asked if it would be fair to not allow display of vehicles in the nine spots at the front.

Supervisor Bylewski said that is up to the Town Board to approve the display area. The zoning is Major Arterial which allows commercial uses including automotive sales with a Special Exception Use Permit.

Speaking to the subject:

Rich Thering said he has run a business next to this property for 30 years and he would love to see the building occupied. This young man seems to be qualified and has a decent plan to bring this somewhat neglected empty building back to life.

Kathy McHugh said this building has been an eyesore for at least 5 years. This is along the gateway to our Town. She asked that this young man be given the opportunity to have his business at this location which will make a nice improvement to the character of the Town.

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

Councilman Casilio said he has a problem with starting out with 20 cars.

Councilman DiCostanzo said he is against cars being displayed along Transit Road.

Councilman Casilio suggested display cars on the side only and stay away from the front. He also said a limit of 3 to 5 cars for now and if his business takes off he could come in to change it.

Mr. Covey said he can put the 20 cars on the side of the building. He asked if he could at least put one car up front in the striped area, not on the lawn so that people know he sells cars.

Councilman Kolber said he would love to see this building cleaned up. He just does not see how we tell one person no and someone else yes.

Supervisor Bylewski said it is a permitted use in the zoning of this property.

Councilman Weiss said if Mr. Covey can use the spots to the side for display he could go forward. This is a valuable piece of property and no one has stepped up to buy it in five years. Each project stands on its own merit and he believes this gentleman should be given a chance.

Councilman Casilio said this is a different situation than the last request that was denied.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on May 13, 2009 and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Cody Covey for a new automotive sales operation at 6585 Transit Road subject to the following conditions:

1. Temporary Conditional Permit is for a period of one year.
2. Paving and striping of vehicle storage area required.
3. No more than 20 vehicles to be displayed at any given time.
4. The hours of operation are to be:
  - Monday through Thursday from 9:00 a.m. to 8:00 p.m.;
  - Fridays, 9:00 a.m. to 6:00 p.m.
  - Saturdays from 10:00 a.m. to 5:00 p.m.
5. Display area as per plan but only to North as on file in the Zoning and Planning Office.
6. No streamer/banners, open hoods with placecards.
7. Landscape approval by the Landscape Committee.

On the question, Councilman DiCostanzo said display is to the north and not on the road.

Supervisor Bylewski asked Mr. Covey if he understands and is in agreement with the conditions and he said yes.

Councilman Kolber said it is nothing personal, but in principal he is opposed to used car sales along Transit Road.

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

A Public Hearing was held to consider the request for a Temporary Conditional Permit for outside dining for existing café at 6010 Goodrich Road. James Callahan said the location is just north of Clarence Center Road consisting of an existing restaurant in the Traditional Neighborhood District.

Marta Carney said the hours of operation now are 9:00 am to 4:00 p.m. Beginning June 1<sup>st</sup>, she will be open for dinner Thursday – Saturday until 10:00 p.m. with the facility closing at 11:00 p.m. There would be seating for 24 on the deck. Music would be on speakers from the inside with no live music.

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.

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

Resolved that the Clarence Town Board, after a public hearing duly held on May 13, 2009 and after all interested parties being heard, grants a Temporary Conditional Permit for outside dining to the applicant, Marta Carney, located at 6010 Goodrich Road subject to the following conditions:

1. The Temporary Conditional Permit is granted for one year.
2. Outdoor seating not to exceed 24 seats.
3. No live entertainment. Allowable entertainment permitted from 9:00 a.m. to 10:00 p.m.

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

A Public Hearing was held to consider the request for a Temporary Conditional Permit for outside dining for existing restaurant at 9780 Main Street. James Callahan said the location is the north side of Main Street, east of Spaulding Drive in the Commercial Zone.

Alex Pozantidis said hours of operation are 7:00 a.m. to 10:00 p.m. Monday through Saturday and 9:00 a.m. to 8:00 p.m. Sundays. He would like up to 40 seats with background music. The area would be marked off with chains and planters. The location is on the west side of the building.

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.

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

Resolved that the Clarence Town Board, after a public hearing duly held on May 13, 2009 and after all interested parties being heard, grants a Temporary Conditional Permit for outside dining to the applicant, Sala Restaurant, located at 9780 Main Street subject to the following conditions:

1. The Temporary Conditional Permit is granted for 1 year.
2. Outdoor seating not to exceed 12 tables or 50 seats.
3. No live entertainment and any allowable entertainment not permitted past 10:00 p.m.

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

A Public Hearing was held to consider Concept Plan Approval of a Major Subdivision at the southwest corner of Clarence Center and Shimerville Roads. James Callahan said the property consists of approximately 28 acres in the Residential Single Family Zone. The Planning Board recommended approval of the 44-lot open space design development. A Negative Declaration was issued by the Town Board.

Supervisor Bylewski said this subdivision has been the subject of much review, as well as litigation.

