

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, November 2, 2011 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 6:00 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, Director of Administration and Finance Pam Smith, Town Attorney Steven Bengart, Town Engineer Timothy Lavocat.

Director of Community Development – James Callahan

The following two projects will be discussed at the next Planning Board meeting for possible consideration on the November 16th Town Board agenda.

Rock Garden Properties/Stephen Development – 9470 Main Street

Applicant requests Concept Plan approval and a Special Exception Use Permit for a mixed use development at 9470 Main Street. The proposed site is located on the northeast corner of Main Street and Goodrich Road at an existing apartment complex and former motel. There was some concern with the density on this project and an updated site plan has been submitted.

A Public Hearing was held on October 26, 2011 to consider an amendment to Master Plan 2015 to extend the Traditional Neighborhood District along the Goodrich Road corridor north of Maple Street to the Peanut Line which included an existing residential property. The Town Board approved the Planning Board recommendation that the corridor be changed in the location to TND Classification. John and Flora Leamer would like to proceed with a project on their property to consider multi-family in the TND Zone. Because this is a Special Exception Use Permit, it would have to start and end at the Town Board level.

Supervisor Scott Bylewski

Supervisor Bylewski asked Town Attorney Bengart for a follow up to the resident that has been farming Beaman Creek Park – Town Attorney Bengart still has not heard anything.

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

As a follow-up to the request for a snow-boarding event at Town Park, Supervisor Bylewski referred the individual to a representative at Eastern Hills Mall to possibly host the event there.

Supervisor Bylewski has one item to discuss in Executive Session relative to the proposed sale of real property.

Supervisor Bylewski stated that the Town Board will not be approving the preliminary Budget and Special District Assessment Roll for the Town of Clarence for the year 2012 because he is still waiting for guidance from the office of State Comptroller relative to the fire hydrant issue. It will be voted on at the next Town Board meeting.

Councilman Bernard Kolber

Councilman Kolber will make a motion authorizing the Supervisor to sign the 2012 Erie County Van Contract for the Going Place Van.

Councilman Kolber attended the Clarence Taxpayers meeting Tuesday night. Several items were discussed including the proposed ice rink. Councilman Kolber cleared up some misinformation.

Councilman Patrick Casilio

Councilman Casilio will make a motion authorizing the Supervisor to sign the BlueCross and BlueShield Group Health Care Contract for Town of Clarence Retirees.

Councilman Casilio has a line item transfer for the Building Department.

Councilman Casilio has one item to discuss in Executive Session regarding matters which will imperil the public safety if disclosed.

Councilman Peter DiCostanzo

The Chamber of Commerce has moved their offices; there will be an official grand opening sometime in the future.

There are several large projects scheduled for the November 9, 2011 Planning Board meeting: Niagara County Produce, Rock Garden Properties and Northwood's Open Space Design Development.

While traveling the thruway, Councilman DiCostanzo noticed the number of dead deer. According to USA Today, over 200 people die each year because of car-deer accidents. He advised everyone to be careful.

Town Engineer Timothy Lavocat

Miles Road will be opening any day now. This project can be closed out from the Capital Project list.

Town Attorney Bengart has one item to discuss in Executive Session regarding proposed litigation relative to reimbursement for a PIP.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) A matters which will imperil the public safety if disclosed; § 105(1) D proposed litigation relative to reimbursement for PIP; § 105(1)H proposed sale of real property but only when publicity would substantially affect the value thereof. On the question, James Callahan, Timothy Lavocat and Town Attorney Bengart were asked to remain in the meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:42 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:02 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 2, 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 Bernard Kolber, followed by a prayer given by Ed Burkard of St. Mary's Catholic Church.

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.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the previous meeting held October 26, 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. A hearing will be held at the Clarence Town Hall on December 5, 2011 at 7:00 p.m. The contact is Rachel Chrostowski, Planner with Erie County Dept. of Environment and Planning at 858-8002.

Motion by Councilman Kolber, seconded by Councilman DiCostanzo to authorize Supervisor Scott Bylewski to sign the 2012 Erie County Van Contract for the Going Places Van subject to Town Attorney review and approval. The contract term is from January 1, 2012 through December 31, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he attended a very interesting meeting last night of a Clarence taxpayers group. One of the things they talked about was the possibility of the Town doing the ice rink project. John Thur was there from the Mustangs hockey group. There was a presentation of how the tax caps affect town budgets. He picked up some brochures on New York's exploding pension costs and retiree health care benefits. He hopes someone can get the State to do some reform. People are leaving the state because they do not want to pay the taxes anymore.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize Supervisor Scott Bylewski to sign the BlueCross and BlueShield Group Health Care Application, Contract and rate sheets. On the question, Supervisor Bylewski the group name is the Town of Clarence Retirees. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize a budget transfer for the Building Department in the amount of \$75 from A3620.423 Books to A3620.471 Training. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo announced that the Chamber of Commerce is moving its office to the corner of Main and Shimerville in the KeyBank building.

