A Work Session of the Town Board of the Town of Clarence was held on Wednesday, December 7, 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 Robert Geiger, Peter DiCostanzo, Patrick Casilio and Bernard Kolber. Other Town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Confidential Secretary to the Supervisor Karen Jurek and Planning Board Chairman Al Schultz.

**Director of Community Development – James Callahan**

***Public Hearing***

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 on the Concept Plan. The Special Exception Use Permit will require a public hearing prior to action. The project has received a Negative Declaration under SEQRA. All conditions required for a Special Exception Use Permit have been met.

***Work Session items for consideration December 21, 2011:***

- Affordable Senior Housing of New York, Inc. 8040 Roll Road
  Applicant is proposing a rezoning in conformance with recently adopted Master Plan 2015 amendments and the development of a 137+/- unit senior housing project. The proposed site is located on the north side of Roll Road, east of Transit Road on existing vacant and residential property located in the Commercial and Residential Single-Family Zones. Approval of the project will require a zoning change and a Special Exception Use Permit. Per the Zoning Law, the Town Board has sole authority to approve zoning amendments and final authority to approve Special Exception Use Permits. A Negative Declaration under SEQRA has been recommended by the Planning Board. Concept approval on the final site plan has been recommended by the Planning Board. An area variance for final density on the project will be considered by the ZBA on 12/13/11. Public Hearings will be required to consider both the zoning amendment and the Special Exception Use Permit.

- Spaulding Greens Open Space Design Subdivision
  Applicant is requesting a Concept Plan amendment to allow for the development of 70+/- additional single family residential lots on land adjacent to the existing project site.

- Spaulding Green Open Space Design Subdivision
  Applicant is requesting Final Plat Map approval and public road dedication of the final road construction of Hidden Pond Subdivision Phase II, Part IV as well as Final Plat Map approval and public road dedication of the final road construction of Spaulding Greens Phase II.

- Patrick Homes/Waterford Village Subdivision – Donegal Manor road extension.
  Applicant is requesting public road dedication of the existing Donegal Manor right of way extension.

**Supervisor Scott Bylewski**

Organizational minutes from last year were distributed to Town Board members with information that has been updated throughout the year. Organizational meetings will be scheduled for December 15th and December 21 at 4PM. Letters will be mailed out to committee members for reappointment consideration.

The Town Board received a petition signed by several residents in Meadow Lakes Subdivision requesting the introduction of "traffic calming methods" throughout the stretch of Bridlewood Drive South. Councilman Casilio will contact Highway Superintendent Donner to follow up on this request.

The December 21st, 2011 Work Session will begin at 6:00 PM. Mike Neumeister will discuss our Capital Project Program; he will provide an end of the year program recap.

Supervisor Bylewski has one item to discuss in Executive Session regarding pending litigation pertaining to the library.

**Councilman Bernard Kolber**

Highway Superintendent Donner requests the Town Board acknowledge the appointment of Timothy M. Bass to the position of laborer in the Highway Department.

Councilman Kolber and Councilman Geiger attended the Clarence School Board meeting last week. The Board is projecting a short-fall of approximately four million dollars for next years' school budget. The recently passed NYS tax cap would limit the tax levy increase to 2%. If the budget increase is higher it must be passed by 60 percent or more of the voters.

Councilman Kolber has been following RGGI, Inc. (Regional Greenhouse Gas Initiative, Inc.) This was put into place during Governor Pataki administration to tax carbon dioxide emissions from any fuel plants. We have some major power plants that are shut down and are no longer operational including the Somerset Plant on Lake Ontario; they cannot afford to pay this tax. Councilman Kolber would like to present a resolution at the next Town Board meeting and bring other towns on board. NYS has the second highest electricity rates in the country; they are 58% higher than the national average.

**Councilman Patrick Casilio**

Councilman Casilio gave an update on the street lights in Harris Hill. There are three lights that still need repair however; NYSEG is trying to avoid hanging overhead wires in the neighborhood because that is how so many lights were lost during the October storm. NYSEG has a new machine that will push the wire into the ground and will not disturb the grass. If they are unsuccessful in getting all the lights lit, they may have to run over head wire temporarily on the remaining pole and address this issue in the spring.

