

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, December 15, 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, Bernard Kolber and Joseph Weiss. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Town Attorney Steven Bengart, Deputy Town Attorney David Donohue, Senior Building Inspector David Metzger, Planning Board Chairman Al Schultz, Director of Administration and Finance Pam Smith and Town Engineer Joseph Latona

Director of Community Development – James Callahan

Public Hearings:

A Public Hearing is scheduled for 7:45 PM to consider a Local Law amending the Code of the Town of Clarence, Chapter 83 Dogs and Other Animals.

A Public Hearing is scheduled for 7:50 PM to consider the residence at 6879 Salt Road as a Local Historic Landmark. The residence at 6879 Salt Road was originally constructed in 1824 and is a significant example of the Victorian Folk building type and has been recommended by the Historic Preservation Commission as an excellent candidate for inclusion as a Local Historic Landmark.

A Public Hearing is scheduled for 7:55 PM to consider the residence at 4150 Harris Hill Road as a Local Historic Landmark. The residence at 4150 Harris Hill was originally constructed in 1920 and is a significant example of the Colonial Revival building type and has been recommended by the Historic Preservation Commission as an excellent candidate for inclusion as a Local Historic landmark.

A Public Hearing is scheduled for 8:00 PM to consider St. Stephens United Church at 8520 Tonawanda Creek Road as a Local Historic Landmark. Originally constructed in 1862, St. Stephens United Church is significant as a long standing religious institution in the community and has been recommended by the Historic Preservation Commission as an excellent candidate for inclusion as a Local Historic Landmark. Designation would include both the primary church structure and adjacent cemetery.

Formal Agenda items:

Main-Transit Plaza 8200 Main Street

Applicant is proposing to relocate the Mercedes-Benz Collision Shop to the plaza in the former Dunn Tire Shop. The proposed site is located on the northeast corner of Main Street and Bryant and Stratton Way at existing plaza located in the Commercial Zone. Per the Zoning Law, the Town Board has final authority to approve Special Exception Use Permits or Temporary Conditional Permits. A public hearing will be required prior to taking final action on the application.

Pradeep Arora 5514 Pine Loch Lane

Applicant is requesting a Public Hearing for consideration of a Special Exception Use Permit for the construction of a secondary living unit (in-law apartment). The proposed site is located in the Loch Lea Subdivision, intersection of Pine Loch Lane and Pinestone Court at existing single family residence in the Planned Unit Residential Zoning District. Per the Zoning Law, the Town Board has final authority to approve all Special Exception Use Permits. The applicant has been made aware of all relevant conditions including deed restrictions. The proposed addition encroaches upon the required minimum front yard setback; the applicant has made application with the Zoning Board of Appeals and will have a variance determination on December 14, 2010. ***(Removed from the agenda – this is an addition not an in-law apartment).***

William Warmingham 8575 Goodrich Road

Applicant is requesting minor subdivision approval for the creation of one additional building lot. The proposed site is located on the east side of Goodrich Road, north of Brauer Road at existing single family residence consisting of 9 acres in the Agricultural Flood Zone. Per the Subdivision Law, the Town Board has final authority to approve all Minor Subdivisions. The Town Engineering Department has reviewed

the proposal for floodplain considerations. The Assessor's Office is currently coordinating the issuance of an address. The proposal meets minimum zoning requirements and the NYS Realty Subdivision Law.

Dan Singer/Big Sings 6251 Goodrich Road

Applicant is proposing an addition to the existing ice cream stand located on the east side of Goodrich Road north of the Peanut Line in the Commercial Zone. Per the current Zoning Law, the Town Board has final authority to approve uses in the Commercial Zone. A side yard setback to the south side of the property will be encroached upon and will require a variance if the project is to proceed as designed.

