

A Work Session of the Clarence Town Board was held on October 1, 2008 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 9:00 A.M. Members of the Town Board present were Council members Joseph Weiss, Bernard Kolber, Patrick Casilio and Peter DiCostanzo. Other town officials present were Town Engineer Joseph Latona and Town Assessor Christine Fusco.

Supervisor Scott Bylewski

Supervisor Bylewski presented copies of the 2009 Tentative Budget as submitted to the Town Clerk on September 30th. Along with the Tentative Budget is a copy of the Draft Fund Balance Projection Report from Dresher & Malecki. Included in the budget packet is Supervisor Bylewski cover letter and financial planning information based on both the multi-year budgeting as well as the statistics from American City and County regarding the cost of living and the Outcome Based Budgeting for the five departments. By law, the 2009 Exemption Report now has to be included as part of the Tentative Budget effective October 5th.

Supervisor Bylewski stated that we are doing fairly well in our budget based on what we have done conservatively in prior years and what Supervisor Bylewski has proposed this year. The General Fund tax rate is estimated to be about the same, it is slightly lower than last year. The General Fund appropriations are proposed to go up as well as our overall appropriations but generally they are in line with inflation. Our rate of growth has exceeded inflation which in turn has exceeded new construction which in turn is exceeding town spending – we are being very frugal in how we have been spending money as a town.

Professor Samina Raja is ready to submit her report to the town. Supervisor Bylewski will schedule a meeting date with her, possibly during a budget meeting.

Supervisor Bylewski will be meeting with ISO representatives next week regarding fire companies.

Erie County Sno-Seekers have submitted their annual letter regarding use of the bike trails. Supervisor Bylewski will discuss this further with Town Attorney Bengart. Town Engineer Latona stated that the Sno-Seekers usually contact him, he suggests they stake out the run, he will inspect and approve it and then report his findings to the Town Board for approval.

Councilman Joseph Weiss

Councilman Weiss received a call from William Cordova regarding the Youth Bureau. He alleges that the snow plow service damaged the retaining wall and is causing a drainage issue. Mr. Cordova has also contacted the police and the town paralegal.

Councilman Weiss received a letter from a concerned citizen regarding several “blind spots” on the bike trails. The NYS Police are checking the path for problem areas. There is an area across from the Highway Department where you have to come out onto the road because of the brush is obstructing the view for anyone wanting to cross Goodrich Road. The problem is that the brush is on private property. Councilman Weiss will bring this matter to Highway Superintendent Donner to see if he can clear out the brush or if it is on private property, speak to the owners of the property to see if something can be done. It is an accident waiting to happen.

Supervisor Bylewski stated that he and Youth Director Dawn Kinney are still interviewing for the position of Youth Coordinator.

Councilman Bernard Kolber

Councilman Kolber apologized to the Town Board for missing the Annual Public Forum on Monday evening.

Councilman Kolber received a call from the President of Reid Petroleum regarding the driveway design and the new Dunkin Donuts. Supervisor Bylewski stated that if Reid Petroleum does not have a new application to put forth, he is not interested in discussing the matter; they know what they have to do.

Councilman Patrick Casilio

Councilman Casilio has several items to discuss in Executive Session regarding the discipline of a particular person and the employment history of an individual.

Councilman Peter DiCostanzo

Councilman DiCostanzo received a letter from Clarence Middle School Principal indicating how they are being tough on drugs and how Clarence School District is a “Drug Free Zone” in conjunction with this they also notified parents that the NYS Police Canine Unit will do a locker search. The locker search will take place this fall and is scheduled at a time when all students are in class and will take approximately 30 minutes to complete. No students or their personal belongings will be searched at this time. Councilman DiCostanzo felt that the searches should be done randomly and not announced.

Town Assessor Christine Fusco

The Cold War is the new veteran’s exemption that has been proposed. It is designed to pick up the veterans that do not fall into the periods of war. They have to have served one year minimum (365 days of active service between September 2, 1945 – December 26, 1991). The majority of vets that are denied are Korean War that fall between 1955 and 1961. Currently we have 1,233 veterans that qualify under the alternative which are the Korean War vets – they are allowed up to a \$27,000 exemption on their property. The Cold War vets (even if the Town adopts the maximum) only allow \$12,000. off the assessment which comes out to \$24.00 a year off the town tax. The Cold War exemption is good for ten years after that it is removed. Most vets come in with between 10 – 20 percent disability, they get half of that.

