

Regular meeting of the Town Board of the Town of Clarence was held Wednesday, September 23, 2009 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:37 P.M. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a prayer given by Supervisor Bylewski.

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 Weiss, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held August 26, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held September 2, 2009. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Kolber. (He was not present.) Motion carried.

Supervisor Bylewski said his office has received a petition signed by parents who have children attending St. Gregory the Great School regarding the Clarence school bus system. This has been handled.

A petition was also received from Stahley Road residents demanding action on enforcing the speed limit. Councilman Casilio said that has already been looked into.

A petition was received from Faber Lane residents asking to have their street repaved.

Supervisor Bylewski said as mentioned at a previous meeting, the Erie County Legislature has designated November 1 – 30 as the annual 30-day period during which landowners can submit requests to include predominantly viable agricultural land for inclusion to a certified agricultural district. Applications and contact information is available.

Supervisor Bylewski said there was a phone conference held today with Erie County regarding the issues surrounding Swine Flu and vaccination measures in the event of an emergency.

Supervisor Bylewski announced that on Saturday, September 26, 2009, the Clarence Community Association will be holding their Bark in the Park event at Town Place Park on Goodrich Road from Noon to 3:00 p.m. All are welcome, including your dog on a leash.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant permission for Court Clerks Mary Zimmerman and Marilyn Taton use of a Town vehicle to attend a previously approved conference in Albany from October 4 – 7, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that Rural Transit Service has moved to the Clarence Senior Center. The new number is 565-3323.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to appoint Vincent M. Delgato as a substitute Van Driver P/T for the Going Places Van at the budgeted rate of pay effective September 24, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set the annual Public Hearing for the Community Development Block Grant on October 14, 2009 at 8:05 P.M. at the Town Hall Auditorium regarding the use of Federal Community Development Funds in the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to award the bid for replacement of two roofs at the Highway Department to Switala's Siding/Roofing, this being the lowest responsible bid of \$29,000. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to post the position of Motor Equipment Operator in the Parks Department at the budgeted rate of pay. This will be a hire from within. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to adopt the final Order Establishing Clarence Sewer District No. 4 as follows:

WHEREAS, the Town Board of the Town of Clarence (herein called “Town Board” and “Town” respectively), in the County of Erie, New York, has caused Joseph Latona, P.E., the Town Engineer of the Town, to prepare a map, plan and report for the proposed establishment of Sewer District No. 4 (hereinafter called the "District") in the Town, consisting of the installation of approximately 35,000 lineal feet of eight-inch sanitary sewers in the Spaulding Green area of the Town of Clarence, New York along public rights of way to be dedicated to the Town of Clarence or in easements granted to the Town of Clarence, including land, original equipment, machinery, furnishings and apparatus required therefore pursuant to the specifications of the Town of Clarence, the Erie County Department of Health and all governmental authorities having jurisdiction over sewer line construction, all in the proposed District, which map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, pursuant to the Order duly adopted on July 8, 2009, the Town Board determined to proceed with the establishment of the District and the service to be provided herein and adopted an Order reciting in general terms the description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the services proposed, said sewer system, herein above described, is to be constructed and the expense of creating the District is to be paid for by the developer of the Spaulding Green Subdivision and at no capital cost to the Town, the fact that a map, plan and report describing the same are on file in the Town Clerk’s office for public inspection and specifying August 12, 2009, 8:05 P.M. (Prevailing Time) as the time when, and the Town Hall, in the Town, as the place where, the Town Board would meet to consider the establishment of the District and to hear persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law and specifying that the services proposed, that the expense of creating the District is to be paid for by the developer of the Spaulding Green Subdivision and at no capital cost to the Town, and specifying the time and place of a Public Hearing to hear all persons interested in the subject thereof concerning the same; that the costs of the operation and maintenance by the District will be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same the operation and maintenance of the District and the provision of the service will be paid by and the expense of the maintenance of the District shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same with the current average EDU rate for residents in other Town of Clarence Sewer Districts receiving sewer service being \$268.81 per year which is the estimated cost to a typical property for sewer service within the District.

