

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, February 27, 2013, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town Officials present were Director of Community Development James Callahan, Assistant Planner Michael Hutchinson, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Director of Administration and Finance Pam CuvIELLO, Confidential Secretary to the Supervisor Karen Jurek, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett and Deputy Town Attorney Steven Bengart.

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

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

A public hearing is scheduled for 7:45PM for the annual Master Plan Review.

James Callahan suggested incorporating the Agriculture and Farmland Protection Plan as part of the overall Master Plan and suggested referral to the Planning Board for review.

Previously, Supervisor Hartzell had suggested revisiting the mini Master Plan for Parks and Recreation. Mr. Callahan suggested referral to the Recreation Advisory Council and the Planning Board for review and study as to how it integrates into the overall concept of the Master Plan.

Lou Visone is asking for an extension in the Clarence Hollow TND on Ransom Road to incorporate a 4 acre parcel that he owns.

Kulbacks is requesting the restricted business zone be extended on Wehrle Drive adjacent to the existing restricted business zone from the entrance to Country Meadows Subdivision extending east to the property that backs up to Susan Drive. They would like to be able to develop an office building.

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

##### **Spaulding Lake Homeowners Association**

Applicant is seeking Town Board approval to create a new town sewer district to service the community. The plan would include elimination of the existing private treatment plant and connection via a new trunk sewer line to the Heise-Brookhaven Trunk Sewer Line and would involve the development of a parallel trunk line in the Town of Amherst to open up capacity for the connection to the Amherst Sewer Treatment Plant. The existing residential subdivision located on the east side of Goodrich Road, north side of Main Street in a PURD Zone consisting of 265+/- households. The community currently operates a private sewer treatment plant to service the residents of the PURD. The Town Board has final authority to create a town sewer district. Referral to the Planning Board would initiate a comprehensive review process that will include a Positive Declaration under SEQRA and the preparation of an Environmental Impact Statement.

##### **Spaulding Greens Phase 2B**

Applicant is seeking approval to have the Final Plat approved and the newly constructed town roads dedicated for public use. The plat includes 9 sub-lots (patio homes) and approximately 240 linear feet of Garden Walk and 280 linear feet of Meadowglen Drive. The proposed site is located on the east side of Goodrich Road, north of Greiner Road as an extension of Meadowglen Drive and Garden Walk in the Spaulding Greens Open Space Design Subdivision. The area is identified in a residential classification. The Town Board has final authority to

approve Final Plats and to accept newly constructed roads for public dedication. The Town Engineer has reported that all requirements for dedication have been submitted and accepted as complete.

#### Alex Peters/Kraftmaschine 9265 Main Street

Applicant is proposing to utilize the rear of the existing commercial building located at 9265 Main Street to operate a high-end automotive service use. The proposed site is located on the south side of Main Street, east of Thompson Road in an existing commercial structure located in the Commercial Zone. Per the Zoning Law, an automotive service use within the Commercial Zone may be approved with a Temporary Conditional Permit. The use is proposed within the rear of the existing commercial space. Limited and small scale operation will not require a large amount of outdoor storage-use almost exclusively inside the garage area. A public hearing will be required to consider the permit.

#### Doug Webster/Peak Motion 8916 Sheridan Drive

Applicant is proposing to develop a machine shop with no outdoor storage/display and no exterior changes at 8916 Sheridan Drive. The proposed site is located on the north side of Sheridan Drive, east of Shimerville Road in an existing commercial building located within the Restricted Business Zone. Currently the property is utilized as a detail shop and former collision shop. Per the Zoning Law, the Town Board may consider a use of the property that is not specifically enumerated as an allowed use via a Temporary Conditional Permit. No exterior change to the existing structure, other than signage is proposed. A public hearing will be required to consider the use. ***(Applicant did not purchase the property and asked to be removed from the agenda).***

#### Jeff Vanmarter 10425 Keller Road

Applicant is proposing to create a one lot open development area to allow for another residential home on the property. The proposed site is located on the south side of Keller Road, east of Strickler Road on existing residential use located on 37+/- acres in the Agriculture Rural Residential Zone. Per the Zoning Law, applications are initially presented to the Town Board for preliminary review. A significant amount of wetlands exist on the property. Referral to the Planning Board would initiate a coordinated/comprehensive review of the proposal.

#### Douglas Klotzbach/Victoria Park 10225 Main Street

Applicant is proposing to build a third commercial building at the northeast corner of the property (southwest corner of Main Street and Shisler Road) in existing commercial plaza located in the Clarence Hollow TND. The overall site plan was originally approved in concept to include 3 buildings and 35,000+/- square feet of space. The project was originally built with just 2 buildings and a total of 25,050 square feet. The proposed new structure will include 8,700+/- square feet of space, bringing the total build-out to 33,750 square feet. Per the Zoning Law, cumulative structures greater than 30,000 square feet within the TND will require a Special Exception Use Permit as issued by the Town Board. In addition, the Town Board has final approval authority for the architectural style within the TND. Referral to the Planning Board and the Clarence Hollow Community Character Protection Board will initiate a formal comprehensive review of the project. Ultimately a public hearing at the Town Board level will be required to consider the Special Exception Use Permit.

