

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, May 22, 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, Senior Building Inspector David Metzger, Confidential Secretary to the Supervisor Karen Jurek, and Director of Administration and Finance Pam Cuvillo.

**Clarence Little League Football, Inc. – James Dussing and Paul Englert**

James Dussing and Paul Englert representing Clarence Little League Football presented plans to the Town Board for a new field house at Sunset Park. The project has been in the works for three years, they have had previous discussions with the Parks Department and the Town Board. The current facility was built in the early 1960's and has been repurposed several times and is well passed its lifespan. Over the years, the league has weighed their options and in talking to several Town Boards and the town in general the consensus is to reuse Sunset Park by building a new facility. The league has held several meetings with builders, engineers etc. that are helping with the project and they feel they have a good building plan and concrete numbers. A lot of time has been spent raising funds to get the project started. They met with the Clarence Recreation Advisory Committee and received their approval.

The proposed multipurpose building would be primarily used for little league football. It will include a men's and woman's rest room, a kitchen facility and it will also have an open air 16' long pavilion. It will serve the league for use as an eating area but also can be used by families using the park in the early summer months and the Recreation Department during summer recreation.

The proposed pavilion will be built at the site of the current press box. The current building will be demolished and the existing 80 yard field will be extended to 100 yards. They are under the league deadline to have a 100 yard field. Clarence Little League Football has been at this location for over fifty years, it is a convenient location for out of town teams to get to. The proposed building consists of everything the league needs and it meets their long term goals. It is a permanent home for the league.

If some time in the future the town were to build a facility for Clarence Little League Football, the league would have no problem with turning over the proposed facility to another sports league (lacrosse, girl's field hockey). Looking forward, this is Clarence Football Little League permanent solution for the next several years until the Town Board, Recreation Department or Parks comes up with something different.

A new septic system will be installed for the new building which will be a large expense because of the rock in that area.

Councilman Kolber thought the football program was a great organization however he does not feel the location is a good fit. Sunset Park is a park first and is obviously Clarence Little League Football's home but a grove of trees will have to be taken out in order to make this project happen. He feels that the Town has to give the football league a new home; the Town has provided fields for baseball, softball and soccer. Councilman Kolber would like the Town to relocate the football league to a better location at Memorial Park. The site at Memorial Park has most of the fill already in place and there would be adequate room for parking.

Mr. Englert questioned whether there was enough room for three practice fields and a game field? Councilman Kolber stated that there was far more room than they currently have at Sunset Park, the proposed site is 130' deep. The Town has bonded expenditures for all the other sports teams in town to get their fields built and he felt it was time the Town gave little league football a better location.

Mr. Englert asked Councilman Kolber to make a motion designating the property at Memorial Park to Clarence Little League Football and start the process of obtaining funding to build the fields. Since 2006, little league football has gone through different Town Boards and Supervisor's trying to come up with a permanent solution. As far as the league, they are at the "end of their rope." The league cannot wait another five or ten years for the town to come up with the funding needed to construct fields that are needed now. Councilman Kolber said it would not take five years, everything is already there except electric, the league needs an answer.

Mr. Dussing stated that with Town Board approval, they can be shovel ready at Sunset Park by July 15<sup>th</sup>. Their plan is to get the septic system installed and the building shell built this year.

Councilman Casilio felt that Mr. Dussing and Mr. Englert proposal was a win-win situation for both the league and the town. Even if a field was built at Memorial Park in three years, the pavilion at Sunset Park would become the property of the town. Councilman Casilio suggested Councilman Kolber form a committee to figure out the cost to build football fields at Memorial Park, he further suggested Town Attorney Meckler check the covenant to make sure there is no agreement with TCBA for the property in question. Councilman Kolber stated that the TCBA does not need any more fields, enrollment is down. When Memorial Park was built, two of the fields were supposed to be multi-purpose fields.

Councilman Kolber said he would get some numbers and find out how much it will cost to get the fields graded, extend the parking lot and get this project moving.

Councilman DiCostanzo stated that the cost to put in footballs fields would be a "huge expenditure" of approximately one million dollars. Councilman Kolber did not feel the project would come close to one million dollars. Councilman DiCostanzo and Councilman Casilio asked that Councilman Kolber come back within a week with cost figures to put in football fields at Memorial Park. Councilman Kolber stated that it only cost \$800,000 to develop Memorial Park, which included heavy grading, four baseball fields with all the fencing, four softball fields with all the fencing, soccer field grading. Councilman Casilio stated that even if the town started constructing the fields at Memorial Park tomorrow, it would be another three years before football could start using the fields.

Paul Englert stated that Clarence Little League Football is willing to spend several thousands of dollars to construct a pavilion with a kitchen and lavatory facilities. The current Sunset Park Pavilion is in need of work. The league is proposing a free standing building and if the Town can provide fields at Memorial Park in two or three years, the league will turn their building over to the town to be used by Clarence residents as a picnic shelter.