The Town has a Disability Exemption based on income if the owner of the property is disabled. The question has come up regarding a disabled child. There is an exemption allowed and the County does grant it now and it only involves increase in assessment. If the owner of the house installed a wheelchair ramp for their disabled child their assessment would not be increased. Unless major renovations would occur such as the installation of an elevator or the addition of an entire wing, the assessment would not change.

Town Assessor Fusco suggested addressing all the school districts first regarding the disability exemption to see if they are on board. The school districts would have to pass a resolution.

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

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 9:53 A.M. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

The Work Session reconvened at 10:16 A.M.

Dominic Piestrak – Spaulding Greens

Mr. Piestrak stated that he made a mistake in judgment. He met with the DEC and the Army Corps of Engineers. When Historic Parks and Recreation told everyone that they wanted 60 acres scraped, it took all summer and then they found the long house and the pottery etc. Mr. Piestrak made the assumption that

he would have problems with the Storm Water Prevention Plan in early spring because he scraped 60 acres which the town knew about however, the DEC may not have known. University at Buffalo wrote a letter saying that this is what Historic Parks & Recreation wanted him to do. Mr. Piestrak looked at 60 acres of siltation next to the wet lands and felt that when the snow melted he would have a major problem. He thought about coming to the Town Board and if they would have said “no” which is what they would have said in the past he did not want to be treated any different than anyone else. He felt he had to dig and change the grade and create siltation ponds that would take care of the excess water. After talking to the DEC, the biologist felt that he had left enough vegetation around the site and the silt fences would be adequate. They told Mr. Piestrak that he over-reacted and it probably would have been all right without the ponds and the grading. Inadvertently there was miscommunication between the DEC and the Army Corps of Engineers. The DEC said there was a drainage swale that is non-jurisdictional as far as they were concerned. The Army Corps of Engineers said they wanted to take another look at it which is what they are in the process of doing. Mr. Piestrak stated that he is the first to admit that he was wrong and he over reacted to a silting problem. He wants to make Spaulding Greens the best project he has ever been involved in. He felt that siltation into the wet lands would cause a problem and he wanted to avoid that.

Supervisor Bylewski thanked Mr. Piestrak for coming forward and owning up to his mistake. The Engineering Department and the Planning Department are reviewing the situation now and it would not be appropriate for the Town Board to comment. Our Engineering Department and Planning Department will meet with our Legal Department as to what the next step would be. Councilman Weiss asked Mr. Piestrak if the ponds that were dug were intended for use in this project in the future. Mr. Piestrak stated that they were.

District Manager Patrick Hourihan/Peter Martin – Waste Management

Supervisor Bylewski thanked Waste Management for submitting their permits and quarterly reports. According to the last report submitted on July 2008, they indicated that the number of Residential Units collected was 1,935. Mr. Hourihan stated that figure was not correct; Waste Management collects more than that. Supervisor Bylewski requested an updated report by the end of the week; he further stated that whoever is filling out these reports has supplied erroneous information. Mr. Hourihan estimates that the correct number is approximately 4,000 units collected.

Councilman Casilio asked if we kept the system we currently have, could Waste Management do the 4,000 pickups on a designated day vs. doing it three or four days a week. Mr. Hourihan stated that it could not be done without purchasing 3 – 4x’s the equipment that they currently have. Waste Management is in Clarence 5 days a week. Councilman Casilio asked if Waste Management is in Clarence 5 days a week, would they mind districting the sections of town that they go to with the other vendors in town. So all disposal companies are picking up garbage in that district on the same day. Waste Management stated that they could and would do that with someone from the town present at those meetings. They could never get together with Modern Disposal and Allied Waste and divide the town up without someone from the town being present and minutes of the meetings and things as such. If the Recycling Committee were to arrange these meetings, this would be something Waste Management said they would be willing to work out.

Councilman Weiss stated that process would be inefficient because the disposal companies will be driving by houses that are on their route.

It was noted that Waste Management sent a mailing to their customers asking them to vote against the formation of a garbage district. Since then, the town has received numerous requests to have one disposal company picking up the entire town.

Councilman Kolber stated that the Board is responding to resident's requests to have garbage pickup on one day only so garbage is not sitting at the curb 5 days a week and cut out the number of garbage trucks in their neighborhoods during the week. Our previous highway superintendent and current highway superintendent have said that the garbage trucks do the most amount of damage to the roadways. He has one full time crew out just rebuilding storm receivers.