#### ***Work Session items for consideration March 13, 2013:***

##### Brandon Houck 8189 Tonawanda Creek Road

Applicant is proposing to construct a new home on the property located at 8189 Tonawanda Creek Road. Prior to filing for a building permit, the applicant has access to clean fill and is

proposing to fill the lot to raise the base flood elevation to accommodate a future home. The proposed site is located on the south side of Tonawanda Creek Road, east of Transit Road on vacant land located in the Agriculture Flood Zone. Per Local Law, the Town Board has final authority to approve fill permits. Review and approval by the Town Engineer for a floodplain development permit and fill permit.

#### **Dave Sutton 8825 Sheridan Drive and Overlook Drive**

Applicant is proposing to demolish the existing commercial structure and construct a new mixed use building identifying first floor commercial below two upscale apartments. The site is located on the southwest corner of Sheridan Drive and Overlook Drive on existing mixed use property consisting of .68 acres located within the Restricted Business Zone. Per the Zoning Law, the Town Board has preliminary concept review authority to identify concerns prior to referring this item to the Planning Board for a comprehensive review. Referral to the Planning Board would initiate a comprehensive review. As the project includes two residential units, it is considered a duplex (not multi-family) which is allowed in this zone.

#### **Dave Sutton 6449 Transit Road**

Applicant is proposing to develop a mixed use project with retail/commercial on the ground floor with second story residential units in the front with two residential structures to the rear (4 units per building for a total of 12 units). Per the Zoning Law, the Town Board has preliminary concept review authority to identify concerns prior to referring the item to the Planning Board for a comprehensive review. The project will be classified as a multiple family housing project and would meet current and proposed density requirements.

#### **Northwoods Open Space Design Subdivision**

Applicant is seeking formal acceptance of the DSEIS as drafted and amended. The proposed 148 lot Open Space Design Subdivision is under Environmental Review. The Planning Board has recommended accepting the Draft Supplemental Environmental Impact Statement (DSEIS) as complete. The proposed development is planned for the north side of Greiner Road between Shimerville Road and Shadyside Drive in a residential classification. The Town Board is Lead Agency for the Open Space Design review. Upon acceptance by the Lead Agency, the document will be forwarded to involved agencies and the public for formal comment towards developing an FSEIS.

#### **Gabe's Collision 5871 Transit Road**

Applicant is seeking Town Board approval of a Special Exception Use Permit to allow for the use to be developed at this location. The proposed collision shop, car rental and used car showroom facility will be located on the east side of Transit Road, north of Highland Farms Drive on 2.5+ acres in the Major Arterial Zone. This area was part of the down-zoning of Transit Road in the 2008 Master Plan Amendment. Per the approved Master Plan 2015 amendment of 2008, the area is to be zoned commercial. As the Planning Board has forwarded a recommendation to not allow the SEUP, the matter is at the Town Board for a determination on the matter, the Town Board has final authority to approve Special Exception Use Permits after a require Public Hearing.

#### **Woodland Hills Subdivision**

Applicant is requesting a town sewer district to be formed to service the previously conceptually approved 77 lot subdivision to be located on the south side of Greiner Road, east of Harris Hill Road. A Negative Declaration was issued by the Town Board to allow for the extension of ECSD#5 to service the project. The Town Board has final authority to approve

town sewer district formation. The previously issued Negative Declaration under SEQRA would have to be rescinded if the Town is to consider a town district. The Harris Hill Commons project is also requesting a town sewer district. The Town Board would like to meet with applicant before this request is put on the formal agenda.

### **Supervisor David Hartzell**

- Set a bid date for March 12<sup>th</sup> at 10:00 AM for the purchase of a 2013 Front End Wheel Loader for the Highway Department
- Set a Public Hearing for March 27, 2013 to consider the renewal of the Hydrant Rental contract between the Town of Clarence on behalf of the Harris Hill Fire Protection district and the Master Water Improvement Area of the Town of Lancaster for an additional 5 years
- Approve a Special Event request by Epiphany UCC Church for a 5K walk/run on June 15, 2013
- Approve a Special Event request for the Ride for Roswell to be held on June 22, 2013

The ECIDA approved the move of Kittinger Furniture from Buffalo to Clarence. Supervisor Hartzell thanked Clarence Town Board members, the Planning and Zoning Department, the Planning Board and the employees of the town of Clarence for helping bring this furniture maker that has a worldwide reputation of quality work to Clarence. This is a great project and a good fit for Clarence.

Supervisor Hartzell and Karen Jurek are meeting with ADP on March 7<sup>th</sup> to discuss the impact of Obama Care 2014. Councilman Kolber has suggested the Town research outsourcing our human resource; this will be discussed as well. Director of Administration and Finance Pam Cuvillo will meet with the Alliance of WNY to discuss health care.

Domenic Piestrak is requesting approval to host the Horizons Home Show in Clarence again this year. A sign has already been erected advertising for it. A motion will be made at the next Town Board meeting to officially approve the request.

