

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, May 9, 2012, 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, Peter DiCostanzo and Robert Geiger. Councilman Casilio was absent. Other Town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith and Planning Board Chairman Albert Schultz.

Director of Community Development – James Callahan

Public Hearings:

Joe Voelkl 6041 Transit Road

Applicant is proposing to develop an office park on existing vacant land containing 9+/- acres. The proposed site is located on the east side of Transit Road, north of Clarence Center Road in the Commercial and Residential Single Family Zones. Approvals required include a zoning change in conformance with previously adopted MP2015 Amendments and a Special Exception Use Permit for building size and cumulative size of structures exceeding 30,000 square feet. Per the Zoning Law, the Town Board has final authority to approve zoning changes and Special Exception Use Permits.

Formal Agenda items:

Affordable Senior Housing of WNY – 8040 Roll Road

Applicant is proposing to develop a 3-story senior apartment complex containing 125 units with associated parking and landscaping. The proposed site is located on the north side of Roll Road, east of Transit Road on existing vacant and residential property containing 9+/- acres in the Commercial and Residential Single-Family Zone. The Town Board recently approved a Master Plan 2015 amendment to allow for Commercial and Restricted Business Zoning on the property. Per the Zoning Law, the Town Board is the final authority for zoning amendments as well a Special Exception Use Permits required for multi-family housing in the Commercial and Restricted Business Zones. The Planning Board has forwarded a recommendation to proceed with the required Zoning Map amendments. A Negative Declaration under SEQRA was previously issued by the Town Board on the proposed zoning amendment. The Planning Board has approved the Concept Plan as amended and has forwarded a positive recommendation to issue the Special Exception Use Permit on the project as amended. ***(Applicant asked to be removed from the agenda).***

Adam Bomb Productions – Eastern Hills Mall 4545 Transit Road

Applicant is proposing a day long Special Event in the Eastern Hills Mall parking lot on July 21, 2012. Per the Special Event Law, the Town Board may approve community wide special events.

Duff's Famous Wings/Kurt Feather – Eastern Hills Mall 4545 Transit Road

Applicant is seeking a Temporary Conditional Permit for outside dining at existing vacant restaurant space within existing shopping mall located in the Major Arterial Zone. Applicant is seeking a Temporary Conditional Permit for outside dining. Per the Zoning Law, the Town Board has final review and approval authority for Temporary Conditional Permits. A Public Hearing is required to consider the permit.

Work Session items for consideration May 23, 2012:

Metzger Civil Engineering – 8080 Wehrle Drive

Applicant is proposing to develop a market rate multi-family housing project. The proposed site is situated on the north side of Wehrle Drive, east of Transit Road on existing vacant land located in the Commercial Zone containing 13.82+/- acres. A Concept Plan for an office park was previously approved by the Planning Board in 2001. Per the Zoning Law, the Town Board has authority to approve multi-family residential projects with a Special Exception Use Permit.

Brookfield Country Club

Applicant is seeking approval for fireworks display permit on May 27, June 16, July 4, July 14 and August 25, 2012. The Town Board has local authority to approve fireworks display permits. The required applications, fees, site plans, insurance certificates and fire chief approvals are on file.

Town Attorney Meckler did research on fireworks displays and one of the items noted was that anyone can shoot off fireworks as long as they have the required permits and it is open to public viewing. Supervisor Hartzell suggested that anyone requesting a fireworks permit be required to put notice in the Clarence Bee stating that they received a fireworks permit from the Town of Clarence and invite the citizens of Clarence to come watch the fireworks display. Town Attorney Meckler stated that the way he read the law was that the fireworks have to be available for public viewing as practicable. So you don't necessarily have to provide entrance to your facility or property but parking along the road so viewing is possible. If it is for a wedding or private event, the applicant would be responsible for public control.

Councilman Kolber stated that State Law supersedes Town Law.

Town Attorney Meckler stated that there are several specific requirements in the law that the applicant has to meet (insurance, safety requirements, public control etc.) and if they meet all those requirements then the town does not have much of an option.

