

VILLAGE OF COXSACKIE
SPECIAL MEETING MINUTES
August 20, 2024

Mayor Mark Evans called the Special Meeting to order at 7:00 p.m. Present were Trustee Donald Daoust, Trustee Katlyn Irwin, and Trustee Deidre Meier. Trustee Rodney Levine was absent.

Mayor Evans stated that this meeting is for the Board to consider the Supplemental Draft Environmental Impact Statement (SDEIS), submitted by United Mobile Homes (UMH), as complete. The Village Attorney has drafted a Resolution that the Board can consider passing. Mary Beth Bianconi, of Delaware Engineering, is present tonight to answer any questions from the Board regarding the SDEIS, and talk about next procedural steps in the project. If the Resolution gets passed tonight, the next step is to schedule a Public Hearing, to allow for the public to make comment on the project. The Village Attorney has recommended that the Public Hearing be scheduled jointly with the Town of Coxsackie, who also needs to hold a Public Hearing to address the Annexation.

Mary Beth Bianconi, of Delaware Engineering, stated that last year, a Scoping Document was created, which is a Table of Contents that tells the applicant what is supposed to be in the Supplemental Environmental Impact Statement (SEIS). In January 2024, the applicant submitted an Environmental Impact Statement (EIS) that was responsive to that Scoping Document, in part. In February 2024, she had provided comments comparing what the applicant had submitted vs. the Scoping Document, outlining where additional information was needed. The applicant continued to work on this, and submitted an updated document in June 2024. She continued her review, and in July 2024 she presented another comment memo outlining some areas where the applicant still needed some additional information. In response to that July 2024 memo, the applicant submitted documentation on August 7th and August 9th, and they had several technical discussions together. She sent the most recent memo to the Village Board on August 13, 2024 regarding the completeness on the submission. She said that it is important to reiterate that during the State Environmental Quality Review (SEQR) process, the Board is not approving anything, or agreeing with anything. That is not the point of the process right now. All that is being said right now, is that the applicant has included the information that was requested back in the 2023 Scoping Document. The applicant is aware of the fact that Delaware Engineering has technical comments that have not been provided yet. All that this step is doing, is saying that this document is responsive to that Table of Contents, and is now ready to go to the involved agencies, such as the Department of Environmental Conservation (DEC), Department of Health (DOH), and to go to the public for comment. So, this information would be put out, and a Public Hearing would be conducted in order to obtain public comment both in person, or written comment during the 45 day comment period. When the comment period ends, the applicant will take all of those received comments and questions, and will go through every single one of them and provide a response. That process will continue until all responses match up with the questions. Back around 2008, this project on this land already underwent an Environmental Review. The project wasn't built, and there were changes that were made to the project, but it is still substantially the same project of a residential home park. The dimensions have changed in terms of the number of units, the layout, and some of the details, and it was moved from an EIS to a SEIS. So, we are looking at what changed. From 2008 to today, what are the things that are different that need to be addressed. One of the things that is different, is that the original EIS didn't include the land in the Town of Coxsackie. The applicant always owned that land, but the project did not include that land. So, this EIS takes all of the different metrics they look at like soils, groundwater, wetlands, rare, threatened, or endangered species, water supply, sewer, and all of the different things, and extends it to looking at those additional added acres to the project. In addition to that, it deals with anything that has changed. So, the status of the water system and sewer system has changed since 2008. That has to be evaluated. The village's traffic scenario has changed, because there are now developments down by the river, and some other things have happened since then, so that has to be evaluated. The major things that they think about in terms of potential Environmental Impacts remain impacts to land, potential for erosion and sedimentation, runoff from the site, stormwater controls, potential impacts to wetlands, although they are very minor, impacts to habitat for rare, threatened, or endangered species, which is this

