

PRESENT: Sup. F. Newlin; Councilmen A. Bax, S. Edwards, M. Johnson & E. Palmer; Town Atty. J. Leone; Dep. Atty. D. Boniello; Eng. R. Lannon; 3 Press; 10 Residents; and Dep. Clerk C. Schroeder

The Supervisor called the public hearing to order with regard to on the Supplemental Draft Environmental Impact Statement (SDEIS) for a proposed 18-hole public golf course on a site located between Robert Moses Parkway and Creek Road, south of Pletcher Road in the Town of Lewiston. Copies of the SDEIS are available at the Lewiston Town Hall, Lewiston Public Library, Sanborn-Pekin Library, Niagara Falls Library, Main Branch, and the NYSDEC Region 9 Office, Buffalo, NY. The SDEIS is also posted on the town's website for public review.

Newlin said this is one of the most, if not the most, exciting project developments to hit Lewiston in decades. If done properly, and he has every reason to anticipate it being done properly, it would be a benefit to the town for many years to come. Golf, he said, has been discussed in Lewiston since the 1970's. Earlier in the decade, a previous Town Board had thought about developing a municipal golf course. After his election, Newlin said he tried to focus on private investment because it would alleviate the taxpayers of some needless burdens when it came to debt service. He actively sought some offers and it came to pass that the Seneca Nation was looking for a location for a golf course. Newlin complimented the management of the Seneca Development Corporation. They have the resources and the ability to invest in a first-class golf course operation.

Prior to the public's comments, Newlin introduced Gary Paumen, of the Seneca Management Development Corporation (SMDC). Mr. Paumen thanked the board for allowing them to meet this evening. He introduced the attendees that would be participating in the meeting: Ian Shavitz, environmental counsel; Michele Mitchell, associate general counsel; Eng. Doug Eldred of BME Associates; Phil Pantano, Director of Public Relations; and Brian Dooley, design associate of Robert Trent Jones II.

The podium was turned over to Ian Shavitz who made a brief presentation of the project and of the issues with regard to the Supplemental Environmental Impact Statement that they have prepared.

This is the second golf course project proposed for this site, he said. The Town proposed a municipal golf course that included a housing component. The Seneca's project does not. The Town, under a full SEQR process, prepared a DEIS, a FEIS as well as a Statement of Findings. That has helped us in designing and addressing our project for two reasons: 1) The site is in an appropriate location for an amenity such as a golf course; and 2) A golf course is an appropriate land use for the purposes of addressing stormwater management, which is one of the town's primary concerns and what makes this site so appropriate for a golf course use.

Shavitz said they have supplemented the town's SEQR process after looking at SEQR regulations which contemplates supplementing in a circumstance where there is a change in a project. They have also conferred with the Town as lead-agency, as well as the DEC, one of the resource agencies that is involved in permitting the project. Shavitz said the SDEIS focuses on two things: 1) The differences in the design of the course between the town's project and the Seneca's; and 2) The differences in impacts and affects based upon that difference in design.

During the town's SEQR process, there was extensive public and agency comments – some of which contained criticism of the golf course. Those, Shavitz said, formed the design of the Seneca's project. SMDC categorized those comments into four main areas: 1) The impact of a housing subdivision; 2) The Town using its money to finance the golf course project; 3) Wetlands; and 4) the Big Shellbark Hickory, a threatened plant in New York State. Those are the concerns that came out of the Town's SEQR process which we were able to address, Shavitz said. It is now a private project. Town money is not a concern. A housing subdivision is not part of the project. As far as the wetlands are concerned, they have come up with a design to minimize and avoid wetlands to the greatest extent possible and practicable on the site. They are working very closely with

the DEC and the Corps of Engineers to this regard. Also, SMDC will preserve 96% of the Shellbark Hickory that are in regulated areas on the project site.

Next, Brian Dooley, design associate from Robert Trent Jones II was called upon to discuss the golf course design. Mr. Dooley provided a brief overview of his company's structure followed by discussion of the specific design for the golf course. The firm founded by Robert Trent Jones II has designed more than 230 courses on six continents. Dooley said the four main concerns in designing the course were: 1) To enhance and protect the natural features, such as the wetlands and Big Shellbark Hickory; 2) To create a championship golf course; 3) To solve a drainage issue in the area along Creek Road; and 4) To ensure public safety along property boundaries and between golf holes.

The clubhouse is located in the central portion of the site. This enabled them to construct two groups of nine holes – one to the south and one to the north. This would enable young players and seniors to play nine holes, return to the clubhouse or continue play.

