

A Work Session of the Clarence Town Board was held on July 8, 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, Bernard Kolber, Patrick Casilio and Peter DiCostanzo. Other town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Director of Administration and Finance Pam Smith, and Senior Building Inspector David Metzger.

James Callahan – Director of Community Development

Public Hearings:

A) Transit Road Corridor north of Roll Road

Segment “B” – Transit Road Corridor between Roll Road and Highland Farms Drive. Existing vacant land located in the Major Arterial Zone to a depth of 500+/- feet from Transit Road.

Area identified in a commercial classification. The corridor has been zoned Major Arterial since the early 1970’s to a depth of 300’ from centerline of Transit Road. MP2015 adoption identified additional depth 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. A proposed Wegman’s Superstore is requesting an increase in the zoning depth to approximately 800+/- feet from Transit Road. Per Master Plan 2015, 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 the current zoning from Major Arterial to Commercial. The Planning Board recommendation has received a Negative Declaration under SEQRA. A public hearing is required prior to taking final action on any amendments to Master Plan 2015.

B) Transit Road corridor along south side of Clarence Center Road

Owner of property would like the commercial zoning to extend to the entire width of the property, including a small portion of property to the south to provide a straight zoning line. The proposed site is situated on the south side of Clarence Center Road, east of Transit Road. An 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 is required prior to taking final action on any amendments to Master Plan 2015.

Formal agenda items:

Burgher and Grainy 10939 Main Street

Applicant is seeking approval to have the Temporary Conditional Permit extended for multiple years. The existing auto repair and sales operation is located on the south side of Main Street, west of Newstead border in the Traditional Neighborhood District and within the Clarence Hollow overlay. The current sales operation is operating under a Temporary Conditional Permit. Per the Zoning Law, the Town Board has authority to approve Temporary Conditional Permits. Conditions as previously established to be continued and/or brought into compliance. A Public Hearing will be required to renew the permit. ***(Applicant asked to be removed from the agenda and will be rescheduled in two weeks).***

Salsarita’s Restaurant 4375 Transit Road

Applicant is requesting a Temporary Conditional Permit for outside dining at existing restaurant. The existing out-parcel is located on the east side of Transit Road, north of Main Street within the Major Arterial Zone. Per the Zoning Law, the Town Board has authority to approve outside dining via a Temporary Conditional Permit. A Public Hearing will be required to consider the permit.

Spaulding Greens LLC

Applicant requests a Public Hearing to consider a sewer district formation to service the area generally described as north of Greiner Road, east of Goodrich Road, south of Clarence Center Road and west of Kraus Road.

Work Session items for consideration July 22, 2009:

Phil's Char Pit 9980 Main Street

Applicant is seeking approval for an outside dining permit. The existing restaurant (former Pony's, former Berrafato's) is located on the north side of Main Street, east of Kraus Road in the commercial zone. Per the Zoning Law, the Town Board has authority to approve outside dining via a Temporary Conditional Permit. A complaint has been received concerning loud music from the restaurant however the applicant has addressed this concern.

Karl Farmer 10749 Main Street

Applicant is proposing to convert the existing space to an Organic Coffee Shop. The proposed site is located on the south-west corner of Main Street and Academy Street in existing commercial space located within the Clarence Hollow TND. Per the Zoning Law, the Town Board has authority to approve uses in the TND and to approve outside dining. The change in use may proceed with Town Board approval. The outside dining aspect of the use will require a public hearing to consider the Temporary Conditional Permit.

Jason Klein 8225 Tonawanda Creek Road

Applicant is proposing a minor subdivision to create one additional residential building lot. The proposed site is located on the south side of Tonawanda Creek Road, east of Transit Road. The existing agricultural and residential property is located in the Agricultural Flood Zone. Per the Subdivision Law, the Town Board has authority to approve lot splits. Minimum lot size and frontages are acceptable in the Agricultural Flood Zone and Density Flood Zone.

Roland Boller Jr. 6790 Salt Road

Applicant is proposing a minor subdivision to create one additional residential building lot. The proposed site is located on the northwest corner of County and Salt Roads in the Agricultural Rural Residential Zone. Per the Subdivision Law, the Town Board has authority to approve lot splits to create additional building lots. Minimum lot size and frontage is acceptable in the Agriculture Rural Residential Zone.

Auto Place Nissan/Infinity

Requesting approval to construct a 30x40 replacement storage building.

Supervisor Scott Bylewski

A Foundation has been established to help collect and dispense funds that have been raised from the various efforts regarding Flight 3407. The name of the Foundation is "Remember Flight 3407 Inc.", the current Board of Directors of the Foundation include Supervisor Bylewski, Michael Powers, John Leamer, Karen Wielinski, John Kausner, Michele Beiter and Linda Weiss. Currently the Board of Directors is contacting all the different entities that have done fund raising. The purpose of the Foundation is to deal with any monies raised for the memorial and to help out the families who may have been impacted by this tragedy.

There will be a very brief ceremony at the August 12th Town Board meeting commemorating the 6 month anniversary of Flight 3407.

Supervisor Bylewski received our sales tax check for the second quarter. Our actual sales tax is down just under 6% however based on our conservative budgeted numbers; we are down only a fraction of a percent.

Supervisor Bylewski copied the Town Board and Town Engineer Latona on a letter he received from the NYS Police regarding Heise Road. Town Engineer Latona will inform the Board as to what needs to be done.

There has been an on-going situation with Pietro's Ristorante & Martini Bar 5841 Transit Road in the Transit Valley Plaza. Pietro's own their own portable sign that they keep up for extended periods of time for which the Town has sited them for. They have submitted a letter to the Town complaining that they are being harassed. The Planning & Zoning Office will continue to pursue violations of the law. Pietro's is requesting that the town take into account the current economy.

The Town has received a complaint regarding a fire-works display at a private residence at 5565 Newhouse Road. The complainant has several horses that were startled by the fireworks. The Right to Farm Committee will be contacted in advance of issuing a fire works permit next year; they can sit down with both parties to see if something can be worked out.

Director of Community Development James Callahan stated that Fire Works Permits are placed on the agenda for Town Board approval and are advertised in the Clarence Bee.

Supervisor Bylewski will declare a Microline 320 Okidata Printer and a KDS 17" Monitor as surplus along with 2 lateral files, 2 small upright files and 2 chairs.

Supervisor Bylewski will make a motion declaring July 20th as Paralegal Day in the Town of Clarence.

Brother's of Mercy is requesting approval for a 5K Race on October 10, 2009

Supervisor Bylewski has one item to discuss in Executive Session regarding the employment history of a particular person(s).

Councilman Joseph Weiss

Councilman Weiss has been working with the DEC to secure enough fish for the Fishing Derby next year.

There is a big pile of brush on Shisler Road just south of the bike path; Highway Superintendent Donner indicated that he could not pick it up. Brother's of Mercy has a large pile of brush as well. This brush should be dragged to the back of the woods so it could naturally decompose instead of hauling it out to the road for the town to deal with. The town provides brush pickup to a certain degree; we can not be spending time and money on people that are clearing out entire wooded areas.