Work Session items for consideration January 5, 2011:

Michael Drennan 5810 Thompson Road

Applicant is proposing to coordinate with Waterford Village PURD to extend the designed Donegal Manor further south onto the applicants property to terminate in an extended cul-de-sac creating 10+/- additional lots at the southern end of the extended Donegal Manor. The proposed site is located on the west side of Thompson Road, south of Curry Lane/Waterford Village PURD on existing residential property consisting of approximately 19+/- acres in the Residential Single Family Zone. The project would be classified as a Major Subdivision and subject to full environmental review. The number of lots on a dead end street and coordination with existing infrastructure will be issues that will need to be addressed. A major issue that came up during the preliminary review is the current cul-de-sac within Waterford would violate our current zoning in terms of the number of lots – extending this would be a violation of that section of the Subdivision Law. The Town Board would have the authority to approve this with a super majority vote. The other issue is sewer connectivity – the applicant would require approval from the Heise-Brookhaven Trunk Sewer for additional taps.

Supervisor Scott Bylewski

In the adopted budget, there were some minor errors that were discovered with respect to assessed values in particular Special Districts. This does not change or impact the tax rates at all.

Supervisor Bylewski will make a motion appointing Robin Sendlbeck as Messenger F/T, temporary effective December 15, 2010 at her current rate of pay for approximately 8 weeks. Nancy Meyer had to have surgery and will be out for 6 – 8 weeks. Confidential Secretary to the Supervisor Karen Jurek contacted Civil Service for approval of a temporary appointment for this period.

Supervisor Bylewski has line-item transfers for Justice Court and the Supervisor's office.

Supervisor Bylewski will close out some Capital Projects including the Historical Museum porch, solar panels on the Town Hall, the highway building roof, the compost excavating site and the way-finder signs for the bike path. The town hall lavatory project will remain open. The monies would go into the Debt Reserve Account.

Councilman Joseph Weiss

Councilman Weiss has a line-item transfer for Parks Department.

Councilman Weiss attended the Planning Board meeting and will have a comment with respect to Benderson's proposed access road from the BJ's plaza to Greiner Road.

Councilman Weiss spoke with Animal Control Officer Jerry Schuler relative to doubling the size of the dog kennel and there will be no need for 24 hour supervision of the animals.

Councilman Bernard Kolber

Councilman Kolber will comment on the Senior Center report.

The Cable Committee met with representatives from Time Warner to discuss the possibility of getting cable service to the north-east portion of town. Time Warner representatives will take this information back to their superiors given the number of people that want to sign up for cable.

Councilman Patrick Casilio

Councilman Casilio has a line-item transfer for Engineering Department.

Councilman Casilio met with both the White Collar and Blue Collar Unions; both sides are negotiating in good faith.

ECWA is making an effort to upgrade some of the hydrants throughout the town.

They have changed out 41 red hydrants (which were old original Clarence hydrants) to ECWA yellow hydrants. Councilman Casilio is still waiting to hear if they have plans to replace more hydrants within the town, the hydrants cost several thousand dollars to replace – the hydrant itself costs \$1,000 plus the labor to replace it.

Councilman Peter DiCostanzo

Upon recommendation of Youth Bureau Director Dawn Kinney, Councilman DiCostanzo will appoint Christiano LiPuma to the position of Youth Activities Leader-PT.

Councilman DiCostanzo commented on the number of people that attended the Planning Board meeting relative to access road from BJ's plaza to Greiner Road.

Town Engineer Joseph Latona

Town Engineer Latona stated that the town obtained a grant for the American Legion hall to put in handicap accessible doors. This will be expanded to create a vestibule and façade work.

Town Engineer Latona visited the Senior Center today to see what can be done to eliminate the problem they are having with their vestibule.

Town Attorney Steven Bengart

Town Attorney Bengart stated that the Town of Newstead is operating without a Code Enforcement Officer and will be requiring assistance from the Town of Clarence under the mutual aid agreement they signed with the Town. Town Attorney Bengart along with Senior Building Inspector David Metzger and Director of Administration and Finance Pam Smith have been working on an addendum to the original contract.

Town Attorney Bengart has spoken to all the attorneys representing the four fire companies. Because he is anticipating there is not going to be a contract in place for the first of the year, Town Attorney Bengart got them to agree to enter into an agreement pending the outcome of a contract. The fire companies will continue to provide service in exchange for the town continuing to provide the benefits (workers compensation and LOSAP) that they have under the current contract.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to enter into Executive Session pursuant to §105(1)A matters which will imperil the public safety if disclosed; 105(1)E Collective negotiations pursuant to Article 14 of the Civil Service Law (The Taylor Law; 105(1)F the employment history of a particular person or corporation. Upon roll call - Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:24 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:37 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 Wednesday, December 15, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:42 P.M. Pledge to the flag was led by Councilman Patrick Casilio, followed by a prayer given by Msgr. Frederick Leising of Nativity of the Blessed Virgin Mary Church.

