

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 RECOMMENDATION TO TOWN BOARD RESOLUTION  
5 AUTHORIZING USE OF FUNDS COLLECTED PURSUANT TO THE  
6 STATEMENT OF FINDING FOR LISHA KILL/KINGS ROAD AREA  
FOR RECREATIONAL IMPROVEMENTS

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7 RESOLUTION ADOPTING 2015 GEIS DEVELOPMENT  
8 MITIGATION COST WORKSHEETS FOR THE AIRPORT, LISHA  
KILL/KINGS ROAD AND BOGHT ROAD/COLUMBIA STREET GEIS

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10 THE STENOGRAPHIC MINUTES of the above entitled  
11 matters by NANCY STRANG-VANDEBOGART, a Shorthand  
12 Reporter, commencing on February 24, 2015 at 7:46  
13 p.m. at The Public Operations Center, 347 Old  
Niskayuna Road, Latham, New York

14 BOARD MEMBERS:  
15 PETER STUTO, CHAIRMAN  
16 SUSAN MILSTEIN  
17 LOU MION  
18 KATHY DALTON  
19 CRAIG SHAMLIAN

20 ALSO PRESENT:  
21 Kathleen Marinelli, Esq., Counsel to the Planning Board  
22 Michael Tengeler, Planning and Economic Development  
23 Joe LaCivita, Director, Planning and Economic Development  
24 Joe Grasso, PE, CHA  
25 Susan Quine Laurillard

1           CHAIRMAN STUTO: The next two items on the agenda  
2           are related. I'll just read the first one and Joe  
3           LaCivita or Joe Grasso, whoever wants to talk about it,  
4           can talk about it first.

5           This is a recommendation to Town Board,  
6           Resolution authorizing use of funds collected  
7           pursuant to the statement of findings for Lisha  
8           Kill/Kings Road Area Generic Environmental Impact  
9           Statement for recreational improvements.

10          I understand that we got a lengthy letter from  
11          the neighborhood association yesterday.

12          MR. LACIVITA: Yes.

13          CHAIRMAN STUTO: I don't know if somebody wants to  
14          give an introduction and then we'll talk about it and  
15          see whether we are ready.

16          Joe Grasso; thank you.

17          MR. GRASSO: There are actually two draft  
18          Resolutions for consideration.

19          CHAIRMAN STUTO: Let me read the title to the  
20          second one.

21          Resolution adopting 2015 GEIS development  
22          mitigation cost worksheets for the Airport, Lisha  
23          Kill/Kings Road and Boght Road/Columbia Street GEIS.

24          So, the first one is a recommendation to the  
25          Town Board authorizing the use of funds collected

1           pursuant to the statement of findings. I believe  
2           that it's three GEIS study areas; the Airport Area,  
3           the Lisha Kill/Kings Road and the Boght Road Area.  
4           There is a draft Resolution provided to the Planning  
5           Baord Members for consideration. It basically  
6           allows the mitigation funds collected for recreation  
7           improvements to be used not solely for pocket parks,  
8           as originally envisioned back in the late 80's or  
9           early 90's, but also to be used for other Town owned  
10          public recreational facilities throughout the Town.  
11          It can also fulfill recreational needs of the  
12          residents and new residential developments in these  
13          three study areas. That would include things like  
14          existing park facilities, existing golf course and  
15          things of that nature - always still used for  
16          recreation facilities. That's the first one.

17                 The second one is adopting a new fee schedule  
18                 for the GIS study areas. This is something that is  
19                 routinely done every couple of years based on cost  
20                 of living increases; something that we recommend the  
21                 Town do so that the funds collected can adequately  
22                 fund the other increasing cost of public  
23                 improvements. Those are the two things for the  
24                 Board's consideration.

25                         CHAIRMAN STUTO: There's a member of the

1 neighborhood association here?

2 MR. GRASSO: Yes, the Birchwood Neighborhood  
3 Association.

4 There are two pieces of correspondence that  
5 came in. There is a letter dated February 5th from  
6 them and that letter is pertaining to the Resolution  
7 regarding the use of the Airport Area GIS recreation  
8 mitigation fees.

