

A Work Session of the Clarence Town Board was held on August 26, 2009 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 6:01 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, Assistant Engineer Tim Lavocat, Director of Administration and Finance Pam Smith, and Senior Building Inspector David Metzger and Confidential Secretary to the Supervisor Karen Jurek.

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

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

A Public Hearing is scheduled for 7:45 PM to consider the purchase by the Town of Clarence of real property located at 10365 and 10375 Main Street in conjunction with Clarence Fire District No. 1 at a purchase price not to exceed \$495,000.

#### **Phil's Char Pit 9980 Main Street**

A Public Hearing is scheduled at 7:50 PM to consider the request by Phil's Char-Pit for a Temporary Conditional Permit for outside dining at 9980 Main Street. The proposed site is situated on the north side of Main Street, east of Kraus Road at existing restaurant located in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve outside dining via a Temporary Conditional Permit after a required public hearing. A complaint has been received concerning loud music from the restaurant. The applicant has addressed this concern and no further complaints have been reported.

#### **Karl Farmer 10749 Main Street**

A Public Hearing is scheduled at 7:55 PM to consider the request by Karl Farmer for a Temporary Conditional Permit for outside dining at 10749 Main Street. The proposed site is situated on the south-west corner of Main Street and Academy Street in existing commercial space located within the Clarence Hollow TND. The Town Board had previously approved the use of the property as a café. Applicant is proposing to convert the existing space to an Organic Coffee Shop and place tables in front. Per the zoning Law, the Town Board has authority to approve uses in the TND and to approve outside dining. The outside dining aspect of the use will require a public hearing to consider the Temporary Conditional Permit.

#### **Burgher and Grainy 10939 Main Street**

A Public Hearing is scheduled at 8:00 PM to consider the request for renewal of an existing Temporary Conditional Permit for automotive sales at 10939 Main Street. Applicant is seeking approval to have the Temporary Conditional Permit extended for multiple years. The proposed site is situated on the south side of Main Street, west of Newstead border at existing auto repair and sales operation. Current sales operation is operating under a Temporary conditional Permit. Per the Zoning Law, the Town Board has authority to approve Temporary Conditional Permits. Conditions as previously established to be continued and/or brought into compliance. The Town Board has received one complaint regarding noise coming from this business. ***(Councilman Casilio owns property adjacent to this business and will recuse himself from discussion/voting on this project).***

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

##### **Spaulding Green LLC, Greiner Road**

Applicant is proposing a minor subdivision to create one additional residential building lot. The existing vacant property is located on the north side of Greiner Road, west of Kraus Road in the Residential Single Family Zone. Per the Subdivision Law, the Town Board has authority to approve Minor Subdivisions. The property is currently the subject of a Major Subdivision review (Spaulding Greens). The proposed lot would meet the minimum frontage and acreage requirements.

#### Clarence Soccer Club – Memorial Park

Applicant is seeking approval to place signage at the park. The existing Town Park is located on the north side of Clarence Center Road, east of Kraus Road (Memorial Park) in the Community Facility Zoning District. As the park is town owned property, the Town Board has the authority to approve signage on site. The Soccer Club is allowing for commercial advertising in association with the signage in an effort to raise funds for their group.

#### Transit Valley Animal Hospital 7591 Transit Road

Applicant is requesting a Building Permit and Architectural approval for an addition to the existing structure. The proposed site is located on the east side of Transit Road, south of Wolcott Road in the Restricted Business Zone. Per the Zoning Law, the Town Board has the authority to approve façade changes and recommend building permits in the Commercial Zoning Districts. The addition will require a Zoning Board of Appeals variance approval to continue a pre-existing non-conforming side yard setback to the principal structure. The applicant has received a variance from the ZBA to allow the side yard setback as designed.

#### Martin Pecoraro 6031 Transit Road

Applicant is requesting an amendment to a currently existing Temporary Conditional Permit for the sale and display of used vehicles. The applicant has requested to allow for an alteration to the current placement of vehicles. The proposed site is situated on the east side of Transit Road, north of Clarence Center Road at existing commercial property located in the Major Arterial Zoning District. Per the Zoning Law, the Town Board has authority to review and approve Temporary Conditional Permits and site plans therein associated. The applicant has met original conditions of the existing permit and installed landscaping features as per the Landscape Committee. Prior to striping, the applicant desires this alteration to the existing layout of parking stalls.

#### DHD Ventures – Transit Road, north of Miles Road

Applicant is requesting Preliminary Concept Review of a proposed commercial plaza. The proposed site is situated on the east side of Transit Road, north of Miles Road on existing vacant land located in the Major Arterial Zoning District. This property was the subject of a Master Plan amendment review process for the 2008 Master Plan Amendment hearings. The Town Board had accepted an amendment to the existing Future Land Use Map that would allow for an increase of the existing commercial land use at the subject property of 400', creating a total depth of 1,050' off of Transit Road. This amendment was conditioned on the down zoning of the subject property from Major Arterial to Commercial and the conservation of the rear 16+/- acres of the subject area via a deed restriction, a measure designed to provide buffering for the residents, wetlands and creek corridor to the east. If approved, this project will ultimately require a public hearing for consideration of the down zoning and amendment to the Zoning Map as well as a Special Exception Use Permit to allow for cumulative structures over 30,000 square feet.

#### Stone Ridge Estates – southeast corner of Stage and Ransom Road

Applicant is requesting Development Plan approval for a proposed 15-lot Open Development area. The proposed site is situated on the southeast corner of Stage and Ransom Road in the Agricultural Rural Residential Zoning District. Per the Subdivision Law, the Town Board has authority to review and approve Major Subdivisions and Open Development Areas. The Town Board has previously granted concept plan approval and authorized (4) frontage lots along Stage Road. As per the Subdivision Law, this approval would require variances for both the length of a private road, number of homes on a dead end street and limiting the placement of topsoil on the entire site. The Planning Board has recommended this plan positively as well as all previous conditions.

#### Antonio Cosmano – southwest corner of County and Conner Roads

Applicant is requesting Minor Subdivision approval to allow for the creation of 3 additional residential building lots (4 total). The proposed site is situated on the southwest corner of County and Conner Road (6680 Conner Road) on existing vacant property located in the Agricultural Rural Residential Zoning District. Per the Zoning Law, the Town Board has authority to review and approve Minor

Subdivisions. All proposed lots would meet the minimum requirements of the Agricultural Rural Residential Zoning District. The Office of Planning and Zoning is currently coordinating review of this proposal with the Engineering Department and the Assessor's Office.

#### Sign Law – Local Law Amendment

This proposed Law Amendment was originally introduced and discussed by the Planning Board on December 13, 2006. Since that time there has been a legal review, Town Board public hearing on October 10, 2007 and Negative Declaration under SEQR on August 22, 2007 as per the Town Board. After several years of review, legal and public input, the Planning Board has recommended positively this amendment. Only the Town Board has authority to amend a local law after holding a public hearing.

The primary purpose of this amendment was to provide more clarity and structure to the existing law. Major changes concern the allowance of no more than 10 square feet of LED signage per monument sign within the Commercial and Restricted Business sign districts (subject to review, approval and conditions of the Sign Review Board), the allowance of 10% area variance at the discretion of the Sign Review Board and classification of sign specifications and regulations as per zoning district.

