

Clarence Town Environmental Quality Review  
(TEQR)  
Meeting Minutes  
Monday May 17, 2010

Chairman Matthew Balling called the meeting to order at 7:00 p.m. and led the pledge to the flag.

TEQR Members Present:

Chairman Matthew Balling	John Moulin
Paul Shear	Richard McNamara
Lisa Bertino-Beaser	Jonathan Hickey
Robert Sackett	

Other Town Officials Present:

Director of Community Development James Callahan  
Town Attorney Steven Bengart  
Planning Board Liaison Gregory Todaro

Other Interested Parties Present:

Al Hopkins	Jeffery D. Palumbo
Kevin Curry	

**Item 2-Communications.**

Chairman Balling noted that there is a Planning Board training session scheduled for Wednesday June 16, 2010 to be held at Niagara Community College. Anyone interested may attend.

**Item 3a-Newhouse Acres, West side of Newhouse Road between Roll Road and Clarence Center Road, Proposed Incentive Lot Design Subdivision (coordinated review commenced on 10/22/08).**

**DISCUSSION:**

Jim Callahan said there has been zero activity on the file since the last active discussion. Chairman Balling explained that one issue that is holding up this project is sewers. The project remains tabled.

**Item 3b-Brookfield Flying Club, 8600 Roll Road, Requests Approval to Operate a Model Plane Flying Club (coordinated review commenced on 3/25/09).**

**DISCUSSION:**

Chairman Balling explained that at the last meeting the TEQR Committee wanted the Town Attorney's opinion on what the next step for this project is. Coordinated Review has been completed. Findings have been received that indicate there is a positive environmental impact issue on the property.

Town Attorney Steven Bengart suggests leaving the project on the TEQR agenda as tabled and wait for information from the applicant.

Paul Shear said part of the question, in light of the environmental issues, asked if it is reasonable and legitimate for the applicant to continue using the property; the Committee is concerned about doing nothing. Town Attorney Steven Bengart said the Committee did a coordinated review; it was sent to the DEC, the DEC looked at the property and stated the applicant should not use the property as they disturbed the cap. This issue is on-going, the TEQR Committee is not “looking the other way” nor is it “doing nothing”. Town Attorney Steven Bengart was not aware that the property was still being used and indicated that it is an enforcement issue for the Town Board, not the TEQR Committee. Jim Callahan advised in a past meeting that he would enforce the issue if that is what the Town Board decided; this is an appropriate response per the Town Attorney. Jim Callahan has employed the same enforcement technique that he has for the past 10 years. Town Attorney Steven Bengart said if anyone on the Committee wants to voice their concerns to the Town Board or Jim Callahan as an individual, not a TEQR Committee member, he or she is welcome to do so. The TEQR Committee has no other authority than what they have already done.

Chairman Balling said issuing a positive declaration is a procedural step. Town Attorney Steve Bengart asked if the Town wants to put more time and money into a project that may or may not go any further. Chairman Balling said the paperwork would only be printing an EAF I and II, then it is up to the applicant to make the next move. SEQRA has guidelines and once the procedure is started the project cannot be left in limbo. Town Attorney Steven Bengart does not believe the project is in limbo. The DEC is involved and the client may still want to have a flying club when the review is complete. He suggests the project be tabled for a month while he brings the issue to the Town Board’s attention to see how they want to proceed. He would then report to the TEQR Committee at the next meeting. Chairman Balling said there is enough information in the DEC’s letter to justify a Positive Declaration. Town Attorney Steven Bengart agrees. Mr. Sackett said if the TEQR Committee recommends a Positive Declaration to the Town Board, the Board would review the agenda item and have the same conversation if it were tabled and Town Attorney Bengart talked to the Town Board about how they want to proceed. Jim Callahan said the applicant needs to be notified of the meeting if the TEQR Committee is ready to take action so that the applicant can be part of that meeting. Mr. Shear said if the site was empty and not being used he would have much less concern. It is common knowledge that the applicant uses the property all the time. The concern for the level of enforcement at the site has been heightened. Mr. Callahan said enforcement has been at the site several times.

The item remains tabled.

**Item 1**-Approval of minutes from the previous meeting.

Motion by Robert Sackett, seconded by Jonathon Hickey, to **approve** the minutes for the meeting held on April 19, 2010.

Robert Sackett	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye	Richard McNamara	Aye
Paul Shear	Aye	John Moulin	Aye
Matthew Balling	Aye		

MOTION CARRIED.

**Item 4a-Master Plan 2015 Amendment-Increase Depth of Major Arterial Zoning along Transit Road Corridor, south of Roll Road.**

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located on the east side of Transit Road, south of Roll Road. It is an existing Commercial use property and is zoned Major Arterial along the frontage and Residential Single-Family to the rear. It is identified on the EAF and the site plan that the current residential property has been used for commercial purposes for many years. The adjoining parcel was recommended for an extension of that commercial zoning at a previous meeting, this proposal is to extend that line further to the north to encompass the two properties. The additional depth would be approximately 238' of Major Arterial zoning still providing a 440'+ residential property.

Chairman Balling asked if the Town Board took action on the previous recommendation of a Negative Declaration. Jim Callahan confirmed that the Town Board issued a Negative Declaration and set a Public Hearing for the Master Plan amendment and a rezoning. Chairman Balling said it seems awkward to treat this as two separate actions, he asked if there was a way to make it one action. Mr. Callahan said probably not because West Herr was so anxious to move forward that they paid for all the advertising. Chairman Balling said it seems like a harmonious use of the property for what is around it.