Supervisor Hartzell felt that if someone has obtained a fireworks permit, the public should be made aware of it and know that they are available to view.

Deputy Town Clerk Darcy Snyder stated that in the past, Brookfield Country Club has notified the town that they do not want our office publicizing their country club as a place to view fireworks on the Fourth of July. Their fireworks display is for members only.

Rock Oak West/Stephen Development

A Special Exception Use Permit was approved for the latest expansion to the existing manufactured housing park. The applicant is asking for an amendment to one of the conditions and that was to have the roads totally paved prior to the first home installation. The Homeowners Association was in agreement with this request.

The Valley Bar and Grill – 10651 Main Street

Applicant is requesting outside dining along Sawmill Road frontage. Councilman Geiger stated that because of the location, he would like to see some type of safety measures put in place.

Senior Building Inspector – David Metzger

Dave Metzger attended a training program relative to the American with Disabilities Act. The instructor is the head coordinator for the Town of Amherst and is also a Niagara University Professor. It appears that municipalities have not caught up with the 20 year old ADA Law as much as they should have as far as appointing a coordinator and the tasks that go along with that position. The Town of Amherst has a committee of 19 members. Mr. Metzger is assuming the Town of Clarence will have a smaller committee if it comes down to that. He will provide more information to the Board as it becomes available.

Building Safety month is under way; there is a display in the lobby.

Planning Board Chairman – Al Schultz

There are several Planning Board agenda items for review. Niagara County Produce has been with the DEC for SEQR review for the past several months, they finally released it and the Planning Board will review for Concept Approval. Towne Mini came to the table and did a lot of work making that site meet the required issues that the Town Board brought up.

Town Engineer – Timothy Lavocat

The Engineering Department will be developing a technical scope of work relative to repairs to the Clarence Public Library. They will then solicit four architectural firms. It will be a comprehensive scope which includes qualifications, fees, a list of their subcontractors and design subcontractors they use. Supervisor Hartzell asked if the bid will be by invitation only. Town Engineer Lavocat stated that it would be by invitation only; if it was opened up to everyone in Erie County the Engineering Office would have to review 30 – 40 proposals that could take months to go through. Legally, Mr. Lavocat can pick four WNY firms that have expertise in building issues such as we are dealing with at the library.

There are currently two openings on the Recreation Advisory Board. Joel Radder was present and gave his background and expertise. He expressed his desire to be appointed to the Recreation Advisory Board. Two other applicants have expressed a desire to be appointed to the RAC as well but were not able to attend tonight's meeting. Supervisor Hartzell has offered to meet with them at their convenience and will let the Town Board when those meetings will take place so they can meet the applicants as well.

Supervisor David Hartzell

Supervisor Hartzell met with an Aflac representative and is considering putting together a cafeteria style benefit plan for town employees. It would not cost taxpayers anything and would mean a deduction to any employee wishing to take advantage of the plan. Director of Administration and Finance Pam Smith stated that we already have a lot of benefits that we are already utilizing as far as health insurance and life insurance. She has looked into Aflac and while they say there is no cost to the town, if certain things are not met, there is a cost to the town and it becomes the town's responsibility to pay that. There are some hidden things that the representatives do not always tell you about, until you start researching and asking questions. Pam Smith stated that she has spoken to three different Aflac representatives and they all say the same thing until you start asking questions and giving them different scenarios it then could become the town's responsibility to pay.

Supervisor Hartzell said there are similar disability programs, Aflac was just an example. He does not want any cost to the town. This item will be tabled for two weeks.

Supervisor Hartzell has several motions for the regular meeting:

- Upcoming rabies clinic
- Proclamation proclaiming May 2012 as Building Safety Month
- Bond Resolution for acquisition of highway equipment
- 4145 Fireside Drive So. – property maintenance
- Award Earth Dimensions, Inc. to perform subsurface investigation for proposed Brookhaven Drive Sanitary Sewer
- Appoint Jacob Woodward Engineering Aide PT Seasonal in the Engineering Department
- Appoint Labor PT-Seasonal for Highway Department
- Hire Joseph Braunscheidel as Traffic Signal Consultant for the Highway Department

The Bond Resolution for highway equipment is a five year plan for the purchase of equipment. Highway Superintendent Donner would have to come before the Town Board for specific equipment purchases.