### **Councilman Bernard Kolber**

Councilman Kolber prepared a resolution to repeal the NY Safe Act (Gun Control Bill S.2230). Town Attorney Meckler will review and prepare a resolution for the next Town Board meeting.

A meeting has been scheduled for March 6<sup>th</sup> with Highway Superintendent Ted Donner regarding brush pickup and possibly putting a pilot program in place. Councilman Casilio would also like to discuss the placement of decals on town vehicles as well. Every vehicle the town owns should be identifiable as a town vehicle.

Approximately 1 1/2 years ago, the TEQR Committee was disbanded and land use actions were changed. Councilman Kolber would like to re-form the TEQR Committee and modify our land use actions to return them closer to the way they used to be. Originally the land use decisions come through the Town Board with referral to the Planning Board. The project will then come back to the Town Board for final review and blessing. TEQR is being done by the Planning Board and there have been comments made that projects could be looked at more thoroughly. Councilman Kolber suggested taking the two Planning Board members doing TEQR now and

appoint the recent applicants who interviewed for the ZBA to reform the TEQR Committee. Their sole task would be to look at a project from a TEQR aspect.

Councilman DiCostanzo questioned whether Councilman Kolber is suggesting the members from the Planning Board leave the Planning Board and go back to the TEQR Committee. Councilman Kolber said they could do that in addition to the Planning Board. Councilman DiCostanzo said the recent ZBA applicants have no knowledge of TEQR. Councilman Kolber stated that was why he would like to see Planning Board representation on the TEQR Committee.

Planning Board Chairman Robert Sackett stated that before he formed an opinion, he would like to know why Councilman Kolber felt the system was not working. To the best of his knowledge, the system is working but he is open to listen to why some people think it is not. Councilman Kolber stated that comments were made (not by him) that projects were not getting as much of a review as they should have. Robert Sackett stated that two TEQR members on the Planning Board meet with Director of Community Development James Callahan prior to the Executive meeting to go over all forms and then the Executive Committee goes over all the forms. They pretty much line up with the motions that are the spirit of the group for that meeting. There are times when the public's input and the applicants input change and the forms need to be reviewed again as new information is brought forward at the public meeting. This happened only once when new information was presented at the time of the meeting and the project had to be put back on the agenda to adjust the TEQR form and deal with the new information being presented. Mr. Sackett stated that the request Councilman Kolber is suggesting may be better discussed in a joint Planning Board/Town Board meeting. Councilman Casilio thought that was a good idea and he would like to also discuss a cap on Multiple Family Residence.

Councilman DiCostanzo stated that he did not like to add layers of administration if it is not needed. Robert Sackett and Paul Shear were the two most active members on the former TEQR Committee, both are on the Planning Board and they still do the reviews. Councilman DiCostanzo would hate to add another committee because it gives the impression that we forward projects on just to slow the project down and he does not want to go back to that. If the Planning Board reviews a project efficiently, he does not feel the need for another board.

#### **Councilman Patrick Casilio**

- Award construction contract management and construction management services for the Clarence Library repairs project to Architecture Unlimited, LLC
- Authorize additional architectural and engineering design services for library repairs and authorize Supervisor to sign amended agreement with Architecture Unlimited

The Day in the Park Committee is requesting Town Board approval to host Bark in the Park on June 29<sup>th</sup> (before Day in the Park festivities begin) from 11AM – 2PM. Committee Chairman Tim Pazda felt that Bark in the Park is one way to make Day in the Park a more viable event; this is the one day of the year that pets will be allowed in the park. A considerable amount of money raised goes to the service organizations.

Councilman Casilio met with the Arboretum Committee; there was discussion about possible water leaking around the drainage pipe at the west end of the pond. The Committee will work with the Highway Department on installing corrective measures. There were other discussions regarding the water levels, but at the present time will take a wait and see approach to see

what happens this summer. Over the years the Arboretum Committee requested a guard rail along Old Goodrich Road however the Highway Superintendent filled in the ditch with drainage pipe so there is no longer a hazard. They are looking at possibly having their funds handled through Friends of Clarence. This may be something the Town Attorney should review. The Arboretum Committee is questioning whether a Restrictive Covenant was ever put in place. Town Attorney Meckler stated that Paralegal Cindy Rosel researched this and there was no formal board resolution on file. Deputy Town Attorney Bengart stated that there was much discussion back and forth as to how the Town Board would proceed with this whether or not there would be a Restrictive Covenant or Conservation Easement. The Town wanted a Restrictive Covenant and the Arboretum Committee preferred a Conservation Easement. There was nothing formally approved. Councilman Casilio will research this further so when he meets with the Arboretum Committee again he has some direction.

Supervisor Hartzell received a call today requesting that the Town of Clarence take over all the paths in the arboretum. They asked that the paths be paved or whatever has to be done to smooth them out. Councilman Casilio stated that the Arboretum was supposed to be self funded.

The Arboretum Committee has approximately 100 trees that have been planted but not sold yet. They need a program put in place to help sell these trees.

The Concert Association is hosting their Winter Gala next Tuesday, March 5<sup>th</sup> at Westwood Country Club.

