

**MINUTES
SENECA COUNTY PLANNING BOARD
JUNE 12, 2014**

**HEROES 9-11-01 CONFERENCE ROOM
COUNTY OFFICE BUILDING
WATERLOO, NEW YORK**

- MEMBERS PRESENT:** Keith Beck, Betty Berger, Gordon Burgess, William Dalrymple, Donald Denman, Edward Franzoni (late arrival), Jack Freer, Mary Kelleher (alternate) (late arrival), Lawrence Kesel, Pam Kirk, Linda Ochs (alternate), Tom Scoles, Michael Smith and John Swanson
- MEMBERS CALLED:** Sally Kenyon and Mark Lott
- MEMBERS ABSENT:** Michael Scaglione
- STAFF:** Harriet Haynes, Planner, and Mary DeStefano, Staff Resources Assistant, Department of Planning and Community Development
- GUESTS:** W. Bush, Patricia Cameron, Steve Craig, David L. Dresser, Ph.D., Donald Eichenhofer, Margaret Eichenhofer, Joanne Elliott, Clara Franceschi, Tom Hasek, Jr., Environmental Engineering and Compliance Manager, Seneca Meadows, Inc., Leland Henry, Robert Holmes, P.E., Sr. Project Manager, Cornerstone Environmental Group, LLC, Catherine McLaughlin, Diane and Addison Mason, Martin Miller, James Mitchell, Georgine Rosata, Karen Rothfuss, Glen Silver, President, Concerned Citizens of Seneca County, Inc. and Jim Szatkowski

The meeting was called to order at 7:02 p.m. by Chairman William Dalrymple.

Chairman Dalrymple appointed Linda Ochs, alternate member, to sit in for absent member, Sally Kenyon.

The Minutes of the May 8, 2014 meeting were approved by a motion of Lawrence Kesel and seconded by Donald Denman. Carried 14 – 0.

PUBLIC COMMENTS:

Mr. Glen Silver, President, of the Concerned Citizens of Seneca County, Inc., spoke regarding the proposed Seneca Meadows Clay Mine. Mr. Silver stated that under General Municipal Law, the County is to review projects for "inter-community and countywide considerations which are listed in sections 239-l and 239-m of the General Municipal Law. Copies of Mr. Silver's letter were distributed to members of the County Planning Board. Mr. Silver stated that the mining application has significant inter-community and countywide considerations that require careful study, especially critical to the industrial crossings of Burgess Road which is a County road. Mr. Silver stated that there is great concern in reviewing the application, particularly since there is no adopted economic development plan or environmental plan to use for guidance. Mr. Silver suggested that the application be disapproved by the County Board, or at least tabled at this time to study it further in consideration of critically needed modifications – telling members that they have a fiduciary duty to the citizens of Seneca County.

Ms. Georgine Rosata spoke in opposition of the proposed Clay Mine. Ms. Rosata stated that she has resided in Waterloo for 56 years and has raised her three sons here. She said she was speaking with

(OVER)

heartfelt emotion, stating that no consideration is being shown for families that live in the area. She requested that the application be denied and thanked the Board for allowing her to speak.

Mr. James Mitchell spoke in opposition of the proposed Clay Mine, stating that it will be located too close to the school. He stated that he has previously addressed this issue with some of the members of the County Planning Board, urging that this application be denied or action at least be postponed.

Ms. Karen Rothfuss spoke regarding the proposed Clay Mine, stating that the Mine would be too close to a residential area, the school and the Little League Field. The smell of diesel fuel and dust is unhealthy and the proximity of the proposed Mine shows lack of respect to the residents in the Town of Waterloo. Ms. Rothfuss also has many concerns about the Burgess Road crossing.

Ms. Margaret Eichenhofer, spoke in opposition of the proposed Clay Mine, citing her respiratory illness and concerns over airborne particulates.

Chairman Dalrymple appointed Mary Kelleher, alternate member, who had arrived to sit in for absent member, Mark Lott.