Councilman Weiss along with Jim Burkard met with the Lacrosse Club, they are short one field. At the last minute, the school disallowed them the use of a field so Councilman Weiss worked it out with the Soccer Club to allow them use of a field for this year and to work out an agreement for next year.

Recreation Director Chip Trapper is hosting an informational/organizational Outdoorsmen Night at the Nature Center on July 14, 2009 from 6:30PM – 8:30PM.

Kudos to Animal Control Officer Jerry Schuler – Councilman Weiss witnessed "Crocodile Jerry Dundee" helping a resident in the Hollow get rid of several large water snakes in his yard.

Councilman Weiss will make a motion to adopt the change in the Building Permit Fee Schedule to include a fee for Operating Permits.

Councilman Weiss will appoint James Delellis to the Environmental Management Council. His term will run from June 1, 2009 to May 31, 2011.

Councilman Weiss has two Attorney – Client items to discuss.

Supervisor Bylewski received an e-mail from Nancy Lamm expressing her appreciation for the great job the highway department did in picking up her bush before the end of the

month cleanup. She has recently purchased the property and his happy to be a Clarence resident.

Councilman Bernard Kolber

Councilman Kolber received notification from Time Warner that several agreements with programmers and broadcasters to carry their services and stations are about to expire and Time Warner may be required to cease carriage of one or more of these services/stations in the near future.

Clarence Senior Center Board of Directors has asked the Town Board to advise them as to how to change procedure. Councilman Kolber recommended they speak to their counsel, the Town Board can not advise them.

Councilman Kolber congratulated the Day in the Park Committee; they did a great job this year.

The Senior Center has submitted a letter to the town indicating they are willing to house Rural Transit in their facility. Town Attorney Bengart will review the contract we have with Rural Transit regarding the usage of their present facility (former Water Department building).

Councilman Patrick Casilio

Councilman Casilio commented on the great job Gayle Brace did in creating the Avoidable Alarm Report. By 2010, she will have the report changed over to an annual report. Currently we are averaging approximately 1,100 false alarms per year.

Councilman Casilio gave an update on the video cameras. The vendor will complete the installation next week. Signage will be installed at the entrance of the park indicating there is video surveillance in the park.

Councilman Casilio will meet with residents regarding the street lights in Harris Hill.

Councilman Casilio received speed limit requests for Thompson Road which he referred to Erie County and Highway Superintendent Donner.

Councilman Casilio suggested that the Wellness Fair be schedule the same day as Day in the Park next year and possibly incorporate a 5K run which would attract more people.

Main & Transit Market sealed and striped their parking lot and because of that, K&A had to move their vehicles to the back parking lot. The BMW dealership moved their cars to the corner lot and cleaned up the shrubs – the market looks much better and the way the cars are parked looks better as well – it's a win – win situation for everyone.

Councilman Casilio received a trailer complaint from a resident on Floss Estates.

Councilman Peter DiCostanzo

Councilman DiCostanzo will set two public hearings for the Gerber Library and the Asa Ransom House to consider historic preservation status.

The Planning Board July 15th meeting will be devoted to Sign Law discussion.

The Historic Preservation Commission met Monday night and discussed the future Federal and State designation for the Clubhouse. Councilman DiCostanzo asked if anyone had any reservations why this should not be pursued. Supervisor Bylewski said we should be cognizant of the uses that take place inside the clubhouse.

A new porch has been designed for the Historical Museum however Alicia Braaten and Doug Kohler had concerns with the design. Town Engineer Latona stated that the front porch on the Historical Museum is falling down, he has braced it up. He was going to replace the porch in kind with modern materials to minimize maintenance. Town Engineer Latona thought the porch was original however Doug Kohler has indicated that he has pictures of the original porch. Town Engineer Latona will contact Alicia Braaten and Doug

Kohler to get their input on the design of the porch and report back to the board in two weeks. There is a budget for this project.

Councilman DiCostanzo received an e-mail from a resident indicating they have seen some rabid animals in the Meadowlakes area. If people see an animal acting suspicious, they should contact Animal Control Officer Jerry Schuler.

The Youth Bureau will be adding an adult member and possibly two youth members to their board, they are still reviewing applications.

Councilman DiCostanzo commented on the great job Bob Geiger is doing promoting the Clarence Chamber of Commerce and getting people to sign up.

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

Councilman Kolber stated that the Library has received two applications for the director position and are very close to making a decision.

Thompson Road was milled today and will be paved next week.

Supervisor Bylewski spoke to the Governor's office regarding the NYSERDA application. An approval has been granted however the approval letter may take a month to receive. The application was submitted January 1st.

Town Attorney Steven Bengart

Town Attorney Bengart will be out of town next week and Paralegal Cindy Rosel will be out of town the following week.

Town Attorney Bengart has several items to discuss in Executive Session regarding current litigation – Gordon vs. Town of Clarence, the proposed acquisition of real property, the employment history of a particular person and two Attorney – Client items.

Motion by Supervisor Bylewski, seconded by Councilman Bylewski to enter into Executive Session pursuant to § 105(1) D current litigation – Gordon vs. Town of Clarence; § 105(1) F the employment history of a particular person(s); § 105(1) H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to adjourn the Executive Session at 7:28 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, July 8, 2009 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:35 P.M. Pledge to the flag was led by Cub Scout Pack 27, followed by a prayer given by Supervisor Bylewski.

Members of the Town Board present were Councilmembers Peter DiCostanzo, Patrick Casilio, Bernard Kolber, Joseph Weiss and Supervisor Scott Bylewski. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Planner Brad Packard and Building Inspector David Metzger.

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held June 24, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Cub Scout Pack 27 presented the Town with flags that were flown over the Capitol to honor those who put forth the efforts for the Flight 3407 crash in Clarence Center. The kindness of our community showed how much we care about those who help us in our everyday life. The people of Flight 3407 will never be forgotten.

Supervisor Bylewski announced that we have a foundation that has been organized through some pro bono efforts by Phillips Lytle, “Remember Flight 3407, Inc.” to help disburse monies earmarked for families who were directly affected by the event. He is a member of this board along with Michael Powers, John Leamer, John Kausner, Linda Weiss, Michele Beiter and Karen Wielinski.