Senior Building Inspector David Metzger stated that the property maintenance contract for 4145 Fireside Drive South should be from June through October, 2012. Currently the contract reads July through November.

Councilman Kolber asked if there would be funds for the Brookhaven Drive sanitary sewer. Town Engineer Lavocat stated that there is a remaining balance in Sewer District #9 which he will use for Brookhaven Drive, at this point in time he is planning on doing the entire length. The information from Earth Dimensions, Inc. will determine cost per foot.

Supervisor Hartzell met with the Grant writer and asked if there was any money available for sewers. He was told that earlier in the year the answer was no however the Grant writer said that within the past thirty days grant money has opened up for sewers if it provides an economic benefit to the Town of Clarence. It would be an advantage for the town if we could sewer Harris Hill and Roll Road area which is all industrial and commercial development.

Councilman Bernard Kolber

Councilman Kolber will make a motion to adopt a Bond Resolution authorizing the acquisition of Parks Equipment.

Approve an un-paid internship for the Parks Security Department. The intern will be shadowing the security officers and will not drive any town vehicles.

Councilman Kolber drove through the intersection of Greiner and Shimerville Road where contractors are working on installing a traffic signal. The traffic going through the intersection along with the contractors working is creating a "dust storm." Councilman Kolber will suggest to the contractor that something be done to alleviate the problem.

Supervisor Hartzell has received numerous phone calls from residents regarding this intersection. Several people have requested information and are referred to Erie County. Supervisor Hartzell will contact the County to see if they can provide the town with a two page informational sheet giving the history, facts and some statistics on this intersection. Town Engineer Lavocat stated that he has the technical specs and plans in his office if anyone wants to review them.

Councilman Kolber stated that when Erie County first approached the Town of Clarence regarding the intersection at Greiner and Shimerville Road, they were clear that keeping that intersection a four-way stop was not an option and if there was not a round-about, it was going to be signalized. The four-way stop does not meet their standards. Even though many people thought the stop signs were adequate, the County did not. These are County roads and for them to install a traffic light to their standards, they have to do lane improvements. Councilman Kolber has responded to everyone who has e-mailed him and has gotten some mixed responses back. The project has been bid out and is moving forward. We should not waste town resources on something we cannot change. Councilman Geiger was in favor of Supervisor Hartzell's suggestion in putting an informational sheet together for anyone who requests a background on this project.

Councilman Peter DiCostanzo

Upon recommendation of Parks Crew Chief James Burkard, Councilman DiCostanzo will appoint Laborers Part Time Seasonal for the Parks Department. These individuals will replace personnel that were previously hired but due to conflicts will not be able to work.

Councilman DiCostanzo will make a motion to amend a Bond Resolution for Parks Department office and shop buildings. The bids came in way over budget and were rejected, the project is being rebid. To be prepared for the bids, the borrowing amount was increased, while they are not anticipating using the full amount, they are anticipating the bids coming in higher – it is a competitive bid.

Per the recommendation of Lumsden & McCormick, LLP auditors for the Town of Clarence, Councilman DiCostanzo will make a motion to close Waste Water Districts 1 & 3, funds will be closed and the balance will be moved into the General Fund.

Councilman DiCostanzo will make a motion implementing the auditor's recommendations outlined in the April 25, 2012 Management Letter.

There are two openings on the Ethics Board, neither appointment can be Republican.

Councilman DiCostanzo has one Attorney-Client item and one item pertaining to the sale of real property to discuss in Executive Session.

Councilman Robert Geiger

Councilman Geiger will announce several upcoming events taking place in Town and the events that took place at the Historical Society over the weekend.