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

Motion by Councilman Weiss, seconded by Councilman Casilio to approve the minutes of the previous meeting held December 1, 2010. On the question, Supervisor Bylewski had a correction for page 305 – that the organizational work sessions are set for December 16th and 23rd. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that item 16 has been removed from the agenda.

Supervisor Bylewski said there is a slight budget update for the Town. Some of the assessment numbers did not save into the adopted budget. The change to what was adopted and what should be actual are very minor and it does not change any tax rates at all. It has more to do with minor changes made to the assessments.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to appoint Robin Sendlbeck as Messenger F/T, temporary, effective December 15, 2010, at her current rate of pay for approximately 8 weeks. On the question, Supervisor Bylewski said this is necessary since our messenger has to take some time off. In addition, Shirley Moore, a former court clerk will fill in at the court office during this time. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to authorize the transfer of \$550 from account 1.1110.470 to account 1.1110.250 to cover the additional expense in the equipment account for new chairs in the court office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to authorize the following transfers of funds: \$324 from 001-1220.0220 Office Equipment to 001-1220.0432 Dues and Subscriptions; \$140 from 001-1220.-220 Office Equipment to 001-1220.-470 Expense and Travel; \$1,701.24 from 001-1620.0251 General Equipment to 001-1620.0454 Lease and Rental of Equipment; and \$15,000 from 1981 Grant Writing to 1953 Telephones. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to close the following projects with remaining balance to go to appropriate funds debt reserve: Project 13 – Historical Museum Porch, remaining balance of \$330.00; Project 17 – Solar Panels on Town Hall, remaining balance of \$1,001.17; Project 19 – Highway Building Roof, remaining balance of \$840.66; Project 92 – Excavator for Compost Site, remaining balance of \$896.84; and Project 94 – Bike Path Safety, remaining balance of \$2,533.73. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to authorize the following transfer of funds for the Parks Department: \$3,700 from account A7110.413 Resurfacing to A7110.265 Permanent Improvements; and \$25 from A7110.450 Maintenance of Buildings and Grounds to A7110.250 Other Equipment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said he attended the Planning Board meeting the other night and thinks it is a good time to be transferring some the items to them for review. The Greiner Road issue was discussed and a lot of people here were concerned. We are dealing with the greater good. He knows it is in the hands of some very sagacious people.

Supervisor Bylewski said it will still come back to the Town Board.

Councilman Weiss said he is aware of that and it is a tough decision to make.

Councilman Weiss read a letter he received from a resident who said he agreed with him on some of the issues and his stand on the overspending of the fire companies. One thing that bothers him the most is that Harris Hill has three chief's cars. He has witnessed one of these cars going to Tonawanda almost every day of the week and wonders what good it would be if his house catches on fire. The biggest issue is the restoration of an old truck for \$30,000. He assumes that his tax dollars helped pay for this. He suggests merging the fire companies.

Councilman Weiss said, again, he thinks the firemen do a good job and his issue is trying to rein in the budgets. He gets these letters all the time and chose to read one tonight.

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

WHEREAS, the Clarence Town Board has been unable to reach contracts with the Harris Hill Volunteer Fire Company, Inc., Clarence Center Volunteer Fire Company, Inc., Rapids Volunteer Fire Company, Inc., and Swormville Volunteer Fire Company, Inc.; and

WHEREAS, effective January 1, 2011, there would be no legal obligation for those Fire Companies to continue to provide emergency services nor an obligation for the Town of Clarence to continue to provide emergency services nor an obligation for the Town of Clarence to continue to provide Volunteer Firemen's Benefit Law (VFBL) and Length of Service Award Program (LOSAP) benefits to the membership of those Companies; and

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board shall continue to maintain the current coverage VFBL and LOSAP to the Harris Hill Volunteer Fire Company, Inc., Clarence Center Volunteer Fire Company, Inc., Rapids Volunteer Fire Company, Inc., and Swormville Volunteer Fire Company, Inc. pending the entering into of contracts with the Companies, subject to further resolution and/or failure of the said Companies to provide emergency services as stated in the 2010 Contract with the Town of Clarence.