Councilman Casilio is still fielding complaint calls regarding our town owned street lights in subdivisions, they are not being serviced properly. In the past, NYSEG would provide the light bulbs however, they no longer do that.

Councilman Casilio gave an update on his conversations with Time Warner.

Parks Crew Chief James Burkard is requesting a line item transfer for oil and gas.

Councilman Casilio will make a motion authorizing Change Order No. 2 to the Clubhouse Sprinkler System Project.

Councilman Casilio will make a motion to authorize Prime Time Painting and Applications of Amherst to proceed with demolition and restoration work as part of the Clubhouse Sprinkler System Project.

Councilman Casilio will make a motion authorizing DT Compliance of Collins, NY to perform monthly meter maintenance, calibration and reporting for the Peanut Line Sanitary Sewer Flow Meter. Town Engineer Lavocat stated that the Town was paying $300 per month for the maintenance, calibration and reporting however he has received a quote of $200 per month for a savings of $1,200 per year for the same service.

Upon recommendation of Town Engineer Lavocat, Councilman Casilio will appoint Jacob Woodward as an Engineering Aide, Seasonal Part/Time for the winter break. Jacob will help with the drainage study and final field work.

Councilman Casilio has been working with National Fuel regarding our gas lighting districts. The residents in these districts pay approximately $300 a year for gas lights which do not provide enough light. Besides many lights that are out, the bigger mantles are no longer available and have been replaced with smaller mantles which do not give off enough light. Councilman Casilio would like to champion a campaign to eliminate the lights or replace the gas lights with electric.

**Councilman Peter DiCostanzo**

The Chamber of Commerce has moved their offices to the building next to Key Bank on Main Street.

Councilman DiCostanzo will appoint Jessica Notorious to the position of Program Leader-Youth, effective January 1, 2012.

Colleen McCarriagher will be appointed Youth Activities Leader RPT-Provisional.

Youth Director Dawn Kinney is requesting a transfer of funds.

There have been some recent hunting tragedies, Councilman DiCostanzo reminded people to be careful.

**Councilman Robert Geiger**

Councilman Geiger attended the Clarence School Board meeting and was impressed by Superintendent Hicks; he did a fantastic job addressing everybody especially with the difficult situation facing the schools budget for next year.

Councilman Geiger attended the employee Christmas party and commended Karen Jurek and the committee for a job well done and for patronizing local vendors for the food.

Councilman Geiger reminded everyone that today is the 70th Anniversary of Pearl Harbor, let us not forget.

**Planning Board Chairman - Al Schultz**

Al Schultz updated the Town Board on Rick Bigler's condition; he had open heart surgery last Friday and is making steady progress.

Every action taken by the Planning Board is made very clear on the record what the next step is. There are residents in the audience that do not understand the process or are confused as to what the next step involved is.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) D pending litigation regarding the library; § 105(1)F the employment history of a particular person. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 7:08 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:28PM. 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, December 7, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:35 P.M. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a moment of silence in honor and memory of all fallen service men and women on this 70th Anniversary of the attack on Pearl Harbor.

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

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held November 16, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that the Town Board will be meeting to discuss the organizational items on December 15th and 21st at 4:00 p.m. A notice will be posted and officially noticed.

Supervisor Bylewski said we received a petition from residents in the Bridlewood Drive area asking for some traffic calming methods to be installed. This was forwarded to the Highway Superintendent and Councilman Casilio will follow up on this issue with him.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to approve the transfer of funds in the 2011 Law Department Budget as follows: $10 from A1420.220 Office Equipment to A1420.470 Expense and Travel. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to authorize Supervisor Scott Bylewski to sign the yearly Intermunicipal Agreement between the Town of Clarence and the Town of Newstead for 2012 relative to the shared use of the Erie County Van. On the question, Supervisor Bylewski said this is also referred to as the "Going Places Van". We pay for the usage, but it is basically donated by the County. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he and Councilman Geiger attended the School Board meeting last week on their budget process. They are anticipating some substantial increases in their spending next year due to projected decreases in State funding and mandated increases in their retirement contributions. He was very impressed by Supt. Hicks in how he discussed this. People think the Town taxes are high, but they are only a small fraction of what the school taxes are.

