

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, September 14, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York. Supervisor Scott Bylewski called the meeting to order at 6:01 P.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio and Bernard Kolber. Councilman Weiss is absent. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith, Town Attorney Steven Bengart, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek and Planning Board Chairman Al Schultz.

Director of Community Development – James Callahan

Public Hearings:

Clarence Greenprint/Open Space Bond Act Proposed Property Acquisition (2parcels)

A Public Hearing is scheduled to consider the purchase of Development Rights for two separate properties at Roll and Shimerville Road and property along Shimerville Road north of Roll Road.

Kelly Simkin 6122 Railroad Street

A Public Hearing is scheduled at 7:55 PM to consider the request for a Special Exception Use Permit for a secondary living unit. The proposed site is located on the west side of Railroad Street, north of High Street at existing single-family home located within the Residential Single-Family Zone. Per the Zoning Law, the Town Board has authority to approve secondary living units with a Special Exception Use Permit. Conditions as identified within Chapter 229-136 must be met. Applicant has received a copy of the required conditions and is prepared to meet the standards.

Master Plan 2015 Amendments – Transit Road Corridor/Segment B

A Public Hearing is scheduled at 8:00 PM to consider an amendment to Master Plan 2015, Transit Road north of Roll Road/Segment B to the Future Land Use Map to allow for the extension of commercial zoning as well as conversion from Residential Single-Family to Restricted Business on the east side of the property to create a transitional land use between Commercial and Single-Family Residential Zoning. The Planning Board has forwarded a recommendation on the proposed amendment.

Formal Agenda items:

Clover Management/Roll Senior Housing 8040 Roll Road

Applicant is proposing to construct a 154+/- unit senior housing complex. The proposed site is located on the north side of Roll Road, east of Transit Road on existing vacant and residential property located in the Major Arterial and Residential Single-Family Zone.

Amendments to Master Plan 2015 being considered by the Town Board would allow the project to proceed to the review stage. Specifically, the increased depth in Commercial Zone will allow the project to proceed for the Town Board to consider a Special Exception Use Permit. Per the zoning Law, the Town Board has authority to approve higher density residential development via a Special Exception Use Permit. Referral to the Planning Board will initiate review process including SEQRA.

CAR Group Holdings 5841 Transit Road

Applicant is seeking approval to operate an automotive wholesale operation from existing vacant space within the plaza. The proposed site is located on the east side of Transit Road, north of Laurel Park in existing commercial plaza located within the Major Arterial Zone. Per the Zoning Law, the Town Board may consider the use via a Temporary Conditional Permit. A public hearing will be required to consider the permit.

Work Session items for consideration September 28, 2011:

Master Plan 2015 Amendment – Clarence Center Hamlet

Amending existing residential zoning classification to Traditional Neighborhood District along the Goodrich Road corridor north of Maple Street to the Peanut Line. The proposed change would be consistent with remaining section of the Clarence Center hamlet along Goodrich Road that are already zoned TND. The TND Zoning Classification was specifically designed for the hamlet areas of the town to identify historic characteristics and uses.

Loch Lea Planned Unit Residential Development (PURD)

Applicant is proposing an amendment to the existing PURD to allow for 20+/- patio homes as opposed to the 45,000 square feet of commercial space. The proposed site is located on the southwest corner of Roll Road and Harris Hill Road on existing previously approved PURD identifying 45,000+/- square feet of commercial space at the corner of Harris Hill Road and Roll Road. Commercial component was not constructed. As technically a change in zoning, the Town Board is the final authority on such matters. The Planning Board has forwarded a recommendation on the proposed amendment.

Rivera Greens Open Space design Subdivision – east of 8230 County Road

Applicant is seeking Final Plat approval on the project as constructed. The previously approved subdivision received Development Plan Approval on 4/20/11. Final acceptance of public infrastructure is the domain of the Town Board. The Town Engineer and Highway Superintendent have inspected the public infrastructure to be dedicated and have certified as to its acceptable installation to Town standards.