Councilman DiCostanzo said the Planning Board will be discussing the proposed expansion of Niagara Produce, the Rock Garden Properties proposal at Main and Goodrich, and proposed Northwoods Development between Greiner and Roll east of Shimerville at their meeting next week.

Councilman DiCostanzo said he has seen a lot of deer/vehicle collisions over the past week and warned drivers to be aware.

Supervisor Bylewski thanked all department heads present for attending.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to approve the following: Clubhouse Applications - A. Clarence Soccer Club – Jan. 22, 2012; Legion Hall Applications – A. Sara Schupbach – Jan. 14, 2012; B. Shahdad Waseh – Jan. 21, 2012; C. Hai Family – Feb. 25, 2012; D. Brian Decker – March 3, 2012; E. Patricia Raquet – March 10, 2012; F. Irene Toloue – April 14, 2012; G. William & Lindsay Goulette – Dec. 29, 2012; Nature Center Lodge Applications – A. Clarence Rotary Club – Nov. 18, 2011. On the

question, Councilman Casilio and Councilman DiCostanzo are members of Rotary, however this is ministerial and they will be voting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski asked if anyone wished to speak under “For the Good of the Town”. No one came forward.

Supervisor Bylewski called a five minute recess at 7:40 p.m. until the Public Hearing could begin at 7:45 p.m.

A Public Hearing was held to consider the Preliminary Budget and Special Districts Assessment Roll for the Town of Clarence for the year 2012.

Supervisor Bylewski said based on discussions with the State Comptroller’s Office, we are waiting for a determination with respect to fire hydrants. We have determined that right now we have enough time to hold off on the adoption of the budget pending that statement. That is the only issue we have.

Supervisor Bylewski said the New York State Government Finance Officers Association defines budgeting as the planning for the use of resources and allocating them among potential activities to achieve the objectives of the organization. A Tentative Budget is prepared by the supervisor and submitted to the Town Board. The Town Board as a whole prepares the Preliminary Budget which is adopted.

A few changes from the Tentative to the Preliminary Budget included adjusting the rate of pay for the Highway Superintendent so that it matched the tentative column; adjust the projections for 2013 – 2016 for the Executive Director of the Youth Board to make sure that the correct percentage was put in place and then flattening out for 2014 -2016; and an increase in the Highway Fund Balance by \$500 because of a change in assessed valuation due to petitions that were filed to change assessed values.

Supervisor Bylewski went through the slide presentation of the handout which included the 2012 Budget Summary; a Tax Rate Comparison from the 2011 Adopted Budget to the 2012 Preliminary Budget; General Fund Appropriations with employee benefits just over 20%; General Fund Estimated Revenues with Erie County Sales Tax being the largest revenue, which we have seen since the 2010 census an increase due to the population increase in the Town and likewise as a growing Town we also have increased assessment value; Highway Fund Appropriations with general repairs, snow removal and employee benefits as the highest percentages; and Highway Fund Estimated Revenues are chiefly from the Highway Fund Tax.

Supervisor Bylewski said the General Fund tax is proposed to decrease by a penny and the Highway Fund because of rounding essentially stays the same.

Speaking to the subject:

Greg Thrun said generally speaking he sees an increase of 1.8% and the concern is that in these economic times the Town Board really needs to consider this. It is a \$1,000,000 increase overall. It is a good effort, but then are the assessments going to go up also. If you hold the line on taxes then you should also hold the line on assessments. He read that Clarence has 5% population at poverty level. There are people struggling. He believes in these economic times they should hold the line and not see any increases.

Supervisor Bylewski said the 35% tax increase is untrue. What you are looking at is a worse case projection with declining fund balances. Actually the fund balances have increased. Assessments are set by the Town Assessor who is appointed by the Town Board for a 6-year term. The Board has stated to the Assessor that they would like the assessments to continue at 100% or fair market value. It has been determined that it is the fairest way to have a fair property tax system in place. Capping assessments is at the hands of the State Legislature.

Councilman Kolber said we have nothing to do with assessments. The Assessor’s job is to maintain fair assessments on properties. She does the best that she can. He thinks some of his properties are over-assessed and he pays a good portion of taxes in this Town. The worst case scenario projections were implemented a few years ago when the markets were falling, pension funds were losing worth and rates of return were down. Pension funds and guarantees were made when there were double digit returns on investments. That no longer exists. We did not know what was going to happen and had to plan accordingly.

Councilman Kolber said the difference in the General Fund appropriations is \$665,000, not a million.

