

A Work Session of the Clarence Town Board was held on June 10, 2009 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Council members Joseph Weiss, Patrick Casilio and Peter DiCostanzo. Councilman Kolber was absent. Other town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Director of Administration and Finance Pam Smith, and Senior Building Inspector David Metzger.

Councilman Kolber is absent due to a prior engagement.

James Callahan – Director of Community Development

Public Hearings:

- Towne BMW Mini 8200 - 8230 Main Street

Applicant is seeking a Temporary Conditional Permit for the outside storage of new autos. Applicant is proposing to develop the area of the demolished structure for a new Mini sales office/showroom in the future. In the interim, the applicant is seeking a temporary permit to store vehicles. The proposed site is situated on the north side of Main Street, west of Westwood Road in existing commercial plaza consisting of 8.88 acres in the Commercial Zone. A demolition permit was issued for the demolition of an existing out building on the property.

Formal Agenda items:

- *John Kausner 4180 Ransom Road*

Applicant is proposing a 3-lot Open Development area. The proposed site is situated on the west side of Ransom Road, south of Tillman Road on existing residential property consisting of 8+/- acres in the Agriculture Rural Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve Open Development areas. The Planning Board has forwarded a recommendation on the proposed design with conditions.

- Master Plan 2015 Amendment Proposals:

Transit Road Corridor – north of Roll Rd

Segment "B" – Transit Road corridor between Roll Rd. & Highland Farms Dr. Existing vacant land located in the Major Arterial Zone to a depth of 500+/- feet from Transit Road.

Area is identified in a commercial classification. The corridor has been zoned Major Arterial since the early 1970's to a dept of 300' from centerline of Transit Road. MP2015 adoption identified additional dept to current 500' as expanded commercial opportunity area. Adopted Land Use Access Management Plan (LUAMP) identifies area as transitional between big box and low density residential. Per MP2015, the Town Board has final authority to adopt amendments to the plan. The Planning Board has forwarded a recommendation in 2008 and again this year to maintain the current depth and change from Major Arterial to Commercial. The Planning Board recommendation has received a Negative Declaration under SEQRA. A public hearing will be required prior to taking final action on any amendments to Master Plan 2015. (***This has nothing to do with the proposed Wegman's superstore.***)

- Master Plan 2015 Amendment Proposal:

Transit Road Corridor – south side of Clarence Center Road

Owner of property would like the commercial zoning to extend to the entire width of the property, including small portion of property to the south to provide a straight zoning line. The proposed site is located on the south side of Clarence Center Road, east of Transit Road. The existing 2-family home is located in a split zoning classification. The Planning Board has forwarded a recommendation to make the 8035 Clarence Center Road property entirely within the commercial classification of the Transit Road corridor. Proposed zoning line to include a small portion of the property to the south of 8035 Clarence Center Road to provide for a straight zoning line. A Negative Declaration under SEQRA has

been issued on the proposed amendment. A public hearing will be required prior to taking final action on any amendments to Master Plan 2015.

- John Collana – east side of Shimerville Road, north of Roll Road

Applicant is seeking approval to split the property further to create some additional residential building lots. The proposed site is located on the east side of Shimerville Road, north of Roll Road in the residential single-family zone. Previously split property consisting of several pre-existing lots with no road frontage and a 5+/- acres parcel with 370+/- feet of frontage along Shimerville Road. Per the Subdivision Law, the Town Board has authority to approve lot splits. Previous subdivision of the parent parcel has created non-conforming lots to the rear with no public road frontage.

- Ron Blakeslee 9195 Main Street

Applicant is seeking a building permit and architectural approval to add a peaked roof to the existing flat roof structure. The proposed site is located on the south side of Main Street, west of Thompson Road/Sheridan Drive intersection. The existing vacant commercial structure, former tavern was previously approved for office conversion and is located in the Commercial Zone. Per the Zoning Law, the Town Board has final authority to approve construction in the Commercial Zone as to architectural style. A proposed façade is depicted in submitted drawings.

- D.R. Chamberlain 8135 Main Street

Applicant is seeking approval to remodel the existing structure and create a new façade for proposed new car line. The proposed site is located on the south side of Main Street, east of Transit Road at existing automotive sales building (former Tom Culligan, Lincoln/Mercury building) located in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve construction in the Commercial Zone as to architectural style. A proposed façade is depicted in submitted drawings.

- Milherst Construction

Applicant is seeking final approval to develop a new office/shop/warehouse and storage yard per the submitted designs. The proposed site is located on the south side of County Road, west of Strickler Road on existing vacant land consisting of 16+/- acres in the Industrial Business Park Zone. A Negative Declaration under SEQRA has been issued on the project. The Planning Board has recommended the Development Plan approval with conditions. Per the Zoning Law, the Town Board has final authority to approve uses in the Industrial Business Park Zone. The Planning Board has forwarded a recommendation with the following conditions: 1) the conditions as previously approved with the Special Exception Use Permit remain in force. 2) The conditions as identified by the Town Engineer in a memo dated June 2, 2009. 3) NYSDEC Permit for the encroachment into the 100' State Wetland buffer area. 4) Erie County Department of Health Permit for the on-site sanitary sewer system.

Day in the Park Fireworks Display Permit

All fees, insurance and Fire Chief approval have been filed for the Day in the Park fireworks display to be held at the Main Street Park on July 4th.

Gene Metzinger 6031 Transit Road

Applicant is seeking approval to place a hot dog stand on the property on a seasonal basis. The proposed site is located on the east side of Transit Road, north of Clarence Center Road at existing Buggy Wash carwash located on 1.4+/- acres in the Major Arterial Zone. Per the Peddler/Hawkers Local Law, the Town Board may approve stands beyond a 90day period or for seasonal use. Stand location and parking meet minimum code standards.

