

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, November 16, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 6:30 P.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio and Bernard Kolber. Other Town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Director of Administration and Finance Pam Smith, Town Attorney Steven Bengart, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek and Planning Board Chairman Al Schultz.

**Director of Community Development – James Callahan**

***Public Hearing:***

Dino & Debora Sciascia 6700 Conner Road

A Public Hearing is scheduled for 7:45 PM to consider the request by Dino & Debora Sciascia for a Special Exception Use Permit for a secondary living unit at 6700 Conner Road. The previously approved minor subdivision lot is located on the west side of Conner Road, south of County Road in the agriculture Rural Residential Zone. Applicant is proposing to construct a new home and would like a secondary living unit approved on the property. Per the Zoning Law, the Town Board has authority to approve secondary living units after a required public hearing. Conditions as outlined in the Zoning Law will apply.

***Formal Agenda items:***

Rock Garden Mixed Use Development 9470 Main Street

Applicant is proposing to demolish the existing motel and construct a new mixed use development including 25 residential units and 12,000+ square feet of commercial space. The proposed site is located on the northeast corner of Main Street and Goodrich Road in the Commercial Zone. The multi-family residential portion of the project will require a Special Exception Use Permit as issued by the Town Board. The Planning Board has forwarded a recommendation under SEQRA and on the Concept Plan. The Special Exception Use Permit will require a public hearing prior to action. will require coordination with the proposed rezoning and development of an overlay district and Community Character Protection Board as referred previously to the Planning Board.

**Supervisor Scott Bylewski**

The December 7, 2011 Work Session will begin at 6:30 PM.

Town Attorney Bengart spoke to the County's attorney's office relative to the farmer who has been farming on Beeman Creek. The County attorney has indicated that there is no agreement and they never received any money. Town Attorney Bengart will follow up with the alleged farmer.

Supervisor Bylewski has one item for Executive Session regarding proposed litigation as it relates to Royal Oaks.

Supervisor Bylewski will announce that anyone interested in joining the Erie County Agricultural District must apply during the month of November.

Supervisor Bylewski forwarded a message regarding Animal Control to Councilman Casilio to follow-up on.

A Clarence crossing guard contacted Supervisor Bylewski relative to the 2011-2012 school year for the months of September through November 2011. Instead of ending Wednesday, November 30<sup>th</sup>, the crossing guards are requesting the Town Board extend the work week until Friday December 2, 2011. The Town Board was in agreement with this. The number of students crossing has diminished as the weather has gotten colder.

Supervisor has one line item transfer for the Town Historian.

Supervisor Bylewski received a Special Event request for Saturday, December 3, 2011. A Unit from the Army National Guard is sponsoring Hero's March against Hunger (a fund drive to collect food). They would like to terminate the march at the Town Hall and have requested use of the Town Hall bathroom facilities for approximately one half hour. This will mean hiring someone to come on Saturday to open the building. Supervisor Bylewski will also suggest the use of the Library which is normally open on Saturday.

Supervisor Bylewski will make a motion to adopt the 2012 Preliminary Budget subject to taking the hydrant fees out of the Fire Protection Districts and move the fees back into Consolidated Water District and to change the Part Time Laborer rate of pay for 2012 to \$13.57 per hour.

Supervisor Bylewski will appoint Bob Geiger as Councilman effective immediately.

**Councilman Bernard Kolber**

Councilman Kolber has one item to discuss in Executive Session regarding the appointment of an individual.

**Councilman Patrick Casilio**

Councilman Casilio met with the Harris Hill Homeowners Association and Clarence Little League Football concerning the proposed pavilion/snack bar/press box they would like to build at Sunset Park. The Harris Hill Homeowner's Association would like to see the football league move to another location. They questioned the expenditure of monies for a league that could be relocating in the future. It was generally agreed on that even if the league did relocate, the town would acquire a new pavilion with lavatory facilities. It is a win-win situation for the Town of Clarence and the football league. There was further discussion about relocating football across the street from the library and obtaining preliminary drawings to get an estimate of what it would cost.

Councilman Kolber said that the football league has been very patient with the town, the current field is 80 yards, and they have been under pressure from the league to have a 100 yard field. They have been getting year to year extensions from the league based on the understanding that a plan was in the works. Councilman Kolber did not think Sunset Park was the right location for football and he did not want to see them making a huge investment – he would prefer to see that money invested in a better long-term location.

Councilman Casilio has been working with Animal Control regarding several issues and will discuss this further in Executive Session.

**Councilman Peter DiCostanzo**

Youth Activities Leader Crystal Sterling is resigning effective November 28, 2011.

Hank Bordowski is resigning from the Historic Preservation Commission effective December 31, 2011.