project is birds in particular, impacts to the Village's water system, sewer system, roads, pedestrian facilities, fiscal impacts in terms of generation of tax revenue for all of the different taxing jurisdictions, and a number of other topics that are covered. This also includes an evaluation of reasonable alternatives to the project that's proposed, and an assessment of growth inducing aspects which are required under SEQR. The way that the document is structured, is it lays out the existing conditions that are there, compares existing conditions to the potential project, and looks at what might happen if the project is built in terms of negative impacts to the environment. Then it lists mitigation measures, not to necessary eliminate those impacts, but reduce them as much as possible. Visual impacts are a part of this as well. Particularly for those on Van Dyck Street, since it is right in their backyards. So, that is the structure of this document. That is where it ends now. After it is put out to the public for comment, and receive the responses to those comments, then it is called a Final Supplemental Environmental Impact Statement (FSEIS), which you might think is the end of the process, but it is not. The FSEIS is the draft, plus the answers to the questions received. What this Board will be eventually doing is issuing something called a Findings Statement. The Findings Statement is really where the rubber hits the road. What that does is it describes the process that was conducted, it identifies those areas where impacts could be significant, and then outlines what has to be done from a mitigation perspective to reduce those, and that's the condition to the project advancing. Those things need to be done.

Trustee Rodney Levine arrived at 7:15 p.m.

Trustee Daoust asked if he understood correctly that the next meeting would be with the Town.

The next step would be to establish a time to conduct a Public Hearing, and it would be a joint Public Hearing. So, under SEQR, Public Hearings are optional, but under this Environmental Review process, for a project of this magnitude and scale, would certainly recommend one. You want to get public input. The annexation proceeding also requires a Public Hearing. Both state law relative to that annexation proceeding, and SEQR encourages you to the extent that you can have those hearings at the same time. That makes it a lot easier for the public to come to one meeting, and comment all of their concerns at once. So, that would be the next action. The Board does not have to establish that date tonight. It will have to be coordinated with the Town Board. In the Resolution to be voted on tonight, it states that the Village Board "...will endeavor to schedule such hearing for a date in September 2024...", and "...that the Village Board will endeavor to schedule the public hearing required for the annexation petition as hereinabove described, to be held jointly with the Town Board of the Town of Coxsackie...". There are also notice requirements. For SEQR it is 14 days, and for annexation it is 10 days. So, in this case, it would be the longer requirement of 14 days. Given the past hearings on this project, they would have a transcriptionist available who would make an exact record that would really help when responding to comments.

Mayor Evans asked Ms. Bianconi if she thought that it would be advisable to have the joint Public Hearing at the school.

Mary Beth Bianconi stated that she would imagine that it would make the most sense to have the hearing at the school due to the space needed. There should also be a microphone so that people can be clearly heard. September is an interesting time to try and use the school, with school starting, but they don't have something going on every day.

Trustee Daoust asked if when at the meeting, the public can ask the Board Members what their opinions are of the project.

Mary Beth Bianconi stated that it is a Public Hearing to obtain comment. It is not a Q&A. so, usually the way that it works, is they would ask the applicant to come and do a presentation of the facts. In a perfect world, people would sign in, and this way people could be called one at a time to come up to the microphone to speak. It is always a little frustrating to the public, because the purpose of a hearing is to not answer questions, it is to obtain the questions so that they can be answered. Ideally, in the presentation that would happen in the beginning, maybe some of those questions would get answered. That is the reason to have the presentation in the first place.

She said to remember that SEQR doesn't approve a project to get built. That is not its job. SEQR outlines environmental conditions, and what would need to be done to mitigate any impacts if a project were to be permitted. So, for this project, after SEQR is completed, it still has to go to the Planning Board for Site Plan review. This project also imbeds a lot of Area Variances in it. So, dimensional variances per the Village's Code. It'll have to go to the Zoning Board of Appeals for them to review all of the Area Variances. So, it'll go first to the ZBA for the Area Variances involved, then to the Planning Board for Site Plan approval, with our without conditions, or modifications, and then eventually to the Building Department for a Building Permit. So, SEQR isn't approving a project. If the Board gets to the end of this process, and issues a Findings Statement, no shovel goes in the ground the next day. That's not the way this process works. That'll be an important part of explaining the steps in the Public Hearing. In addition to getting through the local process of annexation, Area Variances with the ZBA, and Site Plan, this project also needs permits through NYS DEC, and NYS DOH. When they have all of that, they can come back and ask for a Building Permit.

Trustee Levine asked if the project gets approved, if it will be a partial approval, or for the full 360 homes they are looking to do in the future.

Mary Beth Bianconi stated that this project is being conducted under a Settlement Agreement. So, that outlines the number of units in total. The applicant has a couple of options. They have come with a master plan that shows them all. It is her understanding that they would like to have SEQR done for everything, which is what the Village is doing, get the Area Variances and Site Plan for everything, get their permits from the State, and then her understanding is that this is a phased project. So, when they come to get Building Permits, they will only be asking for Building Permits for that first phase.