Supervisor Hartzell stated that this will not be settled tonight, he suggested Councilman Kolber get some estimates and discuss the leagues proposal in two weeks and then make a decision.

Paul Englert suggested Councilman Kolber figure out how many fields could be located at Memorial Park because they should include lacrosse as well. There are currently four fields at

Sunset Park (3 practice fields and a game field). If the town is planning on doing this, they might as well spend the money for both football and lacrosse instead of developing fields at the Main Street Park for lacrosse.

Councilman Kolber stated that “he is not the enemy” but he wants to do for football what the Town has done for every other sports league and give them the best possible location for fields.

Paul Englert clarified with the Town Board that Clarence Little League would be back on the agenda in two weeks.

Town Attorney Meckler stated that if Clarence Little League moves forward with their project at Sunset Park, they would have to pay prevailing wages.

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

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

Dave Sutton 8825 Sheridan Drive

Applicant is proposing to rehabilitate the structure and add a second story. The structure will have first floor commercial over two luxury apartments. The existing single family home on the property will also be renovated, creating a total of three residential units on the property.

The existing mixed use property consisting of .68 acres is located on the southwest corner of Sheridan Drive and Overlook Drive within the Restricted Business Zone. Upon further review of Town Code, this project does not need a Special Exception Use because our definition of multi family dwelling unit is three or more attached single family dwelling units on a lot of record

The project includes two new residential units plus the existing single family home, it is considered a multiple family use which is allowed under the current law. The Planning Board has forwarded a recommendation to allow the use as proposed. A Negative Declaration under SEQRA has been issued on the project. The proposed multiple family amendment to the Zoning Law, currently under consideration by the Town Board does not include a provision to allow for multiple family housing on un-sewered lots in the Restricted Business Zone.

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

McGuire Development Company 8321 Main Street

Applicant is proposing to develop a 20,000+/- square foot professional office building with associated parking and landscaping. The proposed site is located on the south side of Main Street, west of Susan Drive on existing residential property consisting of 2.3+/- acres in the TND. Per the Zoning Law, the Town Board has final review and approval for structures over 10,000 square feet in the TND as well as final architectural approval. Referral to the Planning Board will initiate formal review of the project.

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 is to 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 2008/2009 Master Plan Amendment. Per the approved Master Plan 2015 Amendment of 2009, 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 request – the Town Board has final authority to approve Special Exception Use Permit’s after a required public hearing. An action under SEQRA will be required before taking a positive action on the item.

Brookfield Country Club 5120 Shimerville Road

Applicant is seeking permits for fireworks displays on July 4, July 13 and July 27, 2013. The required application, insurance, fees and Fire Chief Approvals are on file. Per NYS Law, the local jurisdiction has authority to permit fireworks displays.

El Ranchito Mexican Restaurant – 9780 Main Street

Applicant is proposing to allow outside dining at existing restaurant located on the north side of Main Street, east of Spaulding Drive in the Commercial Zone. Per the Zoning Law, the Town Board may allow outside dining with a Temporary Conditional Permit. A public hearing will be required to consider the request.

Multiple Family Housing Amendment to Special Exception Use Permit

***Features of the proposed multiple family housing amendments:***

- Allows multiple family housing with a Special Exception Use Permit in Commercial, Restricted Business and Traditional Neighborhood District Zoning Classifications.
- Removes multiple family housing as a Special Exception Use Permit in the Major Arterial Zone (not allowed).
- Identifies general parameters under which multiple family housing will be permitted and specifically identifies that multiple family housing is not an “as of right” use. Special Exception Use Permit process grants the Town Board broad justification for denial of any particular project.
- Allows large scale multiple family housing only in the Restricted Business and Commercial Zones with sewers.
- Established a minimum of 25% commercial use component on any project in the Commercial and Restricted Business Zones.
- Establishes a maximum density of 8 units/acre.
- Establishes a maximum height limitation to allow for no greater than a two story complex for any buildings within a multiple family housing project.
- Requires a minimum 30% greenspace per project with incentives for connectivity.
- Allows multiple family housing in the Traditional Neighborhood District (TND) with a maximum of 16 unit’s total.
- Identifies an exception for unsewered lots in the Commercial Zone only with severe limitations.

***Work Session items for consideration June 12, 2013:***

Antonio Cosmano - 8845 County Road

Applicant is proposing to introduce fill for future residential development of the property. The existing vacant land is located on the south side of County Road, west of Conner Road in the Agricultural Rural Residential Zone. Per the Clearing, Filling and Grading Law, the Town Board has final approval authority for fill permits. Town Engineer Lavocat stated that there are many issues that have to be resolved before he can make a recommendation.