#### **Councilman Peter DiCostanzo**

The Youth Bureau Annual Speaker Series will be held on March 11<sup>th</sup> at 7PM in the Middle School auditorium. The theme "Have a Goal, Be a Winner, You Don't have to be the Best to be a Success" will be presented by former Buffalo Sabre Rob Ray and Scott McManigle, Director of Player Relations for the Sabres Alumni Association.

The dead line for tax exemptions is March 1<sup>st</sup>.

Four candidates were interviewed for the alternate position on the Zoning Board of Appeals. There are openings on several other committees/boards and could be filled with the applicants who applied for the ZBA position. The Ethics Board position must be filled by a non-republican, non-democrat.

#### **Councilman Robert Geiger**

Councilman Geiger has a letter to read relative to the Deer Abatement Program.

There has been a lot of erroneous information circulating about the fees paid for the Deer Abatement Program. Councilman Geiger will make a motion establishing the fee schedule for the program. Hunters have to pay an extra fee of \$50 in order to get a license to be registered with the DEC. Councilman Geiger thought a fair price on that would be \$35 not \$50. Originally Dennis Londos collected \$15 for every deer shot, last year 211 deer were taken. Instead of putting a bounty on the deer, Mr. Londos will be paid a stipend of \$3000 for the continued implementation of the Deer Abatement Program. The names of all participating hunters will be appointed and made part of the minutes.

Councilman Casilio stated that at the Association of Towns, there was a discussion about appointing every fireman every year. Councilman Casilio felt that if the town has a contract

with the fire company, there was no need to appoint each member every year at the Organizational Meeting. It was also noted that the Town of Clarence has to be listed as Additional Insured on every liability insurance policy. Town Attorney Meckler is reviewing the proposed changes.

Councilman Geiger reported that we received a franchise fee check in the amount of \$124,000. from Time Warner Cable.

Councilman Geiger will make a motion proclaiming the period of March 11 through March 14, 2013 as "Safety Week" in the Town of Clarence.

There was further discussion regarding the Spaulding Lake Homeowners Association request to create a new town sewer district to service the community of 265 households. Councilman DiCostanzo said there is a possibility of getting sewers to Main Street. Director of Community Development James Callahan stated that he has met with Erie County SD #5 and several of the property owners to see their level of interest. We want to limit this to the Spaulding Lake homeowners for a variety of reasons but long term we will have to look at other opportunities to extend that sewer. Town Engineer Lavocat stated that they have to look a boundaries and capacity.

#### **Planning Board Chairman – Robert Sackett**

The Planning Board has forwarded recommendations for two items on the Work Session agenda for consideration on March 13, 2013 one being Northwood's Open Space Design Subdivision and Gabe's Collision. Both of these recommendations involved several meetings. Mr. Sackett would address any questions the Town Board has on either project. The Northwood's project involved four Planning Board meetings and three public meetings. Gabe's Collision involved four Planning Board meetings and three public meetings.

The Planning Board was in favor of the Northwood Open Space Design Subdivision, the applicant brought additional information to the February 20<sup>th</sup> Planning Board meeting. With the additional information, the Planning Board was able to forward for public review.

The Planning Board voted against issuing a Special Exception Use Permit for Gabe's Collision because they did not feel it was an allowed use. The Town Code does say automotive sales are allowed in this zone, there is no equation that automotive sales and automotive collision is the same thing. There was a lot of discussion about protecting the neighborhood. Saturn of Clarence has a collision shop in the back of their building however there are no residences that back up to that. The work performed at Saturn's collision shop is not as extensive as Gabe's Collision would be. The Planning Board spent four Planning Board meetings and three public meetings discussing this project and in the end it was the Boards opinion that this is not an allowed use. The October 17<sup>th</sup> Planning Board meeting brought a lot of protest from the neighbors, a representative for the neighbors was present at last week's meeting.

Councilman Kolber stated that these projects got thorough review. If Gabe's was strictly a car sales operation or an auto repair shop, it would be a permitted use with a Special Exception Use Permit. Director of Community Development James Callahan stated that in the Code, a collision shop is strictly enumerated in the Industrial Zone as allowed with a Special Exception Use Permit. The applicant was also going to use the existing building in the back for storage which was not only a concept problem but an environmental problem – how can the town restrict

what is stored in the building. Further, this building is located in close proximity to a residential neighborhood.

Deputy Town Attorney suggested the Town Board go back and read the minutes as they pertain to this project and should not strictly rely on Chairman Sackett opinion based on what he heard. Bottom line, this is not an allowed use so you cannot issue a Special Exception Use Permit – that is the recommendation of the Planning Board.

Councilman Kolber stated that our current Master Plan is 2015, we are now into 2013. It is time the Planning Board starts working on Master Plan 2025. James Callahan stated the Master Plan has been updated every year looking not only at specific future land use map changes and zoning changes but the overall structure and goals of the community, those have not changed. Farm Land Protection and the mini Master Plan for Parks and Recreation needs to be detailed and become part of the overall structure. Long term, Mr. Callahan has given some thought to creating MP 2025 and it is something they will start to look at.