Sunset Park Improvements

Clarence Little League Football is proposing to build new bleachers and a two story concession stand with a press box on the second story in Sunset Park. This will require Town Board approval on the construction. The League is considering changing the 80 yard field to 100 yard field. The current concession stand will be demolished to accommodate the 100 yard field.

Supervisor Scott Bylewski

Youth Bureau Director Dawn Kinney is requesting to be added to the cell phone allowance list. Currently the Youth Bureau is sharing a cell phone in the office.

There will be an electronic waste drop off that is slated to occur this weekend at Eastern Hills Mall (in front of Bon Ton parking lot) from 9AM – 2PM.

Clarence High School is requesting approval for their annual Homecoming Day Parade on October 8th.

Kellie Kotwicki is unable to return to her Civil Service position as Youth Board Program Coordinator RPT.

Councilman Bernard Kolber

Darlene Feinen has submitted a letter of resignation from the Senior Center Board.

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

Highway Superintendent Ted Donner is requesting a bid date of September 27th, 2011 for removal of leaf compost at the Sheridan Drive site.

Highway Superintendent Donner is requesting several vehicles/equipment be declared surplus and is requesting a bid date be set for the sale of those vehicles/equipment.

Councilman Patrick Casilio

Councilman Casilio has a resolution for the Rapids flood gauge agreement with the Town of Amherst.

Councilman Casilio will amend the 2011 salary schedule retroactive to January 1 – several employees were eliminated from the previous motion concerning the final salaries that were given to White/Blue Collar employees, it is equalization for our non-union employees.

Councilman Casilio thanked Planning Board Chairman Al Schultz for the informative presentation by Sean Hopkins and Adam Walters. Councilman Casilio suggested taping the next presentation for all new Board members to view.

Clarence Hollow Association held their final event of the season last Thursday night and it was well attended.

Councilman Casilio thanked Town Engineer Lavocat for the Legion Hall renovation project; it was a great improvement to the building at a relatively low cost.

Councilman Peter DiCostanzo

Councilman DiCostanzo thanked Town Engineer Lavocat for his “spray painting skills” at Shadow Woods and marking where the trees should be planted and where the wet lands are etc.

Clarence High School football home-opener is Friday night under the lights.

Town Engineer Timothy Lavocat

Town Engineer Lavocat gave an update on the Miles Road bridge project. The precast arch structure is in place. The road should reopen the end of October or early November. There may be some final paving work that will have to be put off until next year depending on when the plants close.

Town Engineer Lavocat attended a meeting with the Legal Department, Court and Code Enforcement Officers to get everyone on the same page as to the process and procedure relative to the issuance of appearance tickets and court appearances. It was a beneficial meeting and cleared up a lot of questions.

Planning Board Chairman – Al Schultz

Library Director Monica Mooney will be taking maternity leave, there is a small reception planned for her this Friday from 11:00AM – 4PM. She has some difficulties ahead of her so if you see her, wish her well.

Supervisor Bylewski is working on the Special District Budget.

Information has been distributed to Town Council regarding retirement changes that have to be made in order to make the reporting accurate.

Senior Building Inspector David Metzger

Senior Building Inspector David Metzger informed the Town Board that during Labor Day weekend, he and Building Inspector Jeff Wilson went to Schoharie County and did some inspections under the flood program under CEDAR-DRU. This past Monday, Building Inspector Jeff Wilson and Dave Burke went to Binghamton and surrounding areas. All expenses incurred will be submitted to FEMA for reimbursement.