On the question, Supervisor Bylewski said two of the companies not mentioned are the Fire District and East Amherst who has agreed to a 3-year contract.

Town Attorney Steven Bengart said he has been in conversations and *negotiations* with counsel for the fire companies. We have come up with a plan so that we do not end up like the Town of Boston with nothing set in stone. He has letters from the attorneys indicating their good faith in this.

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

Councilman Kolber said the Cable Committee had a meeting with Time Warner last night to try to get cable and high speed internet service into the northeast end of Town. We are in the middle of our contract with Time Warner. At the time, there was not enough density per lineal mile of roadway to provide service. Time Warner says they are still 150 ft. back from the drop point. Hopefully we will get this going so that the whole Town has access to the service.

Councilman Kolber said he received a communication from Time Warner notifying the Town that a number of their agreements with programmers and broadcasters are about to expire.

They have also sent a copy of their price adjustment notice that customers will receive with their next statement. The new prices are the result of higher programming costs, the development of innovative new features and continued investment in infrastructure and network. Customers with promotional rates will continue until the promotion expires. Rates are effective January 15, 2011.

Councilman Kolber reported that the Clarence Senior Center has 237 new members in 2010 for a total of 1,251. They have held successful fundraisers this year along with establishing a website and holding a community day and open house. They have hosted several programs for the community as well as for their members. They have a very active facility and are proud of what they are doing.

Councilman Casilio reported that Erie County Water Authority has replaced 41 fire hydrants in the Town from the old red hydrants to yellow. He said all of the fireman should be aware that the new hydrants turn in a different direction than the old ones.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize the transfer of \$200 from A1440.470 to A1440.434. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize the Supervisor to enter into a settlement agreement with Paul Marinaccio, Sr. and Kieffer Enterprises, subject to Town Attorney and outside counsel review and approval. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that upon the recommendation of Dawn Kinney, Executive Director of the Clarence Youth Bureau, Christiano Li Puma is appointed to the position of Youth Activities Leader-PT at the budgeted rate of \$8.18 per hour effective December 20, 2010, subject to all pre-employment requirements being met for the position by the Town of Clarence and Civil Service. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said WinterFest is set for Sunday, January 30, 2011.

Councilman DiCostanzo announced that there are new sports activities starting up including wrestling, basketball, etc. and if people have time should go out and show their support.

Town Clerk Nancy Metzger received the Erie County Water Authority Tariff Amendments that were passed at their meeting of December 2, 2010 effective January 1, 2011. The amendments include \$1 monthly charge on all bills and a water service connection charge is going up from \$1,800 to \$2,000.

Supervisor Bylewski thanked department heads present for attending.

Public Participation

Howard Melancon said in regard to item 15 for a collision shop, he would like to know how Eastern Hills Mall who has car shows with temporary lights at night and sheds displayed can do that; especially, when another applicant on Transit Road is denied having sheds. A lot of these people are not Clarence residents and he has never seen Eastern Hills come before the Board for approval.

Supervisor Bylewski said the Mall does not need to come in front of the Board. It is more of an administrative function in obtaining a special event permit.

James Callahan said Eastern Hills Mall will apply periodically for their uses. They do not require a public hearing. Long term uses, such as item 15 for an automotive use, require a public hearing.

Mr. Melancon said the sheds sat out there all year.

Mr. Callahan said they had a 90-day approval. The collision shop has different type conditions.

A Public Hearing was held to consider a Local Law amending the Code of the Town of Clarence, Chapter 83 Dogs and Other Animals. Supervisor Bylewski said there have been changes to State law requiring municipalities to make changes.

Town Clerk Nancy Metzger said beginning January 1st, 2011 we will be taking over dog licensing functions that were done by New York State Agriculture and Markets. Each month a portion of the fee collected is sent to the County and a portion to the State. The Town will keep most of the revenue after January 1st. There will be a surcharge of \$1 per altered dog along with the \$3 per unaltered dog that we currently forward to the State Animal Population Control Fund.

The purpose of the amendments is to comply with the change in responsibility from the State to the Town.