Councilman DiCostanzo said he is looking at the totals from last year to this year.

Supervisor Bylewski said you have to look at the actual experience. Actual experience expense wise include increases in pension costs and insurance. You also have to look at the audited expenses. The most recent audit expenditures were \$9,909,169 which is an increase of 2.8% over a 4-year span. This past year the cost index for salt and asphalt was up 5% in one year.

Our property tax cap was at 2.7% this year. It is the 2% +/- depending on actual experience. If the pension cost increases more than 2% the excess gets added back in to the cap. There is also the growth factor and we are a growing Town. Our population has surpassed Orchard Park. We have structured our finances in such a way that the existing developments pay for themselves. New developments coming online are not subsidizing the existing structures.

Councilman Casilio said we do not have anything to do with the assessments. People want to move to the Town because of holding the line on taxes, but all of that activity causes the changes in assessments.

Supervisor Bylewski said based on information he received, the Town of Amherst tax rate is \$12 more per \$1,000. They do have a police department and we do not.

Steve Dale said they talked about the projected budget as being overly conservative and we probably will never see it. If that is the case then why don't we change the projected budget to make it more realistic? It certainly has riled people up.

Supervisor Bylewski said they did look at it this year. These are projections. We did not have this in our budget before he became supervisor. It is good government practice to institute. As a government you also have to have a contingency.

Steve Dale said it has been explained, but we should project in a more realistic term.

Supervisor Bylewski said they are best guesses.

Councilman DiCostanzo said he agrees with Mr. Dale. He talked about it in their budget meetings. He feels they do a crappy job on the budget. The only thing you know about a projection when you are done is that it is wrong.

Steve Dale said but it is a living document.

Councilman DiCostanzo said he is voting no on whatever we do. He does not feel we do a good enough job going through the details of the budget. The expenses did come in way under but we underestimate on the revenue and overestimate on the expenses. You do not want big surprises.

Steve Dale said he worries that if what is published is not changed, a few years later the tax rate goes up and people will say it is right here as projected.

Councilman DiCostanzo said we cannot use \$1.3 million of the fund balance in each year or it will be gone. The only way to do that is to budget and come in better on revenues and on expenses.

Councilman Casilio said he does not disagree. He believes it is overly conservative on the projections. It did not take into account that the Town could be changing. Peter also brought up a good point of looking at the capital spending and make sure that we watch the projects coming in and end up not having the revenue that we think we will.

Supervisor Bylewski said we cannot pass a multi-year budget. We are looking at adopting, strictly, the column marked tentative 2012.

Councilman Kolber said what impacted to the good for us a few years ago was that everyone was refinancing mortgages. We took in more in mortgage tax. He would rather project on the conservative side than have a shortfall. A comment made last night was that we raided our highway budget to balance the town budget. There was a high projected increase in the highway budget but the fund balance that was sitting in the bank was up to \$2.5 million. We cannot justify increasing tax rates when the money is sitting there. We are bringing it down over the years to where we think it should be.

Supervisor Bylewski said if this budget is passed, we will have transferred \$2 million from the general fund to the highway fund since 2009. All of our other fund balances are at 15%. In looking at projections, they decided to use a projected fund balance floor of maintaining at least 25% of the overall appropriations in that fund balance.

Councilman Casilio said we talk about taxes and assessments at budget time and a good portion of the tax money goes to the school districts and to the county. We are the smaller portion of the tax bills.

Supervisor Bylewski added that the county portion is 60+% and the town including special districts is between 12% and 15%.

Councilman Casilio said he takes it personally when someone says we have to keep the assessments low and it is out of our control. It is because of good government that our assessments go up. He would be the second person who would like to see his assessments a little lower than they are now.

Councilman Kolber said he would love to see flat spending if we could do it and not raise taxes.

With no one else speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. On the question, Supervisor Bylewski said we will close the hearing and act on the budget at the next meeting. If we failed to act on it, the budget that is submitted would be the default budget. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski said we will be voting on the budget in two weeks. We should have guidance from the State Comptroller regarding the fire hydrants by then.

“For the Good of the Town”

Roy Olsen thanked Mr. Kolber for coming to the Clarence Taxpayers meeting last night and listening to their concerns and sharing his thoughts with them. He also thanked him for committing to support a public referendum rather than a permissive referendum relative to the proposed ice rink funding. They look forward to him following through with this commitment and also ask that he share with the Board the importance of letting the taxpayers make the decision on this issue.

Councilman Kolber said if the Town goes forward with this, and he hopes we do not, he would rather see it done privately because they could do it a lot cheaper. It has got to go to a referendum either way. He would like to take a proactive approach.

There be no further business, Supervisor Bylewski adjourned the meeting at 8:12 PM.

Nancy C. Metzger
Town Clerk