Work Session items for consideration June 24, 2009:

Spaulding Greens LLC east of Goodrich Road, north of Greiner Road

Applicant is seeking to create a sewer district to service the Open Space Design Subdivision. The proposed site is situated on the east side of Goodrich Road, north of Greiner Road. The previously conceptually approved Open Space Design Subdivision is located on 400+ acres in the Residential Single-Family

Zone. The area is identified in a residential classification and approved for use for a portion of the capacity within the Heise-Brookhaven Trunk Sewer. Per the Subdivision Law, a sewer district is required as a part of the site plan review process. Town Engineer Latona distributed copies of the proposed sewer district. The houses in the district will not be charged; it is a "no-cost district" and will be subject to permissive referendum. The Town Engineer will need to develop a map, plan and report detailing the district boundaries. The Town Board can schedule a public hearing at the next Board meeting. The public hearing can be held and a district can be formed once all the components have been addressed. It will be a legitimate district in the financial section of the map, plan and report as per discussions with Nathan Neil. People that are tapped in subsequent to this will pay their proportionate share (operation, maintenance and treatment costs). When the sewer goes in, it will be turned over to the Town. Capacity is limited to the Heise-Brookhaven Trunk Sewer. Some of the existing homes have expressed a desire for sewers in the future.

Ann Klein 9175 Main Street

Applicant is proposing a small addition and renovations for a new commercial use. The proposed site is located on the south side of Main Street, west of Thompson Road at existing commercial structure located in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve additions in the Commercial Zone as to functional plan and architectural style. The proposed addition will extend to the front setback line.

John Kausner 10853 Jones Road

Applicant is proposing to subdivide to create one additional residential building lot. The proposed site is located on the south side of Jones Road, east of Ransom Road on existing vacant land consisting of 16+/- acres and 240+/- feet of public road frontage in the Agriculture Rural Residential Zone. Per the Subdivision Law, the Town Board has authority to approve subdivisions. Remaining parcel will not constitute an acceptable building as inadequate frontage exists for a legal building lot. James Callahan stated that once Mr. Kausner splits off the lot requested, insufficient frontage on the remainder of the property is a problem however Mr. Kausner stated that he is negotiating to buy additional lands. Town Attorney Bengart stated that Mr. Kausner would have to come in with a signed contract for the purchase of additional lands subject to Town Board approval. Supervisor Bylewski does not want to put this on the next Town Board agenda without those assurances.

Brookfield Country Club – Fireworks Display Permits

All fees, insurance and Fire Chief approvals have been filed for the following dates:

- June 20th McHugh wedding
- July 4th Holiday
- July 11th invitational tournament

Supervisor Scott Bylewski

The motion made at the May 24th Town Board meeting regarding replacement seating in the auditorium failed. A super majority vote was needed for it to pass. Because one Town Board member was absent and one voted no, it did not pass so we will not be able to borrow for that this year.

Supervisor Bylewski will announce the two motions made at the June 3, 2009 morning Work Session regarding the refund of the open space fee to Clarence First Presbyterian Church and the appointment of Kellie M. Jeffery to the position of Program Coordinator Youth Board/RPT Permanent.

The Clubhouse Centennial is tentatively slated to be held on Saturday, June 11, 2011.

Elaine Rowley has submitted her letter of resignation from the Ethics Board. There is one vacancy on the Ethics Board for a non-democrat with a term expiration of December 31, 2009.

Flight 3407 Memorial Race will take place Saturday, June 13, 2009 at Clarence Center VFC. Proceeds to benefit a memorial site fund.

Town Justice Michael Powers is requesting permission for Court Clerk's Marilyn Taton, Mary Zimmerman and Nancy Meyer to attend the 2009 Group Meeting with Service Education, Inc. at Amherst Town Court on June 19, 2009 at 10:00 AM.

Supervisor Bylewski will make a motion to create 10 Recreation Supervisor PT Seasonal (Non-competitive) positions.

Supervisor Bylewski will approve two Block Party requests.

Supervisor Bylewski has three items to discuss in Executive Session.

Councilman Joseph Weiss

Upon recommendation from Town Engineer Latona, Councilman Weiss will make a motion authorizing payment of \$1,990.00 for metering at the Tonawanda Creek Rapids as part of our joint funding agreement with the Town of Amherst.

Councilman Weiss stated that he met with Greg Giblin regarding a drainage issue on Roll Road.

There are several "blind spots" on the bike path. One in particular is an area across from the Highway Department (west side of Goodrich Road, north side of bike path) where you have to come out onto Goodrich Road because several lilac bushes are obstructing the view. Councilman Weiss is working on getting this rectified.

Councilman Patrick Casilio

There is one opening on the Public Safety Committee.

Double over-size stop signs have been installed on Thompson Road at Greiner Road intersection due to recent activity at this intersection. Another traffic count is being conducted to see if it warrants a 4-way stop or other traffic device.

The gas lights have been installed on Willow Brook.

The video camera has been installed at Memorial Park. The receiving antennas will be installed next week.

There have been serious problems with the fire hydrants in town. There have been five major fires and out of the five, there have been four fire hydrant failures – the most recent one was a house fire on Susan Drive. The Town pays over \$300,000 annually for fire hydrant maintenance which supposedly includes two visits per year by Erie County Water Authority. Part of that visit is to include the opening and closing of the hydrants. The hydrants seemed to be welded shut from some type of calcium or mineral deposits and can not be open. Councilman Casilio submitted a request to ECWA one month ago to obtain maintenance reports on the towns fire hydrants. Our former water department would open the fire hydrants on a yealy basis and would put anti-freeze down on the bottom which helped keep them lubricated. The town has 1,700 hydrants in which we pay ECWA \$220 each for maintenance.