The only difference that the residents will see is the annual renewals will be sent from the Town Clerk's Office and not from Ag and Markets. All license structures and fees will remain the same.

Supervisor Bylewski said that some other municipalities made substantial changes to their local law, such as limiting the number of dogs per household. This does none of that.

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

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

RESOLVED, that after a public hearing duly held on December 15, 2010 and after all interested parties being heard, the Clarence Town Board adopts Local Law No. 6 of the year 2010 amending the Code of the Town Clarence, Chapter 83-Dogs and Other Animals. This local law shall become effective January 1, 2011 and shall be filed with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

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

Motion by Councilman Kolber, seconded by Councilman Casilio that the Clarence Town Board hereby adopts the amended Town of Clarence Dog Licensing Fee Schedule effective as of January 1, 2011. Said fee schedule may be amended from time to time by resolution as determined by the Clarence Town Board as per Chapter 83 of the Code of the Town of Clarence.

On the question, Supervisor Bylewski said that all revenue derived from such fees shall be the sole property of the Town of Clarence with the exception of \$1.00 per spayed/neutered dog and \$3.00 per unspayed/unneutered dog to be paid to the agency designated pursuant to §110 of the New York State Agriculture and Markets Law to be used for animal population control efforts.

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

A Public Hearing was held to consider the residence at 6879 Salt Road as a Local Historic Landmark. Brad Packard said the residence at 6879 Salt Road is zoned Agricultural Rural Residential located in the northern portion of Clarence. The property was the original home of the Hunt Family, who emigrated from Rensselaer County in 1824 and established the Maple Row Farm. In fact it was the Hunt's family involvement and farming operation at this property that led to the naming of Hunt's Corners Road.

The architectural styling and construction of the home embodies the Victorian Vernacular building type and maintains much of the original character and construction. The Mobius Family currently operates the ninety-acre Maple Row Farm associated with the residence as an equine boarding facility. This residence has been deemed a significant contributor of historical value by the Clinton Brown Architecture group and has received a positive recommendation for designation from the Historic Preservation Commission.

Supervisor Bylewski said we are looking solely at the residence and not any of the out buildings.

Councilman DiCostanzo stated that this was a volunteer submission.

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

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

WHEREAS, the property located at 6879 Salt Road and locally known as "Hunts Farm" has been the subject of an Intensive Level Survey as prepared by Clinton Brown Company Architecture, PC; and

WHEREAS, the property at 6879 Salt Road has been identified to have historic value, association with Historic Personages, and contains significant Historic value through its Architectural Style and method of construction; and

WHEREAS, The Town of Clarence Historic Preservation Commission has unanimously forwarded a recommendation to officially designate the home located at 6879 Salt Road as an Historic Landmark within the Town of Clarence; and

WHEREAS, The Clarence Town Board has held a duly advertised public hearing on the proposed designation per the Clarence Town Board Notification Policy.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board, approves the designation of 6879 Salt Road, known as "Hunts Farm," as a Local Historic Landmark per the Town of Clarence Historic Preservation Local Law; and be it further

RESOLVED that the affected site be designated on the official Zoning Map of the Town of Clarence filed for recording in the office of the Erie County Clerk.

On the question, Supervisor Bylewski said this is the 14th property that has been designated, all of which have been volunteer.

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

A Public Hearing was held to consider the residence at 4150 Harris Hill Road as a Local Historic Landmark. Brad Packard said the residence at 4150 Harris Hill Road is zoned Residential Single Family located in the Harris Hill community. The hamlet of Harris Hill is historically significant locally for its association with the migration of residents to the area as a function of the War of 1812. Over time, Harris Hill has developed into a significant local commercial and residential center with a portion of the Main Street corridor as a focal point.

The residence at 4150 Harris Hill Road was originally constructed in 1920 and features Colonial Revival architectural features in addition to a stone wall that accent the entrance way. This residence has been deemed a significant contributor of historical value by the Clinton Brown Architecture group and has received a positive recommendation for designation from the Historic Preservation Commission.

Supervisor Bylewski added that this was a volunteer submission.