The foundation has been set up and will accept donations that have been raised and new donations can be sent to Remember Flight 3407 c/o Phillips Lytle.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to declare the following equipment as surplus: Microline 320 Okidata Printer – SN912B2587765; KDS 17” Monitor – SNWJ7Z05A00 4030U; two lateral files; two small upright files; and two chairs. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to grant a Special Event for the Brothers of Mercy 5K Race to be held Saturday, October 10, 2009 at 10:00 a.m. to begin and end on the Brothers of Mercy campus. All appropriate agencies will be notified. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Whereas, the Town of Clarence recognizes members of the legal community who share a common professional affiliation and high degree of dedication to their work through which they contribute to the integrity of our judicial system, and we join to acknowledge the significant role that paralegals, also called legal assistants, serve within this state; and

Whereas, of vital importance to the attorneys they assist and under whose supervision they work, paralegals are generally responsible for researching, analyzing, and managing the daily tasks for legal cases; and

Whereas, paralegals perform nearly all the functions of lawyers, except for those strictly constituting the practice of law, and they assist lawyers with virtually all aspects of legal work – including specialized areas of law, such as family law, corporate law, real estate, government, estate planning, litigation and criminal trials; and

Whereas, the duties of paralegals primarily involve researching and writing reports about pertinent sections of statutes or cases to help lawyers prepare for legal proceedings, as well as drafting documents for litigation; and

Whereas, paralegals also help lawyers speak with clients to uncover all the facts of a case by obtaining affidavits and assisting with depositions and other materials relevant to cases; and

Whereas, many paralegals work in government maintaining reference files, analyzing material for internal use and preparing informational guides on the law, and other paralegals work in community legal services helping disadvantaged people obtain legal advice and aid, while yet others work for corporations where they help draw up employee benefit plans, shareholder agreements and stock options; and

Whereas, in whatever capacity they work, paralegals are an important component of any legal team, and, not only is their work invaluable to lawyers, but also to the public which benefits from their efforts that promote the efficiency and effectiveness of the judicial process, and it is fitting that New Yorkers join to recognize this hardworking and dedicated community of professionals;

Now, therefore be it resolved, that the Clarence Town Board does hereby recognize July 20th, 2009 as PARALEGAL DAY in the Town of Clarence and further extends appreciation to our Paralegal, Cynthia Rosel, and to all Paralegals for the vital services they perform and their exemplary dedication to the communities they represent.

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

Supervisor Bylewski announced that agenda item 13; the request by Burgher and Grainy for renewal of a Temporary Conditional Permit was removed at the applicant's request and will be rescheduled.

Supervisor Bylewski said he recognizes several people who were here at the last meeting where the public hearing was set for the Master Plan amendment. The time to speak on the amendments would be during the respective public hearings. Each speaker will be allowed three minutes to present their testimony.

Motion by Councilman Weiss, seconded by Councilman Casilio to reappoint James Delellis to the Environmental Management Council of Erie County with term to be June 1, 2009 to May 31, 2011. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to adopt the change in the Building Permit Fee Schedule to include a fee for Operating Permits pursuant to Chapter 67, subsection 67.21(A) of the Code of the Town of Clarence. The fee for the Operating Permit shall be \$75.00 effective July 9, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said we received a letter from Nancy Lamm thanking Ted Donner and the Highway Department for picking up her brush early.

Councilman Weiss said we do have brush pickup to help the residents dispose of their brush, but it becomes a problem when they are clearing and leaving huge logs. We cannot pick that up.

Councilman Weiss announced that the Recreation Department is holding an informational and organizational meeting on July 14th from 6:30 to 8:30 p.m. at the Nature Center to put together a new group consisting of interested hunters, fisherman and outdoorsmen.

Councilman Weiss said we had a problem this year getting fish for the fishing derby because of a new testing law required for fisheries. We have been working with the DEC and are now in their program to receive free fish.

Councilman Weiss said he met with the lacrosse people who had to turn kids away this year because they lost a field. We are working things out for next year and they should be able to accommodate everyone who would like to play.

Councilman Weiss said he ran into the Animal Control Officer this morning in the Hollow as he was coming out of a home with two huge water snakes. Jerry was helping this older gentleman who was having a problem with these snakes.

Councilman Kolber received a letter from Time Warner Cable notifying us that some of their agreements with programmers and broadcasters are about to expire. There may be a few that they are unable to carry in the near future. They also included some changes in service that they have planned.

Councilman Kolber congratulated the committee who worked on the Day In The Park event for July 4th. All went well and the fireworks were fantastic.

Councilman Kolber said Thompson Road has been milled down and they will be paving next week.

Councilman Kolber said the library had two applicants for the Director position. They have been without a director for several months. Erie County Central Library posted the position. They interviewed both candidates and hope to make a decision soon.

Councilman Casilio said Gayle Brace from the Town Clerk's office has been revamping the Avoidable Alarm Report. We are at about 1,100+ avoidable alarms per year. This means that the Sheriff's, State Police or fire companies are responding to these calls. After going to the same location three times, the forth is charged an avoidable alarm fee. He thanked Gayle for her work on this.

Councilman Casilio said he will be meeting with residents in Harris Hill regarding additional work on street lights in their area.

We have also had failure of some fire hydrants and have been told by Erie County Water Authority that their bi-annual hydrant inspections are in process. We are doing are own investigating to see that they are properly maintaining the hydrants.

Councilman Casilio said he has received speed limit requests for Thompson Road and Heise Road.

Councilman Casilio showed pictures taken from the video camera at Meadowlakes Park. They are doing testing and antenna alignment work. The second camera will go in Memorial Park and a third at the Farmers Market in the Hollow. He thanked the Town Board for their support on this project.

Councilman Casilio thanked all the volunteer service organizations that helped with Day In The Park. It was a great event. He especially thanked the executive committee including Councilman DiCostanzo, Event Chairman Bob Alteiri, Mary Aaron, Gayle Brace, Tim Pazda and Flora and John Leamer.

Motion by Councilman DiCostanzo, seconded Councilman Weiss to set a public hearing for August 12, 2009 at 7:45 p.m. to consider Historic Preservation Status for the Gerber Library located at 10871 Main Street. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded Councilman Kolber to set a public hearing for August 12, 2009 at 7:50 p.m. to consider Historic Preservation Status for the Asa Ransom House located at 10529 Main Street. On the question, Councilman Kolber said this is at the request of the property owner. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said the Clarence Concert Association summer concert series begins tomorrow night at 7:00 p.m. at the Main Street Town Park. It is a free and enjoyable event.

Councilman DiCostanzo said he would like to thank Judy Sirianni and Bob Geiger for what they are doing at the Chamber of Commerce. They held a networking session this morning at the new Mazia's location.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider the Master Plan 2015 amendment to the Transit Road corridor between Roll Road and Clarence Center Road regarding the recommendations from the Planning Board for North of Roll Road. James Callahan said the Master Plan amendment process began this year with the February 25, 2009 public hearing. Two requests from that hearing were forwarded to the Planning Board for review and recommendation. The Planning Board has thoroughly reviewed the specific requests and forwarded a recommendation to the Town Board.

The recommendation for this section north of Roll Road is to not amend the future land use map and consider downzoning this section from Major Arterial to Commercial based on the existing land uses in this segment.

Supervisor Bylewski said this is the same recommendation that was forwarded last year after the public hearing was held. We received a number of emails, letters, petitions, etc. By way of reference, Supervisor Bylewski said he would include all of those communications as

part of the record, including communications and comments from prior Town Board, Planning Board and TEQR meetings.

