

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, August 26, 2015 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 and Robert Geiger. Councilman DiCostanzo was absent. Other Town Officials present were Director of Community Development James Callahan, Senior Building Inspector David Metzger, Highway Superintendent James Dussing, Confidential Secretary to the Supervisor Karen Jurek, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Director of Administration and Finance Pamela CuvIELLO, Planning Board Chairman Robert Sackett and Planning Board members Paul Shear and Steve Dale.

Director of Community Development – James Callahan

Formal Agenda items:

Janice Carson 10589 Main Street

Applicant is proposing to sell vehicles at this location. The proposed site is located on the south side of Main Street, west of Ransom Road at existing commercial structure located in the TND Zone and within the Clarence Hollow Overlay. Currently there is an office building in the front and a vehicle detail operation to the rear operating under a Temporary Conditional Permit. The Town Board did not act on a similar request in 2009 and asked the applicant to clean up the property. The property has been improved since the 2009 request and the applicant is seeking consideration for an automotive sales operation. Details on display area and the number of vehicles should be addressed.

Annual Excavation Permits

Per the Town of Clarence Excavation Law, the Town Board annually approves excavation permits. This year there are four requests, all of which were approved last year. Each applicant must submit their respective NYSDEC Mining Permits, bonds and corresponding fees before being placed on the formal Town Board agenda. Renewal requests are from:

Buffalo Crushed Stone

Emeritus Holdings

Lakeside Sod

Michael Development (formerly 100001 Grand Corporation)

Domenic Piestrak – Spaulding Green Open Space Design Subdivision

The original Spaulding Green Open Space design subdivision was approved in 2003 and included 380 sub-lots with the required 50% open space. The original 380 lot development was approved under an environmental impact statement as a supplement to the original Clarence Hollow Pollution Abatement Environmental Impact Statement which generally identified 500 units east of Goodrich Road and north of Greiner Road. There have been several amendments to the original concept plan and several land acquisitions by the owners to maintain the required 50%+ open space. Several proposed phases have been placed on hold as a part of previous amendments, adjusting for building type and utility extensions, always maintaining the originally approved 380 total lots. The applicant has acquired 50 additional sewer taps from a former partner in the Waterford Village PURD. The applicant is proposing to utilize the acquired 50 sewer taps to complete phases 7 and 9 from the original concept. The proposed Phases 7 and 9 include 45 estate lots. The submitted design maintains the required 50% open space. Per the Zoning Law, the Town Board has ultimate authority to approve Open Space Design Subdivision and any amendments thereto. An environmental review will be required. Referral to the Planning Board would initiate a formal review of the application. For the record, Town Engineer Lavocat stated that based on the information he has received today, the number of equivalent dwelling units can go to Heise Brookhaven Trunk Sewer. Details will be worked out with the applicant through the detailed

environmental review. Director of Community Development James Callahan stated that this exceeds the environmental impact statement that was done for the original concept plan. It will require new environmental review where details of the project must be reviewed along with sewer capacity.

Russell Salvatore Jr. 6449 Transit Road

Applicant is proposing to demolish the existing residential structure and construct a new mixed use building with approximately 6700+/- square feet of commercial space and eight (8) residential multi-family apartments. The proposed site is located on the east side of Transit Road, north of Old Post Road in the Major Arterial Zone. A 2008 Master Plan 2015 amendment identified that the property should be identified in a Restricted Business Zone to guide future growth. Per the Zoning Law, the Town Board has final authority to amend the Zoning Map and to issue Special Exception Use Permits. The Planning Board has forwarded a recommendation to amend the zoning to Restricted Business per the approved Master Plan 2015 amendment from 2008 and to issue a Special Exception Use Permit on the project as designed. A recommendation under SEQRA is also a part of the Planning Board action.

Kenyon's Convenience Store 8250-8274 Main Street

Applicant is proposing to demolish the existing structures on the properties (8250-8274 Main Street) and construct a new convenience store with new gas island pump station including a separate office/shop within the convenience store. The proposed site is located on the northeast corner of Main Street and Westwood Road in the Harris Hill Traditional Neighborhood District at existing commercial uses located on two separate properties. Total combined property consists of 1.13+/- acres. As the proposed use is requesting a drive-thru facility, the Town Board may consider the use with a Special Exception Use Permit. Referral to the Planning Board will initiate a formal review of the project.

