

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, March 26, 2014 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, Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Highway Superintendent James Dussing, Planning Board Chairman Robert Sackett, Planning Board member Paul Shear and Confidential Secretary to the Supervisor Karen Jurek.

Director of Community Development – James Callahan

Public Hearings:

DiPaolo & Sons 9495 Wehrle Drive

A public hearing is scheduled for 7:45PM to consider the request for a Special Exception Use Permit for a secondary living unit at 9495 Wehrle Drive. The proposed site is located on the south side of Wehrle Drive, west of Faber Lane at existing single family home located in the Agriculture Rural Residential Zone. Per the Zoning Law, the Town Board has final approval authority for secondary living units with a Special Exception Use Permit.

Formal Agenda items:

Bliss Construction/Waterford Campus – Roll Road

Applicant is proposing to redesign the Campus area to eliminate the commercial uses and provide a redesigned multiple family residential project. The previously approved Development Plan identifying commercial space with residential multi-family is located on the north side of Roll Road, west of Dana Marie Parkway within the Waterford PURD. Ninety-two sewer taps (equivalent dwelling units) have been approved for this portion of the Waterford PURD however the latest information provided from the Heise Brookhaven Corporation identifies only 55 EDU's for this portion of the PURD. The applicant is willing to abide by the number of taps available and will be restricted to the available taps. Per the Zoning Law, the Town Board has approval authority for PURD Amendments. Overall sewer capacity and density of the design should be thoroughly analyzed. An action under SEQRA will be required. Referral to the Planning Board will initiate a coordinated review. There will be more density in terms of housing than what was originally identified in the PURD so there will be traffic concerns and sewer concerns. Town Engineer Lavocat stated that the applicant is combining two formal projects into one. Town Engineer Lavocat suggested that referral to the Planning Board should be made subject to his allocation of the sewer taps. Councilman Casilio raised concerns about the remaining portion of the bike path. James Callahan stated that the original approval of the PURD required that the Waterford partners pay for the asphalt for the bike path. Sean Hopkins stated that Waterford Village LLC is responsible for the original findings, this should be made clear in the record. Councilman Kolber stated that he would like to see the money allotted for the bike path be put into escrow. Mr. Hopkins stated that the Town Board should remind the responsible party of this obligation. There is more than one party that is part of Waterford Village LLC. Town Attorney Meckler said that the developers could either put the bike path in or put the money in escrow but he did not want to see the issue hanging without it being resolved.

Fred Cimato said the town is responsible for building the bike path, the developers were to contribute the black top however the town has not gone forward with the construction of the path, it ended at Waterford. Councilman Casilio suggested this be discussed further and possibly the developer could construct the bike path without contributing the blacktop. It was suggested that this be discussed further to come up with a solution.

10100 County Road Properties – 10120 County Road

Applicant is proposing to amend the original site plan to replace two warehouse/office combination buildings with one 5,000 square foot warehouse building and one 5,160 square foot office building. Overall parking spaces would increase by 2 stalls. The proposed site is located on the north side of County Road, west of Strickler Road on existing vacant land located in the Industrial Business Park Zone. Previously, full Development Plan approval was granted to the owner to develop a six building industrial business park in December 2007. No action has been taken to initiate construction of the approved project. A new owner has now come forward and is requesting approval for an amended development plan. Original approval of the project received development plan approval by the Town Board. The project is subject to review and approval by the Town Engineer for PIP Permits and Building Department approvals for building permits.

Kenyon's 8250 Main Street

Applicant is proposing to demolish the existing structures on the property in order to construct a new convenience store, gas fueling station, new underground gas tanks including a Tim Horton's drive-thru. The proposed site is located on the northeast corner of Main Street and Westwood Road at existing gas station located in the Traditional Neighborhood District. Per the Zoning Law, the Town Board has final approval authority for gas stations, architectural style in the TND and issuing a Special Exception Use Permit for the drive-thru. A public hearing will be required to consider the Special Exception Use Permit. The Planning Board has forwarded a recommendation on the Concept Plan and for issuance of a Special Exception Use Permit.

Tom Wilcox 9700 Main Street

Applicant is proposing to operate a used vehicle sales office within a portion of the building including identifying 3 parking spaces within the existing parking lot. The proposed site is located in an existing commercial building located on the north side of Main Street east of Spaulding Lake Drive in the Commercial Zone. Per the Zoning Law, the Town Board may consider the use with a Temporary Conditional Permit. A public hearing will be required to consider the permit.

Work Session items for consideration April 2 or 16th, 2014:

Domenic Piestrak – Spaulding Greens Open Space Design Subdivision

The applicant is proposing to amend the previously approved concept plan while maintaining the overall green space to meet Town Code. The newly submitted proposed amendment is to the previously approved Phases 4A and 4B. The proposed site is located on the east side off Goodrich Road, north of Greiner Road at existing open space design development identifying 380+/- lots with a previously approved concept plan on the overall project. The applicant is proposing to table any action associated with Phase 10 and abide by previous approval to make Phase 10 the last phase for development. Per the Zoning Law, the Town Board has final approval authority to approve/amend Open Space Design Developments. An action under SEQRA will be required to amend the concept, identifying sewer taps, green space and lot configuration. Referral to the Planning Board would initiate formal review of the proposal.

