

A Work Session of the Clarence Town Board was held on December 16, 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, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith.

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

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

John Kausner 4180 Ransom Road

A Public Hearing is scheduled for 7:45 PM to consider the request for Concept Plan approval for a 3-lot Open Development area at 4180 Ransom Road. The proposed site is located on the west side of Ransom Road, south of Tillman Road on existing residential property consisting of 8+/- acres in the Agriculture Rural Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve Open Development Areas. The Planning Board has forwarded a recommendation on the proposed design with conditions.

Janice Carson 10589 Main Street

A Public hearing is scheduled for 7:50 PM to consider a Temporary Conditional Permit for automotive sales at 10589 Main Street. The proposed site is located on the south side of Main Street, west of Ransom Road at existing automotive detail operation located in the Clarence Hollow TND and overlay. Per the Zoning Law, the Town Board may consider an automotive sales operation via a Temporary Conditional Permit.

Councilman Weiss, Councilman DiCostanzo and Councilman Casilio stated that they all visited the site - there are six cars that are not licensed, a truck part is partially emerged in Ransom Creek impeding the water flow, the roof is in need of repair and the gutters are torn off leaving water to drain on to the neighbor's property. Councilman Weiss stated that he wanted to help Ms. Carson but after walking the site today he will not vote in favor of this request.

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

Ranchview LLC/Rubino Brothers

Applicant is requesting Development Plan approval for an Open Space Design Subdivision. The proposed site is located on the southwest corner of the intersection of Clarence Center and Shimerville Road in the Residential Single Family Zoning District. Per the Subdivision Law, the Town Board has the final authority to approve major subdivisions. The Planning Board has forwarded a recommendation on the Final Development Plans as presented with conditions. All approvals are in order. The DEC has signed off through the Health Department.

Director of Community Development James Callahan stated that the concern with Rubino Brother's was that they obtained approvals in advance of Town Board review. However controls have been put in place through EC Sewer District #5 and the Town of Amherst that should address that issue so that in going forward no project will have preliminary approvals before the Town Board sees it first. Councilman Kolber stated that we have no sewer capacity in SD #6 except through SD #5. James Callahan stated that is why the Town Board has to see the project before outside approval is given. Councilman Kolber stated that since we don't have any aspect for SD#6 to be able to treat the sewage from that district, he suggested taking the areas that are developed in SD#6 keeping those in that district and dissolving the rest and that will make the problem go away.

#### ***Work Session items for consideration January 20, 2010:***

Patrick Development/Stahley Road LLC 8315 - 8385 Stahley Road

Applicant is proposing to develop the lots as previously split. The proposed site is situated on the south side of Stahley Road, east of Miles Road on existing vacant land located in the Residential Single-Family Zone. Per the Subdivision Law, The Town

Board has authority to approve lot splits. The Town has no record of the splits as they exist. The Town Board must approve the Subdivision for building permits to be issued. This item has previously been referred to the Planning Board, they have analyzed the existing lots and the history that led to their formation. The Planning Board recommendation has been to approve 5 lots as opposed to the 6 that currently exist, all of which would conform to the current zoning regulations relative to road frontage and acreage requirements.

**Supervisor Scott Bylewski**

Supervisor Bylewski reminded everyone about the Christmas luncheon on December 21<sup>st</sup>.

Town Engineer Latona stated that the solar panels are installed; the electric has been tested and certified. NYSEG has been notified that everything is ready. The next step is to have NYSEG come in and change the meter.

There was a revision to the town facility usage and fee schedule. The \$10 charge per meeting for non-for-profits has been eliminated. Councilman Weiss will announce that the new fee schedule for all facilities will be adopted at the first meeting in January 2010.

A meeting to discuss the 2010 Organizational Meeting is scheduled for December 17<sup>th</sup> at 2:30PM.

Town Clerk Nancy Metzger is requesting a transfer of funds from the Town Clerk accounts to Central Computer Services; the purpose is for an upgrade to LaserFiche.

