

**TOWN OF DRYDEN
TOWN BOARD MEETING
November 15, 2018**

Present: Supervisor Jason Leifer, Cl Daniel Lamb,
Cl Kathrin Servoss, Cl Alice Green

Absent: Cl Linda Lavine

Elected Officials: Bambi L. Avery, Town Clerk

Other Town Staff: Ray Burger, Planning Director
Jennifer Case, Bookkeeper

Supv Leifer opened the meeting at 7:05 p.m. Board members and audience recited the pledge of allegiance.

TOWN CLERK/BOOKKEEPER

RESOLUTION #161 (2018) – APPROVE MINUTES

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby approves the meeting minutes of September 24, October 11, October 18 and October 24, 2018.

2nd Cl Green

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

RESOLUTION #162 (2018) – PAYMENT OUTSIDE THE ABSTRACT

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby approves the following payments outside the abstract:

NYS & Local Retirement System	\$211,7118.00
VISA – Highway Dept	643.62
Cooperative Extension (for youth employment)	3,844.96

2nd Cl Servoss

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

The Recreation Department has requested a budget mod to move unbudgeted revenue from the Color Run event to be used to cover expenses of the Reindeer 5K Run.

RESOLUTION #163 (2018) – APPROVE BUDGET MODIFICATION

RESOLVED, that this Town Board hereby approves the following budget modification:

From		To		
A2004	Misc Rec Fees	A7330.4	Community Rec Contractual	118.73

2nd CI Servoss

Roll Call Vote	CI Green	Yes
	CI Servoss	Yes
	CI Lamb	Yes
	Supv Leifer	Yes

A resolution is necessary to relevy unpaid water/sewer accounts to the 2018 property tax bills. These amounts represent the unpaid balance prior to the October billing, if it is still unpaid. Any amounts paid prior to turning the list over to the County will be removed.

RESOLUTION #164 (2018) – RELEVY DELINQUENT WATER/SEWER AMOUNTS

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby relevies the following unpaid water/sewer amounts to the 2019 real property tax bills:

Acct #	Tax Parcel #	Total
K3418	56.-5-5	243.83
K3419	56.-5-5	242.54
K3467	43.-1-14.1	1,485.83
cK3487	56.-3-4	760.96
K4338	52.-1-4.11	275.78
K4353	55.-1-15.2	2,407.14
K4730	52.-1-4.32	4,158.49
K5279	54.-2-1	1,378.88
K6452	52.-1-25.4	1,125.00
L1671	43.-1-13	882.58
L3430	56.-5-15	649.24
L3446	53.-1-7	432.59
L3454	43.-1-19.15	205.80
L3466	43.-1-19.10	1,127.74
L3478	43.-1-9.8	681.39
L3495	56.-3-11.2	285.96
L3500	56.-3-16.1	115.16
L3501	56.-3-17.2	115.16
L4028	69.-2-13	606.44
L4271	69.-2-3.3	207.62
L5252	54.-2-3	319.71
L5253	54.-1-9.2	66.00
L5254	57.-1-18	171.28
L5256	55.-2-3	275.78
L5275	54.-1-10	115.16

L5284	54.-2-11	79.87
L5390	56.-4-5.31	370.45
L5413	54.-1-3.2	914.45
L5446	54.-2-2	217.85
L5730	56.-5-25.12	502.78
L6376	54.-1-19	275.78
L6443	56.-4-7.31	343.24
LYB08	46.-1-49.28	64.43
LYB13	46.-1-49.86	172.01
LYB37	46.-1-49.80	545.21
LYB49	46.-1-49.75	346.69
LYB61	46.-1-65	253.96
LYB70	46.-1-59	175.51
LYB76	46.-1-49.26	158.68
565	35.-1-17.1	6,167.34
584	38.-1-28.12	765.06

2nd Cl Lamb

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

Tax Levy Cap Override

The public hearing on this proposed local law was closed last week. Supv Leifer explained that by switching to the sales tax offset agreement with the County we would go over the cap.

**RESOLUTION #165 (2018) – ADOPT LOCAL LAW #5-2018 –
OVERRIDE THE TAX LEVY LIMIT ESTABLISHED
IN GENERAL MUNICIPAL LAW §3-C**

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby adopts the following local law and directs that the Town Clerk file the same with the Secretary of State of the State of New York:

Section 1. Legislative Intent: It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Dryden, County of Tompkins pursuant to General Municipal Law §3-c, and to allow the Town of Dryden, County of Tompkins to adopt a town budget for (a) town purposes, (b) fire protection districts, and (c) any other special or improvement district, and Town improvements provided pursuant to Town Law Article 12-C, governed by the Town Board for the fiscal year beginning January 1, 2019 and ending December 31, 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority: This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a local law approved by vote of at least sixty percent (60%) of the Town Board.

Section 3. Tax Levy Limit Override: The Town Board of the Town of Dryden, County of Tompkins is hereby authorized to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the limit specified in General Municipal Law §3-c.

Section 4. Severability: If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date: This local law shall take effect immediately upon filing with the Secretary of State.

2nd Cl Lamb

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

RESOLUTION #166 (2018) – ADOPT 2019 ASSESSMENT AND SPECIAL DISTRICT ROLLS

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby adopts the Special District and Assessment Rolls for the Town of Dryden for 2019.

