

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, April 27, 2011 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, Senior Building Inspector David Metzger, Town Engineer Tim Lavocat, Director of Administration and Finance Pam Smith and Planning Board Chairman Al Schultz.

**Director of Community Development – James Callahan**

***Public Hearings:***

A Public Hearing is scheduled for 7:45 PM to consider renewal of existing Temporary Conditional Permits. The Town Board has the option of renewing the permits for up to five years. There have been no formal complaints filed against any of the applicants.

***Formal Agenda items:***

Ron Grimm 6491 Conner Road

Applicant is proposing to develop a 4-Lot Open Area Development. The proposed site is located on the east side of Conner Road, north of intersection with Stahley Road on existing vacant land consisting of 8+ acres in the Agricultural Rural Residential Zone. Per the Subdivision Law, the Town Board initiates the review process with a preliminary review of the project prior to formal review and approval by the Planning Board. Referral to the Planning Board will initiate the review process. The preliminary concept meets the minimum standards for lot size and configuration per the Subdivision Law.

Cimato Brothers Construction – Northbrook Meadows

Applicant is proposing to develop an Open Space Design Subdivision consisting of 154+/- lots. The proposed site is located on the north side of Greiner Road between Shimerville Road and Thompson Road on existing vacant agricultural land consisting of 118+ acres in the Residential Single-Family Zone currently in agricultural production. Per the Zoning Law, the Town Board has final decision authority to approve Open Space Design Developments and create a zoning overlay to allow reduced lots in exchange for preservation of open space.

This project has previously been introduced to the Town Board with various other designs. Previous density determinations by the Planning Board have identified 102 and 115 lot configurations. A new density determination will need to be calculated to determine the maximum number of lots. A supplement to the Clarence Hollow Pollution Abatement Project Environmental Impact Statement will need to be developed as a part of the project review. Referral to the Planning Board will initiate the review process.

Justin Distefano 6420 Heise Road

Applicant is proposing to develop a 2-Lot Open Area Development for the construction of a new home. The proposed site is located on the west side of Heise Road, north of Clarence Center Road on existing vacant lot consisting of 2.42+/- acres in the Residential Single-Family Zone. Combined with adjoining lot, the total acreage increases to 4.94 acres. Per the Subdivision Law, the Town Board initiates the review process with a preliminary review of the project prior to formal review and approval by the Planning Board. Several requirements of the Open Area Development section of the Subdivision Law cannot be met and a variance from these technical requirements will be required as issued by the Town Board via a super majority vote.

Gene Metzinger 8325 Transit Road

Applicant is seeking a permit to perform NYS vehicle inspections on larger equipment/trucks. The proposed site is located on the east side of Transit Road, south of Tonawanda Creek Road at a pre-existing commercial truck/equipment operation located in the Restricted Business Zone. The area identified is in a commercial classification and within the Density Flood Zone. Per the Zoning Law, the Town Board may approve automotive service operations via a Temporary Conditional Permit. A public hearing will be required prior to action on the permit.

Gene Metzinger 6031 Transit Road

Applicant is seeking approval to sell mulch and bagged landscaping products at the existing car wash (Buggy Wash). The proposed site is located on the east side of Transit Road, north of Clarence Center Road at existing carwash located in the Major Arterial Zone. Per the Zoning Law, the Town Board may approve outside display of products. A Public Hearing will be required prior to taking action on the request.

Sturdy Sheds – Eastern Hills Mall 4545 Transit Road

Applicant requests a Temporary Conditional Permit for outside display of sheds in the Eastern Hills Mall parking lot 4545 Transit Road.

***Work Session items for consideration May 11, 2011:***

Brookfield Country Club – fireworks permits for May 28<sup>th</sup> and July 4, 2011.

Paul Bonito 9680 County Road

On February 23, 2011 the Town Board approved Concept Plans for construction of a new industrial business park building for automotive repair facility at 9680 County Road. Mr. Bonito has had a change of plans and will come before the Board asking approval for an addition to the existing building at 9680 County Road.

