

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, May 14, 2014 at Clarence Town Hall, One Town Place, Clarence, New York.

Deputy Supervisor Lawrence Meckler called the meeting to order at 6:00 P.M. Supervisor Hartzell was absent. 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 Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, Planning Board member Wendy Weber-Salvati, Confidential Secretary to the Supervisor Karen Jurek, Deputy Town Attorney Steven Bengart and Director of Administration and Finance Pamela Cuvillo.

Director of Community Development – James Callahan

Public Hearings:

Kenyon's 8250 Main Street

A public hearing is scheduled for 7:45PM to consider a Special Exception Use Permit for a drive-thru facility with gas fueling station and convenience store. Applicant is proposing to demolish the existing structures on the property in order to construct a new convenience store including a Tim Horton's drive-thru, gas fueling station and new underground gas tanks. The proposed project site is located on the northeast corner of Main Street and Westwood Road in the Harris Hill 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 User Permit for the drive-thru. The Planning Board has forwarded a recommendation on the Concept Plan and for issuance of a Special Exception Use Permit.

Councilman Kolber stated that he and Councilman Casilio met with the applicant regarding the issue of the cut through to Westwood. Mr. Kenyon has indicated that his survey said 40 cars went through the intersection in a three hour span. Tim Horton's tries to run a minimum of 60 cars through in one hour so this would quadruple the traffic at Westwood and Main Street and this concerns Councilman Casilio - a continuous line of cars stuck at the stop sign pulling out of Kenyon's on to the Westwood exit. Councilman Casilio asked that the layout of the project be changed, the current layout serves the applicant best but it does not help with the traffic at all. Mr. Kenyon does not want the driver-thru traffic to go past his gas pumps, he wants the traffic to go out to Westwood. Councilman Kolber stated that the 18-wheeled gas delivery truck will need the Westwood entrance to make deliveries. Councilman Casilio main concern is the cars piling out onto Westwood.

Thomas Wilcox 9700 Main Street

A public hearing is scheduled for 7:50PM to consider a Temporary Conditional Permit for an automotive sales operation at 9700 Main Street. Applicant is proposing to operate a used vehicle sales office within a portion of the building identifying 3 parking spaces within the existing parking lot. The proposed project site is located on the north side of Main Street, east of Spaulding Lake Drive in an existing commercial building located in the Commercial Zone. Applicant is proposing to utilize (3) existing parking spaces for vehicle storage.

Student Transportation of America 8033 Transit Road

Applicant is proposing to utilize the existing facility for a school bus garage for vans and smaller busses. The existing building was previously used for heavy equipment/trucking operation. The proposed site is located on the east side of Transit Road, north of Wolcott Road in a Commercial-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. ***(Applicant asked to be removed from the agenda).***

Formal Agenda items:

Ron and Andy Grimm 8196 County Road

Applicant is proposing to develop a 12-lot Open Space Design Subdivision on existing vacant land consisting of 7.2+/- acres in the Traditional Neighborhood District within Erie County Sewer District #5. The project site is located on the north side of County Road, east of Stahley Road in the Swormville Traditional Neighborhood District. Per the Subdivision Law, the Town Board has an opportunity to provide preliminary review and comment on the style/design of a proposed subdivision prior to a formal review. Referral to the Planning Board would initiate a formal review of the project.

Rob Schofield – Cozy Café 9060 Main Street

Applicant is proposing to accommodate an outside dining area at existing restaurant located on the north side of Main Street, east of Shimerville Road in the Commercial Zone. Per the Zoning Law, the Town Board may consider outside dining with a Temporary Conditional Permit. A Public Hearing will be required prior to acting on the request.

Work Session items for consideration May 28, 2014:

Shepard Brothers Funeral Home 10690 Main Street

Applicant is seeking approval to construct a detached garage at existing commercial business. The proposed site is located on the north side of Main Street west of Salt Road within Clarence Hollow TND and within the Clarence Hollow Overlay. Per the Zoning Law, The Town Board has final architectural approval for accessory structures in the TND. The Clarence Hollow Community Character Protection Board will need to comment on the proposal.

Simon Yu 10647 Main Street

Applicant is proposing to construct a new commercial structure on existing vacant land (recently demolished structure) located on the south side of Main Street between Ransom Road and Sawmill Road in the Clarence Hollow TND and Overlay District. Per the Zoning Law, the Town Board has final approval for new construction within the TND. Referral to the Planning Board will initiate a formal review of the project.

Jehovah's Witnesses - 5595 Shimerville Road

Applicants are requesting Town Board approval to work on their building on Sunday's. According to Town Code, this is outside hours of operation. Town Engineer Lavocat stated that all their labor comes from volunteers who can only work on Saturday's and Sunday's. Director of Community Development James Callahan stated that he can put their request on the next Town Board agenda and notify the surrounding neighbors.

Day in the Park – Fireworks Display

Annual Fireworks Display Permit for Day in the Park to be held on June 28, 2014 at Main Street Town Park 10405 Main Street.

Deputy Supervisor Lawrence Meckler

- Appoint Lucas Metzger to the position of Laborer PT-Seasonal for the Highway Department

- Approval for Highway Intern Brent Hypnarowski to attend a three day training workshop at Cornell University

Town Attorney Meckler has several items to discuss in Executive Session (acquisition of real property and two personnel matters).

Road paving will begin at County and Strickler Roads on May 19th, there may be traffic delays.

Councilman Bernard Kolber

Councilman Kolber will make a motion designating the Month of May as National Preservation Month

Having met with the Planning Board and discussing issues on the Multiple-Family Law as it relates to density, Councilman Kolber will make a motion that determines the interpretation of density. He will also make a motion to set a Public Hearing to amend the Multiple-Family Density Law.