9 The second one is dated February 21st which is  
10 regarding an agenda item pertaining to the  
11 Resolution regarding adopting 2015 GIS development  
12 mitigation cost work sheets for the Airport Area  
13 GIS. That's just to clarify things.

14 CHAIRMAN STUTO: Okay, so as we talked, I know that  
15 you hadn't seen the second letter, Joe, until before the  
16 meeting; correct?

17 MR. GRASSO: Either letter.

18 CHAIRMAN STUTO: And you thought you might want a  
19 chance at that.

20 MR. GRASSO: Yes, I would. I would like a chance  
21 to look all through it in detail.

22 CHAIRMAN STUTO: So, we may or may not vote on this  
23 tonight, but we'd like to give you a chance to summarize  
24 your thoughts.

25 MS. QUINE LAURILLARD: I'm Susan Quine Laurillard.

1 Thank you for giving me the opportunity to speak tonight  
2 I am a member of the Birchwood Neighborhood Association.  
3 Joel [SIC] Weingarden is our president. He wasn't able  
4 to be here tonight. He's working at St. Peter's  
5 Hospital.

6 I would just like to clarify. Our concern was  
7 the pocket park issue. You said that the recreation  
8 mitigation funds - and I'm just looking at how that  
9 Resolution is drafted and this may be what led us to  
10 some concern. The way that it's drafted right now,  
11 it talks about that since 2002 there has been no  
12 further need for pocket parks or interest in pocket  
13 parks.

14 As you know, in the Birchwood Neighborhood  
15 area, which is part of the Vly/Denison Road area,  
16 which is part of the Airport Area GIS study area,  
17 there was a development approved back in 2011; the  
18 Forest Hills Subdivision. That subdivision is  
19 requiring that the pocket park be placed across  
20 Denison Road on the 34 Denison Road/Ridgewood Road  
21 Subdivision that is being proposed. So, there has  
22 been Planning Board findings that identify the need  
23 for a pocket park as part of that Forest Hills  
24 approval. There has been concept approval for the  
25 Ridgewood Subdivision where the developer is going

1 to be setting aside seven acres on the Ridgewood  
2 area for a pocket park.

3 So, the way that the Resolution that you  
4 drafted regarding the use of recreation fees - it  
5 leads one to believe that there is no need or that  
6 this pocket park which has been identified since  
7 2002 isn't relevant anymore. We want to make sure  
8 that there are no plans to delete a pocket park from  
9 the Ridgewood Subdivision.

10 I believe that Mr. LaCivita, you must be  
11 looking through those plans right now.

12 So, what I would like to say is: Is there going  
13 to be a pocket park over in the Ridgewood  
14 Subdivision?

15 MR. LACIVITA: Yes.

16 MS. QUINE LAURILLARD: What I would ask the Board  
17 -- and I would give you time to look at this, but I  
18 think that Resolution needs to be revised to recognize  
19 that there is a pocket park planned for that subdivision  
20 and our concern is that you're going to have an  
21 applicant coming before you for final approval. They  
22 could potentially use this Resolution as some type of  
23 finding from the Planning Board that a pocket park is no  
24 longer necessary in this Vly/Denison Road area. So, I  
25 would ask about that Resolution being redrafted to

1 recognize that yes, there is going to be a pocket park  
2 there, that it doesn't have any bearing on that issue.

3 CHAIRMAN STUTO: Any other points?

4 MS. QUINE LAURILLARD: I think that's it. We're  
5 just concerned about the way that language is drafted  
6 and want to ensure that there is that pocket park there.  
7 Of course we always wanted it between Vly and Denison  
8 and it's indicated in the Airport Area GIS that it  
9 should have been in there. Recognizing that the  
10 Planning Board has made findings and have done final  
11 approval for Forest Hills saying it should be on the  
12 other side of the road, we just want to make sure that  
13 doesn't get lost in this Resolution.