Supervisor Bylewski said his office has been keeping a tally of the various items that have come forward. This really is about the Master Plan 2015 amendment; however the post cards, etc. have been either pro or con specifically about Wegmans. The public hearing is to consider the amendment. It is not about a specific project. There were a total of 3,445 communications received for Wegmans and 908 against.

James Callahan said this public hearing is not about any particular project; it is not about Wegmans. Further, this is not about rezoning. This is a proposed Master Plan amendment to the Future Land Use Map.

One of the main components of Master Plan 2015 is the Future Land Use Map. This map identifies the types of land uses and their locations from a community goals standpoint. This map represents a broad brush look at acceptable land use practices within the community and is based upon a number of inputs, including historical development patterns within the Town.

Mr. Callahan presented the zoning map that was in place prior to Master Plan and any amendments. The Major Arterial Zone was identified as 300 ft. from centerline of Transit Road to Agricultural zoning.

It was identified early on in the development of Master Plan 2015 that the Town was and is limited in the amount of commercial space and one of the goals identified is to expand opportunities for commercial development, specifically where it would not have a significant negative impact on existing residential areas.

To achieve this goal, the Transit Road Corridor was thoroughly analyzed on a parcel by parcel basis with the input of the entire community. This included meetings specifically along the corridor at the Main/Transit Fire Hall, Harris Hill Fire Hall, East Amherst Fire Hall and Swormville Fire Hall. Three important traits were identified through these community meetings:

1. Transit Road should continue as the large scale commercial corridor it had become.
2. 300' from center line is insufficient to accommodate the large scale commercial development that would be preferred.
3. The Town had built subdivisions that impacted directly onto the Transit Road Corridor and these areas must be protected from the large scale commercial encroachment.

With this community input in mind, the Future Land Use Map was drafted; identifying that 500' from property line in depth should be established for large scale commercial uses. This was developed after analyzing all commercial uses in the Transit Road corridor in Clarence, Amherst, Lancaster and even Lockport.

500' from property line was identified as the minimum necessary to accommodate large scale commercial development and this should be implemented where sufficient buffering to existing large lot single family homes existed.

To further protect existing large lot residential uses, it is identified in Master Plan 2015 that a transitional land use category should be developed to come between large lot single-family uses and large scale commercial uses.

Master Plan 2015 was adopted in August 2001 making these concepts a part of our land use constitution. The adoption was preceded by a thorough and comprehensive analysis under the State Environmental Quality Review Act (SEQRA) with supporting traffic and fiscal analyses as part of the record.

In 2003/2004, the Town Board undertook the Transit Road Land Use Access Management Plan with the NYSDOT, Erie County Dept. of Environment and Planning and the Town of Amherst. Again, a comprehensive analysis of every parcel along the Transit Road corridor was undertaken from a land use as well as an access management perspective.

The conclusions of this adopted study identified that sufficient depth for commercial development existed in the area of Transit Road north of Roll Road and that a transitional land use should be developed to buffer the large lot single-family uses immediately abutting the corridor. This recommendation is specific to the area along Transit Road north of Roll Road.

In 2005, the Town Board adopted a new Zoning Law and Map that was and is based upon the goals and concepts included in Master Plan 2015. Specific to the area north of Roll Road along the Transit Road Corridor, the commercial area along the corridor was identified as Major

Arterial to a depth of 500' from property line in conformance with Master Plan 2015 and the Future Land Use Map.

The lands to the east of the corridor were changed from Agriculture in the old Zoning Code to Residential Single-Family. This change is significant for 2 reasons:

1. It identified that properties greater than 5 acres retained the rights of the former Agricultural Zone (so Mr. McDonnell could continue his orchard)
2. It created the Open Space Design Overlay component or "clustering" that would allow a higher density residential development with the preservation of open space.

The latter component introduced the transitional land use identified in both Master Plan 2015 and the Land Use Access Management Plan.

The adoption of the new Zoning Law and Map was preceded by a comprehensive and thorough analysis under SEQRA including coordinated review with the NYSDOT, NYSDEC, and ECDEP and included multiple public hearings to ensure community support.

In 2008, the Town Board referred two separate requests for amending Master Plan 2015 along the Transit Road Corridor to the Planning Board for review and comment. The Planning Board took this a step further and actually analyzed every parcel along the Transit Road Corridor as to its current land use, its current zoning and with specific attention to the feasibility of extending commercial zoning deeper where the impact would not be averse to existing large lot residential uses.

The Planning Board report on this review identified that the depth of zoning along the Transit Road Corridor north of Roll Road was sufficient to allow for a large scale commercial development while maintaining sufficient depth for a transitional land use to protect the existing large lot residential uses to the east.

Once again, the Planning Board held several public meetings and public hearings on this recommendation and a thorough and comprehensive analysis under SEQRA was completed that resulted in a Negative Declaration issued by the Town Board.

Finally in 2009, the Town Board referred the proposal submitted by the Bella Vista Group on amending Master Plan 2015 to the Planning Board for review and comment. The Planning Board identified the previous studies and analyses that went into the 2008 review and formally rejected the proposal to extend the commercial area along Transit Road on the Future Land Use Map deeper north of Roll Road. The Planning Board further recommended that the amendments as prepared in 2008 and thoroughly reviewed and analyzed under SEQRA should be implemented by the Town Board.

Finally, in 2008/2009, the Town Board commissioned a Fiscal Impact Analysis for land use development as an update to the original fiscal impact analysis that was used as a basis for developing Master Plan 2015. This updated analysis was prepared by Dr. Samina Raja from the UB School of Architecture and Urban Planning. Utilizing this updated model, Dr. Raja, analyzed the various land use scenarios under consideration in this segment of Transit Road. The development scenario that corresponds to the Future Land Use Map as it exists today and as recommended to remain by the Planning Board, identifying a large scale commercial project designed to the setback requirements for the Commercial Zone, and includes a clustered residential development of 24 units to the east, provides by far and away the best fiscal impacts to the community over any other development scenario for this segment of Transit Road.

Tonight's public hearing represents the final stage in the Master Plan 2015 amendment process. To clarify, this recommendation identifies no changes to the Future Land Use Map within Master Plan 2015. The Planning Board recommendation under consideration here this evening is to add a narrative description to the Transit Road Corridor north of Roll Road to identify that existing land uses would support a down zoning from Major Arterial to Commercial in the future. After a required public hearing the Town Board may act on the amendment as forwarded from the Planning Board.

To summarize, I want to make it clear that this public hearing is NOT about Wegmans or any other specific project. This public hearing is NOT about rezoning any property in the Town. This is a Master Plan amendment and I have summarized the rationale that leads to the Planning Board recommendation under consideration which is NO change to the future land use map for the reasons summarized.

