

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, September 26, 2012, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith, and Planning Board Chairman Al Schultz.

Director of Community Development – James Callahan

Formal Agenda items:

Cimato Enterprises – Woodland Hills Subdivision

Applicant is requesting a Clearing, Filling and Grading Permit as well as an Excavation Permit to allow for the excavation of a proposed storm water detention area that is planned in connection with the development of a proposed 77-lot Major Subdivision. The excavated fill is intended to be utilized for grading a proposed right of way in connection with the proposed Major Subdivision. The proposed site is located on the south side of Greiner Road, east of Harris Hill Road within the Residential Single Family Zoning District. In association with the Local Clearing, Filling, Grading and Excavations Law, the Town Board has final authority for the consideration of issuing permits in relationship with applications under both laws.

The project site in question has previously been and is currently the subject of a Major Subdivision review. While the project has previously received a Negative Declaration under SEQR and Concept Plan approval, the project has not received nor been the subject of an official Development Plan review and approval. Additionally, the property while currently planned for a 77-lot major subdivision is not currently within a sanitary sewer district. It is important to note that as per the Local Clearing, Filling and Grading Law (Section 79-6(G), the following provision is stated: "Any site that is proposed for development **may not** be cleared until development plan approval has been granted by the Town Board and a building permit has been obtained from the Building Department." Additionally, as per the Local Subdivision of Land Law (Section 193-15(E)(3) the following provision is stated: "No construction activity shall commence without first obtaining development plan approval from the Planning Board and the appropriate regulatory agency and departmental permits." The proposed action would require the Town Board permit construction activity in association with a Major Subdivision proposal not serviced by a sanitary sewer district and without Development Plan approval having first been obtained.

Damon & Morey/Gabes Collision – 5817 Transit Road

Applicant is proposing to develop an automotive collision shop with an automotives sales component. The proposed site is located on the east side of Transit Road, north of Highland Farms Drive on existing vacant land consisting of 4.33 acres in the Major Arterial Zone. Per the Zoning Law, the Town Board has final authority via a Special Exception Use Permit or Temporary Conditional Permit to allow for automotive uses in a commercial zone.

The Planning Board failed to forward a recommendation for this use at this location. The Planning Board determined that a collision shop was not an allowed use in the Major Arterial Zone (Collision Shops are only specifically identified as an allowed use in the Industrial Business Park Zone) and the proposed use was not an appropriate land use at this particular location. No action under SEQRA has been taken on the matter and if the project is to be considered for approval than a full SEQRA review must be completed and a determination made prior to taking a final action on the approval. Should the Town Board follow the Planning Board action and deny the request, the procedure is complete.

Work Session items for consideration October 10, 2012:

Roxbury Subdivision Phase II-extension of Helenwood Drive

Applicant is requesting preliminary concept review of a proposed public road extension off of Helenwood. The proposed project is in Erie County Sewer District #5.

Planning Board Chairman – Al Schultz

The Planning Board is reviewing in detail the Northwood Subdivision Draft Supplemental and Environmental Impact Statement.

Supervisor David Hartzell

Supervisor Hartzell will make a motion to set the annual Public Hearing for the 2013-2014 Community Development Block Grant.

Supervisor Hartzell acknowledged receipt of several thank you letters from various organizations.

Supervisor Hartzell referenced an article in the Buffalo News regarding the Town of Elma Town Board voting to give property owners of green space a break on their taxes in exchange for not developing their land for a certain number of years. Supervisor Hartzell will obtain a copy of Elma's agreement and will distribute to the Board to be able to discuss at the next Town Board meeting.

Highway Superintendent Ted Donner is requesting Deputy Superintendent of Highways Jeffrey Hemline have texting features added to his town issued cell phone, Code Enforcement Officer David Burke would like the texting feature added as well.

There is the possibility we may be able to eliminate some pagers. There is a new system with Amherst Fire Control that would enable a group page to go to cell phones however, the new system has to be tested first.

Councilman Bernard Kolber

Councilman Kolber has issues with people/businesses that have been granted Temporary Conditional Permits who are not in compliance.

