

Clarence Town Environmental Quality Review  
(TEQR)

Meeting Minutes

Monday, August 21, 2006

Matt Balling, Chairperson, called the meeting to order at 7:00 p.m. and led the pledge to the flag.

TEQR Members Present:

Matt Balling  
Richard McNamara  
Paul Shear

Lisa Bertino-Beaser  
Al Schultz

Other Town Officials Present:

Jeffrey Grenzebach  
James Callahan, Director of Community Development  
James Hartz, Asst. Director of Community Development  
Councilman Scott Bylewski

Other Interested Parties Present:

Brad Davidzik  
Laura Pfennig  
Carol Minnick  
Rob Pidanick  
Jim Geiger  
Ismet Hallac  
Isabel Schwab  
Robert W. Metz  
John Rubino

Don Swanson  
Bill Pfennig  
Dolores Liebner  
Al Hopkins  
Ramesh Patel  
Roger Schwab  
Roger D. Metz  
Sean Hopkins

**Item 1**

Approval of Minutes of previous meeting.

Motion by Matt Balling, seconded by Paul Shear, to **approve** the minutes of the meeting held on July 17, 2006, with the following adjustments:

- Councilman Scott Bylewski was in attendance at this meeting.
- Page 3, first paragraph, the comma between “detention” and “facilities” is deleted.
- Page 8, under “On the Question” the following paragraph is added: Mr. Sorgi was informed that the Town of Clarence TEQR Law modifies SEQR Section 617.4 to include several additional actions as Type I, as allowed under the regulation. Item (b) (5) (ii) specifies that “construction of new residential units that meet or exceed...30 units to [be] connected...to existing...water and sewerage systems...” is a Type I action.

Matt Balling           Aye  
Richard McNamara   Aye  
Paul Shear             Aye

Lisa Bertino-Beaser   Aye  
Al Schultz             Aye

MOTION CARRIED.

**Item 2**

Communications

There are no communications to report.

**Item 3.a.**

Stage and Schurr Subdivision

(awaiting phase II archaeological report)

**DISCUSSION:**

Jim Callahan provides an update on the project. There has been no submittal from the applicant; this project may remain tabled until the Phase II Archaeological report is submitted. This project has been tabled because of the pending information that led to a Phase II Archaeological report. The applicant is not present.

**ACTION:**

Motion by Matt Balling, seconded by Richard McNamara, to **table** agenda item 3.a. until the applicant has successfully satisfied the TEQR Committee's request for a Phase II Archaeological Study.

Matt Balling           Aye  
Richard McNamara   Aye  
Paul Shear             Aye

Lisa Bertino-Beaser   Aye  
Al Schultz             Aye

MOTION CARRIED.

**Item 3.b.**

Creekwood Meadows Subdivision

(coordinated review commenced on 6/28/06)

**DISCUSSION:**

Jim Callahan provides the history on the project. It is located on the north side of Roll Road, west of Newhouse Road and consists of approximately twenty-one (21) acres. It is zoned Residential Single-Family. The Planning Board referred the Open Space Design Subdivision for review on June 19, 2006. The Town Board initiated coordinated review on June 28, 2006. Comments have been received related to a Phase I Archaeological study; there is also a letter of concern for Gott Creek flooding.

Rob Pidanick, of Greenman Pedersen Inc. is present along with Sean Hopkins, of Hopkins, Garas & Sorgi, PLLC.

It is confirmed that the project has been determined to be in Sewer District #5.

Al Schultz refers to the letter of concern for Gott Creek flooding. He points out that whenever we build or develop we reduce the ability of the land to accept water, it will run off to the surface and dry out the water underneath and tend to flood on the surface. Mr. Schultz asks the applicant if he has given this issue consideration. Mr. Pidanick is aware of the floodplain, however, he has not reached that level of design, yet, but going forward, he will certainly be in accordance with the Town of Clarence and FEMA requirements. Mr. Schultz said he is not talking about the floodplain; he is talking about general flooding from a heavy rain and the retention of storm water. Mr. Pidanick said their design would include storm water detention for the site in accordance with the Town's requirements. Sean Hopkins explains that what the Town's requirement means is that you take what the predevelopment condition is and post development, meaning installation of impervious surfaces and such; you can not exacerbate that situation. So, while the applicant can not solve other peoples flooding problems that are not related to the development of the site, we do have to insure the Town of Clarence as well as the DEC and other relevant agencies that the development of the site itself will not result in additional flooding problems. This is not to say that if there is something the applicant could help out with, it would be explored. The fully engineered design stage of the project has not been reached yet.