Dave Metzger has one item to discuss in Executive Session under public safety.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) A of the Open Meetings Law to discuss matters which will imperil the public safety if disclosed; § 105(1) F matters leading to the appointment of a particular person. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

There being no further business, the Work Session adjourned at 6:38 P.M.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Casilio to adjourn the Executive Session at 6:30 P.M. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, September 14, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:31 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 and Supervisor Bylewski. Councilman Joseph Weiss was absent. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Tim Lavocat, Sr. Building Inspector David Metzger, Asst. Planner Brad Packard and Planning Board Chairman Al Schultz.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the previous meeting held August 24, 2011. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the previous meeting held September 7, 2011. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Supervisor Bylewski said as is past practice to report motions made at the morning work sessions, the following motions were passed at the September 7, 2011:

- A Block Party on Senate Circle
- Court Clerks to attend training
- Appointment of two Crossing Guards and two alternates
- Approval of salary for Jeffrey Hemline, Deputy Highway Superintendent

Supervisor Bylewski announced that there will be an electronics waste drop off held on Saturday, September 17th at Eastern Hills Mall from 9:00 a.m. to 2:00 p.m. sponsored by the Town, Eastern Hills Mall and SunnKing.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant a Special Event Request to the Clarence High School for the Homecoming Parade on October 8, 2011 beginning at 12:30 p.m. along Main Street from G. C Supply to the high school. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set the Annual Public Hearing for the Community Development Block Grant to be held on October 12, 2011 at 7:45 p.m. at the Clarence Town Hall to provide an opportunity for public input from the citizens of the Town to express community development and housing needs and possible projects that would benefit low and moderate income persons residing in the Town of Clarence. On the question, Supervisor Bylewski said we have received this grant money before for Rural Transit and most recently for the work that has been done at the Legion Hall. He thanked the Town Engineer for his work on the Legion Hall; and the Planning and Zoning Department who is involved with the grant process. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant an unpaid, leave of absence to Nancy Meyer from her position as Messenger for a period not to exceed three months commencing on September 22, 2011 and including December 20, 2011. The Town will not provide and/or pay for Nancy Meyer's health, vision and dental insurance and/or any other employee benefits during this period.

On the question, Supervisor Bylewski said the granting of this request is due to extreme, extenuating circumstances for Ms. Meyer and is subject to the provisions of Article 24 – sections 1 through 6 of the Town of Clarence White Collar Unit Contract. Any future requests by Ms. Meyer or other persons in the future will be taken on a case-by-case basis at the discretion of the Town Board. The Town Board is not creating a precedence setting policy by granting this request.

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

Councilman Kolber said a letter of resignation was received from Darlene Feinen from her position as a member of the Board of Directors of the Senior Center effective immediately.

Motion by Councilman Kolber, seconded by Councilman Casilio to set a Bid Date of September 27, 2010 at 10:00 a.m. for the sale of leaf compost from the Town recycling area on Sheridan Drive. The bid price submitted will be per cubic yard loaded and hauled offsite by the successful bidder within 60 days. The volume of material is 900 cubic yards. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that upon recommendation of Highway Supt. Ted Donner, the following Highway vehicles be declared as surplus equipment:

H-12 2002 Chevrolet 1500 4WD Regular Cab Pickup, VIN #1GCEK14V32Z312968

H-19 1997 Ford F150 4WD Regular Cab Pickup, VIN #1FTEF18L6VLB54193

H-10 1998 Chevrolet 3500 4WD Crew Cab, VIN #1GCHK33R8WF042141

H-17 1998 Chevrolet 3500 4WD Crew Cab, VIN #1GCHK33R4WF041679

H-484 710 Sweepster Leaf Loader, Serial #538-122

H-485 710 Sweepster Leaf Loader, Serial #537-969

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

Motion by Councilman Kolber, seconded by Councilman Casilio that upon recommendation of Highway Supt. Ted Donner, a Bid Date is set for September 27, 2011 at 10:30 a.m. for the sale of the following surplus vehicles:

H-12 2002 Chevrolet 1500 4WD Regular Cab Pickup, mileage 100,802, Min. Bid - \$1,600