14 MR. LACIVITA: It is going through the final  
15 stamping plans right now. It has been held up in  
16 litigation, so we're at the point of reviewing those  
17 final plans for stamping but the pocket park does exist.

18 MS. QUINE LAURILLARD: But it will remain there and  
19 there is no change.

20 MR. LACIVITA: Yes, and there is no change. It was  
21 this Planning Board that actually approved that, if you  
22 remember.

23 MS. QUINE LAURILLARD: My other comment regarding  
24 recreation fees is we would ask that they be kept within  
25 the Vly/Denison Road area. There is a lot of need for

1 bike paths along that very busy road. If those could be  
2 used for that. People regularly jog along Vly/Denison  
3 Road and it's a very heavily traveled road. We would  
4 rather have those recreation fees instead of putting  
5 them over at the golf course which is a drive and not  
6 within the Airport Area GIS. We would ask that those  
7 fees remain within our neighborhood area.

8 I know that the Beltrone property is going to  
9 be developed off of upper Vly Road. There is some  
10 development on Route 7 and the new Starbucks, and I  
11 think that a new frozen yogurt place is going in  
12 there. That's going to lead to a lot of young  
13 children and traffic riding along those busy roads  
14 to get down to the frozen yogurt place on Route 7  
15 and Starbucks. So, I would just ask that those  
16 mitigation fees that are being collected for the  
17 projects within that area be left for our  
18 neighborhood.

19 As far as a pocket park - maybe use that for  
20 trails. What it brings to mind is that over in  
21 Niskayuna there is lovely River Road Park that has a  
22 wooded area with walking trails. People walk their  
23 dogs in there and they bike through it. I would  
24 just like the Board to make note that would be  
25 something that our neighborhood would want.



1           MR. GRASSO: I'd like to speak to that. Those are  
2           great comments. The Planning Board was lead agent for  
3           the study, so it kind of oversaw the preparation of the  
4           study and the identification of mitigation measures. In  
5           terms of the current expenditure of mitigating funds,  
6           that really rests with the Town Board. So, I just don't  
7           want your thoughts to go unheard. If you could also  
8           share those by putting those in writing and make sure  
9           that the Town Board sees it - they are really the  
10          decision makers regarding the specific improvements that  
11          will be used by those mitigation funds.

12          MS. QUINE LAURILLARD: We did copy Supervisor Mahan  
13          on both of our letters and we hand-delivered that to her  
14          office. That's what we would look towards.

15          As far as the other issue, which is the 2015  
16          mitigation costs, what I wanted to point out there  
17          is it's not just that you're increasing the  
18          mitigation fees. There is actually some language in  
19          there that would exempt payment of the mitigation  
20          fees that reflect inflationary changes and those  
21          projects would not pay those increase mitigation  
22          fees if they received a neg dec or had a worksheet  
23          already prepared. So, when I took a look at the  
24          Airport Area GIS, there is nothing in that GIS --  
25          this is going back to 1991 - the findings - that

1 provide any type of exemption for projects that  
2 already had neg decs or already had a worksheet. As  
3 a matter of fact, there is specific language in  
4 there that is in our letter that says every two  
5 years those mitigation costs have to be adjusted for  
6 inflation.

7 MR. GRASSO: So, I'm just going to clarify and I'm  
8 not familiar with the Resolution, but is it your concern  
9 that the projects are being exempted from paying  
10 mitigation fee or are you concerned with the projects  
11 not paying the fee once it's been raised? I would think  
12 that if a project goes through the planning approval  
13 process, even though it hasn't paid the fees because it  
14 pays them through the course of the development, once a  
15 negative declaration and a final approval get assigned  
16 to a project, the mitigation fees that were in place at  
17 that time get frozen and that's what is applicable to  
18 the project. So, there may be a question between  
19 exemption and grandfathering to a raise.