#### Patrick Homes - 9376 Clarence Center Road

Applicant is requesting recommendation on building permit and architectural approval for the construction of a three-unit residence. The proposed site is situated on the north side of Clarence Center Road, west of Long Street on vacant property located in the Clarence Center Mixed Use District. Per the Zoning Law, the Town Board has authority to review and approve architectural elevations in the Traditional Neighborhood Zoning District. This land use was originally approved via a Special Exception Use Permit on June 10, 1998. At that time, an architectural elevation approval was based upon a design that incorporated an attached garage with a unit above. Due to engineering and site constraints, the applicant has altered the original design and is now seeking a three-unit residence with a detached 3-car garage in the rear of the site.

#### ***Work Session items for consideration September 9, 2009:***

##### Andy Grimm - 8196 County Road

Applicant is proposing a split of the property to create an additional residential lot (a total of 2). The proposed site is situated on the north side of County Road, east of Stahley Road on existing residential property located within the Swormville TND. Per the Subdivision Law, the Town Board has authority to approve minor splits. The proposed lots would be in conformance with the TND.

#### 2009 Excavation Permits

Per the Excavation Law, a Public Hearing is required to consider the renewal of the following permits:

- Buffalo Crushed Stone
- Emeritus Holdings
- 10001 Grand Corporation
- Lakeside Sod

#### Lance Jason/MMJ Enterprises - 9737 County Road

Applicant is seeking approval to grade and fill a portion of the property in addition to architectural approval and recommendation on a building permit. The proposed site is situated on the south side of County Road, east of Goodrich Road in existing industrial facility in the Industrial Business Park Zoning District. Per the Zoning Law and Clearing, Filling, Grade Law, the Town Board has the authority to review building and filling permits. If approved, this action should ultimately be made subject to the review and approval of the Engineering Department.

#### Benchmark – Shops at Main & Transit

Applicant is requesting a Special Exception Use Permit for the operation of an automotive service facility. The proposed site is situated on the east side of Transit Road, north of Main Street in existing commercial property located in the

Major Arterial District. Per the Zoning Law, automotive uses are permissible only via a permit as issued by the Town Board. The building footprint and site plan has previously been reviewed and approved by the Town Board. The existing architectural façade has been altered to accommodate the automotive use but has retained the same styling and color scheme. The proposed tenant, AAA Automotive Group, would utilize 1/3 of the building for office related functions and the remainder for garage service. Typical Special Exception Use Permit conditions should be considered relative to hours of operation, outside storage etc.

**Supervisor Scott Bylewski**

Councilman Casilio will make a motion awarding the contract for recording and production of an approximately 30-minute video for the Town of Clarence to record the events of Flight 3407 and its aftermath to Channel One Media based on the qualifications submitted at a cost not to exceed \$22,500. subject to Town Attorney review and approval. Supervisor Bylewski felt that this would be a good training tool to have as well as to document what occurred and capture the history behind it. The Town Historian and Erie County Historian were involved in getting some of the information. There was a short video that was put together previously. This video will capture the rest of the information. One other entity submitted a bid which was more expensive than the one submitted by Channel One Media. The video will become the property of the town and anyone wishing to use it would require permission from the Town.

Councilman DiCostanzo questioned whether or not the town could obtain the raw footage; he did not see the need to spend \$22,000. for a video. He has been reviewing the bills every two weeks and sees money being spent needlessly for wall hangings, travel, 4 new emergency jackets etc. and felt enough money has already been spent on this disaster; he is against spending money on this video. Supervisor Bylewski stated that this is the recommendation from our Disaster Coordinator and he is in favor of that recommendation based upon the work that has gone into this and based on what he has seen that has gone on with other events, he feels that it is beneficial and worthwhile.

Councilman Kolber stated that there is a lot of video footage out there, this was a significant event in the town, something that will hopefully never happen again and to not have it properly documented and to have ownership of the video is something that we can not go back and acquire. It will become a part of town history.

Supervisor Bylewski stated that the video will be informative and help other agencies see how we dealt with this disaster.

Before entering into a contract, Councilman Casilio would like to see an outline of what will be included in the video. There will be no distribution rights except through the town.

Supervisor Bylewski stated he understands concerns some people may have however just recently Supervisor Bylewski received a request for either himself and/or Dave Bissonette to go back to Long Island to do another presentation. He gets these request all the time for instruction from all over the country, this is a way to capture it before it is gone and we could loose a lot of the oral history as to what happened. Councilman Weiss stated that David Bissonette should be involved with the criteria that should be included in the video.

Supervisor Bylewski has several corrections to the minutes.

Supervisor Bylewski, Councilman DiCostanzo, James Callahan, Planning Board Chairman Gerald Drinkard have been working on a branding image for the town as an overall marketing effort to help attract new businesses and help notify the public what is available by the town based on feedback from the Town Board and some of the department heads. Supervisor Bylewski used the services of Jeff Feinen to come up with a brand logo. Supervisor has had some discussion with some of the department heads. There is a big concern with using a white vehicle with anything to do with snow removal for obvious safety concerns. Currently Highway Superintendent Ted Donner will continue to use the town seal – the

official seal or the bi-centennial logos. The Assessor's Office, Zoning & Planning, Engineering Office and Supervisor Bylewski will all use the new logo – Green Spaces, Historic Places and Caring Faces. The intent is to introduce this during Labor Day; there is also a brochure that we are waiting for the copies. Supervisor Bylewski will seek permission from the Clarence Center VFC to display a vehicle with the logo during the Labor Day Fair. Supervisor Bylewski is requesting approval to order the logo at a cost of \$300 this will include the Building Department vehicles as well. The town seal will not change. Branding in general you can get a return on your investment of 30% and it helps identify the town. If we are looking at marketing a certain image for the town, this is the way to do it. There was no objection from the Board. Councilman Casilio asked if we would be changing town stationery. Supervisor Bylewski stated that would be up to the various departments however, he strongly encourages the use.

Supervisor Bylewski announced that Jim Callahan who has served as the Director of Community Development in the Town of Clarence since June 1996 is the recipient of the NY Planning Federating Pomeroy Award for zoning Achievement.

Empact America, Inc. has a National Conference on EMP (Electromagnetic Pulse). The conference is scheduled for September 9 – 10, 2009 at Niagara Falls Conference Center. An EMP could cripple and cause catastrophic consequences to our country power grids. If anyone is interested in attending, contact Supervisor Bylewski.

Our Town Justices would like to meet with the Town Board regarding some of the issues that they have been dealing with.

Supervisor Bylewski received a mailing from RBC; they stopped by to discuss LOSAP. Supervisor Bylewski also received a request from Joe Floss for a LOSAP meeting with VFIS. They are requesting an hour of the Town Board's time. They would then like to meet with the fire departments afterwards.

Supervisor Bylewski received another petition from Carol Landreville regarding fireworks on Newhouse Road.

CSEA would like to display a banner in the Town Hall celebrating their 100 Year Anniversary. It will be displayed in the Town Hall in January and the Clarence Public Library in February. The Town Board was in agreement with this request.

Supervisor Bylewski will approve a Special Event Request by Clarence Community Association for their Third Annual Bike Patch Scavenger Hunt.