Councilman Kolber also discussed the Conner Road repaving issue. The Buffalo News indicated that it is just a one mile residential road when in fact Conner Road is an extension of Shimerville Road. Shimerville Road runs from Conner Road to Wehrle Drive and is one of the Towns most traveled North-South roads. Erie County wants to turn sixteen miles of road over to the Town – this however becomes a burden and a cost to the town and the town loses the revenue it gets from plowing those roads. Town Attorney Meckler along with Supervisor Hartzell and Highway Superintendent Dussing met with representatives from Erie County and they have agreed to do a study of Conner Road with their consultant to see what it would take for a permanent fix. They will go ahead with the consultant study and will work with Town Engineer Lavocat and Highway Superintendent Dussing.

The proposal for the County Library taxation district failed. No more money will be spent on consultants or attorneys to pursue this issue.

Clarence Public Library will host a used bicycle sale this weekend.

Councilman Patrick Casilio

- Accept proposal of Lumsden & McCormick LLP to provide services to assist in drafting a Vehicle Fleet Management Policy
- Authorize the Supervisor to sign the 2014 ATV/SxS Law Loan Program Agreement with Yamaha
- Award Architectural Design, Bid Assistance and Construction Phase Services for Main Street Town Park Restroom Facilities Project
- Award Bid for North Clarence Flood Reduction Program Study to Greenman-Pedersen
- Approve payment of the annual fire hydrant maintenance fee to ECWA for two hydrants in Shadow Woods Subdivision Phase II – Kristina Circle
- Approve a Special Event - St. Mary's Church 5K Chowder Chase Run
- Approve a Special Event - Ride for Missing/Exploited Children

Councilman Casilio has one Attorney-Client item to discuss in Executive Session.

Councilman Casilio questioned Planning Board Chairman Robert Sackett as to the size of the McGuire Project. Mr. Sackett stated that the applicant built according to what was recommended and approved by the Town Board. Landscape buffering was also approved for this project.

Councilman Peter DiCostanzo

- Seek Lead Agency Status on the proposed Wehrle Dome Apartments and Commercial Development located at 8230 Wehrle Drive
- Issue a Positive Declaration on the proposed Spaulding Lake Subdivision Sewer District
- Appointments for Recreation Department-Summer 2014 – Recreational Specialist PT Seasonal
- Appoint Jennifer Anthone to the position of Lifeguard PT Seasonal
- Appointments for Recreation Department for Summer 2014 – Recreation Attendants PT Seasonal
- Appoint Laborers Part Time-Seasonal for the Parks Department
- Appoint two Junior Planners PT-Seasonal for Planning and Zoning Office

Councilman DiCostanzo has contacted an ethics authority from Long Island to conduct ethics training for town departments heads and committee members on June 9, 2014. The cost is approximately \$1,500. He will conduct a two hour training session during the day for department heads and town staff and another session in the evening for town committee/board members who cannot make the earlier session. The Town of Lancaster and Newstead have been invited as well and hopefully will share in the cost.

The Ethics Board met today and interviewed two applicants to fill a vacancy. An appointment will be made at the next Town Board meeting.

There are nine people who still have not submitted their Ethics Disclosure Forms. The Ethics Committee is recommending they be removed from their appointed boards/committees. If their Ethics Disclosure Forms are not received by the next Town Board meeting, Councilman DiCostanzo will make a motion to have the applicants removed.

George VanNest has resigned from the Planning Board, this leaves an open full time position. Councilman DiCostanzo would like to appoint Steve Dale (current alternate) a full time member and accept applications for an alternate.

Councilman Robert Geiger

- Proclamation designating May 4 through May 10, 2014 as Municipal Clerk Week
- Set a Public Hearing to consider a Local Law amending the Code of Town of Clarence Chapter 83 Dogs and Other Animals to increase animal pickup fees

- Approve change in title from Youth Activities Leader PT to Youth Activities Leader PT-Seasonal
- Appoint Youth Activities Leader PT for the Youth Bureau

Councilman Geiger will comment on the Thank a Vet Program that was held at town hall last Thursday.

The Veterans will be placing banners on light poles again this year on Main Street from Davison Road to Transit Road.

The Clarence Historical Society is moving their military display.

Town Engineer Timothy Lavocat

Town Engineer Lavocat will announce that as part of the EPA/DEC storm water regulations, our annual report is complete and the Storm Water Management Plan is complete for public review. The regulations address storm water quality and pollution issues not drainage and flooding issues.

Deputy Town Attorney Bengart has one Attorney-Client item to discuss in Executive Session.

Confidential Secretary to the Supervisor Karen Jurek announced that because all of the rain this evening, she has been fielding calls from residents regarding streets flooding. The Highway Department is aware of this and has a small crew working.

Currently there are no Work Session agenda items scheduled for June 4th. The meeting will be cancelled unless any Board members have something they would like to discuss.

Councilman Geiger asked what the procedure is to obtain an AED (Automated External Defibrillator) for the Youth Bureau. Confidential Secretary to the Supervisor Karen Jurek stated that she has received quotes off State Contract but needs to know where to get the money from. Councilman Kolber would like to see an AED in every park, Clubhouse and Legion Hall. There should be one in the Town Hall as well. Karen said there is one in the Parks and Highway buildings. She will see if there is grant money available.

Motion by Councilman Kolber, seconded by Councilman Geiger to enter into Executive Session pursuant to § 105 (1) F of the Open Meetings law to discuss the employment history of a particular person; § 105(1) C information relating to current or future investigation which would imperil effective law enforcement if disclosed; § 105(1) H the proposed acquisition of real property. Upon roll call: Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio and Councilman Kolber; Deputy Supervisor Meckler; Noes: None. Absent: Supervisor Hartzell. Town Engineer Lavocat, Director of Community Development James Callahan and Animal Control Officer Jerome Schuler were asked to remain in the meeting. Motion carried.