Councilman Kolber attended a Library Board meeting on Monday, September 24th. For several years the Library Boards have been working on a separate taxing structure, the move would be to dissolve all local contract libraries such as Clarence Public Library. Their funding keeps getting cut so they would like to form their own tax district within Erie County which would mean a separate line item on your Town and County tax bill. This will be subject to a voter referendum. A Memorandum of Understanding will have to be signed before the end of the month.

Councilman Patrick Casilio

- Set a Public Hearing to consider entering into a contract with the various fire companies (Clarence Center, Harris Hill, Swormville and Rapids VFC)
- Authorize the Supervisor to file an application with the NYSDOT Safe Routes to School Grant Program
- Award the bid for Keller Road Pump Station Elimination Project to Milherst Construction Inc.
- Award Resident Inspection Services for Keller Road Pump Station Elimination Project to William Schutt & Associates
- Award the bid for the Lexington Woods to Lapp Road Drainage Channel Project to NFP and Sons, Inc.
- Award Resident Inspection Services for Lexington Woods to Lapp Road Drainage Channel Project to William Schutt & Associates

Councilman Kolber stated that he would like to see what each fire company actually has in their reserve accounts. Councilman Casilio stated that he would like to see those figures as well. Harris Hill VFC paid off their trucks with their reserve account. They are also looking to refinance their building because everything else is paid off.

Town Engineer Lavocat stated that as part of the grant application with the NYSDOT that is due October 5th, he presented a *letter of support* to be signed by the Town Board to be submitted with the grant application.

Town Engineer Lavocat stated that the bids for Keller Road Project and the Lexington Woods Project came in better than expected. The Keller Road pump station is two projects rolled into one. The figures came in so well that the alternate bid can be awarded with it. The Lexington Woods drainage project was half the engineers estimate on the bid numbers. Because William Schutt & Associates was the design engineer on both projects the Town received a fantastic figure for the hourly rate for Resident Inspection Services for both projects.

Councilman Casilio has one Attorney-Client item to discuss.

Councilman Peter DiCostanzo

- The joint Town Board/Planning Board meeting is scheduled for October 3rd at 7:00PM.
- Set a Public Hearing to consider adopting a Local Law Prohibiting Smoking in Clarence Town Parks
- Appoint Robert Cole as a member of the Ethics Board
- Appoint Nicholas Silvestrini to the position of Youth Activities Leader RPT
- Grant permission to Dawn Kinney, Executive Director of the Clarence Youth Bureau to attend the Annual Youth Development Conference in Albany, NY

Councilman Robert Geiger

- Set a bid date of October 12, 2012 at 10:00AM to accept sealed bids for the sale of a Desk Jet 650 Plotter
- Highway Superintendent Theodore Donner is recommending the bid for leaf compost be awarded to J.M. Deluxe Inc. at their bid of \$4.52 per cubic yard (Councilman Kolber will recuse, he has business dealings with J.M. Deluxe)
- Grant permission to the Clarence High School for their annual Homecoming Parade to be held on October 13, 2012
- The Senior Center has received confirmation on their new bus, delivery is expected in November.
- Quotes are forthcoming for the doors at the Senior Center.
- Clarence Hollow is in the process of having lights over Main Street for the holidays. Karen Jurek is mailing the permit to NYS DOT tomorrow. If successful, the program will be expanded next year.
- The Farmers Market Scarecrow Contest will be held Saturday, September 29th

- The final Farmland Protection draft is available for anyone interested in reading it. A board will have to be selected by December and finalized by the Town Board in January
- The Meet in the Center Merchants Association is planning its fourth annual Fall Fest on September 28th in Clarence Center

Clarence Public Library

Monica Mooney, Librarian and Judith Hilburger, Joan Schultz, Anita Ballow and Michael Rockwell were present representing the Clarence Library Board.