2nd Cl Lamb

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

RESOLUTION #167 (2018) – ADOPT 2019 BUDGET AND SPECIAL DISTRICTS BUDGETS

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby adopts the preliminary general budget with the following amendments:

- A7410.4 changed from \$11,500 to \$12,000
- DA5130.2 changed from \$160,000 to \$260,000
- DB5110.4 changed from \$600,000 to \$500,000

as the Town of Dryden’s general budget for 2019, and it is further

RESOLVED, that this Town Board hereby adopts the preliminary special districts budgets with the following amendments:

- SF1-3410.408 changed from \$29,000 to \$29,106

as the Town of Dryden special districts budget for 2019.

2nd Cl Green

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

RESOLUTION #168 (2018) – AUTHORIZE FIRE AND AMBULANCE CONTRACTS

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby approves the following fire and ambulance contracts for 2019 for amounts listed and authorizes the Supervisor to execute the same:

Neptune Hose Company No. 1 of Dryden, Inc.	\$350,000
Varna Volunteer Fire Company, Inc.	275,000
W.B. Strong Fire Company of Freeville, Inc.	172,900
Etna Volunteer Fire Department, Inc.	113,000
Brooktondale Fire Department	29,106
Dryden Ambulance, Inc.	432,770

2nd Cl Servoss

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

Introduction – Special Use Permit - 117 North Street - Auto Sales

Dave Donlick, applicant, and property owner, Don Sopp, were present. A Special Use Permit application and site plan have been submitted and are on the website. D Donlick said he has ties to the community, his wife teaches at school, and he sees a need for a used car business in the community. There is a need to take care of the average person and he will offer vehicles within the means of the average person. Most of his cars will be \$16,000 and less. He will only will use about 20% of the inside of the building. There will be no vehicle repair there and he will support the local repair businesses in town and not compete with local repair shops. There is an existing lighted area on the building where he would like to put an 18” by 10’ banner there on front of building. There will be no road signs. The lot is already blacktopped. Landscaping is the responsibility of the tenant (applicant) and he will be sure the appearance is nice.

Supv Leifer scheduled the public hearing for December 20, 2018, at 7:05 p.m.

Introduction – Special Use Permit - 450 Cortland Road – Contractor Yard

Applicant Jack Litzenberger explained the building is about 1300’ from Route 13 and will be used to house materials and equipment for his building and remodeling company. They have about 20 employees and build all around the Ithaca, Cortland, Dryden area somewhat on the higher end of projects. They do timber framing housing and remodeling. They would like to have a style sign in front with stone work. That would be a locator for the business because the building is so far from the road. The only public traffic to the building would be a client that comes in to do design work in the office. It would be by invitation only. Most employees are out in the field, so it is a somewhat quiet use. The parcel is surrounded by agriculture property.

Supv Leifer scheduled the public hearing for December 20, 2018, at 7:20 p.m.

**1610 Dryden Road Special Use Permit
Veterinary Clinic
Continuation**

There was no further comment on this matter and the public hearing was closed at 7:29 p.m. R Burger explained the applicant is out of the country and the architect was unexpectedly called out of town. The public hearing was not closed last month because the County's §239 review had not been received. We have that now and the letter states that there are no negative inter-community effects. They did comment to have the applicant analyze the energy picture per their questionnaire. The architect responded to that and explained that this is basically reuse of a prior building. They are looking to keep the natural gas furnace. They are using resources now to take care of the skin of the building and do a lot of restoration work on that. They are adding a foam layer on the outside and fiberglass on the inside. The insulation will be 20% above the energy code requirements. Windows will be upgrading. They are concentrating on converting an old barn to a new structure for business. They are open to replacing the furnace at its end of life with newer technology.

The board reviewed short EAF Part 2 (all marked no or small impact) and appendix and part 3 and had no concerns or comments.

**RESOLUTION #169 (2018) - NEG SEQR DEC - APPLICATION FOR A SPECIAL USE PERMIT
AND SITE PLAN APPROVAL FOR A PROFESSIONAL OFFICE (VETERINARY CLINIC)
LOCATED AT 1610 DRYDEN ROAD, TOWN OF DRYDEN TAX PARCEL 44.-1-13.412**

Supv Leifer offered the following resolution:

WHEREAS,

A. The proposed action involves consideration of the application of Janette and Curtis Dewey for Special Use Permit and Site Plan Approval for a professional office (veterinary clinic) located at 1610 Dryden Road, tax parcel 44.-1-13.412; and

B. The proposed action is an Unlisted Action for which the Town Board of the Town of Dryden is the lead agency for the purposes of uncoordinated environmental review in connection with approval by the Town; and

C. The Town Board of the Town of Dryden, in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of SEQRA, (i) thoroughly reviewed the Short Environmental Assessment Form ("EAF"), Part I and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR §617.7(c), and (iii) completed the EAF, Part 2.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board of the Town of Dryden, based upon (i) its thorough review of the EAF, Part I and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR §617.7(c), and (iii) its completion of the EAF, Part 2, including the reasons noted thereon (which reasons are

incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance (“Negative Declaration”) in accordance with SEQR for the above referenced proposed action, and determines that an Environmental Impact Statement will not be required; and

2. The Responsible Officer of the Town Board of the Town of Dryden is hereby authorized and directed to complete and sign as required the determination of significance, confirming the foregoing Negative Declaration, which fully completed and signed EAF and determination of significance shall be incorporated by reference in this Resolution.