Councilman Geiger will make a motion to adopt a Bond Resolution for construction improvements to the town pool. Town Engineer Lavocat stated that the pool will be resurfaced. This will eliminate the yearly on-going maintenance. This project will go out for bid this fall and construction will begin next spring to be ready for next summer.

Councilman Geiger will award the bid for grass and weed cutting services for 2012 to Grass Masters Landscape and Design.

Councilman Geiger will make a motion to authorize NYSEG to activate street lights in Amber Meadows Subdivision.

The Parks Department will install historical plaques at the Log Cabin and the Clarence Historical Museum. Assistant Director of Community Development Brad Packard obtained a grant for the purchase of the historical plaques which will be given to properties designated as historic.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to enter into Executive Session pursuant to § 105(1) H the proposed sale of real property. On the question, Councilman DiCostanzo has one Attorney-Client item to discuss. James Callahan was asked to remain in the meeting. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Kolber and Supervisor Hartzell; Noes: None. Absent: Councilman Casilio. Motion carried.

There being no further business, the Work Session adjourned at 7:55 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Executive Session at 7:25 PM. Upon roll call - Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Kolber and Supervisor Hartzell; Noes: None. Absent: Councilman Casilio. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, May 9, 2012 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:35 p.m. A moment of silence was followed by the pledge to the flag led by Supervisor Hartzell and Campbell Hardick, a second grader from Sheridan Hill Elementary School.

Members of the Town Board present were Councilmembers Bernard Kolber, Peter DiCostanzo, Robert Geiger and Supervisor Hartzell. Councilman Patrick Casilio was absent. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Sr. Building Inspector David Metzger and Planning Board Chairman Al Schultz.

Supervisor Hartzell announced that items 13 and 14 have been removed from the agenda at the applicant's request.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to accept the minutes of the previous meeting held April 25, 2012. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Supervisor Hartzell announced that Erie County Department of Health is holding a Free Rabies Clinic at the Clarence Highway Garage on September 12, 2012 from 4:00 to 7:00 p.m.

Supervisor Hartzell read the following proclamation recognizing National Building Safety Month:

Proclamation

WHEREAS, Building Safety is a critical component of our homeland security, our personal and public safety, the protection of property and our economic well-being; and

WHEREAS, modern building safety codes and standards help to withstand, mitigate and rapidly recover from natural disasters such as hurricanes, winter storms, tornadoes, earthquakes, floods and wildfires; and

WHEREAS, it is the collective responsibility, as a nation, that public and private sectors as well as nonprofits organizations work to develop and to implement effective standards and codes that sustain safe and resilient structures; and

WHEREAS, national, state, and local building safety and fire prevention officials, architects, engineers, builders, laborers and others in the construction industry work every day to ensure the sound construction of buildings and the safety of our citizens; and

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board encourages our citizens to recognize and support “National Building Safety Month” and to learn more about how they can contribute to building safety at home and throughout the Clarence community; and be it further

RESOLVED, that the Clarence Town Board hereby proclaims May of 2012 as “Building Safety Month” in the Town of Clarence.

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

RESOLVED, that the Clarence Town Board adopts a Bond Resolution of the Town of Clarence, New York, adopted May 9, 2012, authorizing the acquisition of Highway Equipment, stating the estimated maximum cost thereof is \$1,507,000, appropriating said amount for such purpose, and authorizing the issuance of \$1,507,000 bonds of said Town to finance said appropriation, subject to a permissive referendum.

On the question, Supervisor Hartzell said a complete copy of the extract of minutes for said Bond Resolution will be on file in the office of the Town Clerk.

Councilman Kolber added that this is for the anticipated purchases over the next five years.

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

Motion by Supervisor Hartzell, seconded by Councilman Kolber that pursuant to the provisions in the Clarence Town Code – Property Maintenance (Chapter 155), the Clarence Town Board, upon the recommendation of the Senior Code Enforcement Officer, approves the hiring of The Tree Doctor to maintain the property located at 4145 Fireside Drive South for an amount not to exceed \$1,400.00.