Chairman Dalrymple polled Board members as to whether a presentation should be given from representatives of Seneca Meadows, Inc. All members were in favor of hearing details regarding the proposed Clay Mine Project.

Mr. Robert Holmes, P.E., Sr. Project Manager, Cornerstone Environmental Group, LLC, introduced himself. He stated that originally the Clay Mine was proposed to provide a closer source of soil to import to the Seneca Meadows Landfill. The intent is to also reduce impacts for the community by reducing truck traffic on local roads. Generally, truck traffic travels on Route 96, Main Street and then Route 414. Mr. Holmes stated that there has been no discussion to take the property off the tax rolls. Mr. Holmes stated that this proposed Project has been carefully considered since 2009, and that representatives from both the Town of Waterloo and the New York State Department of Environmental Conservation (DEC) have been listening to the concerns of the public, and as a result, made several modifications. Mr. Holmes stated that the access road has been relocated to use the existing Salcman Road. Several parcels will be used totaling 252.8 acres that are owned by SMI. The total area to be affected by the Project is 122.2 acres. It is planned that the mining will take approximately 11 years and remove 3,365,000 cubic yards of soil to be used primarily as construction material at the Landfill. Land reclamation is anticipated to be done within one year of the completion of excavation. The Landfill is committed to placing 6' berms to enhance screening for residents from Mine operations as well as mitigate the impact of noise. The wetland sites are being avoided and will not be used. Mr. Holmes stated that the Landfill is committed to putting in some additional water monitoring and safety measures during and after the Mine operation. The grading plan for the slope of the excavation is a 3:1 slope with an aquatic bench. The Mine will be excavated in four phases and done over a two to three year period, working west to east. Mr. Holmes stated that on an average, approximately 105 loads per day will occur which is a conservative estimate. The average truckloads per day have been assessed as part of the SEQRA findings. Mr. Holmes stated that after the 11 years of operation, the mine would be reclaimed. Most berms would be left in place. Mr. Holmes explained that the DEC will require a \$525,000 bond which was deemed by DEC. The \$525,000 is established to be the amount required to return the reclaimed site in case Seneca Meadows is unable to fulfill its obligation.

The following concerns were raised by Board members:

- Gordon Burgess stated that he has concerns about the traffic on local roads, e.g., Route 414 and Route 96. Mr. Holmes stated that there will be no traffic impact on the roads.
- John Swanson spoke regarding the berms and vegetative screening. Mr. Holmes stated that there will be vegetative screening between the residences and the 6' berms. There will be no

vegetation on top of the berms to provide additional screening. The vegetation is the screening from the berms.

- Jack Freer questioned what the cost would be to run a tunnel under Burgess Road. Representatives from Seneca Meadows stated that they did look into this but found several reasons as to why it would not work.
- William Dalrymple questioned why conveyors were not considered. Mr. Hasek stated that conveyors were considered during the initial years, about 10 years ago, but turned out to be a bad idea because of the different weights with clay.
- When asked about different depths of the project, it was stated that the deepest point of excavation will be 45' deep and the pond will be 25' at its deepest. There will be a 10' – 15' vegetative slope to the pond on the south side.
- Linda Ochs questioned the use for "passive recreation" for when the Mine is reclaimed after the 11 years of operation. The water area would have moving water – it would not be stagnant. Seneca Meadows has considered the stocking of fish through perhaps Trout Unlimited, and such activities as kayaking could occur.
- There were questions about DEC's involvement during the use of the Mine. Before DEC would issue a permit, the Agency looks at the size and expected life of the mine, reiterating the issuance of the \$525,000 bond that DEC determined. After five years of use, an updated review occurs by DEC.
- Linda Ochs questioned if there would be odors emitted from this Project, citing the odors being emitted from the Landfill. She inquired as to whether the Mine will help eliminate or reduce current odors. Landfill representatives stated that there will be no odors emitted from the Mine nor will it help reduce odors from the Landfill. Linda Ochs inquired as to what types of odor reduction products are being used at the Landfill. Mr. Hasek stated that a spray-on type of hydro mulch has been used in the past as well as many other products. Controlling the odors from the Landfill is an ongoing effort and the Landfill continues to work with numerous vendors for alternate solutions.
- Linda Ochs stated that the location of the Clay Mine should be reconsidered, stating "why can't the Mine be located somewhere else instead of the edge of the Village?" Linda also stated she has concerns regarding the Burgess Road crossing and that the area is considered residential on both sides of the road. Mr. Hasek stated that the residences located on both sides of the road have no bearing on the Project moving forward.
- John Swanson questioned the projected life of the Landfill and was told that it will be in operation through 2023.
- Michael Smith questioned if the County Highway Superintendent has carefully reviewed the proposed Project and what are his recommendations. It was explained that there have been no final recommendation received from the Highway Superintendent. While it is a county road the county does not hold title to the property, the property owners on either side own the property and the road is on a right-of-way. Ms. Haynes stated that as with any road property owners that have property on both sides of the road have to be allowed to access to across the road. The New York State Department of Transportation (NYS DOT) has authority over speed limits. The County Highway Department can require where driveways enter in the road and what traffic control devices have to be used.