There being no further business, the Work Session adjourned at 7:00 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:30PM. . Upon roll call: Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio and Councilman Kolber; Deputy Supervisor Meckler; Noes: None. Absent: Supervisor Hartzell. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, May 14, 2014 at the Clarence Town Hall, One Town Place, Clarence, New York.

Deputy Supervisor Lawrence Meckler called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Robert Geiger, followed by a prayer given by Barbara DeLong of Harris Hill United Methodist Church.

Deputy Supervisor Meckler said last night Ben Sauer, the little boy who captured all of hearts passed away. He is going to interrupt the meeting tonight for a moment of silence at 8:05 p.m. in his honor.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the work session and regular meetings held April 16, 2014. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the morning work session held May 7, 2014. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Deputy Supervisor Meckler reported that the Town Board passed the following motions at the morning work session of May 7, 2014:

- Set a Public Hearing for May 28, 2014 at 7:45 p.m. to consider the purchase by the Town of Clarence of approximately 170 acres of vacant land located on the west side of Kraus Road, east of Herr Road
- Appointment of Laborers PT-Seasonal and an Engineering Aide PT-Seasonal for the Highway Department
- Set a Public Hearing for May 28, 2014 at 7:50 p.m. to consider the formation of an Open Space Design Overlay for the proposed Northwoods Subdivision
- Approval for the Director of the Youth Bureau to attend a conference on May 12th in Rome, NY
- Approval of the bill pay for May 8, 2014
- Awarded the bid for insurance to the Floss Agency

Deputy Supervisor Meckler said item 13 on the agenda is a Public Hearing to consider a Temporary Conditional Permit for a school bus garage at 8033 Transit Road. However, the applicant has withdrawn his application. Since the public hearing was published, anyone who is here and wishes to speak can at that time but the application has been withdrawn.

Motion by Deputy Supervisor Meckler, seconded by Councilman Casilio to appoint Lucas Metzger to the position of Laborer PT-Seasonal for the Highway Department at a rate of \$8.61 per hour effective May 27, 2014, subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Deputy Supervisor Meckler, seconded by Councilman Casilio that upon the recommendation of Highway Superintendent James Dussing, approval is given for Highway Department Intern Brent Hynarowski to attend the 3-day Training Workshop, “Basics of Good Roads” to be held at Cornell University in Ithaca, NY on May 27, 28 and 29, 2014 with all reasonable and necessary expenses paid by the Town. On the question, Deputy Supervisor Meckler said the workshop and expenses for the hotel, fuel and meals will be funded through the Training and Education Highway Budget line. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

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

PROCLAMATION

*WHEREAS, The Month of May is designated as “National Preservation Month” and
WHEREAS, historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character; and
WHEREAS, historic preservation is relevant for communities and for Americans of all ages, all walks of life and all ethnic backgrounds; and
WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals to preserve the heritage that has shaped us; and
WHEREAS, residents are encouraged to seek out, learn about and celebrate our heritage.
Now, therefore, be it
RESOLVED, that the Clarence Town Board hereby proclaims May 2014 as “National Preservation Month” in the Town of Clarence.*

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Councilman Kolber said there have been discussions in previous meetings about the interpretation of the Multiple-Family Zoning Code. The Planning Board has told him that they are not an interpretive board.

Motion by Councilman Kolber, seconded by Councilman Casilio to consider the proposal by Councilman Kolber to amend the law as follows:

Whereas the present Multiple-Family Residential Development Code of the Town of Clarence Zoning Code is subject to interpretation and could be viewed as ambiguous, the Clarence Town Board makes the following interpretation of the Town of Clarence Zoning Code to be utilized by the Planning Department, the Planning Board and the Town Board by adding to Section 229-126.D. (1) c. – “The density calculation and total number of units is to be determined by that portion of the project site being utilized for multiple family residential development.”

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to set a Public Hearing for June 11, 2014 at 7:55 p.m. to consider a Local Law amending the Code of the Town of Clarence - Chapter 229 Zoning, Article XV. Special Exception Use Permits, §229-126 Multiple-Family Residential Developments D. (1) (c) The maximum density for multiple-family uses shall be eight units per acre. Add - – “The density calculation and total number of units is to be determined by that portion of the project site being utilized for multiple-family residential development.” Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Councilman Kolber said there has been media coverage recently on the bad condition of Conner Road, which is a County road. He is not happy with the way they are portraying it as only a one-mile road that should really not be a County road. It is really an extension of Shimerville Road which runs from Wehrle Drive to County Road. We do want Conner Road to be improved, however, there is a slippery slope as to what we will end up with. The County has already identified 16 miles of roads that they would like to turn over to the Town. Currently we receive funding from the County to plow some of their roads and that would be going away. There is more to it. It is not that we do not want to take care of roads.

Councilman Kolber said the Clarence Library has a number of events coming up. This weekend is the annual bike sale.

Councilman Casilio reported that the Highway Department is out checking roads for flooding and putting up signs where needed. A crew is also unclogging drainage pipes to keep the water flowing. They will monitor it all night.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the proposal of Lumsden & McCormick LLP to provide services to assist the Town of Clarence in drafting a Vehicle Fleet Management Policy at a cost not to exceed \$5,000.

On the question, Councilman Casilio said Lumsden & McCormick LLP will assist the Highway Superintendent, James Dussing and the Town Board in drafting the policy. The cost of services will be charged at a discounted hourly rate.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to authorize the Supervisor to sign the 2014 ATV/SxS Law Loan Program Agreements between the Town of Clarence and Yamaha Motor Corporation, USA, for the lease of two ATV's for 2014 subject to receipt, review and approval of the Agreement by the Town Attorney.