Joseph Beaser 8255 Goodrich Road

Applicant is seeking approval to construct a pond on the property across from his existing home. The proposed site is located on the south side of Brauer Road at the southeast corner of Brauer and Goodrich Roads on existing vacant land located in the Agriculture Flood Zone within the Density Flood Plain. Per the Excavation Law, the Town Board has final approval authority to review and approve pond permits. The Town Engineer has reviewed and approved the pond design. The Town Board should detail the use of spoils from the excavation area.

Work Session items for consideration September 9, 2015:

Cobblestone Center Phase II – 8584-8590 Sheridan Drive

Applicant is proposing to amend the Special Exception Use Permit to allow for two (2) mixed use buildings instead of the previously approved office buildings. The proposed site is located on the north side of Sheridan Drive, east of Harris Hill Road at existing Doodle Bugs Day Care Center located in the Restricted Business Zone. Phase II of this development was previously approved under a Special Exception Use Permit to allow for two (2) office buildings in front of the existing day care center. The recent amendment to the Restricted Business Zone Special Exception Use Permits may allow for small scale retail as an acceptable use in the commercial portion of the mixed use buildings. Per the Zoning Law, the Town Board has final review authority for approval of Special Use Permits and amendments thereto. The Planning Board has forwarded a recommendation on the project as well as an action under SEQRA. A Public Hearing will be required to consider the amendment.

Waterford Campus/Landings – amendment to the existing Waterford Village PURD Previously approved Planned Unit Residential Development (PURD) – the Campus/Landings portion originally included 100+/- units of residential housing and 20,000 +/- square feet of commercial space. The proposed amendment would completely eliminate the commercial square footage and reduce the residential component to 77 units. The proposed site is located on the north side of Roll Road, west of Dana Marie Parkway. A PURD is a specific site plan approved zoning classification, any amendments must be approved by the Town Board. The Planning Board has forwarded a recommendation to approve the amended design along with an action under SEQRA. A public hearing will be required to consider the proposed amendment. There were two traffic studies done and the proposed mitigation is the installation of a four-way stop at Roll and Harris Hill Roads, we are still waiting on the County for that install. Councilman Geiger stated that some of the complaints he has heard was about garbage and snow removal. James Callahan stated that the residents would place their garbage in the building on the far right and it would be picked either once or twice a week. Snow removal will be trucked out.

Town Attorney Lawrence Meckler

Town Attorney Meckler has one item to discuss in Executive Session regarding current litigation and Highway Superintendent Dussing has one Attorney-Client item to discuss.

Town Engineer Tim Lavocat

Town Engineer Lavocat received notification that Erie County will be replacing the Clarence Center Road Bridge over Gott Creek. A portion of Clarence Center Road from Transit Road to Newhouse Road will be closed from September 2, 2015 until the completion of construction on or about December 4, 2015.

Planning Board Chairman – Robert Sackett

Chairman Sackett commented on the rezoning of 6449 Transit Road. Deputy Town Attorney Steven Bengart was asked to research State Law regarding the Master Plan and Zoning because the Planning Board always felt the two had to be the same. After researching this, Deputy Town Attorney Bengart agreed with the Planning Board however there was no determination as to when you need to rezone. Several Planning Board members feel that what has come before them is “spot zoning.” When it comes to the 2025 Master Plan they would like to agree on a new land use map or agree on putting the two together. There will be a meeting on September 30th, currently the Master Plan and Zoning do not go together.

Supervisor David Hartzell

- Special Event Request – Flight 3407 Memorial 5K Run
- Special Event Request – Brothers of Mercy – Oktoberfest and 5K Run/Walk
- Special Event Request – Block Party 6045 Fairlane Drive
- Special Event Request – Discover Main Street Fun Ride
- Approve transfer funds from the Highway Department 2015 Budget

Councilman Bernard Kolber

- Cancel the Public Hearing set for September 9, 2015 for 8196 County Road at the request of the applicant due to an unavoidable conflict

- Councilman Kolber has come up with some options and dimensions for a Pickle Ball Court that he will present at the Town Board meeting

Councilman Patrick Casilio

- Authorize NYSEG to relocated and activate a street light on Greiner Road
- Authorize payment to Town of Amherst for flood gauge metering of Tonawanda Creek
- Set Bid Date for Main Town Park Pole Barn addition project
- Set Bid Date for Main Town Park restrooms facility project
- Authorize Supervisor to apply for and to execute State Assistance Contract for EFC Water Grant for CSD No. 9 Sanitary Sewer Project on Alexander Dr. & Elmcroft Court
- East Amherst VFC would like to meet with the Town Board to discuss their budget, they are interested in a three year contract. Councilman Casilio along with Pam CuvIELLO are gathering information from all the fire companies regarding their budgets. The fire companies are looking for a blended cost for LOSAP, there is a cost to do this. Town Attorney Meckler will contact Joseph Floss regarding this tomorrow.

