

Clarence Town Environmental Quality Review
(TEQR)
Meeting Minutes

Monday, November 19, 2007

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

TEQR Members Present:

Matthew Balling	Patrick Miner
Richard McNamara	John Moulin
Paul Shear	Jonathan Hickey
Lisa Bertino-Beaser	

Other Town Officials Present:

Director of Community Development James Callahan
Councilman Scott Bylewski
Jeffrey Grenzebach

Item 1-Approval of minutes from the previous meeting.

Motion by John Moulin, seconded by Richard McNamara, to **approve** the minutes for the meeting held on October 15, 2007, as written.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye		

MOTION CARRIED.

Item 2-Communications.

Communications will be discussed under Unfinished Business.

Item 3a-Spaulding Greens, Supplemental Draft Environmental Impact Statement.

Lisa Bertino-Beaser recuses herself from the discussion and vote.

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the east side of Goodrich Road, north of Greiner Road, consists of 380+/- acres and is zoned Residential. The Town has accepted the Draft Supplemental Environmental Impact Statement on the project as complete and is awaiting comments on the Statement from all involved agencies. Comments have been received from the NYS DEC; this letter was previously transmitted to the Board members.

Dominic Piestrak is present.

Matthew Balling refers to the letter from DEC; it acknowledges receipt of the Supplemental Draft Generic Environmental Impact Statement (SDGEIS). The letter cites an executive order of the U.S. Environmental Protection Agency (EPA) for Floodplain Management and suggests the Town contact the EPA's division of Environmental Planning and Protection to see whether the parcel falls within the realm of this moratorium. Mr. Piestrak explains that there were sewers that were funded by the EPA that had 50 years of restriction on use. Mr. Piestrak contacted Joe Latona, of the Clarence Engineering Department and he was working to see if the sewer line that comes down the Peanut Line to service Clarence Center was funded under that stipulation and Mr. Piestrak thinks it was. If you apply and the EPA agrees with the subdivision they will waive the restriction. The sewer line that services the Hollow does not correctly run through the line to Clarence Center. Mr. Piestrak said it should not be a factor.

Jim Callahan said he will contact the EPA to follow up.

Mr. Piestrak is dealing with some wetland mitigation which is approximately 3 acres of the parcel; the Army Corp of Engineers has verbally agreed with the mitigation plan.

Mr. Balling asked if the EPA was considered an involved agency, Mr. Callahan said, "No." Mr. Balling suggests making the EPA an involved agency and give them the option to comment on the project. Mr. Callahan agrees.

Mr. Balling said the second item that is identified in the letter is the DEC is going to investigate an area that is adjacent to this project for whether it should receive the designation of Freshwater Wetland.

The third item that is identified in the letter is the need for a Storm Water Pollution Prevention Plan.

The fourth item refers to sink holes, house foundation cracks within the immediate vicinity of the project site. Mr. Balling recommends, as the project moves along, that the applicant contact the Town of Clarence Engineering Department and ask for their recommendation as to what mitigating action they would prefer. Mr. Piestrak does not have a problem with this.

The fifth item in the letter refers to the request for a letter from NYS Parks and Recreation stating that no further archaeological review will be necessary, this letter should be on file prior to issuance of any permits.

Mr. Piestrak asked if there is an opportunity to schedule the Public Hearing so as not to further delay the project.

Mr. Shear asked if it is appropriate to move forward with the Public Hearing when the DEC is adamant about addressing specific issues. If the issues are not reviewed and a Public Hearing is held, isn't that a disservice to the public.

Mr. Callahan explains that when the final draft is prepared the issues have to be addressed and they have to be addressed after all comments have been received. Technically the Public Hearing has to be held within 60 days.

Mr. Balling would not be in favor of having a Public Hearing set until the comments from the involved agencies in the Town Hall.

Mr. Piestrak said the public has as much right as DOT to ask their questions now.

Mr. Balling refers to State Law Preparation and Content of the Environmental Impact Statements, under the procedures item #4 it reads as follows: "When the Lead Agency has completed a Draft EIS or when it has been determined that a Draft EIS prepared for the project sponsor is adequate for public review, the Lead Agency will determine whether or not to conduct a Public Hearing concerning the action." Mr. Callahan said it is optional to hold a Public Hearing, if one is held it must be held within 60 days of completion of the draft. This situation does present a time issue.

Mr. Balling said the public is going to want to have as much information as possible, as will the TEQR Committee.

Mr. Piestrak said it appears that the statutory time frames do not matter; no one cares about the law other than himself.

Mr. Callahan said, in reading the Law, a Public Hearing has to be held within 60 days, there are time frames post Public Hearing that can still be adhered to, such as keeping it open 10 days after the required Public Hearing and then 45 and/or 60 days in preparation of the final findings.

Mr. Shear asked if it is appropriate, as a result of a Public Hearing, for the TEQR Committee, the Town Board or the Planning Board to develop a list of what would be considered unanswered questions that could be presented to the petitioner to address questions with regards to the Draft Statement that the Board thinks may be required in a final statement; has the applicant addressed them on an item by item basis. Mr. Callahan said this would be appropriate.

Mr. Callahan suggests scheduling a Public Hearing at the next TEQR Committee meeting, which is December 17, 2007. Notification will be in the Buffalo News, at the expense of the applicant if he agrees, 14 days prior, as well as notification to the involved agencies. A list can be prepared with all the comments received to date. The Public Hearing must be held open for 10 additional days past December 17, 2007.

ACTION:

Motion by Matthew Balling, seconded by John Moulin, to **recommend** the Town Board schedule a Public Hearing on the Draft Generic Environmental Impact Statement at the earliest possible convenience while still complying with the statutory time lines.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye		

MOTION CARRIED.

Item 4-Rubino Subdivision, Southwest corner of Clarence Center and Shimerville Roads.

DISCUSSION:

Jim Callahan provides the history of the project. It consists of 28 acres and is zoned Residential Single-Family. A revised Open Space Development has been referred from Planning Board for an environmental review on the proposed project.

Brad Davidzik, of Damon & Morey, is representing the applicant. He explains that this project was the subject of a law suite which ended in a split decision, so there is no clear winner of the suite. The applicant worked with the Town Board and the Planning Department to try and come up with a plan to negate the need for each side to appeal the decision. The plan has been changed from 47 lots to 44 lots; there is now a 200' buffer at Clarence Center and Shimerville Roads. The wetlands and the woodlands on the site have been preserved.

Mr. Balling refers to the Environmental Assessment Form (EAF) and said it appears to be adequately prepared.

ACTION:

Motion by Matthew Balling, seconded by Lisa Bertino-Beaser, to **accept** the full EAF, as written.

ON THE QUESTION:

Councilman Scott Bylewski refers Exhibit F page 2 of the information provided to all TEQR members by the applicant. It appears this section is incomplete as page 1 is missing. Mr. Balling explains that the EAF does not reference the material that Councilman Bylewski is referring to.

Mr. Moulin asked for clarification on the acreage at the site. Mr. Davidzik said the acreage is approximately 29 acres.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye		

MOTION CARRIED.

ACTION:

Motion by Matthew Balling, seconded by Jonathon Hickey, to **recommend** the Town Board commence a 30 day comment period for all involved agencies.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Jonathan Hickey	Aye
Lisa Bertino-Beaser	Aye		

MOTION CARRIED.

The 2008 meeting dates will be discussed at the next TEQR meeting.

The next meeting date is December 17, 2007.

Meeting adjourned at 7:52 p.m.

Carolyn Delgato
Senior Clerk Typist