

TOWN OF GAINES
PLANNING BOARD MEETING MINUTES

December 13, 2023

Meeting called to order by Chairman Watt at 7:01 P.M.

Pledge to the Flag led by Justin Kirby

Present: Christopher Watt, Chairman; Justin Kirby; Craig Lane; Doug Bower; Gerald Monagan (arrived late)

Absent: None

Guests: Sherman Gittens, MRB Group, Engineering Representative; Gabriel Barone; Michael Dobell; Scott Henning; Scott Ceurvels, Attorney; Robert Brown III; Doug Farley; Laura Bentley; Jeff Gifaldi; John Fitzak; Patrick Woodworth; Ingrid LaMont; David Matt; Jared Lusk, Esq.; Mark Rasmussen; Nicholas Nesbitt; Bill Quaranto, Town of Carlton Planning Board Chairperson; Doug Mahr, Esq.; Tyler Balner; Reuben Hull, Engineer LaBella Associates

Motion by Bower; 2nd by Lane to recess for the Public Hearing for the LaMont Subdivision at 7:02 PM

Aye 4; Nay 0; Monagan absent

PUBLIC HEARING FOR COMMENTS ON THE LAMONT SUBDIVISION

No Comments

Motion by Bower; 2nd by Lane to close the Public Hearing @ 7:07 PM

Aye 4; Nay 0; Monagan absent

Motion by Bower; 2nd by Lane to resume the regular meeting of the Town of Gaines Planning Board.

Aye 4; Nay 0; Monagan absent

LaMont Subdivision

Motion by Bower; 2nd by Lane approving the Ingrid LaMont subdivision at 3027 Densmore Rd, Albion, NY 14411

Aye 4; Nay 0 Monagan absent

ADOPTION OF MINUTES

Motion by Bower; 2nd by Kirby to approve the minutes of November 14, 2023, Planning Board Meeting

Aye 4; Nay 0; Monagan absent

NEW BUSINESS:

None

OLD BUSINESS:

Pescara Solar Project (CVE SOLAR PROJECT)

Mark Rasmussen introduced their attorney, Jared Lusk. The primary engineer with LaBella will be here soon, he was caught in some snow on his 5-hour trip.

Attorney Lusk stated that this is his first time coming before this board and wanted to know where we are in the process.

Chairman Watt explained that at the last meeting on this, in October 2023, we had a new decommissioning plan for Gaines, however we did not have a quorum so there was no discussion since there weren't enough people to act on any decisions. Also, part of this project is in Carlton so both Towns need to be on the same page going forward. This Planning Board received the new decommissioning plan, put things together on it and put it on the November agenda. Nobody from your company appeared at the November meeting. You were told that before we could move forward you needed to meet with Carlton and upgrade your decommissioning plan with them. There is serious work that needs to be done on the plan that was submitted to Gaines. The one that was submitted to Carlton was an insult since the numbers are not anywhere what they should be. It included places that are not qualified to accept the materials. Chairman Watt attended the Town of Carlton Planning Board Meeting, and their members feel the same way. The delay is caused by your not having proper plans, so you need to stop blaming us. You have applied for a special permit; you should be showing respect to this Board and Town with the paperwork that you are submitting. Some places that you listed to take the debris don't even accept it.

Mr. Rasmussen indicated that Reuben Hull, the principal engineer with LaBella developed the plan that was submitted at the October 3, 2023, meeting and as far as he understood, the decommissioning package seemed sufficient.

Chairman Watt stated that was never said.

Attorney Lusk stated that they attempted to find minutes from the Planning Board meetings on the Town website, but they aren't there. He found the Town Board Minutes and they made it appear that the decommissioning plan was more acceptable.

Chairman Watt indicated that they are better than what was submitted previously, however they are still not good enough.

Attorney Lusk asked who they can sit with to go through the decommissioning plan, line by line? Possibly a joint meeting with Carlton. They want to understand, and the engineer needs to stand by it.

Chairman Watt stated the decommissioning plan is supposed to be prepared by the applicant, not the Planning Board. First, the decommissioning plan affects every taxpayer in both towns if it is not enough money. It is currently several hundred thousand dollars light. We won't do that to the taxpayers in the Town.

Reuben Hull, an engineer with LaBella arrived.

Chairman Watt asked why places were listed that don't even accept the debris.