Supervisor Bylewski has three Attorney-Client items to discuss.

### **Councilman Joseph Weiss**

Councilman Weiss will make a motion to approve the purchase of (8) new Toshiba multi-purpose copiers from Eagle Systems, Inc. per NYS Contract. He will also authorize Supervisor Bylewski to sign a five (5) year Service and Supply Maintenance Agreement subject to Town Attorney review and approval. Supervisor Bylewski stated that Karen Jurek has spent a lot of time compiling this information and Supervisor Bylewski and Pam Smith have been involved regarding the financing and whether it is better to lease or purchase the copiers. Karen Jurek stated that our current lease is up so we have to do something with at least (5) of the machines. The others are between eight and ten years old so they will probably be sold because they are too costly to keep servicing.

Highway Superintendent Donner is recommending the Town Board accept the bid of \$9,995.00 from Falcon Road Maintenance for a used Hot Patcher.

Highway Superintendent Donner is requesting a Bid Date of September 8, 2009 at 10:00 AM for the replacement of the roof on the Main Office and Shop Building at the Highway Department.

Town Engineer Latona is requesting a Bid Date be set for the Historical Museum Porch Renovations on September 18, 2009 at 10:30 AM.

Town Engineer Latona is recommending the bid for the Arched Backstop at the 90' diamond on Goodrich Road be awarded to City Fence, Inc. the lowest responsive bidder in the amount of \$25,645.

Councilman Weiss stated that it is roughly sixty days since Day in the Park and he has not seen any figures yet. Councilman Casilio stated that figures are done, the reason it has not been discussed is because the accountant has been living at the Erie County Fair.

Councilman Weiss will comment on an article in the Clarence Bee regarding the School district audit. At the August 12<sup>th</sup> Town Board meeting Michael Lex indicated the audit cost \$100,000 however he is quoted in the paper saying the audit cost \$150,000. He is also quoted as saying the missing equipment was valued at \$1,600 out of a \$70 million dollar budget. They never looked at anything else missing in the schools except the IT equipment. After talking with the NYS Police and several other contacts, the auditors would only look at the IT equipment if they had a tip or if they thought something was not right.

Councilman Weiss will announce the upcoming Household Hazardous Waste Drop-Off Day scheduled for Saturday, September 12, 2009 from 9AM-2PM at Honeywell, 20 Peabody St., Buffalo.

Erie County Residents can recycle computers, electronics, textiles and bikes at Erie Community College South Campus in Orchard Park on Saturday, September 26, 2009 from 9AM – 1PM.

Councilman Weiss talked to Highway Superintendent Ted Donner regarding the purchase of salt for the upcoming season. Ted said he has it worked out.

Approximately ten days ago the Board received notice that the ISO rating for Harris Hill VFC went from 4 – 5 Supervisor Bylewski stated that the Town has 30 days to put a remediation plan in place to improve the rating. We have 60 days to get the plan implemented. Councilman Weiss stated that when you go from a 4 – 5, 80% of the people in that district will see an increase of between 10 – 13 % on there homeowners insurance.

#### **Councilman Bernard Kolber**

The fire company's preliminary budget hearing will be held tomorrow at 7:00 PM. Harris Hill VFC will not be in attendance.

#### **Councilman Patrick Casilio**

Councilman Casilio will set a public hearing for September 23<sup>rd</sup> @ 8:00 to consider the adoption of a local law "Grass, Weeds and Plant Growth.

Councilman Casilio has two items to discuss in Executive Session regarding the appointment of an employee and one Attorney-Client item to discuss.

Councilman Casilio apologized for not reporting on Day in the Park but they were tied into the Erie County Fair. He was waiting for several organizations to pay their 20% so he can get an accurate record as to how it turned out. The event was successful for everyone working it as well as financially. They will be able to return the 20% back to the organizations. The question is if we continue with this event, how much money do we need in the bank for next year. This is why the Executive Committee and the volunteers are going to meet. It appears that they will be in the position to offer the volunteer organizations money back.

Councilman Casilio along with Town Attorney Bengart and Town Engineer Latona met with Erie County Water Authority, John Gaulocher from Swormville VFC attended as well. It was a positive meeting for both sides.

The Clarence Hollow Association met with Senior Building Inspector David Metzger. The Building Department has a grip on the houses in Clarence Hollow

that need attention and that is one of the reasons for the Proposed LL – Grass, Weeds and Plant Growth. Senior Building Inspector David Metzger in conjunction with the Clarence Hollow Association stated that he is going to mail a “blanket” letter to everyone in Clarence Hollow up to Sheridan Drive. Councilman Casilio asked if there was any type of tax relief, power relief from the State of NY if we change Clarence Hollow into some type of Enhancement Zone or Industrial Zone. Town Attorney Bengart stated that for IDA purposes, it is an Enhancement Zone. Councilman Casilio stated that the Town of Amherst has a law that encompasses more building maintenance.

Councilman Casilio attended a Public Safety meeting on Tuesday night, he spend one hour discussing an A.M radio station. He may bring this up two weeks from now in the form of a motion.

**Councilman Peter DiCostanzo**

Councilman DiCostanzo will appoint Norm Kirchner to the Senior Center Board to replace Bob Friedman who resigned.

Upon recommendation from the TEQR Committee, a Negative Declaration will be issued on the proposed Epiphany United Church of Christ Project located at 9520 Wehrle Drive.

Upon recommendation from the TEQR Committee, a Negative Declaration will be issued on the proposed Verizon Telecommunications Tower located at 8095 Tonawanda Creek Road.

Councilman DiCostanzo will appoint Gary Server to the Youth Board in two weeks.

Youth Bureau Executive Director Dawn Kinney is recommending the re-appointment of four Student Youth Board members

Youth Bureau Executive Director Dawn Kinney is requesting a transfer of funds.

The Youth Bureau is exploring the possibility of introducing some pre-school programs. Town Attorney Bengart will explore the possibility of the Youth Bureau accepting sponsorships to run this program. Councilman Weiss stated that other towns have camp programs where they charge a fee to be able to participate. Supervisor Bylewski stated that he would be in favor of the concept if it could be a revenue generating program.

Councilman DiCostanzo thanked Brad Packard for getting Main and Connection area cleared of “dead cars.”

There was a Planning Board meeting regarding the Master Plan amendment. Jim Callahan, Brad Packard and Al Schultz researched all of Transit Road to see what kind of buffers there are behind big developments. Their findings will be reflected in the Planning Board minutes.

Karen Jurek reminded Councilman Kolber about the Library and ZBA Alternate appointments.

Karen Jurek commented that the garage sale is on-going. To date we have sold approximately \$300 in used office furniture. Karen said it is unfortunate that many garage sale items were in good shape when they left this building but were damaged when they were put into storage.

Senior Building Inspector David Metzger stated that the foundation for the Community Street Clock was poured today and it should be installed before Labor Day. Councilman Casilio asked if all the permits were in place.