2nd Cl Lamb

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

The board reviewed the proposed resolution approving the project. R Burger stated he has gone over the conditions with the applicant who finds them acceptable.

RESOLUTION #170 (2018) - Approving Site Plan and Granting Special Use Permit for a Professional Office (veterinary clinic) at 1610 Dryden Road, Tax Parcel 44.-1-13.412

Supv Leifer offered the following resolution and asked for its adoption:

WHEREAS,

- A. Janette and Curtis Dewey have applied for a Special Use Permit (SUP) to operate a professional office (veterinary clinic) at 1610 Dryden Road, Tax Parcel 44.-1-13.412; and
- B. The proposed clinic will occupy an existing commercial building; and
- C. An application, sketch plan, short EAF, and Ground Disturbance Tally Form have been submitted, and
- D. The Town Planning Department considers the application complete and in conformance with the requirements of Town Zoning Law §501, §600, §1103 and §1201, and
- E. A public hearing was held on October 18 and reconvened on November 15, 2018 with public comments registered in the meeting minutes and considered by this board, and
- F. The Tompkins County Planning Department has reviewed the application pursuant §239 -l, -m, and -n of the New York State General Municipal Law, and
- G. In a letter dated October 25, 2018, the Tompkins County Planning Department concluded that the proposal will have no negative inter-community or county-wide impact, and
- H. The Stormwater Management Officer reviewed the proposal and concluded that only a ‘Simple’ Stormwater Pollution Prevention Plan (SWPPP), consisting of erosion and sediment control practices, and prepared by the Stormwater Management Officer, is required, and
- I. Pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations at 6 NYCRR Part 617, the Town Board of the Town of Dryden has, on October 18, 2018, made a negative determination of environmental significance,

after having reviewed and accepted as adequate the Short Environmental Assessment Form Parts 1, 2, and 3, and

J. The Town Board has reviewed this application relative to the considerations and standards found in Town Zoning Law §1104 for site plan review and §1202 for Special Use Permit.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board approves the sketch plan documents, submitted with the application dated August 29, 2018 and revised October 3, 2018, as site plan for 1610 Dryden Road, conditioned on the following prior to issuance of a Certificate of Occupancy:
 - a. A landscaping plan shall be submitted to and approved by the Director of Planning.
 - b. The landscaping plan shall include low profile landscaping for screening the parking lot(s). The plan shall also include two large trees per guidance in the Route 13 Corridor Plan.
 - c. To the extent practicable, the sign shown on the site plan shall conform to Town commercial design guideline standards.
 - d. Dumpster enclosure shall be located wholly outside of the DOT right-of-way and the applicant shall provide evidence that NYDOT approved the apparent encroachment
 - e. Preserve the shoulder area in the DOT right-of-way to allow TCAT buses to pull over along Route 13.
 - f. Should the NYS Department of Transportation (NYSDOT) require the proposed entrance to be relocated, a new site plan, reflecting that change, shall be submitted to the Director of Planning. If significant changes (to be determined by the Director of Planning) to the site plan are necessary because of NYSDOT requirements, a new Site Plan Review shall be required.
 - g. The Neptune Hose Company (Dryden Fire Department) shall approve the driveway dimensions and turning radii.

2. The Town Board hereby finds that the considerations for approval of the requested Special Use Permit listed in Section 1202 of the Town of Dryden Zoning Law have been met, specifically that:
 - a. The proposed use is compatible with the other permitted uses in the Rural Residential district and compatible with the purpose of this district as professional offices are an allowed use in this district and this parcel is located along the Route 13 corridor with other commercial businesses;
 - b. The proposed use is compatible with adjoining properties and with the natural and manmade environment, as this proposal is for the re-use of an existing commercial facility with minimal site changes proposed. The property is adjacent to a vacant parcel to the east, and single-family dwellings to the south and west. There is also a business located to the south and the Route 13 corridor has other businesses in the general area;
 - c. Parking, vehicular circulation, and infrastructure for the proposed use is adequate. The requirement for sidewalks along the frontage is waived since there are no existing or planned pedestrian facilities along this busy stretch of Route 13;
 - d. The overall impact on the site and its surroundings considering the environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances has been considered and found to be negligible, based on the information and reasons in the Short Environmental Assessment Form;

- e. Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Town have been incorporated into the site plan;
- f. The project complies with the requirements for site plan review and conforms to the Town’s Commercial Design Guidelines to the maximum extent practicable in that: the site is screened from residential uses by the existing landscape and will be further screened by additional landscaping, the primary parking area is shifted from the front of the building to side of the building, only one access point to and from the highway is proposed, accommodations for alternative means of transportation are provided (bike rack),

3. The Town Board, finding that the applicant is in compliance with all other provisions of the Town Zoning Law and other applicable ordinances, approves a Special Use Permit for the professional office at 1610 Dryden Road with the Town of Dryden Standard Conditions of Approval as amended August 14, 2008.