Supervisor Bylewski will award the bid for two copiers. There are still several copiers available for sale. The sale information has been posted.

Supervisor Bylewski has several items to discuss in Executive Session regarding the employment history of individuals and an Attorney-Client issue as well.

Except for the issue of dependents and the department head signature, the changes to the Ethics Disclosure Form that Debra Fine presented at the December 2, 2009 Work Session will be approved at the Organizational meeting.

**Councilman Joseph Weiss**

The Parks Department is requesting a transfer of funds.

Councilman Weiss has several Attorney-Client items to discuss.

In October Councilman Weiss requested the final numbers for Day in the Park - a memo was circulated in August and September. Councilman Weiss did not like the comparison to the year before because if you looked at the fees and you look at the net, the Committee did not make anything. While Councilman Weiss commends the group that ran the event in 2009 with these comparisons it is about even. If you take out the \$3,000 balance from 2008 and the money they kept from the non-for-profits, the Day in the Park Committee did not make any money. Day in the Park is run for two reasons, one to have a good event for the town and to help the non-for-profits.

Councilman Kolber stated that the non-for-profits made money. Councilman Weiss stated that they did not make as much money as the year before because they were required to give back a certain percentage of their proceeds. Councilman DiCostanzo will take a closer look at the numbers and prepare a summary.

Councilman Weiss referenced the November 25, 2009 Planning Board minutes, page 2009-143 "The Planning Board met with the applicant a number of times, seeking a compromise as directed by the Town Board, none came." Councilman Weiss stated that the fact of the matter is a compromise did come however it was not a compromise that was acceptable to the Planning Board but a compromise was made. Councilman Weiss wanted to clarify this for the record that Wegman's did come back with a number.

Upon recommendation of Highway Superintendent Ted Donner, Councilman Weiss will set a bid date of January 19, 2010 at 10AM for a sign truck.

Councilman Weiss has three Attorney-Client items to discuss.

**Councilman Bernard Kolber**

Councilman Kolber will make a motion in support of the formation of a Benevolent Association by the Clarence Center VFD.

Councilman Kolber has one item for Executive Session regarding the employment history of an individual.

**Councilman Patrick Casilio**

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

Councilman Casilio has been working on several more street light requests. He will meet with Supervisor Bylewski to discuss this further.

Councilman Casilio is working out some problems with Erie County Water Authority and a resident .

**Councilman Peter DiCostanzo**

The Historic Preservation Commission met and discussed the reconstruction of the Historical Museum porch. They are not pleased with the way it is being reconstructed it is historically inaccurate. They also wanted to see some of the original porch saved.

**Town Attorney Steven Bengart**

Town Attorney Bengart has one item to discuss in Executive Session regarding the acquisition of real property.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person(s); § 105(1) H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. On the question, Town Attorney Bengart, James Callahan and Brad Packard were asked to remain and when Jim Burkard arrives, he will be asked to attend as well. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:25 PM

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:25 PM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, December 16, 2009 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:32 P.M. Pledge to the flag was led by Councilman Patrick Casilio. Supervisor Bylewski followed by asking for a moment of silence in honor and memory of those we have lost over the past year.

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 Casilio to accept the minutes of the previous meeting held December 2, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski wished everyone Happy Holidays. This is the last meeting of the year.

Supervisor Bylewski said there are a number of changes proposed to the Code of Ethics Annual Disclosure Statements. The general consensus of the Town Board is to remove the department head approval and the issue of dependents being listed. An official motion will be made at the organizational meeting.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to approve the following transfers of funds in the General Fund from the Town Clerk accounts to Central Computer Services: \$372 from A1410.220 (Office Equipment); \$42 from A1410.404 (Records Management); \$1,334 from A1410.424 (Town Code Update); \$1,252 from A1410.434 (Professional Services); and \$300 from A1410.479 (Other Unclassified) for a total of \$3,300 to A1680.479 (Software and Maintenance). On the question, Supervisor Bylewski said the purpose is for an upgrade to the LaserFiche Program from General Code. This is used for research on Town Board minutes and is highly recommended by the Town Clerk. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to award the bid for the E1554 Model 3560/Duplex copier for the amount of \$200 and for the E1362 Model 3560/Duplex copier for the amount of \$211 to Timothy and Darlene Pazda as the most responsive and responsible bidders. On the question, Supervisor Bylewski said this is a result of the bid we put out for the surplus copiers. The remaining copiers are still for sale with the minimum amounts posted. Anyone interested should contact Karen Jurek at 741-8930. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to set a Bid Date for January 19, 2010 at 10:00 a.m. for the purchase of a new Sign Truck for the Highway Department. Town Clerk Nancy Metzger will handle all necessary advertising and bid packages will be available at the Highway Department. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to approve the following transfer of funds for the Parks Department: \$9,000 from A7110.431 Resurfacing to A7110.417 Auto Parts; and \$6,000 from A7110.416 Gasoline and Oil to A7110.414 Landscaping. On the question, Councilman Weiss said this is to improve the landscaping along the east side of the soccer field that has been a problem for residents in that area. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to appoint James Burkard to the position of Parks Crew Chief at the rate of \$65,000 per year effective January 1, 2010. On the question, Councilman Weiss said Jim has worked in the Parks Department for a number of years and he is sure he will do a fine job for us. He has a number of ideas he would like to implement, and he and Ted Donner have been very positive about the possibility of putting together a department of public works. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said we are increasing the fees on Town Park pavilions and other Town facilities to be enacted on January 1<sup>st</sup>.

Supervisor Bylewski said we were not going to enact them today, but mention that they are available for review. It is proposed to increase the fees for use of the pavilions, clubhouse and legion hall. Information is available in the Supervisor's office.

Councilman Weiss wished everyone a Happy Holiday.

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

WHEREAS, the Town of Clarence is responsible for the provision of fire protection and emergency medical services and other related rescue services within the Town of Clarence, including within the "Clarence Center Fire Protection District," as the local government unit charged with such responsibilities; and

WHEREAS, the Clarence Center Volunteer Firefighters Benevolent Association Inc. ("Benevolent Association") has been formed to, among other objectives, promote the health and welfare of its members as well as to promote and advance the science of fire protection and suppression, rescue and emergency medical and other services generally and particularly within the Town of Clarence; and

WHEREAS, the Benevolent Association has applied for charitable status recognition on the basis that its activities lessen the burden of government and the Town Board of the Town of Clarence desires to support such recognition; and

WHEREAS, the Town of Clarence recognizes the potential and actual cost of providing such fire and emergency services to the residents and taxpayers of the Clarence Center fire protection district and that the burden placed on such town government will be significantly reduced by the activities of the Benevolent Association, which governmental activities would otherwise be required to be funded by taxpayer funds; and

WHEREAS, the Benevolent Association, as a result of its charitable fundraising and work in the community to achieve its corporate goals, the Town of Clarence will derive tangible, measurable benefits of such work, including the reduction of taxes to the residents of the Clarence Center fire protection district, thereby reducing the burden of the Town of Clarence town government in the provision of such services within the Town of Clarence;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Clarence, New York supports and endorses the application of the Clarence Center Volunteer Firefighters Benevolent Association Inc. for recognition as a charitable organization; and it is further

RESOLVED, that the Town Board of the Town of Clarence supports such grant of charitable status to the Clarence Center Volunteer Firefighters Benevolent Association Inc. on the basis that such organization will reduce the burden of the Town of Clarence in the delivery of governmental services within such Town.

On the question, Councilman DiCostanzo said there is a statement in this resolution that says thereby reducing the burden on town government. They do not always agree, but he hopes that they can work together next year.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the following transfers of funds for A3120 Police and Constables: \$146.09 from account 3120.0272 to 3120.0250; and \$766.92 from account 3120.0272 to 3120.0417. The transfers are to cover minor overruns in these accounts. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio thanked Karen Jurek and her committee for an event that was held last week. He believes it went a long way to help moral of the Town employees.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to correct the motion of October 28, 2009 for the appointment of Michele Orvis to correct the title from Recreation-Supervisor P/T to Recreation Specialist P/T effective November 28, 2009. The rate of pay remains the same. On the question, Supervisor Bylewski said this is for civil service purposes. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said he received the residential single family building statistics through November. In November alone, there were 5 permits issued in subdivisions and 4 outside.

Town Clerk Nancy Metzger announced that she received the minutes of the meeting of the Erie County Water Authority with amendments to the Tariff effective January 1, 2010. Some of the rates have increased. A complete copy of the Tariff is on file in the Town Clerk's office.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider the request for Concept Plan Approval for a 3-Lot Open Development Area at 4180 Ransom Road. James Callahan said the location is the west side of Ransom Road, south of Tillman Road in the Agricultural Rural Residential Zone. The applicant is proposing two additional lots to the existing residential home. A Negative Declaration was issued July 25, 2007. The Planning Board has forwarded a recommendation for Concept Plan Approval with conditions.

Sean Hopkins from Hopkins & Sorgi was present on behalf of the applicant. Michael Metzger, Metzger Civil Engineering was also present. Mr. Hopkins said this project has been through an extensive review. When they came to the Town Board in June seeking approval, there were only four members present. They now bring it back asking for approval by all five members.

Michael Metzger said the original proposal had three lots in addition to the existing home lot. The driveway was along the north side of the property line. They have changed it to two additional lots and made the existing home lot larger. The driveway also switched to the south side and they removed an existing building to allow for the driveway to go deeper into the lot before curving to the back lots. The dark areas on the plan show heavily existing treed areas. They have enhanced the buffer area to shield existing properties from headlights coming down the driveway. The closest new home will be 500 ft. away from any existing homes.

Sean Hopkins said the site is properly zoned for this proposal. The project was denied in 2007 based on the ability to mitigate the impact on the neighbors from the driveway. Also, they were told that they would like to see the driveway moved back further from Ransom. This proposal includes those modifications. He read through the conditions that were set at the previous meeting and believes they comply with all of them. The motion failed because of a 2-2 vote, which brings them back tonight. A comment made that night was that it is a bad precedence to set having a house behind a house. This is what the zoning code allows.

Supervisor Bylewski said the overall purpose of open development areas as set forth in the Town Code states that the Town Board, in order to maintain the rural character of the Town and to provide relief to landowners who wish to subdivide land that lacks adequate public road frontage for standard lot development or for more efficient utilization of rear yard space, may, by resolution, establish an open development area or areas within the Town. An open development area is not an as-of-right use and must be designed to maintain the rural character and meet the conditions as established. He asked how they believe this project maintains the rural character.

Sean Hopkins said there are only two new lots added. They have demonstrated that they meet the set standards. An environmental review was conducted and a negative declaration was issued. A stormwater management system was designed. He thinks they are consistent the intent.

Supervisor Bylewski said they received a number of emails today in opposition to this project from Charles and Carol Minnick, Laura Pfennig and Mike Schlabach, which are part of the record.

Councilman Kolber said the only area he believes the buffer is weak is where the trees are to be planted. He suggested a treed berm be added.

Michael Metzger said it was not planned as a berm, but does not believe it would be a problem.

Councilman Kolber asked what is the assurance that trees will not be removed that are not supposed to be.

Mr. Hopkins said they will require landscape committee approval and it will be a condition. This property does have extensive vegetation and they do not think the two lots will be visible from Ransom Road.

Councilman Casilio said he has a problem because every lot along Ransom is a long, narrow lot. This project would change the consistency of the area. It will change the character of the neighborhood.

Councilman Weiss said people bought this property for the rural character and now that would be changed.

Michael Metzger said they are two acre lots. They have done their best to alleviate potential issues.

Speaking to the subject:

John Lindemann said he lives on the north side of the proposed project. The closest house behind him now is 1,300+ feet. He believes it is the job of the Town to protect the citizens. He is not sure why this public hearing is being held 3 ½ years later and after two previous Town Board meetings. He wonders if the presence of the neighbors would be a deciding factor. He was going to go out to the neighbors and ask them to come but it is ten days before Christmas and they already signed a petition opposing this project. As a taxpayer he believes the Board should know his frustration. He chose the location on Ransom because of the surroundings and the privacy he was looking for. He will see it from his house. If he wanted people in his backyard he would have chose a subdivision. Passing this will only please one person and that is the developer.

Laura Pfennig said she is the southern neighbor to the proposed project. She thanked the Supervisor for mentioning her email.

Supervisor Bylewski added that all comments made at prior public hearings are also a part of the record.

Laura Pfennig said they have been told the first home will not be seen at 500 ft., but it will be seen from Ransom Road and from her home. Every time a vehicle leaves from there it will shine onto her home and patio. Many of the trees have been damaged by storms and 22 will have to be removed for the driveway. There is no buffer between the existing house and hers. It is not fair that this can happen because of money and they are left to deal with it. This property was her husband's grandmothers and will someday be for their children. This is not going to improve the character of the neighborhood.

Carol Minnick said she is still opposed to the project and there is not much more to say after four years. She thinks the buffer is a good idea, but she does not think any amount will block headlights. There is a potential for a lot of traffic because of how many vehicles any one family might have. She had two kids and there were seven vehicles. She asked that the Board protect their privacy and vote no on this project again.

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

BE IT RESOLVED, that the Clarence Town Board after a public hearing duly held on December 16, 2009, and after all interested parties being heard, grants the request of the applicant, John Kausner, for Concept Plan Approval for a 3-lot Open Development area at 4180 Ransom Road, west side of Ransom Road and south of Tillman Road, subject to the following conditions:

1. Open Space and Recreation Fees.
2. Approval of Engineering prior to Development Plan approval.
3. No lighting along the common drive.
4. Approval of the Landscape Committee after road installation.
5. A fire hydrant to be placed to insure that one is closer than 600 feet from the furthest home in the development.

6. A homeowner's agreement for use and maintenance of the common driveway and required landscaping adjacent thereto, to be reviewed and approved the Town Attorney.
7. A raised landscape berm placed along the southern side of the common driveway at the intersection of the driveway to the most easterly house to enhance the buffering, protection and privacy of the southerly neighbor, with distance of the berming to be set by and approved by the Landscape Committee.

On the question, Councilman Kolber said he went through a similar situation back in 1993 for his home to be placed 600 ft. off the road in a subdivision. There were 51 people at the first Planning Board meeting opposed to it. He spent 1 ½ years negotiating with the neighbors. They put in berms to accommodate the neighbors. They love having the driveway going back to his house rather than having a house there. He did not like the placement of the driveway when the proposed project was first brought in. There is a balance of what a person can legally do with their property versus the character of the neighborhood. He is convinced that when this is in, it will not be a detriment to the neighborhood. It will actually enhance it. They could put two houses along the frontage. There are very similar situations along Kraus Road with driveways that go back to houses that you cannot see from the road.

Councilman Kolber added condition 7.

Supervisor Bylewski amended his motion to include item 7 with distance of the berming to be set by and approved by the Landscape Committee.

Councilman Weiss said he does not believe no matter what you do will cut out the site line. It is a poor precedence to set putting houses behind houses.

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

A Public Hearing was held to consider a Temporary Conditional Permit for automotive sales at 10589 Main Street. James Callahan said the location is the south side of Main Street, west of Ransom Road consisting of an existing auto detailing business in the Clarence Hollow.

Janice Carson said she has removed one car. She made a phone call a week ago to have three more removed, which will be done as soon as they can. She cleaned up all the debris from the ground and had the dumpster emptied yesterday.

Councilman Weiss said he was willing to give her another chance, but he was there today and there are six unlicensed vehicles there, part of a truck lying in the creek, no gutters on the building causing drainage to adjacent property and the roof is in terrible shape.