On the question, Councilman Casilio said the vehicles would be used by the Parks Security Department for a period of four months. There is no cost to the Town for the use of the vehicles. The vehicles would be added to the Town's insurance and the Town would be responsible for routine maintenance and for repairing any damage beyond normal wear and tear. One vehicle will be stationed at the Main Street Park and the other at the Highway Department for the bike trails in those areas.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to award architectural design, bid assistance and construction phase services for the Main Street Town Park Restroom Facilities Project to Sutton Architecture of Williamsville, New York in the amount of \$20,000 in accordance with their proposal dated April 17, 2014.

On the question, Councilman Casilio said this is to be funded from Capital Project 1401. This is to bring the 1950's facilities up to date and in ADA compliance. They will be heated and available all year long.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to award the North Clarence Flood Reduction Program Study to Greenman-Pedersen, Inc. of Buffalo, New York in an amount not to exceed \$78,500 in accordance with their proposal dated March 14, 2014.

On the question, Councilman Casilio said this is to be funded under the Townwide Drainage District.

Town Engineer Timothy Lavocat said this is to get answers to some of the questions we have dealing with flooding. This will give us the information on what we can do and in what order the improvements should be done to make the greatest impact.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Town of Clarence agrees to pay the annual fire hydrant maintenance fee to the Erie County Water Authority for two (2) fire hydrants within Shadow Woods Subdivision Phase 2 on Kristina Circle upon Final Plat approval and formal public infrastructure acceptance by the Town of Clarence. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to approve the following Special Events request: St. Mary's Church 5K Chowder Chase Run - July 20, 2014 from 11:15 am to approximately 12:00 Noon. This is in conjunction with their Annual Picnic.

On the question, Councilman Casilio said the Route will start at St. Mary's Church on Stahley Road and finish there as per the submitted map. All the appropriate agencies will be notified.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the following special event: Annual Ride for Missing Children sponsored by the National Center for Missing & Exploited Children on May 30, 2014 that begins at approximately 7:25 a.m. per the submitted route map. On the question, Councilman Casilio said this is a police escorted, 100-mile, 2x2 paced bike ride throughout Erie County streets as per the submitted list. There is a stop planned in the Town Park on Main Street. Number of People Expected to participate is: 100+/-.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber 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 Wehrle Dome Apartments and Commercial Development located at 8230 Wehrle Drive. This Type I Action involves the construction of 124 +/- residential apartment units as well as additional commercial space in the Commercial Zone. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendation of the Planning Board, the Clarence Town Board accepts the Part 2 and Part 3 Environmental Assessment Forms as prepared and to issue a Positive Declaration on the Proposed Spaulding Lake Subdivision Sewer District. This Type I Action involves the approval of a new Town Sewer District and the decommissioning of an existing private sewer treatment plant. The proposed action will have an impact upon the growth and character of the Town. After thorough review of the proposed action and including the development of a Feasibility Study with a road map for necessary steps in the process, it is determined that the proposed action will have a significant impact on the environment and a Draft Environmental Impact Statement will be prepared.

Involved Agencies: 1. Town of Clarence; 2. Town of Amherst; 3. Peanut Line Sewage Works Corporation; 4. Heise-Brookhaven Sewage Works Corporation; 5. US Army Corps of Engineers; 6. NYS Department of Environmental Conservation; 7. NYS Office of Parks Recreation and Historic Preservation; 8. NYS Department of Transportation; 9. Erie County Department of Environment and Planning; 10. Erie County Department of Public Works; 11. Erie County Health Department; 12. Erie County Sewer District No. 5.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to appoint the following applicants to the position of Recreation Specialist PT Seasonal for the Recreation Department for Summer 2014 at the rate of \$16.40 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements being met: effective May 16, 2014 - Ashley Gay and Kelly Rusin; effective June 21, 2014 - Eric Kinney and Shannon Letina. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to appoint Jennifer Anthone to the position of Lifeguard PT Seasonal at the rate of \$12.06/hr. effective May 16, 2014, subject to receipt of all pre-employment paperwork and pre-employment requirements being met. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint the following applicants to the position of Recreation Attendant PT Seasonal for the Recreation Department for Summer 2014, subject to receipt of all pre-employment paperwork and pre-employment requirements being met: effective May 19, 2014 at the rate of \$8.51/hr. - Angela Staszak; effective June 6, 2014 at the rate of \$9.00/hr. - Adam Singh; effective June 21, 2014 at the rate of \$8.11/hr. - Kailey Akin; Alexander Eaton; Christopher Kruszynski; Victoria Kuberka; Jocelyn Maggavaro; Emily Senay; Emily Vosburgh; Kristin Walleshauser; and effective June 21, 2014 at the rate of \$8.51/hr. - Jeff Schmidt. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint the following to the position of laborer part-time/seasonal in the Parks Department at the budgeted rate of \$8.61 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements being met: effective May 15, 2014 - Kyle Morteck; effective May 19, 2014 - Christopher Berardi; Mark Materise; Matthew P. Donnelly; Christopher Ossa; Jacob Petti; effective May 27, 2014 - Kyle Dowd; Nicholas Ferry; David Holt; Travis Place; Charles Warkenthien; effective June 9, 2014 - John Ptak; Tyler Skowronski; effective June 10, 2014 - Sean Cadden. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to appoint Timothy Vertino to the position of Junior Planner PT-Seasonal effective May 19, 2014 and ending July 3, 2014 at the budgeted rate of \$12.42 per hour subject to completion of all pre-employment requirements being met. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Samantha Herberger to the position of Junior Planner PT-Seasonal effective July 7, 2014 and ending August 29, 2014 at the budgeted rate of \$12.42 per hour subject to completion of all pre-employment requirements being met. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to contract with Steven Leventhal of Leventhal, Cursio, Mullaney & Sliney,LLP to provide two 2-hour sessions of ethics training on June 9, 2014 at a cost not to exceed \$1,700. On the question, Councilman DiCostanzo said he is inviting a couple neighboring towns and hopefully they will bring some people, which will help defray the cost. If we can train about 60 people, the cost would be about \$30 per person. That is dirt cheap for really good training. Councilman Kolber added that he would be coming in from Long Island and is one of the leading people in the country on Municipal ethics. We have not had ethics training in Clarence for quite some time. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Councilman DiCostanzo announced that George VanNest retired as a member of the Planning Board a few weeks ago due to family and work obligations. He thanked him for his service.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to appoint Steven Dale to fill the unexpired Planning Board term of George VanNest through December 31, 2018. On the question, Councilman DiCostanzo said this leaves the alternate position open which is a yearly appointment. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to set a Public Hearing for June 11, 2014 at 7:45 p.m. to consider a Local Law Amending the Code of Town of Clarence, Chapter 83. Dogs and Other Animals, Article II. §83.7. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to approve a change in title for Chelsea Venditti from the position of Youth Activities Leader PT to the position of Youth Activities Leader PT/Seasonal at the budgeted rate of \$9.59/hr. effective May 31, 2014. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to appoint Andrea Marinaccio to the position of Youth Activities Leader PT at the budgeted rate of \$9.79/hr. effective June 7, 2014. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Deputy Larry Meckler interrupted the meeting at 8:05 p.m. for a moment of silence in memory of Ben Sauer.