Several representatives from Eastern Hills Mall were present to request a letter from the Town of Clarence allowing Special Vending Inc. to serve alcohol at their weekly Shredd and Reagan "Cruise Nights". There are twelve shows (every Wednesday) beginning May 22<sup>nd</sup> and ending August 7<sup>th</sup>. The Town Board was in agreement with granting approval as long as the Town is not liable for the sponsor's actions.

**Supervisor David Hartzell**

- Proclamation recognizing May 30, 2013 as Clarence High School Drama Club Day in the Town of Clarence
- Appoint Douglas Moore to the open position of Assistant Auto Mechanic in the Highway Department
- Appoint Michael Wesolowski to the position of Laborer PT-Seasonal in the Highway Department
- Appoint Donald Marinelli as van driver PT for the Going Places Van
- Grant a Special Event request for the Team Hope Walk for Huntington's disease to be held September 21, 2013 at Meadowlakes Park.
- Approve the request of Karen Jurek to attend a three day KVS Summer Conference-Payroll Session July 22, 23 and 24, 2013
- Appoint Garry Soehner as the hearing officer for the purpose of conducting a Public Hearing pursuant to § 147 of the Internal Revenue Code and related sections regarding the refinancing of the Harris Hill VFC located at 8630 Main Street

**Councilman Bernard Kolber**

At the April 24<sup>th</sup>, 2013 Town Board meeting, a motion was made to approve the renewal of several Temporary Conditional Permits with the exception of Zoe's Restaurant because they had not completed their landscaping which was a requirement of their original permit. Senior Building Inspector David Metzger met with the owner today and he has begun work on the landscaping. Councilman Casilio stated that the applicant has had two years to comply with the conditions of his permit. Supervisor Hartzell said he will revisit this in two weeks to see how far the applicant has progressed.

Councilman Kolber will appoint Joseph McGreevy to the Historic Preservation Commission to fill the vacancy left by the resignation of Henry Brodowski.

Councilman Kolber and Councilman Casilio met with Senator Michael Ranzenhofer regarding the relocation of the thruway tolls. Senator Ranzenhofer asked for a resolution from the Town Board indicating where they would like the toll barriers relocated to. Councilman Kolber will continue to work on this and keep the Board informed of any forthcoming information. Councilman Casilio said that it was his understanding that instead of moving the tolls, the NYS Thruway Authority will invest \$14 million dollars to improve the Williamsville toll barriers. He is not interested in seeing the toll booths moved to Clarence.

Councilman Kolber attended the Library Board meeting and the bids have been received relative to the repairs to the library. Once again the library budget is possibly being cut by over one million dollars.

### **Councilman Patrick Casilio**

In meeting with Senator Ranzenhofer, Councilman Casilio discussed banner poles for the Harris Hill area. There are organizations that are willing to donate money towards the purchase of these poles. A commitment from the NYS DOT is also needed.

Councilman Casilio has several motions:

- Award the Clarence Historical Museum Roof Conditions Assessment to Foit Albert Associates
- Appoint Evan Weitz to the position of Engineering Aide PT-Seasonal
- Request Highway Superintendent Donner install No Parking signs on Wehrle Drive between Harris Hill and Transit Road where appropriate

Councilman Casilio has one Attorney-Client item to discuss.

The Arboretum Committee would like the dead trees along Old Goodrich Road removed. Councilman Casilio spoke with Highway Superintendent Donner about this.

### **Councilman Peter DiCostanzo**

- Appoint Junior Planner PT-Seasonal Planning and Zoning Office
- Appoint Recreation Specialist PT Seasonal to the Recreation Department
- Several appointments to Recreation Department for Summer 2013
- Appoint Lifeguards PT-Seasonal 2013

Councilman DiCostanzo has been talking with Parks Crew Chief James Burkard regarding the land the town purchased west of the existing Main Street Park (between the park and Clarence Fire Department). The Parks Department is working on taking trees out but there will be many trees left that are not usable. Councilman DiCostanzo suggested doing an RFP to see if anyone was interested in clearing the land and removing the trees.

Supervisor Hartzell received a request to put several trees between Village Mill and the Highway Department. Highway Superintendent Donner said he would do the work when he could fit it in. Supervisor Hartzell suggested using free labor from the County.

Councilman Casilio talked to Highway Superintendent Donner about moving the grinder up to the Main Street site to grind the piles of dead Christmas trees. One person could be run the grinder and clear up an acre of land. It has been four years since the town purchased this property, there are many town wide events coming up, it would be helpful to be able to park the overflow cars on this lot.

Supervisor Hartzell suggested using the Erie County Correctional Facility Service Action Corps. Program that would allow inmates to volunteer to clean up the area. Inmates must meet certain criteria in order to participate in the program.

Youth Volunteer Recognition Ceremony will be held May 28<sup>th</sup>, 2013 at the Clarence Fire Department on Main Street from 6PM – 8PM.

**Councilman Robert Geiger**

Councilman Geiger will announce several upcoming town events.