Councilman DiCostanzo will make a motion to create the position of Program Leader-Youth for Civil Service purposes, post the position of Program Leader-Youth provisional and post two openings for the position of Youth Activities Leader RPT-Provisional at the salary range of \$9.50 to \$10.77 per hour.

Upon recommendation of Chip Trapper, Councilman DiCostanzo will make several appointments to the Recreation Department for the Winter Recreation Program effective December 3, 2011.

Councilman DiCostanzo spoke to Bob Geiger and he will vote no on his appointment. There are only two town board meetings left until the end of the year. The Board has been operating fine with four board members since Councilman Weiss resigned. Bob Geiger has been sitting in on meetings and Councilman DiCostanzo feels he is learning just as much as he would sitting at the board table.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to enter into Executive Session pursuant to § 105(1) A matters which will imperil the public safety if disclosed; § 105(1) D proposed litigation regarding Royal Oaks; § 105 (1) F matters leading to the appointment of a particular person. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:55 PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:27 PM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, November 16, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:30 P.M. Pledge to the flag was led by Councilman Patrick Casilio, followed by a moment of silence in honor and memory of all fallen service men and women, as well as a prayer for all those in harm's way to protect our freedom.

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

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held November 2, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said as a reminder November is the 30-day period during which landowners may submit requests to include viable agricultural land to an existing certified agricultural district. More information is available for anyone interested.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to appoint Robert Geiger as Councilman to fill the vacant seat created by the resignation of Joseph Weiss and to serve the remainder of the term.

On the question, Supervisor Bylewski said after the Primary there was talk of making an appointment following the resignation of Councilmember Weiss. A number of them stated at the time that they would reconsider it after the General Election. Given that there is no question of the two prevailing candidates in the council race; and in light of past practice when Highway Supt. Ron Witnauer retired, Deputy Highway Supt. Ted Donner was appointed after the General Election. The official number of members of the Town Board is five. If there is a situation where a supermajority vote of the Town Board is required, you would need at least four people to agree.

Councilman DiCostanzo said he has expressed his intention to Mr. Geiger that he will vote no. He has been coming to meetings and observing. Anything that needs to be passed can with or without him. He does not see any real issues that are coming up for the next two meetings.

Councilman Casilio said he agrees with the Supervisor and all of the points he brought up. There is more to this job than just the remaining two meetings. He is anxious to turn over some of his liaison assignments that Mr. Geiger may end up with anyway so that he can get a head start. It makes perfect sense to put him on now.

Councilman Kolber said he agrees with Councilman Casilio and Supervisor Bylewski. It gives Mr. Geiger a chance to hit the ground running. We are charged with a membership of five members and we have someone who has been elected, so why not bring it to full membership now.

Upon roll call – Ayes: Councilmembers Casilio, Kolber and Supervisor Bylewski; Noes: Councilman DiCostanzo. Motion carried.

Robert Geiger was sworn into office by his wife Patricia.

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

RESOLVED, that after a public hearing duly held on November 2, 2011 to consider adopting the 2012 Preliminary Budget and Special District Assessment Rolls, and after all interested parties being heard, the Clarence Town Board approves the Preliminary Budget and Special District Assessment Rolls for the year 2012 as the adopted Budget subject to the following changes:

1. To take the hydrant fees out of the Fire Protection Districts and move the fees back into the Consolidated Water District.

2. To change the Part Time Laborer rate of pay for 2012 to \$13.57 per hour for a total of \$1,330.00.

On the question, Supervisor Bylewski said the reason behind change #1 is that we were waiting to hear back from the State Comptroller's Office regarding the fire hydrants. It would have been our preference to get a better handle on the overall cost for fire protection to have them within the protection districts themselves. There is some further work that would need to be done. There are issues regarding the tax cap and transfers of service. The costs have been included in the water district for the last few decades, but prior to that were with the protection districts.

Supervisor Bylewski said change #2 was an error that had been in the 2011 Budget, although the position was being paid for at the correct rate.

Upon roll call – Ayes: Councilmembers Geiger, Casilio, Kolber and Supervisor Bylewski; Noes: Councilman DiCostanzo. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to approve the following transfers of funds in the Town Historian Budget: \$50 from A7510.401 Office Supplies, \$61 from A7510.420 Maintenance Office equipment, \$100 from A7510.423 Books and Supplements and \$25 from A7510.432 Dues and Subscriptions for a total of \$236 to A7510.479 Film and Development. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to approve a Special Event Request for the New York Army National Guard for their Heroes March Against Hunger to be held Saturday, December 3, 2011. The route begins at the Amherst Town Hall down Main Street to Goodrich Road, through Spaulding Lake and back out to Goodrich Road to the Town Hall. They will use the Town Hall for approximately 30 minutes. The police agencies have been notified. They are expecting about 200 people. On the question, Supervisor Bylewski said they are asking for use of the Town Hall, but we will bring to their attention that the library may also be available. It may be more cost effective, however not as ceremonial. He will follow up on that with the Sergeant. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he would like to thank the voters for their trust and faith in him to continue as councilman for the next four years. He will do his best to serve them all.