Northwood's Open Space Design Subdivision

Applicant is proposing to develop a 150+/- lot Open Space Design Subdivision. The proposed site is located on the north side of Greiner Road, south side of Roll Road between Shimerville and Thompson Roads on existing vacant land consisting of 118+/- acres located in the Residential Single Family Zone. Per the Zoning Law, the Town Board has final approval authority to create an Open Space Design overlay. The applicant has

submitted documentation to identify that sufficient capacity exists within the Heise-Brookhaven Trunk Sewer Line to accommodate the project. The Planning Board has forwarded a recommendation on the Final Concept Plan with conditions. A public hearing will be required to create the overlay zone.

Councilman Casilio stated that the bike path design has changed since the Planning Board reviewed this. Handouts (drawings) were distributed. Director of Planning James Callahan stated that the plans have changed since the Planning Board gave their recommendation. Councilman Kolber stated that the biggest concern everyone has is the bike/recreational trail. He has received calls and met with members of the Recreational Advisory Committee and they are quite concerned about this as well. Councilman Kolber further stated that he has concerns with the safety aspect of a bike trail that crosses all the driveways. A bike path or recreational trail is a thoroughfare that connects Point A to Point B, it is not designed for people just walking in the neighborhood and it gets away from what the trails/paths are supposed to be. The proposed Northwood's Development will have sidewalks. James Callahan stated that the way the law reads is that sidewalks are required but not on both sides of the street it is up to the final decision making body. The Planning Board recommendation is the developer construct the bike path in lieu of Recreation Fees, the Open Space Fee is still required.

Councilman Casilio stated that he would like to get this resolved now so that in two weeks, the project can move forward if the Planning Board gets a chance to review it. A previous plan submitted showed extra wide sidewalks in front of the houses out to Shimerville Road in place of a bike path. Councilman Casilio felt that this would jeopardize the public's safety having people possibly riding their bicycles 20mph down a sidewalk in front of someone's front yard where cars are backing in and out of and children could be playing. A sidewalk is just that, it is not a bike path and it should not be misrepresented by having it located in front of the houses. Councilman Casilio distributed copies of the Master Plan for the bike trail system. Councilman Casilio felt it made more sense to put in a path that would connect to Town Hall - there are funds in the budget from Recreation Fees collected. He further talked to the developers about an easement from Greiner Road so that in the future it could be developed using possibly grant money or Recreation Fees. Councilman Casilio also talked to Town Engineer Lavocat about obtaining DEC Permits to get into the wet lands area so that there will be substantial green space between the road and the bike path – similar to Clarence Center Road.

For public safety, Councilman Casilio is recommending sidewalks on both sides of the road.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the proposed drawings of the bike path to the Planning Board and the Recreation Advisory Committee for review that shows the intended bike path outlined in green, an easement outlined in red, sidewalks to be considered for the entire development on both sides of the street. The Homeowners Association will be responsible for side walk maintenance and snow removal. Councilman Geiger included an easement (access) to the ponds in the center and also finalize established setbacks. On the question, Councilman Kolber said that even though the developer may not be required to pay the cost, the town may deem it worthwhile to use Recreation Funds to get the path put in (red line). Once someone builds there, they may not want a bike path in their back yard. It is better to put the path in before rather than after, the Town of Amherst ran into a similar situation. So the Town Board does not get conflicting reports, Planning Board Chairman Robert Sackett asked for clarification as to the roles of the Recreation Advisory Committee and the Planning Board. Planning Board Chairman Sackett recommends that the Planning Board consult with the Recreation Advisory Committee and make a formal recommendation. Councilman Casilio amended his motion to include Planning Board Chairman Sackett

recommendation. Supervisor Hartzell met with the Recreation Advisory Committee this week and they did not want to see the bike path in the street. James Callahan stated that this project will be on the formal agenda in two weeks. Upon roll call – Ayes: All; Noes: None. Motion carried.

Student Transportation of America 8033 Transit Road

Applicant is proposing to utilize the existing facility for a school bus garage for vans and smaller buses. The proposed site is located on the east side of Transit Road north of Wolcott Road at existing heavy equipment/trucking operation located in the Restricted Business Zone. While the proposed use is not specifically allowed in the Restricted Business Zone, the Town Board may consider a Temporary Conditional Permit for the proposed operation. The Planning Board has forwarded a recommendation to issue a Temporary Conditional Permit with numerous conditions.

Seal & Design 4015 Casilio Parkway

Applicant is proposing to construct an addition to allow for expansion of the operation. The proposed site is located on the east side of Gunnville Road, south of Wehrle Drive within the Casilio Industrial Business Park. Per the Zoning Law, the Town Board has authority to approve uses in the Industrial Zone. An action under SEQRA will be required. Conditions of approval should identify required review and approval by Town Engineer and the Building Department.

Regent Development 8230 Wehrle Drive

Applicant is proposing to develop a multiple family housing project on the driving range portion at existing golf dome and driving range consisting of 15.5+/- acres in the Commercial Zone. The proposed site is located on the north side of Wehrle Drive between Stonegate Apartments and Coventry Green Apartments. Per the Zoning Law, the Town Board has authority to approve multiple family housing projects with a Special Exception Use Permit. The Town Board will act as Lead Agency under SEQRA as the body with final approval authority. Referral to the Planning Board would initiate formal review of the project.

Michael Hoffman 9089 Main Street

Applicant is requesting a Temporary Conditional Permit for outside storage of merchandise (3 storage sheds). The proposed site is located on the south side of Main Street just west of Thompson Road – Sheridan Drive intersection.