**ACTION:**

Motion by Matthew Balling, seconded by Paul Shear, to **recommend** the Town Board forego Lead Agency status, in lieu of the fact that the acreage does not meet any thresholds that require it, and issue a Negative Declaration.

Robert Sackett	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye	Richard McNamara	Aye
Paul Shear	Aye	John Moulin	Aye
Matthew Balling	Aye		

MOTION CARRIED.

**Item 4b-Fairfield Park Open Development Area, Proposed 4-Lot Open Development Area.**

**DISCUSSION:**

Jim Callahan provides background on the project. The property is located on the west side of Roxbury Drive and east of Fairfield Road and Old Hickory Lane. It is existing vacant land located in the Residential Single-Family zone. The applicant is proposing to develop a 4-lot Open Development Area and has submitted a site plan and an EAF. The proposal was forwarded from the Planning Board at the May 5, 2010 meeting for consideration of environmental review.

Kevin Curry, applicant, is present and explained that he would like to do four (4) two (2) acre lots. The comments from the Town Board and the Planning Board have guided him in this direction which will include a private drive. As far as environmental, Mr. Curry thinks this is a clean project, no wetlands at the site.

Chairman Balling asked if the applicant has to build a model home to market the property or does he market just by putting the property up for sale. Mr. Curry said he has not done an Open Development in Clarence however he does not think he would do or need a model home.

Chairman Balling said there was a concern about the depth of bedrock, the water table, the necessity to have septic systems. The agencies that the Town normally coordinates with, will most likely know about this project. There are some urgencies in the Town as far as sewer priorities. This particular area is a target of the Master Plan Sewer Priorities as a place where the Town wants future public sewers. If this were to occur it would be a benefit to the property owners in the proposed Open Development. The TEQR Committee would like to send this project out for coordinated review.

**ACTION:**

Motion by Robert Sackett, seconded by John Moulin, to **recommend** the Town Board send the proposal out for coordinated review.

Robert Sackett	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye	Richard McNamara	Aye
Paul Shear	Aye	John Moulin	Aye
Matthew Balling	Aye		

MOTION CARRIED.

**Item 4c-Woodland Hills Sewer District, Creation of a Sewer District to Service Previously Approved Subdivision.**

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located on the south side of Greiner Road, east of Harris Hill Road. It is existing vacant land previously conceptually approved for a 77-lot residential subdivision. The applicant is proposing to create a new sewer district to service that subdivision. A site plan and an EAF have been submitted. The proposal was forwarded by the Planning Board on May 5, 2010.

Jeffery Palumbo is present to represent the applicant. He explained that there was no capacity when the project first received conceptual approval, now there is. The Cimatos in conjunction with the Petersons devised a plan with the coordination of the County, the Town of Amherst and the Town of Clarence; all were in on the discussions of the Weir. Mr. Palumbo said they would bring the sewer down Greiner Road to Harris Hill Road and eventually across the street. He thinks this plan advances the cause of the Sewer Priorities. Letters from the DEC, the Town of Amherst and the Town of Clarence have been received; all confirming that capacity is available. If a coordinated review is done, it is possible the Town will receive the information that they already have.

Town Attorney Steven Bengart clarified that the Town of Clarence was not involved in the Weir discussions until after the Weir was in.

Chairman Balling referred to a map he received from the Engineering Department and stated that the proposed sewer is an extension for a couple hundred feet. He does not see how this minimal extension can help the sewer priorities and bring sewers to the Harris Hill area.

Mr. Shear asked if the Weir improvements increased capacity for 58 acres; does the Town know how much more was added. If that work added capacity for 400 homes and the applicant wants to go out-of-district for 40 homes than the advantage to District #5 and the Town of Clarence is 360 potential hook-ups but if whatever the applicant accomplished on the Amherst side presents 50 additional dwelling units and the applicant wants to put in 48 than we've really garnered nothing.

Chairman Balling asked if the subdivision PLAT was filed at the Erie County Hall. Mr. Palumbo said it was not filed. Chairman Balling said the Town has to come to some consensus on what was the intent of the priority areas in the Master Plan, a big part of it is what the public investment will be in the Town; what is the fair and equitable way to see sewer expansion that the public dollar is spent on.

Town Attorney Steven Bengart explained that currently it is a private sewer, if it stays that way nobody gets to use it going towards Harris Hill.

Chairman Balling said this proposal will put the sewer within the public zoning.

**ACTION:**

Motion by Matthew Balling, seconded by Robert Sackett, to **recommend** the Town Board initiate coordinated review for the creation of a sewer district.

**ON THE QUESTION:**

Mr. Shear wants to know, as part of the coordinated review, exactly what additional capacity was generated by whatever work was performed in Amherst.

Town Attorney Steven Bengart said the agencies involved in the coordinated review are to be the Erie County Health Department, the DEC, Erie County Sewer District #5 and the Town of Amherst.

Chairman Balling does not recall any provision in the State Law that requires a Town to ever have to create an improvement district.

Robert Sackett	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye	Richard McNamara	Aye
Paul Shear	Aye	John Moulin	Aye
Matthew Balling	Aye		

**MOTION CARRIED.**

Chairman Balling said it has been a privilege to work with all the members on SEQRA related issues for the Town.

The next meeting date is June 21, 2010.

Meeting adjourned at 7:38 p.m.

Carolyn Delgato  
Senior Clerk Typist