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

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

WHEREAS, the property located at 4150 Harris Hill Road and locally known as “The Myzka House” has been the subject of an Intensive Level Survey as prepared by Clinton Brown Company Architecture, PC; and

WHEREAS, the property at 4150 Harris Hill Road has been identified to have historic value, association with Historic Personages, and contains significant historic value through its Architectural Style and method of construction; and

WHEREAS, The Town of Clarence Historic Preservation Commission has unanimously forwarded a recommendation to officially designate the home located at 4150 Harris Hill Road as an Historic Landmark within the Town of Clarence; and

WHEREAS, The Clarence Town Board has held a duly advertised public hearing on the proposed designation per the Town of Clarence Town Board Notification Policy.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board, approves the designation of 4150 Harris Hill Road, known, as “The Myzka House,” as a Local Historic Landmark per the Town of Clarence Historic Preservation Local Law; and be it further

RESOLVED that the affected site be designated on the official Zoning Map of the Town of Clarence filed for recording in the office of the Erie County Clerk.

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

A Public Hearing was held to consider St. Stephens United Church at 8520 Tonawanda Creek Road as a Local Historic Landmark. Brad Packard said St. Stephens United Church of Christ located at 8520 Tonawanda Creek Road is zoned Agricultural Flood Zone and is located in the northern portion of Clarence. Originally founded on April 25, 1862 along with the adjoining cemetery, the church had a very strong German following and original records kept by the church, like many northern Clarence churches, were in fact recorded in German. The church was unfortunately badly damaged by a fire that destroyed the social hall in 1989 but no damage was incurred to the sanctuary itself.

The Church offers subtle Italianate architectural components and is significant as a long standing religious institution in the community. The St. Stephens United Church of Christ and associated original cemetery has been deemed a significant contributor of historical value by the Clinton Brown Architecture group and has received a positive recommendation for designation from the Historic Preservation Commission.

Supervisor Bylewski said this is a volunteer application.

Mr. Packard added that this application includes the church and the adjoining cemetery.

Councilman Kolber asked if the social hall was raised because of the fire or is it still there.

The Pastor of St. Stephens said the social hall was raised because of the fire, but the sanctuary itself was not affected.

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

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

WHEREAS, the property located at 8520 Tonawanda Creek Road and locally known as “St. Stephens United Church” has been the subject of an Intensive Level Survey as prepared by Clinton Brown Company Architecture, PC; and

WHEREAS, the property at 8520 Tonawanda Creek Road has been identified to have historic value, association with Historic Personages, and contains significant historic value through its Architectural Style and method of construction; and

WHEREAS, The Town of Clarence Historic Preservation Commission has unanimously forwarded a recommendation to officially designate the Church located at 8520 Tonawanda Creek Road as an Historic Landmark within the Town of Clarence; and

WHEREAS, The Clarence Town Board has held a duly advertised public hearing on the proposed designation, per the Town of Clarence Town Board Notification Policy.

NOW THEREFORE BE IT

RESOLVED, that the Clarence Town Board, approves the designation of 8520 Tonawanda Creek Road, known as “St. Stephens United Church” as a Local Historic Landmark per the Town of Clarence Historic Preservation Local Law; and be it further

RESOLVED that the affected Site be designated on the official Zoning Map of the Town of Clarence filed for recording in the office of the Erie County Clerk.

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

Main Transit Plaza requests a public hearing to consider a Special Exception Use Permit or a Temporary Conditional Permit for an automotive collision shop at 8200 Main Street. James Callahan said the location is the northeast corner of Main Street and Bryant Stratton Way in the Commercial Zone. The applicant proposes using the vacant space for his shop.

Chris Nichter, contractor and the business owner were present. The business is currently located in the Mercedes Benz dealership across the street. He needs a larger facility.

James Callahan said there is a history of automotive use at this location.

Mr. Nichter said the space consists of approximately 8,000 sq. ft. They propose a facelift to the front and a sign. They are looking at storage in the back with fencing and a berm.

The owner said he is certified by Mercedes Benz, but his business is independent.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to set a Public Hearing for January 19, 2011 at 7:45 p.m. to consider the request for a Temporary Conditional Permit for an automotive collision shop at 8200 Main Street. On the question, Supervisor Bylewski said he made the request for a Temporary Conditional Permit because we have had more of a trend in the Town in dealing with automotive issues that could be either a special exception or a temporary conditional permit to the temporary conditional permits. Upon roll call – Ayes: All; Noes: None. Motion carried.