Supervisor Hartzell said that in reviewing the surveys, the number one thing that most people like about the Town of Clarence is the open green space and the country feel, it is important to preserve that.

James Callahan stated that we have very limited commercial space; there is residential housing along Transit Road. Our job in the Master Plan is to protect those houses. Councilman Kolber stated that the people that bought their lots along Transit Road have to know they are on Transit Road. Mr. Callahan said key elements of the Master Plan is to protect the people along Transit Road, they consider themselves living in the country.

Planning Board Chairman Robert Sackett stated that one of the issues he is working on is signage. We are getting a proliferation of truck signs and LED signs along Transit Road.

Councilman Kolber stated that if the town is going to grow with a balanced tax base and a balanced community, we need to protect industrial and commercial property because we do not have a lot of it.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Work Session at 7:20 PM. Upon roll call – Ayes: All; Noes: None. Motion carried.

Darcy A. Snyder  
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, February 27, 2013 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Robert Geiger; followed by a prayer read by Councilman Geiger.

Members of the Town Board present were Council Members Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, and Town Engineer Timothy Lavocat.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to accept the minutes of the previous work session held February 6, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell announced that last week the ECIDA approved Kittinger's move from Buffalo to Clarence. He thanked his fellow board members, James Callahan from the Zoning Department, the Planning Board and the hardworking employees of the Town of Clarence for helping to bring Kittinger to the Town. Kittinger has a worldwide reputation for quality furniture and they will be doing business right here.

Supervisor Hartzell said he and Karen will be meeting with ADP to talk about the impact of Obamacare on Western New York. There will be ongoing discussions regarding the impact of healthcare on the Town of Clarence between himself, Pam and the Town Board as to how we react to healthcare for our full-time and part-time employees.

Supervisor Hartzell said Dominic Piestrak has requested that the home show return to Clarence again this summer. We will approve a motion at a future meeting. He thinks it will be great for the Town and the local merchants.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to set a bid date of Tuesday, March 12, 2013 at 10:00 a.m. for the purchase of a 2013 Front End Wheel Loader. Bid packages will be available at the Highway Department and the Town Clerk's Office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to set a public hearing for March 27, 2013 at 7:45 p.m. to consider the renewal of the Hydrant Rental contract between the Town of Clarence on behalf of the Harris Hill Fire Protection District and the Master Water Improvement Area of the Town of Lancaster for an additional 5 years. The purpose is to continue to maintain a sufficient supply of water for fire purposes and for the furnishing, erection, maintenance care and replacement of fire hydrants within the boundaries of the Town of Lancaster along the southerly line of Wehrle Drive between Transit Road and David Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to grant a Special Events request by Epiphany UCC Church for the 5K Walk/Run "Red Devil Run For Recovery" to be held June 15, 2013 from 8:00 a.m. until 12:00 noon, subject to Town Attorney review and approval and receipt of the appropriate certificate of insurance.

On the question, Supervisor Hartzell said the route is outlined on the submitted map from Clarence Center to Krause to Goodrich to High. The Roads will re-open as soon as the last runner passes. The NYS Troopers and fire police will be assisting.

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

Motion by Supervisor Hartzell, seconded by Councilman Casilio to grant a Special Events request for the "Ride for Roswell" Cycling fundraiser to be held June 22, 2013 from 6:30 a.m. until 3:00 p.m. subject to Town Attorney review and approval and receipt of the appropriate certificate of insurance.

On the question, Supervisor Hartzell said the route will be a segment of the bike path with portions of the 33, 44, 62.5 and 10 mile routes. All the appropriate agencies will be notified.

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

Councilman Kolber said he is working on improving our brush program so that we can have brush pickup in the summer. It is one of the biggest complaints that we get. It is the best time for the people and the worst time for the Highway Department. The Town Board is going to meet with Highway Supt. Ted Donner to see if he can do as a pilot project.

Councilman Kolber said he had a resolution to present on behalf of a resident of the Town to repeal the NYS Safe Act. The Town Attorney will review the resolution and he will bring it up at a future meeting. It is requesting that, what he believes is a violation of the Second Amendment, to repeal this Act.

Councilman Kolber said he also brought up in the work session to discuss modifications to the way our land use actions are done.

Councilman Kolber congratulated all of the recipients of the Clarence Chamber of Commerce Awards. He is unable to attend the reception.

Motion by Councilman Casilio, seconded by Councilman Kolber to award Construction Contract Management and Construction Management Services for the Clarence Library Repairs Project to Architecture Unlimited, LLC of Clarence, New York in the amount of \$56,000 and to authorize the Supervisor to sign a contract with Architecture Unlimited after review and approval of the Town Attorney's Office, to be funded by Capital Project 31. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to authorize additional Architectural and Engineering services for the Clarence Library Repairs Project expanded scope of work to Architecture Unlimited, LLC of Clarence, New York in the amount of \$17,930 and to authorize the Supervisor to sign the amended agreement with Architecture Unlimited after review and approval of the Town Attorney's Office, to be funded by Capital Project 31. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to grant approval to the Day in the Park Committee to include a "Bark in the Park" event during Day in the Park on Saturday, June 29, 2013 from 11:00 a.m. to 2:00 p.m.