Highway Superintendent James Dussing

Last week Highway Superintendent Dussing and Town Engineer Lavocat met with the County regarding the deplorable condition of Conner Road. Even though Conner Road is not a town road Superintendent Dussing felt he had an obligation to the tax payers to see if something could be done. Unfortunately the County does not have the funds in place to repair the road but there is a good chance that we will see an overlay surface this summer. It is not a permanent solution but should bring some relief to the residents. Superintendent Dussing offered his departments service to help with reconstruction however he was told that the funding is just not there.

Superintendent Dussing is approximately 90% done with the issues brought forward from the State Auditor as it pertains to the fueling station. The vendor for the fuel station came out to review the software. Missing keys were located and the number of keys issued has been reduced. He will have to purchase a piece of soft-ware for the current program so the odometer readings record correctly.

Superintendent Dussing received a call from the NYS DOT regarding two bridges one that crosses Gill Creek and the other crosses over Black Creek on Transit Road. The bridges are in danger of scour and are on an immediate schedule to be replaced in 2015. The NYS DOT is relatively confident that this project will receive funding.

Superintendent Dussing will be meeting with the DEC on Thursday morning regarding wetland issues.

Supervisor David Hartzell

- Accept the bids for purchase of a Brush Hawg Grapple Loader and a Freightliner Truck for the Highway Department
- Approval a Special Event request for the Food Bank of WNY/White Party
- Post the position of Engineering Aide PT Seasonal for the Highway Department
- Appoint Todd Trapper to the open position of Laborer FT in the Highway Department
- Appoint George Emerling to the Recreation Advisory Committee

The Town Board interviewed and recommended Douglas Curella Jr. for a position on the Ethics Board. It was suggested that Mr. Curella meet with the Ethic's Board as well. There is a position on the Farmland Protection Bureau for Douglas Curella Sr. to be appointed to.

Simon Yu met with Supervisor Hartzell and will be applying for a demolition permit for his building at 10647 Main Street. James Callahan stated Mr. Yu request was tabled at the Planning Board. They are waiting for Simon Yu to supply information related to the cost associated with demolition vs. use. This is the next step before he does anything. Councilman Kolber stated that he went through the structure in question and feels that there is potential and the building should be restored.

Councilman Bernard Kolber

- Motion to accept ownership of items donated to the Clarence Library and items purchased by Friends of Clarence/Fund for Tomorrow
- Two members of the Historic Preservation Commission are requesting approval to attend a three day conference in Rochester at a cost of \$75 per person.

Councilman Patrick Casilio

- Correct the minutes of February 12, 2014
- Authorize NYSEG to activate street lights in Waterford Estates Phase III, Part B
- Authorize NYSEG to active street lights in Waterford Estates Phase III, Part D

Councilman Casilio spoke briefly about the tragic fire in Clarence Center last weekend and commended the volunteer firemen on their response to the fire. There were two smoke alarms in the building but they did not have batteries.

Councilman Peter DiCostanzo

- The Planning Board is recommending a Negative Declaration be issued for the proposed Kenyon's Convenience Store located at 8250 Main Street.
- Upon recommendation of the Planning Board, the Town Board seeks Lead Agency Status on the proposed mixed use development located at 5731 Transit Road.
- Appoint Michael P. Pfentner to the position of Laborer FT for the Parks Department
- Approve the installation of banners by Clarence Soccer Club at the Clarence Soccer Center
- Post the position of Accountant PT in the Accounting Office
- Appoint Recreation Specialist PT for the Recreation Department

Three bids have been received for the Towns commercial insurance.

At the next Town Board meeting, Councilman DiCostanzo will appoint Richard McNamara as alternate to the ZBA and Gerald Drinkard to the Ethic's Board.

Ethics training and Ethics law is lacking throughout the state. Councilman DiCostanzo is in contact with an expert in the field who comes recommended by the NYS Association of Towns. Councilman DiCostanzo will contact neighboring towns to see if they are interested in attending a seminar in the Town of Clarence and possibly share some of the cost.

The Fishing Derby will be held at Clarence Town Park, Main Street on April 12th beginning at 9AM.

Councilman Robert Geiger

- Approve the request by Animal Control Officer Jerome Schuler and Anne Cimato to attend two training seminars
- Award the bid for brush grinding and removal of mulch to Lardon Construction
- As part of the 2014 Summer Series Program, Youth Bureau Director Dawn Kinney is requesting approval for a "Family Camp-out" at Meadowlakes Park
- Authorize Supervisor Hartzell to sign renewal leases with Kreher's Poultry Farm, John Kelkenberg and Anchor Farms to continue to farm town owned property. Councilman Kolber suggested renting out small plots of land for residents to farm.

Jean O'Connell, president of the Clarence Hollow Association is requesting the Town's support to help fund a fireworks display for their event scheduled July 3 – 5, 2014. Councilman Casilio stated that the town is already donating \$4,000 - \$5,000 as it is for this event. Supervisor Hartzell stated that he did not put any money in the budget for this. The town currently spends \$10,000 for fireworks at Day in the Park.

There being no further business, the Work Session adjourned at 7:25PM.