**Supervisor Scott Bylewski**

*Consent agenda items:*

- *Authorize Supervisor Scott A. Bylewski to sign the Letter of Agreement with Compensation Consulting Services, Inc. to provide services relative to Workers' Compensation Insurance Premium Recovery Service.*
- *Authorize Supervisor Scott A. Bylewski to sign the Voluntary Life Insurance Employee Agreement with Metropolitan Life Insurance Company to provide eligible employees a Payroll Deduction Program for payment of premiums on Met Life's voluntary life insurance policies.*

A UB student intern is looking to do an on-line permit project. The County has come forward stating that they are looking to pilot something out. Supervisor Bylewski has expressed a tentative interest to find out what the County would like to do and what would be available but made no commitment with respect to the County. In the meantime, Supervisor Bylewski has heard from UB saying that they have this master student who is pursuing his green belt and is interested in the project. There have been numerous meetings to discuss it and it looks like we would be looking at an on-line permit project that could be expanded – there are a lot of things that would have to be talked about but for the time being they were talking about sheds, generators, plumbing and fire places because these applications do not require engineer drawings (signed and stamped). This is in discussion now and the project is being scoped out. More information will follow.

Supervisor Bylewski received a petition regarding sidewalks on both sides of Goodrich Road (north of the bike path).

Supervisor Bylewski receive an e-mail from someone who is involved with paranormal investigations. They investigated a residence in Clarence Center and after some research discovered that the owners of the house have a family cemetery plot in one of our Pioneer Cemeteries. They are requesting permission to investigate the cemetery. The Town Board was in agreement with this as long as they have the proper insurance.

On May 4, 2011 at 7:00 PM there will be a meeting with the fire companies regarding LOSAP. There will also be a morning Work Session where the Board will be given a presentation on LOSAP.

The Wilson Center is hosting the 2<sup>nd</sup> Annual Leadership Awards Ceremony on May 9<sup>th</sup> at the Clubhouse.

Supervisor Bylewski has several items to discuss in Executive Session relative to collective negotiations, employment history of particular person(s) and one Attorney-Client item to discuss as well.

#### **Councilman Joseph Weiss**

Councilman Weiss will make several Laborer PT Seasonal appointments in the Parks Department. These appointments are subject to the completion of all pre-employment requirements being met.

#### **Councilman Bernard Kolber**

Councilman Kolber attended the Meals on Wheels Service Awards Program. Mrs. Kolber was among the honorees. Meals-on-Wheels are under extreme funding cuts and are thankful for such events as Rock the Barn.

Councilman Kolber has one item to discuss in Executive Session regarding the employment history of a corporation.

#### **Councilman Patrick Casilio**

Councilman Casilio will award Abate Associates PC the bid for general services during construction and construction inspection services for the Miles Road Bridge replacement project in the amount of \$46,604 in accordance with their proposal for engineering services dated April 20, 2011. Town Engineer Lavocat stated that the \$46,604 is the budget number for a sixteen week construction schedule. If the project goes well and is completed early, less money will be spent.

Upon recommendation of Town Engineer Lavocat, Councilman Casilio will award the bid for the Legion Hall accessibility and façade improvements to Niagara Construction Company Inc. of Tonawanda, NY.

Councilman Casilio will appoint Jacob Woodward to the position of Engineering Aide PT Seasonal in the Engineering Department.

Seven out of eight people replied in favor of gas service on Heroy Road.

Councilman Casilio has one item to discuss in Executive Session regarding matters leading to the appointment of an individual.

#### **Councilman Peter DiCostanzo**

Megan Downey has resigned as Volunteer Coordinator at the Youth Bureau.

There is a prescription drug drop off on April 30, 2011 from 9AM – 1PM at Millard Fillmore Hospital.

Councilman DiCostanzo attending the annual fishing derby on Saturday, April 16<sup>th</sup> unfortunately the weather did not cooperate.

Councilman DiCostanzo has one Attorney-Client item to discuss.

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

Historically the Town Board and Planning Board have held a joint meeting the fifth Wednesday in June. Some topics of discussion to consider are sewer capacity specifically ways to get sewer capacity for some potential commercial building. Another topic could be Master Plan amendments looking at Clarence Hollow and the area on Transit Road. Supervisor Bylewski stated that he has had conversations with Mr. Schultz about “tightening up of some of the procedures” to make sure we are following everything we are supposed to be following and making sure nothing is falling through the cracks.

