

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, September 7, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 9:05 A.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Joseph Weiss. Other Town officials present were Town Attorney Steven Bengart.

**Supervisor Scott Bylewski**

There will be two ceremonies taking place on Sunday, the tenth anniversary of September 11<sup>th</sup>. Eastern Hills Wesleyan Church will be holding a service at 10:00 AM and Clarence High School will have a service at 7:00 P.M.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant a Special Event Request for a Block Party to be held on Senate Circle on Saturday, September 17, 2011 from 4:00 PM – 9:30 PM. There will be no tents erected. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to approve the request for Court Clerk's Marilyn Taton and Mary Zimmerman to attend the NYS Magistrates and Court Clerks Conference held in Niagara Falls, NY from September 25<sup>th</sup> – 28<sup>th</sup>, 2011 with all reasonable and necessary expenses to be paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to appoint Lorraine Hunt and Rhonda Carpenter to the position of Crossing Guard and to appoint Theodore Adrian and Arnold Castren as alternate Crossing Guards for the 2011-2012 school year for the months of September through November of 2011 and for the months of March through the end of the school year for 2012 at Harris Hill and Harris Hill and Main Street subject to all pre-employment screening being met. On the question, Councilman Casilio asked if the Crossing Guards will be keeping track of the number of people being crossed every day. Supervisor Bylewski stated that they would and he is making a special effort to make sure the crossing guards are aware of that. Upon roll call - Ayes: All; Noes: None. Motion carried.

Town Attorney Bengart stated that after years of working on LOSAP, Heather Giambra has finally entered into a decree that is acceptable to the Town. Basically it says that within fourteen days of the consent decree being signed by everybody, the town must credit each firefighter with their years of service. Within sixty days, fund the \$441,740 in retro-active benefits. By December 1, 2011, all funding must be based on those increases going forward, post notices for the four years from the date of consent decree forward and there has to be two training sessions of 1 ½ hours on benefits in years one and three. We then have to provide within seven days copies of those who attend the training sessions which are to be held in January. Labor Counsel, Schroeder, Joseph & Associates, LLP will do the training-even if they are no longer labor counsel.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to approve the Length of Service Awards Program (LOSAP) Consent Decree as written and authorize Labor Counsel, Schroeder, Joseph & Associates, LLP, Heather Giambra, Esq., to sign same on behalf of the Town of Clarence. On the question, Supervisor Bylewski stated that this decree has been worked on for the better part of the year, there have been numerous changes made, this is a fair consent decree for all concerned. Town Attorney Bengart stated that this Town Board did everything it could under the auspices of the law as it stood at that time. We did not have the ability to pay this without a decree or without a court order of some sort which is what this basically does otherwise the Board would have been happy to give the money to the firefighters a long time ago. Upon roll call – Ayes: All; Noes: None. Motion carried.

### **Councilman Joseph Weiss**

Councilman Weiss referenced an article in the Buffalo News regarding the Town of Amherst saving \$2 million dollars on trash service. He stated that he wished the Town Board would have formed a garbage district when we had the chance. Councilman Kolber stated that the voters voted it down. Councilman Weiss reminded Councilman Kolber that there was no need for a referendum and furthermore, many people in the town expected it to pass. Property owners are being taken advantage of by these disposal companies. At the time, a deal was negotiated for \$160 per household - currently Mr. Weiss and many other town residents are paying \$300 a year for garbage pickup.

Councilman Weiss was out of town but recently received a ruling from Damon & Morey on the issuing of fireworks permits. The Assistant Solicitor General pointed to the language of §405 which provides that the permit authority which can be the town “may grant a permit for the display of fireworks.” Councilman Weiss stated that the Town Board was told we had no choice. Town Attorney Bengart stated that he stands by his recommendation. Councilman Weiss stated that he feels that this was a political decision and in the future the Town Board has an opportunity to approve or deny these permits. If there is a noise ordinance in the town, the permits can be denied. The ruling also states that someone in the town can be assigned to approve or deny these permits. Councilman Weiss stated that the Town Board was never informed of this. Town Attorney Bengart stated that was not true. Councilman Weiss stated that the message to the Town Board was there was nothing that could be done; the laws of the state supersede the Town Board. In conclusion, the ruling from Damon Morey stated that “the Town Board is not precluded from allowing politically motivated donations to sway its discretion. Nevertheless, at the very least, the discretion granted to the permit authority by §405 does preclude the town board from claiming an inability to regulate the use of fireworks. In brief, the Town Board cannot supersede §405 in terms of passing laws but can (and should) use discretion to protect its citizens from fireworks displays.” Councilman Weiss stated that the Town Board has the option to look at the situation and in this particular case, we have the situation of a very narrow road and if an ambulance or fire truck had to get down there they could not. The Town Board had this information beforehand that people park on both sides of the road and it becomes an avoidable nuisance. Town Attorney Bengart stated that using that same logic the Town should not be approving any permits at the golf course either. Councilman Weiss stated that the Board must be given the right legal direction to make their decisions. Town Attorney Bengart stated that the Board was given the right legal direction however he is always willing to learn.

Councilman Weiss commented that members of the Clarence Center VFC are stealing his political signs. The firemen have been given signs that say “Weiss must go” – the signs are being deposited at the fire halls from an entity. Councilman Weiss political signs are continually being taken down and replaced with “Weiss must go” signs. Councilman Weiss has received information from various individuals to this fact. There are postings on face book from a fireman’s wife stating that “I just saw a bunch of pro-Weiss signs in the garbage can” complements of Thirsty Thursday. There is also a posting on face book from the Clarence Center fire chief as well.

### **Councilman Bernard Kolber**

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

WHEREAS, at the Annual Organizational meeting, the Clarence Town Board approves the recommendation of the Highway Superintendent for the appointment of the Deputy Highway Superintendent; and

WHEREAS, due to the recent retirement of Gregory Giblin, the position of Deputy Highway Superintendent became vacant; and

WHEREAS, Highway Superintendent, Theodore Donner appointed Jeffrey Hemline to the position of Deputy Highway Superintendent effective August 15, 2011.

NOW, THEREFORE, BE IT

RESOLVED, that upon the recommendation of Highway Superintendent Theodore Donner, the Clarence Town Board approves the appointment of Jeffrey Hemline as Deputy Highway Superintendent with a salary at the 2011 budgeted rate of Deputy Highway Superintendent to be effective retroactive as of August 15, 2011.

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

Councilman Kolber has one item to discuss in Executive Session regarding the employment history of a corporation.

**Councilman Patrick Casilio**

Councilman Casilio had no report.

**Councilman Peter DiCostanzo**

Clarence Chamber of Commerce is hosting its annual Legislative Breakfast from 8:30AM – 10:00AM Saturday, September 10<sup>th</sup> at the Clarence Public Library.

Councilman DiCostanzo reminded the Town Board about the presentation by Sean Hopkins and Adam Walters that is being held this evening in the auditorium from 7PM – 9PM.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1)F of the Open Meetings Law to discuss the employment history of a particular corporation. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session was adjourned at 9:20 AM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 9:25 AM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