Matt Balling questions the transportation aspect of the project. The site plan indicates a private road. He asks if this is something that the Planning Board or Town Board suggested or is it something that the applicant feels is necessary. Mr. Hopkins explains that he thinks providing a private road is an amenity, in terms of his target market. He also explains that it has become clear that the Town Board would prefer private infrastructure where feasible. Mr. Pidanick explains that the private road, private sewer and private water lines would be managed by a Homeowners Association that would have to be approved by the New York State Attorney General's Office. Mr. Balling asks if this would be the same association as the one who has control over open space. Mr. Hopkins said, "Yes, it is envisioned in this point in time that the permanent open space, fifty percent (50%), would be conveyed to the Homeowners Association." The Homeowners Association would be responsible for the maintenance in the future. Mr. Hopkins said there would also be a recording of a permanent conservation easement; the language would be worked out with the Town Attorney's Office.

Aside from the obvious environmental impacts of this project, Matt Balling is concerned with the impact on the character of the Town it imposes when you have the families, the home owners and others that are going to be cut off or disconnected with the rest of the community. He asks if there is any mechanism that could be set forth in the open space area to make that publicly accessible. Mr. Hopkins said they will consider this issue as they move forward with the project. Unfortunately, what Mr. Hopkins has found is that when you propose publicly accessible parkland, whether privately or publicly owned, it creates a lot of opposition.

Matt Balling explains that an Environmental Assessment Form (EAF) Part II has been prepared for this project, which does not identify any potentially large impacts. Major transportation did not even become an issue. Mr. Pidanick said the project will only generate twenty-seven (27) trips at peak hour. All TEQR members have had a chance to review the EAF Part II. Question one (1), which asks if the proposed action will result in a physical change to the project site, was answered "yes" as a small to moderate impact. Under "Other Impacts" it is identified that the proposed development is immediately adjacent to Gott Creek floodplain and would have a small to moderate effect on site

drainage. Question three (3) identifies a small to moderate impact with regards to the developable area of the site containing a protected water body, Gott Creek runs through the site; the development plan, as proposed, would maintain the area surrounding this creek as an undeveloped open space, minimizing potential impact. Question six (6) indicates that the proposed action will alter drainage flow or patterns, or surface water runoff and will have a small to moderate impact. Under Other Impacts it is identified that development of a land parcel immediately adjacent to Gott Creek is bound to have an impact on drainage patterns. Question nine (9) indicates that the proposed action will substantially affect non-threatened or non-endangered species and identifies this as a small to moderate impact. Eliminating scrub brush and woodlands forces a variety of native fauna (deer and rabbits for example) to live closer to developed areas resulting in shrub damage and vehicular accidents. Question eleven (11) was answered “yes” and identifies the affect on aesthetic resources. The proposed action will require clearing brushland, an important feature to the character of the Township; specific proposal mitigates this impact by design. This is a small to moderate impact. Question nineteen (19) identifies the proposed action will affect the character of the existing neighborhood, it will cause a change in the density of land use and will create a demand for additional community services (e.g. schools, police and fire, etc.), it is a small to moderate impact.

**ACTION:**

Motion by Matt Balling, seconded by Al Schultz, to **recommend** the Town Board issue a Negative Declaration. The Town Board should also consider a recommendation to decide whether public access should be permitted on the project site.

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED.