Mr. Schultz asked that if anyone else has any other topics they would like to discuss to forward them to the Planning Board.

Director of Community Development James Callahan stated that Benderson Development officially submitted a letter withdrawing their application for the access road to Greiner from the BJ's Plaza.

**Town Attorney Steven Bengart**

Town Attorney Bengart has two Attorney-Client matters to discuss.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to enter into Executive Session pursuant to § 105(1) E of the Open Meetings Law to discuss collective negotiations pursuant to Article 14 of the Civil Service Law (The Taylor Law); § 105(1) F the employment history of particular people; the employment history of corporations and matters leading to the appointment of a particular person. On the question, Town Attorney Bengart, Tim Lavocat, James Callahan and Brad Packard were asked to remain in the meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:30PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:24 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 on Wednesday, April 27, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:30 P.M. Pledge to the flag was led by Councilman Bernard Kolber, 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, Town Engineer Tim Lavocat, Sr. 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 13, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to approve the following resolutions under the Consent Agenda:

Letter of Agreement with Compensation Consulting Services, Inc.

To authorize Supervisor Scott A. Bylewski to sign the Letter of Agreement with Compensation Consulting Services, Inc. to provide services relative to Workers' Compensation Insurance Premium Recovery Service.

Voluntary Life Insurance Employer Agreement with Metropolitan Life Insurance Company

To authorize Supervisor Scott A. Bylewski to sign the Voluntary Life Insurance Employer Agreement with Metropolitan Life Insurance Company to provide eligible employees a Payroll Deduction Program for payment of premiums on Met Life's voluntary life insurance policies.

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

Supervisor Bylewski said we received a petition for sidewalks on Goodrich Road from Pizza Inn to Countryside Court and across the street to the pre-school. The Capital Project Committee is looking at it along with the Town Attorney to discuss funding.

Supervisor Bylewski announced that the annual meeting with the firemen will be held May 4<sup>th</sup> at 7:00 p.m. to discuss the LOSAP program.

Motion by Councilman Weiss, seconded by Councilman Casilio to appoint the following to the position of Laborer PT-Seasonal in the Parks Department effective May 2, 2011, for a period of up to five (5) months, at the budgeted rate of \$11.83 per hour, subject to the completion of all pre-employment requirements being met: Anthony Haas and Ryan Andres. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to make the following appointments subject to the completion of all pre-employment requirements being met:

Justin Eichelkraut as Laborer PT-Seasonal in the Parks Department effective May 2, 2011 at the budgeted rate of \$8.36 per hour; and

Nolan Hartzell, Kyle Mortek, and Caleb Higgins as Laborer PT-Seasonal in the Parks Department effective May 9, 2011 at the budgeted rate of \$8.36 per hour.

On the question, Councilman Weiss said these appointments are made every summer for the extra work in the parks and playing fields.

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

Councilman Weiss said he has done some more research and with the health care, there are about 80 people in the Clarence School District that make over \$100,000 per year. We cannot live like this going forward. He believes teachers should be paid well, but that is a bit much. He has people making \$75,000 to \$80,000, which is a good salary in this economy.

Councilman Kolber said the Highway Department has begun spring brush pickup and will continue through the end of May. They will be working on roads and drainage over the summer months.

Councilman Kolber said he attended the Meals on Wheels volunteer recognition reception. His wife Paula was honored for 20 years of service, along with Pat Schanzer and Emilio Corbelli. It is a great organization.

Councilman Casilio said he has been working with Ann Donovan from National Fuel who is trying to extend gas service to residents on Heroy Road. The residents will be paying for it.

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

Be It Resolved That, the Town Board awards the General Services during construction and Construction Inspection services for the Miles Road Bridge Replacement Project to Abate Associates, P. C. in the amount of \$46,604 in accordance with their Proposal for Engineering Services dated April 20, 2011 to be paid from Project 95.

On the question, Councilman Casilio said this company has the expertise in bridge construction.

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

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

Be It Resolved That, the Town Board authorizes Change Order No. 3 to the agreement for Engineering Services for Clarence Sewer District No. 9 sanitary sewer installation on Boyd Drive, Bickert Drive and Schurr Road to Nussbaumer and Clarke, Inc. dated November 9, 2010 in the amount, to be billed hourly, not to exceed \$61,800 for General Services during construction and full time Construction Inspection to be paid from Project 55.