Councilman Robert Geiger

- Approve transfer of funds from the 2015 Control of Animals budget
- Councilman Geiger will make several announcements about upcoming events around town

Supervisor Hartzell received a letter from the Niagara Falls Legislature through the Niagara Falls Military Council, they are looking for Towns to fund the Niagara Falls Air Base. Supervisor Hartzell stated that he did not feel this was something the town wanted to do. He will make copies of the letter and distribute to the Town Board for review and discussion at the next Town Board meeting.

The Town of Lancaster is requesting the Town of Clarence share our Animal Control Officers with them. Supervisor Hartzell responded to Lancaster Supervisor Dino Fudoli saying he will present his request to the Town Board. Councilman Casilio asked if Animal Control Officer Jerome Schuler was aware of this request. Supervisor Hartzell stated that Jerry knew about the last request and was not interested in it but he is not aware of the most recent request. Councilman Geiger suggested making Mr. Schuler aware of the most recent request and get his input.

Councilman Casilio stated that he attended the joint School Board-Town Board meeting on Monday night. He thanked James Callahan for his presentation and Albert Webber for representing the Assessor's Office. Highway Superintendent Dussing was present at the meeting as well and was complimented on keeping the roads cleared during the winter months. The School was made aware of future developments going on within the town.

Councilman Kolber commented on the number of street lights that are out. Councilman Casilio stated that it is an ongoing issue, he is in contact with the Parks Department and our NYSEG representative on a weekly basis. Councilman Kolber suggested holding up payment on these lights until they are repaired/replaced.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to enter into Executive Session pursuant to § 105 (1) D of the Open Meetings Law to discuss current litigation and an Attorney-Client matter. Highway Superintendent James Dussing and Town Engineer Tim Lavocat were asked to remain in the meeting. Upon roll call – Ayes: Councilman Geiger, Councilman Casilio, Councilman Kolber, Supervisor Hartzell; Noes: None. Absent: Councilman DiCostanzo.

There being no further business, the Work Session adjourned at 6:35PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Executive Session at 7:14PM. Upon roll call – Ayes: Councilman Geiger, Councilman Casilio, Councilman Kolber, Supervisor Hartzell; Noes: None. Absent: Councilman DiCostanzo. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, August 26, 2015 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 7:30 p.m. Councilman Patrick Casilio led in the pledge to the flag, followed by a moment of silence.

Members of the Town Board present were Councilmembers Robert Geiger, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Councilman Peter DiCostanzo was absent. 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 Geiger to accept the minutes of the work session and regular meetings held August 12, 2015. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Supervisor Hartzell reported that the Clarence Industrial Development Agency voted to fund the Main Street Redevelopment project. Clark Patterson Lee will be the lead agency. The project will mirror the project they did for Williamsville. The IDA looks forward to prospects for new businesses to move to Clarence.

Supervisor Hartzell read a thank you letter from “Ride for Roswell” thanking the Town Highway and Parks Department and the Clarence Center Fire Company for their services during the 2015 ride in June.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the following special event:

Flight 3407 Memorial 5-K Run:

Date: Saturday, October 3, 2015 – 9:00 a.m. until 2:00 p.m.

Number of persons expected to attend: 150+/- plus 30-50 volunteers

Route: – start at 9:00 a.m. on Old Goodrich Road; proceed north to Roll Road; west on Roll Road to Thompson Road; north on Thompson Road to Clarence Center Road; east on Clarence Center Road to Goodrich Road; south on Goodrich Road to Town Place; Town Place to Finish Line.(as per submitted route)

On the question, Supervisor Hartzell said all appropriate authorities will be notified and Certificate of Insurance for the Town of Clarence is on file in the Town Clerk’s Office. The applicant will obtain any permits they may need from Erie County and New York State for use of their highways, if applicable.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the following special event:

Brothers of Mercy October Fest and 5-K Nature Run/Walk.