He also congratulated Councilman Geiger on his election and appointment to office.

Councilman Casilio congratulated Mr. Geiger on his appointment to the Town Board and on his win in the election.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor Scott Bylewski to sign the Rate Agreement for 2012 with Independent Health for the Medicare Advantage Plan. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to agree to pay the annual fire hydrant maintenance fee to the Erie County Water Authority for one fire hydrant located approximately 150 feet east of 4490 Boncrest West. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo announces, with regret, that Hank Brodowski is resigning from the Historic Preservation Commission as of 12/31/2011.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board issues a Positive Declaration upon the proposed Northwoods Open Space Design Subdivision. This Positive Declaration has been issued after thorough review of the Part 2 and Part 3 Long Environmental Assessment Form prepared in association with this proposed action and project and is on file with the Office of Planning and Zoning. This Type I Action involves the development of up to 154 residential units on approximately 119 acres in the Residential Single Family zoning district and being situated within the land area of Greiner, Thompson, and Roll Roads. The proposed subdivision is intended to derive sanitary sewer capacity from the Heise-Brookhaven Trunk Sewer Line extension and as such will require the development of a Supplemental Environmental Impact Statement of the previously prepared Environmental Impact Statement associated with the Heise-Brookhaven Sewer Line Extension. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to authorize the Planning Board to initiate the Scoping process and define the parameters of the Supplemental DEIS for Northwoods Open Space Design Subdivision in accordance with the established guidelines and requirements of the Positive Declaration process pursuant to Article 8 of the Environmental Conservation Law. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to create the following position for Civil Service purposes: (1) Program Leader – Youth. Upon roll call - Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to post the position of Program Leader - Youth provisional. On the question, Councilman DiCostanzo said this position is being created for promotional purposes effective as of January 1, 2012 at the 2012 budgeted salary of \$30,739. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to appoint the following to the Recreation Department for the Winter Recreation Program effective December 3, 2011 subject to the completion of all required employment paperwork being submitted: Recreation Supervisor PT at the budgeted rate of \$ 22.70 per hour: Ronald Kiener, Mark Skowron and Kelly Wiseman; Recreation Attendant PT at the budgeted rate of \$ 7.87 per hour: Eric Kinney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to post 2 openings for the position of Youth Activities Leader RPT - Provisional at the salary range of \$9.50 to \$10.77 per hour. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger thanked the Town Board for putting him on tonight. He looks forward to a great time working for the Town of Clarence. There are many great volunteers sitting in the audience and he is sure some wonderful things can happen in our town.

Supervisor Bylewski thanked department heads present for their participation.

A Public Hearing was held to consider the request for a Special Exception Use Permit for a secondary living unit at 6700 Conner Road. James Callahan said the location is the west side of Conner Road south of County Road consisting of vacant land in the Agricultural Rural Residential Zone. This parcel was previously approved under a minor subdivision and is an acceptable building lot. The applicant would like to build a new home including an in-law apartment.

Debora and Dino Sciascia were present. Mrs. Sciascia said they would like to build a ranch with an in-law apartment. The plan that they have appears like a ranch house and you cannot tell the apartment is included.

Supervisor Bylewski asked if they are aware of the deed restrictions for this type of use. Mrs. Sciascia said yes. They are aware that it cannot be rented out.

Speaking to the subject:

Nancy Leising said this property backs up to her property on County Road. The concern is that during heavy rain, the water comes across Conner Road, through their property to hers. She is opposed to any building on Conner Road until something is done about the drainage. There was supposed to be a drainage study done.

Supervisor Bylewski said the drainage study was completed. Any request for a building permit would have to go through the Town Engineer for review.

Town Engineer Tim Lavocat said we are aware of the drainage issue. The lot was approved as part of a minor subdivision a few years ago. Each permit will have to go through a drainage review. The main issue on Conner Road occurs north of this lot.

Mrs. Leising said they put in drain tile and the Town put in drain tile several years ago and it does not handle the water.

Supervisor Bylewski said that has been an issue for a long time. The County is aware of the problem.

Tim Lavocat said our problem is that it is a County road and right-of-way and they say they do not have the money to fix the road properly. We manage the water to the roadside ditch.

Councilman Kolber said she will not get more water coming through.

Mrs. Leising said every time you put a basement in, more water will come through. Will anything be done to the ditches to handle the water?

