



The Town of East Greenbush

225 Columbia Turnpike, Rensselaer, NY 12144

TOWN BOARD MEETING

Wednesday, September 9, 2009

Call to Order 7:00 PM

Pledge to the Flag

Town Board Meeting:

Members of Town Board

Present Absent

Supervisor McCabe

Councilperson Kennedy

Councilperson Danaher

Councilperson Cristo

Councilperson Matters

Communications / Announcements / Reports

Open Public Privilege: NOTE: Each speaker shall state name and address prior to addressing the Board and shall be granted the floor for up to five minutes. The Board thanks everyone in attendance for their understanding and also for their desire to actively participate in the decision-making process locally.

Resolutions and Proposals by Town Board Members:

79-2009 Approval of Meeting Minutes

WHEREAS, the minutes of Town Board meetings, as provided in §106 of Article 7 of the New York Public Officers Law, shall be approved by the Board prior to them being finalized, deemed official, and/or disseminated to the public by the Town Clerk; and

WHEREAS, that the minutes of the Town Board Meeting held on August 12, 2009, have been submitted to the Town Board by the Town Clerk; and

WHEREAS, the Town Board has reviewed these minutes and any necessary corrections have been made; now therefore

BE IT RESOLVED, that the minutes of the Town Board Meeting held on August 12, 2009, are hereby approved as submitted.

The foregoing Resolution was duly moved by Councilperson Matters and seconded by Councilperson Danaher and brought to a vote resulting as follows:

COUNCILPERSON MATTERS	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES

80-2009 Site Plan Approval – Nigro Companies Multi-Tenant Retail Building (Tabled 74-2009)

WHEREAS, the Town of East Greenbush received an application for the site plan review known as the Nigro Companies Multi-Tenant Retail Building , tax parcel number 144.-2-5-5, prepared by Bergmann Associates; and

WHEREAS, the application was accompanied by a proposed site plan, Part 1 of a Full Environmental Assessment Form (“EAF”) and other supporting information; and

WHEREAS, subsequently the Town Planning Board, its designated engineer and the Project Review Team have taken a “hard look” at the current project proposal and its potential environmental impacts by carefully considering and reviewing the Full Environmental Assessment Form, considering all the Applicant’s proposed mitigation measures as they relate to

all environmental issues and more particularly to traffic, fire and rescue and MS-4 storm water detention; and

WHEREAS, the Planning Board previously issued a Negative Declaration for the proposed project/ outparcels at its meeting of April 3, 2002 within its review of the “Target Store Project” and adopted the “Target Store Projects Findings Statement”, dated April 3, 2002; and

WHEREAS, at its meeting of August 12, 2009 the Town Board concurred with the Planning Board’s SEQRA Determination. Planning Board determined that the proposed project is within the thresholds of the aforementioned SEQRA Findings Statement and recommended the Town Board take no further action under SEQRA; now therefore

BE IT RESOLVED, that the Town Board of the Town of East Greenbush does hereby grant site plan approval for the proposed project subject to the following conditions:

- Satisfying outstanding technical details as determined by the Town Planning Department and the Planning Board’s Designated Engineer which shall include wood guide rail along NYS Rt. 4; and
- All exterior light fixtures are cut-off type fixtures and site lighting conforms to Section 3.2.6 in the Town’s Comprehensive Zoning Law; and
- That the Applicant execute a Stormwater Pond Maintenance Agreement prior to any site disturbances; and
- That the existing stormwater basin(s) be fenced with an appropriate gated access; and
- That the proposed on site sidewalk extending from NYS Route 4 be reconfigured to align with the sidewalk in front of the proposed building; and
- That a bike rack be included; and
- That additional timber guide rail be provided at along all grade elevation changes as determined by the Town’s Designated Engineer and Project Review Team; and
- That the proposed landscaping plan is enhanced to be consistent with the requirements of the Town’s Comprehensive Zoning Law; and
- All remaining fees be paid and escrow provided to the Town

The foregoing Resolution was duly moved by Supervisor McCabe and seconded by Councilperson Kennedy and brought to a vote resulting as follows:

SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

81-2009 East Greenbush Miracle League – Municipal Endorsement & Authorization to Pursue Grant Funding

WHEREAS, the East Greenbush Miracle League is applying to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for a grant under the Environmental Protection Fund for a park project to be located within the East Greenbush Town Park, tax map parcel # 167.00-4-8.2, a site located within the territorial jurisdiction of the East Greenbush; and

WHEREAS, as a requirement under the rules of these programs, said not-for-profit corporation must obtain the “approval/endorsement of the governing body of the municipality in which the project will be located”; now therefore

BE IT RESOLVED, that the Town of East Greenbush Town Board does hereby approve and endorse the application of the East Greenbush Miracle league for a grant under the Environmental Protection Fund for a park project know as the Capital Region Miracle League Jaime M. Adams Field located in the Town of East Greenbush Town Park and hereby affirms public and community support for the project; and be it

FURTHER RESOLVED, should the East Greenbush Miracle League be unable to do so, said property shall be forever maintained by the Town of East Greenbush as a municipal park in this community consistent with the rules promulgated by OPRHP.