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

There being no further business, the Work Session adjourned at 7:19 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Councilman Casilio left the Executive Session at 7:35 P.M.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to adjourn the Executive Session at 7:43 P.M. Upon roll call – Ayes: Councilman DiCostanzo, Councilman Kolber, Councilman Weiss, Supervisor Bylewski; Noes: None. Absent: Councilman Casilio. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, August 26, 2009 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:47 P.M. Pledge to the flag was led by Councilman Bernard Kolber, followed by a moment of silence in honor of the two fallen City of Buffalo firefighters.

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, Planner Brad Packard, Town Attorney Steven Bengart, Asst. Town Engineer Tim Lavocat and Building Inspector David Metzger.

Motion by Councilman Casilio, seconded by Councilman Weiss to accept the minutes of the previous meeting held August 12, 2009. On the question, Supervisor Bylewski said that on the top of page 220 he believes that Councilman Weiss said he will meet with the New York State Police. He also said the correct spelling on pages 224 and 225 for Bob Lens is Lenz. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said we have had a branding effort in the Town. Over the next few weeks you should see the Town brand coming forward regarding “Green Spaces, Historic Places and Caring Faces”, as well as the logo. A brochure will also be coming out to further market the Town to bring in much needed business to the Town of Clarence.

Supervisor Bylewski recognized our Director of Community Development, James Callahan, who will be the recipient of the 2009 New York Planning Federation Pomeroy Award for Zoning Achievement. Jim has been with the Town of Clarence since 1996. This prestigious award is given to an individual, municipality or agency for consistent, high quality work and an outstanding contribution to planning and zoning in New York State. His work is greatly appreciated.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant approval for the Third Annual Clarence Center Community Association Family Bike Path Scavenger Hunt to be held September 19, 2009 from 9:00 a.m. to 12:30 p.m. on the bike path from the Kraus Road entrance to the gazebo on Goodrich Road. All appropriate agencies will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that the Clarence Town Board approves the purchase of eight (8) new Toshiba copiers from Eagle Systems, Inc. per New York State Contract No. PC 59471, Award No. 01649, at a cost not to exceed \$60,906. The funds for said purchase shall be transferred from Contingent Line item 1990.0400 to Lease/Rental of Office Equipment line item 1620.457.

The Clarence Town Board also approves entering into and authorizes the Supervisor to sign a five (5) year Service and Supply Maintenance Agreement, subject to Town Attorney review and approval, to be paid on a semi-annual basis. This includes the packaging, shipping and return of five (5) expiring leased units. Funds for the Service and Supply Maintenance Agreement and return of current leased machines shall be allocated from 2009 budget line 1620.457.

On the question, Supervisor Bylewski thanked his assistant Karen Jurek who did a tremendous amount of work in putting this together.

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

Motion by Councilman Weiss, seconded by Councilman Kolber to award the bid for the purchase of a Hot Patcher for the Highway Department to Falcon Road Maintenance at their bid of \$9,995. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date of September 8, 2009 at 10:00 a.m. for the Replacement of the Roof on the Main Office and Shop Building at the Highway Department. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to award the bid for the Arched Backstop for the 90' Diamond at Town Place Park on Goodrich Road to City Fence, Inc., the lowest responsible bidder in the amount of \$25,645. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date of September 18, 2009 at 10:00 a.m. for the Historical Museum Porch Renovations. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss announced that Erie County is hosting a Hazardous Waste Drop Off at 200 Peabody Street, Buffalo on September 12, 2009 from 9:00 a.m. to 2:00 p.m. for pesticides, fertilizers, oil-based paints, batteries, etc.

Erie County is also hosting a Drop Off at ECC South Campus on September 26, 2009 from 9:00 a.m. to 1:00 p.m. for computers, monitors, keyboards, modems printers, cell phones, TV's, etc.

Councilman Weiss said at the end of the last meeting, Mr. Lex from the school board stated he was not happy with some of the things he has said about the school board. Mr. Lex said the audit found only \$1,600 worth of equipment unaccounted for from a \$70 million budget. Councilman Weiss said the only thing audited was the computer equipment and the only reason they audit something like that is if there is a problem or tip off.

Mr. Lex said there is no warning to the students of a police drug dog coming in. Under Mr. Gentile there was warning.

Councilman Kolber announced that tomorrow night at 7:00 p.m., August 27<sup>th</sup>; the Town Board will meet with the fire companies regarding their budgets for next year.

Councilman Casilio said he, along with Town Attorney Steve Bengart, Town Engineer Joseph Latona and John Gallagher from Swormville Fire Company, met with Erie County Water Authority (ECWA) to discuss the maintenance of the fire hydrants. We have had fires in Town this year and had difficulty with some hydrants. He felt it was a worthwhile meeting and there is some follow up work to be done.

There are 1,118 hydrants in the Town. The charge by ECWA is \$229 per hydrant including maintenance and water usage. The total bill last year was \$416,467. They said they spent \$83,000 last year in testing and maintenance. The rest goes toward water usage and facility maintenance. We asked for a breakdown of all the charges. The accounting firm, Ernst and Young prepares the billings.

ECWA claims that they do maintenance on the hydrants twice a year. They asked that the fire companies notify them after use of a hydrant, even if it is only used for a drill so they can do maintenance. They have a training program on using the hydrants. Councilman Casilio would like to see them present it at the chief's association meeting. They have a monitoring system which can tell where there may be a problem. As with the fire on Salt Road, ECWA notified Amherst Alarm that there could be a water pressure problem before the fire companies got there. Fire hydrant pressures are tested every quarter.

Councilman Casilio said Harris Hill recently was docked points from their ISO review because hydrants had not been tested in 2 ½ years. ECWA said they are there twice a year. That decision is being appealed.

Councilman Casilio said the Building Department met with the Clarence Hollow Association regarding the blight of some of the properties and what could be done. We do have vacant buildings that are not being maintained properly. It takes a lot of time to enforce the codes in these cases.

We are putting an article in the Bee and a letter will be going out to the property owners. It is a lengthy process to go through some of the issues such as grass has to be over 11 inches. They are given time to comply and by the time they go to court there is snow on the ground. Part of the problem is absentee landowners or abandoned properties. To help speed up this process, a new law will be presented for adoption.

Motion by Councilman Casilio, seconded by Councilman Weiss to set a public hearing for September 23, 2009 at 8:00 p.m. to consider the adoption of a local law "Grass, Weeds and Plant Growth." Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Clarence Town Board approves awarding the contract for recording and production of a proposed approximately 30-minute video for the Town of Clarence to record the events of Flight 3407 and its aftermath to Channel One Media based on the qualifications submitted at a cost not to exceed \$22,500 subject to Town Attorney review and approval.

On the question, Councilman Casilio said he would like to see an outline of the production before the video is completed. As part of the contract he would like the Town to own all of the raw footage including video shots since the plane crashed. The Town of Clarence is to own all rights to the final video that is produced; all distribution and all footage that was shot. He would like review of the final video before any final payment is made. Councilman Casilio would like this to be part of the motion.

Councilman DiCostanzo said it could be paid for in installments and the final installment could be contingent on review of the video.

Supervisor Bylewski said there are a number of accounts that can fund this and it would have to be put together to go forward with this. He would leave it up to the Town Attorney to put it in order. Given the amount of work that goes into it, he does not believe that the entire payment should be contingent on completion.

Councilman Casilio said we did receive another bid that was over \$40,000. This price is below market rate.