Councilman Peter DiCostanzo

Councilman DiCostanzo will set two public hearings for July 22nd designating the Clubhouse and the Magoffin house as historic landmarks.

Upon recommendation of Chip Trapper, Councilman DiCostanzo will appoint several life guards and one Recreation Supervisor as part-time seasonal appointments.

Councilman DiCostanzo will have one item to discuss in Executive Session regarding the employment history of an individual.

Mary Anne Kermis will be appointed to the Senior Center Board to replace Barb Ucci. Her term will expire 12/31/2009.

Councilman DiCostanzo received an application for the Youth Bureau. Councilman DiCostanzo will wait to receive a recommendation from the Youth Bureau.

The Town Board received a letter from a resident on Long Street indicating he is not in favor of a Flight 3407 Memorial on Long Street. Councilman Casilio stated that there is no plan for a memorial on Long Street or any place for that matter. Supervisor Bylewski stated that there has been some discussion and the Wielinski's have indicated their desire to have a subdued memorial on their property beyond that, there has been no further discussion.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to enter into Executive Session pursuant to § 105(1) D regarding pending litigation Gordon vs. Town of Clarence; § 105(1)F the employment history of a particular person; § 105(1)H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. On the question Town Attorney Bengart, Town Engineer Latona and Director of Community Development James Callahan were asked to remain in the meeting. Upon roll call – Ayes: Councilman DiCostanzo, Councilman Casilio, Councilman Weiss and Supervisor Bylewski: Noes: None; Absent: Councilman Kolber. Motion carried.

There being no further business, the Work Session adjourned at 6:40 P.M.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:09 PM. Upon roll call – Ayes: Councilman DiCostanzo, Councilman Casilio, Councilman Weiss and Supervisor Bylewski: Noes: None; Absent: Councilman Kolber. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, June 10, 2009 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 prayer given by Father Yetter of St. Mary's Catholic Church.

Members of the Town Board present were Councilmembers Peter DiCostanzo, Patrick Casilio, Joseph Weiss and Supervisor Bylewski. Councilman Bernard Kolber was absent. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to accept the minutes of the meeting held May 27, 2009. On the question, Supervisor Bylewski said a clarification to the Bond Resolution on page 148 regarding auditorium seating is that the motion did not pass as it would require a supermajority vote in favor. The vote was three for, one no and one absence. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the meeting held June 3, 2009. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Supervisor Bylewski reported, as is standard practice, on motions that were made at a prior Town Board work session as follows: a motion passed to refund the open space fee to the Clarence Presbyterian Church; and a motion to appoint Kellie Jeffery to her position according to civil service.

Supervisor Bylewski said we just had the Bicentennial Celebration of the Town and coming up is the Centennial Celebration of the Town Park Clubhouse tentatively set for June 11, 2011. It is a couple years, but it does take time to organize these types of events.

Supervisor Bylewski accepts the resignation of Elaine Rowley from the Ethics Board.

This leaves a vacancy on the Ethics Board for a non-Democrat with a term to expire 12/31/09. Anyone interested should submit an application.

Supervisor Bylewski said a reminder that there is a fundraiser to remember Flight 3407 this Saturday at the Clarence Center Fire Hall grounds.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant approval for Court Clerks Marilyn Taton and Mary Zimmerman, and Nancy Meyer to attend the 2009 User Group Meeting with Service Education, Inc. regarding the Courtroom Program to be held at the Amherst Town Court on June 19, 2009 at 10:00 a.m. with all necessary expenses paid by the Town. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant approval for a Block Party to be held July 12, 2009 from 4:00 p.m. to 9:00 p.m. on the Lantana Drive common area. On the question, Supervisor Bylewski said all appropriate agencies will be notified. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant approval for a Block Party to be held August 22, 2009 from 3:00 p.m. until midnight on The Meadows South. All appropriate agencies will be notified. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to create the following positions for Civil Service purposes: 10 Recreation Supervisor PT Seasonal (Non-Competitive) positions. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Supervisor Bylewski said that he knows many people are here tonight regarding item 13, Master Plan 2015 Amendments. It is the intent of the Town Board to set a public hearing for July 8th. That would be the most appropriate time for public comment on the Master Plan. That is the issue before us. There is a lot of talk about a proposed applicant, but there is no official application submitted. We know that there has been an approach from Wegmans and a developer to have a grocery store go in there.

Supervisor Bylewski said the way the Town works is that there is a Master Plan amendment to consider if it makes sense with our land use planning. It would be the intent to make that motion on item 13 and everyone will have the opportunity to speak at the public hearing.

Motion by Councilman Weiss, seconded by Councilman Casilio to authorize payment in the amount of \$1,990 for metering at Tonawanda Creek Rapids as part of our joint funding agreement with the Town of Amherst. On the question, Councilman Weiss said this has to do with monitoring of the creek for flood stage levels. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Councilman Weiss said we have had some problems at the Escarpment Sanctuary on Greiner Road with people venturing off onto private property. We are going to change the pathway a little bit to make it better for the hikers as well as the private properties. The work will probably be done in the fall by the Parks Department.

Councilman Weiss said there has also been an issue on Roll Road near the storage facility with water surging from the conduit that comes from the retention pond in Meadowlakes. The Highway Department will be cleaning out debris that is blocking the flow.