On the question, Councilman Casilio said there is some additional time needed on this project to get it completed.

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

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

Be It Resolved That, after holding an open competitive bid, the Town Board awards the bid for the Legion Hall Accessibility and Façade Improvements to Niagara Construction Company, Inc. of Tonawanda, New York, they being the lowest responsible bidder in the amount of \$86,833 to be funded by the Capital Project Program, and

Be It Further Resolved That, the Supervisor is authorized to sign and enter into a contract with Niagara Construction Company, Inc., subject to review and approval by the Town Attorney.

On the question, Councilman Casilio said the façade changes will enhance the building to fit in more with the traditional look of Clarence Center. This is the most used of the public buildings.

Councilman Kolber added that a good portion of the cost is being funded by a grant.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to appoint Jacob Woodward to the position of Engineering Aide PT Seasonal in the Engineering Department effective May 3, 2011 at the rate of \$10.71 per hour, subject to the completion of all pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo announced that the Youth Activities Leader at the Youth Bureau recently resigned. Anyone interested should apply. Information is available on the website or by calling the Youth Bureau.

Councilman DiCostanzo announced that the National Prescription Drug Drop Off is being held on Saturday, April 30<sup>th</sup> from 9:00 a.m. to 1:00 p.m. at various locations, with the closest one being at Millard Suburban Hospital.

Councilman DiCostanzo said he received the single-family dwelling permit report for March. There were five permits issued in subdivisions and one outside. It is more than was issued in March 2008, 2009 and 2010.

Councilman DiCostanzo thanked Chip Trapper from Recreation, the Youth Bureau and all the volunteers for the Fishing Derby held last Saturday. The weather was terrible, but the kids that were there had a good time.

#### Department Reports

James Callahan said Benderson Development has officially withdrawn their application to construct an access road from Eastgate Plaza to Greiner Road.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider renewal of the following Temporary Conditional Permits: a. Top Notch Automotive, 8355 Goodrich Road; b. Hoover Automotive, 8417 Transit Road; c. RJ's Automotive, 10187 Main Street; d. United Four Wheel Drive, 10187 Main Street; e. Ralph Graf Automotive, 9460 Tonawanda Creek Road; f. Calarco Landscaping, 8558 Stahley Road; g. Bakowski Landscaping, 5640 Davison Road; h. Gallagher Landscaping, 9780 Lapp Road; i. Zbrzezny Landscaping, 4951 Kraus Road; j. Hewson Tree Trimming, 9000 Lapp Road; k. Farmer's Market, 10717 Main Street; l. Clarence Pizza, 6235 Goodrich Road; m. Bronisz Woodcutting, 4611 Shisler Road; n. Towne BMW/Mini, 8200-8230 Main Street; o. HD Video Café, 5445 Transit Road; p. The Pomegranate Café, 4125 Transit Road; q. Amherst TV, 8347 Sheridan Drive; r. Ruzzine's Rock Bottom, 6261 Transit Road; and s. Louie's Car Clinic, 9385 Main Street.

James Callahan said the Town Board annually reviews the Temporary Conditional Permits issued to determine compliance and any possible changes. No public complaints have been registered on any of these items this year. The Town Board has the option to renew any of these permits up to a maximum of five years.

Supervisor Bylewski said upon review, items a – m could be renewed for up to a five-year term and items n – s possibly for a lesser term.

Speaking to the subject:

Councilman Weiss said we should check on Louie's Car Clinic once in a while because he tends to cross the line a little bit. He does not want to hold up his permit and asked the applicant to watch the cars in the front.

James Callahan said he was notified about a particular vehicle and he did remove it.

Joseph Rubino, owner of Louie's Car Clinic was present. He said it was a tough winter and he will remove 6 to 8 vehicles in the near future. He said it is difficult to make money these days and he took on trying to sell the motor homes. He generally does not have more than six cars for sale. He also does specialty repair work that other shops do not do. The back does get messy, but his landlord is going to pave it this year. He will paint the trailer on the site that he uses for storage. The fence will be painted and some additional landscaping will be done.