Councilman Weiss said the video could have value to anyone around the world that may experience a similar tragedy. We may be able to recoup some of the costs to produce the product.

Supervisor Bylewski said our presentations, mostly panel presentations, have been a combination of Dave Bissonette, Chief Dave Case, Major Cummings from the State Police and himself who have all used parts of the 8-minute presentation depending on the setting throughout North America. We need to capture a moment in time before it is gone.

Councilman Casilio said he would like ownership of the footage that was taken by Channel One Media the night of the crash.

Councilman Kolber asked if we should include in the contract that we are purchasing the raw footage so that we own it.

Supervisor Bylewski said that is not what was in the RFQ. It could be negotiated as part of the contract.

Councilman Casilio said he would like to negotiate that now, so that it is part of it.

Councilman DiCostanzo said the Supervisor indicated that there are four or five people out there speaking. If these people are out there speaking and earning fees and then taking this video with them to speak and be paid, he would like them to reimburse the Town for a portion of the cost of the video.

Supervisor Bylewski said he can say, to date, that the presentations that have been made on the 8-minute video have been purely gratis or for expenses for going.

Councilman Casilio said he does not want Channel One selling this video or footage to other sources when we are paying for the production.

Town Attorney Bengart said this motion is for the Town Board to award a contract. The other issues are not part of this.

Councilman Kolber said if we own the video, we own the distribution.

Councilman Casilio said the video began running that night and for a while after. There are hours of video and the reason he wants the Town to own it is so that a different video cannot be made to be marketed and sold. He would like to control everything.

Supervisor Bylewski said it is his understanding that Channel One was contacted shortly after the event and not at the beginning.

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

Councilman DiCostanzo said he will make the appointment of Norm Kirchner to the Senior Center Board in two weeks.

Councilman DiCostanzo said he will make the appointment of Gary Server to the Youth Center Board in two weeks.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to reappoint the following students to a one-year term on the Youth Board with term from July 1, 2009 to expire June 30, 2010: Nicole Miller, Sydney Powell, Shalin Nohria and Shaya Sessler. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to approve the following transfer of funds in the Youth Bureau 2009 budget: \$1,200 from A7310.220 Office Equipment to A7310.450 Maintenance of Building & Grounds; and \$1,200 from A7310.250 Building Improvements to A7310.450 Maintenance of Building & Grounds. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the TEQR Committee, the Clarence Town Board issues a Negative Declaration on the proposed Epiphany United Church of Christ Project located at 9520 Wehrle Drive. This Unlisted Action involves the construction of a new church on 19+/- acres in the Agricultural Rural Residential Zone and the Industrial Business Park Zone. After thorough review of the submitted site plan and Environmental Assessment Form (EAF) by the TEQR Committee, Planning Board and Town Board, it is determined that the proposed use will not have a significant impact on the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the TEQR Committee, the Clarence Town Board issues a Negative Declaration on the proposed Verizon Telecommunications Tower located at 8095 Tonawanda Creek Road. This Unlisted Action involves the construction of a 99 ft. high telecommunications tower in the Agriculture Flood Zone. After thorough review of the submitted site plan and Environmental Assessment Form (EAF) by the TEQR Committee, Planning Board and Town Board, it is determined that the proposed use will not have a significant impact on the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said he would like to thank Brad Packard from the Planning and Zoning Department for working at getting an old van removed at Connection and Main.

Councilman DiCostanzo recognized Bob Geiger and Steve Carlson who were present from the Chamber of Commerce.

Supervisor Bylewski thanked all of the department heads present for attending.

#### Public Participation

Valarie Acee spoke regarding item 23. She asked that this be reconsidered due to the extreme flooding conditions in this area. She wonders if this should go through another environmental study since it was approved in 1998 and groundwater issues can change. Mrs. Acee presented pictures showing that flooding goes back into this lot about 75 feet. When the creek overflows, they get sewer backup into their house. They are very concerned that the drainage issues will be worse with a three-family unit next store.

Tim Lavocat said it is within the 100 year floodplain.

A Public Hearing was held to consider the purchase by the Town of Clarence of real property located at 10365 and 10375 Main Street, in conjunction with Clarence Fire District No. 1, at a purchase price not to exceed \$495,000.

Councilman Casilio stated that he is a member of Clarence Fire Company so he will not participate in any discussion or voting on this item.

James Callahan said the location is the south side of Main Street, adjacent to the Main Town Park, consisting of two parcels totaling approximately 7.9 acres in the Traditional Neighborhood and Commercial Districts.

Speaking to the subject:

Ken Wells, Clarence Fire District No. 1 thanked the Town for the cooperative nature of this property acquisition.

Councilman Weiss said he is not in favor of the enlargement of the fire hall campuses. He thinks we need to be very concerned these days with difficult finances. In this situation, he understands that the fire company can make this purchase on their own.

Supervisor Bylewski said he believes it is a valuable purchase for the Town being that it is adjacent to the Town Park. There is a lot of potential.

Councilman DiCostanzo said the property goes from Main Street to the bike path.

Councilman Weiss asked if the fire company had any plans. Ken Wells said they did not at this time.

Councilman Weiss said he thinks they do a great job, but he is just trying to look out for the costs to the taxpayers.

Mr. Wells said they have the same respect and concerns with public funds.

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: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Planning Board, the Clarence Town Board issues a Negative Declaration on the proposed purchase of 10365 & 10375 Main Street. This Unlisted Action involves the purchase by the Town of Clarence of approximately 6.2 acres and approximately 1.7 acres of said properties by the Clarence Fire District No 1. After thorough review of the Environmental Assessment Form by the Town Board, it is determined that the proposed purchase is compatible with local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

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

RESOLVED, that after a public hearing duly held on August 26, 2009, and after all interested parties behind heard, the Clarence Town Board approves the purchase by the Town of Clarence of the real property located at 10365 and 10375 Main Street in the Town of Clarence, Erie County, New York in conjunction with Clarence Fire District No. 1, Inc. at a purchase price not to exceed \$495,000.00 plus any closing costs and disbursements subject to the terms and conditions of the conditional contract to be negotiated by the Town Attorney. The Town of Clarence shall purchase approximately 6.2 acres and the Clarence Fire District No.1, Inc. shall purchase approximately 1.7 acres of said properties; and be it further

RESOLVED, that the purchase price shall be apportioned between the Town of Clarence and Clarence Fire District No.1, Inc. as agreed between them. The Town of Clarence funds shall be allocated from the general fund and/or the recreation fund; and be it further

RESOLVED, that the Clarence Town Board hereby issues its statement of intent to issue bonds or notes to finance the acquisition of said property; and be it further

RESOLVED, that the Clarence Town Board hereby authorizes the Supervisor to sign the conditional contract subject to Town Attorney review and approval.

On the question, Supervisor Bylewski said this was recommended for acquisition by the Recreation Advisory Committee. He also thanked the members of the Fire District.

Councilman Weiss said Councilman Casilio cannot speak, but did mention that we would like to use a portion of this property for additional recreational use.

Councilman Kolber said as he was told by his father, if you get a chance to purchase property next to yours you should do it. The cost is in line with the appraisals that we received.

Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

A Public Hearing was held to consider the request by Phil's Char-Pit for a Temporary Conditional Permit for outside dining at 9980 Main Street.