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12-A of the Town Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on this 12th day of August, 2009, commencing at 8:05 o'clock P.M. (Prevailing Time), at said Town Hall, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to, the establishment of the proposed District;

WHEREAS, following publication and posting of certified copies of said Order pursuant to the provisions of Article 12-A of the Town Law; and after a public hearing duly called and held by the Town Board at the time and place herein referred to, the Town Board, by resolution adopted on August 12, 2009, determined that the notice of public hearing was published and posted as required by Law and was otherwise sufficient, that all of the property and property owners included within the limits of the District are benefited thereby, that all the property and property owners benefited thereby are included within the limits of the District and that it was in the public interest to establish the District; and approved the establishment of the District and the services proposed, that the expense of creating the District is to be paid for by the developer of the Spaulding Green Subdivision and at no capital cost to the Town; and

WHEREAS, said resolution adopted August 12, 2009, was subject to permissive

referendum and the notice setting forth the date of adoption of said resolution which concisely stated the purpose and effect thereof was duly posted and published as required by law, and no petition signed and acknowledged by the owners of taxable real property in the District requesting a referendum for their approval or disapproval has been filed with the Town Clerk within thirty days after the date of adoption thereof, or at any other time since said adoption.

NOW, THEREFORE BE IT

ORDERED, that the establishment of the District is hereby approved in the Town of Clarence and said District shall be designated and known as the Sewer District No. 4 in the Town of Clarence, and bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Clarence, County of Erie and State of New York being part of Lots 6, 8, 10 and 12, Section 6, Township 12, Range 6, Lots 5 and 7, Section 7, Township 12, Range 6 and Lot 2, Section 10, Township 12, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the centerline of Goodrich Road, being the west line of Lot 12, Section 6, Distant 400.0 feet southerly from the north line of Lot 12 as measured at right angles;

THENCE, Easterly, parallel with the north line of Lots 12, 10 and 8, Section 6, Distant 400.0 feet southerly therefrom as measured at right angles, a distance of 3,078.5 feet more or less, to a point distance 400.0 feet easterly from the west line of said Lot 8, Section 6 as measured at right angles;

THENCE, Northerly, parallel with the west line of Lot 8, Section 6 and the west line of Lot 7, Section 7 distant 400.0 feet easterly therefrom as measured at right angles, a distance of 4,413.5 feet more or less, to the north line of Lot 7, Section 7 and the centerline of Clarence Center Road;

THENCE, Easterly along the north line of Lots 7 and 5, Section 7, being the centerline of Clarence Center Road, a distance of 2,274.5 feet more or less, to the east line of Lot 5, Section 7 and the centerline of Kraus Road;

THENCE, Southerly along the centerline of Kraus Road, a distance of 8,154 feet more or less, to the centerline of Greiner Road;

THENCE, Westerly along the centerline of Greiner Road, a distance of 5,666 feet more or less, to the centerline of Goodrich Road;

THENCE, Northerly along the centerline of Goodrich Road, a distance of 3,636 feet more or less, to the POINT OF BEGINNING, containing 647 acres more or less.

and, be it further

ORDERED, that the establishment of Sewer District No. 4 hereinabove referred to shall be of no capital cost to the Town as the expense of creating the District is to be paid for by the developer of the Spaulding Green Subdivision but the cost of the operation and maintenance of the sewer district will be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same; and, be it further

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of Erie County and file with the Department of Audit and Control in Albany, New York, copies of this Order, certified by said Town Clerk.

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

Councilman Weiss does not appreciate the colors on the new stove store in the Hollow.

Motion by Councilman Kolber, seconded by Supervisor Bylewski to set Public Hearings for Wednesday, October 28, 2009 to consider entering into contracts with fire companies for fire protection in the Town of Clarence for the year 2010 as follows:

7:45 P.M. - Clarence Center Vol. Fire Company

7:50 P.M. - Harris Hill Vol. Fire Company

7:55 P.M. - Rapids Vol. Fire Company

On the question, Councilman DiCostanzo said the budgets are also discussed in the prior work session which is also open to the public for anyone interested.

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

Motion by Councilman Kolber, seconded by Councilman Weiss to set a Public Hearing for October 28, 2009 at 8:00 P.M. to consider adopting a local law amending the Code of the Town of Clarence, Chapter 185-Solid Waste, setting the time to begin collection of Municipal Solid Waste by private collectors that are licensed in the Town of Clarence to collect Municipal

Solid Waste. On the question, Councilman Kolber said the purpose of this is more so for the commercial collectors who collect at 4:00 or 5:00 in the morning. The noise from emptying dumpsters wakes up the whole neighborhood. Town Attorney Steven Bengart said it would apply to all collectors. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said the gas line is being extended down Salt Road to Hunts Corners Road as a result of the residents in that area petitioning the gas company. The residents do cover the cost of the extension.

Councilman Casilio reported that the Traffic Safety Committee is working on speed reduction requests. Heise Road and Harris Hill Road are County Roads.