Mr. Henry, Mr. Silver, Ms. Rosata and Ms. Rothfuss made additional statements regarding their opposition of the proposed Project.

GML Reviews:

Board member, William Dalrymple, stated that while he has been in the grape growing business, his family has been in the mining business for 100+ years. Mr. Dalrymple stated that he does have some concerns regarding the Project and that his family has no involvement with the proposed Clay Mine. Mr. Dalrymple asked that it be noted that because of his family's involvement in the mining business, and that while this is not technically a conflict of interest, he will refrain from any comments regarding this Project and abstain from voting.

1) Town of Waterloo, Special Use Permit & Site Plan Review, Seneca Meadows, Inc.

Gordon Burgess moved and Lawrence Kesel seconded adoption of Resolution 22-14, recommending that the request for a Special Use Permit and Site Plan Review submitted by Seneca Meadows, Inc. receive conditional approval. Seneca Meadows, Inc. is proposing the operation of Meadow View Mine on Route 96 and North Road, between Burgess Road and Powderly Road in the Town of Waterloo. Seneca Meadows owns 252.8 acres on several parcels which 122.2 acres will be the total area affected by the Mine for the 11 years that it will be in operation. The estimated 3,365,000 cubic yards of soil to be removed from the Mine will be used primarily as construction material at the Landfill. Land reclamation is anticipated to be finished within one year of the completion of excavation. The original applications for this Project were filed in the spring of 2009. Since that time, there has been an ongoing and detailed process of review by the DEC which also included input from the Town of Waterloo, and finally, the Commissioner of DEC's SEQR determination. Ms. Haynes stated with the SEQR process completed, it is now the time for the Town to take action on the Site Plan Review and Special Use Permit as well as the Town's Mining Permit. Ms. Haynes cited Environmental Conservation Law section 12-2703 (2) known as the Mined Land Reclamation Law which restricts what conditions the Town can impose as part of its Site Plan Review. Ms. Haynes stated that it is recognized that this Project has the potential for significant environmental impacts. Areas of concern are: 1) air quality related to airborne soil particulates and vehicle operation, 2) surface and ground water quality, 3) traffic impacts, 4) visual impacts and 5) social impacts. Each of these areas was covered in the FEIS and the Commissioner's determination which was cited by Ms. Haynes. Ms. Haynes stated that the one major concern that this Board can address is the impact the Project could have on Burgess Road which is a county facility. This issue has not been fully resolved regarding possible traffic impact in relation to the access drive and the crossing of Burgess Road to Salcman Road. Ms. Haynes stated that a particular property owner has land on both sides of the road and will be allowed to transport materials from one side to the other side of the road. Ms. Haynes stated that Seneca County Highway Superintendent, Roy Gates, has not yet received any traffic study from the New York State Department of Transportation, if one has been completed. Ms. Haynes stated that the County Highway Superintendent will need to consider the need of appropriate traffic control devices at the location of the crossing of Burgess Road. Resolution 22-14 recommends that the Town of Waterloo issues the requested Permits and Reviews with conditions consistent with the DEC approved Mined Land Plan and Reclamation Plan, and the modified Application, and conditional upon the Seneca County Highway Superintendent approving necessary traffic control devices at the crossing of Burgess Road, and that the Seneca County Superintendent be encouraged to carefully consider the impacts on traffic on Burgess Road, to the point of requiring a traffic signal be installed at the location of the proposed crossing from the Mine to Salcman Road. Carried 8 – 1, with Linda Ochs voting nay. Board members, Keith Beck, William Dalrymple, Jack Freer, Mary Kelleher and Michael Smith abstained from voting.