Mr. Lavocat said the County wants to do it right by first addressing the drainage, but they say they do not have the money. It is an historical problem because it is the natural drainage pattern through that area.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on November 16, 2011 and after all interested parties having been heard, grants a Special Exception Use Permit to the applicants, Dino and Debora Sciascia, to include the construction of a secondary living unit as an addition to the construction of a new home on the residential property located at 6700 Connor Road subject to the following conditions:

1. Unit must be secondary to the principal dwelling and not converted to a rental unit.
2. Occupancy shall be limited to family members, paid employees or temporary guest.
3. Occupancy shall be restricted to 2 persons to occupy the unit.
4. Deed restriction to be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language **is to be submitted and approved by the Town Attorney prior to the filing the deed.**
5. Proof of filing of the approved deed is required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.
6. Town Engineer review and approval.

On the question, Supervisor Bylewski said the specific language for the deed restriction may be obtained from the Town Attorney's office. He asked the applicant if they agree to abide by the conditions. Mrs. Sciacia said yes.

Councilman Kolber said they can build a house on this property. The purpose of this hearing is to allow them to include an in-law apartment. He appreciates Mrs. Leising's concerns, and would like to add that it is subject to review and approval of the Town Engineer. (Councilman Casilio amended the motion to include.) Supervisor Bylewski said it would happen anyway as part of the process.

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

Rock Garden Mixed Use Development requests a Public Hearing to consider a Special Exception Use Permit for multi-family housing at 9470 Main Street. James Callahan said the location is the northeast corner of Main Street and Goodrich Road consisting of a motel and vacant land in the Commercial Zone. The applicant proposes demolishing the existing structures for a new mixed-use project. A Negative Declaration under SEQR has been issued and Concept Approval has been granted. They are here seeking a Special Exception Use Permit for the multi-family residential portion of the project.

Noel Dill was present representing Stephen Development and Rock Garden Properties. They have made quite a few changes as they move through the process. They need this permit for the multi-family housing aspect of the project.

Supervisor Bylewski said the Zoning Code states that parking shall be to the rear or side of an apartment building.

James Callahan said the difference is that this is a mixed use development. That portion of the code refers to strictly residential use.

Motion by Councilman Casilio, seconded by Councilman Kolber to set a Public Hearing for December 7, 2011 at 7:45 p.m. to consider a Special Exception Use Permit for multi-family housing at 9470 Main Street for the Rock Garden Mixed Use Development. Upon roll call – Ayes: All; Noes: None. Motion carried.

John and Flora Leamer request Preliminary Concept Review of proposed multi-family housing project at 6150 Goodrich Road. James Callahan said the location is the west side of Goodrich Road south of the Peanut Line. The property is included in a recent Master Plan amendment to allow for extension of the Traditional Neighborhood District.

Flora Leamer said they are proposing four buildings of four units and one building of two units.

Supervisor Bylewski asked if the density will be further reviewed.

James Callahan said it has to be examined, but generally it is 8 units per acre that is allowed. There are easements that will have to be analyzed along with full environmental aspects of the property.

Councilman DiCostanzo said the proposal does not show access to Long Street and he is aware that is a concern of residents on Long Street.

Supervisor Bylewski said it is part of the proposal, but whether it makes sense will have to be determined. We have dealt with this in other areas where there are stub streets that end for a reason because of future anticipation of connecting. We will not know until there is further study.

Mrs. Leamer said they would like a berm at the Long Street end so that they would not even see the buildings. They are looking at two-bedroom, two-bath handicap accessible units to give people the opportunity to live in the walkable community of Clarence Center.

Motion by Councilman Kolber, seconded by Councilman Casilio to refer the request for Preliminary Concept Review of the proposed multi-family housing project at 6150 Goodrich Road to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Town of Clarence Employees – Dec. 2, 2011; B. Clarence Youth Bureau – Jan. 28 & 29, 2012; Legion Hall Applications – A. Clarence Bulldog Cheerleaders – Nov. 30, 2011; B. Dana Hank – Jan. 11, 2012; C. Mary Landel – Feb. 12, 2012; D. Steve & Barbara Frey – March 24, 2012; E. Susan Ciminelli – March 4, 2012; Park Pavilion Special Request – A. Clarence Youth Bureau – Jan. 28 & 29, 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 November 10, 2011 are approved for payment: General Fund - \$153,540.02; Highway Fund - \$76,808.78; Water District - \$35,691.27; Fire Protection Districts - \$64.40; Drainage District - \$1,883.24; Lighting Districts - \$774.33; Sewer Districts - \$288,714.89; Capital Fund - \$111,818.64; and Trust and Agency 203 - \$12,950.00 for a total amount of \$682,245.57. On the question, Supervisor Bylewski said the bill pay includes the payment to the Town of Amherst in the amount of \$269,000 for settlement of the outstanding balances from 1998 – 2010. We have been working on this for a long time and have come to an agreement. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:12 p.m.

Nancy C. Metzger  
Town Clerk