Councilman Geiger will make a motion to approve the request by Jerome Schuler and Anne Cimato to attend the two (2) day Animal Sheltering and Bio-security Training Seminar on June 25<sup>th</sup>. and June 26<sup>th</sup>.

Councilman Geiger will set a Public Hearing to consider an amendment to the Code of the Town of Clarence, Chapter 83 Dogs and Other Animals.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to enter into Executive Session pursuant to § 105(1) H of the Open Meeting Law to discuss the proposed lease of real property but only when publicity would substantially affect the value thereof. Upon roll call – Ayes: All; Noes; None. Motion carried.

There being no further business, the Work Session adjourned at 7:50 PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Executive Session at 7:30 PM. Upon roll call – Aye: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, May 22, 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 Louis Vitello, Director of the Clarence High School Drama Club; followed by a prayer given by William Gittere of Zion Lutheran Church.

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 Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous work session and regular meetings held May 8, 2013. On the question, Councilman Kolber said he did not attend the work session, so he will recuse. Upon roll call – Ayes: All; Noes: None. Recuse: Councilman Kolber regarding work session minutes only. Motion carried.

Supervisor Hartzell presented the following proclamation to Louis Vitello, Director of the Clarence High School Drama Club. The production of “Chicago” was absolutely fantastic and was recognized with the 2013 Kenny Award.

### ***Proclamation***

*WHEREAS, the Clarence High School’s musical production of “Chicago” was honored as the recipient of the 2013 Kenny Award by the Lipke Foundation and Shea’s Performing Arts Center; and*

*WHEREAS, the Clarence High School was also recognized with a “Spotlight Award” for the best orchestral performance for the musical; and*

*WHEREAS, as one of seven finalists, the Clarence High School production of “Chicago,” under the direction of Louis Vitello, earned the top honor for their excellence in producing and presenting a Broadway Musical; and*

*WHEREAS, the Clarence High School Drama Club has also been awarded a \$5,000 Grant from the Lipke Foundation to continue the enrichment of the Drama program.*

*NOW, THEREFORE, BE IT*

*RESOLVED, that the Clarence Town Board extends its sincere congratulations to the Clarence High School Drama Club, to director, Louis Vitello, to the over 100 cast and crew members, to the orchestra musicians and to their director on being the recipients of the “2013 Kenny Award” and a “Spotlight Award” for the musical production of “Chicago;” and be it further*

*RESOLVED, that the Clarence Town Board recognizes their achievement in excellence and is honored to proclaim May 30, 2013 as “Clarence High School Drama Club Day” in the Town of Clarence.*

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

I, David C. Hartzell, Supervisor of the Town of Clarence, do hereby appoint **Garry Soehner**, a director of the **Harris Hill Volunteer Fire Co. Inc.**, as the hearing officer for the purpose of conducting a Public Hearing pursuant to Section 147 of the Internal Revenue Code, and related sections, regarding the refinancing of the firehouse located at 8630 Main Street, Town of Clarence, New York. Said public hearing shall be held at the Harris Hill Volunteer Fire Co. Inc. firehouse located at 8630 Main Street, Clarence, New York on June 13, 2013 at 7:00 p.m.

On the question, Supervisor Hartzell said this refinance will benefit the residents in the area of the Town served by this Fire Company by lowering the rate of interest being paid by the Fire Company.

Councilman Casilio said they have also paid half of the firehouse down and are cutting the rate in half on the remainder owed.

Supervisor Hartzell added that they not only do a great job protecting the community, but a good job in protecting the tax payers.

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

Motion by Supervisor Hartzell, seconded by Councilman Geiger that upon the recommendation of Highway Superintendent Theodore Donner, Douglas Moore is appointed to the open position of Assistant Auto Mechanic at step 1-2013 per the Blue Collar Union Contract effective May 27, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to appoint Donald Marinelli as Van Driver PT for the Going Places Van at the rate of \$12.18 per hour effective May 28, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to grant a Special Event Request for the “Team Hope-Walk for Huntington’s Disease” to be held September 21, 2013 from 7:30 a.m. until 2:30 p.m. subject to receipt of the appropriate certificate of insurance.

On the question, Supervisor Hartzell said the route will be a segment of the bike path starting and finishing on Heise Road at Meadowlakes Park. They expect to have less than 150 persons attending.

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

Motion by Supervisor Hartzell, seconded by Councilman Geiger to approve the request of Karen Jurek to attend the three (3) day 2013 - KVS Summer Conference – Payroll Session to be held at the Buffalo – Niagara Marriott on July 22, 23, and 24, 2013 at a cost of \$475.00 for early registration. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell said he would also like to recognize and congratulate Brian Poliner who works with Legislator Ed Rath and is a Clarence resident. He received the Saint Catherine Medal for Student Achievement, an annual award presented by the National Catholic College Graduate Honor Society at Hilbert College.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to appoint Michael Wesolowski to the position of Laborer PT-Seasonal for the Highway Department at a rate of \$8.61 per hour, effective May 28, 2013 and subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to appoint Joseph McGreevy to the Historic Preservation Commission effective May 23, 2013 through December 31, 2015.