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

Proclamation

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of the government, exists throughout the world; and

WHEREAS, the Office of the Municipal Clerk is the oldest among public servants; and

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, the Municipal Clerk is the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations; and

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW THEREFORE, BE IT

RESOLVED, that the Clarence Town Board does hereby recognize the week of May 4 through May 10, 2014 as Municipal Clerks Week in the Town of Clarence; and be it further

RESOLVED, the Clarence Town Board extends its appreciation to our Town Clerk, Nancy C. Metzger, Deputy Town Clerks Darcy Snyder and Gayle Brace, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Councilman Geiger said we had a very successful “Thank a Vet” program here last week. Erie County Clerk Chris Jacobs put out the Vet cards.

Clarence Citizens for Veterans is putting up banners on Main Street.

Clarence Historical Society is changing their hours and expanding the hours at the Gerber Library which houses the Genealogy Department. He thanked the Parks Department for meeting there to discuss some short term and long term maintenance issues. They will hang a flag out when they are open.

The Clarence Hollow Association is holding a chicken barbeque on Memorial Day, May 26th after the Memorial Day Parade and Ceremony.

Councilman Kolber announced that the Town of Clarence is being awarded for the Greenprint Program to be honored at Chef’s Restaurant on Thursday night. He asked Planning Board member Wendy Salvati to talk about it.

Wendy Salvati said the Western New York Chapter of the American Planning Association is presenting the Professional Planning Award for Implementation to recognize the Town of Clarence Greenprint Program. The nomination was submitted by Nancy Smith of the WNY Land Conservancy. She worked on it with Peter Wolfe and it clearly rose to the top. They recognized that the Town preserved over 1,300 acres of open space and agricultural land. This is a mark of distinction for the Town, as many other towns would like to emulate. They looked not only that the Town established the program in 2001, but that it was recently reauthorized. The Town should celebrate.

Public Announcements

Town Clerk Nancy Metzger stated that a petition was received with approximately 117 names of residents “against the proposed road from Eastgate Plaza to Greiner Road.”

Department Reports

Town Engineer Timothy Lavocat reported that in accordance with US Environmental Protection Agency and NYSDEC Stormwater Phase II Regulations, the 2013 Town of Clarence Stormwater Annual Report and Stormwater Management Plan are available in the Engineering Department for public review during normal business hours.

Mr. Lavocat said for clarification, the Stormwater Phase II Regulations are in place to address stormwater quality and stormwater pollution issues and not to address drainage issues.

A Public Hearing was held 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 this is for the proposed Kenyon’s at the northeast corner of Main Street and Westwood Road. The property consists of an existing gas station in the Traditional Neighborhood District. The applicant is proposing to demolish the existing structure to construct a new convenience store with a Tim Hortons drive-thru. The use requires a Special Exception Use Permit per the Zoning Law. The Planning Board forwarded a recommendation with conditions on this project.

Tim Arlington, Apex Consulting, Surveying and Architecture, PC and Bill Kenyon were present. Mr. Arlington said this plan includes the landscaping berm along the north side of the

property. The site includes the convenience store with the Tim Hortons kiosk and drive-thru, underground fuel tanks and fuel service area with a canopy. The site has 18 parking spaces, and an exit onto Westwood along with entrance/exit on Main Street.

Councilman Casilio said he still has a concern with the Westwood exit. He believes that the 60 customers or more will be exiting onto Westwood every morning and there will be a traffic jam, especially for the residents of that neighborhood. He knows they will be successful and it is an improvement to the property, but he still has an issue with the Westwood exit.

There was a condition with Towne Mini not to have test drives and cars dropped off on Westwood and it is happening. There is a car hauler there almost once a week. It is more than likely Kenyon's gas fuel truck would use that exit also.

Councilman Casilio added that the traffic survey said 40 cars every three hours go down Westwood and he thinks there are more cars than that. He envisions a traffic jam that will affect their customers as well.

Councilman Casilio said we received 117 signatures from people regarding Eastgate with concerns of Eastbrooke being a pass through street which is very removed from the possible WalMart exit onto Greiner. Ericson to Westwood is already a pass through from Harris Hill Road to try and save time adding to the traffic in the neighborhood. They will also use this path to get to this new Tim Hortons. He thinks there is going to be a problem. There are people out in the audience who could have easily gotten 117 signatures against the exit on Westwood. He appreciates the people who showed up with the limited mailing that went out.