At this time, Eng. Doug Eldred addressed some of the environmental concerns. The site, he said, is approx. 251 acres, bisected by a DOT ditch that goes down the center. The northern part is wooded and the southern part is low scrubland with farmland in between. The wetlands are located primarily in the northern half of the site. There has been a great deal of effort in minimizing the wetlands themselves. We are only clearing within the wetlands to install two cart paths to provide site view for fairway driving on the 15th tee, he said. There will not be any alteration to wetlands themselves other than that clearing operation which is allowable without the need for a permit. We are also infringing a little on the buffer area clearing to create the golf course itself. That is where the Shellbark Hickory are located. The trees, as Ian said, are a threatened species. They are abundant throughout the country but not locally. That's the reason the DEC took over jurisdiction of the wetlands in this area. There are 361 Shellbark Hickory specimens located on the property. Of the 361, 278 are samplings that measure less than 1" in diameter and 83 Shellbark Hickory that measure larger than 1" diameter. As stated earlier 96% of the Shellbark Hickory trees will either be preserved or transplanted to other areas on the site.

Another issue is the flooding along Creek Road, where localized flooding occasionally occurs. There were recognized problems that the town addressed in its drainage design for a municipal golf course. Those issues were conveyed to SMDC with regard to development of the site. Those problems exist both along Creek Road and downstream along Four Mile Creek. The site itself is ideally located at the upstream end of the Four Mile Creek watershed to provide stormwater management. In the town's planning documents this is the ideal location for stormwater detention and by using stormwater detention it would help solve the downstream flooding problems. That was incorporated into the design with the development of the lakes on the golf course site. There are six lakes on the property. Those lakes have 109 acre-feet or 35-million gallons of storage to alleviate downstream flooding conditions.

Eldred said they looked at other impacts such as traffic. One of the nice things about a golf course is that it tends to spread the traffic flow throughout the day rather than coincide with peak commuter-hour traffic. We're not expecting any significant delays as a result of our adding traffic to the site for the golf course.

Lastly, Eldred said the project includes a 15,000 sq. ft. club house; a 286 site parking lot; a 6,000 sq. ft. maintenance building; two comfort stations; and an extensive landscape package. No soil will be removed from the site. What is being dug up will remain within the complex of the project.

With regard to regulatory approvals, Shavitz said they are working closely with the DEC for purposes of any impacts to state wetlands and the Corps of Engineers with respect to any impacts to federal wetlands. Also, as mentioned, there is a DOT ditch that runs through the property. Any work that might be done there we have to obtain a work permit from the DOT. As far as the process going forward, we will respond to any comments in a supplemental final document. The Town Board, pursuant to SEQRA, will make its findings either thru a new findings statement or a revised finding statement.

The Supervisor asked for public comments with respect to environmental issues.

Paulette Glasgow, 836 The Circle, said this is the second hearing she has given public comment with regard to the golf course. For nearly 12 years, no topic has interested me more because it illustrates how an uncomplicated project can continually be mishandled and misrepresented. SEQRA's basic purpose is to "incorporate the consideration of all environmental factors into the existing planning, review and decision making processes of state, regional and local government agencies at the earliest possible time." Within that procedural process, SEQRA "requires that all agencies address in a timely fashion all environmental factors that would have a significant adverse environmental impact"... Two years ago, on giving public comment regarding another golf course project, I inquired if all sections of the SEQRA law were followed properly, accurately and completely. It was eventually decided that the answer to that question was no. So, here we are again, almost three years later taking public comment on a revised golf course project and, once again the question I ask is, procedurally, were all sections of SEQRA followed properly, accurately and completely. And, once again, the answer is no.

Ms. Glasgow submitted a five-page statement that she asked to be made part of the record. A copy of the entire text of her statement is on file in the Town Clerk's office. Within the scope of her statement are a considerable number of issues with respect to the SEQRA process. I would hope that some of these things be addressed during the question & answer period following the public's comments, she asked; specifically,