H-19 1997 Ford F150 4WD Regular Cab Pickup, mileage 138,914, No Minimum Bid

H-10 1998 Chevrolet 3500 4WD Crew Cab, mileage 120,183, No Minimum Bid

H-17 1998 Chevrolet 3500 4WD Crew Cab, mileage 122,868, No Minimum Bid

H-484 710 Sweepster Leaf Loader, Min. Bid - \$900

H-485 710 Sweepster Leaf Loader, Min. Bid - \$900

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

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize payment in the amount of \$2,100 to the Town of Amherst for Flood Gauge Metering of Tonawanda Creek at Rapids as part of our joint funding agreement with the Town of Amherst to be paid from the Joint Drainage Facility Account. On the question, Councilman Casilio said our Disaster Coordinator can monitor when the creek is coming up ahead of time. Supervisor Bylewski said we have found that what is listed as flood stage has not necessarily resulted in flooding activity. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to amend the 2011 Budget as per the attached salary schedule retroactive to January 1, 2011. The purpose is to bring the non-union people up to par with the union people.

<u>TITLE</u>	<u>CURRENT 2011 SALARY</u>	<u>NEW SALARY W/1% INCREASE</u>
Sec. to Supervisor	\$46,350.00	\$46,800.00
Town Clerk	\$70,459.00	\$71,143.00
Deputy Tn.Clerk	\$44,725.00	\$45,159.00
2ndDeputy Tn.Clerk	\$38,148.00	\$38,518.00
Dir. Of Comm. Devl.	\$71,717.00	\$72,413.00
Jr. Planner	\$47,899.00	\$48,364.00

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

Councilman Casilio thanked Al Schultz for the seminar he arranged for all of our boards a few weeks ago. It helped to get everyone on the same page with the rules and procedures of the Town. He also thanked Jim Callahan for his help on that.

Councilman Casilio said the Clarence Hollow Association recently held their last event of the season, Beatle Beat. He congratulated the Association on their series of events to help bring attention to the Hollow.

Councilman DiCostanzo thanked Tim Lavocat for his efforts at Shadow Woods. The landscaping work will start on Friday.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendation of the Planning Board, the Clarence Town Board issues a Negative Declaration on the proposed Master Plan 2015 Amendment for Clarence Center Hamlet. This Type I Action involves a change to the Future Land Use Map within MP-2015 by extending the Traditional Neighborhood District north along the Goodrich Road Corridor from Maple Street to the Peanut Line. After thorough review of the proposed amendment and the Environmental Assessment Form, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board under the State Environmental Quality Review Act (SEQRA), the Clarence Town Board issues a Negative Declaration on the proposed Loch Lea Planned Unit Residential Development (PURD). This Unlisted Action involves a change in the site plan for the existing PURD, converting the southwest corner of Harris Hill Road and Roll Road from a commercial plaza to 20 +/- patio homes. After thorough review of the submitted site plan and Environmental Assessment Form, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board seeks Lead Agency and commences a coordinated review among involved agencies on the proposed Northwoods Open Space Design Subdivision. This Type I Action involves the development of a 154+/- Lot Open Space Design Subdivision, including the creation of a new or expansion of an existing sewer district, on vacant land located within the Residential Single Family Zone and located on the north side of Greiner Road, between Shimerville Road and Thompson Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Councilman DiCostanzo announced that the high school football team is having a game this Friday night under the lights.

Town Clerk Nancy Metzger announced that the school tax bills will be going out tomorrow with a due date, without any penalty, of Monday, October 17th.

Supervisor Bylewski thanked the department heads present for their participation.

A Public Hearing was held to consider the purchase of Development Rights by the Town of Clarence of approximately 83.79+/- acres of vacant land located along the west side of Shimerville Road consisting of two separate parcels and further being know as SBL Nos. 57.08-1-1.1 and 43.20.1-7.11, at a purchase price not to exceed \$754,110.00 plus any closing costs, processing costs, baseline studies, future stewardship fees and any and all costs and disbursements for open space purposes. All funds are to be allocated from the open space bond resolution, general fund and recreation fees if it is determined that any portion of this property will be used for recreation purposes.