Councilman Weiss announced that the summer concert series will begin July 9th at the Main Town Park. The entertainment is great.

Councilman Weiss said he has been reading in conservation materials that the emerald ash bore is heading this way. The DEC has placed monitors in our Town to see if they are here. The emerald ash bore traps are sticky corrugated plastic. He suggests that people leave them alone if they come across them.

Councilman Weiss said he received the Erie County Water Authority Quality Report. It contains a lot of information and in very fine print it says that the water coming in is problematic. He believes the concerns today are the leachy from plastics and pharmaceuticals. Neither is even mentioned in the report. It is a fine report, but he wishes that they would get in to some of the real issues we are facing.

Councilman Casilio thanked the conservation committee for their work. They are very knowledgeable people and a lot of help on different issues.

Councilman Casilio announced that there is an opening on the Public Safety Committee for anyone interested.

Councilman Casilio said the County has installed two over-sized stop signs at the Greiner Road and Thompson Road intersection. They will be conducting a traffic study in that area in the near future to see if and what changes may be necessary.

Councilman Casilio said the gaslights at the entrance of Willow Brook Drive have been replaced.

Councilman Casilio said there was a major house fire on Susan Drive a few days ago. There were issues with a fire hydrant, although it would not have changed the outcome of this fire. The fire companies were able to quickly access another hydrant down the street. The Town is putting in a request to Erie County Water Authority to check into issues with a few hydrants.

Councilman Casilio said we have been working hard on our bike path security. We have purchased three safety vehicles to patrol our parks. We have installed our first video camera and working on getting the software up and running. This will provide added protection for the residents of our Town.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to set a Public Hearing for July 22, 2009 at 7:45 p.m. to consider granting Historic Designation status for the Town Park Clubhouse at 10405 Main Street. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to set a Public Hearing for July 22, 2009 at 7:50 p.m. to consider granting Historic Designation status for the Magoffin House at 10748 Main Street. On the question, Councilman DiCostanzo asked that Asst. Planner Brad Packard notify the owners of the public hearing date. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to appoint Mary Anne Kermis to the Clarence Senior Center Board for a term to expire 12/31/09. This is to fill the term left by Barbara Ucci. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to appoint Erin Priebe as Recreation Supervisor – PT Seasonal at the budgeted rate of pay of \$15.46 per hour effective June 11, 2009. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to appoint the following as Life Guard – PT Seasonal at the budgeted rate of \$9.69 per hour effective June 11, 2009: Connor Ferguson and Paul Kreppel. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to appoint Jessica Kowalski as Life Guard – PT Seasonal at the budgeted rate of \$10.33 per hour effective June 11, 2009. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to amend the hourly rate for Jessica Biedny, appointed as Life Guard – PT Seasonal on May 27, 2009, to \$9.69 per hour effective immediately. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Councilman DiCostanzo reminded everyone again about the fundraiser on Saturday beginning with a 5K run in the morning, bands all day, etc. until 11:00 p.m.

Councilman Casilio added that in regard to the Historic Designations, they all have been requested by the property owners themselves. The Town Board did not go out and pick them.

Councilman DiCostanzo said the Historical Preservation Commission has also given their recommendation for the Gerber Library and the Asa Ransom House.

Supervisor Bylewski thanked all department heads present for attending.

Supervisor Bylewski explained that this item is for speaking on all items other than the public hearing with a limit of three minutes. The public hearing allows for the public to speak on that specific item.

Supervisor Bylewski said in regard to item 13, it is their intent to set a public hearing for July 8th, which would be a more appropriate time to gather public comments.

Public Participation:

Laura Pfennig spoke regarding item 12. Throughout the 3 ½ years of meetings to discuss this project they have been told landowners can develop their property as long as it meets Town Code. It also states that any such development should not negatively impact the lives of the adjacent neighbors. It will infringe upon their rights to preserve privacy. It will impact their lives as they are teaching their children archery in their yard and will eliminate the option for a nuisance license because of the 500 ft. regulations.

There will be a north/south driveway aimed directly at her windows. The water pressure and watershed issues are not understood.

She never chose to live next to a road. Ms. Pfennig asks that her rights and the rights of the neighborhood be considered over the rights of one person.

Supervisor Bylewski noted for the record, the receipt of the email from Laura Pfennig.

Jane Sweet recommends that any changes made to the Master Plan are not a precedent setting event.

Margaret Kleinmann, said there is not one resident in the Clarence First Homeowner's Association that is not a fan of Wegmans. The store and the owners have been terrific to our community and to the people that work there. After 20 years of patronizing the store, she has chosen not to shop there due to the recent proposal to develop behind her home.

The issue the residents are having is location, location, location. They are very happy with their suburban community. It is affecting her son who is worried about crime happening in his backyard.

Ms. Kleinmann said the development of a superstore in a small area is not responsible development. They want the Town to keep its promise in allowing the property behind their home to remain residential zoning.

Carol Minnick spoke in regard to item 12 saying that she agrees with all of what was said by Laura Pfennig. She is speaking for all of the neighbors in the area. They have submitted a petition. The privacy issue is very important to all of them. All of the backyards go back 1,000 feet and they would like that privacy maintained.

Jack Phillips asked why would we have a master plan if there are going to be amendments. People are making investments based on the master plan as it is. It is easy to hold a public hearing, but it would be better to just say no. It is not properly zoned.

Supervisor Bylewski said there is a recommendation by the Planning Board to make an amendment to down-zone from Major Arterial to Commercial. There was a proposal by the people who are interested in developing the site to move the Major Arterial zoning line back further. The recommendation from the Planning Board is part of the Master Plan process.