The Buffalo and Erie County Public Library is attempting to form a special taxing district. This has been an ongoing effort because of the unreliable funding that the library has encountered from the County. In an attempt to avoid closing any more libraries, the Buffalo and Erie County Public Library is looking to form a special library district which would mean restructuring the situation as it is and forming a different taxing unit. The tax line on our Town and County bills would disappear. The special taxing district will be voted in by the people of Erie County. This will have to go through the legislative process. Currently all the different boards of the thirty-seven member libraries are voting on a Memorandum of Understanding. The law will then be presented to the different houses in Albany. After it passes those two houses, the Governor has to sign it into law.

There would be one district in Western NY and the tax is based on assessed value. The projection is for this to be on the ballot in 2013. Each voting district would also elect one representative and that representative will become part of the governing board. All of the trustee boards would become advisory boards and the central board would dissolve. There would be an eleven member board whose first duty would be to create by-laws; they would be the board members who would control the running of the Buffalo and Erie County Public Library Special Taxing District.

In that 2013 vote, there would be a set budget – it can be broken down as a special taxing district and then vote for the budget or it can be included as one vote (special district and budget). There would be the constant stream of money for the Buffalo and Erie County Public Library – it could not be changed and it could not be borrowed from. It would be part of the property tax but would be given immediately to the library system.

Librarian Monica Mooney stated that Clarence Public Library budget is approximately \$500,000. per year.

In the past, library money has been borrowed for other purposes and the library has been left short. The Special Taxing District money would be dedicated, there would be a state law stating that this money must be spent on the library. If the library needed more money, they would have to put it to a vote as a referendum, the people of Erie County would have to approve it.

The Clarence Public Library building belongs to the town; the town would maintain the deed for the building and would be responsible for the maintenance and upkeep.

Approximately 500 people come through the library doors on a daily basis, the meeting rooms are constantly booked by many Clarence service organizations. There is no fee to use the library however, people can make donations if they so choose.

Supervisor Hartzell would like to schedule another meeting with the Library Board and their accountant Ken Stone to get the financial specifics. Obviously it is the Library Boards decision but he would like the Town Board informed as to how this will affect the tax payers.

Judith Hilburger stated that this all started with former Erie County Executive Joel Giambra Red/Green Budget at which time fourteen libraries were closed. When Chris Collins was County Executive, library hours of operation were cut. Many libraries were very near to being under the number of hours of

operation required by their charters. The creation of a special district will ensure that libraries will always have money they could count on.

Library Board member Michael Rockwell stated that the decision that needs to be made now is whether or not the Clarence Library is going to be part of the special district so they can plan to have Clarence included in the budget. If Clarence Public Library would opt out, then Clarence residents would still be paying for the special district.

Councilman Kolber stated that there is no viable option. If Clarence Public Library decides to opt out they lose their entire County's support. Monica Moony stated that the library would be transferred from the County to the Special District.

Judith Hilburger stated that the current funding of the libraries is unstable. Currently there is a \$3.6 million dollar post card campaign going on to educate the public about the Special District.

Town Attorney Meckler stated that he read the information that Councilman Kolber distributed and he feels that it is imperative that the Library Board signs the Memorandum of Understanding. If you don't sign on and the process goes through and the Special District is formed, the only way Clarence Library could get funding would be to go to the County Legislature and ask for a special funding to be able to operate. If Clarence Library did not opt in, Clarence residents would still pay the Special District Tax.

Clarence would retain ownership of the building and is still responsible for maintenance and repairs. Judith Hilburger secured the ownership of the wood carvings and art work.

Everything will depend on the vote and the will of the people. The Library Board can sign the Memorandum of Understanding but it will depend on the vote by the people.

Every library likes its own charter however, if the Special District is voted in, a central charter will be created and all the various libraries charters will dissolve. The library board will be made up of eleven members that will be elected by the people in their election district; these board members would not be affiliated with any political party.

A meeting is scheduled for October 3, 2012 at 6:00 PM to meet with the Library accountant. Councilman Casilio stated that he would like Director of Administrator and Finance Pam Smith to have available the current numbers as to the annual building costs of the library.

There being no further business, the Work Session adjourned at 7:10 PM.