To be held on Friday, September 11, 2015 from 5:30 p.m. to 10:00 p.m. at 4520 Ransom Road (Run/Walk will begin at 6:30 p.m.).

Number of People Expected: approximately 600+/-

On the question, Supervisor Hartzell said the route for 5K-run is as per the submitted map. Certificate of Insurance on file for the Town. All the appropriate authorities will be notified. The applicant will obtain any permits they may need from Erie County and New York State for use of their highways, if applicable.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the following special event:

Block Party – Pig Roast at 6045 Fairlane Drive

Date: Sunday September 6, 2015 from 9:00 a.m. to 9:00 p.m.

On the question, Supervisor Hartzell said all appropriate agencies will be notified and they expect approximately 50 persons to attend.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the following special event:

Discover Main Street Fun Ride:

Date: Saturday, September 12, 2015 – 8:00 a.m. until 12:00 noon

Number of persons expected to attend: Approximately: 100-200+/-

Route: – *as per the submitted route map.*

On the question, Supervisor Hartzell said all appropriate authorities will be notified and a Certificate of Insurance is on file in the Town Clerk's Office for the Town of Clarence. The applicant will obtain any permits they may need from Erie County and New York State for use of their highways, if applicable.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to approve the transfer of funds from the 2015 Highway Department Budget as follows: \$45,000.00 from Account No. 002.5130.0279 – Equipment to Account No. 002.5110.0413 – Resurfacing Materials. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to cancel the Public Hearing set for September 9, 2015 for 8196 County Road at the request of the applicant due to an unavoidable conflict and to set the next available date after September 9, 2015.

On the question, Councilman Kolber said the request to cancel the public hearing was made before the Notice of Public Hearing was published.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to set a public hearing for September 23, 2015 at 7:45 p.m. to consider the request for an Open Space Design Development for a 12-Unit Subdivision at 8196 County Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Councilman Kolber said there are so many street lights out in town, which we are charged for by NYSEG. He will work on a resolution to withhold payment until they are repaired. If you have a light that is out, you can report it online or call the Parks Department.

Councilman Kolber welcomed the pickle ball enthusiasts here this evening to do their presentation. It is nice to see such a turnout for a meeting.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize New York State Electric and Gas to relocate and activate a cobra head streetlight on the north side of Greiner Road directly across from Lexor Lane. The cobra head streetlight is to be relocated from pole U-45-120 to pole 358-44. The standard, fixture, connection and mount to be owned and maintained by New York State Electric and Gas under the terms and conditions of the Service Class 3 street lighting agreement between New York State Electric and Gas and the Town of Clarence. On the question, Councilman Casilio said the homeowners requested a street light at the entrance to their street. It was determined to move one down the street to that location. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to authorize payment in the amount of \$2,340.00 to the Town of Amherst for Flood Gauge Metering of Tonawanda Creek at Rapids as part of our joint funding agreement with the Town of Amherst.

On the question, Councilman Casilio said the flood gauge at Rapids is monitored remotely in real time by the Engineering Department to determine flood levels in northern Clarence during flooding events. To be paid from the Joint Drainage Facility Account.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Bid Date for September 17, 2015 at 10:15 AM in the Office of the Town Clerk for the Main Town Park Pole Barn Addition Project.

On the question, Councilman Casilio said the Bid Documents will be available in the Office of the Town Clerk August 28, 2015. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to set a Bid Date for September 17, 2015 at 10:00 AM in the Office of the Town Clerk for the Main Town Park Restrooms Facility Project.

On the question, Councilman Casilio said the Bid Documents will be available in the Office of the Town Clerk August 28, 2015.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

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

WHEREAS, the Town of Clarence, after thorough consideration of the various aspects of the problem and review of available data and resources, has hereby determined that certain additional work, as described in its New York State Water Grant Application and attachments, is required to address New York State DEC Consent Order compliance items for the Clarence Hollow water pollution abatement project, herein called the “Project”; and

WHEREAS, The Clarence Town Board finds that this project is in the public interest, and is required in order to implement the Project and remedy said compliance requirements; and

WHEREAS, the current estimate of cost for the Project is \$1,347,225 of which the Town of Clarence will provide a required match not to exceed \$1,010,419; and

WHEREAS, the NYS Water Infrastructure Improvement Act of 2015 provides the Environmental Facilities Corporation with the authority to assist municipalities for water infrastructure improvement projects by means of a contract, and the Town of Clarence deems it to be in the public interest and benefit under this law to enter into a contract therewith.