2nd Cl Servoss

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

HIGHWAY DEPARTMENT/DPW

Bridge Updates – Cl Servoss and Supv Leifer attended a meeting of the Infrastructure Committee of the County Legislature. Dave Weinstein was invited and gave a presentation about Freese Road Bridge. An explanation of why the town board chose the option it did for the Section 106 review. Supv Leifer said he believes the board needs to clear up some information that was being distributed to the public. Cl Servoss will prepare a response to that and no board action is necessary at this point. DOT has the town’s choice and they will move forward. Cl Servoss will share with the county committee the town attorney’s opinion with respect to town liability for the road design. D Weinstein appears to be working with numbers that are not consistent with the information provided by the town’s consultant.

Advisory Board Update

Emergency Services Committee – Cl Servoss reported they had a good meeting last night and everyone is willing to work together. They discussed having an ambulance housed at Varna. It presents a problem because most of their calls are in the Village of Dryden. They will do a trial on weekdays with a crew to see how it goes and whether it makes a significant improvement. If so, they will work at getting more volunteers and if not, it will stay as is. It was suggested that fire volunteers get more training to be CFR certified so they can do more onsite than currently happens. Dryden ambulance will do that training for town fire staff.

They also discussed the Fire Warden. There is a specific job description in the law. They discussed a different position and came up with the term fire services coordinator and will present a job description by the end of the year. Their next meeting is December 18 at 7:00 p.m. at the Etna Fire station.

Planning Board – The Planning Board has asked the Town Board to officially ask them to review the site plan and SEQR for the Trinitas project. Cl Green said she would appreciate their input and counsel in the process.

RESOLUTION #171 (2018) – REQUEST PLANNING BOARD REVIEW OF TRINITAS SITE PLAN AND SEQR DOCUMENTS

Cl Lamb offered the following resolution and asked for its adoption:

RESOLVED, that the Dryden Town Board is pleased to accept the Planning Board’s offer to review site plan and SEQR for the Trinitas project.
 2nd Cl Leifer

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

Rail Trail Task Force – There will be a public hearing in December to accept the final easements. One of those is for 1061 Dryden Road. Cl Green expects it will be ready for public hearing in on December 18. The hearing for 1061 needs to be reopened and the approval amended to reflect requirement of an easement over the rail trail portion of the property and not a deed to the town. Once the final easements are in place and accepted, the town will be able to sign the agreement with NYS Parks for the \$182,000 grant.

There is currently a vacancy on the Task Force.

Donation Policy Modification – Cl Green explained that the policy had misnamed the person who would collect donations. That should be the Town Clerk. There was language that the Town Board would approve donations and associated inscriptions on plaques and instead they now propose it be designated to be the Rail Trail Task Force. The Town Attorney asked that language be inserted that the Town Board reserves the right to refuse any donation that appears to endorse a particular commercial enterprise.

RESOLUTION #172 (2018) – AMEND RAIL TRAIL GIFT POLICY

Cl Green offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby amends the Rail Trail Gift Policy as described above and set forth below:

Dryden Rail Trail Task Force Gift Policy
 (Rev. 11/15/18)

Mission The Mission of the Dryden Rail Trail Task Force is to take deliberate steps to develop the Dryden Rail Trail including acquiring easements, securing funding and moving the project through planning, design and construction.

Gift Policy Statement While municipalities in NYS are prohibited from soliciting gifts, they are permitted to accept them. On behalf of the residents of the Town of Dryden, gifts in support of the Dryden Rail Trail are gratefully accepted by the Town as defined in the following paragraphs.

Purpose of Gift Policy The purpose of this policy is to define a structure for gifts that create a naming opportunity for the donor:

- Define the types of gifts that will be accepted by the Town.

- Define how the gift program will be administered by the Town.

Types of Gifts Accepted Under This Policy This Gift Policy provides for acceptance of cash gifts to the Town in two gift types:

- A naming opportunity on a bench to be located along the trail. The donor may select a memorial or other inscription that will be placed on a bench. Note the Rail Trail Task Force selects bench designs and locations that will be used for all benches along the trail. Each bench will have only one donor inscription. The inscription will be placed on a plaque approximately 3"x10" provided by the Town. Bench naming opportunities cost \$800.
- A naming opportunity for a kiosk to be located at various trail heads along the trail. The donor may select a memorial or other inscription that will be placed on the kiosk. Note the Rail Trail Task Force selects kiosk designs and locations that will be used for all kiosks along the trail. Each kiosk will have only one donor inscription. The inscription will be placed on a plaque up to 140 square inches. Kiosk naming opportunities cost \$10,000.

Gift Administration The gift program will be administered as follows:

- The Rail Trail Task Force will designate a person familiar with the project to work with each prospective donor on selecting a bench or kiosk. Note that, while the Town is prohibited from soliciting gifts, private individuals acting on their own behalf may do so.
- The Rail Trail Task Force is responsible for managing the installation of each bench, kiosk and associated plaques. Installation/construction work may be done by volunteers, by Town of Dryden Department of Public Works staff, or by contract with a private company.
- Bench and kiosk signage will be maintained by the Town of Dryden Department of Public Works for the life of the bench/kiosk.
- All gift funds will be used to pay for development and construction of the Dryden Rail Trail. Gifts will be received in the form of checks made out to the Town of Dryden. Checks will be given to the Town Clerk.
- The Dryden Rail Trail Task Force is designated by the Town Board to approve each gift and its associated inscription wording by formal action. Following acceptance, donors will be provided an acknowledgement of the gift on Town letterhead. The Town will keep records of gifts and gift commitments.
- Town Board reserves the right to decline any signage that appears to endorse any private commercial business.
- Tax exempt status of gifts to the Town is covered in an IRS publication at <https://www.irs.gov/government-entities/federal-state-local-governments/governmental-information-letter>
- The Dryden Rail Trail Gift Policy will go into effect upon approval by the Dryden Town Board. The Policy is subject to an annual review by the Town Board and may be modified by formal action of the Board. The Policy is intended to last the life of the Trail. In the event the Rail Trail Task Force is decommissioned the Town Board may appoint a new entity/group to administer the gift program.
- This Gift Policy will be posted on the Town of Dryden web page and a hard copy will be provided to prospective donors prior to gift acceptance.

2nd Supv Leifer

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes

Supv Leifer Yes

New Business

Revolving Loan Fund – The Town previously voted to accept a letter from Rich Cunningham on behalf of Thoma Consultants about rates for setting up the town’s loan fund. We have not yet received a contract, but expect it will be forthcoming. Cl Lamb asked that the board authorize the Supervisor to sign the contract as described in the letter dated September 10, 2018, when it arrives.

RESOLUTION #173 (2018) – AUTHORIZE SUPERVISOR TO SIGN CONTRACT WITH THOMA CONSULTANTS

Cl Lamb offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby authorizes the Town Supervisor to execute a contract with Thoma Development Consultants to provide services regarding the town’s revolving loan fund program as described in a letter from Rich Cunningham to Dan Lamb dated September 10, 2018.

2nd Cl Green

Roll Call Vote	Cl Green	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

Lee Road – The TC3 Foundation special use permit contains a provision that there be no access from the dorms to Lee Road. They would like to amend the approval to provide for access to Lee Road. That amendment will require a public hearing and public notice. That will be scheduled for the December 20 meeting. Cl Lamb said this is a priority for TC3 and the board wants to cooperate with them.

Leonardo Parcel on Fall Creek – R Burger said Finger Lakes Land Trust and County Planning are currently talking with the owner about a conservation easement along back side of this property. The board indicated it would be interested in this acquisition.

Citizens Privilege

Chuck Geisler, 517 Ellis Hollow Creek Road, said he has been concerned that the Trinitas proposal has a murky energy component. He has heard that Trinitas has given at least a verbal guarantee that there will be heat pumps and he is pleased to hear that. He did some research and read a letter from Kim Hansen that talks about things that they are going to do in the spirit of the Varna Community Development Plan. He noted a pocket park, a trail, an open access community garden and a ton of green space and maybe a park across the street. All those things are nice but are side courses when it comes to the real issue of climate change and the fact that we are on borrowed time. He said both Ames, Iowa and Upper Michigan cancelled their contracts with Trinitas. From what he can tell the concessions that they made to those two communities exceed what was in that letter. He will assume that the Town of Dryden asked for more and got more than the other two communities. If not, now is definitely the time to do it. The town has a lot of leverage in the community development plan. About 300 of the 500 bedrooms anticipated in the plan are already committed. You could scale them back and make sure that we get heat pumps and other renewables. The attached documents were provided by Mr. Geisler.

Cl Lamb - Trinitas has agreed to use heat exchangers and not natural gas.

Cl Green - thinks there are issues in the definition of heat pumps. We need to clarify that Trinitas understands that we mean air source heat pumps. The board has an opportunity to review this through the SEQR process and have asked the Planning Board to assist. She wants to be stricter than they were at the sketch level of the process.

C Geisler - Trinitas could cut their project in half or do business with respect to energy.

Joe Wilson said he shares C Geisler's concern after studying the SEQR, documents from TG Miller and the letter from Trinitas that there is nothing concrete about what their plans are with respect to energy, the source of energy or a basis for saying they will mitigate the increased use of new energy. If the board is going to Neg Dec the project, you must have a basis for saying that impacts like a 500-bed set of units and the energy and emissions it will generate will be mitigated by something. The only thing about energy efficiency he has seen is reference to LEED. LEED lower levels are not energy efficiency specific and are not performing at a demonstrative level that is better than the electric code based on research done in New York City. There are opportunities in the documents already shared and the FEAF Part 1 to talk about how much energy they will use, how much methane they will generate and how to mitigate it. There is ample opportunity to be specific. He shared the attached article by Anthony Guardino regarding strict compliance with SEQRA.

Supv Leifer reviewed items for the December agenda meeting:

- Documents about the water/sewer consolidation
- Decommissioning plan for the Ellis Tract solar project
- Bond was issued for the Red Mill/Malloryville Bridges with First National Bank of Dryden
- Clarity Connect applied for/received last mile funding for fiber to the home and will be starting in Dryden. They will start when weather permits and store the fiber at the Beam Hill tower.