Councilman Kolber asked how the town can minimize damage to our roads, it has already been determined that one full tandem truck weighs approximately 70 – 75,000 lbs. This is very close to the legal limit of 80,000 lbs. Mr. Hourihan stated that the trucks do not weigh that much, they are registered for 66,000 lbs. While they have some over-weights, for the most part the trucks are not over weight – 66,000 lbs would be the most the trucks would weigh full – unless they are over and Waste Management tracks that and “they don't have very many over weights.”

Recycle Committee Chairman Chuck Eckert asked Waste Management how accurate their quarterly reports are that the Town receives. Both Waste-management representatives stated that they do not see the reports so they could not comment on them. Mr. Hourihan stated that he would look at the reports and get back to the town. Supervisor Bylewski made copies of both the license permit and the last quarterly report submitted to the town.

Councilman Weiss stated that based on the numbers the town has received from all solid waste vendor reports; there are still approximately 1000 – 1200 residents that are not paying for garbage service. Waste Management fought very hard to defeat the last referendum and took out ads that were very “duplicitous” about the situation. Financially speaking, it would appear that Waste Management position would be that they would rather hold on to the 4,500 customers they now service at the increased rate rather than if they won the contract at a more competitive rate. Mr. Hourihan stated that he would rather hold on to the customer base he has rather than to bid on something and possibly end up with nothing. Mr. Hourihan stated that if he were guaranteed to win the bid, he would be happy to collect for the entire town. Every town they service has different specifications; there are different reasons why they do better in one town than another. They have a twelve-year contract with the Town of Lancaster. Mr. Hourihan stated that “if Waste Management could win the bid for the Town of Clarence they would be happy but the risk is what they are fighting. Wastemanagement can do better picking up every household on the street than if they picked up every third house.”

Chuck Eckert asked if Waste Management would pick up “white goods” (appliances) on a weekly basis or would it strictly be on a monthly basis. Mr. Hourihan stated that they could do this on a weekly basis, currently Waste Management picks up “white goods” on a monthly basis for their customers.

For the last two months, Waste Management has been picking up recyclables and putting them into the same truck. The recyclables get taken to their transfer station in Depew and then put into a tractor trailer to a plant in Syracuse where everything (paper, glass, plastic, cardboard) is separated by the machinery in the plant. Tonnage has increased because they are able to pick up cardboard.

Chuck Eckert stated that during the last Public Hearing, a resident showed him a Waste Management bill for over \$300 for one year garbage service. Mr. Eckert asked if Waste Management were to win the bid would they be willing to offer a Senior Citizen's discount. Mr. Hourihan stated that he did not know how that would be done. If you give everyone the same service and the town wanted to give the senior citizens a discount, they would have to do that through the town tax bill. The town is the customer, not the individual customer – they bill the town. How the town gets the revenue from the residents is up to the town. In the towns that Waste Management currently services, they are not able to suspend service for any length of time (snow birds, vacations etc.).

For the record, Supervisor Bylewski distributed copies of Waste Management 2008 License and the 2nd quarter report (April 1 – June 30, 2008). Mr. Hourihan will submit an updated quarterly report by the end of the week.

In terms of best practices, if you have a governmental bid, Supervisor Bylewski asked what has been one or two good municipalities that Waste Management has been able to work with. Mr. Hourihan stated that Amherst, Williamsville, Colden, Boston. Amherst and Williamsville use totes which the town purchased.

Councilman Weiss asked if having totes would decrease manpower for each truck. Mr. Hourihan stated that it does not. If you have a bid where there are totes and residents can put trash outside the totes, it is still one big garbage can and there is a tote lift on the back of the truck – you have to get the tote to the truck, dump it, take it back to the curb and pickup any trash left beside the totes. According to the municipalities, the totes are basically to control any rodent problems.

Waste Management operates two trucks a day, five days a week in the Town of Clarence. Chuck Eckert asked if Waste Management were to win the bid for the Town of Clarence would they be able to handle the town with the equipment and manpower they currently have. Mr. Hourihan stated that they would be able to manage the town on a regular basis Monday thru Friday and the town would be split up into districts.

Mr. Hourihan stated that in terms of the town going out to bid, he has heard all the reasons and they are all valid reasons. The biggest problem the disposal companies run into with municipalities is they put an item limit in the bid specifications and then when there is a complaint from a resident

Chuck Eckert commented on the misleading letter that Waste Management sent out to its customers stating that *“the Town of Clarence will take on the added responsibility of trash collection, which is currently handled by private companies.”* Many people interpreted this as the town getting into the garbage business by creating another department and purchasing garbage trucks. Mr. Hourihan stated that **responsibility** is the key word. They never mentioned that the town was creating another department or that the town was purchasing trucks or equipment. Mr. Hourihan further commented that Waste Management is going to protect their business as well as they can.