Darcy A. Snyder
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, March 26, 2014 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Bernard Kolber, followed by a prayer given by Deacon Tom Friedman of Nativity of the Blessed Virgin Mary 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 Kolber to amend the minutes of February 12, 2014 to correct the address for the approval of a secondary living unit listed incorrectly as 4520 Kraus Road. The correct address is 5850 Kraus Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to accept the minutes of the work session and regular meetings held February 12, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the work session and regular meetings held February 26, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to accept the minutes of the work session held March 6, 2014. On the question, Councilman DiCostanzo said on page 58, the third to the last paragraph states we will not have everything in place by August 9. It should be April 9. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell welcomed Steve Carlson from the Chamber of Commerce.

Supervisor Hartzell attended the Clarence High School musical “Spamalot” on March 5th with members of the Clarence Senior Center. The production was excellent. The pit band was wonderful, especially the brass section.

Supervisor Hartzell thanked Erie County Clerk Chris Jacobs from coming to town. He came to the well-attended “Soup with the Sup” and yesterday for passport registration here at the Town Hall.

Supervisor Hartzell attended the Recreation Advisory Meeting on March 11th and one of the proposals they looked at was a new subdivision that had a bike path that was part of the actual road. They advised that the path be removed from the roadway.

Supervisor Hartzell said Meals on Wheels held “Supervisor’s Day” on March 19th. He went along to deliver meals. He encourages everyone to donate or volunteer in this program.

Supervisor Hartzell said the Industrial Development Agency hosted Erie County IDA Chairman Steve Weathers. They heard his views on how all of the IDA’s could work together.

Supervisor Hartzell said he met with Town Engineer Tim Lavocat and our grant writer Bernie Rotella. He was successful in getting us a grant over \$400,000 for the installation and paving of sidewalks on Main Street. There seems to be an abundance of funding for bike paths and sidewalks available this year.

Supervisor Hartzell said he attended the School Board budget meeting on March 24th and it looks like at this point that the budget will come in on time and at cost.

Supervisor Hartzell said the Chase Corporate Challenge is on for June 19th. The Town will have a team this year with Jonathan Bleuer, Albert Weber, Mike Minor and himself. Any other employees are welcome to join in.

Supervisor Hartzell said we received a letter from the Town of Amherst pertaining to the Erie County Department of Senior Services Outreach Program. The towns of Amherst, Clarence, Newstead, and the Villages of Akron and Williamsville participate in the program. The town's share is \$12,500. It provides persons 60 years and over with case management, assistance with applications for government programs, linkage to community service centers, meal delivery and transportation services. This is available through the Senior Center.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to accept the bid for the purchase of a Brush Hawg Grapple Loader Model #G 2224C from Guthrie Heli-Arc Inc. for an amount not to exceed \$71,897.00, and

To accept the bid for a Freightliner Model M2-106 Truck from Fleet Maintenance for an amount not to exceed \$74,259.00.

On the question, Supervisor Hartzell said the funds for the Grapple Truck are available from the Highway Capital Account and will later be returned to the Town from the New York State Recycling Grant program.

Councilman Kolber said he has been working on this for years and believes the grapple truck will prove to be a tremendous efficiency improvement for the Town.

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

Motion by Supervisor Hartzell, seconded by Councilman Geiger to grant a Special Event request for the Food Bank of WNY/White Party 4th Annual Fund Raiser to be held on June 14, 2014 at 9015 Main Street beginning at 7:00 p.m. and ending at 1:00 a.m.

On the question, Supervisor Hartzell said all the appropriate agencies will be notified.

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

Motion by Supervisor Hartzell, seconded by Councilman Casilio that upon the recommendation of Highway Superintendent James Dussing, Todd Trapper is appointed to the open position of Laborer FT in the Highway Department to be effective March 15, 2014 at Step 1 of the Blue Collar Union Contract. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger that upon the recommendation of the Recreation Advisory Committee, George Emerling is appointed as a member of the Recreation Advisory Committee effective March 27, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to post the position of Engineering Aide PT Seasonal for the Highway Department at the rate of \$11.03 per hour. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, on Wednesday, March 12, 2014, severe weather conditions in the Western New York area caused travel advisories to be issued by Erie County and several surrounding Town, Villages and counties; and

WHEREAS, as a result of the severe weather and travel conditions in the area, numerous schools, banks, businesses, along with county, city, town and village government offices closed; and

WHEREAS, the Clarence Town Board, due to the severe weather and deteriorating travel conditions, decided to cancel the Town Board Meeting that was scheduled for Wednesday, March 12, 2014 for the safety of the public.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board hereby ratifies its decision to cancel the Town Board meeting of Wednesday, March 12, 2014 due to the severe weather and travel conditions; and be it further

RESOLVED, that the Clarence Town Board adopts this protocol in the event of such severe weather occurrence in the future.

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

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

WHEREAS, the Board of Trustees of the Clarence Library passed a resolution on November 25, 2013 recommending that the Town of Clarence formally accept ownership of the items that have been purchased with funds raised by the Friends of Clarence /Fund for Tomorrow

and for the items that have been donated all of which are located in the Clarence Library; and be it

RESOLVED, that upon the recommendation of the Board of Trustees of the Clarence Library, the Clarence Town Board accepts ownership of items that have been purchased by the Friends of Clarence/Fund for Tomorrow, ownership of the artwork, any other items that have been donated to the Clarence Library and any painting or other artworks that were transferred from the former library building on Main Street and other miscellaneous items, a listing of which is on file in the office of the Town Clerk; and be it further

RESOLVED, that these items may not be sold by the Town of Clarence or the Buffalo and Erie County Library System or any of its successors and/or assigns; and be it further

RESOLVED, that all of the items and artwork and paintings shall remain at the Clarence Library at 3 Town Place or any other library building owned by the Town of Clarence in perpetuity.