Trustee Levine asked if he understood correctly that the initial approval will be for the entire project.

Mary Beth Bianconi stated that SEQR will be for the whole project, as well as Site Plan, Area Variances, and all of the DEC and DOH permits. This is actually part of the regulations. The reason it is, is because there was a time when developers would do these projects in pieces and parts, and there was no way of knowing if what was being done today, would create a problem in the future. So, that is why you now have to review the whole project.

Trustee Levine asked about how the sewer capacity will be addressed.

Mary Beth Bianconi stated that this is the kind of thing that is addressed in the EIS. The report identifies how much sewer they will need, what kind of approach they are taking, and it discusses the Village's infrastructure. That is the kind of question or comment that would come up in this next phase. Right now, the way that that section is written, states that they are going to build, own, and operate a collection system onsite. It will connect to Village infrastructure. They acknowledge that the Village is under a Consent Order, and there are limitations in the system. What they have said for a mitigation measure is that they recognize that they will need to be a partner in addressing those issues. They have said that that will be covered under something called a Developer's Agreement, which is a legal document that the Village would sign that lays out what would need to be done in each phase. We don't have all of those details at this time.

Mayor Evans stated that this project has been going on for so long, and given the current state of the economy, he has questioned for a while whether their economic model still works. He asked what would happen if the Village gets through the approval process, and the applicant builds the first 50 houses, but something happens, like the economy completely crashes, or people aren't buying the units that are there, and the second phase never kicks in. Everything he has read has indicated that it is a phased project. He asked if there is anything in the Village's authority or power in the law that acknowledges that the Village approved this project for 360 homes that were supposed to be built over a certain year period, and if they fail to do so, approval can be pulled at some point, or it can be considered an abandoned project.

Mary Beth Bianconi stated that unfortunately not. That is not something that the Village could

do. One of the things that they are requesting from the applicant in their phasing, is that each phase needs to look like it's the only thing that was ever supposed to be built there. so, when phase one is done, when you drive by from the outside, it should look like that is all that was ever planned to be there, and so on with phase two. That is because it is a market based project. They've figured on 8 years based on their knowledge of their market. It could be quicker, it could be longer, and it could be never. She thinks that the Village's antidote to that is to make sure that in terms of the infrastructure, the infrastructure design is protective of the integrity of the Village's system, whether it is just one phase or all of the phases. That is a part of why these details all need to be nailed down, and we need to understand them, because the infrastructure, roads, all of the things that are going to be built, mitigation measures that are put in place, and any permits that are received, have to be all in consideration of the fact that this is phased over a very long period of time. In the 1980's there were a lot of half-done subdivisions. They looked terrible. So, that is part of this process, to look at each phase, and have each phase be insular. It is supposed to look like it is the only phase that was ever supposed to be done, and the rest of it is just going to be vacant land.

Mayor Evans asked if in terms of the infrastructure they put in, for example they run a water line down a row of houses that are supposed to continue, but they are not ready to continue, if they would have to cap the water line.

Mary Beth Bianconi stated that they would have to get to the details of something like that. They haven't gotten there yet. Those kinds of things are usually discussed as part of the Site Plan process, which is still a little ways down the road, but from a SEQR perspective, they will have to have an understanding that the Village is approving something that is not going to have a negative impact on the environment, including the water system, or roads, or any of those kinds of things. All of the offsite improvements, anything that needs to be done on Van Dyck Street, Lafayette Avenue, Lawrence Avenue, and whatever else, would all have to be done upfront. That would all be a part of the very first phase, so that the neighborhood is only disturbed once, and one time only. Then, whatever is happening on the site is not an impact to the neighborhood or the systems.

Mayor Evans asked Ms. Bianconi if she has ever experienced an issue that has come up in a project that cannot be mitigated.