There being no further business, on motion made, seconded and unanimously carried, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Bambi L. Avery
Town Clerk

Nov. 18, 2018

TO: Dryden Town Board

FR: Charles Geisler, Dryden Resident

RE: **Comments to Town Board / Trinitas Ventures Concerns**

At your Oct. 15/18 Town Board meeting I shared concerns with the proposed Trinitas Ventures development for the Hamlet of Varna. My chief concern was as follows: despite verbal assurances from Trinitas that they will install heat pumps, you are taking this on faith. It is unwise not to have this in writing. Other cities have rejected Trinitas' student housing proposals (Oxford, OH, in 2014; Ames, IA, in 2017 and Ann Arbor, MI, in 2018) despite environmental concessions by Trinitas. If you have the least reason to doubt that Trinitas will keep its word regarding heat pumps, now is the time to insist on this while you have maximum leverage.

Some of you asked that I share information I had gathered, which I offer here.

Green Features in Trinitas Projects

In 2015 Oxford, Ohio (Miami University), rejected a 643-bed development proposal by Trinitas. The concerns were noise, traffic, use of green space, and family versus rental properties. Trinitas sued the city and the project has gone forward (<https://patch.com/ohio/miamiuniversity-oxford/construction-well-underway-annex-oxfords-newest-housing-option>) as student rental housing. The Ames City Council vetoed Trinitas' 800-bedroom proposal over concerns with traffic, flooding, scale, and zoning conformity (<http://www.amestrib.com/news/20170517/ames-pz-splits-vote-on-trinitas-development-in-west-ames>). The Ann Arbor City Council echoed similar concerns over Trinitas' 710-bed proposal in their community, but put additional emphasis on "disturbance to natural features" and land use (https://www.mlive.com/news/ann-arbor/index.ssf/2018/09/ann_arbor_rejects_controversia.html). In this last case, Trinitas offered to reduce the size of its proposal and listed multiple "green/sustainable initiatives," including energy-efficient building features and construction methods, as well as shuttle-bus services to reduce car traffic. The final vote against Trinitas in Ann Arbor remained 10-0.

Steadfast Student-Housing Orientation

Trinitas is bullish on student rather than family housing, whereas the Varna Community Development Plan emphasizes reverses this order. As Trinitas states:

"Since 1978, Trinitas has been a premier owner, developer, builder and manager of high quality commercial real estate and student housing communities. We are experts in a highly specialized

niche that requires an experienced team who understands the nuances of the industry. Our team includes accomplished veterans of commercial real estate and student housing.... Trinitas currently owns and manages nearly one half billion dollars in student housing assets consisting of more than 6,200 beds. In the last year, we have financed more than \$100 million in student housing and are currently developing over \$150 million in assets.

(<https://greenstarjobs.com/general-manager-jobs/denver-co/j729700>)

[My comments did not restate the obvious: greater Ithaca is experiencing a boom in student housing (Maplewood Apartments, Eddygate Apartments, Collegetown Terrace Apartments, State St. Triangle, College Townhouse, Lux North and South, 802 and 902 Dryden Rd., Cayuga Place, etc.) and is awaiting yet more supply (e.g., Seneca Flats and Cornell's NCRE).]

Heat Pumps & Your Present Leverage

I stressed that you have maximum leverage now over heating choices within the Trinitas development. First, in response to the September Sketch Conditions letter, Trinitas wrote to Ray Burger to assure him that considerable effort had been put into site design. These are (1) a 60% project dedication to green space; (2) an open access community garden; (3) public trail access and parking along the Varna Trail; (4) a pocket playground; and (5) "proposed dedication of land across Route 366 for a future park adjacent to Fall Creek." (see attached letter from Trinitas' Kimberly Hansen). These are welcome amenities and signal that Trinitas is listening. But, compared to project GHG emissions that advance climate change, they are side-dishes. The main course is the project's heat source in a town known and respected for its clear stance on natural gas dependency. You have every reason to call this question now, before project approval, and harden Trinitas' verbal commitment to heat pumps into written form. (And imagine, if Trinitas Ventures does this, heat pump logic could ripple through their future projects across the country.)

Second, there is a rub between the bedroom cap in the Varna Community Development Plan (roughly 500) and what Trinitas now proposes to build (552). No, the latter number is not "in the ball park." The Town has already approved nearly 200 new rentals bedrooms in Varna, reducing what's available under the Plan to roughly 300. I'm confident that Trinitas will trade written heat pump guarantees for Town Board permission to build more than 300 new bedrooms. You have the advantage here. And you don't need egg on your face in the event they don't honor their word. Moreover, it's hard for Trinitas to sue the town for acting within its charge.

I have not mentioned a building moratorium in Varna. That is because I wish to see housing consistent with the Varna Community Development Plan go forward with an enlightened main course as well as the side courses under discussion.

If possible, please add this written version of my comments to the November Town Board minutes. Thank you.



TRINITAS

October 23, 2018

Mr. Ray Burger
Town of Dryden
93 East Main Street
Dryden, NY 13053

Re: Village at Varna – Compliance with Varna Community Development Plan

Dear Mr. Burger and Members of the Town Board:

On behalf of Trinitas Development, LLC (“Trinitas”), I would like to take the opportunity to provide specific details on the Village at Varna’s compliance with the Varna Community Development Plan (“the Plan”) adopted December 2012 in response to Condition #1 required for Site Plan submittal outlined in your Sketch Conditions Letter dated September 27, 2018.