Speaking to the subject:

Margaret Kleinmann said she likes Wegmans, but not the proposed new location. She represents Clarence First Homeowners Association. They presented close to 400 petitions to the Town of Clarence who are opposed to changes in the Master Plan. They would like the land

maintained as residential as they were told when they purchased their homes. There is not one member that is not a fan of Wegmans. The Master Plan should be followed as the plan and not a temporary plan.

The petitions presented represent 76% of the adjoining residential property owners with 82% of Rolling Meadows signing and 67% from Highland Farms. A vote of 4 out of 5 members of the Town Board would be required to change the zoning.

Joyce Archambeault said she owns a salon on Transit Road and lives on Forest Creek. Transit Road is a major hub for many communities. She feels that the Master Plan is forcing businesses out of Clarence. The list of what uses are allowed after down zoning is not sufficient. Transit Road is a major arterial and should stay that way. The proposed amendment would have serious repercussions to those trying to maintain a business. Many of her clients want to have a Wegmans at this location. People who purchased homes in this area knew how close they were to a major arterial and knew the possibility of a big store. Master Plan is for the whole community and not just a few.

Scott Parks said when he purchased his home the property next to him was zoned residential which gave them peace of mind. (Mr. Parks submitted a report.) He is strongly in favor of the Planning Board recommendation. The health and safety of their neighborhood will be negatively impacted by this proposal for a Wegmans. The Planning Board recommendation protects the adjacent neighbors. He does not see how increasing the Major Arterial Zone could accomplish that in an area surrounded by residential developments. The Planning Board recommendation meets the needs of the community. They have done their due diligence to recommend an amendment that is in keeping with the character of the surrounding neighborhood and in compliance with the Master Plan.

Joe Kleinmann said it is clear that many people want Wegmans in the Town. Although, it should comply with the values of the Master Plan and not adversely affect the residents. It is not an appropriate use of this land. There is an appropriate site 1.5 miles north consisting of 36 acres. Another location would be in the Main/Transit corridor. The Segment B parcel has been studied for over a year and it is time to make a decision. It is time to let big development know that they should find an appropriate site to meet their needs.

Doug McCallum said he purchased his home nine months ago after reviewing the Master Plan and the zoning. The report that was submitted includes aerial photographs of 18 major arterial sites and none of them are surrounded on three sides by residential properties. Five have smaller buffers than what is proposed. It is not by accident that they are in areas with limited impacts on neighborhoods. Deliveries to 24 hour supermarkets are around the clock. A 220 ft. buffer would not allow for transitional development as is suggested. He urges the Board to adopt the Planning Board recommendation.

Rajiv Kishore is here to support the recommendation from the Planning Board. He does not believe the proposed project would protect the health, safety and welfare of the community. There would be a negative impact from the daily diesel exhaust to maintain the supplies to the store. There is sound medical research that shows the serious medical effects from exposure to diesel exhaust. (Mr. Kishore submitted information.)

Elizabeth Parks said she is in support of the Planning Board recommendation to downzone Segment B. We know big box stores try to be good neighbors, but there are adverse affects when you place this type of business adjacent to residential neighborhoods without the adequate buffer zone. They have included testimonials from people, one who lives behind Wal-Mart and one who lives next to a Wegmans in Rochester about the negative impacts on them. She supports the recommendation to downzone Segment B.

James Rogowski, a councilman from Cheektowaga said he lives behind Wegmans. They are a great neighbor. He wanted to talk about positive commercial growth for the community. It will create new jobs. The buffer the developer is willing to give here is larger than the buffer in Cheektowaga. If there is a problem, he calls them and it is taken care of immediately. He suggests that the Board make a decision that is best for the residents and the future.

Joann Jackson said a master plan is to help an organization develop and grow to enhance itself. Transit Road is a major arterial and she does not believe the master plan recognizes that.

We should not limit ourselves with a master plan that reduces the opportunity to develop and grow.

Robert Bigos said they built their home 20 years ago and is happy with his location which was to be protected by residential development. He supports the recommendation to keep the residential area as well as downzone the Major Arterial area to Commercial. He previously lived behind a supermarket for six years and it was extremely noisy. The size of this proposed store is the size of three football fields. The numerous sources of noise cannot be buffered by a 100 ft. buffer. He urges the Board to vote yes for the Planning Board recommendation.

Michael Holley said he is not in favor of the down zoning because we may lose the opportunity for Wegmans to move to Clarence and the additional tax revenue that it would generate. He works for a not-for-profit organization that benefit greatly from the generous donations. We should be encouraging this type of opportunity.

Sujata Kishore said she supports the Planning Board recommendation. If the Major Arterial Zone is increased to allow big box development, there will be an impact on the traffic and safety in their neighborhood. The increase in traffic would be far greater than a residential development. Her main concern is the safety of the children going across Transit to the Middle School. There is no option for a bus for after school programs.

James Barron recommends that the Town adjust whatever plans are necessary to get Wegmans on that site. The opportunity may not come again. There are many successful projects in the area that do not impact the residential areas. This will bring many jobs. People are ignoring the great opportunity here.

Paul Gerstner said he is against down zoning because it would decrease the Town's ability for economic and commercial development at a time the Town could benefit from a major tenant. He urges the Town Board to consider the greater good to help with the tax burden.

Mark Sidebottom said he owns property on Transit Road and he is against the down zoning of the Major Arterial Zone causing the value to go down in that area.

Don Woods owns property in Clarence and is an employee of Wegmans. He is in support of this project and believes it is a good location. Someone will build on this property and he hopes the Town Board approves it for Wegmans.

Khalid Mahran said he wanted to give some information from the New York State Dept. of Health regarding asthma and cancer from air pollution. He requests that the Town Board approve the Planning Board recommendation for the health of the residents. The 100 ft. buffer area will not provide protection. The location should be away from a school and residential area to keep their environment healthy.

Steve Hunt said he is deeply concerned about the impediments in the way of businesses in Western New York. He is in favor of the Wegmans proposal because if this does not go through the next alternative will result in lower land value and less taxes. When word gets out in the development and retail community others will not attempt to come here. He is shocked that Wegmans wants to expand here. They would do well in communities with higher income levels. We are lucky they started out in this area or they probably would not even be here.

Michelle Bock has been employed by Wegmans for nine years. She is sure that Wegmans will continue the high standard of excellent service to the community. Customers often ask for things that are available at other stores and not at the current location. The ability to expand would greatly improve the quality of life for those who shop and those who work there. They take care of their people who in turn take good care of their customers.

Dolores Liberto said she would not like to see us lose the opportunity with the way the economy is today.

Brigid Valenza reminded the Board of the reason they built their homes there. She would not like her daughter to be in danger just to cross the street to go to school. She would like it to stay the way it is.

Emma Valenza said she crosses Transit every day to go to school and she does not want to have to worry about being hit by a car or anything bad happening to her.

Cindie Clay said the Planning Board has put forth a recommendation for a decision. If the Town Board does not respect their decision after all the work they have done, why do we need a Planning Board?