The items are not to be moved out of the public library without Town Board permission.

On the question, Councilman Kolber said the purpose of this is due to the Erie County Library System attempting to become its own taxing entity taking over all of the libraries. We want to make sure that these items remain in our library.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the request of Town Justice Michael Powers for Court Clerks Marilyn Taton and Mary Zimmerman to attend the Town & Village Court Clerk's Training Seminar on Friday, March 28, 2014 beginning at 9:00 a.m. with all reasonable and necessary expenses to be paid by the Town.

On the question, Councilman Kolber said the Training Seminar is given by the NYS Unified Court System and will be held at the Erie County Courthouse, Buffalo, NY and usually is a one day seminar. There is no fee for the training.

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

Councilman Kolber said he received a compliment from one of his patients on the new Highway Superintendent and the drainage work the department is doing. In particular the area near Christian Drive has been a problem for a long time.

Councilman Kolber said the recent State audit identified a few areas that could be addressed. A meeting was held with our auditor and the Highway and Parks Department to look at ways to improve the monitoring of gas usage. There was no theft of service, it had to do with monitoring the usage. We will be working on the response which has to be submitted by April 9th.

Motion by Councilman Kolber, seconded by Councilman Casilio to grant approval for Carol Conwall and Linda Mosher of the Historic Preservation Commission to attend a New York Statewide Conference on "Defining Preservation" to be held April 24, 25 & 26, 2014 in Rochester with registration fee of \$75 if paid before April 1st. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate three (3) street lights in Waterford Estates Phase 3 Part B on Corinne Lane per the street light layout plan dated March 5, 2014 upon installation of all standards, fixtures and underground conductors by the developer and final acceptance of same by the Engineering Department. Standards, fixtures and underground conductors are to be owned and maintained by the Town of Clarence. The connections, energy lamps and photo electric eyes to be supplied and maintained by NYSEG under the terms and conditions of the NYSEG street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize NYSEG to activate five (5) street lights in Waterford Estates Phase 3 Part D on Wicklow Manor per the street light layout plan dated March 5, 2014 upon installation of all standards, fixtures and underground conductors by the developer and final acceptance of same by the Engineering Department. Standards, fixtures and underground conductors are to be owned and maintained by the Town of Clarence. The connections, energy lamps and photo electric eyes to be supplied and maintained by NYSEG under the terms and conditions of the NYSEG street lighting agreement with the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendations of the Planning Board, the Clarence Town Board issues a Negative Declaration on the proposed Kenyon's

Convenience Store with Tim Horton's Drive-thru located at 8250 Main Street. This Unlisted Action involves the demolition of the existing structures and the construction of a new convenience store with drive-thru in the Traditional Neighborhood District. After thorough review of the submitted site plan and EAF, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to post the position of Accountant PT at a range of \$19.00 to \$25.00 per hour.

On the question, Councilman DiCostanzo said this position will replace the Accountant RPT in the Accounting Office.

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

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendation of the Planning Board, the Clarence Town Board seeks Lead Agency Status and commences a coordinated review among involved agencies on the proposed Mixed Use Development located at 5731 Transit Road. This Type I Action involves the development of 40,000 +/- square feet of commercial space and maximum of 79 +/- units of senior housing in the Major Arterial, Commercial and Restricted Business Zones. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to appoint Michael P. Pfentner to the position of Laborer FT for the Parks Department effective March 15, 2014 at Step 1 of the Blue Collar Union Contract. On the question, Councilman DiCostanzo said this appointment was intended to be made on March 12, 2014, but the meeting was cancelled due to weather conditions. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to authorize the Town of Clarence Soccer Club to:

1. Install sponsor/patron signs and banners at the Soccer Center.
2. The Clarence Soccer Club will contact the Parks Department before the installation of the signs/banners for approval of the installation techniques and placement of the signs/banners at the Clarence Soccer Center.
3. The Clarence Soccer Club will be responsible for any and all expenses of the signs/banners and for any damage to Town Property that may occur during the installation and removal of the signs/banners.
4. This resolution may be renewed annually upon the request of the Clarence Soccer Club at the discretion of the Town Board.

On the question, Councilman Kolber said Sherry Frost is here and he would like to ask her about this.

Sherry Frost said they are going to possibly put the banners up on the backs of the bleachers, an old scoreboard and the kickboard. She spoke to Jim Burkard and they will check with him before they install anything.

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

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Gabriel Gilmour to the position of Recreation Specialist PT for the Recreation Department at the rate of \$16.40 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.

Councilman DiCostanzo announced that the Town Board meetings for April will be held on April 2nd and 16th. Next week he intends to make motions to appoint Richard McNamara to the ZBA as the alternate and Jerry Drinkard to the Ethics Board.

Councilman DiCostanzo announced that the Fishing Derby will be held April 12th beginning at 9:00 a.m. at the Town Park on Main Street.

Councilman Geiger said he attended the Farmer's Market meeting and they discussed some new vendors coming in this year. They have great events planned and will be announcing the opening soon.