Councilman Casilio said the Clarence Hollow Association is working with the Building Department regarding property upkeep in the Hollow. Letters will be going out to owners.

Councilman Casilio said the traffic speed trailer has been out all over Town this summer. They will review the data in regard to Stahley Road.

Councilman DiCostanzo said the Chamber of Commerce is holding a Business Expo at Eastern Hills Mall on October 3, 2009 from 10 am to 5 pm.

Councilman DiCostanzo announced that the Youth Bureau is putting on a Halloween Party on Friday, October 23<sup>rd</sup> at the Main Town Park.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to support the Youth Bureau's application to the E & WG Foundation to request funding for a project, "Peer Group Connection (PGC)". The Youth Bureau as lead agent would administer the funds. The Clarence CAN (Community Assets Network) members will carry out the work of the initiative in collaboration with the Clarence Central School District. The goal is to foster real and lasting relationships for youth throughout our community, support and promote peer leadership, and increase the number of Developmental Assets of our youth ages 12-18. On the question, Councilman DiCostanzo said this is a real good program. 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 Patrick Development Open Development Area located on the south side of Roll Road, west of Shimerville Road. This Unlisted Actions involves the development of 8.37 +/- acres in the Residential Single Family Zone into an Open Development Area creating four additional building lots. After thorough review of the submitted site plan and Environmental Assessment Form (EAF) by the TEQR Committee, Planning Board and Town Board, including coordinated review among involved agencies, 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 DiCostanzo, seconded by Councilman Weiss to appoint Michael Rizzo to a 5-year term on the Board of Assessment review from 10/1/09 to 9/30/2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said the Rotary had a luncheon at the Nature Center recently. It looks fantastic. They had pictures of what it looked like before the various groups got together and fixed it up. You can park on Thompson Road and walk back to it.

Supervisor Bylewski thanked the department heads present for attending.

#### Public Participation

Anthony Pacenzia said we need to get together and do a walk through on Main Street to see how bad some of the buildings are and kick around some ideas. We need a lot of help in the Hollow.

Councilman Casilio said there is a walk through scheduled for October 10<sup>th</sup>. They will meet at the Youth Bureau along with some professional people to look at the buildings.

A Public Hearing was held to consider adoption of a Local Law amending The Code of the Town of Clarence, Chapter 181 Signs. James Callahan said they began working on a revision in 2006. They looked at many examples of sign legislation from throughout the country. Planning was asked to prepare a pictorial example of various sign types. Several public hearings and legal reviews including a TEQR review were held. A Negative Declaration was issued by the Town Board in 2007. After additional public comment and review a revised draft was forwarded for Town Board consideration in 2009.

The revised draft maintains the separation of zoning classifications as originally designed; identifies preexisting, nonconforming signs; identifies circumstances where LED technology is allowed; and gives some flexibility to the strict dimensional requirements to the Sign Review Board. All dimensional requirements in each of the zoning classifications are maintained as in the current Zoning Law.

Speaking to the subject:

Curtis Stockmohr said his business is on Roll Road. The company is expanding into wholesale and they are at the point that an LED sign is like a salesperson for them. The law states that an LED sign cannot be any larger than 10 sq. ft. He spoke to a sign company and that requirement would eliminate this type of sign. The other problem is that the lettering would be too small. It could create a hazard when people try to read it.

Mr. Stockmohr feels that some of the requirements are ridiculously restrictive. He thinks that LED signs should be allowed to be doubled in size to 20 sq. ft. He also thinks that there will be more challenges from businesses as time goes on. LED technology is coming and you cannot stop it. His business competes with a business on Southwestern Boulevard that has everything that the Town of Clarence does not want. That leaves him with no ability to compete. A vital part of a business's ability to grow is to have people know who you are. He asked that the Town does not tie their hands behind their backs as they try to compete.

Councilman Casilio said the Planning Board has come a long way in taking a position regarding LED signs. Maybe we need to look a little further. Technology has come a long way. They spent hours reviewing LED signs.

Councilman Kolber said a law needs to be put into place that is fair to everyone, protects the character of the Town and also allows businesses to survive. He believes the character of Southwestern Boulevard is far different than Roll Road.

Mr. Stockmohr said he is in an Industrial Business Park Zone and looks at a building across the street that is as awful looking as it was 25 years ago. Also, there are no residences in that area.

Councilman Weiss said this law will continually be a work in progress because of the changes in technology.

Supervisor Bylewski said the proposed law allows in the Major Arterial Zone for changeable copy or LED signs up to 21 sq. ft.