Darcy A. Snyder
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, September 26, 2012 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Supervisor Hartzell and Wright H. Ellis, Supervisor of the Town of Cambria, followed by a prayer given by The Rev. Vicki Zust of St. Paul's Episcopal Church.

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

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the work session held September 5, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the work session and regular meeting held September 12, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to set the Annual Public Hearing for the Community Development Grant Block Grant to be held on October 24, 2012 at 8:05 p.m. at the Clarence Town Hall to provide an opportunity for public input to the citizens of the Town to express community development and housing needs and possible projects that would benefit low and moderate income persons residing in the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell received a letter from the Chamber of Commerce thanking Town Board members who participated in the legislative breakfast. It was a great event.

The Youth Bureau shared an email from a mother of a daughter in the volunteer program who was pleased with the program.

A letter was received from Ginger Lindner of the American Legion Ladies Auxiliary thanking the Town for use of the clubhouse to prepare packages to send to the soldiers overseas. She said she has received letters from the soldiers saying how happy they are to receive them. Supervisor Hartzell thanked Mrs. Lindner for all of her efforts.

Councilman Kolber said the libraries in Erie County are trying to form a taxing district to secure funding. The line on the tax bills for the library has been raided and they are not getting all of their funding. They have hired counsel and are working on setting up a county-wide taxing district. They are getting memorandums of understanding and then have to go to the State Legislature for approval. The next step would be to have it on the ballot in the 2013 general election. The Town Board will be meeting with the Library Board of Trustees again and will keep everyone apprised of the issue.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for Wednesday, October 24, 2012 at 7:45 p.m. to consider entering into a contract with the Clarence Center Volunteer Fire Company, Inc. for fire protection in the Town of Clarence for 2013 in the amount of \$775,000.00. On the question, Councilman Casilio said they met with the fire companies last month and they have filed their proposed budgets. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for Wednesday, October 24, 2012 at 7:50 p.m. to consider entering into a contract with the Harris Hill Volunteer Company, Inc. for fire protection in the Town of Clarence for 2013 in the amount of \$715,855.00. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for Wednesday, October 24, 2012 at 7:55 p.m. to consider entering into a contract with Swormville Fire Company, Inc. for fire protection in the Town of Clarence for 2013 in the amount of \$212,849.00. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for Wednesday, October 24, 2012 at 8:00 p.m. to consider entering into a contract with Rapids Volunteer Fire Company, Inc. for fire protection in the Town of Clarence for 2013 in the amount \$40,500.00. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Whereas, the Town Board of the Town of Clarence expresses its support for the preparation and submittal of the grant application to the New York State Department of Transportation (NYSDOT) Safe Routes to School grant program for the installation of sidewalks on Main Street from Thompson to Transit Road in the Town of Clarence; and

Whereas, these sidewalk improvements will create a safer environment for students who walk or bike to the Harris Hill Elementary School, Sheridan Hill Elementary School, and the Nativity of the BVM Elementary School, and will also encourage walking and biking as healthier alternatives to motorized transportation; and

RESOLVED, that David C. Hartzell, Jr., as Supervisor of the Town of Clarence, is hereby authorized and directed to file an application to the New York State Department of Transportation (NYSDOT) Safe Routes to School grant program for the installation of sidewalks on Main Street from Thompson to Transit Road in the Town of Clarence; and be it further

RESOLVED, as a contribution to this project, the Town of Clarence will provide a combination of cash and in-kind services over and above the grant amount of \$500,000 for the balance of the project cost to ensure that the project is completed.

On the question, Councilman Casilio thanked the Town Engineer for helping to prepare this grant.

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

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

RESOLVED, that after holding an open competitive public bid, the Town Board awards the bid for the Keller Road Pump Station Elimination Project to Milherst Construction, Inc. of Clarence New York as they were the lowest responsible bidder in the amount of \$136,300.00 for the base bid and \$25,861.21 for the alternate bid item for a total bid of \$162,161.21; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into a contract with Milherst Construction, Inc, subject to the review and approval of the Town Attorney's Office.