Councilman Kolber said Towne BMW is doing this in the interim and he would like to know if there is a plan.

Tim Connelly was present on behalf of Mr. Downey. The plan was to purchase the two properties across the street and consolidate them to build a brand new facility for the Mini dealership. When they first bought the dealership business was going up, but in the last two years it went down. They have new models this year and with the price of gas, business is picking up. The plan is still to build a new building.

Councilman Casilio said it does look very temporary and asked if they would have a problem with limiting their permit to one year.

Mr. Connelly said two years would be good. They believe that they may be ready to build in a year. As the inventory goes down on their main lot, they do move the cars back over across the street.

Councilman Casilio said he does not understand why they have not submitted any plans.

Mr. Connelly said it has to do with the current economic situation. They try to keep it as nice looking as possible. The only reason the cars are there is because they do not have room on their other property.

With no one else speaking to the subject, motion was made by Supervisor Bylewski, 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 Casilio to approve the renewal of Temporary Conditional Permits with all conditions as previously set forth as follows: Items a – m for a 5-year term: a. Top Notch Automotive, 8355 Goodrich Road; b. Hoover Automotive, 8417 Transit Road; c. RJ's Automotive, 10187 Main Street; d. United Four Wheel Drive, 10187 Main Street; e. Ralph Graf Automotive, 9460 Tonawanda Creek Road; f. Calarco Landscaping, 8558 Stahley Road; g. Bakowski Landscaping, 5640 Davison Road; h. Gallagher Landscaping, 9780 Lapp Road; i. Zbrzezny Landscaping, 4951 Kraus Road; j. Hewson Tree Trimming, 9000 Lapp Road; k. Farmer's Market, 10717 Main Street; l. Clarence Pizza, 6235 Goodrich Road; m. Bronisz Woodcutting, 4611 Shisler Road; Items o – r for a 3-year term: o. HD Video Café, 5445 Transit Road; p. The Pomegranate Café, 4125 Transit Road; q. Amherst TV, 8347 Sheridan Drive; r. Ruzzine's Rock Bottom, 6261 Transit Road; and Items n and s for a 1-year term: n. Towne BMW/Mini, 8200-8230 Main Street; and s. Louie's Car Clinic, 9385 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Ron Grimm requests Preliminary Concept Review of a proposed Open Development Area at 6491 Conner Road. James Callahan said the location is the east side of Conner Road, north of Stahley Road consisting of vacant land in the Agricultural Rural Residential Zone. The applicant is proposing a four-lot open development. The proposal meets the minimum standards of the Subdivision Law.

Ron Grimm was present.

Motion by Councilman Weiss, seconded by Councilman Kolber to refer the request for Preliminary Concept Review of a proposed Open Development Area at 6491 Conner Road to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Cimato Brothers/Passero Associates requests Preliminary Concept Review of a proposed Major Subdivision west of 8990 Greiner Road. James Callahan said the location is the north side of Greiner Road, east of Shimerville Road consisting of vacant land in the Single Family Residential Zone. The applicant is proposing an open space design development. The Town Board has final approval.

John Caruso, engineer, owner Fred Cimato and his attorney Jeff Palumbo were present. Mr. Caruso said an open space design is unique in that it applies to the land. They have developed the design for the 120 acres with 60 acres being open space all around the perimeter providing a buffer to adjacent properties. There are several means of access and only two cul-de-sacs. It is also designed in a way that there are no immediate backyard neighbors in the development. Mr. Caruso said they are asking to move forward with the Planning Board.

Councilman Kolber said he likes the design. His only question is the density configuration. The previous density determination was for 102 to 115 lots and this one is 154 lots.

Mr. Caruso explained how they came to this figure by making sure it is less than a conventional subdivision with the proper amount of open space remaining. There are two sizes of lots in this proposal. They would like to have this approved by the end of the year. It would be developed in two to three phases beginning from the north where the utilities come in.

James Callahan said we would look at the bike path master plan to see if there is any ability to coordinate.

Supervisor Bylewski said this proposal meets the intent of the master plan. The density calculation would be determined by the Planning Department and Planning Board.

Councilman Casilio asked if there would be recreation fees associated with this project.

James Callahan said they are determined by 12% of the value of the vacant land as it is now; unless there is an opportunity to provide active recreation area on the site.