**Item 3.c.**

Approval of Sewer Capacity within  
Sewer District #6  
(coordinated review commenced on 6/28/06)

**DISCUSSION:**

Jim Callahan provides a brief history. This agenda item is related to the Rubino subdivision that is located on the on the southwest corner of Clarence Center and Shimerville Road. The Rubino subdivision consists of approximately forty (40) acres and is zoned Residential Single-Family. The Planning Board referred the project and was introduced to the TEQR Committee on June 19, 2006. The Town Board initiated coordinated review on June 28, 2006. A letter from Erie County has been received supporting the Town as lead agency. Another letter has been received from the New York State Office of Parks, Recreation and Historic Preservation requesting additional information; additional information has been sent as requested and is in the file.

Brad Davidzik, with the law firm of Renaldo & Palumbo, is present and representing Ranch View LLC. Mr. Davidzik refers to a letter received from the Town of Amherst on May 4, 2006 which states that a surplus capacity of 18,550 GPD (average) and 74,200 GPD (peak) is now available for your exclusive use for your developments in Clarence Sanitary Sewer District #6. A copy of the letter

is in the file. Take this letter in conjunction with the agreement Erie County Sewer District #5 (ECSD #5) and Mr. Davidzik is confused as to where the problem lies. There have also been two (2) previous Negative Declarations. He is curious as to the results of the coordinated review process and asks if there were any recommendations.

Jim Callahan said the only issue that came up in terms of correspondence from involved agencies is what he has already identified; the New York State Office of Parks request for additional information.

There is some confusion as to whether this meeting is to discuss the sewer issue, the subdivision or both. Jim Callahan explains that this is a joint project; we would not be reviewing the sewer issue if there wasn't a project. The project becomes a part of the overall impact. There have been no comments back, yet, from the DEC or Erie County Highway.

Matt Balling asks Mr. Davidzik if he remembers what remedial action the applicant undertook in order to free up capacity for this project. Mr. Davidzik does not remember.

John Rubino, applicant, explains that he met with Town of Amherst Engineering Department after the Town of Clarence said they would need a letter from Amherst to proceed with the project. This started about two and a half (2-1/2) years ago. Then the moratorium was in place and plans came to a halt. Mr. Rubino met with the Town of Amherst last November and he asked what he could do to free up capacity for his project. Amherst advised Mr. Rubino that he and his brother could contribute money for the problem that Amherst had in order to free up capacity for their project, so the Rubino's contributed. Mr. Rubino spoke with the Health Department and the Department of Environment and Planning; both agencies were "all for it". The Town of Amherst is "all for it" as well. Mr. Rubino has discussed the sewer capacity with the Town of Amherst Engineer and was advised there is plenty of capacity at the Tonawanda Treatment Plant. There was a problem in the Dodge Road area during wet weather conditions, the Rubino's have helped fix that problem. Erie County Sewer District #5 has provided Mr. Rubino with a letter indicating there is capacity for his project, but it is conditioned on Amherst's approval. He has received Amherst's approval. Erie County's letter also indicated that there is a contract between Erie County #5 and Clarence #6. The project is in the Clarence Sewer District #6. The letter indicated Mr. Rubino has exclusive rights to the sewers. He does not understand why there are further questions regarding this issue.

Matt Balling explains that there were three (3) comments discussed. The first had to do with traffic flow, the existing lay out of the site would discharge all the traffic on to Clarence Center Road, it is approximate to a particularly busy intersection. Mr. Balling asks the applicant why the plan is this way. Joe Rubino said, with all the meetings they have had to attend, they have not had the opportunity to progress on the subdivision design. He refers to another project that is in Clarence Sewer District #6 that has tapped into ECSD #5. Mr. Rubino refers to a meeting that Joe Latona, Town Engineer, was at, in which Mr. Rubino said Mr. Latona remarked that it cannot be any more clear, the applicant has the right to tie into Clarence Center Sewer.

Al Schultz said the EAF Part II & III have not been completed, yet, for this project. He asks the applicant if they have any data on what the impact of the 47 buildings and driveways/roadways will have on the water shed, roadway flooding on surface water moving off, on water percolating down and the impact that could have on the wetland. Mr. Rubino said this issue goes back to his previous point; they have not reached a point of total design so it is hard to calculate what Mr. Schultz is asking. Mr. Schultz explains that the TEQR Committee needs to pay a lot of attention to the impact the buildings

are having on the wetlands, the water shed, the perched water and the communication with the underwater aquifers. Mr. Rubino totally agrees. They are eager to receive some direction regarding their subdivision design. Whether it is public or private roads, or single-family or condominiums.

In Matt Balling's opinion, whatever design of sewer system is proposed probably wouldn't stop the Town from building out the rest of the sewer district in a way that puts capacity there in the future, towards the south. The problem lies in the inconsistency that is heard on the action that the applicant undertook in Amherst to free up the capacity, he asks if Mr. Rubino can comment on what is actually being done in Amherst to free up that capacity for this project.

Mr. Rubino explains that Amherst put in another sewer line to relieve some of the pressure off the problem areas. They had a line constructed to take some of the sewage away from the problem areas. They did not have the funds to do the work, so we funded them. They project area was somewhere near Crosspoint Business Park. A SEQR was done on the sewer and a copy was forwarded to the Town of Clarence. Brad Davidzik reads the Negative Declaration issued by the Town of Amherst is read into the record.

Mr. Rubino said that a Mr. Chinicci who built Laurel Park did the same thing in the Town of Amherst. He did some work along Hopkins road and that freed up capacity for his project. Jim Callahan noted that the Laurel Park project is located within Erie County Sewer District #5. Mr. Rubino restated that his project is located in Clarence Sewer District #6 which has an agreement in place with ECSD#5.

Paul Shear said that the Town's comprehensive plan pg. 20 states "additional capacity for future growth within the district will be directly tied to increasing the size of the Peanut Line Interceptor in the Town of Amherst to allow additional flows from the Town of Clarence. This should be tied to extending sewer service to the Harris Hill area." Paul Shear said that the text indicates any sewer flow should be tied into the Peanut Line not ECSD #5. Mr. Rubino said that his project flows directly to Transit Road. "Why did the Town Engineer not respond to the coordinated review?"

Mr. Balling suggests that given the size of the project and the related traffic and wetland impacts that the board consider a Positive Declaration and have the applicant prepare an EIS for review. The DEIS should include a traffic study, an explanation of stormwater impacts, public sewer system details (how it is going to be laid out, as well as what improvements have been made in Amherst to free up capacity and solve pollution problems in Amherst). Al Schultz said he would like to see the information on how the project will affect the water table and the wetland area on the project site. Brad Davidzik asked if the Town had addressed any of this when the rezoning occurred in April 2005. Mr. Balling said that seven years ago when the comprehensive plan was completed there was an environmental review conducted and there have been some changes in Town over those years. The only documentation that has been submitted on the sewer issue is a letter from ECSD #5 stating that there is no problem. Mr. Davidzik said that there is a contract signed between ECSD #5 and CSD #6 regarding capacity as well. Mr. Balling said that they want a more detailed engineering discussion on what has occurred in Amherst and how that solves their problem as well as frees up capacity for your project. Mr. Rubino said that he has submitted all of the information on that already months ago. The SEQR documentation was forwarded to the Town. He feels that the Town does not want any development.

Mr. Rubino asked the board what more do they want to look at. Mr. Balling said that the scope of the DEIS will be determined at a future date. Mr. Rubino asked the board why the other involved

agencies not respond to the coordinated review. Mr. Balling said he does not know. He would like to call the DEC or Army Corp. of Engineers to see why they have not responded. Mr. Schultz said that there is no other choice for the committee other than to issue a Positive Declaration, because they do not have a clear picture of the potential impacts. Mr. Rubino said that they have no idea why they are in front of this board right now.

**ACTION:**

Motion by Matt Balling, seconded by Ms. Bertino-Beaser, that the board recommend that the Town Board issue a Positive Declaration on the project and that the DEIS at least address the following issues:

- Traffic Impacts
- Stormwater & Drainage
- Sewer Capacity and Amherst’s issues regarding the pollution problem

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

**Item 3.d.**

Clarence Center Volunteer Fire Co. Demolition  
9415 Clarence Center Road  
(coordinated review commenced on 6/28/06)

**DISCUSSION:**

Jim Callahan gave a brief explanation of why the project was before the board. Dan Loudenslager said that he has been before the board for four months and is just waiting for (the board) to let us know what is next. Matt Balling asked how many acres of land that is under CCVFC control. Mr. Loudenslager said that it is about 17 acres. Mr. Balling asked if the CCVFC maintains a capital improvement budget. Mr. Loudenslager said that they have a budget for both buildings and equipment. Mr. Balling asked why they have to knock the building down. Mr. Loudenslager said that it is an old useless building. They layout is such that you have to either walk upstairs or downstairs into the building. The CCVFC has not decided what they are going to do with the property after they take it down.

Mr. Balling asked Mr. Loudenslager if he was aware of the history of the building. Mr. Loudenslager said that he was aware; he has been a member of the fire company for 35 years. Mr. Balling asked Mr. Loudenslager if he felt the need to try and find another use for the building. Mr. Loudenslager said that we should back up and review some of the previous information I gave the board regarding the cost to rehabilitate the structure. It would cost in the vicinity of \$350,000. The CCVFC does not have that kind of money to rehab a building. Just making the building handicap accessible will cost \$80,000. We don’t have any use for this building. In his opinion, the building is

beyond saving. Mr. Loudenslager said it is one of the ugliest buildings he has ever seen. It is nothing but a square block building. It has no character, it has no use. If the building had any character at all, we would be the first ones to try and save it. The building committee has decided it has to come down, and they need to move forward.

Mr. Balling asked Mr. Loudenslager if he was aware of the circumstances that led to the building being constructed on the property. Mr. Loudenslager said that the building was donated to the Fire Company before you and I were even born. He is not aware of any paperwork or record of how the property was given to the Fire Company.

Al Schultz asked Mr. Loudenslager about how the citizens might feel if the structure is removed. Mr. Loudenslager said that he is sure that 5 or 6 people might be upset over it. He is not sure. Somebody would be upset if they decided to reuse the old building too because of the money being spent to rehab it. At this point, that structure is of no use to the Fire Company. Ms. Bertino-Beaser asked Mr. Loudenslager why the Fire Company has decided to take it down now. Mr. Loudenslager said that after they found out how much it is going to cost to rehab it, it makes no sense for upkeep and maintenance for a structure that is not used. The cost of maintenance is too great for a useless building. Mr. Balling asked how much money does it cost to keep the building up and running. Mr. Loudenslager said that he does not know, the company has never done a study to figure it out. Mr. Loudenslager, as a director, is not willing to spend taxpayer money to patch this building up when it is in such disarray.

Mr. Balling asked what other problems are there with the building other than the handicap accessibility. Mr. Loudenslager said that the roof needs to be replaced; it is at least 3 layers thick now. One of those layers is asbestos. There are asbestos floors in there; there is lead paint throughout the structure. There is insulation and caulking around the windows that is asbestos. There is a significant cost factor with asbestos removal. The septic system was tied directly with the stormwater sewer that went right into the creek. It has no sewers or water into it. We had that disconnected about 20 years ago. This project has been discussed for 26 years.

Mr. Balling states, "I don't think anything goes more to the heart of a community than its volunteers. You really represent a lot of the values our community shares and I find it very unfortunate that I find myself on the other side of the fence on your particular goals you have for the building." Williams Hall was built on the collective goodwill and charity of the community and represents the core values of the community. It adds unparalleled character to the area. The structure and surrounding area form a district that is rich in history and the removal of this building may affect the character of this area collectively. It is important to protect property values in the area to protect the historic structures in it. I don't think that the structure should be hastily disposed of without more information on the condition of the building." I am recommending that the Town further explore the costs associated with rehabilitation and maintenance before it is disposed of. The Town's comprehensive plan states that the Town should be protecting the most historically significant structures.

Mr. Loudenslager said that the Fire Company owns the building and the land on either side of the building and we are unwilling to give up any area for parking facilities. The Fire Company is also not willing to allow a tenant to come onto the property to operate some kind of business from the property. Mr. Loudenslager asked if Mr. Ballings' statement is a legal opinion or the opinion of the TEQR committee. Mr. Loudenslager said that this demolition will not have any environmental impact on the community. Mr. Schultz said that the State's definition of environment is expanded to consider issues

of community character, aesthetics, and historical significance. There is a lot of opinion involved in making a determination of significance.

Mr. Loudenslager asked how many phone calls or letters the Town has received regarding this matter. He feels he has been snowballed since day one after they filed for this permit. He feels that he is going to have to get an attorney involved at taxpayer's expense because it is this board's opinion that the building should stay. He is sorry that we have to go that route; he was hoping that you people would be more open minded about the matter. If there were an auditorium full of people against the demolition, I would understand where you people are coming from, but for two or three people to give their personal opinion on this is totally wrong. Mr. Schultz stated that he does not think that people are aware of this permit application. Mr. Loudenslager said that it has been in the Bee for 5-7 months, so people should know about it. We filed for this permit back in March and have been bounced around for months. He does not feel it is right to give your personal opinions and stop this project.

Mr. Balling asked if anyone else in attendance had anything more to say. Mr. Robert Metz states that he will not miss the building at all. The building is an eyesore, the paint is peeling off the building, and that it does not match the old character of this Town. There is a lot of new development in Town that does not match the character of this Town either.

Mr. Tim Norris said that he is also a member of the Fire Company and that it is important for the Board to realize that their budget is scrutinized by the Town Board. If there is a Positive Declaration, that is going to do nothing but cost the taxpayers more money. We have worked very diligently on this project; we did not just pull this idea out of thin air. When Dan approached the Town and said that they have looked at these things, we have spent time on them. It would be a good idea for you people to come look at this building and see the condition of the structure. It is only used for storage.

**ACTION:**

Motion by Paul Shear, seconded by Lisa Bertino-Beaser, that the board recommend the Town Board issue a negative declaration on this Type I action.

Matt Balling	Nay	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Nay
Paul Shear	Aye		

MOTION FAILED

**Item 3.e.**

Bonhoff Demolition  
5955 Thompson Road  
(coordinated review commenced on 6/28/06)

**DISCUSSION:**

Jim Callahan gave a brief description of the proposed demolition permit details. Bruce Bonhoff was present to answer questions from the board. Mr. Balling stated that the building has no

significant history or architectural uniqueness that would warrant further review. He went through the EAF part II with the board and listed any potentially significant impacts to the community.

**ACTION:**

Motion by Al Schultz, seconded by Paul Shear, that the board recommend a Negative Declaration be issued by the Town Board regarding this Type I action.

**ON THE QUESTION:**

Mr. McNamara said he will be recusing because Mr. Bonhoff is a neighbor of his.

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Recuse	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

**Item 3.f.**

Krantz Open Development Area  
(coordinated review commenced on 7/26/06)

**DISCUSSION:**

Jim Callahan introduced the project. Don Swanson from APEX consulting was there to answer any questions regarding the project. Mr. Balling said that the board cannot take any action because the minimum thirty day comment period for coordinated review has not expired. Jim Callahan reported that the Town has received correspondence from NYSDEC and the USDA regarding the wetland on the north side of the property and other permitting requirements. The property is located within the Erie County Agricultural District. Mr. Balling explained that in some municipalities there are restrictions on running laterals for public water or sewer lines in those areas. Erie County does not have those restrictions.

**ACTION:**

Motion by Matt Balling, seconded by Al Schultz, that the board table this item until the October 16<sup>th</sup> meeting when the 30-day comment period will have expired.

**ON THE QUESTION:**

Paul Shear asked for clarification on the size of the property as described in a letter from NYSDEC. Mr. Swanson said that the project only includes 88 acres of the entire 153-acre wetland preserve. There will be no building or construction within the preserve area. It will be sold as part of the project.

Matt Balling           Aye  
Richard McNamara   Aye  
Paul Shear             Aye

Lisa Bertino-Beaser   Aye  
Al Schultz             Aye

MOTION CARRIED

**Item 3.g.**

Utilization of Sewer Capacity outside of Erie County Sewer District #5 for areas not included in a sewer district and proposed Harris Hill Commons Open Space Design Subdivision.  
Greiner, Harris Hill, and Sheridan Drive  
(coordinated review commenced on 7/26/06)

**DISCUSSION:**

Sean Hopkins, representing Windsor Ridge Partners, described the revised EAF part I form that was recently submitted. There has been a minor subdivision of the property that is now under separate ownership. Mr. Balling asked for clarification on the proposed action under review. It does include both the proposed subdivision and the utilization of sewer capacity in ECSD #5 for areas outside of the district.

Mr. Balling asked Mr. Hopkins about the figure used to describe wastewater flows. Mr. Rob Pidanik from Greenman-Pederson said that they always use the 350 gallons per day for calculating the flows on the EAF part I. I have personally been involved with preparing environmental assessment forms for 28 years and that is the way we have always calculated sewer flows. Mr. Balling said it seems that there may be a discrepancy with the flows because the water demand is estimated at 42,000 gal./day while the sanitary sewer flow is only 28,000 gal./day. Mr. Hopkins said that the water demand is based on 150 gallons/per person/per day. These figures are accepted by NYSDEC.

**ACTION:**

Motion by Matt Balling, seconded by Mr. Schultz, that the board recommend that the Town Board solicit for Lead Agency status on this project and begin the minimum thirty day comment period.

Matt Balling           Aye  
Richard McNamara   Aye  
Paul Shear             Aye

Lisa Bertino-Beaser   Aye  
Al Schultz             Aye

MOTION CARRIED

**Item 3. h.**

Adequate Public Facilities Local Law/Amendments to MP 2015  
(coordinated review commenced on 7/26/06)

**DISCUSSION:**

There has been no new correspondence received on this item.

**ACTION:**

Motion by Matt Balling, seconded by Paul Shear, that the board table this item until the thirty day review period has concluded.

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

**New Business**

**Item 4. a.  
Kausner Open Development Area, 4180 Ransom Road**

**DISCUSSION:**

Jim Callahan updated the board on the history of the project. It is an Unlisted action. Al Hopkins was present to answer any questions regarding the project. It is simply a two-lot Open Development Area. Mr. Balling asked Jim Callahan if there is any precedent for coordinating review on Open Development Areas that are Unlisted Actions. Jim said that there have been some ODA's sent out for coordinated review in the past and there have been some that have not.

**ACTION:**

Motion by Matt Balling, seconded by Rich McNamara, that the board recommend that the Town Board solicit for Lead Agency status and begin the 30-day comment period.

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

A neighbor explained the drainage issues in the area, and that she does not know how this project is going to solve any of the drainage problems. Mr. Kausner started a fire on the property last night and the Fire Company had to come put it out, again. She said that she has submitted a petition with 44 signatures of landowners within the area opposing the proposed development.

**Item 4 b.  
Spaulding Greens OSDD Subdivision**

**DISCUSSION:**

Jim Callahan gave an update on the proposed project. There was some consideration of this project within the Heise-Brookhaven Trunk Sewer Line (a.k.a. Clarence Hollow Pollution Abatement Project). The final findings statement on that project requires subsequent development to develop a supplemental EIS.

Dominic Piestrak was present to answer any questions. The original impact statement was prepared 5-years ago. The subdivision plan was submitted to the Town approximately two years ago. The EAF part I long form was submitted for review. Mr. Piestrak said that he is prepared to write the EIS, so he is recommending that the board recommend a Positive Declaration and set a public scoping session. Mr. Tuyn said that the previous EIS requires the supplemental EIS. Mr. Piestrak said that the deal that was made with the Town was done in public sessions. There were no secret deals done with the Town of Amherst on capacity.

Mr. Balling said that the traffic assumptions that were originally explored in the EIS five years ago may not be valid anymore, so they would like to see this further investigated. Mr. Tuyn said that there was background growth built into the analysis of the traffic impacts, including a 3% growth rate that is not going to happen today.

Al Schultz asked if we are required to solicit for Lead Agency status. Mr. Piestrak said that you are already Lead Agent, it would be redundant.