On the question, Councilman Casilio said this project is funded by Clarence Sewer District No. 2.

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

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

RESOLVED, that the Town Board awards Resident Inspection Services to William Schutt & Associates, P.C. for the Keller Road Pump Station Elimination Project in an amount to be billed hourly not to exceed \$10,300.00.

On the question, Councilman Casilio said this project is funded by Clarence Sewer District No. 2.

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

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

RESOLVED, that after holding an open competitive public bid, the Town Board awards the bid for the Lexington Woods to Lapp Road Drainage Channel Project to NFP and Sons, Inc. of North Tonawanda, New York, as they were the lowest responsible bidder in the amount of \$35,735.00; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into a contract with NFP and Sons, Inc, subject to the review and approval by the Town Attorney's Office.

On the question, Councilman Casilio said this project is funded by the Townwide Drainage District.

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

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

RESOLVED, that the Town Board awards Resident Inspection Services to William Schutt & Associates, P.C. for the Lexington Woods to Lapp Road Drainage Channel Project in an amount to be billed hourly not to exceed \$4,500.00.

On the question, Councilman Casilio said this project is funded by the Townwide Drainage District.

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

Councilman DiCostanzo announced that the Town Board and the Planning Board have a joint meeting set for October 3, 2012 at 7:00 p.m.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to set a Public Hearing for October 24, 2012 at 8:10 p.m. to consider amending the Code of the Town of Clarence by adopting a Local Law prohibiting smoking the Clarence Town Parks. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to appoint Robert Cole as a member of the Ethics Board with a term to expire on December 31, 2015. This appointment is made to fill the vacancy left by Hans Mobius. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that upon the recommendation of Dawn Kinney, Director of the Clarence Youth Bureau, Nicholas Silvestrini is appointed to the position of Youth Activities Leader RPT-Provisional, effective, October 1, 2012, at the rate of pay of \$10.77 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements for the position being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to grant permission to Dawn Kinney, Executive Director of the Clarence Youth Bureau, to attend the 42nd Annual Youth Development Conference and Director's Training to be held October 23 – 25, 2012 in Albany, NY with all reasonable and necessary costs covered by the Town.

On the question, Councilman DiCostanzo said the Director's Training that will be held on Tuesday, October 23, 2012 is covered in full by the New York State Office of Children and Family Services. The remaining cost is budgeted for.

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

Councilman Geiger reported the following:

- The Senior Center should receive their new van in early November.
- The Clarence Hollow Association is attempting to have lights over Main Street.
- Farmer's Market is starting the Scarecrow Contest this Saturday.
- The farmland protection information has come in and we will be making decisions on board members later in the year.
- Meet in the Center Merchants Association is having a Fall Fest on Sept. 28th.
- The new veterinarian in the Hollow is having an open house on Oct. 6th.

Motion by Councilman Geiger, seconded by Councilman Kolber to set a bid date of October 12, 2012 at 10:00 a.m. to accept sealed bids in the office of the Town Clerk for the sale of a Desk Jet 650 Plotter, Serial No. USA3C01420, with a minimum bid of \$100.00. Upon roll call – Ayes: All; Noes: None. Motion carried.

Town Clerk Nancy Metzger said this item was bid out previously, but no bids were received.

Motion by Councilman Geiger, seconded by Supervisor Hartzell that upon the recommendation of Highway Superintendent, Ted Donner, to accept the bid of \$4.52 per cubic yard for the 1,100 cubic yards of leaf compost from the Town recycling area on Sheridan Drive to J. M. Deluxe Inc., 4870 North Millgrove Road, Akron, NY.

On the question, Councilman Kolber said he will recuse as he has a business relationship with the owner of J. M. Deluxe.

Councilman Geiger said J.M. Deluxe Inc. was the highest bidder.

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

Motion by Councilman Geiger, seconded by Councilman Casilio to grant permission to the Clarence Center High School for their Annual Homecoming Parade to be held on Saturday, October 13, 2012 beginning at 12:30 p.m. The parade will be on Main Street starting at Pauly's Pizza and travel to the Clarence High School.