Mr. Hull stated that the dollar value and quantities are based on what was used on hundreds of other plans in the county & state. They have increased it several times. This is the highest that has been submitted in New York State. They are looking upwards of 25 years in the future. It is a case of speculations and safety factors. We don't know what stations or values will be in 25 years. But, within the cost, there will be a place to accept it. This agreement will be reevaluated several times over the life of it.

Chairman Watt stated that this needs to be straightened out from the start. Carlton was \$208,000.00 with a huge amount going to North Gravel Rd Medina which is the Town of Ridgeway. They don't accept that. Landfills will charge fees. There are no charges in the plan for the landfills. It is way off base. It is the same problem. You need to go back and do it right. This is the last chance. It needs to be broken down as to where it is going and what is going there. That needs to be accompanied by a letter from the companies listing their fees and that they accept what is being proposed to go there.

(Gerald Monagan arrived)

Mr. Kirby inquired if recycling is included.

Chairman Watt stated the Town is not a recycling company, and recycling amounts are not to be calculated to lower the plans amount.

Mr. Kirby stated it was a rhetorical question.

Mr. Gittens stated the Town has a standing not to accept recycling values because we don't know future values. They request a bond of value that the Town can access for removal money which will only be used as needed. There needs to be values and identifiers.

Chairman Watt indicated that this is a bigger total project than the other one so the value should be higher than that one is.

Mr. Hull indicated that he wasn't involved in the other Gaines solar project but he had done a hundred others and this was the highest amount of any..

Chairman Watt stated that down the road, there may be a lot of taxpayers that are going to be hurting as there will be no money available for decommissioning.

Attorney Lusk stated that it is a fair request, and he is hearing what is being requested. Besides the amounts needing to be increased and the sites needing to be acceptable to receive the debris, is there anything else?

Chairman Watt stated that it also needs to specify how fast things can be taken apart, how much ground is being disturbed. There are discrepancies in the plans, 20% vs 30%. The plan is an insult. You need to redo it and submit it.

Attorney Lusk asked if there is anything else besides the decommissioning plan?

Mr. Gittens indicated that right now, that covers it, and we could probably move forward. The wording about the road underlayment, the geo-web and geo-grid system needs to be removed for only for 5% grade. It should be for the whole length of the road. It also needs to be in the decommissioning plan.

Attorney Lusk has seen a decommissioning cost of \$100,000.00 bond to be a certain percentage increase.

Mr. Gittens stated to stop right there.

Chairman Watt stated that a revisit is difficult when it is grossly understated. We're going to start at the beginning correctly. The amount needs to be available on day one to the Town.

Attorney Lusk stated that he will get the revisions done ASAP. He asked when it will need to be in so that this can be discussed at the January meeting. He suggested that he felt the next draft could be done in a week or 2 in December so Gaines could have a workshop meeting with Carlton on January 8, 2024, to work through it together.

Doug Bower stated we would like to see it before the meeting.

Bill Quaranto, Carlton planning board chair, stated that he would be OK with that.

Attorney Lusk indicated that he would have it to the Towns before Christmas, if that is OK.

Mr. Gittens stated that it would need to be advertised if everyone from both boards was present. If there is not a quorum, then it is not an official meeting, so it doesn't need to be advertised.

Attorney Lusk stated that he will send 10 copies of the draft decommissioning plan to each town. Then they can work through the plan & adjust the plan to finalize it.

Mr. Gittens stated it can be a representative plan with the end goal to have a final plan at the February meeting.

Mr. Quaranto indicated that the trucking rates are not realistic since the current hourly rate for trucking is \$130.00/hour.

Mr. Hull stated that every rate is the current rate. In the back is an escalation factor.

Chairman Watt stated that there needs to be wait, unload and delay time factored into the total. The plan needs to make things more realistic. You keep coming in saying the projects are separate, but they are not, they need to be coordinated. You need to stop trying to say they are separate.

Mr. Gittens requested they try to be quick with getting the confirmation from the receiving sites.

LAKE ONTARIO FRUIT EXPANSION

Attorney Scott Ceurvels began by saying that at the start of the last meeting, the board was not inclined to refer the matter to the Orleans County Planning Board. After much discussion, by the end of the meeting the decision was unanimously approved to make the referral. The DEC has met with Lake Ontario Fruit representatives and Mr. Gittens to review the site. They made recommendations and Lake Ontario Fruit is continuing to work with them to make the necessary changes. It is a separate plan being approved by DEC. The referral was made to the County Planning Board and Lake Ontario Fruit is very appreciative of that. Currently, Lake Ontario Fruit would like to know if there are any outstanding concerns, and can we schedule a public hearing for the site plan review and the height variance?