Councilman DiCostanzo asked if the traffic study talked about how much traffic this would generate. Councilman Casilio is mentioning 60 per hour.

Councilman Casilio said he said 60 per hour because he is at Tim Hortons every day. He can only imagine they will be the same. He knows Planning Board members went and counted more cars than the study states. He read the study and he knows they paid a lot of money for it, but people counted more. It does not seem accurate.

Councilman Geiger said he understands the concern, but he is also concerned about the cars at the service pumps. If the exit on Westwood is a dead issue, he feels it is unsafe.

Councilman Casilio said there is a lot on that site and we have not looked at any alternative layouts either.

Mr. Arlington said they have worked with the Planning Board and thought they had come to a good plan. The entrance on Westwood is important. Most of the traffic from the drive-thru will be exiting there. In regard to the fuel truck, they have made provisions so that it could exit onto Main Street. The plan does not work if they do not have the exit onto Westwood Drive.

Councilman Casilio said he knows the project would be an improvement but he does not know where it is fair for the residents if they have to negotiate with their customers.

Mr. Arlington said the traffic study was not done by them. The Planning Department was directed by the Planning Board to have a study done. Nussbaum and Clark performed the study and they did not perceive that as being a problem.

Councilman Casilio said he did not see where they commented on the customers this project would generate.

Mr. Arlington said based on their analysis, the queuing time to get onto Main Street would be minimal. The greatest congestion would occur between 7:00 a.m. to 9:00 a.m.

Councilman Casilio said there are times that Main Street is quite congested and his concern is they will be stuck at the stop sign. He said he asked if they would be interested in a traffic light and they were not.

Mr. Arlington said it is not that they would not be interested, it would have to be approved by the DOT as requested by the Town Board. The DOT would conduct a study to see if it was warranted.

Speaking to the subject:

Frank Endres said he was speaking on behalf of residents on Hirschwood, Gentwood, Norwood and Brentwood which are located behind the proposed Kenyon's facility. He said their present experience in accessing Main Street from Westwood has accepted the heavy flow of traffic from the Harris Hill signal and back-up beyond Westwood from the Auto Place signal due to courteous drivers. There is also the possible addition of 19 new homes in Roxberry Estates Phase II behind Gentwood Drive.

Mr. Endres said they are concerned with the proposed Kenyon's when their accesses to Main Street are Westwood, Arondale and Harris Hill. Walkers will be drawn to the facility. They

also see the new office building across Main Street tempting jay walkers. If they really feel that they need to add the Tim Hortons to this facility, a traffic signal at Westwood would help the entire community to have controlled egress to Main Street as an alternate to Harris Hill and Arondale.

Bill Farrell said he believes that the Westwood access is a deal breaker. He tried to turn right onto Main Street at Westwood last week at 10:30 a.m. and he counted 39 cars before he could get out after about 8 minutes. With all of the activity in that area, it would be difficult to get a fire truck through there. He is against the exit onto Westwood. There are five Tim Hortons within a 1 ½ mile radius. He does not understand why we need more. It is the wrong place for this.

Chuck Eckert said he has never had an issue with not in my backyard before. Business in Clarence is growing. He has been next to this location for 12 years and the traffic is growing also. We should be proud that business is growing here. A professional company has put together this plan and the Planning Board has done their due diligence. He has known Kenyons for many years and if they say they are going to do something, they do. He stands behind them.

Tom Noonan said he uses Westwood every day to Main Street. He loves Tim Hortons, but he does not think any of them exit out onto residential streets. It is very difficult getting out on to Main Street. He does not think there should be a special exception to allow going out to a residential street.

Linda Toto said she opposes the exit onto Westwood Road. People zip up and down that street all the time including car dealership techs doing test drives. It is not the right place for it.

Jim Morabito said he looked at the traffic study and sat in on some of the Planning Board meetings. He also does not agree with the 40 vehicles in the specific timeframe as it stated. He usually waits for about 2 ½ minutes and four cars ahead to turn out on to Main Street in the morning. The numbers just do not jive with his personal experience. The Board will decide what will be. His question is how high is the berm and what is going to be planted on it. If you look at others in the area, after 3 - 4 years they look terrible. He asks that it is high enough to shield headlights going into the neighborhood and a provision that it looks in years 2, 3, 4 and 5 the same as six months after it is done.

Councilman Kolber said there is not an easy answer and his concern is that a lot is being sandwiched in to a small site. It is a tremendous improvement over what is there. The Westwood entrance seems to be the greatest concern. Currently, there is an exit to Westwood and one was granted to the dealership across the street. He feels for both parties on this. A Special Exception Use Permit requires a supermajority vote of the Board with four votes. It might be a concern. We could take a vote tonight or take no action. If it is voted down tonight, it becomes a dead issue. We could refer it back to the Planning Board to see if there is a resolution amicable to all parties. He does not know if that is possible.

Councilman DiCostanzo said they have worked with the Planning Board on various ideas for the site. You could just have a Tim Hortons kiosk with no building and still have the same problem.

Councilman Kolber said he conferred with the Deputy Town Attorney Steven Bengart who mentioned that because Supervisor Hartzell is not here for the public hearing, he cannot vote on the issue.

Councilman Casilio said an alternative is to build it without the Westwood entrance and come back in a year to review it. He knows that they want to keep the drive-thru customers away from the gas pumps, but it would be better if they went out the exit on Main Street. It might even be better if everyone used the one entrance/exit on Main Street.

Councilman Kolber said we can close the Public Hearing if everyone has been heard and we could take this up at a future Town Board meeting.

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

Mr. Arlington said he would like some clarification.

Deputy Supervisor Meckler said a supermajority requires four votes. He is not an elected official, so he cannot vote.