John Huber is branch manager of Lake Shore Savings Bank and they are in support of the Wegmans proposal. There will be many benefits to having them as a corporate neighbor. Wegmans would invest approximately \$30 million into the Clarence community.

John Watt said he does not believe we are in a position to turn down almost 200 jobs. As our elected officials they should do what is best for our town as a whole.

Tim Dickinson said the Town has grown since he was born and he believes the Town Board will make the right decision to bring jobs and help us to continue to grow.

Melanie Myers said she supports the Planning Board decision. She asked that the Board follow the Master Plan with regard to transitional land use. A 100 ft. buffer does not seem sufficient to protect the residents as is recommended in the Master Plan. She asked that they listen carefully to what the Planning Board has recommended.

Don Owens, soil scientist said he is very familiar with the site. He has addressed the Planning Board. He said beyond Miles Road, going north, it is covered with wetlands and you cannot do anything. The wetlands on this site are very isolated and the soil is stable. This is about the highest point along Transit.

Ralph Lorigo, attorney said he has specialized in zoning matters and is owner of ten acres of the proposed location for Wegmans. The project would produce hundreds of thousands in tax dollars for this community to which would help defray the cost of open space preservation. The Board is being asked to make this change in zoning without being given all the information. He believes Wegmans should make their presentation, address the concerns of the residents and attempt to mitigate the concerns of the Town Board. The vote should be tabled tonight until all the information is presented. The win-win situation is when the developer, the residents and the Town work through the process to build a better project.

Leonard Denny said he has 36 acres available if needed.

Jean Kalinski said she was a business owner for 20 years. After she retired and was bored she went to work at Wegmans. They are very good to their employees. The Town Board should not turn down a company who could provide jobs for people who need it.

Rich Stanton is the attorney for Clarence First Residents who have made the investment of their home here. These types of issues are so dynamic because the land uses are incompatible. He believes the Planning Board is trying to bring this land use conflict issue to attention. There are alternative sites. They do not want to see the worst of decisions made for the best of people.

John Ciminelli said the Planning Board has done their job. Major Arterial needs to be extended another 350 ft. to accommodate this user who is willing to offer a 110 ft. buffer. This project would create \$600,000 per year in property taxes. Services required for residential would be more. He thinks these two uses can co-exist. He asked the Board to reconsider and bring in the tax base that he believes we need in this Town.

Dan Gregorio asked that the Board not consider down zoning this area. He agrees that it should be tabled and sent for an environmental review. He sat on this Town Board and they set the Major Arterial Zone for the purpose to accommodate possible projects such as this. There has always been opposition to projects as they came in including Kippen and Highland Farms. The area for commercial development is very limited. Residents did not want these commercial projects coming internally. They wanted them on the perimeters.

In regard to the safety of the children, they are crossing Transit Road now. The project sponsor has said they would consider helping to pay for a crossing guard at that location. They would also petition for a traffic light.

Robyn Meyer questions Wegmans thinking when they plunk a big store in the middle of two very lovely residential areas. Jim Ball was proposing a car dealership behind her neighborhood in Amherst. After hearing them all speak at a public hearing, he apologized and removed his request. She believes that there may be another location they could look at. That would be the neighborly think to do.

Arthur Pires is an employee of Wegmans. They would like the opportunity to present to the Board their reports, analysis, designs, etc. to address the issues and misconceptions. It is difficult to understand what was actually analyzed. They would like to continue the process for the benefit of everyone. Mr. Pires is the project manager for this proposed project.

Councilman Casilio asked if they looked at Eastern Hills Mall or the Denny property or any sites in Amherst.

Mr. Pires said they have been advised that this is the site that is ideal for their particular market and to go beyond this would be problematic. He is not aware of the other property. They were told there are no other available properties to fit their needs.

Nancy Robinson said she feels an obligation to support what the Planning Board has recommended. She does not see why anyone would want to work on a Town board or committee if all their hard work and study is totally ignored. Clarence has a reputation for the way they do business. She believes it is because they pay attention and do not solely consider the needs of the developers.

Jim Incorvaia said he owns one of the properties in front of the site on Transit Road. He bought it for his future and hoped that someday there would be a lot of businesses in that area. He does not want to see his property downzoned. He would also love to see the jobs that this would create.

Moe Mahran said he supports the Planning Board recommendation. He believes that the number of grocery stores in this area far exceeds the resident's needs. The Walden Avenue store has been closed for two years. He wonders if there is any increase in the tax revenue with a limited customer pool and financial assets. The tax revenue could decrease if the home values decrease.

Lee Ann Lindner said Wegmans should be considered. She is very surprised that Councilman Casilio would say more or less, why don't you go to Amherst?

Councilman Casilio said there have been comments made about other sites. He wanted to ask the source (Wegmans representative) if these other sites exist or not. He apologized for any misunderstanding.

Supervisor Bylewski called for a five minute break at 9:43 P.M.

Robert Myers said whenever he travels he looks for a Wegmans to get something to eat. None of them are surrounded by residential developments. He supports the Planning Board who did a great job supporting this.

Robert Farolino said he is in favor of Wegmans. He asked that the Board have an open mind to determine if this is good for us or bad for us. There is a lot of traffic, but we are the traffic and he does not think it would be any worse.

Penny Cipolla said she is in favor of amending the Master Plan. She is in the real estate business and is unaware of another tract of land this size to accommodate this project.

Jim Cercone said he appreciates the work that the Planning Board did. He asked if anyone considered that big box stores generate more sales tax than anything else. Clarence is lacking in large retail stores. There will be talk about the future distribution of sales tax. If we restrict ourselves, we will not have that bargaining chip. That is our commercial strip and we need the sales tax dollars.

Pat Cipolla referred to the letter submitted by a Kippen Drive resident from Mr. Sorrentino, a real estate broker, at the last meeting. After discussion with him, the letter was written without a proper investigation of the facts. Mr. Sorrentino was unaware of a 100 ft. treed

buffer for the property owners. The rear of the closest home would be 220 ft. There are only 15 trucks per week at Wegmans stores between 10 pm and 7 am. The law mandates that all trucks have to be turned off after five minutes and they obey the law.

A traffic study done by a traffic engineer will be submitted to the TEQR Committee. The site is the only location and is big enough to accommodate the store. The project would include a state-of-the-art stormwater management system, a permanent 3-acre buffer and extensive greenspace for an extensive landscape. A school crossing with crossing guards will help with the safety for the children. In regard to noise, Wegmans only uses walkie-talkies. He first brought Wegmans to Buffalo in 1977 and they have done everything they said they would do.

Enas Eldesouki said she lives right behind this location. She supports the Planning Board recommendation. She is concerned about her quality of life, traffic congestion, air and noise pollution, stormwater plan, property value, etc. They would like a decision rather than having this looming for two years with the threat of a project.

James Blum said he is frustrated. We have a wonderful company, a probable location and we need the opportunity to see what the real facts are. He recommends no change in the Zoning Law until Wegmans has the chance to present their facts and get them sorted out. He is not sure that it cannot be made to work. He thinks there is an opportunity to take a tougher look than has been done up to now.