**ACTION:**

Motion by Matt Balling, seconded by Al Schultz, that the board recommend that the Town Board issue a Positive Declaration on this proposed action and establish a date for a scoping session.

Matt Balling	Aye	Lisa Bertino-Beaser	Abstain
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

**Item 4 c.  
Dunkin Donuts, 9430 Main Street**

**DISCUSSION:**

Jim Callahan said that the project site involves approximately 1.5 acres of a larger parcel that Wilson Farms sits on. Rod Prosser, P.E. is representing Dunkin Donuts. Mr. Schultz asked Mr. Prosser about the trip generation numbers. Mr. Prosser said that there are about 100 vehicles per hour at peak hour and 40% of those people will be using the drive-through. Mr. Schultz said that there are many more generated at the Tim Horton’s complex. Mr. Prosser said that they have plenty room around the project site queuing lanes for additional traffic volumes. Mr. Balling said that it has been past practice that the board coordinate review on these types of projects.

**ACTION:**

Motion by Matt Balling, seconded by Ms. Bertino-Beaser, that the board recommend that the Town Board solicit for Lead Agency status and begin the thirty day comment period.

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

**Item 4 d.  
Parks and Recreation Master Plan**

**DISCUSSION:**

Jim Callahan said that the Planning Board has referred the project to this committee for review. Scott Bylewski stated that it is the Town Board’s intent to adopt the Parks and Rec MP as part of the Town’s comprehensive plan.

**ACTION:**

Motion by Matt Balling, seconded by Al Schultz, that the board recommend that the Town Board solicit for Lead Agency status and begin the minimum 30-day comment period.

Matt Balling	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Al Schultz	Aye
Paul Shear	Aye		

MOTION CARRIED

**Item 4 e.  
Historic Preservation Local Law**

**DISCUSSION:**

Jim Callahan said that the law was recently referred from the Town Board and suggested that the proposed action may not be subject to SEQRA based on part 617. Mr. Balling said that he would like to see a copy of the proposed local law. Al Schultz sited a number of points on the Type II list in Part 617.

Bruce Bonhoff said that he has reviewed the law and said that it is not voluntary and is very restrictive. He said that it has the potential to cost property owners significant amounts of money to comply. If there is a district and you built a home last year, the home will be subject to the regulations. If they want to change the color of the home, they have to go before the committee to have it approved. If properties in the district are foreclosed on, the new owners (lenders) will have to be responsible for compliance with the law. A new owner may not want the extra burden of complying with the law, and

he thinks that this law will have a negative impact on property values. He thinks that if the Historic Preservation Committee feels strongly enough about it, they should form a foundation that could buy these properties up, make the necessary improvements, then sell them to the private market.

Al Schultz said that it may be wise to get these comments in writing to the Town Board, so that changes can be made. Mr. Bonhoff said that they did meet with the Historic Preservation Committee and that some members don't care how much it is going to cost a homeowner. Mr. Bonhoff said that any homeowners that are going to be subject to these regulations should be contacted, because many people he has spoken to feel outraged at the prospect.

Robert Metz said that there is a definite economic impact. New York State has a model regulation that has enforcement remedies that include fines. Clarence's Law includes 15 days jail time for violations. How much more of an economic impact could there be? The law is not voluntary; the only incentive is on property taxes.

Ismet Hallac said that he is in favor of some type of historic preservation ordinance. Every nation in the world has some type of historic preservation law. Those property owners should be compensated in some regard. I purchased the property on Greiner Road and decided to reserve it on my own. To me, a property tax adjustment does not mean anything, but those people whose entire investment is in their home, it may make a difference.

Scott Bylewski stated that he is disappointed that the board does not have a copy of the law. There are a few kinks in the law that may need to be worked out. The NYSOPRHP has reviewed the law and sent their comments. The most current draft shows the changes. He would like to see a coordinated review done just to see if there are any comments out there. The Town Board would like to see the best law possible.

**ACTION:**

This item was tabled until the next meeting to give some time to review the legislation.

Meeting adjourned at 9:30 p.m.

Matthew Balling, Chairperson