20 MS. QUINE LAURILLARD: So, there is nothing even in  
21 the Airport Area GIS SEQRA findings that you would talk  
22 about freezing mitigation sheets against inflation. If  
23 you remember, the reason why mitigation cost sheets were  
24 developed was because they didn't want each project to  
25 be looked at for impacts and they looked at the overall

1 airport area here and everyone to do its proportionate  
2 share. A project should be paying 2015 dollars based  
3 upon its impacts.

4 The other thing is that when I took a look at  
5 this, they say every two years you're supposed to do  
6 the increase cost sheets for inflation. The Town of  
7 Colonie didn't do mitigation cost sheets from 2008  
8 to 2013. So, in our case, the Forest Hills  
9 subdivision which was approved by this Planning  
10 Board back in December of 2011 - you're using a 2008  
11 cost sheet. So, if I look at the language of this  
12 proposed Resolution, it's saying that 2008 costs are  
13 going to apply to the Forest Hills subdivision and  
14 not the 2015 fees. I think that's a problem and it  
15 shouldn't happen. The way that the Resolution is  
16 drafted, it's being said that it's okay to go with  
17 the 2008 mitigation fees that do not reflect  
18 inflation.

19 MR. GRASSO: The reason is that because when you go  
20 into a recession the cost of those can stay flat or  
21 decrease. So, even though the Town may review the need  
22 to raise the fees every year, if construction costs  
23 aren't increasing, then there isn't a legal basis to  
24 raise them.

25 MS. QUINE LAURILLARD: The SEQRA document says that

1 you're supposed to do it every two years.

2 The other thing that we raised in our letter is  
3 in that the SEQRA document also talks about when  
4 these mitigation fees are supposed to be paid. They  
5 haven't been paid based upon the schedule in the  
6 Airport Area GIS. If you look at the total for  
7 mitigation fees for the airport area, there are  
8 several projects including Forest Hills that haven't  
9 paid any of its fees. One-third of the fees were  
10 supposed to be paid before even final approval  
11 happened.

12 I just want to point those out as a member of  
13 the neighborhood, a taxpayer, it's a concern to me  
14 when you want to use these monies toward recreation  
15 use. This is when you should collect the fees and  
16 there should be no exemption.

17 MR. LACIVITA: That payment component that you were  
18 just talking about - we do one-third, one-third,  
19 one-third. One-third is usually done at stamped plans,  
20 which is your approval point and then your next  
21 one-third is done at your first building permit, and  
22 then your final one-third is done at your first CO. So,  
23 we collect them as the project advances through the  
24 process.

25 MS. QUINE LAURILLARD: Except the GIS doesn't say

1 that.

2 MR. LACIVITA: That might be a best practice as to  
3 how the Town did it.

4 MS. QUINE LAURILLARD: It's in a legal document  
5 that is establishing how SEQRA mitigation fees are  
6 assessed based upon this Airport Area GIS. I think that  
7 it's incumbent upon the Town to follow -

8 CHAIRMAN STUTO: We'll look into that.

9 MS. QUINE LAURILLARD: We are all taxpayers and we  
10 want to make sure that the Town is getting it's due.  
11 Thank you for listening.

12 CHAIRMAN STUTO: So, if the Board is okay, maybe we  
13 can table this and let Joe and Joe do their homework  
14 with the other staff in Town and we'll bring it back.

15 MR. LACIVITA: Bring it back for March 10th?

16 MR. GRASSO: I have to work with the Town  
17 Attorney's office. If it's ready by then and we can get  
18 it teed up, that's fine.

19 CHAIRMAN STUTO: If there is no objection, that's  
20 what we will do.

21 MR. GRASSO: I just want to make sure that I get a  
22 chance to get the minutes.

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24 (Whereas the above entitled proceeding was  
25 concluded at 7:59 p.m.)

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CERTIFICATION

I, NANCY STRANG-VANDEBOGART, Shorthand  
Reporter and Notary Public in and for the State of  
New York, hereby CERTIFY that the record taken by me  
at the time and place noted in the heading hereof is  
a true and accurate transcript of same, to the best  
of my ability and belief.

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NANCY STRANG-VANDEBOGART

Dated March 16, 2015