Motion by Councilman Geiger, seconded by Councilman Kolber to grant permission to Jerry Schuler and Anne Cimato to attend the Aggressive Animal Behavior Training Seminar at Alfred University on Friday, April 25, 2014 with the use of a Town vehicle and all reasonable and necessary expenses to be paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to grant permission to Jerry Schuler and Anne Cimato to attend the annual continuing education NYS Animal Control Seminar in Webster, NY on April 29 and 30, 2014 with the use of a Town vehicle and all reasonable and necessary expenses to be paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber that upon the recommendation of James Dussing, Highway Superintendent, the bid for Brush Grinding and the removal of mulch is awarded to Lardon Construction to grind approximately 15,000 cubic yards of brush at \$0.75 per cubic yard to be paid to the Town of Clarence and to authorize the Supervisor to sign a contract with Lardon Construction upon review and approval of the Town Attorney.

On the question, Councilman Geiger said the contract is for a period of three years beginning May 1, 2014 and ending April 30, 2016. A portion of the mulch will be retained for distribution to Town residents.

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

Councilman Geiger said a thank you letter was received from the Western New York Food Bank thanking the youth volunteers from the Youth Bureau for their help.

Motion by Councilman Geiger, seconded by Supervisor Hartzell to approve the request of Dawn Kinney, Executive Director of the Clarence Youth Bureau for a "Family Campout" activity as part of the 2014 Summer Series Program to be held at Meadowlakes Park August 8th to 9th. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to authorize the Supervisor to sign the annual renewal leases for agriculture purposes to continue to farm Town owned property as follows:

Kreher's Poultry Farm for property located on Salt and Greiner Roads; Anchor Farms for the property located on Salt (bordered by Clarence Center Road and Howe Road.) and John Kelkenberg for the property located on Keller Road.

On the question, Councilman Geiger said the leases are for a period of one year from April 1, 2014 through March 30, 2015. The leases are subject to review and approval of the Town Attorney.

Councilman Kolber added that the Town Attorney looked into what the going rate is and this is a reasonable charge. He would like to get a program going for residents to lease a small portion of town owned land and do their own garden plots. He will be working on that.

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

Town Clerk Nancy Metzger submitted the annual reports for 2013 of all monies collected in the Town Clerk's Office to the Town Board.

2013 Annual Report of Fees - \$910,387.31 was collected.

2013 Annual Tax Collection Reports:

2013 Town & County Tax Collection – \$28,780,209.37 collected.

2013-14 School Tax Collection - \$44,622,462.44 collected for portions of Clarence, Akron and Williamsville School Districts.

Supervisor Hartzell said he would like to do a review of the fees we charge to see where we are. He will be reviewing them over the next 90 days. He thanked the Town Clerk for her work.

Councilman Kolber added that the Town Clerk runs a very efficient office and thanked her for her work.

A Public Hearing was held to consider the request for a Special Exception Use Permit for a secondary living unit at 9495 Wehrle Drive. James Callahan said the location is the south side of Wehrle Drive, west of Faber Lane consisting of a single family residence in the Agricultural Rural Residential Zone. The applicant is proposing to construct an additional living unit as an addition to the existing home.

Frank Primerano of DiPaolo & Sons was present representing the homeowner. He said the homeowner is aware of the restrictions and is fine with them.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on March 26, 2014, and after all interested parties having been heard, grants a Special Exception Use Permit to the applicant, DiPaolo & Sons, for the construction of a secondary living unit as an addition to the existing home located at 9495 Wehrle Drive, subject to the following conditions:

1. All conditions as required in the Zoning Law must be met.
2. Unit must be secondary to the principal dwelling and not converted to a rental unit.
3. Occupancy shall be limited to family members, paid employees or temporary guest(s).
4. Occupancy shall be restricted to 2 persons to occupy the unit.
5. A Deed restriction shall be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language **is to be submitted and approved by the Town Attorney prior to the filing the deed.**
6. An Agreement shall be entered into between the applicant and or applicants (and others if applicable) and the Town of Clarence, which agreement shall require that the applicant (and others if applicable) to prepare and record a Deed Restriction incorporating the conditions as spelled out in this resolution which shall be placed into their Deed. The Agreement and deed restrictions shall continue in perpetuity. A copy of the Agreement is required to be filed as an attachment to the Deed. A copy of the Agreement is to be submitted to the Town Attorney prior to the filing of the Deed for approval.
7. Proof of filing of the approved deed and attachment is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.

NOTE: On the question, Councilman Casilio said the specific language for the deed restrictions and the Agreement may be obtained from the Town Attorney's office.

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

Bliss Construction requests Amended Development Plan Approval for the Waterford Campus portion of the Waterford Planned Unit Residential Development (PURD). James Callahan said location is the northwest corner of Roll Road and Dana Marie Parkway in the Waterford Campus area with previously approved conception plan approval of 92 dwelling units. The applicant is identifying a total of 86 EDU's in the proposed development amendment.

Sean Hopkins, attorney and Paul Bliss were present. Mr. Hopkins said this project has a lengthy history. This started out as the mixed use portion of the project that consisted of primarily commercial. It was amended in 2010 with the commercial scaled back to first floor retail, office space, small businesses and approximately 100 apartment units. They have now eliminated the commercial development. Mr. Bliss has contracted with Essex to purchase a portion of the Waterford Landings to expand the size of the site.

They do agree with the Town that instead of 92 sewer taps, they have 86. There are six units on the site that will not be constructed unless they have sewer taps at some time in the future. The Town Engineer has asked for additional documentation on a few of the taps and they will provide that during the Planning Board review. Mr. Hopkins said they did not purposely get rid of the commercial space in order to expand the multiple family units.