Councilman Weiss said we may have the opportunity to do some restoration on some of the streams for a viable trout fishery. He wanted to know if Mr. Cimato would have a problem with that. It would not cause any problems for his development.

Mr. Cimato said he would not have a problem if the Town came in and provided the proper releases to do what they had to do.

Mr. Caruso said they would have to determine if it is a viable stream for that purpose.

Motion by Councilman Kolber, seconded by Councilman Casilio to refer the request for Preliminary Concept Review of a proposed Major Subdivision west of 8990 Greiner Road to the Planning Board for their review with a specific request to look at the lot density for the open space design overlay and the bike path impacts. On the question, Supervisor Bylewski said this is being referred to the Planning Board for review and it will come back to the Town Board for final determination. Upon roll call – Ayes: All; Noes: None. Motion carried.

Justin DeStefano requests Preliminary Concept Review of a proposed 2-Lot Open Development Area at 6420 Heise Road. James Callahan said the location is the west side of Heise Road, north of Clarence Center Road consisting of an existing residential property in the Residential Single Family Zone. The history identifies variances for lot width on the northern lot and setback for new home has been granted by the Board of Appeals. The 2-Lot development would include the existing home and a new home. Several variances would be necessary to approve the submitted design.

Ed Schiller of TVGA Consultants said the issue at this point is the lot is four feet shy of what is required.

Supervisor Bylewski said there are actually a number of violations of the open development law the way this is proposed. One is a common driveway and the cross section.

Councilman Casilio said he has to remove one of the driveways there now and create a common driveway built to the private road specifications.

Justin DeStefano said he does not know how much it would cost to remove the driveway. Mr. Schiller asked if he could use the south existing driveway and then branch off to the new area. The other driveway is stone.

James Callahan said in theory yes, but other requirements would have to be looked at to make that determination.

Councilman Casilio asked about fire service. Brad Packard said an open development requirement is a 2" domestic water line be extended at the discretion of the Erie County Water Authority. There are also fire requirements beyond that.

Councilman Casilio said that means there is the cost for a fire hydrant, hot box and backflow preventer.

Mr. Caruso said there is a fire hydrant on the next property and he wonders if they could tap into that line. Councilman Casilio said that is up to the owner and the Water Authority, not this Board.

Supervisor Bylewski said the applicant will have to determine if this is a feasible project for himself.

Mr. Schiller said if all of this is met, is the Town going to approve the variance. If not, there is no point going any further.

Supervisor Bylewski said we would have to see a more compliant design.

Councilman Kolber said the fewer the complications, the better off they would be. He does not like the two driveways. He wants to make sure that it does not negatively impact the neighbors.

Supervisor Bylewski asked if anyone from the public would like to speak and no one came forward. There has not been any notification other than the agenda because this is the introduction of the project.

Motion by Councilman Kolber, seconded by Councilman Weiss to table the request for Preliminary Concept Review of a proposed 2-Lot Open Development Area at 6420 Heise Road until the applicant can mitigate some of the issues regarding the request before referring it to the Planning Board. He would like some answers first.

On the question, Supervisor Bylewski said if they do come back, the project should comply with parts of the open development area including the common driveway, setbacks, water line and fire service.

Councilman Casilio said there are private road specifications, drainage requirements and the fire service to be aware of.

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

Gene Metzinger requests a Temporary Conditional Permit for automotive service at existing trucking/equipment operation at 8325 Transit Road. James Callahan said the location is the east side of Transit, south of Tonawanda Creek Road consisting of an existing trucking equipment operation in the Restricted Business Zone.

Gene Metzinger said his business is not so much automotive repair, but inspection of vehicles. He will need to place the sign as required. His building is 300 ft. off the road.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set a Public Hearing for June 8, 2011 at 7:45 p.m. to consider the request for a Temporary Conditional Permit for automotive service at existing trucking/equipment operation at 8325 Transit Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Gene Metzinger requests a Temporary Conditional Permit for an Outside Display of landscaping materials at 6031 Transit Road. James Callahan said the location is the east side of Transit Road north of Clarence Center Road consisting of an existing car wash in the Major Arterial Zone.