William Wormingham requests Minor Subdivision Approval to create one new residential building lot in the Agricultural Flood Zone at 8575 Goodrich Road. James Callahan said the location is the east side of Goodrich Road, south of Tonawanda Creek Road.

William Wormingham was present.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Planning Department, the Clarence Town Board issues a Negative Declaration on the proposed Wormingham Minor Subdivision located at 8575 Goodrich Road on the east side of Goodrich Road, south of Tonawanda Creek Road. This Unlisted Action involves the approval of a minor subdivision in compliance with existing land use regulations. After thorough review of the submitted survey and the Environmental Assessment Form (EAF) by the Planning and Zoning Department 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.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, William Wormingham, for Minor Subdivision approval to create one (1) new residential building lot located on the east side of Goodrich Road, south of Tonawanda Creek Road, at 8575 Goodrich Road in the Agricultural Flood Zone, subject to the following conditions: 1. Open Space and Recreation Fees. 2. No future splits possible off parent parcel.

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

Dan Singer/Big Sings requests Architectural Approval and recommendation on a Building Permit for existing ice cream shop/restaurant at 6251 Goodrich Road. James Callahan said the location is the east side of Goodrich Road, north of the Peanut Line in the Commercial District. The applicant is proposing an addition to the existing building. A side yard setback variance will be required.

Supervisor Bylewski said based on the variance issue we would not be able to approve this tonight. He will have to go to the Zoning Board of Appeals.

Dan Singer, owner said he would like to add to the building toward the south and east with a basement under the addition. They would like to provide space to get out of inclement weather. He would also like to increase the overhang in the front. The business has continued to grow and it is time for expansion. The hours of operation would not change, but they might be able to be open a couple months longer. It would not be open year round.

Mr. Singer said he would also like to put a concrete patio on the south side with an awning that he would take down for the winter.

Councilman Kolber said his biggest issue is parking. People park on both sides of the street and kids run across.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to deny the request for Architectural Approval and recommendation for a Building Permit for the existing ice cream shop/restaurant at 6251 Goodrich Road due to the side yard setback requirement. On the question, Councilman Weiss asked how many parking spaces there are. Mr. Singer said he has about 26. James Callahan said the number of spaces far exceeds the requirements, but we do not base it on peak times. He added that there has been no comment on the architectural style. There were none. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said if Mr. Singer wishes to proceed he will have to contact Mr. Callahan to take it to the Zoning Board of Appeals.

Mr. Singer said if he goes to the ZBA and that does not work, he would then knock the building down and rebuild.

Motion by Councilman Weiss, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Clarence Soccer Club – Jan. 23, 2011; B. Clarence Hollow Association – Feb. 20, 2011; C. Jasmine TWIG – Oct. 4, 2011; Legion Hall Applications – A. Susan and Anthony Cross – Jan. 16, 2011. 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 9, 2010 are approved for payment: General Fund - \$857,733.23; Highway Fund - \$274,691.52; Water District - \$34,778.48; Capital Fund - \$46.73; and Trust and Agency 203 - \$42,598.30 for a total amount of \$1,209,848.26. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Anne Case said she has read in the Bee about the discussions regarding reducing the official’s salaries. She served as Supervisor in 1994 and 1995 and she felt the salary at the time was too much so at the organizational meetings she reduced her salary by \$10,000. It can easily be done. It is in the records.

Howard Melancon said the sidewalks on Main Street have not been plowed in a couple weeks. He is concerned that when there are events at the school on the weekend someone is going to be killed. He believes the Town should hire a contractor and bill the property owner either directly or on their taxes. He would like it on record that he has voiced this concern. If anything happens it will end up costing all of the people of the Town from lawsuits.

Supervisor Bylewski said the only way we can assess people on their taxes is by creating a district.

Town Attorney Steven Bengart said otherwise you would have to go to Supreme Court and that is a lengthy process.

Supervisor Bylewski said it is clearly the residents’ responsibility to clear the sidewalks.

Mr. Melancon said they would still try to sue the Town and there would be legal costs to pay.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:45 p.m. wishing everyone a Happy Holiday.

Nancy C. Metzger
Town Clerk