On the question, Supervisor Hartzell said the Tree Doctor is specially trained in the removal of noxious weeds including Giant Hogweed which has been historically present on the property. This is to prevent the noxious weeds from regenerating and spreading to surrounding properties. The contract is from 6/1/12 through 10/31/12.

Councilman Kolber said this property has been a problem for quite some time with an absentee owner. There will be a lien on the property so the taxpayers will not be responsible.

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

Motion by Supervisor Hartzell, seconded by Councilman Kolber to award Earth Dimensions, Inc. of Elma New York to perform subsurface investigation for the proposed Brookhaven Drive Sanitary Sewer for an amount to exceed \$4,700 in accordance with their proposal dated March 30, 2012.

On the question, Supervisor Hartzell said Earth Dimensions, Inc. was the lowest responsive proposal received. These services are to perform probes and soil bores to determine depth to bedrock and soil classification along the proposed sewer route. This project is to be paid from Capital Project 55.

Councilman Kolber said this is the next phase of the Clarence Hollow Sewer project with money that is left in the bond.

Town Engineer Tim Lavocat said this is the final project under that bond.

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

Motion by Supervisor Hartzell, seconded by Councilman Geiger to appoint Jacob Woodward to the position of Engineering Aide PT-Seasonal in the Engineering Department effective May 14, 2012 at the rate of \$11.03 per hour, subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to make the following appointments to the position of Laborer PT-Seasonal for the Highway Department at a rate of \$8.61 per hour, effective May 21, 2012 and subject to receipt of all pre-employment paperwork and pre-employment requirements being met: Anthony Bonaventura, John Bosela, Christopher Cournan, Theodore Jarmuz, Edward Kohout and Rustin McNiff. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to hire Joseph Braunscheidel as a Traffic Signal Consultant for the Highway Department to assist in traffic signal maintenance and road marking at the rate of \$60 per hour effective May 14, 2012 through September 1, 2012 on an as needed basis. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to approve an unpaid internship for the Parks Security Department for the period of May 10, 2012 to and including May 31, 2012 to Jeffrey O'Donnell a senior at Clarence High School and enrolled in the Criminal Justice Program at Erie 1 BOCES Career and Technical Center.

On the question, Councilman Kolber said the intern will be shadowing the security officers, will not drive any the security or Town vehicles, will not participate in any activity that would involve a security officer's contact with the public in the scope of his duties and will remain in the vehicle if this occurs. A certificate of insurance naming the Town as an additional insured will be provided by Erie 1 BOCES.

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

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

RESOLVED, that the Clarence Town Board adopts a Bond Resolution of the Town of Clarence, New York, adopted May 9, 2012, authorizing the acquisition of Parks Equipment, stating the estimated maximum cost thereof is \$305,000, appropriating said amount for such purpose, and authorizing the issuance of \$305,000 bonds of said Town to finance said appropriation, subject to a permissive referendum.

On the question, Councilman Kolber said a complete copy of the extract of minutes for said Bond Resolution will be on file in the office of the Town Clerk. This is like the Highway, in that it is for purchases over the next five years.

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

Councilman Kolber said there was an article in the Bee last week about the coyote issue in Town. He has been hearing them around his neighborhood. They seem to be getting very bold. He suggested that people watch out for their pets and if they would like more information, they can contact the DEC.

Councilman Kolber said the construction has begun at Shimerville and Greiner Roads. There is quite a bit of dust being stirred up. They are going to contact the County to see if they could do some dust mitigation to keep it down.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint the following to the position of Laborer PT-Seasonal in the Parks Department at the budgeted rate of \$8.61 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements being met: Michael Ferry effective 5/29/12 and Eric Funk effective 5/21/12.

On the question, Councilman DiCostanzo said we had hired two other people at the last meeting, but they are unable to take the job.