Mr. Kirby stated that he received communication from Mr. Brown since he is confused about the letter that was received from the Town Planning Board Chairman.

Attorney Ceurvels stated that they are generally confused about the ponds.

Chairman Watt stated that Lake Ontario Fruit came in here and was alerted that there was a problem with the pond, not the DEC. Unfortunately, that didn't work. You cleaned up a lot and said it was taken care of, however when the DEC came, it was plugged. The design was such that it would clog, but the question was how often.

Mr. Gittens stated that Lake Ontario Fruit provided an updated plan with improvement.

Chairman Watt said the letter stated conditions that needed to be done. The board doesn't care about the DEC, they are concerned with the storm water. Your problem with DEC is separate. The storm water is our problem. Let's take care of it, not during the winter, but let's get it done.

Mr. Ceurvels stated they have already contacted a contractor to remedy the situation.

Chairman Watt stated we have had beautiful weather, let's get it done before the bad winter weather arrives.

Attorney Ceurvels inquired what approval is the condition attached to?

Chairman Watt replied it is attached to the issuance of a special permit.

Attorney Ceurvels asked if it could be associated with a certificate of completion.

Chairman Watt advised that they are getting pushy now. It will not take a lot of work to get this corrected.

Mr. Gittens asked for clarification as to what work needs to be completed prior to the issuance of the building permit.

Chairman Watt said the surface water goes to the pond. The pipes need to be inverted and go below so there is less chance of clogging. It should have been done months ago.

Attorney Ceurvels stated that they will immediately address and update it. Can the public hearing move forward?

Chairman Watt stated that he will go to the County Planning board with his best face on and see if they will approve it so a public hearing can be held.

Mr. Gittens said the main concern is wanting to make sure the pipe is addressed prior to the issuance of a building permit. The pipe needs to be an inverted pipe prior to the issuance of the building permit, it is not a condition for the public hearing or referral to the County Planning Board. All items in the letter, except for the vegetation filter and spillway need to be completed for the building permit to be issued. The exceptions need to be completed for the certificate of completion.

Mr. Matt stated that the contractor will be out next week to evaluate the inverted pipe. The concern of the spillway and inlet can't be resolved now; however, it should be done in a couple weeks.

Mr. Gittens asked the board if they need visual photographic proof of the remediations? What if the weather changes and prevents them from being able to complete it as anticipated? Can it be weather dependent? It appears that the project is not ready for approval at this meeting since there are conditions that need to be negotiated. If the issues can be taken care of, it will be a moot point. When we come back in January, we can have more communication.

Chairman Watt stated that we were told in November the problem was solved, however when the DEC came, it was plugged. Something had to be done to get your attention.

Mr. Brown stated that he thought that adding it to the site plan was addressing it. Before the letter was received, they didn't know if they could start that work without the building permit.

Attorney Ceurvels asked if we could move forward with scheduling the public hearing?

Chairman Watt stated that the board already planned on having it on 1/2/24. We want to see Results between now & then.

Mr. Gittens asked if the board is ready to make a motion regarding the date and time of a public hearing. Also, are there any further documents that are needed before the Public Hearing?

Chairman Watt would like to see something on when the work will be able to be done.

Attorney Ceurvels stated that shouldn't be a problem.

Mr. Gittens requested that Chairman Watt be looped in on the email chain when they have an idea of the start date.

Chairman Watt stated that with them being farmers, they should be able to pump down the level of the pond and not expect the contractor to do that. Also, the Town needs more money to pay the engineering and attorney fees.

Attorney Ceurvels understands the urgency and will keep the board updated.

Mr. Matt asked if the Town Engineer had any comments.

Mr. Gittens stated that the answers have been provided. The discussions have worked well.

Draper/KD Flooring Special Use Permit

No one is present and no new paperwork has been received.

Motion by Mr. Bower, second by Mr. Lane to adjourn the meeting at 8:20 PM.

Ayes – 5; Nays – 0

Respectfully Submitted

Janet K Cheverie
Gaines Town Clerk