Councilman Kolber said that would not change even when Supervisor Hartzell is back because he is not here for the Public Hearing. Deputy Town Attorney Bengart said that is correct.

Mr. Arlington said based on the comments, it might be best for them to wait on a decision.

Councilman Casilio said to make it clear, the Supervisor will not be able to vote at any time. Deputy Town Attorney Bengart said not without another public hearing.

Councilman Casilio said it may be in their interest not to take action, but if they want them to they could.

Deputy Town Attorney said the options are to take no action, you could vote it down, you could vote for it or you could sent it back to the Planning Board.

Motion by Councilman Kolber, seconded by Councilman Geiger to refer the request to consider a Special Exception Use Permit for a drive-thru facility with gas fueling station and convenience store at 8250 Main Street back to the Planning Board for further review. On the question, Councilman Casilio said the Planning Board did spend a lot of time with it and he understands that they read the same traffic report that they had prepared.

Deputy Town Attorney Bengart said to make it clear, the traffic study was prepared at our request early on in the SEQR review.

Councilman Casilio said he understands that, but he does not like the way the traffic report was presented as far as the number of cars and the number of activities coming out of the drive-thru. He thinks it was lacking information on what would be coming from the drive-thru.

Deputy Supervisor Meckler said the Planning Board would be armed with these additional comments from the public and the Town Board.

Mr. Kenyon said they met with the Planning Board four or five times and the closing of the Westwood entrance was never discussed. It came to their attention that the Town Board felt it should be closed for the benefit of the residents. The project does not go forward without the exit to Westwood. The traffic study was done over a few different days and at different timeframes. The study indicates between 7:00 a.m. and 10:00 a.m. that 75 cars use the Westwood entrance turning right and 11 turning left. There is about a 45-second gap from the light at Harris Hill. He understands that at times you have to wait for 10 or 11 cars, but there is a 45 second gap. He is willing to talk to the Planning Board, but the project does not work without the Westwood entrance. The gas tanker has to come in that entrance. He can make sure that it is done in the afternoon when it is not as busy.

Councilman Casilio said the gas trucks have always done that. An alternative could be a gate or something.

Mr. Arlington said they made a provision that they could go out Main Street, but it would be easier to go out Westwood.

Councilman Casilio said his concern is the drive-thru customers using the exit. Sometimes it is solid traffic and the study does not take into account cars coming out of other businesses in the area. He asked how many customers they expect an hour at 7:00 a.m. going through the drive-thru. The traffic study did not address that.

Mr. Kenyon said there 750 cars going west on Main Street and Councilman Casilio thinks they are going to grab 60 cars an hour from that. They currently run two other similar operations.

Councilman Casilio said sometimes projects just don't fit in Town. He does not see how they are going to negotiate at Westwood and Main.

Deputy Town Attorney Bengart said there is a motion on the floor.

Mr. Kenyon said if they did not need the Special Exception Use, they would not even be here. It has to be there. If the lot was larger, he would still want that exit.

Councilman Casilio said it would allow them to move things on the site. He is sitting here with 117 signatures from residents regarding Eastgate that live a mile and a half from the exit on to Greiner Road. He is sure that he could get at least that many signatures from this neighborhood. After it is open, it becomes the Town's issue.

Mr. Kenyon said if the people behind him are not happy, they will not shop in his store.

Upon roll call – Ayes: Councilmen Geiger and Kolber; Noes: Councilmen DiCostanzo and Casilio. Absent: Supervisor Hartzell. Motion lost.

A Public Hearing was held 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 structure in the Commercial Zone.

Thomas Wilcox said New York State does require that he has three designated parking spaces. He has agreed not to display cars on the site.

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

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

Resolved, that after a public hearing duly held on May 14, 2014, the Clarence Town Board approves a Temporary Conditional Permit to the applicant, Tom Wilcox, for an automotive sales operation at 9700 Main Street subject to the following conditions:

1. Three (3) parking spaces for outdoor storage of vehicles at the northwest corner of the existing parking lot.
2. No repair work on the premises
3. Permit valid for one (1) year.
4. No active display of vehicles.

Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

A Public Hearing was held to consider a Temporary Conditional Permit for a school bus garage at 8033 Transit Road. Deputy Supervisor Meckler said the applicant has withdrawn, however, because it was noticed, anyone who wishes to speak can come forth.

A gentleman said he came to speak, but he assumes there is no point. He asked if the applicant resubmitted, would there be a public hearing. Deputy Supervisor Meckler said yes there would be another hearing.

Councilman Casilio said he texted many of his neighbors to tell them that they did not have to come.

With no one speaking to the subject, motion was made by Councilman Kolber, seconded by Councilman Casilio to close the Public Hearing. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Grimm Brothers request Preliminary Concept Review of a proposed 12-Lot Open Space Design Development at 8196 County Road. James Callahan said the location is the north side of County Road, east of Stahley Road consisting of vacant land in the Swormville Traditional Neighborhood District. Referral to the Planning Board would initiate a thorough review of the project.

Ron Grimm and Andrew Grimm were present. Ron Grimm said they had a workshop meeting with the Planning Board and got some direction. They made some small modifications before tonight. They are in the process of getting the wetlands redone. As it stands, it is a straightforward project. They could have 14 lots, but are going for 12. Sewers are available.

Motion by Councilman Casilio, seconded by Councilman Kolber to refer the request by Grimm Brothers for Preliminary Concept Review of a proposed 12-Lot Open Space Design Development at 8196 County Road to the Planning Board. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Rob Schofield/Cozy Café requests a Public Hearing to consider a Temporary Conditional Permit for outside dining at 9060 Main Street. James Callahan said the location is the north side of Main Street, east of Shimerville Road consisting of an existing restaurant in the Commercial Zone. The applicant is seeking an outdoor dining permit.