Renee Desai said a lot of work went in to making this law and she finds it strange that you would consider changes for one business.

Anthony Pacenzia said there is a 48 sq. ft. limit for plaza signs. He does not believe that is large enough. He also suggested that only interior lit signs be allowed along the business area of Main Street. You cannot read the signs when it snows. It presents quite a hazard. The exterior lit signs shine right in your eyes.

Supervisor Bylewski said a plaza can have a sign signifying the plaza and signs on the individual facades of each store.

James Callahan said the Major Arterial Zone allows the same as the current law in that it does not put a size restriction, it identifies that the Sign Review Board reviews and approves a plaza sign. The Planning Board was trying to change the character of Main Street by reducing the size so you do not have Transit Road along the Main Street corridor. An example of a 48 sq. ft. sign is Dash's. It reduces the setback, requires the monument base and achieves notice ability. They wanted to reduce the size in the Commercial Zone and Restricted Business Zone.

With no one else speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. On the question, Supervisor Bylewski thanked the Planning Board, Planning Department, TEQR Committee and Town Attorney's office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to table the adoption of a Local Law amending The Code of the Town of Clarence, Chapter 181 Signs. He would like to discuss it further at a work session. A lot of time has gone into it and it is almost there. He would like to look at variable frontage in keeping with scale and perspective. On the question, Supervisor Bylewski said he is not in favor of tabling this. This law has been circulated up and down the various boards. There are mechanisms to deal with any sign that may not comply such as a variance or an amendment. We know, as with any law, there will be bumps in the road that we will have to deal with. He would be in favor of voting in favor of the law. Councilman Casilio said he believes it is close, but some businesspeople have brought up some issues that he would like answers on before moving forward.

Councilman Weiss said we started working on this law two years ago with some businesspeople and a lot of others jumped in. There are mechanisms in place to make any necessary changes. He believes we need to get this legislation in place and deal with it as we go along.

Councilman Kolber said there is a requirement that signs be lit by neon. The technology is not with neon anymore, it is LED.

Councilman Weiss said he cannot see delaying this any longer because of technology changes.

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

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 September 23, 2009, and after all interested parties having been heard, adopts Local Law No. 2 of the year 2009 amending the Code of the Town of Clarence, Chapter 181 – Signs. This local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

On the question, Councilman DiCostanzo said he attended all of the meetings and he is ready to move forward. They put a lot of time into it. He is willing to make changes if needed.

Councilman Weiss said he is open to new technology and any other items that may need to be considered.

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

A Public Hearing was held to consider an amendment to the existing Temporary Conditional Permit for automotive sales at 6031 Transit Road. James Callahan said the location is the east side of Transit Road, north of Clarence Center Road consisting of automotive sales under a current Temporary Conditional Permit. The applicant is seeking to amend to relocate the vehicle display area as identified on the submitted drawing.

Sean Hopkins, attorney and the applicant Marty Pecoraro were present. Mr. Hopkins said there was absolutely no green space along the Transit Road frontage. The Town Board left it up to the Planning Department, Landscape Committee and his client to determine what would be suitable. After a lot of discussion, the applicant spent the money to put in a strip of green space all along Transit Road. All they are asking is to move the previously approved spaces to the north. There will still be 18 vehicles.

Supervisor Bylewski said if this is approved, it would supersede previous approval and any conditions in place would be merged into one.

Councilman Kolber said he looked at this location and there are cars scattered all over the place. They are also using a portion of property that was not approved.

Mr. Hopkins said the submitted layout is what it will be moving forward.

Mr. Pecoraro said he only has 7 or 8 cars and he is waiting for this approval to display them as shown.

Supervisor Bylewski said that is why we require paving and striping. He did notice an office sign. A concern that was brought up was that there would be someone in the office.

With no one else speaking to the subject, motion was made by Councilman Weiss, seconded by Councilman Casilio 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 September 23, 2009, and after all interested parties being heard, grants the request of the applicant, Martin Pecoraro, to Amend the existing Temporary Conditional Permit, to allow for an alteration to the current placement of vehicles at 6031 Transit Road subject to the terms and conditions as set forth in the resolution granting the Temporary Conditional Permit on June 24, 2009, as follows:

1. Temporary Conditional Permit is for a period of one year.
2. Paving and striping of vehicle storage area required.
3. No more than 18 vehicles to be displayed at any given time.
4. The hours of operation are to be from 9 a.m. and not later than 7 p.m., Monday through Friday and on Saturday from 10 a.m. to 5 p.m.
5. Display area as per plan on file in the Zoning and Planning Office.
6. No streamer/banners, open hoods with placards.
7. The existing permit is null and void.
8. Automotive values to be at least \$8,500.
9. Sales office to be staffed during business hours.