Councilman Kolber said there is a Regional Green House Gas Initiative that was put in place about ten years ago to tax any carbon dioxide emissions from any fuel plants. This is really causing problems, such as, the closing of the Somerset Plant on Lake Ontario. They cannot afford to pay this illegal tax. He is working with the Town Board to put together a resolution requesting Gov. Cuomo to pull us out of this group. New Jersey is pulling out at the end of the year. The high cost of power in this State is driving away people and businesses. He will have this resolution at the next meeting with the intent to forward it to all other municipalities in the area for their support.

Motion by Councilman Casilio, seconded by Councilman Kolber to hire Jacob Woodward as Engineering Aide, Seasonal Part Time at the Engineering Department beginning Tuesday, December 20, 2011 at the 2011 budgeted rate of pay pending submittal and approval of all application documentation. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the following transfer of funds in the Parks Department Budget: $10,200 from A7110.265

Permanent Improvements to A7110.416 Gas and Oil. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize the Supervisor to sign the Statement of Donation and to grant a Temporary Easement to the County of Erie for the PIN: 5756.47.221; Wehrle Drive, C. R. 275 project for the purpose of a work area at the Harris Hill Road and Wehrle Drive intersection on property owned by the Town of Clarence, subject to Town Attorney review and approval. On the question, Supervisor Bylewski said the County is looking for an area to store equipment while making improvements to this intersection including drainage. It may impact some parking for football, but will not affect the field. This is a two-year donation. Councilman Kolber said restoration of the property when they are done should be in the agreement. Town Attorney Bengart said he will make sure of that. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to authorize Change Order No. 2 to the Clubhouse Sprinkler System Project to Davis Ulmer Fire Protection and Security Systems in the deduction amount of $6,507.24 for the elimination of various sprinklers to be credited to Project 89. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Prime Time Painting and Applications of Amherst, New York to proceed with demolition and restoration work as part of the Clubhouse Sprinkler System Project in the amount of $8,800 in accordance with their proposal dated December 1, 2011 to be paid from Project 89. On the question, Councilman Casilio said this is for the removal of multiple roofs in the porch area. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize DT Compliance of Collins, New York to perform monthly meter maintenance, calibration and reporting for the Peanut Line Sanitary Sewer Flow Meter in the amount of $200 per month in accordance with their proposal dated November 28, 2011 to be paid from Clarence Sewer District No. 2. On the question, Councilman Kolber said this is being done now, but this is a different company at a better rate. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said they are attempting to re-light three remaining street lights in the Harris Hill Gardens area. NYSEG was there today with a new machine to push wire underground. National Fuel is working on the lights out in the gaslight district.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that upon the request of Youth Bureau Executive Director Dawn Kinney, approval is given for the following transfer of funds in the 2011 budget: $600 from A7310.250 Building Improvements to A7310.416 Gas & Oil to cover van repairs; and $1,500 from A7310.250 Building Improvements to A7310.435 Special Programs to cover the remainder of the 2011 programs. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Jessica Notorious to the position of Program Leader – Youth effective January 1, 2012 at the 2012 budgeted rate of pay. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that upon the recommendation of Youth Bureau Executive Director Dawn Kinney, Colleen McCarriagher is appointed to the position of Youth Activities Leader RPT Provisional effective December 14, 2011 at the rate of $10.36 per hour, subject to receipt and approval of all required pre-employment documentation. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board under the State Environmental Quality Review Act (SEQRA), the Clarence Town Board issues a Negative Declaration on the proposed Affordable Senior Housing Opportunities of New York, Inc. Senior Housing Project located at 8040 Roll Road. This Type I Action involves the rezoning of property to Commercial and Restricted Business in conformance with Master Plan 2015 and the development of a 137 +/- unit Senior Housing Complex. After thorough review of the submitted site plan and Environmental Assessment Form Parts 1, 2 and 3 by the Town Board

and Planning Board and including a coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board seeks Lead Agency status and commences a coordinated review among involved agencies on the proposed Leamer Multiple-Family Housing Project located at 6150 Goodrich Road. This Type I Action will involve a rezoning in conformance with Master Plan 2015 and the development of an 18 +/- unit Multiple-Family Housing Project in the Traditional Neighborhood District. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said the Clarence Chamber of Commerce moved the office to the building next to Key Bank on Main Street. It looks great and offers them much needed space.