James Callahan said Nancy Smith of the WNY Land Conservancy had prepared a presentation of these properties, but was unable to attend this evening. This property is on the west side of Shimerville Road, north of Roll Road immediately adjacent to the developing Amber Meadows Subdivision and directly across from the entrance to Waterford Village. Both properties under review are within Clarence Sewer District No. 6. The aerial view identifies a

mix of farmland, wetland and mature forest lands. This mix of attributes adds significantly to the conservation value of this land. This property scored as one of the highest for the conservation values because of the active farmland and diverse habitat.

The entire property is considered prime and important farmland soil in terms of the federal soil classification. Having these 84 acres adjacent to two other protected parcels provides a total of 174 contiguous acres of farmland in the heart of Clarence. 71.5 of the 84 acres are currently actively farmed. The Kelkenbergs have been farming the land for at least the last 15 years with crops including corn, hay, oats and wheat.

Conservation Values: Wildlife Habitat - The property contains approximately 8 acres of federal wetlands, a .7 acre pond and 13.5 acres of forestland providing wildlife habitat and ecosystem benefits such as flood control and improvement to water quality.

Mr. Callahan said the overall value of preserving farmland in the developing area of Town, as well as, protecting the varied natural habitat make for one the highest rankings on this property. It has received a unanimous recommendation for preservation from the Recreation Advisory Committee.

Councilman DiCostanzo asked Mr. Callahan to explain what purchasing development rights means to the Town.

James Callahan said basically it extinguishes development rights on that property. It can only continue as agricultural or open space in perpetuity. There can never be houses or anything built on it.

Supervisor Bylewski said there is a residual value that is there. The property will be further farmed and remain on the tax rolls as such.

Councilman Kolber asked about the ranking and how development pressure was ranked.

James Callahan said it is included in the evaluations of the ranking. The agricultural ranking was 66.5 related to the parcel size and important soils.

Councilman Casilio said he is glad to see a piece in this section of Town. It is in a sewer district. He believes it is within the intent of the project, especially where there is the potential for development not far off.

Town Attorney Steven Bengart said he spoke with the Assessor and she concurs with the values and the purchase price of this property and the next item on the agenda.

Speaking to the subject:

Kathy DeRose said she ran a commercial horse boarding business for 20+ years in Clarence. She said she has a concern about merging recreation land and farmland. She loves the idea of buying greenspace and having bike paths, but does not understand merging of the two together.

Steven Bengart said the subject tonight is for development rights and not for acquisition of land that the Town might own. The land is still privately owned.

Kathy DeRose said it says general fund and recreation fees.

Mr. Bengart said that is our standard language and we do that in case we are not going to just use bond fund money.

Ms. DeRose said the recreation committee is here because they must have an interest.

Supervisor Bylewski said the questions that she has are not related to these purchases. It is more appropriate for her to talk to the Town Attorney.

Kathy DeRose said just for the Town of Clarence take out the issue of the Ball property.

Steven Bengart said this takes away the owner's ability to develop the property. They still own the land. It is not the merging of recreation land and agricultural land.

Councilman Kolber said Recreation Advisory Committee may not be the best name to describe what they do. They look at properties that have been submitted by the owner for consideration. They are tasked with determining the worth to the Town for preservation through the ranking system that is in place. After that process is completed a recommendation is forwarded to the Town Board.

Peter Wolfe, a member of the Recreation Advisory Committee said it is very unusual to find a piece of land in this area of the Town.

Peg Walker, a member of the Recreation Advisory Committee said they go through a very long process to decide on the parcels. This one passed all of the tests.

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. Absent: Councilman Weiss. Motion carried.

Supervisor Bylewski said they will go on to the next hearing because these two are related before a decision is made.