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

A Public Hearing was held to consider adoption of a local Law to be known as “Grass, Weeds and Plan Growth”. Town Attorney Steven Bengart said this law came about as a result of issues throughout the Town regarding houses and land that has not been properly maintained. The problem, which is happening throughout the country, is foreclosures on houses where people have just left. The grass is uncut and in one case we had a potential health risk because of certain weeds and rodents.

Mr. Bengart said we have surveyed similar laws from other areas and tried to come up with a law that is fair to all considered. It is to hopefully get people to step up to the plate and maintain their property. In the event that they do not, we will try to get them into compliance. If all else fails, the Town will take care of it and have it placed on to their tax bill including administrative costs and penalties.

With no one speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. On the question, Anthony Pacenzia said there are properties in foreclosure. Also, as in the Hollow, it has turned into rental properties and there is a difference if you live there or rent. He believes we have to do something more than weeds. The law is a good start, but more has to be done. Councilman Casilio added that the properties are all over Town, not just in the Hollow. Supervisor Bylewski said there is an enforcement procedure that is put into place and the first step is to notify the owner. Councilman Kolber said he would like to look at an abandoned buildings law again. Anthony Pacenzia said there are businesses out there who would like to come here, but they are concerned that the Town would be so tough on them as if money is no object. The Town needs to be business friendly and cost conscious to bring them here. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

RESOLVED, that the Clarence Town Board, after a public hearing duly held on September 23, 2009, and after all interested parties having been heard, adopts Local Law No. 3 of the year 2009, Grass, Weeds and Plant Growth, amending the Code of the Town of Clarence. This local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

On the question, Councilman Kolber said he is hoping that this is the first portion of more that we can put in place to control abandoned or derelict buildings.

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

Verizon Wireless requests a Special Exception Use Permit for a Telecommunications Tower at 8095 Tonawanda Creek Road. James Callahan said the location is the south side, east of Transit Road consisting of approximately 36 acres of vacant land in the Agricultural Flood Zone. The applicant is proposing to erect a 99 ft. tall tower. The Planning Board has forwarded site plan approval and the Town Board has issued a Negative Declaration.

Ashley Baker of Nixon Peabody was present on behalf of Verizon. A representative from Verizon was also present.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set a Public Hearing for October 14, 2009 at 7:55 P.M. to consider the request by Verizon Wireless for Special Exception Use Permit for a Telecommunications Tower at 8095 Tonawanda Creek Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Jerry Dewes requests a Special Exception Use Permit for a secondary living unit at 10470 County Road. James Callahan said the location is the north side, east of Strickler Road consisting of an existing residential property in the Agricultural Rural Residential Zone.

Janet Dewes said the addition would include a bedroom and small living room with no kitchen.

Councilman Casilio stated for the record that he has a business relationship with Jerry Dewes.

Motion by Councilman Kolber, seconded by Councilman Weiss to set a Public Hearing for October 14, 2009 at 8:00 P.M. to consider the request by Jerry Dewes for a Special Exception Use Permit for a secondary living unit at 10470 County Road. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Youth Bureau – Oct. 23, 2009; B. Clarence Garden Club – Oct. 31, 2009; Monthly meetings for 2010; C. Girl Scout Troop 591 – Monthly Meetings for 2010; Legion Hall Applications - A. Jody Briandi – Oct. 25, 2009. 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 September 17, 2009 are approved for payment: General Fund - \$117,972.87; Highway Fund - \$74,636.74; Water District - \$33,468.58; Drainage District - \$2,552.40; Sewer Districts – \$300.00; Capital Fund - \$12,633.27; and Trust & Agency 203 - \$3,615.00 for a total amount of \$245,178.86. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, motion was made by Supervisor Bylewski, seconded by Councilman Weiss to adjourn the regular meeting and enter into Executive Session at 9:02 P.M. pursuant to the Open Meetings Law §105 (1)(d) to discuss proposed litigation regarding Flight 3407, current litigation regarding Marinaccio, Accadia and Gordon; §105(1)(f) to discuss the employment history of a particular corporation, and the employment history of a number of particular individuals; and §105(1)(h) to discuss the proposed acquisition of real property where publicity would affect the value thereof. Upon roll call – Ayes: All; Noes: None. Motion carried.

Nancy C. Metzger  
Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 10:16 P.M. No action was taken. Upon roll call – Ayes: All; Noes: None. Motion carried.