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

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to adopt the following resolution of the Town of Clarence, New York, on May 9, 2012, amending the Bond resolution adopted MAY 11, 2011 as follows:

WHEREAS, the Clarence Town Board, County of Erie, New York, duly authorized the construction of improvements to the Parks office/shop building at the estimated maximum cost of \$90,000, which amount was appropriated for such purpose pursuant to the bond resolution adopted by the Town Board on May 11, 2011; and

WHEREAS, due to an increase in costs of the project, the estimated total cost of said project has now been determined to be \$150,000, and it is necessary and in the public interest to increase the appropriation by \$60,000 and to amend the bond resolution to reflect such increase and to authorize the issuance of additional serial bonds to finance the additional cost.

NOW, THEREFORE, BE IT

RESOLVED, that the Bond Resolution of said Town adopted by the Town Board on May 11, 2011, entitled:

Bond Resolution of the Town of Clarence, New York, adopted May 11, 2011, authorizing the construction of improvements to the Parks office/shop building, stating the estimated maximum cost thereof is \$90,000, appropriating said amount for such purpose, and authorizing the issuance of \$90,000 bonds of said Town to finance said appropriation, is hereby amended to read as follows:

Bond Resolution of the Town of Clarence, New York, adopted May 11, 2011 and amended May 9, 2012, authorizing the construction of improvements to the Parks Office/Shop Building, stating the estimated maximum cost thereof is \$150,000, appropriating said amount for such purpose, and authorizing the issuance of \$150,000 bonds of said town to finance said appropriation, subject to a permissive referendum.

On the question, Councilman DiCostanzo said a complete copy of the extract of minutes for said Bond Resolution will be on file in the office of the Town Clerk.

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

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that per the recommendation of Lumsden & McCormick, LLP, Auditor for the Town of Clarence relative to

the requirements of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, the Waste Water Districts 1 & 3 Funds will be closed and the balance in the amount of \$728.00 will be moved into the Town of Clarence General Fund. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to implement the internal control recommendations outlined in the April 25, 2012 Management Letter of Lumsden & McCormick, LLP Auditors for the Town of Clarence. On the question, Councilman DiCostanzo said the recommendations will be implemented with the assistance of the Town's Audit Committee if needed. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Councilman DiCostanzo said there are two openings on the Ethics Board. They cannot be filled by a Republican and only one could be filled with a Democrat.

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

RESOLVED, that the Clarence Town Board adopts a Bond Resolution of the Town of Clarence, New York, dated May 9, 2012, authorizing the construction of improvements to the Pool at the Main Town Park, stating the estimated maximum cost thereof is \$125,000, appropriating said amount for such purpose, and authorizing the issuance of \$125,000 bonds of said Town to finance said appropriation, subject to a permissive referendum.

On the question, Councilman Geiger said a complete copy of the extract of minutes for said Bond Resolution will be on file in the office of the Town Clerk.

Councilman Kolber said the pool was built about 35 years ago and we have had some substantial repairs done over the years. We have found a more cost effective solution to resurface rather than replace the pool. The work will not be done until 2013.

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

Motion by Councilman Geiger, seconded by Councilman Kolber to award the bid for Grass and Weed Cutting Services for 2012 to Grass Masters Landscape and Design per the submitted quote.

On the question, Councilman Geiger said the contractor will be dispatched to properties on an as needed basis and will be contacted by the Code Enforcement Department pursuant to Clarence Town Code - Chapter 155 – Property Maintenance. Grass Masters Landscape and Design was the only bidder.

Councilman Kolber had a question about a statement at the bottom of the non-collusive affidavit about not to be notarized by city staff.

Town Attorney Lawrence Meckler said he does not know why that would be on there. He will check on it, but does not want to hold up the approval.

Town Clerk Nancy Metzger said it appears that they may have copied a form from someone else and that was their rule. A notary is a notary.

Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to authorize NYSEG to activate Thirteen (13) street lights in the Amber Meadows Subdivision on Jessica Place, Samantha Lane, and Haley Court, per the approved street light layout as proposed by NYSEG and as per "as-builts" submitted. Standards, fixtures and underground conductors to be installed by the developer. Conductors, fixtures, and standards to be owned and maintained by the Town of Clarence. Connection, energy lamp and photo electric eye replacements to be supplied and maintained by NYSEG under the terms and conditions covered in NYSEG's street lighting agreement with the Town of Clarence. Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Councilman Geiger said Troop 250 installed sidewalks in front of the historical museum over the weekend. They moved the wagon and cleaned up the log cabin. Plaques will be placed on the log cabin and the museum by the Parks Department.