A Public Hearing was held to consider the purchase of Development Rights by the Town of Clarence of approximately 28.13+/- acres of vacant land located at 5630 Shimerville Road and further being described as SBL No. 57.12-2-2, at a purchase price not to exceed \$253,170.00 plus any closing costs, processing costs, baseline studies, future stewardship fees and any and all costs and disbursements for open space purposes. All funds are to be allocated from the open space bond resolution, general fund and recreation fees if it is determined that any portion of this property will be used for recreation purposes.

James Callahan said the location of this property is the northwest corner of Shimerville and Roll Roads. It has a 65 ranking with agricultural ranking a little lower because it is not active. A proposed subdivision is currently under review to develop the property as a large lot development.

The aerial photo identifies the property as fallow farmland with Gott Creek crossing along the northern property line. The Conservation Values include scenic view, wildlife habitat and possibility of working farmland. The most significant attribute is the scenic view as established by the preservation of this corner lot. There is approximately 2,000 feet of frontage at this well travelled intersection of Roll Road and Shimerville Road. This would add to the already protected Ribbeck parcel creating a scenic view with 3,250 feet of frontage. There is mature woodland at the rear of the property, a small portion of Gott Creek and a one-acre federal wetland area providing an excellent wildlife habitat.

The property is identified as continuing prime and important soils and the future owners are proposing to reestablish agricultural production on the property. The main attribute of the preservation is the scenic vista and the preservation of land in the developing area of the Town. The Recreation Advisory Committee unanimously recommended this property for preservation.

Town Attorney Steven Bengart said the Assessor reviewed this property and is in concurrence. The purchase of the development rights is contingent on the other property discussed previously. It is a package deal.

Supervisor Bylewski said all comments, testimony, evidence presented at the prior public hearing also be made part of this public hearing.

Councilman DiCostanzo said as far as the development rights, as long as they are farming they can continue and the piece that is not currently being farmed could be. We will not get anything out of it.

Town Attorney Bengart said we will not own it, so there will not be a lease with the Town.

Rich Wood said if we are not going to use recreation fees to purchase it why is it in there.

Town Attorney Bengart said we made a practice of putting it there to cover everything, but in this case it could have taken out. The owner has no intention of using it for recreational land.

Rich Wood asked what would stop someone from donating a bike path.

Town Attorney Bengart said the conservation easement would not allow for it. It keeps anything from happening other than its current uses forever.

Rich Wood suggests that the recreation fee be taken out in the future.

Bill Gittere asked what the difference is between development rights and a conservation easement.

Town Attorney Bengart said the vehicle to protect the development rights is the conservation easement.

Councilman Kolber said the deed stays with the owner, but the property can never be developed.

Town Attorney Bengart said they could farm land that was farmed, but cannot cut down trees or change the property to provide additional space for farming.

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. Absent: Councilman Weiss. Motion carried.

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

RESOLVED, that after a public hearing duly held on September 14, 2011, and after all interested parties having been heard, the Clarence Town Board approves the purchase of the Development Rights of approximately 83.79+/- acres of vacant land located along the west side of Shimerville Road in the Town of Clarence, Erie County, NY consisting of 2 separate parcels and further being know as SBL Nos. 57.08-1-1.1 and 43.20.1-7.11, at a purchase price not to exceed \$754,110.00 plus any closing costs, processing costs, baseline studies, future stewardship fees and any and all costs and disbursements for open space purposes. All funds are to be allocated from the open space bond resolution and general fund.

RESOLVED, that the Supervisor, Scott Bylewski, be authorized to sign a Contract of Sales and Purchase subject to review and approval by the Town Attorney.

On the question, Town Attorney Bengart said based on the earlier discussion, the motion could be amended to take out the portion referring to recreation fees.

Councilman Casilio amended the motion.

Councilman Kolber said approximately eight years ago the voters of Clarence passed a referendum allowing the Town to maintain and expand the greenprint to keep the character of the Town intact. The Recreation Advisory Committee has been judicious in finding these properties.

Supervisor Bylewski said it will be ten years in September that the referendum took place.