Rob Schofield said he would like hours of 10:00 a.m. to 10:00 p.m. with 8 tables set on the grass area.

Motion by Councilman Casilio, seconded by Councilman Geiger to set a Public Hearing for June 11, 2014 at 7:50 p.m. to consider a Temporary Conditional Permit for outside dining at 9060 Main Street – Cozy Café. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Paul Marinaccio re: Drainage ditch at 8905 Lapp Road. Mr. Marinaccio presented a map of his property and pictures taken on April 29, 2014. When he came home that day he had two feet of water in his backyard. The map represents his property on Lapp Road. He said Keiffer was given permission by the Town to build a subdivision with no place to dump the water. He took legal action against the Town to get rid of the water and he won the case. Part of the agreement was that the Town of Clarence would cut a ditch within four years to eliminate the water coming from Kieffer's subdivision and from Conner Road. He took care of his own property. It is not working. The document says he can take the Town back to court and pay his legal fees too.

Mr. Marinaccio said he believes the Town has spent over \$600,000 fighting him. We should be able to get a ditch that accommodates the water. He has called Mr. Lavocat several times. He wants a ditch just like the one across his house. The waterline should be depressed and move the fire hydrant out of the way. It is too high.

Councilman Kolber said we just had a contractor redo that ditch. Mr. Marinaccio's contention is that the problem is at Lapp Road where the water line is.

Mr. Marinaccio said that is the front; he has not gotten to the back yet. He claims that whoever did the job should be fired. If you go on the south end, it is like an "L" shape, it is 1' x 1' deep. They cut the ditch on the edge of his property. So, every time it rains, water is dumped on his property.

Mr. Marinaccio said he is asking the Board to come and see the mess they made. His options are that if his property is not fixed by December, he will end up with a land bank. Mr. Marinaccio said then his choice is to fill the ditch in and put a berm in alongside his property and flood everybody else. He does not want to do that. Or, he can sue every homeowner in that subdivision and get an annual fee from them. He wants to know before he leaves what the Town is going to do for him.

Deputy Supervisor Meckler said this was his opportunity to make a presentation and the Town will take all his comments under consideration and respond appropriately and at the appropriate time.

Mr. Marinaccio said no studies were done and now his land is wetlands. He will take on the DEC and Corp of Engineers. He is proud to be in this country and nobody is taking his land. He wants the ditch exactly what is across the road and lower the waterline or we will be back in court. He wants an answer as soon as possible.

Deputy Town Attorney Bengart said his pictures are part of the record.

David Horbinski re: Recreation trail from Northwoods Project. Mr. Horbinski said he lives on Thompson Road. He attended the Planning Board meeting last week and they felt there were some contradictions made. The Chairman had commented that should the opportunity exist to connect the bike path to other bike paths in the future, the opportunity is there. He also said that it is understood that the present owners of the land do not wish there to be a bike path. He added that ownerships change and there may or may not be an opportunity in the future. They made a motion for a 20-foot easement to be provided for the potential future construction of a recreational trail from Road D to the east property line of the project to be located along the Heise Brookhaven Trunk Sewer Line Easement.

Mr. Horbinski said Town Attorney Meckler said there was no intention to do anything and if he lived there, he would not be concerned. It was also said that the Heise-Brookhaven Sewer Line was never meant to have an easement for a bike path. Once the ownership is transferred to the Town, it will be an easement for the access to the sewer line.

Mr. Horbinski said based on that, it is their contention that the motion for the potential bike path should not have been made. It should be eliminated altogether. In this country individual rights still matter.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Republican Committee – May 29, 2014; B. Clarence Chamber of Commerce – May 16 & 30, June 13 & 27, July 11 & 17, 2014; Legion Hall Applications - A. Mandana Waseh – May 23, 2014; B. Ramki Ramakrishnan – June 14, 2014; C. Derek Smaczniak – Aug. 9, 2014; Park Pavilion Special Request - A. Clarence Hollow Association – May 26, 2014; B. Clarence Chamber of Commerce – Aug. 4 & 5, 2014; Nature Center Lodge - A. Garden Friends of Clarence – June 11, 2014. Upon roll call – Ayes: Council

Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo that after proper audit and review by the Town Board, the following bills of April 24, 2014 are approved for payment: General Fund - \$166,332.10; Highway Fund - \$56,109.96; Water District - \$789.00; Fire Protection Districts - \$1,377.14; Drainage District - \$19,144.00; Lighting Districts - \$838.45; Sewer Districts - \$99.18; Trust & Agency 203 - \$4,482.50 for a total amount of \$249,172.33. On the question, Councilman Kolber said they approved the bills for May 8th last week at the work session and somehow these were overlooked. Councilman DiCostanzo said we paid the bills, they did not make it on the agenda for the work session. Upon roll call – Ayes: Council Members Geiger, DiCostanzo, Casilio and Kolber; Noes: None. Absent: Supervisor Hartzell. Motion carried.

“For the Good of the Town”

Tim Pazda, President of the Clarence Lions Club informed the Town Board that on June 28th at the Clarence Day in the Park, they are going to have the world’s largest slip’n slide. He hopes they are all there and we will have a challenge to see who goes the fastest.

Councilman Casilio said he knows they are working very hard on this and mentioned there are many other events that day including the dog show.

Mr. Pazda said they have many new items including the expansion of the “Bark in the Park” that will be from 11:00 a.m. to 4:00 p.m.

Councilman Casilio announced that the Town Board will enter into an attorney/client meeting. He asked that James Callahan and Timothy Lavocat attend.

There being no further business, Deputy Supervisor Meckler adjourned the meeting at 9:27 p.m. in memory of Ben Sauer.

Nancy C. Metzger
Town Clerk