Membership Discussion:

Board member, Edward Franzoni, stated that he feels the County Planning Board should somehow define its role so that the general public who attend meetings have a better understanding as to what the Board is about. Mr. Dalrymple stated that the public may not understand that the County Planning Board serves as only an advisory board. Board member, Lawrence Kesel, who also serves on the Tyre Town Planning Board, stated that an individual from the public became combative towards his wife regarding the proposed Casino Project. Mr. Kesel stated that the general public may not realize that members of various boards serve on a volunteer basis without compensation. Many times, members of the public are

passionate in their beliefs, especially in relation to land use when it involves close proximity to their properties. A lengthy discussion pursued, citing ideas in which the Board can be informative of its role to the general public.

2) Town of Ovid, Repeal Local Law #1 – 2004, Town of Ovid 2014-A

Tom Scoles moved and Gordon Burgess seconded adoption of amended Resolution 23-14 for Town of Ovid 2014-A which would Repeal Local Law #1 of 2004, also known as the Land Use Ordinance. Ms. Haynes stated that Local Law #1 of 2004 establishes setbacks and lot sizes but does not control land uses. Ms. Haynes stated that the Town cites financial reasons related to the costs of enforcement and reasons relating to County enforced Regulations, such as the New York State Building Code, for repealing these Regulations. Ms. Haynes reported that Town of Ovid Local Law #1 of 2004 was not adopted according to the NYS Zoning Enabling Laws but rather under Municipal Home Rules Law. As such it could be argued that a referral under General Municipal Law 239 is not needed, however, the Town of Ovid attorney forwarded proposed Local Law "A" of 2014 with a request that it be reviewed. Board members inquired as to why the Town of Ovid is going backwards, and for clarification that the Town has no current intent to adopt other Regulations at this time. Ms. Haynes indicated that she felt it was a part of the current political process within the Town and referred Board members to the statements from Town residents, Holly Bailey, Jean Currie and David Dresser, that had been distributed to the Board at the request of those individuals. William Dalrymple stated that maybe the community needs a "cooling down" period. Ms. Haynes stated that several years ago, she worked with the Ovid Town Planning Board on various land use issues and that they did not proceed with those regulations for a number of political reasons. After much discussion, Tom Scoles made the motion to amend Resolution 23-14 to read "WHEREAS, the Seneca County Planning Board feels that rescinding the current Town Regulations should only be done when a revision of those Regulations or new Regulations are being adopted, be it therefore RESOLVED, that the Seneca County Planning Board recommends that Local Law A of 2014 not be adopted." Carried 14 – 0.

3) Town of Waterloo, Site Plan Review, Development Opportunities Corporation

John Swanson moved and Donald Denman seconded adoption of Resolution 24-14, recommending that the request for a Site Plan Review be left solely to local determination. The applicant, Development Opportunities Corporation, is seeking the approval to convert a former motel to public storage units at 984 Waterloo-Geneva Road in the Town of Waterloo. Ms. Haynes stated that there was a previous proposal to install a laundry facility in the former Inland Motel structure, but it was determined that they would not get a reasonable return on their investment. The rear of the structure is an area with cabins and a camping site. Ms. Haynes stated that the windows would be closed off and plastered over with 4' X 7' overhead doors installed. The Site Plan shows 17 units of 5' X 13' and 16 units of 5' X 7'. Board member, Jack Freer, stated that the storage units are already one third installed. The 1.54 acre lot is situated in a mixture of Residential and Commercial uses. Carried 13 – 0. Keith Beck abstained from voting.