Councilman Weiss asked the source of the information that went out to the residents in Rock Oak that if Waste Management did not get the bid, they may not service their account. Mr. Hourihan received a call from a resident in Rock Oak regarding the formation of a garbage district. Mr. Hourihan assured the caller that they would “absolutely service them.” She asked if the price would go up and Mr. Hourihan stated that could be a possibility. Councilman Weiss stated that the residents of Rock Oak would not be affected by the formation of a district.

Councilman Casilio stated that he has a problem with front-end loaders coming into town at 4:30 AM. If a district is formed, he will try to restrict that.

Councilman Kolber stated that the Town Board is not trying to create another layer of government; they are trying to solve some issues including damage to the roads and cutting down the number of garbage days. The town receives numerous calls from businesses complaining of residents using their dumpsters for their own private use. We just received a call from the Clarence Library saying they are having a problem with someone coming in at night and filling their dumpster with garbage. Councilman Kolber stated that he realized Waste Management wants to protect their business but asked Mr. Hourihan if he had any suggestions or alternatives. Some residents have inquired as to ways to carve the town into districts. Mr. Hourihan stated that would be a way of keeping

the trucks in an area on a particular day however, Allied Waste nor Modern Disposal are going to give up their accounts to Waste Management – Mr. Hourihan would like to do the entire town on subscription. He could not offer any suggestions to eliminate truck traffic. Waste Management has locks on their containers where the customer asks them to provide locks. There are hefty fines if someone is caught dumping in someone's container.

Councilman Casilio stated that the number one reason for this meeting is because there are about 1,200 people in the Town of Clarence that are not recycling – if they are taking their garbage to a business dumpster they are not recycling. He is also concerned that the recycling reports submitted by the disposal companies on a quarterly basis are not accurate.

Based on the fact that the garbage industry does not seem to want to do this, Councilman DiCostanzo was of the opinion that we could lower the cost for the taxpayers with the formation of a district. The disposal companies don't want it because it is going to be cheaper for the taxpayers as a whole.

Councilman Casilio stated that he wished Waste Management could work with the town rather than against us like they have in the past - their publications worked against the town. The Town Board could make a motion to form a garbage district and a district could be formed today. This Board is trying to do it the right way and Waste Management is working against the town by taking full page ads out in the Clarence Bee.

Mr. Hourihan stated that he understands what the town is trying to do, they have 4,500 stops in the Town of Clarence and they could have zero if they are not the low bidder on the bid. He would rather have what they have right now rather than have nothing and he will protect his business as much as he can.

Councilman Weiss stated that he would hope that the Town Board would work to protect the town and its residents by circulating information that is honest and candid.

Mr. Hourihan stated that there is an issue with recycling. People are either too lazy or it is too beneath them to do it – bottom line is that Waste Management has the most aggressive recycling program in the country.

Joseph Scaffidi – Allied Waste (formerly know as BFI)

Supervisor Bylewski distributed copies of Allied Waste annual license and last quarter report.

Allied Waste purchased BFI in 1999, BFI is no longer. There is a Canadian BFI company which exists and may cause some confusion if you go north of the border.

Allied Waste collects approximately 968 residential units in the Town of Clarence. Supervisor Bylewski asked for an amended June 30th report by the end of the week since the last report submitted omitted this information. Councilman Weiss commented that from all the data collected from each disposal company, there are between 1,200 – 1,500 households that are not using a garbage service and are not recycling – they are either dropping it off in a dumpster, burying it, burning it or taking it to another family member or splitting the price with a neighbor.

Allied Waste currently services the Village of Angola (both solid waste and recycling), Town of Aurora, City of Buffalo curbside recycling, Cheektowaga recycling (City of Buffalo & Cheektowaga pickup their own solid waste), the Town of Grand Island (both solid waste and recycling), Town of Hartland (solid waste and recycling), Town of Niagara (solid waste and recycling), the Town of West Seneca (recycling only, the town employees pick up the solid waste), Town of

Newstead (recycling and solid waste). Allied Waste does some subscription work in Elma and Hamburg.

Joe Scaffidi stated that the relationship/contract that BFI and Allied Waste have had with any municipalities for the last 16 years where there was an extension agreed on; they exhausted the contract to the end. No one ever said they were unhappy with their service or that Allied was charging too much. They were always able to sit down and negotiate and recognize a price that is fair for the town and fair to BFI within the confines of the contract and extend those contracts. The City of Buffalo is much different with on-street parking, one-way streets, double, triple units etc.