James Callahan said the location is the north side of Main Street, east of Kraus Road consisting of an existing restaurant in the Commercial Zone.

Phil Convertini said his hours of operation are 11 am to 10 pm Monday through Saturday and 12 to 10 pm on Sundays. They plan on being open all year. They can accommodate about 40 people in the front and on the west side of the building. He has changed the outdoor speaker system. It is not too loud.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on August 26, 2009, and after all interested parties being heard, grants a Temporary Conditional Permit for outside dining to the applicant, Phil's Char Pit, located at 9980 Main Street subject to the following conditions:

1. The Temporary Conditional Permit is granted for 1 year.
2. Outdoor seating not to exceed 9 tables or 45 seats.

3. Any allowable entertainment not permitted past 9:00 p.m.

4. Any background music at a reasonable level.

On the question, Mr. Convertini said he would like to have live entertainment outside in the summer once or twice per month.

Councilman Weiss said we need to give this guy a chance. He is working like crazy to make his business succeed.

Councilman Kolber said we need to keep things harmonious with the neighbors in the area. If we receive a lot of complaints, it could jeopardize his permit.

Mr. Convertini said the theme is 50's, 60's and 70's. He could make sure that it is not that loud.

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

A Public Hearing was held to consider the request by Karl Farmer for a Temporary Conditional Permit for outside dining at 10749 Main Street. James Callahan said the location is the southwest corner of Main Street and Academy in an existing commercial structure in the Traditional Neighborhood District. The Town Board previously approved a Change-In-Use Permit to allow for a coffee shop.

Sean O'Neill, partner of Karl Farmer said they would like to have three or four two-seat tables on a small patio area.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on August 26, 2009, and after all interested parties being heard, grants a Temporary Conditional Permit for outside dining to the applicant, Karl Farmer, located at 10749 Main Street subject to the following conditions: 1. The Temporary Conditional Permit is granted for one year.

2. Outdoor seating not to exceed 12 seats.

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

A Public Hearing was held to consider the request for renewal of an existing Temporary Conditional Permit for automotive sales at 10939 Main Street. James Callahan said the location is the south side of Main Street, east of Schurr Road consisting of an existing automotive sales operation in the Traditional Neighborhood District.

Councilman Casilio said he owns the house next store, so he will be recusing himself from discussion and voting on this subject.

Councilman DiCostanzo said the agenda states only sales and the proposed resolution says sales and service.

Speaking to the subject:

John Burgher said he has put \$60,000 into this project to revitalize two dilapidated buildings. He has planted trees, put up the stone wall, blacktopped and stripped the parking lot, all that was requested.

Councilman Kolber said he has done a great job to make the property look nice, but the issues have been with testing engines and the noises coming from that. He is your partner in the business.

Mr. Burgher said it was his understanding that the service portion was grandfathered in. He has nothing to do with the auto service.

Supervisor Bylewski said the issue before us is the sales.

Councilman Weiss asked if this was a one time thing or are there ongoing complaints. Mr. Callahan said it is not just one incident.

Speaking to the subject:

Pete Rizzo said he owns the property adjacent to this. He is very pleased with how the property has been improved. He has never heard engines being revved up after 5:00 p.m. The noise is not a real issue for him. He thanked the Town for allowing Mr. Burgher to improve this property.

Patricia Mooney asked that the request be denied. She said the noise is very loud race car engines and is past 5:00 p.m. She thinks the photo in the Bee today regarding the service business is disgraceful. She would have suggested a different location until she saw the photo.

Councilman Kolber said we cannot rule on good taste or bad taste. This renewal is for the sales business.

Mrs. Mooney said she is against the business.

Cheryl Burgher said they have no knowledge of the picture in the Bee. She is John's wife and they have half their life in the business. They cannot just get up and move after investing that much money. People should be aware when they move to an area that is near commercial property. They have nothing to do with the service business and do not want to address it. Her husband shows cars occasionally in the evening and the service business is not open. She finds it extremely ironic that we are discussing beautifying our Town, which they have invested a lot to do. They chose to put their business here. She asks that they consider this. They have nothing to do with the noise; they have everything to do with improvement.

Jamie Krawczyk said she lives behind this business. She appreciates the improvements. She takes offense to the fact that they should be aware because her mother has lived in that house for 20 years. They never had an issue before. If they are partners, they should have equal interest. The sign says sales and service. She respects the front business. She presented pictures of what she sees from her house.

Ms. Krawczyk said she would like to see their business succeed, but the noise level is unreasonable. She heard it tonight until 6:10 p.m. and one night it was midnight. There are quite a few cars back there also.

Town Attorney Steve Bengart said all we can deal with tonight is the sales. In talking with Jim Callahan, they are going to look at the service business and make sure if they are in compliance. Mr. Burgher should convey to his partner that they will be looking at his business.

Jennifer Beil-Zawadski said when Mr. Burgher approached them there was no mention of a repair shop. She is not a big fan of used car dealership, but it sounded like it would be a benefit to him and the value of their property. There was no mention of the dangers or noise. She appreciates all that he has done, but it does not outweigh the drawbacks. They have no respect for the neighborhood. The trucks and motorcycles that speed in and out of the driveway pose a danger. The noise from the revving of engines goes from mid-afternoon to the wee hours of the morning.

She spoke with John last summer and he said he would address it. It changed for about a week. This summer it has been much worse. She has no problem with the sales. There are no problems with the Dodge dealership. She asked that the Town reconsider renewing the Temporary Conditional Permit.

Councilman Kolber said all of the issues are with the service business and not the sales.

Mrs. Zawadski said there was never a problem before. They drive like idiots. She believes it all starts after the sales business is closed. However, they are partners and he should have some responsibility. They have no regard for the residents.

Councilman Kolber said the service business was grandfathered in by a Special Exception Use Permit. If they shut down the sales, it would not affect the service. He suggested calling the police when they are driving like that.

Supervisor Bylewski said we are dealing with the sales portion tonight. The service is in existence as approved a long time ago. If they are in violation, it will have to be addressed separately.

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

John Burgher said he is not there in the evening. He will talk to his partner tomorrow morning.

Supervisor Bylewski said he should strongly talk to his partner to let him know that the Town is looking into enforcement action based on the complaints here tonight.

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

Be It Resolved that the Clarence Town Board, after a public hearing duly held on August 26, 2009, and after all interested parties being heard, grants the request of the applicant, Burgher and Grainy, to renew the Temporary Conditional Permit for the existing automotive sales operation at 10939 Main Street subject to the following conditions:

1. The Temporary Conditional Permit is granted for one (1) year.
2. Conditions as previously established to be continued.
3. Compliance with landscaping design.

On the question, Councilman Kolber said Mr. Burgher has obviously invested a lot of money there. He would rather grant a one year renewal given the things that are going on there.

Supervisor Bylewski asked about the number of parking spaces under Mr. Burgher's control. He believes there are nine. Supervisor Bylewski said we had approved ten for sale vehicles and five for employees.

Councilman Kolber asked if he could clarify if the vehicles in the photos presented were his. Mr. Burgher said none of the cars are his. He knows that one of them is going to be removed.

Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

Spaulding Greens LLC requests a Minor Subdivision to create one new residential building lot on Greiner Road. James Callahan said the location is the north side of Greiner Road, west of Kraus consisting of vacant land in the Residential Single Family Zone.

Nick Piestrak said they have multiple accesses from Greiner Road and had no plans for the piece. The frontage is 160 ft. It seemed like a reasonable thing to do. Septic is proposed.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Planning Department, the Clarence Town Board issues a Negative Declaration on the proposed Spaulding Greens LLC Minor Subdivision. This Unlisted Action involves the development of one (1) new residential building lot on the north side of Greiner Road, west of Kraus Road. After thorough review of the submitted survey and the Environmental Assessment Form (EAF) by the Town Board, it is determined that the proposed action is consistent with Master Plan 2015 and local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that the Clarence Town Board grants Minor Subdivision Approval to the applicant, Spaulding Green LLC, for one (1) additional residential building lot located on the north side of Greiner Road, west of Kraus Road, subject to the following condition: 1. Open space and recreation fees.

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

Clarence Soccer Club requests sponsorship signage at the Soccer Center in Memorial Park.

Sherry Frost, Executive Director and Rob Waters, Facilities Director were present.

Supervisor Bylewski said he assuming that they are proposing to have a vinyl cover to go on the sign.

Mr. Waters said the signs would be 5" x 24" on both sides of the sign. This is applied to the metal sign and stays up for the year.

Supervisor Bylewski said other sponsorships have been allowed to be up for the season. He likes the demarcation signs that have been put up there, but given past practice it is for the season only. There is no other advertising allowed for commercial venture in the parks.

Councilman Kolber said he has children playing, but has no financial interest. Clarence Soccer is almost a year-round activity.

Mr. Waters said they do operate 8 ½ months of the year. There are not fences around the fields to post signs on. The sign posts they are using are not an eyesore. You have to walk up to them to read them.

Sherry Frost added that it would be very difficult to take the signs down and put them back up. Mr. Waters added that it would destroy them.

Supervisor Bylewski said we also have a permit requirement that baseball has to renew each year. This is advertising.

Town Attorney Steven Bengart said it absolutely is and he does not think we can treat organizations differently. We allow sponsorships, but anything beyond the season is advertising. It would not be appropriate.

Councilman Kolber said if they could somehow have a removable sign on the posts it could work.

Councilman Weiss said who is going to see it during the winter. There is no one in the soccer park.

Councilman Casilio said it should not be difficult to have signs that you can take down. Sherry Frost asked about covering them. Councilman Casilio said and then you have covers blowing around.

Supervisor Bylewski said they think the signs are nice, but have a concern because of the advertising. We are looking for a way to allow this.

Mr. Waters said they can put a sign track on it, which is an extra cost. It would be giving the sponsorship away.

Councilman DiCostanzo asked what is the difference of advertising during the playing season, and not during the winter when no one will see it.

Mr. Bengart said you are not supposed to have advertising at all. That is his opinion and the Board can make their decision. The signs went up without permission. They are here to correct that.

Mr. Waters said their interface was with the Parks Department in April when they proposed these signs along with many other improvements at their own expense. They felt they were acting in good faith.

Supervisor Bylewski said when you change past practice, you have to differentiate in order to go forward. We have had a few suggestions and one is to leave it up. We would have to see how we would have to change the Park Rules and Regulations to allow that to happen.

Councilman Kolber said there is a difference in the size of the signs. He has been told that we have to look at each case on its own merit.

Motion by Councilman Casilio, seconded by Councilman Weiss to approve the request of the applicant, Clarence Soccer Club, to allow for commercial advertising in association with the signage at Memorial Park subject to the following conditions: 1. Annual Renewal. On the question, Councilman Casilio said he likes the visual break we get at Meadowlakes when they take the signs down. Supervisor Bylewski strongly recommends to the Town Attorney that we have to look at our Parks Rules and Regulations. Councilman Casilio suggested the Soccer Club see what they can do about getting removable signs because if one of the other groups asks, he will deny this renewal next year. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to table the request by Transit Valley Animal Hospital for recommendation for a Building Permit and Architectural Approval for an addition to the existing facility at 7591 Transit Road until the applicant is available. Upon roll call – Ayes: All; Noes: None. Motion carried.

Martin Pecorraro requests an Amendment to existing Temporary Conditional Permit for automotive sales at 6031 Transit Road. James Callahan said the location is the east side of Transit, north of Clarence Center Road in the Major Arterial Zone. A Temporary Conditional Permit was approved for automotive sales.

Sean Hopkins was present representing Mr. Pecorraro. One of the conditions was a requirement for some type of greenspace along the Transit Road frontage. It was not specified, but his client agreed to put in 15 to 18 feet along the entire frontage and it looks very nice. It made the display area very tight. There are now only six spaces along Transit. There is no change to the number of display spaces. There is no service as stated.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a Public Hearing for September 23, 2009 at 7:50 P.M. to consider the request by Martin Pecorraro for an Amendment to existing Temporary Conditional Permit for automotive sales at 6031 Transit Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

DHD Ventures requests Preliminary Concept Review of a proposed plaza in the Major arterial Zone on Transit Road north of Miles Road. James Callahan said the location is the east side of Transit Road, north of Miles Road consisting of vacant property in the Major Arterial Zone. The property has received Town Board approval for a Master Plan 2015 amendment to extend the Commercial Zone to the east and to amend the land use map to commercial zoning. The proposed plan is in conformance with the amendments.

Supervisor Bylewski said if this was to go through the review process, we are looking at a rezoning, a special exception use permit and general concept approval.

The applicant is ready to work with the planning department to bring this project to fruition. They are in discussion with potential tenants, but no agreements.

Supervisor Bylewski said there are a lot of wetlands on this property and he asked if there are any issues.

The applicant said the wetland delineations have been completed by the Army Corp of Engineers.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to refer the request by DHD Ventures for Preliminary Concept Review of a proposed plaza in the Major Arterial Zone on Transit Road north of Miles Road to the Planning Board for further review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Stone Ridge Estates requests Development Plan Approval for an Open Development Area at Stage and Ransom Roads. James Callahan said the property is vacant land located in the Agricultural Rural Residential Zoning District. The applicant has received a Negative Declaration and a recommendation from the Planning Board for Development Plan Approval.

Michael Metzger, Engineer and Mark Dempsey were present to represent the applicant. They are proud of this project and feel it is a good use of the land.

Councilman Casilio said it was mentioned previously about the landscaping at the entrance. We would like to see that done sooner than later.

Mr. Metzger said his client is very anxious to get that started.

Councilman DiCostanzo said he wanted to clarify the corner lot that is to remain as is. He believes it should be from the tree line to the west.

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

Resolved, that the Clarence Town Board approves and grants the request of the applicant, Stone Ridge Estates, for Development Plan Approval for a proposed 15-lot Open Development Area at the southeast corner of Stage and Ransom Roads subject to the following conditions:

1. A deed restriction for the corner lot at Stage Road and Ransom Road will remain undeveloped and in its natural state from and including the tree line west to Ransom Road, subject to Town Attorney review and approval of deed restriction.
2. Open Space and Recreational Fees.
3. Landscape approval with deference to the adjacent neighbors.
4. A variance will be required for the number of homes on a dead-end cul-de-sac.
5. A variance will be required for the length of the private road plus a private driveway of approximately 1700'. The law allows 1500'. Copy of common area/driving area agreement including the maintenance of same, subject to Town Attorney review and approval.
6. There will be no further splits.
7. Based on conditions noted in the Town Engineer's letter dated August 3, 2009.
8. Pave at least 500 ft. of the private roadway initially.