Mr. Hopkins said the proposed units are rentals and not owned. They would be 3-story units.

Councilman Kolber said three stories is not in keeping with our multi-family law.

Mr. Hopkins said it is not subject to that law because it is a PURD zoning.

James Callahan said the site plan will be approved by the Town Board. There are no zoning limitations in the PURD zoning. PURD zoning is site plan specific. It is strictly a Town Board action to approve the site plan.

Councilman Casilio said he questions why it is not compliant to the new code. We have new developments that have to have two-story buildings and a commercial element. He is still confused by the two-story versus three-story. Are we going to follow the PURD from 20 years ago?

Mr. Hopkins said we can certainly discuss that through the review process, but he believes the three-story buildings are nicer. This is a conceptual plan. They are two-family units that they envision for rent.

Councilman Casilio said he believes the Planning Board will be looking for direction from the Town Board on two-story or three-story. This is the last section of the Waterford Development and we still have the bike path that has not been completed. An agreement was made 15 years ago. He would like a statement from the owners before moving forward.

Mr. Hopkins said they acknowledge that there is a condition in place that the developers would pay for the asphalt for the bike path. He believes one of the holdups was its location relative to the NYSEG property that needs some clarification.

Councilman Casilio said he would like any motion to include the condition that the Town Attorney send a certified letter to the partnership of Waterford and ask them the status on their commitment to the bike path. He believes we could be flexible if there was an alternative to that commitment, such as removing the trees to put in the bike path. He would like to see a resolution to the bike path before it is all over.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to refer the request for Amended Development Plan Approval for the Waterford Campus portion of the Waterford Planned Unit Residential Development (PURD) to the Planning Board with the condition that the Town Attorney send a letter to the partners concerning funds for the bike path commitment that was made 15 years ago. Upon roll call – Ayes: All; Noes: None. Motion carried.

10100 County Road Properties requests Amended Development Plan Approval for a previously approved Industrial Business Park Project at 10120 County Road. James Callahan said the location is the north side of County Road, west of Strickler Road consisting of vacant land in the Industrial Business Park Zone. Development Plan approval was granted for a six buildings. A new owner has come forward and is requesting an amendment.

Ken Zollitsch, engineer from Greenman Pederson said the original owner never developed the property. The adjacent owner purchased the property and has a tenant who would like to have office space at the front of the development and a warehouse behind the parking lot. They are trying to accommodate this tenant. There is one septic field to handle the whole development. The uses of these buildings do not require heavy use on the septic. The plan is similar to the original plan. The only difference is separating the office and warehouse in the first building along the County Road.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the amended Development Plans as requested by the applicant, 10100 County Road Properties, for the previously approved Industrial Business Park Project located at 10120 County Road as per the submitted updated site plan from GPI, Consulting Engineers, dated February 25, 2014 with the following conditions:

1. Subject to Town Engineer approval on the amended design.
2. Subject to Building Department approval for building permits.
3. Subject to Erie County Health Department approval for on-site sanitary facilities.

4. Subject to Erie County DPW approval for curb cuts and drainage facilities.
5. Subject to Landscape Committee approval on the amended design.
6. Subject to Open Space and Recreation Fees.

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

Councilman Casilio said he would like to go back to the previous item for Bliss Construction. The first time we saw the structure as a three-story building was five minutes ago. He knows the Planning Board looks for direction from the Town Board. He feels that PURD developments are an open checkbook to do whatever they want to do. We do not even have PURD developments in our law anymore. He thinks the project should be in compliance, or as close to it, for the current Town Board to review. He can see the commercial element possibly going away, but he asks that the Planning Board review the height of the building. If they feel it should be a two-story building, then it should be a two-story building. We have people who have spent a lot of money on houses in that neighborhood and having a third floor is a big jump. We have already received four letters from residents.

Councilman Kolber said he concurs with Councilman Casilio. It was not stated how high they would be.

James Callahan said the underlying base zoning of the PURD was residential single family homes.

Supervisor Hartzell said he understands the concerns. He would also like the Planning Board to take a look at the aesthetics of the two-story versus the three-story. The two-story was plain and the three-story was a knockout. It is the best looking luxury apartment building he has seen. We have the Multiple Family Law, but you have to look at the aesthetics too.

Councilman Casilio said you can look at the three-story senior apartment going in on Transit and see how high that really is. That is along Transit Road, but this is in a residential development.

Supervisor Hartzell said maybe they can make the two-story look like the three-story.

Kenyon's requests a Public Hearing to consider a Special Exception Use Permit for a drive-thru facility with gas fueling station and convenience store at 8250 Main Street. James Callahan said the location is the northeast corner of Main Street and Westwood Road consisting of an existing gas station in the Harris Hill Traditional Neighborhood District. The applicant is proposing to demolish the existing structure and construct a new gas fueling station, convenience store and a Tim Horton's drive-thru. The Planning Board has forwarded a recommendation on the site plan, a Negative Declaration was issued and the applicant is seeking a public hearing.

Tim Arlington, consultant and Bill Kenyon, applicant were present. They have worked diligently with the Planning Board to receive concept approval with conditions to be incorporated into the plan. The drive-thru is a very important element to the project.

Councilman Casilio said he would like them to present a final set of plans at the public hearing showing the berm.