- The filed EAF is incomplete because it fails to show a determination of significance; doesn't designate a type of action; lead agent's name and address is missing; isn't signed by lead agent representative; date on EAF has been changed; actual identity of applicant unknown, i.e., three different applicants have been identified.
- Part 2 of EAF not completed by lead agent.
- Uncertainty with regard to whether land will become sovereign; no written memorandum of understanding that it won't become sovereign.
- Uncertainty with regard to a legal redress for negligence or liability on the developer's part.
- Uncertainty with regard to how taxes would be collected.
- Under SEQRA lead agent should advise sponsor to take a hard look at alternate sites of less adverse concerns.
- ENB doesn't show a determination of significance.
- Lead Agent failed to file separate declaration of positive impact.
- Lead Agent failed to elaborate the criteria for determining adverse environmental significance.
- Failure to comply with NYCRR 617.4b(4)
- Failure to comply with NYCRR 617.12
- Town's Planning Board failed to take hard look at all adverse environmental concerns and recommended that before approval they be addressed.
- Town's Planning Board failed to issue positive declaration with regard to adverse environmental concerns on the site.
- Town's Planning Board gave approval on a project that has yet to secure written approval from all involved agencies.
- Town's Planning Board gave approval to project when ownership of property in middle of course is in dispute.
- Town's Environmental Commission failed to exercise its responsibility under town code 8C-6; 8C-7(A) and 8C-7(C).
- Town's Environmental Commission failed to issue positive declaration with regard to at least two adverse environmental concerns (freshwater wetlands and endangered Shellbark Hickory).
- Town's Environmental Commission failed to take hard look at all environmental concerns by either holding a public hearing or using their investigative powers.
- National Wetlands Inventory Map used to identify wetlands is outdated and doesn't show additional 9 acres of wetlands in LE5.
- Army Corps of Engineers has yet to complete the mapping of federal wetlands and determine extent of wetlands on site.
- Developer has failed to follow recommendation of Niagara County Planning Board in securing written approval from Army Corps and NYSDEC.
- SDEIS doesn't record actual amount of federal wetlands acreage.
- Developer may have disturbed federal wetlands without permission.
- Traffic figures are from 2000 and 2002 and are inaccurate.
- No definition as to what constitutes peak hours.
- No traffic figures for Sunday.
- Uncertainty as to if tournaments will be played on course which could affect traffic figures.

- Developer cites potential increases in flooding due to discharges of silt into Four Mile Creek.
- Developer cites potential erosion along Four Mile Creek.
- Use of herbicides, pesticide and fertilizer increases possibility of affecting plant vegetation.
- Changes in water temperature increases potential of killing fish and damaging spawning areas.
- Developer hasn't secured water quality certification under Section 401.
- Developer hasn't secured Article 24 wetlands permit from NYSDEC.
- Developer hasn't secured NYS General Permit GP-02-01.
- Uncertainty with regard to lighting ever being installed on golf course.

The Supervisor noted that these questions and any others will be addressed. The town's engineers and the Seneca's engineers will be providing written responses to provide a more thoughtful and detailed response. Shavitz concurred. "I think that with that whole laundry list of comments that range from dealing with SEQRA to other federal laws, I think it probably is best that we actually can see those in writing and we will then respond to them in writing."

Diane Roberts, 4391 Autumn Lane, spoke as a resident who will be very largely impacted as she resides across the street from most of it and also as co-chair of the Planning Board. I do feel that we took a hard look at many of the issues. I have been thru all the plans in detail that were submitted to the Planning Board including a lighting plan which did not include any large overhead lights. That was my concern. We've had numerous meetings at which representatives of the development were present. I, for one, am satisfied as a resident and as a Planning Board member that we looked at all of these issues.

James Allen, 782 Ridge Road, spoke on behalf of the Environmental Commission. As chairman, he said the commission was very impressed with the work the developers have presented. They have done the most complete job of preparation they have seen. We were quite impressed.

Mr. Allen said he had one question with respect to the capture of water. It is his understanding they are going to capture as much water as possible and use it on the golf course. He asked what would occur during a dry summer. Would they be using so much water as to have an affect on Four Mile Creek and what environmental impact might it have on the aqua life and plant life downstream from the golf course? Lastly, Mr. Allen said he looked forward to getting Mrs. Glasgow's comments. I assure you the Environmental Commission will take a look at that at its next meeting, he said.

Mr. Eldred said they do not intend to upset downstream habitat. What they are doing is maintaining the drainage in the Parkway ditch and pulling that into the site unless there is a flood type situation. There is a two-foot depth there that would be maintained. We will always maintain that supply within the ditch itself.

John Ceretto, Niagara County Legislator, said he sat on a previous town board when discussions ensued about a municipal golf course. We had a lot of committees. I was on the golf course committee. It went thru the planning board. It went thru the environmental commission. I had an opportunity to sit in on those committees. We were charged to present to the Lewiston residents – the taxpayers of this town – the best plan. This is the best plan. This is also the best land use for this property. You're going to take this area that is wetland and preserve it, protect those trees, and cut down the mosquito population that everyone always complained about and turn it around into a positive growth experience for Lewiston.

Since there were no other comments, the Supervisor asked for a motion to close the hearing. **Edwards MOVED, Seconded by Johnson to close the public hearing. Carried 5-0.** Time: 8:50 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk