

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, May 12, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio, and Joseph Weiss. Councilman Kolber was absent. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Town Attorney Steven Bengart, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith, Asst. Town Engineer Tim Lavocat, Animal Control Officer Jerome Schuler and Planning Board Chairman Al Schultz.

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

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

The Pomegranate 4125 Transit Road

A Public Hearing is scheduled for 7:45 PM to consider a Temporary Conditional Permit for outside dining at Pomegranate Restaurant 4125 Transit Road. The existing restaurant is located in a recently renovated commercial building in the Major Arterial Zone located on the east side of Transit Road in front of Toys R Us. Per the Zoning Law, the Town Board may approve outside dining areas via a Temporary Conditional Permit. The number and location of outdoor seats should be addressed. Noise should not be an issue this close to Transit Road with no residential neighbors.

HD Video Café' – 5445 Transit Road

A Public Hearing is scheduled for 7:50 PM to consider a Temporary Conditional Permit for outside dining at HD Video Café 5445 Transit Road. The previously approved plaza addition is located on the east side of Transit Road in the Dairy Queen Plaza in the Major Arterial Zone. Per the Zoning Law, the Town Board may approve outside dining permits via a Temporary Conditional Permit. The number of outdoor seats and their location should be addressed.

Chuck Barone 8200 Main Street

A Public Hearing is scheduled for 7:55 PM to consider a Temporary Conditional Permit for Outside Display at 8200 Main Street. Applicant is proposing to display trolleys in the parking area in front of existing commercial plaza (Main-Transit Market Plaza) on the north side of Main Street, east side of Bryant & Stratton Way in the Commercial Zone. Per the Zoning Law, an outside display may be approved by the Town Board via a Temporary Conditional Permit. Items to be addressed include the number of vehicles, advertising and whether office space will be utilized.

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

Steven Leising – Croop Road

Applicant is proposing to split off one residential building lot. The proposed site is located on the south side of Croop Road, east of Strickler Road on existing farmland located in the Agricultural Rural Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve minor subdivisions. An action under SEQRA is required and will be prepared for Town Board consideration.

Eastern Hills Wesleyan Church

Applicant is proposing to develop athletic fields on the existing church campus. The proposed site is located on the south side of Greiner Road, west of Harris Hill Road on 33+/- acres in the Residential Single-Family Zone. Per the Zoning Law, the Town Board has authority to approve churches and related uses in the Residential Single-Family Zone. The Town Board has authority to approve Clearing, Filling and Grading Operations. Areas to be addressed include clearing of vacant land, drainage and the impact on neighbors.

Tony Delmonte 5975 Goodrich Road

Applicant is proposing to convert the existing home to a salon. The proposed site is located on the east side of Goodrich Road, south of Clarence Center Road in existing residential home located in the Clarence Center Traditional Neighborhood District. Per the Zoning Law, the Town Board has authority to approve uses in the TND and to

authorize the building department to issue required permits. Parking may be satisfied via driveway and the area behind the building.

Colleen Kilanowski 9400 Lapp Road

Applicant is proposing to construct a single-family home with an in-law apartment. The proposed site is located on the north side of Lapp Road, west of Goodrich Road on existing vacant land located in the Agriculture Rural Residential Zone. Per the Zoning Law, a secondary living unit may be approved via a Special Exception Use Permit. A Public Hearing will be required.

West Herr Automotive Group 5505 Transit Road

Applicant is requesting a Master Plan 2015 amendment and a re-zoning to extend the Major Arterial Zone approximately 238' to the east. The existing automotive sales and service operation is located in the Major Arterial Zone along the Transit Road frontage with Residential Single-Family Zoning to the east. The Town Board has authority to amend the Master Plan and to make zoning changes. A public hearing will be required for both actions. The applicant has requested that the public hearing be held on May 26<sup>th</sup> which will require advertising in the Buffalo News. The applicant has agreed to cover any and all costs associated with the advertising of the public notice. (*Supervisor Bylewski will recuse himself from voting on this as his law firm has recently been retained by a partner of West Herr*).

Day in the Park Fireworks Display for July 3, 2010

All permits, fees, insurance and Fire Chief approvals are in order

***Work Session items for consideration May 26, 2010:***

St. Mary's Church 6925 Transit Road

Applicant is proposing to clear and grade lands to accommodate new athletic fields. The proposed site is situated on the southeast corner of Transit and Stahley Road at existing church campus located in the Swormville Traditional Neighborhood District. Per the Clearing Filling and Grading Law, the Town Board has authority to approve such operations. This was a concern when the new church was approved; they are encroaching into the floodplain and wetlands - that is why there was a limitation on their construction site.

**Supervisor Scott Bylewski**

All elected officials who have not turned in their retirement system calendar must do so immediately. If they are not turned in, your credit hours will not be reported.

Supervisor Bylewski gave an update on "Our Town" information. There is a change in the date and time for training - more information will be forthcoming.

Supervisor Bylewski has a correction to the Work Session minutes and will also mention the motions passed at the May 5<sup>th</sup> Work Session.

Supervisor Bylewski contacted Amherst Supervisor Weinstein regarding a crossing guard at Transit Middle School. Supervisor Weinstein requested something in writing which Supervisor Bylewski e-mailed to him. Given Supervisor Weinstein's response, the Board will not pursue the matter any further.

There are three committee members who have not submitted their Ethics Disclosure Forms. Councilman Weiss was of the opinion that after two notices, if a person does not respond, they are automatically removed from the Board or Committee. Town Attorney Bengart suggested changing the process going forward, these people have already been appointed to the various committees/boards. Supervisor Bylewski stated that we can change the policy for all new appointments next year by stipulating that failure to submit your Ethics Disclosure Form will automatically remove you from the committee/board.

Supervisor Bylewski received a letter from Kreher's regarding organic farming; they want to be notified of any pesticides being used. The information has been passed on to all necessary departments.

Supervisor Bylewski received some information regarding Right to Farm. The information has been forwarded to Town Attorney Bengart and James Callahan to discuss.

Assistant Town Engineer Tim Lavocat had no new information on the solar panels, everything is held up at NYSERDA.

Supervisor Bylewski has two items to discuss in Executive Session regarding the employment history of an individual.

### **Councilman Joseph Weiss**

Councilman Weiss distributed a copy of the Topsoil Law that was recently introduced at a Town Board meeting in the Town of Lockport. The law would limit the amount of topsoil a subdivision developer could haul away for sale and it would force them to pay the town a portion of the proceeds from any sale of topsoil. Many times, the developers scrape off the topsoil and only put 1 or 2 inches down and the new homeowner is left to purchase back the topsoil.

Councilman Weiss asked that Town Attorney Bengart review the law and see how it compares to our existing law.

Parks Crew Chief James Burkard is recommending the hiring of Megan Rogers, Hillary Horvath and Anthony Trigilio effective May 17<sup>th</sup>, 2010 at the budgeted rate of pay. *(Three people previously hired declined due to finding employment in their field of study).*

Councilman Weiss will appoint Albert Festaiuti to the position of Dog Control Officer RPT effective May 15, 2010 at the budgeted rate of \$12.92 per hour subject to the completion of all pre-employment requirements being met.

Councilman Weiss will appoint Ryan Andres and Anthony Haas to the position of Laborer PT-Seasonal in the Parks Department effective May 17, 2010 at the budgeted rate of pay subject to the completion of all pre-employment requirements being met.

Animal Control Officer Jerry Schuler and Anne Cimato are requesting Town Board approval to attend a workshop in Webster, NY on May 17<sup>th</sup> and May 18<sup>th</sup>.

Erie County is sponsoring a Household Hazardous Waste Drop-Off Day at Erie Community College South Campus on Saturday, June 19, 2010 from 9AM – 2PM.

### **Councilman Patrick Casilio**

Councilman Casilio has an Attorney-Client item to discuss.

Councilman Casilio will make a motion to activate street lights in Highland Park Subdivision on Field Brook Drive, Waterford Commons Phase 3A – Galway Terrace and Waterford Estates Phase 3A – Wexford Manor.

### **Councilman Peter DiCostanzo**

Councilman DiCostanzo received Planning and Zoning action plan.

Councilman DiCostanzo spoke with Recreation Director Chip Trapper regarding a skate park at the former Youth Center facility.

Upon recommendation of the Planning Board, Councilman DiCostanzo will make a motion issuing a Negative Declaration on the proposed Buffalo Pharmacy project located at 6041 Transit Road.

There was a discussion regarding a request from Roy Olsen relative to the planting of trees along the bike path behind his property on Sawmill Road. The Town is not going to give up the land however if Mr. Olsen wants a buffer, he could donate some trees to

the town and the town will plant them for him. Councilman DiCostanzo will approach Mr. Olsen with this.

Supervisor Bylewski stated that the town has acquired several properties that have buildings on them. He will speak with Town Engineer Latona with respect to property maintenance.

Amherst Councilman Mark Manna contacted Councilman Weiss regarding fire hydrants. Town Attorney Bengart stated that we are not under contract with ECWA, they bought our water system and they have to follow the tariff.

#### **Planning Board Chairman – Al Schultz**

Shadow Woods sewer line will be on the next Planning Board agenda and the Planning Board is expecting a good turnout. The facts will answer the questions the people have. The right thing to do is to listen to their concerns and get back to them at a later time with the answers.

#### **Senior Building Inspector – David Metzger**

Mr. Metzger stated that the Avoidable Alarm Committee is meeting next Tuesday, May 18, 2010 to address an Avoidable Alarm appeal from a local entity.

There was a discussion regarding a dilapidated house on Main Street. Senior Building Inspector David Metzger will contact the owner again to see where the he stands on the sale of this house.

#### **Town Attorney Steven Bengart**

Town Attorney Bengart has two items for Executive Session regarding pending litigation (Marinaccio vs. Town of Clarence) and acquisition of real property.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105(1) D pending litigation regarding Marinaccio vs. Town of Clarence; § 105(1) F the employment history of a particular person and § 105(1)H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. Upon roll call – Ayes: Councilman DiCostanzo, Councilman Casilio, Councilman Weiss and Supervisor Bylewski; Noes: None. Absent: Councilman Kolber. Motion carried.

There being no further business, the Work Session adjourned at 6:31 P.M.

Darcy A. Snyder  
Deputy Town Clerk

Councilman Kolber arrived at 6:41 PM.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to adjourn the Executive Session at 7:30 P.M. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held Wednesday, May 12, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:35 P.M. Pledge to the flag was led by Councilman Joseph Weiss, followed by a prayer read 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, Asst. Town Engineer Tim Lavocat, Building Inspector David Metzger, Planner Brad Packard and Planning Board Chairman Al Schultz.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held April 28, 2010. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Kolber. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held May 5, 2010. On the question, Supervisor Bylewski had a correction on page 117 – he contacted Supervisor Weinstein. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said it is our practice to announce any motions that were made at a morning work session. A motion was made for summer recreation appointments at the May 5, 2010 meeting.

Supervisor Bylewski said the training for volunteers of the “Our Town” video that WNED is putting together will be June 14 & 15 at the Clarence Library. We are looking for volunteers to video record various events happening in the Town.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to create two (2) Clerk PT Seasonal positions, non-competitive. On the question, Supervisor Bylewski said this is being done for Civil Service purposes and the positions are non-competitive. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to create two (2) Junior Planner-PT Seasonal positions, non-competitive. On the question, Supervisor Bylewski said this is being done for Civil Service purposes and the positions are non-competitive. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that upon recommendation of Parks Crew Chief James Burkard, the following be hired as Part-time Summer Help in the Parks Department at the budgeted rate of pay: Megan Rogers, Hillary Horvath and Anthony Trigilio effective 5/17/2010. On the question, Councilman Weiss said this is to replace some who were hired previously and took other jobs. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to appoint NYMIR as the Insurance Company to insure the Town of Clarence for Property, General Liability and Automobile Insurance beginning May 21, 2010. On the question, Councilman Weiss said we received a number of bids and NYMIR was chosen. Supervisor Bylewski said NYMIR is an insurance company that we are part owners of as a result of which we did contribute capital a few years back. We will be receiving a partial return of that capital in continuing the relationship. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber grant permission for Jerry Schuler and Anne Cimato to attend a NYS Animal Control Seminar in Webster, NY on May 17 & 18, 2010 with use of a Town vehicle. On the question, Councilman Weiss said Jerry does a terrific job. He gets calls for many things including snakes, horses and everything else. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to appoint Albert Festaiuti to the position of Dog Control Officer RPT effective May 15, 2010 at the budgeted rate

of \$12.92 per hour subject to the completion of all pre-employment requirements being met. On the question, Councilman Weiss said this is to replace someone who left the position. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to appoint Anthony Haas to the position of Laborer PT-Seasonal in the Parks Dept. effective May 17, 2010 at the budgeted rate of \$11.60 per hour subject to the completion of all pre-employment requirements being met. On the question, Supervisor Bylewski said we did not have a budgeted rate of pay in the budget, but there is money within the Parks Department budget to pay for the position. Councilman Weiss said Jim Burkard came up with the idea to hire people with some expertise so we do not have to put on a full time person. It is a great economic move. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to appoint Ryan Andres to the position of Laborer PT-Seasonal in the Parks Dept. effective May 17, 2010 at the budgeted rate of \$11.60 per hour subject to the completion of all pre-employment requirements being met. On the question, Supervisor Bylewski said we did not have a budgeted rate of pay in the budget, but there is money within the Parks Department budget to pay for the position. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said he passed out a copy of a soil law that the Town of Lockport is looking at adopting. We have experienced developers stripping the topsoil and leaving the clay. They put back only a scant amount of topsoil that is not sufficient for trees. This law protects people who buy property by requiring 6 inches of topsoil to remain on the site. He has asked Jim Callahan to review it in comparison to what we have. If we need to move forward with something he will set a public hearing in the future.

Councilman Weiss announced that Erie County is holding a Household Hazardous Waste Drop Off at Erie Community College South Campus on June 19, 2010 from 9:00 a.m. to 2:00 p.m. Items which can be brought include pesticides, oil-based paints, oil, batteries, propane tanks, etc.

Councilman Weiss said the school budget is coming up for a vote and they gave Mr. Coseo a 3.8% raise. We are also paying for a service to notify people when there is a day off from school. He thinks that everyone would be aware of that and to send a message out is unnecessary. The explanation for the budget was that we would hope for better economic times. He believes that they are using up all of the stimulus money and next year the taxes are going to go up. He thinks they should be looking at consolidation measures.

Councilman Kolber said people were complaining to him all weekend after receiving the postcard regarding the new brush pickup schedule.

Councilman Weiss said people should be able to clean up their brush within the 5 months that it is being collected.

Councilman Kolber said it is being done so that Highway can work on road maintenance and drainage.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate seven (7) street lights in the Waterford Estates Subdivision Phase 3A on Wexford Manor, per the street light layout approved on April 01, 2008, as per the NYSEG proposal and as per “as-builts” submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures, and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG’s street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate five (5) street lights in the Highland Park Subdivision on Field Brook Drive, per the street light layout approved on February 09, 2010, as per the NYSEG proposal and as per “as-builts” submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures, and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and

maintained by NYSEG under the terms and conditions covered in NYSEG's street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate four (4) street lights in the Waterford Estates Subdivision Phase 3A on Galway Terrace, per the street light layout approved on April 01, 2008, as per the NYSEG proposal and as per "as-builts" submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures, and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG's street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Bond resolution of the Town of Clarence, New York, adopted May 12, 2010, authorizing the construction of improvements to the restrooms in Town Hall, stating the estimated maximum cost thereof is \$35,000, appropriating said amount for such purpose, and authorizing the issuance of \$35,000 bonds of said town to finance said appropriation.

A complete copy of the bond Resolution shall be available for public inspection during normal business hours at the office of the Town, Clerk, Town Hall, One Town Place, Clarence, New York.

On the question, Councilman Kolber said he was not originally in favor of this or the next one coming up. However, it is for maintenance of the town hall facility. Right now the borrowing costs are so cheap that it makes sense to do it now. Supervisor Bylewski said there is a wall issue and plumbing issues that need to be addressed. If we do not take care of it now, the problems could only get worse. He thinks it is wise and prudent to take care of it now.

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

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

Bond resolution of the Town of Clarence, New York, adopted May 12, 2010, authorizing the construction of improvements to Town Hall, consisting of the replacement of Auditorium seating, flooring and carpeting and related work, stating the estimated maximum cost thereof is \$85,000, appropriating said amount for such purpose, and authorizing the issuance of \$85,000 bonds of said town to finance said appropriation.

A complete copy of the bond Resolution shall be available for public inspection during normal business hours at the office of the Town, Clerk, Town Hall, One Town Place, Clarence, New York.

On the question, Supervisor Bylewski said his comments with respect to deferred maintenance remain. There are a number of chairs in the auditorium that need replacing. They can only be replaced. The floor can no longer be cleaned and maintained. The carpet seams are coming apart and the burn marks cannot be removed. This is something that we should not defer.

Councilman DiCostanzo said he was against this before and still is. This is a town hall and not a Regal Cinema. He believes that the room is barely used.

Councilman Weiss said he has to go along with Peter on this one. He agrees with fixing everything but the seating.

Supervisor Bylewski said there are seats that are shredding apart.

Motion by Councilman Kolber, seconded by Councilman Casilio to table the motion authorizing the construction of improvements to Town Hall, consisting of the replacement of Auditorium seating, flooring and carpeting and related work, stating the estimated maximum cost thereof is \$85,000, appropriating said amount for such purpose, and authorizing the issuance of \$85,000 bonds of said town to finance said appropriation. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said we would have to approve this at the next meeting in order to let it out to borrow.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Catlin A. Godin to the position of Junior Planner PT-Seasonal effective May 13, 2010 at the budgeted rate of \$11.82 per hour subject to the completion of all pre-employment requirements being met. This is a temporary appointment and is made pursuant to section 39-13 of the Code of the Town of Clarence. On the question, Councilman DiCostanzo said she is an intern to work in the Planning and Zoning Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint David Kruse to

the position of Junior Planner PT-Seasonal effective July 12, 2010 at the budgeted rate of \$11.82 per hour subject to the completion of all pre-employment requirements being met. This is a temporary appointment and is made pursuant to section 39-13 of the Code of the Town of Clarence. On the question, Councilman DiCostanzo said he is also an intern to work in the Planning and Zoning Office after the other intern is done. 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 Town of Clarence Planning Board under the State Environmental Quality Review Act (SEQRA), the Clarence Town Board issues a Negative Declaration on the proposed Buffalo Pharmacy Project located at 6041 Transit Road. This Unlisted Action involves the construction of a 6,500+/- square foot commercial building in the Major Arterial Zone. After thorough review of the submitted site plan and Environmental Assessment Form (EAF) by the Planning Board and 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.

Councilman DiCostanzo said they are working with some young people who are into skateboarding to try and get them a place on Town property to put in a skate park.

A Public Hearing was held to consider a Temporary Conditional Permit for Outside Dining at Pomegranate Restaurant, 4125 Transit Road. James Callahan said the location is the east side of Transit Road in front of Toys-R-Us consisting of a commercial building in the Major Arterial Zone.

The architect was present to represent the applicant. The applicant would like to have outdoor seating from spring to fall as weather permits. The hours would be from 12:00 to 10:00 p.m. with soft background music. They would have six tables with 24 seats. He is considering a solo musician for Friday or Saturday nights playing light music.

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 Kolber to adopt the following resolution:

Resolved, that the Clarence Town Board, after a public hearing duly held on May 12, 2010, and after all interested parties being heard, grants a Temporary Conditional Permit for outside dining to the applicant, Shane Khanjani, for the Pomegranate Restaurant located at 4125 Transit Road, subject to the following conditions:

1. The Temporary Conditional Permit is granted for one year.
2. Outdoor seating not to exceed 6 tables or 24 seats.
3. Seating shall be located on the south side of the building as depicted on the proposed site plan.
4. One light solo acoustic musician between 7:00 p.m. to 10:00 p.m.

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

A Public Hearing was held to consider a Temporary Conditional Permit for Outside Dining at HD Video Café, 5445 Transit Road. James Callahan said the location is the east side of Transit Road within the Dairy Queen Plaza in the Major Arterial Zone.

Wally Peters said they would like to place four tables on each side of the front entrance with two or three chairs each. The hours of operation are 6:00 a.m. to 10:00 p.m. They have small table top speakers for people to use if they want to.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on May 12, 2010, and after all interested parties being heard, grants a Temporary Conditional Permit for outside dining to the applicant, Wally Peters, for the HD Video Cafe located at 5445 Transit Road subject to the following conditions:

1. The Temporary Conditional Permit is granted for one year.
2. Outdoor seating not to exceed 8 tables or 24 seats.
3. Seating shall be located on the front sidewalk as indicated on the map presented.
4. No live entertainment.
5. Outside entertainment to be kept to a conversation level.

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

A Public Hearing was held to consider a Temporary Conditional Permit for Outside Display at 8200 Main Street. James Callahan said the location is the north side of Main Street, east of Bryant & Stratton Way within the existing plaza in the Commercial Zone. The applicant is proposing to display trolleys for lease.

Charles Barone was present.

Supervisor Bylewski asked if he was going to have an office at this location for people to go in to rent a trolley. Mr. Barone said he is negotiating with the landlord.

Supervisor Bylewski asked if he has trolleys located on Transit Road. Mr. Barone said he has them at the wash bay that he hires to clean them.

Supervisor Bylewski said one of the concerns brought up was there is not a storefront there to rent them out. It looks as an attempt for advertising.

Mr. Barone said they feel it is in keeping with the commercial zoning. They would like to relocate their business to Clarence which could result in residual business for other businesses in the area. He spoke with the person who just moved his business to the plaza to clean the trolleys. They do historical tours in the community and he feels that it fits in.

Mr. Barone said if you look at other businesses at the entrance to our Town, they have vehicles with the business name parked in front of their businesses. The trolleys are not billboards and would only be parked there on a seasonal basis. It is a clean business.

Councilman Weiss said he could see it if there was an office there to buy tickets or rent a trolley.

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

No action was taken.

Steven Leising requests Minor Subdivision Approval to create one new Residential Building Lot in the Agricultural Rural Residential Zone on Croop Road. James Callahan said the location is the south side of Croop Road, east of Strickler Road consisting of agricultural land.

Steven Leising was present.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Town of Clarence Planning Department under the State Environment Quality Review Act (SEQRA), the Clarence Town Board issues a Negative Declaration on the proposed Leising Minor subdivision located at 10469 Croop Road on the south side of Croop Road, east of Strickler Road. This Unlisted Action involves the creation of one new residential building lot in the Agricultural Rural Residential Zone. After thorough review of the submitted survey and 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, Steven Leising, for Minor Subdivision approval to create one (1) new residential building lot located on the south side of Croop Road, east of Strickler Road at 10469 Croop Road in the Agricultural

Rural Residential Zone, subject to the following conditions: 1. Open Space and Recreation Fees.

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

Eastern Hills Wesleyan Church requests a Clearing, Filling and Grading Permit to construct athletic fields on the church campus at 8445 Greiner Road. James Callahan said the location is the south side of Greiner Road, west of Harris Hill Road consisting of approximately 30+ acres in the Residential Single Family Zone.

Patrick Jones said their desire is to reach into the community to offer athletic programs. They would like to clear some land behind the church to prepare fields to be ready for next summer.

Supervisor Bylewski said he went to the site and it appears that there is land that is wet back there. It is a heavily wooded area and there could be drainage issues.

Councilman Kolber said his concern is how close it is to the neighbors on the west side. They may have to provide additional buffer.

Mr. Jones said they were working around the wetland areas. They were going to propose a 50' buffer area and plant trees between the neighbors.

Councilman Weiss asked if it was for use by only the parishioners. Mr. Jones said they would welcome anyone to participate in their programs, and perhaps offer the fields to the community when they are not using them.