On the question, Councilman Geiger said all appropriate agencies will be notified. The Clarence High School Student Council has contacted the Erie County Sheriff requesting an escort for parade.

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

Public Participation

Carol Conwall said her husband is unable to be here, but they would like their concerns regarding Woodland Hills Subdivision put into the record. They do not believe Cimato Construction should be given any leniency in circumventing any conditions or rules already set by the Town. What is the necessity of clearing, putting in a pond and road grading when there is no approval? They have already cleared all the brush and many small trees leaving it to lay and decay not only causing a foul odor but a fire hazard. Mr. Conwall wonders if there is something else that should be looked at that there is a rush to cover up or change or remove before final approval is given.

He believes that until final approval for building and sewers is granted there is no reason for heavy construction or developing roads or a pond. A better review of the environmental issue can be looked at, not only for the effect it has had on wildlife, but that may have been removed or cut down.

Mrs. Conwall said her husband has brought up previously that their homes on Meadowbrook are 50 to 60 years old and well settled with the ground water table. Will this development, installation of drain tile, a pond and disruption of earth have an adverse effect on the soil characteristics? Several years ago many Amherst homes suffered structural damages from soil pulling away. Will this be factored in by the Town Engineer in reviewing this development? The land for Woodland Hills has always had sitting water or swamp type conditions in spots. What will be their compensation or relief if that happens?

Cimato Bros. Construction requests a Clearing, Filling and Grading Permit to allow for pond and road grading prior to Development Plan Approval for Woodland Hills Subdivision. James Callahan said the location is the south side of Greiner Road, east of Harris Hill Road consisting of vacant land in the Single Family Residential Zone.

Jeff Palumbo, attorney for the applicant said they appreciate the opportunity to present their request. A Negative Declaration was issued by the Town Board in December of 2003 and the Concept Plan was approved in March of 2004. The main issue all along was sewer capacity and sewer district. It was originally anticipated that they could be an out-of-district customer to Erie County Sewer Dist. No. 5 through an agreement, but that can no longer take place.

Mr. Palumbo said Mr. Cimato installed a diversion weir at Klein Road at his own expense. It separates the surface water from the system, which increases sewer capacity. It was determined that it increased the capacity enough to allow for the 77 lots. The DEC and Erie County Sewer both agreed, upon their review, that it did increase capacity. The County is ready to prepare a map, plan and report with the next step being to extend the district.

Mr. Palumbo said they are asking for this permit, aware of what the ordinance states, because they believe that there are mitigating circumstances that exist. This landowner has gone through a great expense to increase sewer capacity, not only for himself, but for other users in Erie County Sewer Dist. No. 5. This all has gone on for quite some time and they are willing to bond this. All they want to do is excavate the pond and use the balance to excavate where the road will go. The tree clearing is all done and has been done with the Town's consent.

Councilman Casilio said essentially you want to start the road before we approve the project.

Mr. Palumbo said there would be a performance bond to assure that it is put back in the present condition. They will agree to a condition that there would be restoration if no final approval is given.

Councilman Kolber asked about the clearing. James Callahan said they were approved to basically cut the underbrush.

Councilman Kolber said he believes that there will be a development there, but we do not know how long it will take to get to that point. It does not make sense to excavate and leave an unsightly mess for who knows how long. It is not congruent with our Town laws.

Councilman Geiger said it gives permission to approve the lake and no one would be around to protect or watch over it.

Mr. Palumbo said the issue of the private sewer has to be resolved before the County will extend the sewer district. He believes they have that agreement.

Councilman DiCostanzo said Mr. Cornwall's letter raised the question of whether anything else should be looked at. It has been a long time and he also asked if there is a time limit on concept approvals or Negative Declarations.

James Callahan said it is a function of the review.

Councilman Casilio said the subdivision could change through the review process.