Mr. Arlington said they are going to put up a berm with landscaping and a fence along the property on the north side and part of the east side. The hours of operation will be 6:00 a.m. to 11:00 p.m. for the entire business. It is considered a kiosk facility for Tim Horton's because 2/3 of their business is drive-thru.

Councilman Casilio said there was also concern about the speaker being a nuisance to the neighbors. The berm should help.

Mr. Arlington said the berm will help with all operational noise. There are ways of controlling things and they will do that for the neighbors.

Councilman Casilio said another concern is a line of cars blocking people using Westwood.

Mr. Arlington said a traffic study was done. They incorporated an exit only to Main Street to help eliminate congestion. They want to encourage customers to use that because there is a minimal distance to the intersection.

Councilman Casilio said if it does not work, what do we do?

Mr. Arlington said most traffic will be coming from the site and going right. This is the best traffic flow they could generate based upon the layout.

Councilman Kolber said the project would be a great improvement to what is there now. The problem is there is a lot of facility on a small site. He sees a traffic problem given the popularity of Tim Horton's. He sees an issue when fueling trucks come in and they block the exit.

There is no place to pile snow on the site. The entire neighborhood will be awakened with the location of the dumpsters.

Mr. Arlington said fuel deliveries will be in the afternoon when the traffic to the site is down. They can control delivery times. There is enough room for them. They can also control the dumpster pickup times. Snow removal will be dealt with as needed. If there is too much, they will have to remove it.

Councilman Kolber said he raises these issues because people will complain to them afterward.

Councilman Geiger said he is concerned with the last pump if people come around it to exit directly onto Main Street.

Councilman Casilio said the traffic lines up on Main Street to get into Tim Horton's. He is concerned that they will be lined up blocking Westwood Road. He might be more comfortable with this if that exit was removed. He thinks it is a good project, but would like to avoid the issues on Westwood. He asked if they would consider eliminating Westwood.

Councilman DiCostanzo said people from that neighborhood will be using that as an entrance also.

Mr. Arlington said he understands the concerns. They have the extra exit on Main Street to relieve the congestion on Westwood.

Mr. Kenyon said the traffic study indicated that the total number of cars using Westwood in a 24 hour period was 40 cars. He does not believe Horton's will take the site without the Westwood exit. The cost of implementing a traffic light is very expensive.

Councilman Kolber said there is all of the commercial businesses and a larger population density in this area.

Councilman Casilio said people cut through from Harris Hill Road. He thinks there will be more traffic in that area.

Mr. Kenyon said it is a commercial property. He added that he would not have invested in the site if it was only a convenience store. Thompson is a standalone Tim Horton's and this location is a kiosk site.

Councilman Kolber said a comparable site is at Youngs Road and Main Street. He likes the project but thinks there is too much for the size. The problems could come back and haunt the area after he makes a huge investment.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for May 14, 2014 at 7:45 p.m. to consider a Special Exception Use Permit for a drive-thru facility with gas fueling station and convenience store at 8250 Main Street. On the question, Councilman Casilio asked the applicant to consider removing the Westwood Road entrance/exit. Councilman Kolber said he is not opposed to the project, but is very concerned about what we are allowing in terms of everything going on a small site. Upon roll call – Ayes: All; Noes: None. Motion carried.

Tom Wilcox requests a Public Hearing to consider a Temporary Conditional Permit for an automotive sales operation at 9700 Main Street. James Callahan said the location is the north side of Main Street, east of Spaulding Drive consisting of an existing commercial building in the Commercial Zone.

Thomas Wilcox said he has no intent to display vehicles. He promotes sales through advertising and from a website. They will have a small portion of consignment sales. They are required to have small sign. They will have three parking spaces. There is no repair work on site.

Motion by Councilman Kolber, seconded by Councilman Geiger to set a Public Hearing for May 14, 2014 at 7:50 p.m. to consider a Temporary Conditional Permit for an automotive sales operation at 9700 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Girl Scout Troop 30943 – March 20, 2014; Legion Hall Applications - A. Girl Scout Troop 30943 – 2nd & 4th Thursday each month of 2014; B. Anthony & Susan Cross – April 5, 2014; C. American Paving & Excavating – April 8, 2014; D. Aaron Judd – May 31, 2014; E. Janice Hartwig – Nov. 8, 2014; F. Paul Lagowski – May 3, 2014; G. Waterford Village Association – April 2, 2014; Nature Center Lodge – A. Tiger Cub Scouts #563 - July 19, 2014; B. Clarence Presbyterian Church – May 4, 2014; Park Pavilion Special Request - A. TCBA Baseball Night in Clarence – May 16, 2014. 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 March 13, 2014 are approved for payment: General Fund - \$206,745.14; Highway Fund - \$79,808.65; Water District - \$35,902.39; Central Alarm - \$116.40; Fire Protection Districts - \$1,325.71; Drainage District - \$329.77; Sewer Districts - \$57.70; Capital Fund - \$4,094.00; Trust & Agency 203 - \$660.00 for a total amount of \$329,039.76. 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 March 27, 2014 are approved for payment: General Fund - \$209,082.08; Highway Fund - \$43,368.57; Water District - \$526.00; Drainage District - \$736.23; Lighting Districts - \$812.62; Sewer Districts - \$437,389.61; Capital Fund - \$3,000.00; and Trust & Agency 203 - \$24,656.52 for a total amount of \$719,571.63. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:10 p.m. in memory of Michael Small who was a security officer for the Town.

Nancy C. Metzger
Town Clerk