Motion by Councilman Kolber, seconded by Councilman Casilio to refer the request by Eastern Hills Wesleyan Church for a Clearing, Filling and Grading Permit to construct athletic fields on the church campus at 8445 Greiner Road to the Planning Board for review. On the question, Councilman Casilio said they should contact the engineering office regarding drainage. Upon roll call – Ayes: All; Noes: None. Motion carried.

Tony DelMonte requests a Change-In-Use from Residential to Hair Salon at 5975 Goodrich Road. James Callahan said the location is the east side of Goodrich Road, south of Clarence Center Road consisting of an existing residential home in the Traditional Neighborhood District.

Tony DelMonte was present. He prefers to keep the barn that is on the site. He has been working on it.

Councilman Kolber said his concern is parking. Mr. DelMonte said there would probably be fewer than ten people there at a time. Parking would be in the back and along the side. Street parking is also available.

James Callahan said this is located in a TND where we relax parking requirements. He needs three on site. On street parking can be utilized to encourage adaptive reuse in that zone.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant a Change-In-Use from Residential to Hair Salon at 5975 Goodrich Road with the condition that the three parking spaces be paved and striped to the rear of the building. On the question, James Callahan said this should also be referred to the Building Department for any necessary permits for the conversion. Upon roll call – Ayes: All; Noes: None. Motion carried.

Colleen Kilanowski requests a Public Hearing to consider a Special Exception Use Permit for a Secondary Living Unit at 9400 Lapp Road. James Callahan said he received a call that the applicant is unable to make it this evening. He identified the location is the north side of Lapp Road, west of Goodrich Road consisting of vacant land in the Agricultural Rural Residential Zone. The applicant is proposing to build a new home with a secondary living unit in the back.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to set a Public Hearing for June 9, 2010 at 7:45 p.m. to consider the request for Special Exception Use Permit for a Secondary Living Unit at 9400 Lapp Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

West Herr Automotive Group requests a Public Hearing for a Master Plan Amendment and Corresponding Rezoning from Residential to Major Arterial per the Planning Board Recommendation for 5505 Transit Road.

Supervisor Bylewski said he has a transactional disclosure statement on file stating that his law firm was recently retained by a partner of West Herr on a private matter. He will recuse himself from this item.

Councilman Casilio said the representative for West Herr is on his way here.

Motion by Councilman Casilio, seconded by Councilman Kolber to set the following Public Hearings for May 26, 2010:

8:00 p.m. – to consider an amendment to Master Plan 2015 relative to the Transit Road Corridor; and

8:05 p.m. – to consider the request by West Herr for rezoning a portion of 5505 Transit Road from Residential Single Family to Major Arterial.

On the question, Councilman Weiss said he has recused himself from West Herr projects in the past due to buying all of his business vehicles from them. He is no longer doing that, so he will be voting on this item.

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

Motion by Supervisor Bylewski, seconded by Councilman Casilio to approve a Fireworks Display Permit for July 3, 2010 for Day In The Park. All proper paperwork is in order. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Concert Association – June 11, 2010; B. Daniel Gregorio – Oct. 9 & 10, 2010; C. Town of Clarence – Dec. 3, 2010; D. Clarence Women’s Club – Dec. 15, 2010; Legion Hall Applications – A. Mark Francisco – May 21, 2010; B. Hai Family – May 28, 2010; C. Kathy Kraska – June 13, 2010; D. Kreher Family – Nov. 27, 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 May 13, 2010 are approved for payment: General Fund - \$76,144.06; Highway Fund - \$16,443.71; Water District - \$36,407.70; Drainage District - \$44,073.51; Capital Fund - \$86,502.50; and Trust and Agency 203 - \$6,557.48 for a total amount of \$266,128.96. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session at 8:37 p.m. pursuant to the Open Meetings Law, Section 105(1)(h) to discuss the proposed acquisition of real property when publicity would substantially affect the value thereof and Section 105(1)(f) to discuss the employment history of a particular corporation. On the question, Supervisor Bylewski asked Mr. Bengart and Mr. Callahan to attend. 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 9:20 p.m. No action was taken. (Councilman Casilio recused himself from the discussion and left the meeting at 8:59 p.m.) Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Absent: Councilman Casilio. Motion carried.