4) Town of Fayette, Special Use Permit, Judy Tuuri

Linda Ochs moved and Tom Scoles seconded adoption of Resolution 25-14, which recommends the request for a Special Use Permit be approved. Ms. Judy Tuuri is co-owner of property located at 3502 Ritter Road in the Town of Fayette. The 3.7 acre parcel is located in Agricultural District #8. The Special Use Permit is to allow the applicant to convert the use of a garage to a tack shop for retail of new and consignment items. The "old garage" is 22' X 24' and located between the house and newer garage. Hours of operation will be flexible. Ms. Haynes stated that since the business will be a small operation at first, it is not feasible for the business to be located off-site. Furthermore, this type of business is what might be considered as supportive of some agricultural operations. Resolution 25-14 was amended to approve the Special Use Permit request instead of recommending to be left to local determination. Carried 14 – 0.

5) **Town of Fayette, Minor Subdivision, Henry and Rebecca Hartman**

Linda Ochs moved and Keith Beck seconded adoption of amended Resolution 26-14, recommending that the request for a Minor Subdivision Review be approved. Henry and Rebecca Hartman wish to subdivide their 13 acres into two parcels – Parcel A of approximately 3.8 acres and Parcel B of approximately 9.2 acres. The property is located on the north side of Leader Road between MacDougall Road and Route 96A in the Town of Fayette. The small residential structure will be situated on the larger parcel. The smaller lot will have 317' of frontage on Leader Road. The proposed lot meets all requirements of the Fayette Town Zoning. Resolution 26-14 was amended to approve the Minor Subdivision instead of recommending to be left to local determination. Carried 14 – 0.

6) **Town of Varick, TV 2014-1, Zoning Amendments**

Tom Scoles moved and Linda Ochs seconded adoption of Resolution 27-14, recommending that the request for TV 2014-1, Zoning Amendments for the Town of Varick, be left solely to local determination. The Towns of Varick and Romulus formed a committee to work jointly for review of what needs to be done for rezoning of the former Seneca Army Depot. Ms. Haynes stated that Stuart Brown Associates, Inc., of Labella Company, was hired as consultants to assist in the Project. Ms. Haynes stated that the Zoning Amendment includes the addition or modification of a large number of definitions, the creation of a Warehouse, Industrial, Transportation and Energy District (WITE) and an Environmental Restrictions Overlay Zone. The Use and Bulk Tables are to be amended both by adding in potential land uses to the Use Table and adding the WITE Zone to both tables. The Amendments also include clarification of Special Use Permits, Modified Criteria for Sexually Oriented Businesses, and Special Use Criteria for Cemeteries. The proposed zoning includes the reopening of West Romulus Road which will allow for Agricultural and Residential development along the Road. An inquiry was made in reference to the fencing along the parameter of the former Depot in relation to the white deer herd population. Ms. Haynes stated that with the fencing in disrepair and no funds for replacement or repair, it will be difficult to keep the white deer population restricted to the former Depot. Ms. Haynes stated that she expects the same Zoning Amendment request to be forwarded from the Town of Romulus in the near future. Carried 14 – 0.

OLD BUSINESS:

Membership:

Ms. Haynes stated that Board members' names have been submitted to the Town Supervisors for consideration of reappointment. Recommendations from the Planning, Development, Agriculture & Tourism Committee (oversight committee) of the Board of Supervisors, will be discussed at the next Committee meeting scheduled June 24. If a member's term is scheduled for reappointment, please consider yourself reappointed unless learned otherwise.

NEW BUSINESS:

Role of County Planning Board:

It was the general consensus that Board members should think of ways to inform the general public of the County Planning Board's role and continue discussion at an upcoming meeting.

The meeting adjourned at 9:30 p.m. by motion of Lawrence Kesel.

Respectfully submitted,

Mary E. DeStefano, Secretary
Staff Resources Assistant