As described in the Plan, the subject site, commonly known as Varna II, LLC, for the proposed Village at Varna is recognized as one of two primary underutilized sites listed as “Development Opportunities” within the Hamlet of Varna due to the site’s proximity to major roads and existing infrastructure (p.19). Furthermore, the Plan’s Summary of Existing Conditions notes that these underutilized sites when developed can incorporate public green spaces that “cater to a family and student community” (p. 20). Trinitas has put considerable effort into site design to ensure green space is maximized to over sixty percent of available land and public access to green space amenities is readily available. These design items include: public trail access and parking along Mt. Pleasant Road for the Varna Trail, creation of a community garden with pedestrian access available to all Varna residents, construction of a pocket playground along Varna Trail, and proposed dedication of land across Route 366 for a future park adjacent to Fall Creek.

In addition to this focus on green amenities, Trinitas has incorporated many of the development characteristics noted in the example communities outlined as “Types of Development the Community Liked” into the design for the Village at Varna (p.27). Specifically, similarities in design can be found between the Village at Varna



TRINITAS

and all four of the communities outlined in the Plan. For example, Trinitas has utilized similar townhome design as seen in the "Forest Home Drive" and "Varna Commons" communities. These townhomes will provide additional housing options to Varna capable of serving multiple populations including families, seniors, young professionals, and students, as is desired in the "Varna Hollow" design. In addition, accessible footpaths to connect Route 366 to Varna Trail will exist onsite as was encouraged in the "Trailside" development. Lastly, care has been taken in ensuring the architectural design of the community fits in well with the character of the existing structures currently located in the Hamlet.

Thank you again for your consideration of the Village at Varna. It is our sincere belief that this development will enhance and complement existing community character while bringing high quality additional housing options to the community of Varna. The site plan complies with the Varna Community Development Plan adopted December 2012, and as such, we respectfully request approval of the SUP.

Sincerely,

Kimberly L. Hansen
Manager, Design & Development
Trinitas Ventures

ZONING AND LAND USE PLANNING

Strict Compliance With SEQRA: A Mandate Courts Enforce

By
Anthony S.
Guardino



Several years after the State Environmental Quality Review Act (SEQRA) was enacted in 1975, Rye's town board granted a permit to a property owner to construct an office building on close to 18 acres of town land. The board acted despite the fact that the town had not prepared an environmental impact statement (EIS) as described in SEQRA. On several occasions when considering the property owner's application, however, the town had carefully examined environmental factors such as traffic volume, parking capacity, drainage, soil, vegetation, noise, and aesthetics.

A number of community members challenged the town board's decision, seeking to have the construction permit set aside. They argued that the town had failed to adhere to the mandates of SEQRA.

The trial court dismissed their petition, concluding that "sub-

stantial, not strict compliance with SEQRA" was required and observing that the town had "closely examined the environmental impact factors" even without an EIS.

The Appellate Division, Second Department, reversed in *Matter of Rye Town/King Civic Association v. Town of Rye*, 82 A.D.2d 474 (2d Dept. 1981), where the court ruled that the town had not discharged its duties under SEQRA because it failed "to adhere to the literal requirements" of the statute, notwithstanding that it carried out extensive environmental review procedures in harmony with the spirit of the law.

According to the Second Department, substantial compliance with the "spirit" of SEQRA did not constitute adherence to its policies "to the fullest extent possible," as provided by SEQRA itself in Environmental Conservation Law (ECL) 8-0103(6). The law, and the accompanying regulations, the court emphasized, required "literal compliance."

That courts have reached the same conclusion many times since

the Second Department's decision in *Town of Rye* may seem surprising, given that the "literal compliance" standard is clear and well accepted. Yet local governments all too often fail to literally abide by SEQRA's requirements, at the risk of having their decisions overturned.

This column explains the essential features of SEQRA, reviews a recent case that illustrates the risks of failing to strictly comply with SEQRA's requirements, and concludes by reiterating the importance of literal compliance with this law.

SEQRA's Rules

As many courts have observed, SEQRA represents an attempt by the New York State Legislature to strike a balance between social and economic goals and concerns about the environment. See, e.g., *Matter of Jackson v. New York State Urban Development Corp.*, 67 N.Y.2d 400 (1986). SEQRA's primary purpose is to inject environmental considerations directly into governmental planning and decision making at the

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earliest possible time, so that social, economic, and environmental factors are considered together when reaching decisions on proposed activities that may have a significant effect on the environment. See, e.g., *Matter of Neville v. Koch*, 79 N.Y.2d 416 (1992).

To promote the Legislature's goals and to assist agency officials in their assessment of environmental factors, SEQRA requires that an EIS be prepared for such government-sponsored or government-approved projects or actions. ECL 8-0109(2). Described by the New

The lesson is clear: local governments that fail to strictly comply with SEQRA risk having their decisions overturned, even if they considered environmental and other issues and reached the result that they would have reached if they had complied with SEQRA.

York Court of Appeals as the "heart of SEQRA," *Matter of Jackson, supra*, the EIS is a detailed statement setting forth, among other things, a description of the proposed action and its environmental setting; the environmental impacts of the proposed action, including both long-term and short-term effects; any adverse environmental impacts that cannot be avoided if the action is implemented; alternatives to the proposed action; and mitigation measures proposed to minimize the environmental impact.