On the question, Councilman Casilio said pet owners will register and receive a leash ribbon to indicate that their pet is allowed in the Park to participate in the dog activities during the designated time. There will be a clean-up crew and the dogs will be allowed only in designated areas. A Certificate of Insurance that will cover the entire event naming the Town as an additional insured will be provided to the Town by the Clarence Lions Club.

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

Councilman Casilio said the Clarence Chamber of Commerce awards dinner is tomorrow night with over 300 tickets sold. It should be a nice event to honor the very deserving recipients.

Councilman Casilio announced that the Clarence Concert Association is holding their Winter Gala at the Westwood Country Club on March 5<sup>th</sup>. This is a major fundraising event for the Association. Anyone interested can call Karen Jurek in the Supervisor's office and she can direct you to get tickets.

Councilman DiCostanzo announced that the Youth Bureau is holding their 4<sup>th</sup> annual speaker series on Monday, March 11<sup>th</sup> at 7:00 in the Middle School Auditorium. It is directed toward kids having goals to be successful. The speakers are former Buffalo Sabre Rob Ray and Scott McManigle, Director of Player Relations for the Alumni Association. A member of the audience will win an autographed hockey stick.

Councilman DiCostanzo announced that the deadline to apply for property tax exemptions is March 1<sup>st</sup> in the Assessor's office.

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

## *Proclamation*

*WHEREAS, in 1935, a group of safety minded individuals in Western New York joined together to discuss the importance of safety education to both workers and management and, after several meetings, these crusaders organized the Western New York Safety Conference; and*

*WHEREAS, it was their aim to supply information, techniques and basic administrative assistance to employees, supervisors, and managers through an annual conference and exhibit in an effort to reduce the number of injuries in the workplace; and*

*WHEREAS, the safety group conducted their first conference and exhibit in the spring of 1936 and are continuing to hold conferences and exhibits annually; and*

*WHEREAS, this conference is attended by some 500 delegates each year and is the largest gathering of safety-oriented and interested people in the Eastern United States; and*

*WHEREAS, the Western New York Safety Conference, Inc., which is celebrating its 77<sup>th</sup> Anniversary in 2013, is an independent, non-profit organization dedicated to the conservation of human lives and the safety and health of the individual through the prevention of accidents and occupational diseases; and*

*WHEREAS, the 77<sup>th</sup> Annual Safety Conference and Trades Exhibit will be held at the Seneca Event Center, Niagara Falls, NY on March 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup>, 2013,*

*NOW, THEREFORE, BE IT*

*RESOLVED, the Clarence Town Board does hereby proclaim the period of March 11 through March 14, 2013 as, "SAFETY WEEK" in the Town of Clarence and urges all Clarence residents to support the conference's many safety objectives during these special days and throughout the year.*

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

Councilman Geiger read a letter from Marilyn Pohlman of Sheridan Hill Drive to the Supervisor regarding their appreciation for the deer abatement program. The program has operated seamlessly in their neighborhood for many years. The hunters are discrete, as they have never seen the program in progress. The meat is donated to the food pantry giving a win-win for everyone. The deer are not eliminated completely, but this program has improved the quality of life in their neighborhood. She encourages the Town to continue the program in accordance with the laws and regulations of the State.

Motion by Councilman Geiger, seconded by Councilman Casilio that the Clarence Town Board hereby establishes the following fees to be paid for the continued implementation of the Deer Abatement Program:

\$3,000.00/year for Deer Abatement Program Coordinator.

\$35.00/per deer – paid to each agent for each deer tag turned in.

On the question, Councilman Geiger said this is no big change in the money amount because last year the coordinator was paid a fee per deer. The reason the fee per deer went from \$25 to \$35 is because they need a \$50 nuisance permit from the Conservation Department.

Councilman Kolber said this is a great program. This year we had to change some things to keep it running by getting all of the participants certified as nuisance wildlife agents. They had to take a 100-question test. We want to have this public service program without it looking like a bounty for going out shooting deer. He thanked Councilman Geiger and Dennis Londos.

Supervisor Hartzell said he receives a lot of questions as to why this program is not run for free. The program was free in the past under John Jondle and it basically stopped after a while. Dennis Londos picked it up and has done an exceptional job. They bring in close to 200 deer per year. It is important to keep the number of deer down.

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

Motion by Councilman Geiger, seconded by Councilman DiCostanzo that pursuant to the preceding resolution the following bills of January 17, 2013 are approved for payment:

Dennis Londos voucher for \$3,630.00  
(\$3,000.00 as Deer Program Coordinator and \$630.00 for shooting 18 deer @ \$35.00 a deer.)