Mary Beth Bianconi gave an example of a solar project in Rensselaer county where the impact is pretty substantial, and the mitigation that is offered is very de minimis. She thinks that they are heading to a point where the mitigation that's been offered by the applicant, does not rise to the level of reducing the impact enough for SEQR standards. So, they have been asking the applicant in the nicest of ways to bring their mitigation up to a level that is more on par with the impact. They have not done that. She thinks that they are going to get to a point in that process, probably towards the end of this year, where the Board may need to step in, and may need to impose the mitigation on them. They sometimes have these instances where there is a mismatch between the impact and the mitigation that is offered. She gave another example of a closing of a small college in Dutchess county where the mitigation measures had to be imposed on them.

Mayor Evans stated that back when this project was first introduced, the IDA went and took options on all of the property surrounding the project, and locked it up so that the applicant couldn't obtain any property to use as mitigation.

Mary Beth Bianconi stated that that was the Greene Land Trust.

Mark Evans stated that over the years, as the renewals came up, they did not renew the options on those properties, and then UMH went and bought a series of properties around the project in order to have the property for mitigation. The only way that the Village knew that, is that they would periodically send a letter to the DEC saying that they bought a piece of property, and they want to use it as mitigation, and the Village would get copied on a letter back to UMH stating that the DEC recognizes their piece of property, and is valid to be used as mitigation, or in one case, there was a piece of property that was not the same topography, so it wasn't allowed to be used.

Mary Beth Bianconi stated that this was for their habitat mitigation, because they are going to be doing what is called a "Taking Permit".

Trustee Meier stated that she did scan the 1,600 page SDEIS document, and when looking at the habitat area, it was significant, especially with the owls and animals that are over there. She asked if it was up to the DEC to approve the applicant's permit, and the Village has no recourse.

Mary Beth Bianconi stated that DEC's job is to make sure that the project does not damage the population. The State Constitution and Village Law does not empower the Board to protect habitat. It just doesn't. The Board can have regulations, and make people do a review, but can't assert a higher governmental body. The applicant is going to get a Taking Permit for this project.

Trustee Meier asked what a Taking Permit is.

Mary Beth Bianconi stated that an Incidental Taking Permit is when there is an animal, or plant, that is identified as a rare, endangered, or threatened species, and there are two categories. One is if the applicant is going to do an action where they are impacting habitat of that species, but they are not impacting the individuals. That is considered incidental, because they are not actually impacting the individual, they are impacting their habitat. Nobody is going out and trapping birds, and killing them, it is that the project is impacting their habitat, which is grassland. There are grassland species of birds in this area, such as the short eared owl, and harrier hawks. One of the big issues for these species involves connecting corridors. If there are isolated patches of habitat, it is less valuable from a conservation perspective, rather than having long corridors that are all connected. So, that is to the Mayor's point about all of that land on Lawrence Avenue, that goes up along the Cocksackie Creek, and eventually goes out to the river in New Baltimore. That is owned by the Greene Land Trust, who purchased development rights on a lot of that land, so that they can maintain that corridor. It's a pretty complex process, but that is one of the many permits that the applicant will have to get before they do any work on the site.

Trustee Irwin asked if she understood correctly that there is always a solution for impacts, it is just a matter of whether or not the applicant is willing to pay for it etc.

Mary Beth Bianconi stated that SEQR isn't about approving projects, it is about identifying impacts, determining whether they are important or significant, and identifying mitigating factors. She is sure that there are times when there aren't mitigations that can be met. The reality is that most of the time, by this point in the project, where there is a lot of time and money invested, there are mitigations out there. The projects where people walk away from sites where they can't be mitigated around here, are sites where there are steep slopes of greater than 25%, because it cannot meet building codes, and sites with cultural resources, both Native American and the Dutch in our area. So, those sites cannot be mitigated. There is nothing you can build or do. For habitat of rare, threatened, or endangered species, unfortunately our species that we have around here, such as the short eared owl, they used to overwinter in Canada, and because of climate change and it getting warmer and wetter, they now overwinter here. There are some things, but generally speaking, there are mitigation measures that can be put into place for virtually everything. It is a matter of time and money, and sometimes it is the cost of mitigation is too large compared to the profit that the applicant may make. So, sometimes that happens as well. She knows that there will be more questions, specifically on the documents. Assuming that the Board does find that the documents are ready for review, what Delaware Engineering will do, is get their review done as quickly as possible and get it to the Board, and help review where some of the more critical aspects of the project are from a SEQR perspective. She thinks that that will be helpful. That is not to say that Delaware Engineering's comments are the only comments, but she does think that that will help. One of the things that the applicant did that was really wonderful, is when you go on the digital version of the document, and go into the Table of Contents, you can click items in the Table of Contents that will take you right to that text. So, you don't have to flip through thousands of pages for things you are looking for.