Sean Hopkins, Joe and John Rubino were present. Mr. Hopkins said the original plan in 2003 was for a private road. The Town Board at that time was not interested in accepting any public roads. The plan shown is for public roads. The applicant will go with which ever one the Board decides.

Mr. Hopkins said it was suggested to eliminate certain wasted open space. It does still allow for more than 50% of the site as open space.

Mr. Hopkins said normally this subdivision would be subject open space fees per lot. The Planning Board would prefer installation of a recreation path along the frontage on Shimerville Road.

James Callahan said the goal is for potential access to the main trails.

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.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on May 13, 2009, and after all interested parties being heard, grants Concept Plan Approval to the applicant,

Ranchview LLC/Rubino Bros., for an Open Space Design Major Subdivision located at the southwest corner of Clarence Center and Shimerville Roads, subject to the following conditions:

1. Per Concept Plan recommended by the Planning Board, dated March 27, 2009.
2. Deed restrictions to preserve open spaces, subject to review and approval by the Town Attorney.
3. Elimination of open space between lots 31-37 and 38-44.
4. Subject to Landscape Committee approval. The buffer area along the frontage of Clarence Center and Shimerville Roads is to be left natural with some demarcation between that buffer area and the sublots.
5. Public roads with final approval by the Highway Department as to the design and cross section.
6. A dedication of lands along the Clarence Center and Shimerville Road frontages sufficient to accommodate a recreation trail/bike path and construction of a north/south recreational trail/bike path to Town of Clarence specifications to run parallel to Shimerville Road along the Shimerville frontage of the project area.
7. Building envelope and setback requirements as follows: 20 ft. front and rear yard setback lines; 10 ft. side yard setback lines; 20 ft. minimum combined side yard setback requirements.
8. Subject to open space fees.

On the question, Councilman Kolber questioned the setback requirements. James Callahan said these are clustered lots and the setbacks correspond to the smaller lots. It will set up the parameters for the Building Department to follow.

Supervisor Bylewski stated that while it is outside of the Town's control, there may be a DEC issue regarding the sewers.

Mr. Hopkins said they are aware.

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

A Public Hearing was held to consider Concept Plan Approval for a Major Subdivision on the west side of Goodrich Road, north of Keller Road known as Shadow Woods.

James Callahan said the location is the west side of Goodrich Road, north of Keller Road consisting of approximately 67 acres in the Residential Single Family Zone. An Open Space Design Subdivision consisting of 64+/- sublots has been recommended by the Planning Board. A Negative Declaration has been issued by the Town Board.

Sean Hopkins on behalf of the sponsor Hamlet of Clarence LLC, William Schutt of Wm. Schutt Associates and Carmen Cimato were present. The first plan included a roadway to a phase 2 which involved a very large DEC wetland. Based on many meetings, they have eliminated that aspect of the project. They are now down to having zero acres of permanent wetland impacts and 1/10 of one acre impacts the regulated adjacent area, which consists of the pump station.

Mr. Hopkins said the project provides 56% open space. They believe this project has come a long way.

Supervisor Bylewski said this project has also been the subject of litigation and as a result we see the plan before us.

William Schutt said the sewer line goes from the pump station with a forced main that follows the northern boundary of the property and connects at Goodrich Road. Easements are in place. The property is within Clarence Sewer District No. 2.

Speaking to the subject:

Nancy LaTona said the road to this subdivision will be next to her driveway. Her concerns include: is this now approved and when is the start date; objection to road being 100 ft. from her driveway; elevation behind the existing houses because it does flood; where will the drainage go; dangerous traffic condition; finish date; hours of operation; etc.

Supervisor Bylewski said if this moves forward tonight with concept approval, these issues would be worked out through Development Plan Approval. This is concept approval and it is up to the applicant to come forward with a development plan.

Councilman DiCostanzo added that as a result of concept approval there is no earthmoving that can happen yet.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on May 13, 2009, and after all interested parties being heard, grants Concept Plan Approval to the applicant, The Hamlet of Clarence LLC, for an Open Space Design, Major Subdivision located west of Goodrich Rd., north of Keller Road, subject to the following conditions:

1. Deed restrictions, subject to review and approval by the Town Attorney, such that the vacant land on the northwest corner of the property, which was used to determine density, cannot be further used except as open space, and/or agricultural regardless of ownership.
2. The land immediately south of the entrance driveway and 6440 Goodrich Road are to be protected and remain in its natural state.
3. Subject to recreation and open space fees.
4. Building envelopes and setbacks per final concept plan as recommended by the Planning Board on March 18, 2009 on plan dated November 17, 2008. Minimum 30 ft. front and rear setbacks; minimum 10 ft. side yard setbacks; 20 ft. minimum combined side yard setbacks.
5. A Homeowners Association Agreement will need to be approved by the Town Attorney.
6. Any areas not to be developed will be protected by orange fencing prior to and during construction activities.

On the question, Sean Hopkins said a portion is being used for agricultural purposes and they would like for that to continue. (Condition 1 was changed to reflect this comment.)