Mr. Phillips said it will affect the residents. There are traffic and security concerns right here already.

Mark Sidebottom said he is an adjacent landowner on Transit and he is in favor of the proposed change in the Master Plan. There is an issue with traffic now. He believes that consolidating the curb cuts into one managed signal would help immensely with the traffic. It would make a much safer environment. A crossing guard for the students would also be a help.

Mr. Sidebottom said he is in the retail business and has always heard positive comments about Wegmans and still does. They are one of the most generous to the community and best corporate neighbors that you could have.

Lissa Nakhwa said they chose the Kippen Drive neighborhood over 25 other locations in the area to move. They like being near Transit Road. They feel that their quiet neighborhood will change. Transit Road has grown more congested over the last few years and she is concerned that people trying to bypass Transit will cut through more often. People now cut through the Wilson Farms parking lot to get by the red light. Crosswalks are far and few.

Robert Brauch said he is concerned about the decrease in public safety. There is an increase in traffic cutting through Loch Lea. How can the Town guarantee public safety with the issues that already exist. People choose to come here and invest in their property because they expect protection and a certain quality of life.

Khalid Mahran said his main concerns are safety and health. This is the wrong location for Wegmans. There are adverse affects from diesel fueled trucks on patients of asthma. It will be so close to their homes and to the school.

Councilman DiCostanzo said they have received his information regarding this.

Scott Parks said in regard to item 13, he is not against Wegmans. He is against the rezoning from Residential to Major Arterial. He has read the Master Plan and believes this proposal does not complement the goals of the Master Plan. The health and safety of the neighborhood will be significantly impacted. He believes that locating a 140,000 sq. ft. big box store within 100 ft. of homes will reduce property values. A very large area of greenspace will

be converted to concrete and blacktop. Rezoning to Major Arterial does not protect the residential area. The recommendation from the Planning Board to rezone to Commercial is consistent with the type of uses that already exist in this area. There is no positive impact on the neighbors in the adjoining neighborhood.

John Seager said he strongly supports the residents that are close to the area being proposed by Wegmans. He has seen the damaging affects of urban sprawl in other areas of the country. He is disappointed in what he calls the lack of engineering creativity. For example what do they do when there is no option to purchase another piece of land? It comes down to the question would you want a 24 hour operation and everything that goes with it in your backyard.

Don Woods said he works for Wegmans and they are the best company to work for. He is in favor of this project. They are a good company that takes care of their people and the communities they are in. It would be a state-of-the-art store. They want to take care of their customers. It would add jobs to the area.

Supervisor Bylewski said this item is for agenda items only and should be focused on the amendments to the Master Plan. He understands the concerns about what may go in there.

Wynann Biondo said she loves Wegmans, but is very concerned about additional traffic issues. As other developments continue to grow, so will the traffic on Roll Road to Transit. The Master Plan needs to stay where it is. That was the point of it to have the town grow to be the wonderful place that it is.

Brigid Valeza said she is concerned about her quality of life, additional traffic near the school and her neighborhood. She asked that the zoning remain as it is.

Tony Sherry said through the evolution of development, this is a great opportunity for a great store, not only for the additional taxes, but additional sales taxes. It is a great store at a great location for everyone to share.

Shyam Kumar said some people are saying that Wegmans is going to help the Town in taxes. The Master Plan states that the petition must present the benefits of the proposed change. They should include how the Town will benefit them also. The residents are not asking for better service. They should tell the truth about what the benefit is to the Town. The tax money would go to Williamsville School District, not Clarence School District. Mr. Kumar submitted his concerns in writing.

Linda Breau said she lives in Hunting Valley and loves the convenience of being close to Transit Road. As a taxpayer, she is in favor of a new Wegmans in Clarence. She has been employed by Wegmans for 19 years. Her daughter also works there. Wegmans offers a scholarship program. The current store is too small and cramped for the amount of people who come in the store every day. She feels that we are fortunate to have a company like this want to grow with us.

Todd Petrie said he lives on Greiner Road and encourages the Town Board to do a thorough traffic study. It is becoming a major thoroughfare. He has tried to sell his house for over a year. They love their home, but as was said earlier, location, location, location. It is no doubt they are a great company, but we need to do a traffic study.

Drew Leli said Wegmans is a great company, but the Town has to reflect on the Master Plan and what opens up when you consider changing a zoning. The laws are to protect the public. Even with the economic environment we are in today, money talks. One of the most exposures to benzene in the environment is from diesel emissions. He believes that the Town will expose itself to a lot more taxpayer's money dealing with exposure to chemicals and safety. Denying a big company to build on that lot is not denying them to develop at another location. Is this the appropriate location? He added that at the ground level winds can move in every direction.

Lynn Collis said she lives in Highland Farms and the traffic in that area is already over-congested. She has observed that at least two out of three people run the red light. If they reconfigure to one traffic light, they will never get out. She has asked a real estate agent to

investigate homes in Clarence that back up to large commercial locations. His opinion is that we witnessed a similar type of development where Wal-Mart is located. Such development has seriously affected the values of the homes on Eastbrooke directly behind the project. Commercial development that is close to single family homes creates many objections to purchasing these properties, has a major impact on sale prices and tax revenue. Ms. Collis submitted her letter from Joe Sorrentino from MJ Peterson Real Estate.

Doug McCallum said they purchased their home seven months ago and would not have looked twice if they knew a commercial venture as big as what is being proposed would be behind them. Bella Vista would like you to believe that patio homes are somehow inferior to commercial development. They would welcome a neighborhood development. A 100 ft. buffer is inadequate.

Patrick Spoth said he is part owner of property next to the proposed site and he is in favor of the rezoning to allow Wegmans to build there. They will bring tax money and jobs to the area.

Joe Kleinmann said he is opposed to the rezoning of Segment B. He urges the Town to have agencies such as the DOT to review potential impacts and traffic analysis put forth by any developer who proposes a Master Plan zoning change. Additional traffic signals would create an additional interruption of traffic flow and increase the potential for accidents. There has been a 60% increase in traffic between Maple and Klein since 2002 to 2007 and 40% increase from Klein to Casey. He asked that the Town keep the residential zoning.

Keith Parwulski said he is in support of Wegmans and in support of a public hearing being held regarding item 13. He is disappointed by the not-in-my-backyard mentality. Only in Western New York do we shun a good corporate company that would bring jobs and additional taxes. If it not Wegmans, it could be someone else. Transit Road is a commercial corridor and that is where it should be.

Richard Greco said he supports Wegmans wherever it might be. Traffic issues exist right now. We do not know how much pollution is already there. We do not know how much more traffic issues or any other issues would be increased by adding another store. He does not mind having to wait for traffic because it is a commercial area. He would like to see the studies done so that a decision can be made that is good for everyone.

Robert Farolino said we do have a lot of traffic, but he would like to go to class a place to buy his food. We have a bigger community and we need to have a bigger store.

Enas Eldesouki said she objects to any change to the Master Plan. They pay property taxes on the home they built, which brings them calmness and peace. They also enjoy the nature that surrounds them. Her family is concerned about the safety, traffic, noise and pollution impacts on the neighborhood. This change would force them out of their lovely house.

David Smith is opposed to the potential rezoning north of Roll Road. They came here to be part of the Clarence community. Highland Farms met their needs. It is a nice quiet neighborhood. He believes that the Master Plan was put into place for many reasons and it would be improper to change it to meet the needs of a potential developer. There are other locations.

Joe Kleinmann said a previous speaker said all of the other commercial developments have contributed to the traffic. In other words, they did it and so can we. As a student in the Middle School across the street, he is uncomfortable with having a liquor store at this location. There is enough negative peer pressure to deal with. He asked that all of the people in favor of this development put themselves in their shoes and have this store 100 ft. behind them. He asked that the Master Plan be kept the way it is.

Jessica Wheeler said she is a student at Williamsville Middle School and walks to school almost every day. The traffic is already dangerous enough without a supermarket being added. She is also concerned about the change in the environment behind her home. Her parents talk about moving to another neighborhood and she does not want to do that. She asked that her quiet peaceful neighborhood not be destroyed.

Gary Anastasi said he is in favor of the proposed Wegmans. It will add jobs to the area and is one of the best supermarket chains in the country. All of the issues would be looked at professionally and addressed with a feasible adequate plan. Not all projects are good for the Town, but he believes this one stands tall on its own merit. Serious consideration should be given for this project.

David Spoth said he is in opposition to the rezoning. The area around this proposed location is all smaller type businesses. Who it is should be separate from this discussion because it is about the Master Plan and what is best for the Town and the residents. He is in favor of the Planning Board recommendation to down zone to Commercial and keep the back residential. He believes it is too big for that property.

Miles Sweeney said he is in favor of Wegmans. He is also in favor of what is good for the Town and he does not think anyone in this room knows what that is. It is an emotional situation and you should not put yourself in anyone's shoes. He thinks the Board should gather all of the facts and determine the benefits against the costs before making a decision.

Penny Cipolla said she is in favor of amending the Master Plan. She enjoys working for Wegmans in the real estate business and as a consumer. Their locations are impeccably maintained and deliveries are made primarily during the day. Wegmans and the developer are willing to contribute to the cost of a crossing guard which does not currently exist. Transit Road is a major north/south artery where growth often occurs. It is exactly where this should be.

Steve Jurek said his only concern on the residential area is that there are no sidewalks. It is actually the local residents who speed through there. He believes much concern could be alleviated with sidewalks.

Robert Bigos said Wegmans is a great operation and he does not think anyone is here opposed to the way they operate. They oppose the lot that they would like to build this 147,000 sq. ft. store. There are at least two other choices north of this location that would bring the same revenue to the Town. It would also be way less disruptive to the residents. It is surrounded on three sides by upscale homes. He personally lived behind a Tops store that was 1/3 of what this would be. The noise was unbelievable. There is constant noise from truck delivers, rooftop compressors, etc. There is no berm that is going to stop that noise. He does not want to live through that again, especially when they have viable options for another location.

Barry Boyd said it is pleasing to hear people are happy about where they work and as a patron of the company. All of those who would like to preserve the sanctity of their neighborhood live within 500 feet of the proposed development. He challenges those who live miles away to imagine it in their backyard.

Sean Hopkins on behalf of Bella Vista said they have previously filed an application seeking to amend the Master Plan. Their request is to amend 7.3 acres of the 20 acre parcel from Residential Single Family to Major Arterial. They are cognizant of the residential development to the north and to the east. They are proposing a 3.38 acre permanent buffer area.

Mr. Hopkins said the Planning Board came back and said they had not given any indication that there is community support to amend the Master Plan. He presented a box containing 2,942 signatures in favor.

Mr. Hopkins said he believes the amendment should be referred to the TEQR Committee. The law states that you should consider the environmental, economic and social impacts of any project before it is approved. The legislative intent of the Zoning Code states that it is the responsibility of the Town Board to make decisions that are in the best interest of the overall community. The Master Plan supports that this project must be referred to the TEQR Committee before a public hearing or a final decision.

Supervisor Bylewski called for a 5-minute recess at 9:31 p.m. The meeting resumed at 9:36 p.m.

Darryl Remsen said this seems like *déjà vu* for those who remember going through Eastgate Plaza. Let us not make that mistake again. All these "experts" said there was no problem on Transit Road. He is not for or against, but hopes the Board considers the impacts on the residents and the community to make a decision based on all the facts.

Sujata Kishore said she would like to know how many of the people who support the project lives within 500 ft. She loves to shop at Wegmans. She would be one of those supporting it if her property value would not go down because of it. She wants to go on record as opposing it, and asked the Town Board to consider the recommendation from the Planning Board.

Paul Wheeler said it is not the responsibility of the Town to find ways to accommodate the proposed project. It is to make sure that the developer builds what the Town wants in accordance with the existing Master Plan while protecting the residents. They are a major developer and well equipped to acquire more land. The local residents should not have to suffer because the developer cannot come to an agreement with existing business owners. They should try to fit the project to the Master Plan instead of trying to get the Town to change the Master Plan. He asked that the Town Board stay the course to follow the Master Plan as they have with all of the projects along Transit Road in this area. He asked that the Board take the Planning Board recommendation.

A Public Hearing was held to consider the request by Towne BMW/MINI for Temporary Storage of Vehicles at 8200 – 8230 Main Street. James Callahan said the location is the north side of Main Street, west of Westwood Road in the Commercial Zone.

Tim Connelly, General Manager and Dan Ives Manager were present. Mr. Connelly said they are located across the street and recently purchased 8230 and 8240 Main Street. Jim Morabito has been kind to allow them to park cars on his lot. They are in a bind with more vehicles than they have space for. He would have between 40 and 75 cars over there. He believes they would have things straightened out within 18 months.

James Callahan said a Temporary Conditional Permit is for one year and after that renewal up to five years.

Tim Connelly said they intend on parking on paved parking lots. The cars would be parked as if they could be moved at any time. They are growing and hiring more people.

Councilman Casilio said he feels it is backwards. They asked to see a plan of how the cars would be parked. They demolished a building before there was a plan of what they were going to do on the site.

Mr. Connelly said they are forced to use an architect from California for the dealership. He has nothing himself.

Councilman Weiss said he has no problem helping a good neighbor through a tuff time. They are selling cars.

Mr. Connelly said the cars would go between the curb cuts in front of Bill Gray's sign and consist of two rows maximum. The goal is to get them off his property and onto their own.

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

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

Resolved, that the Clarence Town Board, after a public hearing duly held on June 10, 2009, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Towne BMW/Mini, for outside storage of new autos at 8200-8240 Main Street, subject to the following:

1. Temporary Conditional Permit is for a period of 12 months.
2. No display of vehicles.
3. No open hoods, banners, flags, for sale signs, streamers and/of anything of a similar nature that would indicate sales.
4. Storage area to be located between the curb cuts in front of Bill Grays and in front of 8230 and 8240 Main Street.
5. Only to use existing paved area.
6. Amount of vehicles not to exceed 75.

On the question, Councilman Casilio said if they need to go beyond the year they can come back to apply for whatever they need. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

John Kausner requests Concept Plan Approval for a 3-Lot Open Development Area at 4180 Ransom Road. James Callahan said the location is the west side of Ransom Road, south of Tillman Road consisting of 8 +/- acres in the Agricultural Rural Residential Zone. A Negative Declaration has been issued by the Town Board and the Planning Board has made a recommendation with conditions.

Al Hopkins of Metzger Civil Engineering was present to represent the proposed project. The previous design was denied with concerns about the driveway being too close to the property line. They have moved the driveway to the north.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, John Kausner, for Concept Plan Approval for a 3-lot Open Development area at 4180 Ransom Road, west side of Ransom Road and south of Tillman Road, subject to the following conditions:

1. Open Space and Recreation Fees.
2. Approval of Engineering and Building prior to development plan approval.
3. No lighting along the drive.
4. Approval of the Landscape Committee after road is in.
5. A fire hydrant to be placed to insure that one is closer than 600 feet from the farthest home in the development.
6. A homeowner's agreement for use and maintenance of the common driveway and required landscaping adjacent thereto, to be reviewed and approved by the Town Attorney.

On the question, Councilman Weiss said he thinks it is a poor precedent to set by allowing houses to be placed one behind the other on a lot.

Upon roll call – Ayes: Councilman DiCostanzo and Supervisor Bylewski; Noes: Councilmembers Casilio and Weiss. Absent: Councilman Bernard Kolber. Motion failed.

Master Plan 2015 Amendments – Transit Road corridor between Roll Road and Clarence Center Road. Recommendations from Town Planning Board: A. North of Roll Road; and B. 8035 Clarence Center Road.

James Callahan said the annual review of Master Plan 2015 was initiated with the public hearing held February 25, 2009. The Town Board forwarded comments related to two requests to amend Master Plan 2015 along the Transit Road corridor between Roll Road and Clarence Center Road. After thorough review of the referred requests and including actions under the State Environmental Review Act, the Planning Board has forwarded recommendations for Town Board action. One, to maintain the future land use map as originally adopted and a narrative description to allow down-zoning from Major Arterial to Commercial for the section north of Roll Road. Two, to extend Commercial zoning to the east approximately 50 ft. to 8035 Clarence Center Road to encompass the entire property as opposed to split zoning that currently exists; and extend that line straight south to the existing Commercial zoning classification.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to set a Public Hearing for July 8, 2009 at 7:45 p.m. for the Master Plan 2015 amendment to the Transit Road corridor between Roll Road and Clarence Center Road to consider the recommendations from the Planning Board for North of Roll Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to set a Public Hearing for July 8, 2009 at 7:50 p.m. for the Master Plan 2015 amendment to the Transit Road corridor between Roll Road and Clarence Center Road to consider the recommendations from

the Planning Board for 8035 Clarence Center Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

John Collana requests Subdivision Approval to create 2 +/- Additional Residential Building Lots on the east side of Shimerville Road, north of Roll Road. James Callahan said Mr. Collana was here and was unable to stay and due to the length of the meeting for health reasons. The location is an existing residential property in the Residential Zone.

Supervisor Bylewski said as previously discussed, there may be an issue with non-conformance because of an illegal split in the past.

James Callahan said there are three non-conforming lots with no road frontage. There is no history of open development approval or history of how these lots were split.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to refer the request for Subdivision Approval to create 2 +/- Additional Residential Building Lots on the east side of Shimerville Road, north of Roll Road to the Planning Board. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Ron Blakeslee requests a recommendation for a Building Permit and Architectural Approval for an office renovation at 9195 Main Street. James Callahan said the location is the south side of Main Street, west of Sheridan Drive intersection consisting of an existing commercial structure in the Commercial Zone.

Maria Blakeslee was present. They intend on having a tax office in part of the building and rent out the front as office space.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant a Building Permit and Architectural Approval for an office renovation at 9195 Main Street. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

D. R. Chamberlain requests a recommendation for a Building Permit and Architectural Approval for additions/façade update at existing automotive dealership at 8135 Main Street. James Callahan said the location is the south side of Main Street, east of Auto Place Drive consisting of an existing auto sales facility in the Commercial Zone.

Tom Johnson, D. R. Chamberlain was present. They would like to renovate the existing showrooms, add a 1,500 sq. ft. addition and a complete new façade for Porsche, Volvo and Land Rover.

Motion by Councilman Casilio, seconded by Councilman Weiss to grant a Building Permit and Architectural Approval for additions/façade update at existing automotive dealership at 8135 Main Street. On the question, Councilman Casilio said it looks similar to what is already there. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Milherst Construction Requests Development Plan Approval for a proposed new industrial use at 10025 County Road. James Callahan said the property is located on the south side of County Road, west of Strickler Road consisting of 16 +/- acres in the Industrial Business Park Zone. The proposed project has received Concept Plan Approval; a Negative Declaration was granted; and a Special Exception Use Permit was approved for outside storage. The Planning Board has forwarded a recommendation on the final design as presented.

Robert Pidanick of Greenman Pedersen was present. He said they have received all of the prior approvals required.

Councilman Casilio questioned the fence.

Ron Maurer said they would like to install chain link fencing along the front to keep people off the site. They also plan on landscaping out front.

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

RESOLVED, that the Clarence Town Board grants and approves the request of the applicant, Milherst Construction, for Development Plan Approval for the construction of a new office/warehouse and storage yard, located at 10025 County Road, subject to the following conditions:

1. Per the Development Plans as recommended by the Planning Board.

2. Conditions as previously established with the Special Exception Use Permit to remain in force.
3. Conditions as identified by the Town Engineer in a memo dated June 2, 2009.
4. New York State Department of Environmental Conservation (NYSDEC) Permit for the Encroachment into the 100' State Wetland Buffer Area.
5. Erie County Department of Health Permit for the on-site sanitary sewer system.
6. Landscape Committee approval with particular attention to the view shed along County Road.
7. No vehicles and/or machinery on display for sale in the front of the property along County Road.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant a Fireworks Display Permit for the Day In The Park event on July 4th at 10405 Main Street. All necessary paperwork is in order. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Gene Metzinger requests a Temporary Hot Dog Stand at existing car wash at 6031 Transit Road. James Callahan said the location is the east side of Transit Road, north of Clarence Center Road.

Gene Metzinger said it is actually a peddler-type cart, unlike what was there, to be used to sell hot dogs, hamburgers and pop. It would be located in the back away from the street in a paved area. James Callahan said a Peddlers Hawkers License is for 90 days.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to approve Temporary Hot Dog Stand at existing car wash at 6031 Transit Road as described to be located at the northeast section of the paved area for the period of 90 days. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to grant approval for the following: Clubhouse Applications - A. Clarence Women's Club – Dec. 16, 2009; Legion Hall Applications - A. Jacki Dec – Sept. 12, 2009; and Park Special Requests - A. Hope for Two...The Pregnant with Cancer Network – Sept. 12, 2009. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio that upon proper audit and review by the Town Board, the bills of June 11, 2009 are approved for payment: General Fund - \$83,610.72; Highway Fund - \$25,715.11; Water District - \$46,182.47; Fire District - \$3,340.20; Drainage District - \$1,895.00; Lighting Districts - \$886.22; Sewer Districts - \$271.08; Capital Fund - \$34,733.10; Special Revenue - \$31,259.65; and Trust and Agency 203 - \$2,169.31 for a total amount of \$230,062.86. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

“For the Good of the Town”

Margaret Kleinmann had questions about a resident having a party and serving alcohol to minors.

Supervisor Bylewski suggested she contact the police department or the court office.

Ms. Kleinmann asked about when a petition should be submitted.

Supervisor Bylewski said they could submit it to the Clerk's office prior to the public hearing.

Darryl Remsen said as a resident, he wanted to tell the Town Board that he appreciates everything that they do.

There being no further business, Supervisor Bylewski adjourned the meeting at 10:35 p.m.

Nancy C. Metzger, Town Clerk