Janice Carson said she has called people to remove the vehicles and is waiting for them. She does not know about the truck part in the creek.

Councilman DiCostanzo said it has been several weeks since this request was brought in. He was under the impression that it would be taken care of. The property does not look much different.

Councilman Casilio said if you attempt to move forward with this, the site has to be cleaned up. This is one of the buildings identified as in need of cleanup in the Hollow.

Janice Carson said she has a letter from the DEC stating that the property is clean. She does not know anything about the truck in the creek. There are also tires that she did not put there. The last time there were tires left she had to pay to have them removed.

Supervisor Bylewski said there is still a great amount of cleanup that has to occur.

Councilman DiCostanzo said the property should be cleaned up before we could consider the request again.

Speaking to the subject:

Jim Dentinger said he owns the property next store. They have invested a lot of money into the property and opened a retail shop. They are not being a good neighbor. The gas station on the other side is clean and neat. He does not know why we would put used cars in the Hollow. They are trying to improve the Hollow and it is frustrating with this kind of a neighbor.

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.

No action was taken.

Ranchview LLC/Rubino Brothers request Development Plan Approval for a 44-Lot Open Space Design subdivision to be known as Amber Meadows at the southwest corner of Clarence Center Road and Shimerville Road. James Callahan said the property consists of approximately 28 acres of vacant land in the Residential Single Family Zone. A Negative Declaration was issued 3/11/09. Concept Plan Approval was granted on 5/11/09. The Planning Board has forwarded a recommendation with conditions.

Sean Hopkins, attorney and John and Joe Rubino were all present. Mr. Hopkins said he believes this is the first open space design subdivision that has made it this far through the process. He stated that approximately 15.9 acres of the site will be preserved as greenspace owned and maintained by a homeowners association. This project has been in process since 2003 and gone through about 35 meetings. They respectfully request approval.

John Rubino said the project is for single family patio style homes. The roads will be public roads.

Councilman Kolber asked if they are looking at a condo association.

Mr. Hopkins said they have not determined that at this point. He believes it would be eligible under New York State Law for condo status.

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

Resolved, that the Clarence Town Board, grants Development Plan approval to the applicant, Ranchview LLC/Rubino Bros., for a 44-lot Open Space Design Major Subdivision located at the southwest corner of Clarence Center and Shimerville Roads, subject to the following conditions:

1. All conditions of the Town Engineer as forwarded on November 17, 2009.
2. All conditions of the Erie County Health Department and NYSDEC.
3. All conditions of the Erie County DPW.
4. All conditions of the Concept Approval as issued on May 13, 2009.
5. Per submitted Landscape Plan received on November 30, 2009 by DWG Planning and Design.
6. Construction of a Recreational/Bicycle Trail, to Town specifications, along Shimerville Road on the East Side of the project in lieu of recreation fees and internal sidewalk construction. (Said trail to be owned and maintained by the Town of Clarence).

On the question, Supervisor Bylewski asked where the recreation trail would connect.

James Callahan said the entrance would be to Shimerville Road and extend north to the bike path at Clarence Center Road with a small gap in-between.

Sean Hopkins said the length is about 1,300 feet.

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

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval for the following: Clubhouse Applications - A. Clarence Hollow Farmer's Market – Feb. 21, 2010; B. Day In The Park Committee – April 13, 2010; Legion Hall Applications – A. John Matteson – Dec. 18, 2009; B. Boy Scouts of America – Monthly Meetings Jan. – May 2010; C. Cub Scout Pack 568 – Jan. 8, 2010; D. Day In The Park Committee – Feb. 9, 2010; E. Dennis Raquet – May 15, 2010. 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 December 10, 2009 are approved for payment: General Fund - \$425,162.29; Highway Fund - \$148,914.77; Water District - \$34,494.29; Central Alarm - \$193,737.82; Lighting Districts - \$953.21; and Trust and Agency 203 - \$1,800.00 for a total amount of \$805,062.38. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:45 p.m.

Nancy C. Metzger, Town Clerk