The foregoing Resolution was duly moved by Councilperson Kennedy and

seconded by Councilperson Danaher and brought to a vote resulting as follows:

COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

82-2009 Department of Justice Grant Approval – FY09 Recovery Act (BJA-Byrne JAG)

WHEREAS, a joint application was submitted with the City of Troy, the Town of North Greenbush, the City of Rensselaer, the Town of East Greenbush Police Departments, and the Rensselaer County Sheriff’s Office for a grant under the FY09 Recovery Act (BJA-Byrne JAG); and

WHEREAS, Grant Award Number: 2009-SB-B9-0186 in the amount of \$248,717 has been awarded on June 9, 2009; and

WHEREAS, the City of Troy will serve as the lead agency and chief fiscal agency; and

WHEREAS, the East Greenbush Police Department share of the grant was for the purchase of a crime scene vehicle with requisite law enforcement options in the amount of \$24,493.00 (attached Grant Award); now therefore

BE IT RESOLVED, that the East Greenbush Police Department is hereby authorized to purchase the equipment as outlined in the Budget Narrative (attachment 2) of the Grant not to exceed \$24,493.00, which will be reimbursed from the City of Troy, the chief fiscal agency, per grant agreement; and be it

FURTHER RESOLVED, that the Town of East Greenbush agrees to comply with the administrative requirements set forth by the chief fiscal agency, the City of Troy.

The foregoing Resolution was duly moved by Councilperson Kennedy and seconded by Councilperson Cristo and brought to a vote resulting as follows:

COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

83-2009 New York State Department of Transportation and National Railroad Passenger Corporation and CSX Transportation Memorandum of Understanding

This Memorandum of Understanding dated the 9th day of September, 2009 among the New York State Department of Transportation (“NYSDOT”) acting by and through the Commissioner of Transportation, with offices at 50 Wolf Road, Albany, New York 12232, the National Railroad Passenger Corporation (“AMTRAK”), with offices located at 60 Massachusetts Avenue, NE, Washington D.C. 20002, CSX Transportation, Inc. (“CSX”), with offices at 500 Water Street, Jacksonville, Florida, 32202 and the Town of East Greenbush (“TEG”), with offices at East Greenbush Town Hall, 225 Columbia Turnpike, Rensselaer, New York 12144, provides for the understanding between the parties for application and implementation of rail projects under the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”).

WHEREAS, the Federal Railroad Administration ("FRA") will be making available federal grants for maintaining and improving rail transportation service pursuant to ARRA, and

WHEREAS, the \$8 billion in High Speed Rail funding contained in ARRA represents the first appropriations for sections of 301, 302 and 501 of the Passenger Rail Investment and Improvement Act of 2009 ("PRIIA"), and

WHEREAS, New York has developed a State Rail Plan which meets the requirements of ARRA and PRTIA, and

WHEREAS, the Strategic Plan for High Speed Rail in America identifies both the Empire Corridor as eligible for high speed rail project funding and other portions of the State of New York’s

Intercity Passenger Rail system as eligible for rail capital improvement funding under sections 301, 302 and 501 of PRIIA, and

WHEREAS, funding under ARRA will follow three tracks for 1) project grants, 2) corridor program cooperative agreements, and 3) planning cooperative agreements, and

WHEREAS, as prerequisites for ARRA funding, applicants must have in place or describe how they will reach written agreement with infrastructure owners/host railroads, the operator of proposed service, and any other stakeholders to clarify roles and responsibilities and to ensure project success, and

WHEREAS, NYSDOT is submitting grant applications pursuant to the requirements of ARRA in the amount of seven million five hundred seventy thousand dollars (\$7,570,000), and

WHEREAS, AMTRAK, CSX and TEG agree that the proposed project meets the requirements of ARRA and PRIIA and that each railroad is a fill participant in project implementation.