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

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

Resolved, that after a public hearing duly held on September 14, 2011, and after all interested parties having been heard, the Clarence Town Board approves the purchase of the Development Rights of approximately 28.13+/- acres of vacant land located at 5630 Shimerville Road in the Town of Clarence, Erie County, NY and further being described as SBL No. 57.12-2-2, at a purchase price not exceed \$253,170.00 plus any closing costs, processing costs, baseline studies, future stewardship fees and any and all costs and disbursements for open space purposes. All funds are to be allocated from the open space bond resolution and general fund; and be it further

RESOLVED, that the Supervisor, Scott Bylewski, be authorized to sign a Contract of Sales and Purchase subject to review and approval by the Town Attorney.

On the question, Councilman Casilio said this property is about the same size as Meadowlakes Subdivision.

Councilman Kolber said this adds to contiguous properties already in the greenprint program.

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

A Public Hearing was held to consider the request for a Special Exception Use Permit for a secondary living unit at 6122 Railroad Street. James Callahan said the location is the west side of Railroad Street, north of High Street consisting of a single-family home in the Residential Single-Family Zone. The applicant is proposing an in-law apartment.

Kelly Simkin said she is aware of the conditions.

With no one 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. Absent: Councilman Weiss. Motion carried.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on September 14, 2011, and after all interested parties having being heard, grants a Special Exception Use Permit to the applicant, Kelly Simkin, for the construction of a secondary living unit as an addition to the existing structure for an in-law apartment on the residential property located at 6122 Railroad Street, subject to the following conditions:

1. Unit must be secondary to the principal dwelling and not converted to a rental unit.
2. Occupancy shall be limited to family members, paid employees or temporary guest.
3. Occupancy shall be restricted to two persons to occupy the unit.
4. Deed restriction to be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language **is to be submitted and approved by the Town Attorney prior to the filing the deed.**
5. Proof of filing of the approved deed is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.

On the question, Councilman Kolber said the specific language for the deed restriction may be obtained from the Town Attorney's office.

Supervisor Bylewski said the applicant said earlier that she is aware of these conditions and deed restrictions and is in agreement with them.

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

A Public Hearing was held to consider an amendment to Master Plan 2015, Transit Road north of Roll Road/Segment B to the Future Land Use Map to allow for the extension of commercial zoning, as well as, conversion from Residential Single-Family to Restricted Business on the east side of the property to create a transitional land use between Commercial and Single-Family Residential zoning.

James Callahan said the property is on the east side of Transit Road, north of Roll Road. This proposed amendment has been discussed for several years and now is being recommended by the Planning Board for adoption. A Negative Declaration was issued by the Town Board.

Supervisor Bylewski said he would, for the record, incorporate all comments made on this subject. We received comments from Shyam and Sarmishtha Kumar yesterday and from Khalid S. Mahran, M.D. today, all objecting to the amendment. The comments are noted and are a part of the consideration.

Speaking to the subject:

Joe Kleinmann said he heard that there is a proposal for a smaller type development in this area. His parents bought their home under the assumption that it would be residential according to the master plan. They are concerned with the value of their home. It will increase traffic in an area that already has heavy traffic. He would like to see Clarence stay the way it is and keep this area residential.

Doug McCallum said he believes transitioning to restricted business will allow development without truly impacting the neighborhood like a big box development would. It gives them the opportunity to address buffering alternatives as the plan develops. He believes it is a really good compromise.

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

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

Be it resolved, that after a public hearing duly held on September 14, 2011 and after all interested parties having been heard, the Clarence Town Board, upon the recommendations of the Town of Clarence Planning Board, hereby amends the Master Plan 2015 as follows:

That the Future Land Use Map be amended to extend the Commercial Zone 180 feet to the east along the Transit Road corridor north of Roll Road and identify a transitional zone of Restricted Business between the extended Commercial Zoning along Transit Road and Residential Single Family Zoning to the east from Roll Road north to Highland Farms Drive on the properties identified with SBL # 57.09-6-12 and 57.05-5-8.