Paul Wheeler said it is not the Town's job to find ways to accommodate the proposed project. It is to make sure the Town develops according to the existing Master Plan to protect the residents. The developer is trying to fit a size 12 shoe on someone who wears a size 5. They are well equipped financially to acquire more land if they need it. The local residents should not have to suffer by having the zoning changed. The developer spends too much time on the entity they want to bring here instead of working on how they could creatively fit the proposed project into the Town's existing Major Arterial line. All of the adjacent businesses have developed within the existing zoning classifications.

Mr. Wheeler said the Town has spent the last 15 years developing the Master Plan and if the project cannot fit within those guidelines then it should not be approved. Now we are faced with a developer who has no regard for our laws and has turned this into a popularity contest.

Mr. Wheeler said when he purchased his home he came to the Town and based his decision on what was there and what was planned in that area. Now it is being proposed to change to the extreme. If there was going to be a 24/7 supermarket with the loading docks behind him he would have never purchased this house.

Sean Hopkins, attorney for the developer said they are asking that the Board consider what is in the best interest of the overall community. Several people have said that you need to hear all of the facts before a decision is made. They are not asking for an endorsement or an approval of the project tonight. They are asking that this project be allowed to go through the normal review process. The next step would be a referral to the TEQR Committee to consider issues including traffic, wetlands, drainage, community character, visual impacts, adequate landscaping and screening, etc. They believe in that forum they could answer a lot of the questions.

Mr. Hopkins said there are requirements in the Master Plan regarding amendments which includes that the Planning Board shall refer to the TEQR Committee. The Planning Board referred it back to the Town Board.

There were alternative sites mentioned earlier. The Denny property is not zoned Major Arterial, it is Commercial with extensive wetlands. Main and Transit is fully developed and the Jordon property is already in the works. They are asking to be referred to TEQR.

Douglas Olson supports the Planning Board decision. No one is saying anything against Wegmans. It seems that we are trying to force-fit a store into a parcel of land that is not zoned for it because it is Wegmans. The Master Plan was put together to make sure property is developed properly. The proposal to extend the zoning to accommodate Wegmans will impact the residential neighborhood. He is also a resident of Clarence and deserves the same consideration as all the residents do. They do not want their neighborhood impacted by this store.

With no one else to speak to the subject, motion was made by Councilman Kolber, seconded by Councilman Casilio to close the public hearing.

On the question, Supervisor Bylewski said he will go through some comments that were made for clarification. A petition and rezoning, a rezoning would require a supermajority.

Values of the property – we spoke with our Assessor’s office and it is more based on the use and we do go by full market value. If the property was to be changed in zoning given the uses, the value would essentially be the same for Commercial or Major Arterial. The Zoning Law sets forth uses in the Commercial Zone that are almost identical including shopping centers or plazas; service shops; institutions of charitable, religious, cultural or civic purposes; public utilities and retail stores.

We have all stated that Wegmans is a good corporate citizen. This is not about Wegmans; it is a land use issue. The process is what we have been going through. We have in fact given it a second look.

There was a statement about zero services being required. George Grasser has stated that retail also requires town services.

Fiscal impacts. A single family housing unit has a net impact on the Town of \$384.95. A retail unit has a net impact of \$79.61 per 1,000 sq. ft. The only type of development where we have shown a negative impact is multi-family housing units. These figures have come from the Master Plan research and our budgets.

Councilman Kolber said he would like to incorporate all prior discussions and comments into the record including TEQR meetings, Planning Board meetings and Town Board meetings.

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

Motion by Councilman Weiss, seconded by Councilman Kolber to refer the Master Plan 2015 amendment to the Transit Road corridor between Roll Road and Clarence Center Road regarding the recommendations from the Planning Board for North of Roll Road to the Planning Board with the request that they refer it on to the TEQR Committee.

Councilman Weiss said he thinks the criterion is too great and the information is vast. This is a very important decision for the Town. He would like to have further discussions with his colleagues. He does not think it would serve the Town well to end it here.

Town Attorney Steven Bengart recommended that it be sent to the Planning Board first and recommend that they refer it on to TEQR.

On the question, Councilman Kolber said can we request that they do so. (Motion was changed to reflect these recommendations.)

Supervisor Bylewski said a lot of work and study has been done to this point by a lot of people including the Planning Board, owners of the land, the residents, etc. As a Town, we are going through Six Sigma training to have Six Sigma projects. The problem being should the Town Board amend Master Plan 2015 to allow for the down zoning from Major Arterial to Commercial? There is a process called “The 5 Whys”.

1. Why is it happening? – Planning Board and University at Buffalo recommend amendment.
2. Why is that? – Fiscal impact better than alternatives presented.
3. Why is that? – You can still fit a proposed store and allow for residential buffer.
4. Why is that? – Creative use of the land and good planning.
5. Why is that? – Balances growth and sustainability for our Town.

We have had projects come before us such as Kenyans, Dunkin Donuts, Walgreens and Wilson Greatbatch that have gone through a vigorous review and at times told no. If this is referred on to the Planning Board, this body needs to have some specifics that they want as part of the review process for the Planning Board and TEQR to look at.

He understands that there is a disagreement as to whether additional depth should be allowed for Major Arterial or Commercial.

We recently had a project in front of us for the second time that we had referred back to the Planning Board. It came back to the Town Board and was denied for the very same reasons. Based on the research we have done, a conservative figure that we spent reviewing that project is \$15,000 and it was denied twice. He believes the Town Board should identify now the items they would like to see addressed.

Councilman Weiss said he believes it is too early to do that. There have been some discrepancies on some of the figures for the value of the mixed use. He does not think we should be pressed to delineate what should be looked at. We could do that at another time.

Councilman Kolber said he would like the applicant to be aware that the referral, at least with his vote, applies no guarantees or endorsement of the project. It is so that the applicant can go forward to present mitigation of the issues, questions and concerns of the neighbors. He would love to see Wegmans in Clarence, but we are also obligated to the citizens of the Town.

He would love to see the store closer to Transit Road and a larger buffer area. All of these aspects have to be looked at. There has to be some compromise.

Councilman DiCostanzo said he agrees that if we send it back we need to give them some guidance. This could possibly work if everyone comes together and gives up a little bit.

Councilman Casilio said he agrees, but the developer has to be cognizant of all the resident concerns or it would be a waste of time.

Councilman Weiss said some applicants have made changes throughout the process to become viable projects and a benefit to all. He believes some changes have to be made and more discussion.

Councilman Casilio said he believes changes need to occur. One of the issues is the buffer and whether they put trees in or a residential element between the existing neighborhood and the proposed store.

Supervisor Bylewski said this is to refer the Master Plan amendment for this stretch back to the Planning Board for further discussion with a referral back to TEQR.