Trustee Meier asked if that is the document on the applicant's website.

Mary Beth Bianconi stated that this is the document on the Village's website.

Trustee Meier stated that she was accessing the document on a mobile device, and couldn't find the traffic study that she wanted to look at.

Mary Beth Bianconi stated that it is extremely difficult to find, because she did the same thing while looking at it on her iPad, and while on her iPad, it didn't come up that way. So, you have to look at it on a real computer.

Trustee Meier stated that that is good to know.

Mary Beth Bianconi stated that the document is still all there, it is just that that specific functionality of clicking on Table of Contents doesn't work the same on mobile devices. If you have Adobe on your computer, and you are looking at the document, you can actually get the whole Table of Contents as bookmarks on the lefthand column, and then you can just click the one that you want. That is the way she usually reviews these multi-thousand page documents. All of the comments will go to the Village Clerk, she will collect them all, and also pass them along to the applicant. The applicant will be asked to do a catalogue, which will be like an Excel spreadsheet, showing the date, person, and what page the comment is located on. The other thing that Delaware Engineering recommends, and the applicant does not have to do this, but they like to see the comments grouped based on topic. For example, all of the comments based on water together, all of the comments based on traffic together, etc. So, even if one person commented on five different things, the applicant could put each section of their comment in the appropriate spot. This way when the applicant is responding, you are seeing the appropriate responses to that topic and not jumping around. It makes it much easier to see how the responses are put together, and makes it much easier to make sure that every comment that was made is being addressed, and none of them are being left by the wayside. With comment responses, Delaware Engineering will usually also ask for something that is called a Responsiveness Document. This shows in what ways the comments were responded to. That is also really helpful to make sure that we have received all of the comments, and all of the comments are being addressed. Usually after a FEIS, with the responses back from the applicant, Delaware Engineering would host a Workshop Meeting with the Board to walk through all of those things, and make sure that all of the bases are covered, they have received all of the information that is needed, and it is responsive to the comments that were asked. So, this is a long, elaborate process. It is not quick. Again, once this part of the process is concluded, there is a lot more that has to be done before shovels can actually get in the ground.

Trustee Irwin asked if the role of the Planning Board in this particular project is different than normal.

Mary Beth Bianconi stated that the Planning Board will conduct the Site Plan review. The difference is that the Planning Board usually conducts SEQR, but with this project, SEQR is being handled by the Village Board, not Planning Board. The Village was made the SEQR Lead Agency back in 2006-2007, when there was a land use moratorium in place due to the Village Code being updated at that time. Normally, the Planning Board declares Lead Agency, conducts SEQR, etc. This project includes annexation as well, which is a different process.

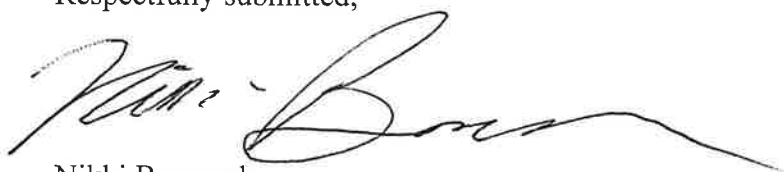
A roll call vote was taken on Resolution No. 162024-Supplemental Draft Environmental Impact Statement Completeness Review-Mountain View Estates Project. Mayor Evans voted yes. Trustee Daoust voted yes. Trustee Irwin voted yes. Trustee Levine voted yes. Trustee Meier voted yes. The resolution passed.

Mayor Evan stated that that is the only action to be done for tonight. The next step will be for him to coordinate with the Town Supervisor in order to schedule an acceptable date for the joint Public Hearing. They will try to schedule it to be held at the school, so that they will have plenty of room. He will let the Board Members know as soon as he hears anything.

A motion to adjourn the Special Meeting was made by Trustee Levine and seconded by Trustee Meier. Trustee Daoust voted yes. Trustee Irwin voted yes. Trustee Levine voted yes. Trustee Meier voted yes. The motion carried.

The meeting was adjourned at 7:59 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nikki Berezna". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nikki Berezna
Clerk