Councilman DiCostanzo said we have heard of recent hunting tragedies around the area. He asks people to be careful out there.

Motion by Councilman Geiger, seconded by Councilman DiCostanzo to authorize Supervisor Scott Bylewski to sign the Working Agreement for the Clarence Greenprint Program with the Western New York Land Conservancy for a one-year term beginning January 1, 2012 and ending December 31, 2012, subject to review and approval of the Town Attorney. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger said he attended the employee Christmas Party last week at the Clubhouse. It was so beautiful and we are so lucky to have that building here. He was also happy that they used local suppliers for the food.

Town Clerk Nancy Metzger received a notice of completion and acceptance of work on Transit Road between Main Street and Roll Road from the NYS Dept. of Transportation. The NYS DOT will resume maintenance of this road.

Town Clerk Nancy Metzger received the minutes from Erie County Water Authority of the meeting held Nov. 23, 2011 along with tariff amendments increasing the Infrastructure Investment Charge rates for meters billed quarterly from $3 to $6; and meters billed monthly from $1 to $2.

Supervisor Bylewski thanked all department heads present for their participation.

A Public Hearing was held to consider the request for a Special Exception Use Permit for multi-family housing for the proposed Rock Garden Mixed Use Development at 9470 Main Street. James Callahan said the location is the northeast corner of Main Street and Goodrich Road consisting of an existing motel and vacant property in the Commercial Zone. The applicant is proposing to demolish the existing motel and construct a new mixed use development including 25 residential units and 12,000+ sq. ft. of commercial space. A Negative Declaration was issued by the Town Board. The Planning Board has forwarded Concept Approval on the overall project design.

Paul Stephen and Noel Dill were present.

Supervisor Bylewski asked if this project complies with the conditions of a Special Exception Use Permit.

James Callahan said the combination of uses does comply with the conditions as identified in the Zoning Law.

With no one 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 December 7, 2011, and after all interested parties being heard, grants a Special Exception Use Permit to the applicant, Rock Garden LLC, for the Multi-Family portion of the mixed use development at 9470 Main Street subject to the following conditions:

1. The final submitted concept as developed by K2 Architects dated November 4, 2011.

2. Restrictions, limitations and concerns as identified by the Erie County Health Department related to on-site sanitary sewerage facilities on the project.

3. Final landscape plan approval by the Landscape Committee on future Development Plans.

4. Future Development Plans on the project must be approved by the Planning Board prior to any construction/permitting on the project and must include the required checklist for commercial projects and must not deviate from approved Concept Plans in terms of density and green space.

5. Payment of appropriate fees.

On the question, Councilman Kolber said he believes this project will enhance that corner. Supervisor Bylewski said he thinks it is a very good project and looks forward to it being put in place. Councilman Geiger said he is happy to see the building on the corner eliminated. It will open up the corner with better visibility.

Supervisor Bylewski asked the applicant if they are in agreement with the conditions. Mr. Dill said they are in agreement.

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

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to approve the following: Clubhouse Applications - A. Clarence Citizens for Veterans – Dec. 15, 2011; Feb. 11, 2012; B. Eagles Wings – Dec. 16, 2011; C. Clarence Historical Society – 2012 Monthly Meetings (2nd Tuesday); D. Cub Scout Pack #27 – Feb. 4, 2012; E. Jennifer Skop – Sept. 1 & 2, 2012; Legion Hall Applications – A. John Matteson – Dec. 17, 2011; Dec. 22, 2012; B. Joelle Falzone – Dec. 26, 2011; C. Blake Burgher – Jan. 7, 2012; D. Andrea Zaffram – Jan. 28, 2012; E. Heather Weber – Mar. 11, 2012; Nature Center Lodge Applications – A. Venture Crew 93 – Dec. 19, 2011. 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 23, 2011 are approved for payment: General Fund - $395,025.42; Highway Fund - $34,203.28; Water District - $207.70; Fire Protection Districts - $1,449.35; Drainage District - $438.03; Sewer Districts - $230.51; Capital Fund - $334,108.30; and Trust and Agency 203 - $17,650.00 for a total amount of $783,312.59. On the question, Councilman DiCostanzo asked about a bill for retirement. Supervisor Bylewski said it was not on the agenda and will be done at the next meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:05 p.m.

Nancy C. Metzger
Town Clerk