NOW, THEREFORE, BE IT

RESOLVED BY the Clarence Town Board, that:

1. Supervisor David Hartzell, or his representative or successor, is the representative authorized to act on behalf of the Clarence Town Board in all matters related to State assistance under ECL Articles 17, 51 and 56 and/or any applicable federal grant provisions.
2. The Supervisor, or his representative, is authorized to make application for funding in the amount of \$336,806 to execute the State Assistance Contract, to submit Project documentation, and otherwise act on behalf of the Clarence Town Board in all matters related to the Project and to State assistance;
3. The Town of Clarence Board agrees to fund its portion of the cost of the Project and that funds will be made available to initiate the Project efforts within 6 months of written approval of its application by the NYS Environmental Facilities Corporation;
4. One certified copy of this Resolution be prepared and submitted with the Grant Application; and
5. This Resolution takes effect immediately.

On the question, Councilman Casilio said this is to request grant funds from New York State for the Alexander Drive and Elmcroft Court Sanitary Sewer Project in Clarence Sewer District No. 9.

Councilman Kolber said the town portion would come from Sewer District No. 9 and general town funds.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

James Smerecak said he spearheaded this drive to get sewers on Elmcroft Court and Alexander Drive. They have seen sewers go in all around them with these two streets left on the north side of Main Street. It is extremely important to the residents and the environment.

Councilman Kolber said it all depends on funding. There are also taxing limits on the property owners. He is happy and surprised that we were able to complete as much as we have. We attempt to obtain grant money when possible.

Motion by Councilman Geiger, seconded by Councilman Casilio to approve the transfer of funds from the 2015 Control of Animals budget as follows: \$ 500.00 from account 001.3510.0476

– Training Courses to account 001.3510.0451 – Repairs and Maintenance of Vehicles. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Councilman Geiger recognized Jan Reicis, Vice Chair of the Chamber of Commerce who was present.

Councilman Geiger announced the following events:

Clarence Senior Center Community Day on Friday from 3 – 8 p.m.

Butterfly release at the Farmer's Market on Saturday.

Clarence Chamber Legislative Breakfast on September 5th at WBBZ-TV

Clarence Chamber Golf Outing September 14th at Brookfield Country Club

Town Clerk Nancy Metzger received a Notice of Highway Closure from the Erie County Department of Public Works. Clarence Center Road from Transit Road to Newhouse Road will be closed from Wednesday, September 2, 2015 until the completion of construction on or before December 4, 2015. The purpose is for the replacement of the Clarence Center Road Bridge over Gott Creek.

Public Participation

Karen Willyoung asked Councilman Casilio where the relocation is of the light on Greiner.

Councilman Casilio said they are moving a light down one pole closer to the intersection with Ledor Lane. We have been working on that in the planning process to make sure there is one placed at the entrances.

Barbara Westermeier spoke regarding the need for dedicated Pickleball courts in the Town. Information was handed out in relation to specifications and approximate costs. Barbara said Pickleball is the fastest growing sport in the country. Everyone can play from 8 to 85. They have 25 people who play at the YMCA early in the morning. If the Town puts the courts in, people will come and play. There are over 150 people who play in the immediate area. It grows each year. They have a website BuffaloPickleball.com. It started out in the west and is popular in the south.

Barbara said there are 22 tennis courts along with basketball courts, baseball and soccer fields, etc. There is currently two tennis courts with lines down the middle for them to play on. There is a conflict at times with tennis. This is a sport that the senior population can play. The Senior Center has asked her to do a demonstration about the game. They would like to have one there. She explained that the Town could convert two tennis courts to accommodate six dedicated pickleball courts. She suggested the courts at Academy Street, or two of the four at Sunset Park. There would still be 20 other courts to play tennis at. There is a brand new basketball court at Town Place Park. The old one would be room for three Pickleball courts.

Barbara provided estimates from a company to convert to six Pickleball courts, the cost is about \$7,200 and three courts would be \$3,600. The pricing includes posts, nets, center straps, paint and fencing. She added that you will need benches for all of the people waiting to play. They do not require a lot of maintenance.