Supervisor Bylewski said this project has been the subject of much review and has been done over. We have also been engaged in litigation about it and this is the project that has come forward as a result of all this.

James Callahan said the roads are proposed as public roads.

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

Towne BMW/MINI requests temporary storage of vehicles at 8200 Main Street. James Callahan said the location is the north side of Main Street, west of Westwood Road in the Commercial Zone. The applicant is asking for permission to store vehicles on existing parking areas.

Dan Ives was present to represent Towne BMW/MINI. They are in the midst of a construction project.

Councilman Kolber said we are talking about 8200 Main Street.

Councilman Casilio asked if he was seeking permission to store the MINI's where they are being stored now also.

James Callahan said it is for all the cars stored at 8200 and it is both, which is identified as Morabito's property.

Councilman Kolber questioned 8215 Main Street. Supervisor Bylewski added that odd number addresses are on the south and east sides of streets.

Mr. Ives said the owners just bought the old hair salon property from Jim Morabito and are in the process of having the building demolished. They are also closing on additional property. They are working on a state-of-the-art MINI dealership facility.

Councilman Casilio questioned the fact that they are demolishing a building without a new project approval and storing vehicles.

Mr. Ives said Jim Morabito has been a tremendous neighbor in allowing them to store vehicles on his property. They have not been there very long and have had two major expansions. As they continue with renovations and construction they very well will need to store vehicles there.

Supervisor Bylewski asked Mr. Ives to have the following information to present at the public hearing that will be set: location where the cars will be stored on the site, and the potential length of time they will be stored.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a Public Hearing for June 10, 2009 at 7:45 P.M. to consider the request by Towne BMW/MINI for Temporary Storage of Vehicles at 8200-8230 Main Street. On the question, Councilman Weiss said he cannot see being onerous with these folks. They are a good corporate neighbor and he is in a bind right now. The car business is ruff shape right now and we should be working with them. They are coming to our Town, which is adding to our tax base and he thinks we should help out. It is a temporary situation.

Councilman Casilio said we are just trying to control cars being stored. He thinks they are doing things backwards by demolishing a building and not having an approved plan for a new building.

James Callahan said you can demolish a building, but it does not mean there will be approval for a new building.

Mr. Ives said they are working on the plans. They have discussed parking behind the plaza, but there is the security issue. They will probably require the extra storage area for 12 months.

Councilman Kolber said it bothers him that there was a sign announcing a future dealership before anything was brought to the Town.

Mr. Ives said the Downing family runs a class organization.

Supervisor Bylewski said he may want to discuss the issues brought up tonight with Mr. Callahan and convey them to the owners.

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

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to grant a Special Event Permit to Intertech Cable Holdings for their annual outdoor concert for charity on July 17, 2009 at 9015 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant a Fireworks Display Permit to Dan Snyder for July 4, 2009 at 5655 Newhouse Road. All necessary paperwork and fee have been submitted. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant a Fireworks Display Permit to Brookfield Country Club for May 23, 2009 at 5120 Shimerville Road. All necessary paperwork and fee have been submitted. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval for the following: Clubhouse Applications - A. Town Planning Department – May 19, 2009; B. Clarence Log Cabin Quilters – May 23, 2009; C. Clarence Church of Christ – Aug. 1, 2009; Legion Hall Applications - A. Marilyn Georger – July 12, 2009; B. Irene Darlak – Dec. 20, 2009; Nature Center - A. Clarence Recreation Department – July 14, 2009; Park Special Requests - A. Clarence Travel Baseball – May 23 & 24, 2009 (Tent at Memorial Park for tournament); B. Clarence Chamber of Commerce – Aug. 3, 2009 (Taste of Clarence – Main Park); and C. Susan Frey – Sept. 26, 2009 (Walk-a-Thon for Huntington's Disease Society – Meadowlakes Park). 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 following bills of April 30, 2009 are approved for payment: General Fund - \$206,513.88; Highway Fund - \$42,142.68; Water District - \$2,112.26; Fire Districts - \$32.82; Drainage District - \$12,022.00; Lighting Districts - \$985.50; Sewer Districts - \$300.00; Capital Fund - \$68,707.90 and Trust and Agency 203 - \$100.00 for a total amount of \$332,917.04. 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 following bills of May 14, 2009 are approved for payment: General Fund - \$374,189.93; Highway Fund - \$61,744.10; Water District - \$40,402.87; Sewer Districts - \$137.50; Capital Fund - \$4,933.14; and Trust and Agency 203 - \$2,350.00 for a total amount of \$483,757.54. On the question, Councilman DiCostanzo said we still do not have Amherst's contribution for LOSAP. Supervisor Bylewski said that is normally not sent out until later in the year. Upon roll call – Ayes: Councilmembers Casilio, Kolber Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman DiCostanzo. (He did not have a chance to review the bills.) Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 9:20 P.M.

Nancy C. Metzger  
Town Clerk