NOW THEREFORE, NYSDOT, AMTRAK, CSX and TEG hereby agree as follows:

- 1) NYSDOT shall submit the grant application for the project listed in Schedule A, attached hereto.
- 2) AMTRAK as operator, CSX as owner, TEG as owner and NYSDOT will enter into individual implementing agreement(s) in order to progress the project contained on schedule A funded by FRA through PRIIA which will fully define the roles and responsibilities of the parties in implementing ARRA projects.
- 3) Each party agrees to comply with all application, reporting and expenditure requirements associated with ARRA and incorporated into the implementing agreement(s).
- 4) NYSDOT is responsible to act as lead agency in coordinating the design, construction and advancement of the project.
- 5) CSX is responsible to participate in the design, construction, maintenance and operation of the project, as applicable, and as set forth in the implementing agreement(s) for a specific project.
- 6) AMTRAK is responsible to participate in the design, construction, maintenance and operation of the project, as applicable, and as set forth in the implementing agreement(s) for a specific project.
- 7) TEG is responsible to participate in the design, construction, maintenance and operation of the project, as applicable, and as set forth in the implementing agreement(s) for a specific project.

The foregoing Resolution was duly moved by Councilperson Cristo and seconded by Councilperson Danaher and brought to a vote resulting as follows:

COUNCILPERSON CRISTO	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

84-2009 Authorization to the Supervisor of the Town of East Greenbush to Enter into an Agreement with the New York State Department of Transportation and Execute all Related Documents in connection with Infrastructure Improvements associated with the Intersection of NYS Route 4 and NYS Route 151

WHEREAS, New York State has awarded the Town of East Greenbush, County of Rensselaer a SFY 2008-09 Member Item in the sum of \$2,000,000.00 for the construction of a roundabout and associated improvements at the intersection of NYS Route 151 and NYS Route 4; and

WHEREAS, there is no matching funds required and the Town of East Greenbush wishes to complete the subject improvements;

NOW THEREFORE BE IT RESOLVED, that the Supervisor of the Town of East Greenbush is hereby authorized to enter into an agreement with the New York State Department of Transportation for the aforementioned grant and the construction of a roundabout and associated improvements at NYS Route 151 and NYS Route 4 and the Supervisor is further authorized to execute any and all documents necessary to effectuate the foregoing.

The foregoing Resolution was duly moved by Supervisor McCabe and seconded by Councilperson Kennedy and brought to a vote resulting as follows:

SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

85-2009 Town Board Request to act as Lead Agency for the Fed Ex Ground Package and Sorting Facility Planned Development District

WHEREAS, Scannell Properties and Boswell Engineering, on behalf of Fed Ex Ground have submitted an application and site plan for a project located along NYS Route 4 and identified on the Town’s Tax Roll as Tax Parcel # 144.00-4-41.31 and 144.00-4-41-32; and

WHEREAS, the Town Planning Board at its meeting of September 2, 2009 recommended the Town Board declare its intent to seek SEQRA Lead Agency status in connection with a coordinated review; and

WHEREAS, the Town Board wishes to assume lead agency status in connection with coordinated SEQR review of the Project and hereby determines the project is a Type 1 Action under SEQRA;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Project will require review under the State Environmental Quality Review Act (“SEQRA”)
2. The following are or may be:
Involved agencies under SEQRA:
East Greenbush Town Board
NYSDOT
NYS Department of Environmental Conservation
Rensselaer County Health Department
Rensselaer County Water & Sewer Authority
U.S. Army Corps of Engineers
Interested agencies under SEQRA:
East Greenbush Planning Board
East Greenbush Fire District #3
W. F. Bruen Rescue Squad
Rensselaer County Bureau of Planning
Rensselaer County Industrial Development Agency
NYS Office of Parks, Recreation & Historic Preservation
East Greenbush Department of Public Works
East Greenbush Traffic Safety Committee
Capital District Transportation Authority
Capital District Transportation Committee
National Heritage Program
3. The Town Board wishes to assume lead agency status in connection with coordinated SEQR review of the Project
4. The Town Board directs that a lead agency coordination letter be sent to all the involved agencies requesting their consent to designation to the Town Board as lead agency for SEQR review of the Project

The foregoing Resolution was duly moved by Councilperson Danaher and seconded by Councilperson Cristo and brought to a vote resulting as follows:

COUNCILPERSON DANAHER	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES

SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

86-2009 Site Plan Approval – Fiacco Site Plan – NYS Route 4

WHEREAS, the Town of East Greenbush received an application for the site plan review known as the Fiacco Family LP c/o Mr. Leon Fiacco, tax parcel number 144.02-5-6,7, prepared by Hart Engineering; and

WHEREAS, the application was accompanied by a proposed site plan, Part 1 of a Full Environmental Assessment Form (“EAF”) and other supporting information; and

WHEREAS, the Planning Board, at its meeting of September 3, 2008, accepted a Sketch Plan for the proposed site plan and recommended the Town Board declare its intent to seek Lead Agency status in connection with a coordinated review and determine the proposed project as an Unlisted Action under SEQRA; and

WHEREAS, the Town Board at its meeting of September 10, 2008 declared its intent to seek Lead Agency status in connection with a coordinated review under SEQRA; and

WHEREAS, the Town Planning Board and the Project Review Team have reviewed the application materials and the original site plan which has been revised in response to various concerns raised and have determined that the action as designed will not result in any large or significant impacts on the environment; and

WHEREAS, the Planning Board, at its meeting of July 1, 2009, recommended the Town Board issue a Negative Declaration under SEQRA; and

WHEREAS, the Town Board at its meeting of July 8, 2009 issued such Negative Declaration; and

WHEREAS, the Planning Board, at its meeting of August 26, 2009, recommended the Town Board grant conditional site plan approval; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of East Greenbush does hereby grant site plan approval for the proposed Fiacco Family site plan subject to the following conditions:

- Satisfying outstanding technical details as determined by the Town Planning Department; and
- That the Applicant satisfy the requirements of the New York State Department of Transportation; and
- All exterior light fixtures be cut – off type fixtures with zero lumens extending beyond the property lines; and
- That prior to the issuance of a building permit the proposed architecture is presented to the planning board for review and approval; and
- All remaining fees be paid and escrow provided to the Town.

The foregoing Resolution was duly moved by Councilperson Kennedy and seconded by Supervisor McCabe and brought to a vote resulting as follows:

COUNCILPERSON KENNEDY	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON DANAHER	VOTED	ABSTAIN
COUNCILPERSON CRISTO	VOTED	YES
COUNCILPERSON MATTERS	VOTED	ABSTAIN

87-2009 Resolution Accepting the Final Environmental Impact Statement

WHEREAS, the Town of East Greenbush Town Board is in receipt of a Final Environmental Impact Statement Site prepared by Lynch & Hetman, PLLC on behalf of East Greenbush Marina, LLC (the Applicant), to develop a ±24.95 acre parcel of land as the East Greenbush Marina; and

WHEREAS, the project site consists of Rensselaer County tax parcel 154.02-20 on Papscaene Island on the east bank of the Hudson River in the Town of East Greenbush. The project site has frontage on the east on Riverside Avenue Extension, also known as American Oil Road. A Hess bulk fuel storage facility borders the site to the south and a Sprague bulk fuel storage facility borders the site to the north. The project site consists of 24.95 acres. The site was formerly a turning basin for the Port of Albany. It is currently undeveloped; and

WHEREAS, on December 2, 2005 the applicant submitted an application and full environmental assessment form to the Town Board with the project which includes three floating docks with 84 boat slips, fuel pumps, parking spaces for 174 automobiles and a boat launch ramp, and six buildings to be constructed on site, including four boat/RV storage buildings, one building containing a repair shop, one quick launch facility (which includes storage racks for 96 boats) and one building containing an office, ship store, laundry and restroom/shower facility for boaters. The three docks include a haul out service dock at the lift wells, one dock with 20 slips at the launch ramp area and one main dock with 64 slips. A boat slip will be dedicated to the Town of East Greenbush Police Department for its use as a public service. The facility will include a pump-out service for boat sanitary waste which will be stored in a 1,500 gallon tank for disposal. The facility will provide fuel for boaters. Water will be provided by a well developed on the site. Site-generated sanitary sewage will be disposed of in an in-ground system. Stormwater will be managed on-site in accordance with DEC regulations. In order to create sufficient water depth, dredging of the Hudson River will be required. Some of the dredged material is contaminated with PCBs in excess of Federal standards and will therefore be disposed of in accordance with Federal regulations. Access will be from Riverside Avenue Extension. No off-site improvements are required to serve the project; and

WHEREAS, on December 5, 2005, the Town Board accepted the sketch plan and subsequently voted on December 15, 2005 to request Lead Agency status for SEQRA and directed that a lead Agency coordination letter be sent to all involved agencies; and