Councilman Geiger thanked members of the Presbyterian Church who volunteered to do cleanup around the Nature Center.

Councilman Geiger said the Senior Center is holding a Flea Market on June 9th. They are also going to be looking at a van in the near future.

The Relay for Life is going to be taking place from the high school. Information is available in the hall.

A Public Hearing was held to consider adoption of a Local Law to amend the Code of the Town of Clarence Chapter 229 Zoning: Attachment 3 - Zoning Map, rezoning property identified as SBL #43.17-5-28 from Major Arterial to entirely Restricted Business; and SBL #43.17-5-1.112, also known as 6041 Transit Road, from Major Arterial and Residential Single Family to entirely Restricted Business in accordance with Master Plan 2015. James Callahan said the location is the east side of Transit Road north of Clarence Center Road consisting of vacant land. Per the 2008 amendment to Master Plan 2015, it is recommended to be rezoned to Restricted Business. The Town Board issued a Negative Declaration and the Planning Board has forwarded a recommendation.

Dave Sutton, architect was present. They have modified the plan based on recommendations. This is in conjunction with the Buffalo Pharmacy project that was recently constructed. There will be four buildings with 45,000 sq. ft. of office space in a business park environment. They changed the orientation of the buildings and created more green space. The engineer, Michael Metzger and contractor Russ Anderson were also present.

Supervisor Hartzell said Buffalo Pharmacy is a beautiful building and the project will be a great enhancement to the property.

Councilman Kolber said there is less building and better quality than the previous proposal. It is a much better project.

Speaking to the subject:

Monika Dipert said her property is adjacent to this proposed development. She and her husband have concerns. Last year when the land was cleared, they saw a significant increase of flooding in their yard and it does not drain.

Councilman Kolber asked what site work was done and what can be done to mitigate this.

Dave Sutton said he is not sure what occurred to bring on the excess water. The development has not happened yet. This will be an engineered site plan that will address all surface drainage collected. When the project is completed, they are responsible for all water on their property. All they have done is cleaned up the property.

Councilman Kolber said the previous applicant met with the neighbors and got their support for the project. He asked if they have met with the neighbors.

Dave Sutton said they did with the Buffalo Pharmacy project a couple years ago. They could meet with them prior to site plan review with the Planning Board so the neighbors are aware of what they are doing.

Mrs. Dipert said they are also concerned about lighting the parking lot.

Dave Sutton said they are obligated not to allow the light to go past the property line. They will respect the neighbors.

Steve Dale said they indicated at the Planning Board meeting that they were going to take out some of the parking spaces on the south side and some on the island on the west side.

Dave Sutton said the Planning Board made some recommendations regarding the parking. What is shown is what is required. They have agreed to show them, but would only use them if needed. It increases the greenspace. The intention is to have the Planning Board approve a site plan allowing for them to bank some of the spaces. There will be pedestrian walkways between buildings.

Councilman Kolber asked what the width of the buffers is and will it remain in a natural vegetative state.

Dave Sutton said the setbacks for the buildings are 45 ft. There is a proposed detention area at the south end of the property. They will maintain as much as they can, but will also enhance it. The landscape will consist of new and existing.

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

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

Resolved, that after a public hearing duly held on May 9, 2012 and after all interested parties being heard, the Clarence Town Board adopts Local Law No. 1 of the year 2012 amending the Code of the Town of Clarence, Chapter 229 – Zoning: Attachment 3 - Zoning Map, rezoning property from Commercial and Residential Single-Family to Restricted Business in accordance with previously approved Master Plan 2015 amendments to accommodate a proposed office park at 6041 Transit Road. This local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

A Public Hearing was held to consider the request for a Special Exception Use Permit for a proposed office park at 6041 Transit Road. James Callahan said with the change in zoning the Town Board may now consider a Special Exception Use Permit for the proposed office park. The size of the individual buildings, as well as, the cumulative size triggers the issuance of this permit.