On the question, Councilman Casilio said he agrees that it is a great transition from Transit Road being in the Major Arterial Zone to the residential neighborhood.

Supervisor Bylewski said a Negative Declaration under SEQRA was issued previously by the Town Board on this amendment on August 10, 2011.

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

Clover Management/Roll Senior Housing requests consideration for Preliminary Concept Review and a Special Exception Use Permit for a proposed senior housing project at 8040 Roll Road. James Callahan said the location is the east side of Transit Road, north of Roll Road and within Erie County Sewer District No. 5.

Michael Connors represents Affordable Senior Housing Opportunities of New York. He said their goal is to provide housing to seniors capable of living independently. The proposal is to build a single three-story fully sprinklered apartment building. The preliminary site plan shows the footprint of the building within the commercial zone. The parking area would be in the Restricted Business Zone with the balance of the property undisturbed. The target market is

for 60 years or greater. They have developed nine similar buildings in the Buffalo area. They all pay property taxes.

The corridors connect all of the units and community areas available to the residents. The building will be handicap accessible with all rooms handicap adaptable. The design is senior community type living. The units are one bedroom totaling 625 sq. ft. or two bedrooms at 800 sq. ft. for a total of 138 units. The rent includes heat and water. The estimated rents would be between \$800 to \$850 for one bedroom and \$900 to \$950 for two bedrooms. It is not subsidized housing. The residents are responsible for the rent. They will be looking for IDA subsidy for this project. This is another alternative for senior housing opportunities.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the request for Preliminary Concept Review and a Special Exception Use Permit for a proposed senior housing project at 8040 Roll Road to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Supervisor Bylewski said he had one more item to report from the September 7th Work Session and that was to approve a consent decree regarding the Length of Service Awards Program (LOSAP). It was agreed in principal and hoping to have it finalized and payments made by the first half of November.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to adjourn the request by Car Group Holdings for a Public Hearing to consider a Temporary Conditional Permit for automotive wholesale operation at 5841 Transit Road until the applicant is present. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Youth Bureau – Sept. 16, Oct. 10, & Nov. 27, 2011; B. Historic Preservation Commission – Oct. 6, 2011; C. Harris Hill Mother’s Club – Dec. 10, 2011; Legion Hall Applications - Julie Cardella – Oct. 2, 2011; Cub Scout Pack #563 – Monthly meetings Sept. – Dec. 2011; Jan. – Dec. 2012; Clarence Mustangs Hockey – Monthly meetings for 2012; Clarence Republican Committee – Monthly meetings for 2012; and Clarence Nature Center Lodge - Clarence Senior Center – Nov. 17, 2011. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of September 1, 2011 are approved for payment: General Fund - \$57,957.41; Highway Fund - \$14,623.39; Water District - \$500.00; Sewer Districts - \$204.00; Capital Fund - \$40,183.70; and Trust and Agency 203 - \$6,033.14 for a total amount of \$119,501.64. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of September 15, 2011 are approved for payment: General Fund - \$96,387.83; Highway Fund - \$78,961.98; Water District - \$34,266.85; Fire Protection Districts - \$40.40; Drainage District - \$18,594.60; Lighting Districts - \$865.53; Sewer Districts - \$300.00; Capital Fund - \$103,877.24; Trust and Agency 203 - \$19,126.88 for a total amount of \$352,421.31. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Weiss. Motion carried.

“For the Good of the Town”

Andre Pigeon commended the candidates and Town parties on the work they did to get the signs down on the day after Primary.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:52 p.m. in memory of Mae Viola Collins, Grandmother of Town Engineer Tim Lavocat’s wife Karen; Daniel Lamm, former member of the Planning Board and Zoning Board of Appeals; and Elizabeth Sayers, Mother of Tim Sayers.

Nancy C. Metzger
Town Clerk