WHEREAS, on February 1, 2006, after circulating the application and Environmental Assessment Form (EAF) to all Involved Agencies, the Town Board was designated the SEQR Lead Agency for the review of the proposed development; and

WHEREAS, on February 8, 2007, based on project changes, the applicant submitted a revised full environmental assessment form and supporting documents; and

WHEREAS, having reviewed the potential environmental effects of the proposed project, as identified in the EAF, the Town Board issued a Positive Declaration for the project on September 12, 2007, requiring the applicant to prepare a Draft Environmental Impact Statement (DEIS); and

WHEREAS, the Town Board conducted a public Scoping Session on March 5, 2008 to identify each relevant issue to be studied in the DEIS; and

WHEREAS, on April 9, 2008, the Town Board reissued Positive Declaration to correct a notification error in the previous filing and on April 21, 2008 established a Scoping comment period through 5/1/08; and

WHEREAS, on May 14, 2008, the Town Board adopted the Scoping Document; and

WHEREAS, on August 13, 2008, Town Board accepted the Draft Environmental Impact Statement (DEIS) as complete, caused the DEIS to be circulated to all Involved Agencies and all other agencies and persons as required by SEQRA; caused the DEIS to be posted to a website linked to the Town's official website and established a comment period ending on October 22, 2008; and

WHEREAS, on October 8, 2008, the Town Board scheduled and held a public hearing on the DEIS and subsequently closed the public comment period on October 22, 2008; and

WHEREAS, on or about July 16, 2009, the Applicant submitted a proposed FEIS for the Town Board's review and consideration; and

WHEREAS, in response to comments received from the Town and its consultants, the Applicant submitted a revised proposed FEIS on or about August 6, 2009; and

WHEREAS, the development proposal contained in the FEIS is generally consistent with the initial site plan application of 2005 with specific project changes further described within the DEIS and FEIS; and

WHEREAS, on September 16, 2008, the Planning Board accepted the FEIS and deemed it to be complete, based upon its determination that the FEIS provides a sufficient basis for the Planning Board and all involved agencies to carry out their decision-making and findings responsibilities under section 617.11 of the SEQRA regulations; and

NOW THEREFORE BE IT RESOLVED, that the Town Board adopts the Final Environmental Impact Statement as submitted by the Applicant on August 6, 2009; and

BE IT FURTHER RESOLVED, that the Town Board shall cause this FEIS to be sent to: (1) the Town of East Greenbush Town Supervisor; (2) the Town of East Greenbush Planning Board; (3) Town of East Greenbush Zoning Board of Appeals; (4) all involved agencies; (5) any person who has requested a copy; and (6) the applicant; and

BE IT FURTHER RESOLVED, that one or more copies of the FEIS shall be immediately filed in the Town Clerk's Office, and shall be made available for public inspection during normal hours of business.

The foregoing Resolution was duly moved by Councilperson Kennedy and seconded by Councilperson Danaher and brought to a vote resulting as follows:

COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES
COUNCILPERSON MATTERS	VOTED	YES

88-2009 Continuanace of Public Hearing for Proposed Noise Ordinance

WHEREAS, a public hearing was held on August 12, 2009, relative to a proposed noise ordinance for the Town of East Greenbush, County of Rensselaer, State of New York; and

WHEREAS, in recognition of the town-wide significance of such proposed noise ordinance, it is deemed to be in the town's best interest to extend such public hearing; now therefore

BE IT RESOLVED, that the public hearing scheduled for September 9, 2009, is hereby extended until such public hearing is reconvened on October 14, 2009 at 6:00 PM; and be it

FURTHER RESOLVED, that written comments from the public shall be received by the Town Clerk until and through October 14, 2009.

The foregoing Resolution was duly moved by Councilperson Matters and seconded by Councilperson Cristo and brought to a vote resulting as follows:

COUNCILPERSON MATTERS	VOTED	YES
COUNCILPERSON CRISTO	VOTED	YES
SUPERVISOR McCABE	VOTED	YES
COUNCILPERSON KENNEDY	VOTED	YES
COUNCILPERSON DANAHER	VOTED	YES

ADJOURNMENT

Motion by Councilperson Kennedy to adjourn.

Seconded by Supervisor McCabe and brought to a vote as follows:

SUPERVISOR McCABE	YES
COUNCILPERSON KENNEDY	YES
COUNCILPERSON DANAHER	YES
COUNCILPERSON CRISTO	YES
COUNCILPERSON MATTERS	YES

Meeting Adjourned 8:10 PM