Gene Metzinger said what he basically wants to do is sell mulch. It would be stockpiled behind the building. He will obtain the mulch locally. He owns the property and will take care of it. There will not be any more than 100 yards on site at a time. If there are any problems with the new building next store he will not even do it.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set a Public Hearing for June 8, 2011 at 7:50 p.m. to consider a Temporary Conditional Permit for an Outside Display of landscaping materials at 6031 Transit Road. On the question, Supervisor Bylewski asked that he update where the display area is going to be. Councilman Kolber said he would like the applicant to submit a site view showing the location and amount of materials to be displayed. Councilman Casilio said if he is using a loader they will need to know what his hours of operation will be. Upon roll call – Ayes: All; Noes: None. Motion carried.

Sturdy Sheds, Eastern Hills Mall requests a Temporary Conditional Permit for Outside Display of sheds at 4545 Transit Road. James Callahan said the location is the east side of Transit Road, north of Main Street at the entrance to the Eastern Hills Mall. The applicant is proposing to continue to display and sell sheds at this location.

Corey Auerbach and Jeffery Palumbo, attorneys with Damon and Morey, and Dave Delagrang, proprietor were present. Mr. Auerbach said they are located in the Major Arterial District which encourages commercial enterprise. This is a seasonal, non-permanent use that operates annually from April through October. The display sheds are delivered and remain there the entire time with one used as an office. A condition of Temporary Conditional Permits is to not have any impacts on surrounding residences. There are none at this location as it is a highly commercial area in the Town.

Mr. Auerbach said he reviewed the Master Plan which states that this is one of the major north/south corridors and commercial sections for this region. They are proposing to continue this use in a fully engineered site ready parking area as opposed to an open field or other open space. The mall has experienced a loss in their customer base and look at this use as an attraction for people to come back.

Councilman Weiss said he was impressed by this young man's presentation.

Councilman Kolber asked why the sheds are in place before coming to the Town for a permit. There have been sheds there for many years. He is concerned about competitors.

Mr. Auerbach said they have been there for five years and as soon as they were informed that a permit was required they came in to apply. He does not believe this use sets any precedence because it is a fully engineered site ready location in a Major Arterial Zone with a track record of appropriate management. The Town is already aware of any impacts this would create. They want to continue a use that has been there for five years.

In the letter of support submitted by the mall, he believes what they intended was that they diligently clean the area where the sheds are located. Mr. Auerbach said while the sheds are there they take over and keep the area clean.

Councilman Casilio asked if they would consider a different location on the mall site. They also have a display at the Boulevard Mall and he would like to know if the Town approved the location.

Mr. Auerbach said that site is different. Eastern Hills Mall does not have any other streets along its property line. The decision for the Boulevard Mall location was made between the mall and Sturdy Sheds.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set a Public Hearing for June 8, 2011 at 7:55 p.m. to consider the request for a Temporary Conditional Permit for Outside Display of sheds at 4545 Transit Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant a Fireworks Display Permit to the Day in the Park Committee for July 2, 2011. All fees, insurance and fire

chief approvals are in order. On the question, Councilman Casilio said he and Councilman DiCostanzo are on the committee, however, this is ministerial and they will be voting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval for the following: Clubhouse Applications - A. Clarence Chamber of Commerce – April 29, 2011; B. Clarence Conservative Committee – May 23, 2011; Legion Hall Applications – A. Michelle Smith – June 12, 2011; B. Diane Moyer – June 25, 2011; C. Mike & Kathy Metzger – Aug. 20, 2011; Park Pavilion Special Requests – A. Eastern Hills Sunrise Rotary – Aug. 24, 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 April 28, 2011 are approved for payment: General Fund - \$261,640.08; Highway Fund - \$65,939.55; Water District - \$2,114.39; Drainage District - \$16,167.00; Sewer Districts - \$204.70; and Capital Fund - \$3,642.79 for a total amount of \$349,708.51. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Howard Melancon said he understands that the State Right-of-Way on Main Street is not under the Town, but there are two big rocks at the entrance to Wilson Farms. He brings it to their attention because of the concern that someone goes out of control and hits the rocks. The Town would end up being sued.

There being no further business, Supervisor Bylewski adjourned the meeting at 9:05 p.m.

Nancy C. Metzger  
Town Clerk