Peter Forrestel..... \$210.00 for 6 deer @ \$35.00 a deer.  
 Charles Riggio.....\$105.00 for 3 deer @ \$35.00 a deer.  
 Mike Petroci Jr.....\$105.00 for 3 deer @ \$35.00 a deer.  
 Richard Richert ..... \$840.00 for 24 deer @ \$35.00 a deer.  
 Martin Bronisz.....\$525.00 for 15 deer @ \$35.00 a deer.  
 Mike Schlabach.....\$70.00 for 2 deer @ \$35.00 deer.  
 Mike Bowers.....\$105.00 for 3 deer @ \$35.00 deer.  
 Carl Schultz.....\$105.00 for 3 deer @ \$35.00 deer.

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

Motion by Councilman Geiger, seconded by Councilman Casilio that the following are the 2012-1013 Deer Nuisance Agents who are residents of the Town of Clarence: Dennis Londos, Daniel Gamin, Michael Bowers, Robert MacKenzie, Rick Richert, Dale Bossert, Nello Paulaccio, Charles Riggio, Carl Schultz, Ron Martin, Marty Bronisz, Roger Brewer, Peter Forrestel, David Hartzell, Joseph Weiss, Fred Rathgeber, Paul McCarthy, Rick Gdanice, Travis Wagner and James Delellis. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger said the Town received a check in the amount of \$124,366.52 from Time Warner Cable representing the franchise fees due.

Supervisor Hartzell thanked Town Clerk Nancy Metzger for doing a fine job at the Clarence-Newstead Fire Police dinner last night.

A Public Hearing was held for the Annual Master Plan Review. James Callahan said Master Plan 2015 was originally adopted in August 2001 and has been an effective guide for all land use decisions. The Town Board holds this public hearing every year to gather input from the public and other interests on the plan. Proposals on specific changes to the future land use map, general changes and/or structural changes and changes to the underlying goals from the community may be heard. Referral to the Planning Board on any proposed changes would initiate a comprehensive review of that proposal. The Town Board would be the final authority for any changes to the Master Plan.

Speaking to the subject:

James Callahan said there are a few things they have been working on that need integration into the plan. In 2012, the Town Board accepted the Agricultural Farmland Protection Plan. This was developed through a grant from NYS Department of Agriculture & Markets. Referral to the Planning Board to come up with the mechanism to integrate into the Master Plan would be appropriate.

Mr. Callahan said that in 2009, they worked on mini-master plans for town parks. They were developed with community input through a consultant, but never taken to the next step. He suggests that the Town Board refer this to the Planning Board and the Recreation Advisory Committee for input and a mechanism to integrate into the Master Plan.

Councilman Kolber said Master Plan 2015 has been kept up to date every year and now we are coming up to 2015. He would like to be proactive and begin developing a master plan going forward.

Christopher Streng of Kulback's Construction is representing ACS located at 8310 Wehrle Drive. They own the adjacent vacant property that is classified as Residential. They would like to use it in a commercial classification. Their proposal would be to construct an office building.

Councilman Kolber said when the present owner purchased this property they were surprised that it was residential. A change to commercial would very heavily impact the residents behind it. They were told ahead of time of the zoning that was in place. This could be quite a challenge to try and change.

Mr. Streng said they would replicate the building to the west.

Councilman DiCostanzo said the difference here is that the people who live behind the existing building knew it was going to be there. The parcel he is referring to did not because it is zoned residential.

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

Motion by Councilman Casilio, seconded by Councilman Geiger that after a Public Hearing duly held this 27<sup>th</sup> day of February 2013, the proposals made during said hearing regarding the Master Plan be referred to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Spaulding Lake Homeowners Association requests the formation of a Town Sewer District to service the existing Spaulding Lake Community of 265 households. James Callahan said this is an existing residential community in the Planned Unit Residential Development Zone consisting of approximately 265 parcels and operates its own wastewater treatment plant. The applicant is present asking the Town to consider creation of a sewer district.

Paul Cambria, President of the Spaulding Lake Homeowners Association said they have been operating their own private sanitation system for over 20 years. It has been upgraded over the years and currently in the middle of a repair and upgrade. The opportunity has now presented itself for establishment of sewer district and a sewer line to service their community. They feel it would be the most efficient way to handle the sewage and he believes eventually spawn additional development in the future. The first step, of many, in the process is for the Town Board to establish a sewer district.

Councilman Casilio said the purpose of this is to fix a problem for the Spaulding Lake community.

Councilman Kolber said there are many parts to this project. He asked what the ramifications would be to the Town to create a sewer district prior to having agreements in place.

James Callahan said the process would show that you have to take an action under SEQR and all of the questions would have to be addressed prior to taking action to create the sewer district.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the request by Spaulding Lake Homeowners Association for the formation of a Town Sewer District to service the existing Spaulding Lake Community of 265 households for a comprehensive review of the proposed project to the Planning Board. On the question, Councilman Casilio said this is not to create the district. It is to address all of the concerns prior to consideration of a district.

Paul Cambria said they would agree that the Town is not liable for the operation of their private sewer handling facility pending all of the steps that need to be accomplished prior to creation of a district. They acknowledge that the Town would not be responsible for them in the interim.

Councilman Casilio said the County does encourage elimination of treatment plants and the tying in to a main system.

Councilman Kolber said he believes it is a better option.