It is a multigenerational sport to keep everyone active. It is taught in our schools. They need real courts. She would be willing to do clinics to teach it to those interested free of charge. She has two beginner classes going now and she loves to do it. Mr. Trapper asked if she would like to do a league program for summer recreation next summer. "Build it and they will come."

Councilman Kolber said he would like to look into this and ask the Parks Department which are the least used tennis courts.

Supervisor Hartzell said Pickleball has certainly grown in Clarence over the last year. The Board will discuss this further at the work session to see what can be done.

Councilman Geiger said there was discussion at the Senior Center and they would be interested. Barbara said she is doing a demonstration there in September.

Janice Carson requests a Public Hearing to consider a Temporary Conditional Permit for an automotive sales operation at 10589 Main Street. James Callahan said the location is the south side of Main Street west of Ransom Road consisting of an existing commercial building in the Clarence Hollow.

Janice Carson said she was here before, but was declined. She has since put a new roof on her building. She would like to put 5-10 cars and have a display out front.

Councilman Geiger said there is not a lot of room in the lot to turn around.

Ms. Carson said she would park the cars on an angle along the fence.

Motion by Councilman Casilio, seconded by Councilman Geiger to set a Public Hearing for September 23, 2015 at 7:50 p.m. to consider the request for a Temporary Conditional Permit for an automotive sales operation at 10589 Main Street. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Annual Excavation Permit Renewals – A. Buffalo Crushed Stone; B. Emeritus Holding; C. Lakeside Sod and D. Michael Development. James Callahan said all applicants have submitted permit materials including NYS DEC mining permits, tax receipts, bonds and fees and estimated removal amounts. No complaints have been received.

Motion by Councilman Casilio, seconded by Councilman Geiger to approve Excavation Permit renewals for the following applicant for a period of one-year: A. Buffalo Crushed Stone; B. Emeritus Holding; C. Lakeside Sod; and D. Michael Development. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Domenic Piestrak Spaulding Green Open Space Design Development requests Preliminary Concept Review of Phases 7 and 9 representing an amendment to the overall Concept Plan for the Development. James Callahan said this is an expansion of the Spaulding Green Open Space Development. The original plan was a maximum of 380 lots. The applicant has acquired an additional 50 sewer taps and is requesting a review of the expansion of the overall project. An environmental review will be required to consider an expansion which remains under the original Clarence Hollow Pollution Abatement Project Environmental Impact Statement. A referral to the Planning Board will initiate a review.

Domenic Piestrak said not having sewers is not beneficial to the environment. This project came about from putting the sewer line to the Hollow. There were not enough taps at the time the project began. They do have the open space for the additional lots.

Councilman Kolber said there were supposed to be 500 taps for east of Goodrich and 500 taps west. There are currently 380 and now the additional 50, which is still under that.

Mr. Piestrak said it did not turn out that way.

Councilman Casilio said this will conclude the taps. There would not have been sewers to the Hollow without this line.

Town Engineer Tim Lavocat said for clarification, it is 52 additional taps along with the original 350 for a total of 402.

Mr. Piestrak said it was good for the building industry at the time and solved the sewer issue in the Hollow.

Supervisor Hartzell said it is one of the best public/private partnerships in Western New York. It benefitted both parties. Everybody wins.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to refer the request by Domenic Piestrak for Preliminary Concept Review of Spaulding Green Open Space Design Development Phases 7 and 9 representing an amendment to the overall Concept Plan to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Russell Salvatore, Jr. requests a Public Hearing to consider a Rezoning and a Special Exception Use Permit for a mixed use building at 6449 Transit Road. James Callahan said the location is the east side of Transit Road, north of Old Post Road consisting of a residential structure in the Major Arterial and Residential Single Family Zones. The applicant requests rezoning to accommodate a new mixed use building in a Restricted Business Zone as identified in the 2008 Master Plan 2015 amendment. The Planning Board has reviewed and approved the concept and forwarded a recommendation.

Michael Metzger, engineer said this property is approximately five acres. The mixed use building would include 6,700 sq. ft. of retail space on the lower level along with two apartments and six apartments on the upper level. The changes to the Town Code now allow for small retail businesses and this project complies. It is a beautiful building and they hope to move forward with public hearings.

Councilman Kolber said changes like this are usually made at the annual master plan review.