SEQRA groups the "actions" subject to review into three distinct

categories: "Type I," "Type II," and "Unlisted." Type I actions are those projects directly undertaken, funded, or approved by a government agency that are considered likely to require the preparation of an EIS. Type II actions are activities that the New York State Department of Environmental Conservation (DEC) has determined will not have a significant impact on the environment or are otherwise precluded from environmental review by the ECL and, therefore, are not subject to SEQRA review. Unlisted actions are all actions not identified as Type I or Type II.

The initial step for a government agency that receives an application for approval or funding, or that proposes to directly undertake an action, is to determine whether the proposed action falls within the scope of SEQRA. The statute and regulations mandate that as early as possible in an agency's formulation of an action it seeks to undertake, or as soon as an agency receives an application for funding or for approval of an action, the agency must determine whether the proposed action qualifies as a Type I, a Type II, or an unlisted action for purposes of SEQRA review.

If a proposed project is classified as a Type II action, the agency has no further responsibilities under SEQRA. If not, the agency must make a preliminary classification of the action as either Type I or Unlisted, and begin the process of environmental review by determining, among other things, whether

an environmental assessment form (EAF) or a draft EIS should be prepared and, if more than one agency is involved, which agency should act as the lead agency.

The lead agency then must determine the environmental significance of the proposed action by comparing the information contained in the EAF or draft EIS with criteria established by the DEC as indicators of significant adverse impacts on the environment. The lead agency may determine either that the proposed action will not have any adverse environmental impacts or that the identified adverse environmental impacts will not be significant, or that the action "may include the potential for at least one significant adverse environmental impact."

A written determination by the lead agency that a proposed action will not have a significant adverse impact on the environment, known as a "negative declaration," ends the SEQRA process. Conversely, if the lead agency determines that the proposed action may have a significant environmental impact, it must issue a "positive declaration" and direct the preparation of an EIS.

A local government's failure to literally comply with SEQRA can happen at any stage of this process, as illustrated by *Pickerell v. Town of Huntington*, 45 Misc.3d 1208(A) (Sup.Ct. Suffolk Co. 2014).

'Pickerell'

The case arose after 7-Eleven, Inc., sought a special use permit and an area variance for a proposed demo-

lition and construction project on commercial property in the Long Island town of Huntington. Before the Huntington zoning board of appeals (ZBA) conducted a public hearing on 7-Eleven's proposal, the company submitted various maps, photographs, site plans, and reports to the ZBA, including a traffic impact study, an engineering report, a planning study, and an

A local government's failure to literally comply with SEQRA can happen at any stage of this process, as illustrated by *Pickerell v. Town of Huntington*.

appraisal report on impact on real property values of the convenience store it proposed.

At the opening of the hearing, the chair entered into evidence a "Convenience Store Study" prepared by the town's Department of Planning and Environment.

The ZBA held 7-Eleven's application open for comment, and it retained an engineering firm to review the proposed project. In addition to a report prepared by that firm, the ZBA received numerous supplemental reports, expert affidavits, and other documents from 7-Eleven.

The ZBA classified the project as a Type I action and voted in favor of issuing a negative declaration. After it granted 7-Eleven's application, community members and a local civic association challenged the decision in court. The petitioners maintained that the

ZBA had failed to literally comply with SEQRA's requirements in determining that the proposed project, a Type I action, would not have any significant adverse effects on the environment and by failing to require the preparation of an EIS.

The court agreed with the petitioners, holding that the ZBA failed to meet procedural and substantive obligations under SEQRA when ruling on 7-Eleven's application. In particular, the court ruled that the ZBA violated SEQRA by failing to promptly make its own preliminary classification of the proposed project as a Type I, Type II, or Unlisted action, and by failing to verify the accuracy of the information 7-Eleven provided in Part I of the EAF. The court added that the ZBA also failed to have 7-Eleven, the project sponsor, complete Part I of a full EAF, which is required for Type I actions.

Although the negative declaration stated that the ZBA had conducted a coordinated SEQRA review of the proposed project, the court found "no evidence in the record" that any of the involved or interested agencies were notified that the proposed project had been classified as a Type I action. The court also ruled that the ZBA's decision to classify the project as a Type I action and issue a negative declaration was made "without a deliberative consideration of the various environmental issues."

The court concluded that the ZBA failed to meet the obligations SEQRA imposed on a lead agency, and it annulled the ZBA's decision

granting 7-Eleven the special use permit and area variance it sought.

Conclusion

Other courts also have recently rejected local government land use decisions upon finding that the municipality failed to literally or strictly comply with SEQRA. *See, e.g., Matter of Dawley v. Whitetail 414, LLC*, 130 A.D.3d 1570 (4th Dept. 2015) ("SEQRA's procedural mechanisms mandate strict compliance"); *Matter of Healy v. Town of Hempstead Board of Appeals*, No. 3214/2017 (Sup.Ct. Nassau Co. Aug. 28, 2018) (board's decision was "fatally flawed" as it failed to "strictly follow" SEQRA requirements).

The lesson is clear: local governments that fail to strictly comply with SEQRA risk having their decisions overturned, even if they considered environmental and other issues and reached the result that they would have reached if they had complied with SEQRA. Since the failure to comply with SEQRA can doom a municipality's zoning and land use decisions, both the project sponsor and the reviewing agency should meticulously comply with their respective obligations under SEQRA.