On the question, Councilman Kolber said this is to fill the vacancy left by the resignation of Henry Brodowski that ended 12/31/11.

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

Councilman Kolber said there is now a proposal not to move the Williamsville toll barrier. They are proposing to spend \$14 million to rebuild where they are at. It does nothing to address the traffic issues. A problem for people in this area is getting on the thruway to go into the city and getting held up at the Williamsville toll. He thinks it is imperative that we work to get the toll barrier moved to the east of Clarence.

He and Councilman Casilio met with Senator Michael Ranzenhofer to discuss this issue. He is one of the key people in getting this done. Councilman Kolber said he is going to prepare a resolution for the next meeting for Clarence to be on board. He will also contact Senator Gallivan and Assemblywoman Corwin. We need to get back on track and get these moved, along with the removal of the commuter tax.

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

Be it resolved that the Town Board awards the Clarence Historical Museum Roof Conditions Assessment to Foit Albert Associates in the amount of \$5,950 in accordance with their proposal dated April 26, 2013.

On the question, Councilman Casilio said this will provide the Town with an analysis of the existing Historical Museum Roof, preliminary design solutions and a project budget for needed roof repairs to be funded from the Engineering Department Professional Services budget.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to appoint Evan Weitz to the position of Engineering Aide PT-Seasonal in the Engineering Department effective May 23, 2013 at the budgeted 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. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Clarence Town Board requests Highway Superintendent Theodore Donner to recommend the installation of “No Parking” signs on Wehrle Drive between Harris Hill and Transit Road, where appropriate, to the Erie County Highway Department.

On the question, Councilman Casilio said this is for public safety. There is a restaurant on the Lancaster side of Wehrle Drive that has events going on and cars are parking on both sides of Wehrle Drive and into our residential streets blocking the view to pull out of the development. We suggest the minimal amount of signs to see how that works. Wehrle Drive is a County Road and all we can do is make a request to the County.

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

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Timothy Vertino to the position of Junior Planner PT-Seasonal effective July 8, 2013 at the budgeted rate of \$12.42 per hour subject to the completion of all pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint the following to the Recreation Department to the position of Recreation Specialist PT Seasonal at the rate of \$16.40 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements being met: Eric Kinney and Kelly Rusin effective June 1, 2013; and Daniel Polino effective June 8, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to make the following appointments to the Recreation Department to the position of Recreation Attendant PT Seasonal subject to receipt of all pre-employment paperwork and pre-employment requirements being met: Jocelyn Maggavaro, Emily Senay, Janelle Smith and Emily Vosburgh effective June 1, 2013 at the rate of \$8.11/hr.; Ashley Gay, Angela Staszak and Reid Zaccagino effective June 1, 2013 at the rate of \$8.51/hr.; Ashley Akin, Kailey Akin, Brittany Belko, Alexander Eaton, Christopher Kruszynski and Kristin Walleshouser effective June 8, 2013 at the rate of \$8.11/hr. Shannon Letina and Jeffrey Schmidt effective June 8, 2013 at the rate of \$8.51/hr.; and Adam Singh effective June 15, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint the following to the position of Lifeguard PT Seasonal subject to receipt of all pre-employment paperwork and pre-employment requirements being met: Jessica Kowalski at a salary of \$3,618 for the season effective June 1, 2013; Ryan Saenger, Adam Terragnoli and Olivia Quenneville effective June 8, 2013 at the rate of \$11.18 per hour; Justina Bonaventura, Emily Davidson, Joshua Geiger, Grace Jaznow, Joseph Kleinmann, Jordan Kowalski, Elizabeth Kreppel, Melissa LaVere, Nicole LaVere, Kevin Layer, Marissa Mogavero, Alexandria Sebian, Christina Seminara, Christina Weber and Scott West effective June 8, 2013 at the rate of \$10.59 per hour; Gabrielle Barthelme, Hanna Biedny, Caitlyn Roberts and Danielle Silvestri effective June 8, 2013 at the rate of \$10.28 per hour. Upon roll call – Ayes: All; Noes: None. Recuse: Councilman Geiger on appointment of Joshua Geiger only as he is his grandson. Motion carried.

Councilman DiCostanzo announced that on May 28, 2013 is the Youth Bureau Volunteer Recognition Ceremony to be held at the Clarence Fire District No. 1 building on Main Street from 6 to 8 p.m. It is amazing how much time some of these kids volunteer for the various service organizations.

Motion by Councilman Geiger, seconded by Councilman Casilio to grant permission to Jerry Schuler and Anne Cimato to attend the two (2) day “Animal Sheltering and Biosecurity Training Seminar” hosted by the Niagara County Department of Health Emergency Preparedness Division on June 25 and June 26, 2013 at the Orleans/Niagara BOCES Conference and Technology Center in Sanborn, NY with use of a Town vehicle.

On the question, Councilman Geiger said there is no fee for the training, refreshments or lunch. The sessions are all day. Training will include Basic Animal Sheltering Topics and Biosecurity and Zoonotic Diseases Topics.

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

Motion by Councilman Geiger, seconded by Councilman Casilio to set a Public Hearing for June 12, 2013 at 7:50 p.m. to consider an Amendment to the Code of the Town of Clarence, Chapter 83. Dogs and Other Animals, section 83-6 Fees; penalties for offenses.

On the question, Councilman Geiger said the changes to the Local Law are to section 83-6 subsection C and deleting subsection D. A copy of the changes will be available in the Office of the Town Clerk.

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

Councilman Geiger announced that the Chamber of Commerce Golf Outing is June 10<sup>th</sup> at the Westwood Country Club; a Chiveta's Chicken Barbeque at the Town Park on May 27<sup>th</sup>; Clarence Day in the Park is June 29<sup>th</sup>; Clarence Senior Center Flea Market is June 1<sup>st</sup> at the Senior Center; and National Senior Health and Fitness Fair on May 29<sup>th</sup> at the Akron/Newstead Senior Center.

Supervisor Hartzell said a public hearing was scheduled, but that has been changed.

James Callahan said this is for a request at the southwest corner of Sheridan Drive and Overlook Drive consisting of a mixed use property located in the Restricted Business Zone. The applicant is seeking approval to rehabilitate the property to create a mixed use structure along with the single family residential structure. It was advertised for a Special Exception Use Permit because it included three residential units, but upon further examination, the three units would be in a single structure per the Zoning Law. This would fall back to a duplex plus an additional single unit. It is not considered a multi-family use. The Town Board can take an action to approve the permit with conditions.

Mr. Callahan said a Negative Declaration was issued on May 8<sup>th</sup> and the Planning Board forwarded a recommendation to approve the project as designed.

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

Resolved, that the Clarence Town Board grants approval to the applicant, Dave Sutton, for a mixed use project that includes a residential component at 8825 Sheridan Drive subject to the following conditions:

1. Open Space and Recreation fees.
2. Conditions of the Planning Board including sidewalk connecting single family home to parking area.
3. Necessary permits from the Building and Engineering Departments.

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

McGuire Development Company requests Preliminary Concept Review of a proposed office building at 8321 Main Street in the Traditional Neighborhood District. James Callahan said the location is the south side of Main Street, west of Susan Drive consisting of an existing residential property in the Harris Hill Traditional Neighborhood District. The proposal will require a Special Exception Use Permit for the 20,000 +/- square foot structure in this zone.

Michael Metzger of Metzger Civil Engineering and Jeff Hazel of Silvestri Architects were present on behalf of the applicant. Mr. Metzger said the property is 2.30 acres. The proposal is for a new building to house an accounting firm. It is compliant with the TND zoning requirements. It is a low-profile single story building with parking on the side and to the rear. The applicant has been in contact with the neighbors.

Mr. Metzger said there may be a small portion of the building for another tenant. They have also incorporated space for future expansion on the site plan. Parking is more than adequate for now and any future expansion.

Councilman Kolber said this appears very similar to the building on Wehrle Drive built by McGuire Development. Although it does fit, will it be overwhelming to that district. It does abut to residential development that should be protected.

Mr. Metzger said there are some pine trees at the back of the property that the owner intends to keep which will provide a natural buffer. They do intend to add to the buffering. The property to the west is commercial.

Councilman DiCostanzo said it would be great if they left the trees because you can barely see through them.

Mr. Metzger said there is still space beyond the parking lot, so he does not think the size of the building will be that big of an impact. The Erie County Sewer Dist. No. 5 boundary is on their west property line. They have been in contact with them and are very hopeful to be granted out-of-district status to connect. Erie County Health Department is working with new technology for onsite septic systems, but they would prefer the sewer hookup.

Mr. Hazel said the base is cultured stone and the rest of the building is brick.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the request by McGuire Development Company for an office building at 8321 Main Street in the Traditional Neighborhood District to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Gabe's Collision requests a Special Exception Use Permit for a collision shop at 5817 Transit Road. James Callahan said the location is the east side of Transit Road north of Highland Farms Drive consisting of approximately 2.5 acres in the Major Arterial Zone. The Planning Board has forwarded a recommendation to deny the request. The final determination rests with the Town Board.

Jeff Palumbo, attorney and Jeff Mucciarelli, applicant were present. Mr. Palumbo said they presented this application to the Town Board in February 2012. He said Mr. Callahan stated at that meeting that referrals are made to the Planning Board, if the Town Board identifies that the use is in keeping with the goals of the community, and would initiate a comprehensive review of the project. The Town Board made that referral with two specific concerns. One was that there is adequate buffering and the concern of the adjoining property owners regarding final design. There was no discussion at that time whether or not any of the proposed uses were not permitted uses in the permitted district.

Mr. Palumbo said they moved on and met with the Planning Board several times with a lot of expenses for all of the reports that they obtained and submitted. There was no discussion, in his opinion, whether the use was permitted or not because the majority of the collision shops located in the Town of Clarence are in the Major Arterial or Commercial Districts. It has been mentioned that they were approved under the prior Zoning Law. The law before and after the change allow this use with a Special Exception Use Permit. It has the same language as pre-2008. The Special Exception Use Permit allows conditions to be placed on the project for buffering, etc. It allows the Town Board to require the protections for the neighbors. He feels that they meet all of the criteria stated in the law.

Mr. Palumbo said they ask the Town Board to approve this project which will increase the tax base, bring in approximately 50 new jobs and put this property to a productive use.

Supervisor Hartzell said we have heard from many people regarding this project, but he will allow people to speak again but asks that they keep their comments under a minute.

Speaking to the subject:

Martin Robinson said he has a PhD in chemistry but since the time is limited he will skip the discussion of chemicals, poisons, toxicity and other dangers. Mr. Robinson read a list of instances from the headlines that have taken place just this month at auto repair shops around the country. It is obviously a serious situation. This area has two nursery schools, a middle school and a condo development.

Councilman Kolber suggested that they be allowed three minutes as stated under Public Participation.

Khalid Mahran said he is a physician and resident of this area. He is very concerned and objects to this project because of the health hazard associated with it. We should protect our children from this type of exposure and the possible danger of an explosion or fire. He asked the Town Board to vote this down for the protection of the residents.

Nancy Robinson said she would like to remind the Town Board that there is a Master Plan. There was the Transit Road Corridor Study that talks about developing that area into an attractive area to match the Amherst side. Master Plan 2015 talks about protecting the adjoining residential developments that are there. She does not believe that Gabe's meets that plan. Many good people in this Town have spent a great deal of time studying and planning for it to be ignored. The Planning Board has denied the request three times as an inappropriate use of this parcel of land. The Town Board should support the numerous studies and reviews done on behalf of the Town and go along with their recommendation.

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

WHEREAS, a public hearing was duly held on April 10, 2013, to consider a Special Exception Use Permit for a collision shop, automotive sales and rental facility at 5871 Transit Road at the request of the applicant, Gabe's Collision; and

WHEREAS, after all interested parties having been heard, the Clarence Town Board referred the matter to the Planning Board for review; and

WHEREAS, the Planning Board has forwarded its recommendation to the Town Board; and

WHEREAS, based upon the record of all prior meetings, minutes and hearings;  
NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board approves the request of the applicant, Gabe's Collision, for a Special Exception Use Permit for a collision shop, automotive sales and rental facility at 5871 Transit Road.

On the question, Councilman Casilio said he still has a problem with the carcinogen question. A lot of these homes are very close to this proposed shop. He does have to warn the residents though, that something is going to go in there that could be less restrictive than what this was going to be. He has a problem with allowing a project with deadly fumes going over that neighborhood.

Councilman Geiger said that was one of the questions we had when it went to Planning Board last time, but it is part of the SEQRA review.

Supervisor Hartzell said if it is passed here, then it goes for a full SEQRA review.

Councilman Casilio said the way this motion is written leads you to believe the Planning Board approved the project, which they did not. If it moves on, he does not want it misinterpreted for SEQRA purposes either.

Councilman Kolber said he does not agree with the comments from the attorney for the applicant. The use is not specifically mentioned in the commercial use, but it is listed in the industrial zone.

Councilman Casilio said he voted in favor of a collision shop in his own backyard. It was recommended by the Planning Board with conditions and it is thousands of feet from his home, not 250 feet. He also voted in favor of a car dealership at the end of his street based on the recommendation from the Planning Board. This project has been before the Planning Board and cannot get through it with an approval. He has a problem going against their recommendation.

Upon roll call – Ayes: Councilman Geiger and Supervisor Hartzell; Noes: Councilmembers DiCostanzo, Casilio and Kolber. Motion lost.

Brookfield Country Club requests Fireworks Display Permits for July 4, 13 & 27, 2013 at 5120 Shimerville Road. James Callahan said the applications, fees, insurance and fire chief approval are on file for these events.

Erin Sullivan works on special events for Brookfield Country Club. They hire professionals to do the displays.

James Callahan said we have not received any complaints.

Motion by Councilman Kolber, seconded by Councilman Geiger to grant Fireworks Display Permits to Brookfield Country Club located at 5120 Shimerville Road for July 4, 13 & 27, 2013.

On the question, Supervisor Hartzell said all the appropriate paperwork and fees have been received.

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

El Ranchito Mexican Restaurant requests a Public Hearing to consider a Temporary Conditional Permit for outside dining at 9780 Main Street. James Callahan said the location is the north side of Main Street, east of Spaulding Drive consisting of an existing restaurant in the

Commercial Zone. The Town Board can consider outside dining with a Temporary Conditional Permit.

Noel Dill and Paul Stephen were present. Mr. Dill said the request is for the same location for outside dining that the previous restaurant had. They feel it is appropriate for this area.

Motion by Councilman Kolber, seconded by Councilman Casilio to set a Public Hearing for June 12, 2013 at 7:55 p.m. to consider the request for a Temporary Conditional Permit for outside dining at 9780 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Proposed Multiple Family Housing Amendment to Special Exception Use Permit Section of Town Zoning Law (Chapter 229 of the Code of the Town of Clarence). James Callahan said there is a Draft Amendment to the Zoning Law to amend the Special Exception Use Permits related to multi-family.

Features of the amendment include:

- Allows multiple family housing in Commercial, Restricted Business, and Traditional Neighborhood District zoning classifications with a Special Exception Use Permit.
- Removes multiple family housing in the Major Arterial Zone.
- Identifies general parameters under which multiple family housing will be permitted and specifically identifies that it not an as-of-right use and gives a broad justification for denial of any particular project by the Town Board.
- Allows large scale multiple family housing only in the Restricted Business and Commercial zones with access to public sewers.
- A minimum of 25% commercial use component on any project in the Commercial and Restricted Business zones.
- Maximum density of 8 units per acre.
- Maximum height limitation to two-story buildings.
- Minimum 30% greenspace with incentives for connectivity.
- Allows multiple family housing in the Traditional Neighborhood District with a maximum of 16 units per acre.
- Exceptions for unsewered lots in the Commercial and Restricted Business zones at four units per acre.

Councilman Kolber said he was hoping to discuss this more in the work session. There are a number of issues that he identified in his email earlier today. One is what would the majority of the people in Town want us to do. Where do we want the Town to be in 50 years from now because the decisions made today will go forward. We now have a cap of 240 single family building permits per year to help sustain controllable growth. It was mentioned to have a cap on multiple family units, but it was said that you control that from the beginning. He does not see how you can do that. There could be more than one project come in at once.

Councilman Kolber said he highly suggests that they spend the next morning work session hammering through each item. They could then set the public hearing the next week. Once it is published, they are somewhat limited to this document. He would like to go line by line with the Town Board. He thinks we should have a separate multiple family zoning restrictions so that we can rezone those areas within the overlay district to control what is there. He is not totally comfortable with this. Another concern is the Zoning Board of Appeals and what they would be able to modify. Despite the best effort in putting forth the codes, they can significantly change them.

Councilman Casilio said he wishes that he would put his concerns in writing.

Councilman DiCostanzo said he thought we regrouped and all sat in a room and decided this was the way to go. He has been sending emails and reminding everyone to comment if they had any issues. He has been trying very hard to get this moving forward and today at 3:19 we get an email from Councilman Kolber. It seems like he is trying to push it off indefinitely.

Councilman Kolber said he just wants to make sure we get this done right.

Councilman DiCostanzo said he has been in the Zoning Office several times in the last few weeks to see if any more comments had been received or if anyone stopped into the office. They did not hear anything from anyone.

Councilman Kolber said he would like to go through it line by line.

Supervisor Hartzell said the Board can discuss it at the June 5<sup>th</sup> work session. He would really like to get it moving forward.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to approve the following: Clubhouse Applications - A. Clarence Girl Scout Troop 31293 – July 20, 2013; B. Clarence Youth Bureau – Aug. 9 & 10, 2013; Legion Hall – A. Phyllis Wozniak – June 7, 2013; B. Harris Hill Mom’s Club – June 11, 2013; C. Jake Rogers – Aug. 10, 2013; D. Mary Cirino – Sept. 8, 2013; Park Pavilion Special Request – A. Huntington Disease Walk – Sept. 21, 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 May 23, 2013 are approved for payment: General Fund - \$322,879.52; Highway Fund - \$18,765.17; Water District - \$496.00; Fire Protection Districts - \$9.73; Lighting Districts - \$819.00; Sewer Districts - \$86,773.55; and Capital Fund - \$28,360.19 for a total amount of \$458,103.16. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Councilman DiCostanzo said the issue of having prayers said at municipal meetings is now in the Supreme Court according to the news. He thinks we should keep doing it either way.

Supervisor Hartzell recognized Robert Sackett, Paul Shear and Steven Dale from the Planning Board. We rely heavily on the Planning Board for advice and appreciate all of the hard work that they do.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:45 p.m.

Nancy C. Metzger  
Town Clerk