James Callahan said it is an amendment to the land use map. The 2008 Master Plan amendment identified restricted business as more compatible to the area. Typically, we rezone when a project comes in. There has been discussion on rezoning at the time or wait for a project. In this case, we waited.

Michael Metzger said this project has been around for a while. They actually made the request for the project at the appropriate time. It is only now that the project is ready.

Councilman Casilio said this rezoning is not that remarkable. This building is similar to the one next to it. It is not drastic as changing from agricultural.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for September 23, 2015 at 7:55 p.m. to consider the request for rezoning 6449 Transit Road from Major Arterial to Restricted Business. On the question, Supervisor Hartzell said he thinks this is a nice change for the Town of Clarence and the developer. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Geiger to set a Public Hearing for September 23, 2015 at 8:00 p.m. to consider the request for a Special Exception Use Permit for a mixed use building at 6449 Transit Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Kenyon Brothers requests Preliminary Concept Review of a proposed convenience store with Tim Horton's drive-thru at 8250 – 8274 Main Street. James Callahan said the location is the northeast corner of Main Street and Westwood Road consisting of an existing gas station and a video shop next store in the Traditional Neighborhood District. The applicant is proposing to demolish the existing structures to construct a new convenience store with a Tim Horton's. A smaller version was previously reviewed and tabled.

Tim Arlington, Apex Consulting and Bill Kenyon were present. The new plan incorporates the adjacent lot to the east. Kenyon's has the opportunity to purchase Chuck Eckert's property and provide him tenant space in the new larger building. This plan solves some of the concerns that the Board had. The building is now 110 feet from Westwood. There is now only a single lane entrance from the north on Westwood. All traffic would come in and out from Main Street. They have the appropriate number of parking spaces on the site. They came up with a better location for the dumpster on the east side. The 40% greenspace requirement is being maintained. They are very pleased with this plan.

Councilman Kolber said the concern was that there was too much on a small lot. This is a much better layout.

James Callahan said they will have to check with the regulatory agencies on the changes.

Councilman Casilio said it is a much better layout, but he still has a concern about the Westwood entrance. He is concerned that there could be increased traffic through the development to avoid the light at Harris Hill and get to the Tim Horton's drive-thru. He believes it draws the line for the car dealerships. He appreciates the buffering also. There are some people in the audience that would like to make a comment.

Councilman Geiger asked what was planned for the northeast corner.

Mr. Arlington said it is greenspace and may be part of the stormwater system. It is larger than an acre and there are additional requirements. They have received approval to connect to the sewer across the street. They are trying to find the best location for the dumpster, but are open to suggestions. The style of the building will be similar to the traditional style of the Goodrich Road store. The façade will be brick.

Supervisor Hartzell said it is a beautiful building.

Councilman Kolber said they do a nice job with their buildings. We are always trying to improve aesthetics when we can.

Speaking to the subject:

William Farrell said he is still opposed to this plan because of the access from Westwood. He lives in the neighborhood and has studied the traffic. There are 50 cars down Main Street by 9:00 a.m. and 70 after every light change on Saturdays. It is impossible to turn left onto Main Street. He thinks people will still use the Westwood entrance to exit. They had 311 signatures against it last time. He believes it is in the wrong place.

Tom Noonan said he spoke against this project before. He did his own traffic study at the Tim Horton's at Sheridan Drive. He wonders about the four trees on that lot behind his property. His hope is that they are not removed. He agrees that it will be difficult on Westwood. He counted 300 cars between 7:00 and 9:00 a.m. at Sheridan and Main coming out of Tim Horton's. He did it again this morning and there were 333. It is very busy, but there are also three traffic lanes. There is only one lane of traffic at the new location. It is going to be a huge problem.

Dave Gardner said this is no place to put this store. The traffic is horrible and will only get worse. We now have tractor trailers unloading cars on Westwood. It has to stop.

Chuck Eckert said he is co-owner of Channel One. There has been a lot of time and effort into this project. He believes there is an economic benefit for the people who will be employed there. That is good for the Town of Clarence. He respects the neighbor's concerns, but development is going to come.

Frank Endres said the 311 signatories are in opposition due to traffic and environmental issues. A traffic light was suggested. The DOT would have to approve it. A poll in the Clarence Bee had 70% opposed to property rehab at the expense of increased traffic. The people have spoken. It would be a chronic inconvenience and a possible hazard. They ask that the Town Board listen to the voice of the people.