Motion by Councilman Geiger, seconded by Councilman DiCostanzo to deny the request of the applicant, Cimato Bros. Construction for a Clearing, Filling and Grading Permit to allow for construction activity prior to Development Plan Approval on the proposed Woodland Hills Subdivision project. On the question, Councilman Kolber said for all the reasons he stated previously including the uncertainty of the time frame and no compelling reason to circumvent Town laws. Councilman Casilio said the design plan is not final. Upon roll call – Ayes: All; Noes: None. Motion carried.

Gabe's Collision requests consideration for a Special Exception Use Permit to proceed with development of a new automotive sales/service/collision shop at 5817 Transit Road. James Callahan said the location is on the east side of Transit, north of Highland Farms Drive consisting of vacant land in the Major Arterial Zone. Under a previous referral, the Planning Board did not forward a recommendation on the use at this location.

Jeff Palumbo, attorney represents the applicant. The proposal involves three uses, a high-end used car sales operation, rental car facility and a collision shop. They changed the plan from the last time that the Planning Board saw it. It was submitted at the time of the last Town Board meeting. They have created an L-shaped building and moved it farther away from the east property line to move it as far as possible from the residents. The greenspace was expanded. It also shows the property to the north that the applicant owns, but does not have a plan for at this time. Substantial buffering has also been added. It will be developed, but they do not know what that will be. He is asking for a review of the plan change. It is now about 100 ft. from the property line.

Councilman Kolber said he likes the design better and the attempts of additional buffering.

Motion by Councilman Kolber, seconded by Councilman Geiger to refer the proposed collision shop at 5817 Transit Road back to the Clarence Town Planning Board to recommend action under the State Environmental Quality Review Act to proceed with a Special Exception Use Permit. On the question, Councilman DiCostanzo said this could still come back to us with a denial. Councilman Kolber said it could, but they spent many hours going through this and since the applicant came back with a modification to the plans, it is only wise to use their judgment to take another look at it. Councilman Geiger said it seems considerable with the 100 feet. Councilman Casilio said the applicant should look at having the overhead door come out on the north side of the building. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Boy Scout Troop 93 – Oct. 27, 2012; B. Cub Scout Pack 568 – May 5, 2013; Legion Hall Applications – A. Irene Toloue – Oct. 20 & Nov. 17, 2012; B. Maria Bassig – Oct. 27, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of September 27, 2012 are approved for payment: General Fund - \$188,743.49; Highway Fund - \$163,375.35; Water District - \$1,338.12; Drainage District - \$1,300.00; Sewer Districts - \$238.39; Capital Fund - \$68,092.00 and Trust and Agency 202 - \$12,267.38 for a total amount of \$435,354.73. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Mary Jo Fornes said she is a long time resident of Clarence. She would like to speak about Gabe’s Collision. It has nothing to do with their service, as she has used it in the past. They are residents of Laurel Park and are happy to be there. The residents fear having a collision shop in front of them. There are the fumes and the noise and having to pass by a collision shop to enter their development. She respects all involved, but does not feel the location is appropriate.

Councilman Casilio said he appreciates her coming tonight, but something will end up going there.

Mrs. Fornes said there is a terrible traffic problem in that area.

Councilman DiCostanzo said the plan does show a connection to Spoth’s, which leads to the traffic light at Highland Farms.

Mrs. Fornes asked that people from the Town walk the property to see what they are looking at from a safety point of view and for the residents.

Supervisor Hartzell said they will do that, but cautions that they should watch what they wish for because they might get it. There are many businesses looking at that property that would generate a lot more traffic to that site.

Mrs. Fornes said she understands that, but she hopes the Town considers the residents in that area.

Councilman Kolber said if they meet the requirements, the Board almost cannot turn them down. It is Transit Road and it is not fun getting on or off of it. He is generally not in favor of collision shop operations, but he has looked at their operation at other locations. He believes the building they are proposing is aesthetically pleasing. He believes many of the car dealers along Transit Road have collision shops and most people don’t even know it. He has not made a decision as yet, but he believes the change warrants another review. He suggested that they put all of their concerns on paper and submit them. It is a balancing act for all concerned.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:25 p.m.

Nancy C. Metzger
Town Clerk