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

Spaulding Green Phase 2B requests Final Plat Approval for a 9+/- sublots and public road dedication of approximately 240 linear feet of Garden Walk and approximately 280 linear feet of Meadowglen Drive. James Callahan said this project is part of the previously approved Spaulding Green Open Space Design Subdivision. This phase received concept and development plan approvals and the submitted plat is consistent with those approvals.

Ken Zollitsch of Greenman and Pederson was present for the applicant. This project is designed to the Town's standards and similar to the previous phase of the development.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, Domenic Piestrak, for Final Plat Approval for the Spaulding Green Subdivision – Phase 2-B and the dedication of public roads to accommodate 9 sublots subject to Town Attorney review and approval and the following conditions:

1. Dedication of approximately 240/- linear feet of Garden Walk; and approximately 280+/- linear feet of Meadowglen Drive.
2. No building permits will be issued until all the appropriate documents necessary to convey said roads to the Town of Clarence are submitted to, reviewed and approved by the Town Attorney.

3. Building permits will not be issued until proof of filing of the approved road deeds, easements and conservation easement and/or deed restriction are submitted to the Town Attorney.
4. Final Plat Approval must comply with all regulatory agency and local department conditions.
5. Appropriate fees paid by applicant.
6. Conditions of Town Engineer.

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

Alex Peters/Kraftmaschine requests a Public Hearing to consider a Temporary Conditional Permit for an automotive service operation at 9265 Main Street. James Callahan said the location is the south side of Main Street, east of Thompson Road consisting of an existing commercial building in the Commercial Zone.

Alex Peters said this was a former repair shop. He restores classic cars. It will be a small operation doing mechanical and service related work. They do not do painting or finish work. There would not be any sale of vehicles. The work is done inside and the building is very well insulated.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for March 27, 2013 at 7:50 p.m. to consider the request for a Temporary Conditional Permit for an automotive service operation at 9265 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell said item 15, a request from Doug Webster/Peak Motion for a Public Hearing to consider a Temporary Conditional Permit for a machine shop at 8916 Sheridan Drive is removed from the agenda at the request of the applicant.

Jeff VanMarter requests Preliminary Concept review of a proposed one-lot Open Development Area at 10425 Keller Road. James Callahan said the location is the south side of Keller Road, east of Strickler Road consisting of one residential property in the Agricultural Rural Residential Zone. The applicant is requesting an additional lot for another residential property. A referral to the Planning Board would initiate a formal review.

Jeff VanMarter said he would like to create an additional driveway. He prefers not to connect to his current driveway.

Councilman DiCostanzo asked if an additional driveway would be a problem. James Callahan said it could be. An open development lot requires 100 ft. between existing and proposed driveways.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the request by Jeff VanMarter for Preliminary Concept review of a proposed one-lot Open Development Area at 10425 Keller Road to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Douglas Klotzbach/Victoria Park requests a Special Exception Use Permit for structures exceeding 30,000 sq. ft. in total in the TND; and Architectural Approval for a third commercial building at 10225 Main Street. James Callahan said the location is the southwest corner of Main Street and Shisler Road consisting of an existing commercial plaza in the Traditional Neighborhood District and the Clarence Hollow Overlay.

Douglas Klotzbach said this is the same building that was approved in 1989 and in 2004 utilizing the asphalt area along Main Street. There is an area for additional parking if it is necessary. They propose to do the parking to the east of the proposed building.

Councilman DiCostanzo asked if they had any tenants for this space.

Mr. Klotzbach said almost all of the existing units are full. It is a really nice facility with a park like setting.

Councilman Kolber said he has heard that there has been parking in the right-of-way and shortage of parking in terms of our codes. He would like the Planning Board to take a look at it. It would be a good project.

Motion by Councilman Kolber, seconded by Councilman Casilio to refer the request for a Special Exception Use Permit for structures exceeding 30,000 sq. ft. in total in the TND; and Architectural Approval for a third commercial building at 10225 Main Street to the Planning Board for a comprehensive review; and to the Clarence Hollow Community Character Protection Board for their review. On the question, Councilman DiCostanzo asked if we could amend the motion to include referral to the Clarence Hollow Community Character Protection Board. Councilman Casilio said he believes that is automatic in the TND. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence High School Rifle Team – March 14, 2013; B. Daniel Gregorio – Sept. 14 & 15, 2013; C. Clarence Contemporary Club – Sept. 23 & 24, 2013; Legion Hall Applications – A. Marsha Jacobs – Feb. 24, 2013; B. Brian Decker – May 4, 2013; Nature Center Lodge – A. Garden Friends of Clarence – June 12, 2013; and B. Donald Gray – Oct. 12, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of February 28, 2013 are approved for payment: General Fund - \$465,894.53; Highway Fund - \$100,325.66; Water District - \$3,409.92; Sewer Districts - \$289.43; Capital Fund - \$10,399.25; and Trust & Agency 205 - \$80.00 for a total amount of \$580,398.79. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:28 p.m. in honor of Judy Shisler who has retired after 25 years of service with the Town; and in memory of Steven Kelkenberg, son of Parks Department employee Brett Kelkenberg.

Nancy C. Metzger  
Town Clerk