Councilman Kolber stated that he is contracted with Allied Waste and the price he pays is much higher than what is stated in their report submitted to the town.

Joe Scaffidi stated that four companies collecting solid waste and recyclables on a schedule that fits their needs for the most part are going to have more vehicles in and around town streets as oppose to one contractor coming through on a scheduled route on a Monday – Friday collection (because of the amount of units in Clarence) would give you the “best bang for your buck.” A vendor that would service Clarence town wide would eliminate truck traffic and would alleviate some of the problems the town has been experiencing with the shoulder of the roads and storm receivers. As far as vehicles go, having one contractor would be one way to eliminate the number of vehicles in the area. If one contractor is picking up all the homes you will get a better per cost per unit. The cost to drive out to Clarence and pick up four houses on one street, fifteen houses on another street is the same, the revenue is not. The price in Newstead is less than \$200 per year per customer and Allied Waste services every unit in the town. Amherst pricing is different because their town picks up everything outside the totes such as metals, white goods brush, leaves (everything that is not bagged) etc.

Mr. Scaffidi stated that Allied Waste would like to contract to service the entire town of Clarence. He does not have a problem with putting his 985 units on the line. The price would be less than what each individual (contracted with Allied Waste) pays now. The majority of municipalities in WNY are contractual. It is costly to send a bill to every resident. It is simpler to send one invoice to the town and have one contact person to work with.

Councilman Kolber asked if Allied Waste were to bid a contract, what would they like to see in it in terms of service to make it easier for them to give a better price. Mr. Scaffidi stated that years ago before totes became more popular in this area than they were, residents would have between 4 – 6 – 10 to unlimited garbage allowed at the curb each week. There would be a large item allowed each week. You want to service the home but you want to be fair about it and you want to control the items so the town or the vendor are not subsidizing the small contractor who brings home broken tile, plywood, drywall etc. It is not the vendor’s job to pick that up. It is not the vendors job to take care of someone’s landscaping business – its not part of the residential contract. If the town went with totes, it is a way of asking the residents to package their solid waste each week. It would be up to the town to decide if they want to distribute more than one tote. If the town went with totes, it would only take one vehicle with one man because a mechanism on the truck will pick up the tote, empty it and set it back down. If you went with totes and then extra bags, it would require a vehicle with a tote lift and an extra man to grab the extra bags. It is designed to around what the municipality would like to move to.

Allied Waste is the most pro-active recycling company in the area. They like to see their customers be more pro-active and recycle as much as they can.

Deputy Town Attorney David Donahue asked how Allied Waste handled the spike in gas prices with the other municipalities they are already contracted with. Mr. Scaffidi stated that other than the Town of Newstead, there was no provision

in their contracts to supplement the additional fuel fees. As the contracts expired or ran their course some adjustments were made.

Allied Waste currently offers a Senior Citizen discount which is approximately \$97 every six months. Allied Waste has no problem with seasonal customers – they would pay half the rate. Mr. Scaffidi suggested the town bid solid waste and collection as one number and recycling collection and processing as another number and compare them to an all inclusive number.

Mr. Scaffidi stated that he will fax an amended second quarter report by close of business today.

Councilman Casilio commented that he would hope that the information obtained today could go back to the Recycling Committee and develop minutes to bring back to the Town Board. Chuck Eckert stated that there are 7,728 homes in Clarence that are paying for garbage pickup. Mr. Eckert will take the information back to his committee and have minutes within the next 10 days. The Recycling Committee will interview PSI Disposal.

Councilman Kolber stated that there is a dumpster behind the mall being provided by a company that is not licensed within the town. Supervisor Bylewski suggested Councilman Kolber get the name and telephone number and refer it to Code Enforcement.

Councilman DiCostanzo suggested posting bullet points from this meeting on the web site for residents to review.

Chuck Eckert inquired whether or not there was money in the budget to post this information in the Clarence Bee. Supervisor Bylewski stated that there is room in the budget for publicity purposes under the tentative budget. The Town Board should review this to see if it is sufficient.

Supervisor Bylewski stated that there are openings on various committees. He asked the Board to review their liaison assignments and get the positions filled.

The Work Session was adjourned at 11:30 A.M. The Town Board met with Deputy Town Attorney Donohue regarding one Attorney-Client item.

Darcy A. Snyder
Deputy Town Clerk