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

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

RESOLVED, that the Clarence Town Board, after a public hearing duly held on May 9, 2012, and after all interested parties being heard, grants a Special Exception Use Permit for an office park at 6041 Transit Road, subject to the following conditions:

1. As per the final concept approval submitted by Metzger Civil Engineering on March 8, 2012 as approved by the Planning Board on March 21, 2012.
2. Parking is to be land-banked at the southern property line and other areas as noted by the Planning Board.
3. Installation of walkways between the buildings those are parallel to Transit Road.
4. Subject to Planning Board approval of Development Plans and landscaping by the Landscape Committee
5. Subject to appropriate fees.
6. Developer to arrange a meeting with the neighbors of the property to include the Town Engineer.
7. Developer attempt to save some of the vegetation on the southern property line.

Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Paul DiLellia of Adambomb Productions requests a Special Event Permit for a community wide event on July 21, 2012 at Eastern Hills Mall. James Callahan said the applicant is requesting a special event and per Town law the Town Board can approve such events.

Paul and Dawn DiLellia were present. The event is called “Buffalo Nights in America” presented by WBBZ-TV. It highlights Buffalo artists, food, music, etc. They are going to live-stream the events from Eastern Hills Mall to and from 60+ cities around the US that have a Buffalo fan base. They will have parties that same day. They did an event at the mall last summer that was very successful. Mr. DiLellia said he has also been a director of operations at Darien Lake for many years.

Mr. DiLellia said they expect 7,000 to 10,000 people to attend. It would include a beer garden that is roped off. They have security and Harris Hill Fire Company for emergencies. The stage is within a trailer, not a standalone unit.

Motion by Councilman Kolber, seconded by Councilman Geiger to grant a Special Event Permit to the applicant, Paul DiLellia/Adambomb Productions, for a community wide event at

Eastern Hills Mall on July 21, 2012, subject to approval of all appropriate public safety agencies. Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Kurt Feather of Duff's Famous Wings requests a Public Hearing to consider a Temporary Conditional Permit for outside dining for new restaurant at Eastern Hills Mall. James Callahan said the location is a vacant space at the Eastern Hills Mall.

Kurt Feather said they are taking over the previous Brick Oven Pizza and they would like to have outside dining on the existing patio area. They would add a railing around the patio.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to set a Public Hearing for June 13, 2012 at 7:55 p.m. to consider a Temporary Conditional Permit for outside dining for new restaurant, Duff's Famous Wings, at Eastern Hills Mall. Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to approve the following: Clubhouse Applications - A. Clarence Youth Bureau – July 24, 26, 31, Aug. 2, 7 & 9, 2012; B. Clarence Women's Club – Sept. 17, Oct. 8 & Nov. 12, 2012; C. Clarence Republican Committee – May 17, 2012; Legion Hall Applications – A. Doug & Nancy Roba – June 9, 2012; B. Linda Mittner – July 7, 2012; C. Tiffani Balch – July 8, 2012; Park Pavilion Special Requests – A. Clarence Chamber of Commerce – Aug. 6 & 7, 2012; B. Rotary Club of Clarence – June 1-3, 2012; and C. Town of Clarence Baseball Association – May 18, 2012. Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo that after proper audit and review by the Town Board, the following bills of May 10, 2012 are approved for payment: General Fund - \$65,783.41; Highway Fund - \$74,958.22; Water District - \$35,954.16; Capital Fund - \$1,177,209.16; and Trust & Agency 203 - \$1,140.00 for a total amount of \$1,355,044.95. On the question, Councilman DiCostanzo said the amount in the Capital Fund is for a property purchased under the greenprint program that recently closed. Upon roll call - Ayes: All; Noes: None. Absent: Councilman Patrick Casilio. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:37 p.m. in honor of Lucille Michnik, mother of Daniel Michnik who is Vice Chairman of the Zoning Board of Appeals.

Nancy C. Metzger
Town Clerk