Councilman Kolber said they need to know how the project could work while protecting the neighbors; and whether the additional depth needs to be added to the Major Arterial Zone.

Councilman Casilio said he needs to come in with a different drawing if he wants to keep moving forward to TEQR.

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

A Public Hearing was held to consider the Master Plan 2015 amendment to the Transit Road corridor between Roll Road and Clarence Center Road regarding the recommendations from the Planning Board for 8035 Clarence Center Road. James Callahan said the Planning Board recommends that the future land use map be amended to encompass the entire lot at 8035 Clarence Center Road to eliminate the split zoning that currently exists.

With no one 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. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to accept the recommendation of the Planning Board to extend the Commercial area identified on the Future Land Use Map within Master Plan 2015 at 8035 and 8041 Clarence Center Road by 46 +/- feet to the East. Upon roll call – Ayes: All; Noes: None. Motion carried.

Salsaritas requests a Public Hearing to consider a Temporary Conditional Permit for outside dining at 4375 Transit Road. James Callahan said the location is at the northeast corner of Main and Transit, an out parcel within the Shops at Main and Transit.

Penny Cipolla was present representing the applicant. The patio area is 20' x 50'.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to set a Public Hearing for August 12, 2009 at 8:00 P.M. to consider the request by Salsaritas for outside dining at 4375 Transit Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

Spaulding Greens LLC requests a Public Hearing to consider a Sewer District Formation to service the area generally described as north of Greiner Road, east of Goodrich Road, south of Clarence Center Road and west of Kraus Road. James Callahan said this is a previously approved open space design subdivision. The Town is looking to establish a sewer district to service the new development and those encompassed in the description of the district.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Planning Department, the Clarence Town Board issues a Negative Declaration on the proposed formation of Clarence Sewer District No. 4. This Unlisted Action involves the formation of a sewer district to be located east of Goodrich Road, south of Clarence Center Road, west of Kraus Road and north of Greiner Road, excluding lands within existing Clarence Sewer District No. 2. After thorough review of the submitted map, plan and report, supporting documentation and Short Environmental Assessment Form (SEAF), it is determined by the Planning Department and the Engineering Department that the proposed action will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

ORDER CALLING FOR A PUBLIC
HEARING TO BE HELD ON

August 12, 2009

WHEREAS, the Town Board of the Town of Clarence (herein called the "Town Board" and "Town", respectively), in the County of Erie, New York, pursuant to Article 12-A of the Town Law, has caused Joseph Latona, P.E., the Town Engineer of the Town, to prepare a map, plan and report for the proposed establishment of Sewer District No. 4 (hereinafter called the "District") in the Town, consisting of the installation of approximately 35,000 lineal feet of eight-inch sanitary sewers in the Spaulding Green area of the Town of Clarence, New York along public rights of way to be dedicated to the Town of Clarence or in easements granted to the Town of Clarence, including land, original equipment, machinery, furnishings and apparatus required therefore pursuant to the specifications of the Town of Clarence, the Erie County Department of Health and all governmental authorities having jurisdiction over sewer line construction, all in the proposed District, which map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the District may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such District; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, constituting Article 8 of the Environmental Conservation Law and, in connection therewith, the duly processed negative declaration and/or other applicable documentation has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board has determined to proceed with the construction of such sewer system in the proposed District; and

WHEREAS, the proposed District is bounded and described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Clarence, County of Erie and State of New York being part of Lots 6, 8, 10 and 12, Section 6, Township 12, Range 6, Lots 5 and 7, Section 7, Township 12, Range 6 and Lot 2, Section 10, Township 12, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the centerline of Goodrich Road, being the west line of Lot 12, Section 6, Distant 400.0 feet southerly from the north line of Lot 12 as measured at right angles;

THENCE, Easterly, parallel with the north line of Lots 12, 10 and 8, Section 6, Distant 400.0 feet southerly therefrom as measured at right angles, a distance of 3,078.5 feet more or less, to a point distance 400.0 feet easterly from the west line of said Lot 8, Section 6 as measured at right angles;

THENCE, Northerly, parallel with the west line of Lot 8, Section 6 and the west line of Lot 7, Section 7 distant 400.0 feet easterly therefrom as measured at right angles, a distance of 4,413.5 feet more or less, to the north line of Lot 7, Section 7 and the centerline of Clarence Center Road;

THENCE, Easterly along the north line of Lots 7 and 5, Section 7, being the centerline of Clarence Center Road, a distance of 2,274.5 feet more or less, to the east line of Lot 5, Section 7 and the centerline of Kraus Road;

THENCE, Southerly along the centerline of Kraus Road, a distance of 8,154 feet more or less, to the centerline of Greiner Road;

THENCE, Westerly along the centerline of Greiner Road, a distance of 5,666 feet more or less, to the centerline of Goodrich Road;

THENCE, Northerly along the centerline of Goodrich Road, a distance of 3,636 feet more or less, to the POINT OF BEGINNING, containing 647 acres more or less; and

WHEREAS, said sewer system, herein above described, is to be constructed and the expense of creating the District is to be paid for by the developer of the Spaulding Green Subdivision and at no capital cost to the Town, and the expense of the maintenance of the District shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same;

NOW, THEREFORE, BE IT

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, One Town Place, Clarence, New York, on the 12th day of August, 2009 at 8:05 o'clock P.M. (Prevailing Time), to consider the establishment of the proposed District, as herein referred to, and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the "CLARENCE BEE", designated as the official newspaper of the Town for this publication, post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by the Town Clerk, the first publication and said posting to be not less than ten (10) nor more than twenty (20) days before the day designated herein for said public hearing; and be it

FURTHER ORDERED, that the Town Clerk file a certified copy of this Order with the Comptroller of the State of New York on or about the date of publication of this Order.

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

Motion by Councilman Weiss, seconded by Supervisor Bylewski to grant approval of the following: Clubhouse Applications - A. Girl Scout Troop #1419 - Monthly meetings Sept. – Dec. 2009; B. CSEA Blue Collar Unit – Oct. 22, 2009; C. Clarence Senior Citizens, Inc. – Oct. 24, 2009; Legion Hall Applications - A. Claudia Kile – Aug. 16, 2009; B. Martha Porter – Sept. 19, 2009; Nature Center Lodge - A. Clarence Conservation Advisory Committee – Aug. 6, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review by the Town Board, the following bills of July 9, 2009 are approved for payment: General Fund - \$361,309.95; Highway Fund - \$11,541.44; Water District - \$33,932.47; Sewer District - \$458.91; Capital Fund - \$3,960.87; and Trust and Agency 203 - \$3,855.82 for a total amount of \$415,059.46. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Councilman DiCostanzo said he was thinking back a year ago and he regrets maybe one of them did not take someone aside and tell them to come back with a better project. It sounds like the developer tonight is going back to redesign his project and he probably should have done that a year ago.

James Blum said he heard people in the audience tonight say that you are better mannered than our neighbors to the west. He is proud of that.

Nancy C. Metzger
Town Clerk