Howard Melancon asked the Town Board to have the attorney look into a conflict of interest that if a Board member or a corporation that they have stock in owns any property on Main Street or Transit Road, they should not vote or be involved in any projects presented on either of these roads. He would like the response in writing.

Supervisor Hartzell said he will have the Town Attorney look into it. We can have that before the next meeting. He asked where he was referring to.

Mr. Melancon said any Board member should not vote on any proposals if they own land on Main Street or Transit Road.

Town Attorney Meckler said he cannot respond without something specific to respond to.

Mr. Melancon said there are two proposals on the agenda tonight, one for Main and the other on Transit.

Councilman Kolber said we do have an Ethics Board that could review it.

Mr. Melancon said no, he thinks it should be a legal issue.

Councilman Kolber said he thinks that is overreaching.

Mr. Melancon said we went through that before with an Ethics Board.

Supervisor Hartzell said he will look into it with Larry Meckler and report back to the Board on what his decision is.

Nancy Sweeney said the traffic is already horrendous. Nothing will bring in the amount of cars that this will. There are many people and children walking in this neighborhood with no sidewalks.

James Callahan said the Planning Board can analyze the project and the issues raised.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to refer the request for Preliminary Concept Review of a proposed convenience store with Tim Horton's drive-thru at 8250 – 8274 Main Street to the Planning Board. On the question, Councilman Kolber said he respects the concerns of the people and also the applicant has the right to have the modified project reviewed. Councilman Casilio said they should go to the Planning Board for review. He still has a concern with the Westwood entrance. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Joseph Beaser requests a Pond Permit for 8253 Goodrich Road. James Callahan said the location is the southeast corner of Goodrich Road and Brauer Road consisting of vacant land in the Agricultural Flood Zone. The Town Engineer has reviewed the application and issued conditions.

Joseph Beaser said the pond would be just under an acre. He would like to be able to fish on his own property.

Councilman Kolber said this meets the Town guidelines and setbacks. He asked what the depth of the pond would be.

Town Engineer Tim Lavocat said 8 – 10 feet. The soil will remain on the site.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve the request of the applicant, Joseph Beaser, for a Pond Permit at 8253 Goodrich Road subject to the conditions set by the Town Engineer. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Debbie Popp spoke regarding the Clarence Crossroads Medical Office Complex on Main Street and directly behind her property on Barton Road. She distributed a written form of her

concerns. She asked if a person can do anything just because they own their property. She also asked why approved plans are not followed. It was stipulated in the beginning that the light was to be agreeable to the business and the neighbors.

Ms. Popp said it appears that they have changed the lighting again. They are very bright and the hoods have not been replaced. It directly affects her home and not anyone else. There were not supposed to be any lights left on in the building at night. The parking is along the fence right behind her pool. They do not use it anymore because it is unpleasant with people going in and out all day.

The latest issue is they now have a loud doorbell. It rings about a 100 times a day. She asked them if they could turn it down. The tenant said the owner will not let them turn it down.

Supervisor Hartzell asked if it would help if he had the owner of the building along with Mr. Callahan and Ms. Popp to sit down and discuss these issues. We can schedule that for you.

Ms. Popp said she has tried to talk with him. She has another item to discuss. There appears to be dumping in the back of the Rock the Barn property.

Supervisor Hartzell said the Town Engineer can check that out.

Motion by Councilman Kolber, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Girl Scouts – Sept. 14 & 28, 2015; Legion Hall Applications - A. Chery Hufnagel – September 13, 2015; B. Girl Scouts – 2016 Monthly Meetings; C. Carol Hockwater – Oct. 3, 2015; Pavilion Special Request – A. Eastern Hills Sunrise Rotary Foundation – Oct. 3, 2015. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of August 27, 2015 are approved for payment: General Fund - \$156,354.48; Highway Fund - \$73,237.14; Water District - \$1,425.01; Fire Protection Districts - \$91.33; Drainage District - \$26,639.00; Sewer Districts - \$246.45; Capital Fund - \$23,261.00; Aquatic Growth District - \$400.00; and Trust & Agency 203 – \$10,340.00 for a total amount of \$291,994.41. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Peter DiCostanzo. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:22 p.m.

Nancy C. Metzger
Town Clerk