On the question, there was discussion regarding the paving of the driveways. Michael Metzger said they would be willing to say that they would not put any lots on the market without a paved road in front of it. Asst. Town Engineer Tim Lavocat said they do not issue building permits for any portion of a road that is not paved. The dust control is regulated under the Stormwater Regulations. Upon roll call – Ayes: All; Noes: None. Motion carried.

Antonio Cosmano requests Minor Subdivision Approval to create three new residential building lots at the southwest corner of County and Conner Roads. James Callahan said the property consists of approximately 37.8 +/- acres of vacant land in the Agricultural Rural Residential Zone.

Antonio Cosmano was present.

Supervisor Bylewski said this is the maximum number of lots that can be split before it would be considered a major subdivision.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the

Planning and Zoning Department, the Clarence Town Board issues a Negative Declaration on the proposed Cosmano Minor Subdivision. This Unlisted Action involves the development of three (3) new residential building lots located on the southwest corner of County and Conner Roads at 6680 Conner Road. After thorough review of the submitted supporting information and the Environmental Assessment Form (EAF) by the Town Board, it is determined that the proposed action is consistent with Master Plan 2015 and local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, Antonio Cosmano, for Minor Subdivision approval to create three (3) new residential building lots located on the southwest corner of County and Conner Roads at 6680 Conner Road, subject to the following conditions: 1. Open Space and Recreation Fees. 2. Town Engineer approval.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to set a Public Hearing for September 23, 2009 at 7:45 P.M. to consider the Proposed Sign Law. On the question, Supervisor Bylewski said his concerns have to do with the language of the variances that would be granted. Mr. Morabito had mentioned some inconsistencies that were in the previous draft. Upon roll call – Ayes: All; Noes: None. Motion carried.

Susan Ballard requests an Amendment to the existing Special Exception Use Permit for a three-family unit at 9376 Clarence Center Road. James Callahan said the location is the north side of Clarence Center Road, west of Long Street consisting of vacant land in the Traditional Neighborhood District.

Susan Ballard said she is the owner of the property. She said her request is for architectural approval of a design and not to amend the previously approved Special Exception Use Permit.

Supervisor Bylewski said it is his understanding that based on the design drawings that were submitted to the Building Department constituted a change to the Special Exception Use Permit.

Susan Ballard said that is not how it was represented to her. Subsequent to the permit being issued for a three-family home, she submitted a plan which was not complete at the time. The architectural approval is independent. The original plan had two units with a third above the garage and parking in the front. They also had a plan which included three units with parking underneath. The current plan eliminates the parking under the structure and moves it to the rear with a detached garage. It is more in keeping with the neighborhood with a traditional design.

Susan said she heard the neighbor's concern about drainage and they share the same concern. It does collect water from other properties. The plan does address the issues. They would not create a hardship for either neighbor.

Supervisor Bylewski said they are hearing from the departments that it is amending the Special Exception Use Permit.

James Callahan said it is changed from what was approved. The Building Department said they were hesitant to issue a building permit without Town Board knowledge of the change.

David Metzger said the reason it is here is because it is a change to the plan that was submitted ten years ago.

Susan Ballard said she comes with a new plan that she believes is an improvement and does not see that the permit is in jeopardy.

Supervisor Bylewski said in reviewing the minutes from 1998, they are very scant. No one here was on the board at that time.

Town Attorney Steven Bengart said he believes an argument can be made either way and Susan is not necessarily wrong. He does not have a clear answer at this moment.

Susan Ballard said there are no conditions set forth in the original approval. She believes the home is attractive and appears as a single family home. It eliminates the need for parking in front of the house. They have met all of the requirements. They will improve the drainage for the neighbors.

Supervisor Bylewski said given the confusion he is not comfortable without a recommendation from our department heads. We could go forward to set a public hearing.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a Public Hearing for September 23, 2009 at 7:55 P.M. to consider an Amendment to the existing Special Exception Use Permit for a three-family unit at 9376 Clarence Center Road.

On the question, Supervisor Bylewski said that if it comes up through an interpretation from our department heads that is consistent that this can be for architectural approval, then that is what it will be. The motion is based on the information that we have.

Susan Ballard said she was directed by the Planning Department that she did not have anything included in the request that would request a change to the Special Exception Use Permit.

Councilman Kolber said she has the right to build what was previously presented. It was approved on June 3, 1998 based on site plan for filling and grading, etc. Changing to three units with a detached garage is a significant enough change to be reviewed.

Town Attorney Bengart said he is not comfortable giving an opinion tonight.

Councilman Casilio asked if they could lose everything they already have. Mr. Bengart said they would not.

Supervisor Bylewski said he leaves his motion as stands.

Councilman Casilio said he thinks moving the parking to the rear is a plus.

Susan Ballard said she does not know what additional information she could provide in the future to receive architectural approval. It is a better plan for this property.

She does not feel she should have to come back and do this again.

Supervisor Bylewski said if we receive clarification, we may not have to hold a public hearing.

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

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. US Census Bureau – Sept. 21 – 25, 2009; B. Clarence Contemporary Club – Oct. 20, 2009; C. Clarence Soccer Club – Oct. 30, 2009; D. Welcome Wagon – Monthly Meetings for 2010; E. Cub Scout Pack 568 – Feb. 5 & March 21, 2010; F. Clarence Historical Society Board of Trustees – Monthly Meetings for 2010; G. Clarence Historical Society - Monthly Meetings for 2010; H. Clarence Jaycees – March 27 & 28, 2010; I. Garden Friends of Clarence - Monthly Meetings for 2010; Legion Hall Applications - A. Carol Penhollow – Sept. 13, 2009; B. Suzanne West – Oct. 18, 2009; C. Clarence Democratic Committee – Monthly Meetings for 2010; Park Pavilion Special Request - A. Clarence Community Association – Sept. 26, 2009 (Bark in the Park). On the question, Supervisor Bylewski said the Board Members are also members of various organizations, however, this is ministerial and they will be voting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review by the Town Board, the following bills of August 20, 2009 are approved for payment: General Fund - \$152,901.01; Highway Fund - \$185,678.41; Water District - \$1,765.69; Lighting District - \$915.27; Capital Fund - \$396.38; and Trust and Agency 203 - \$1,840.16 for a total amount of \$343,496.92. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Tim Pazda gave an update on the clock. The foundation went in today under the guidance of Lamparelli Construction. The bricklayer will be here in a day or two. The pavers will be reused. The only thing that will not be done is the cap on the brick which is being specially made. This will all be done for the dedication on Labor Day Saturday, September 5, 2009 at 12:00 Noon and everyone is invited.

There being no further business, Supervisor Bylewski adjourned the meeting at 10:35 P.M. in memory of the two fallen Buffalo Firefighters, as well as Ram Desai an active citizen in the Town.

Nancy C. Metzger  
Town Clerk