

**EAST AURORA VILLAGE BOARD
MEETING
September 15, 2008**

Present: Mayor Clark Crook
Trustees Weberg, McDonnell, Biggs, Mercurio, Scheer and Kasprzak

Also Present:
Kimberly D. Reichert, Village Administrator/Clerk-Treasurer
William Kramer, Building Inspector
Matthew Hoeh, Supt. of Public Works
Robert Pierce, Attorney
Ronald Krowka, Police Chief
Buffalo News, EA Advertiser, EA Bee, EA.Org
51 Members of the public

Mayor Crook opened the meeting at 7:00 pm followed by the Pledge of Allegiance.

Trustee McDonnell moved to approve the Village Board minutes of August 18th, September 2nd and 8th. Seconded by **Trustee Scheer** and passed with all Trustees voting in favor.

Trustee McDonnell moved to approve the payment of Abstract of Vouchers # 42694 to 42789. Seconded by **Trustee Kasprzak** and passed with all Trustees voting in favor.

SPEAKERS AND COMMUNICATIONS:

Nineteen residents spoke on numerous issues: the ice rink proposal and related SEQRA comments, the East Fillmore Bridge, the temporary rink, and need for law addressing water run-off that impacts neighboring properties

OFFICIAL CONSIDERATIONS:

Mayor Crook

- Announced that Buffalo Spree has designated the Village of East Aurora as the best WNY community to raise a family in,
- Read a proclamation proclaiming September 20th as "Crossroads Spring Day" in East Aurora
- Announced that the Center Street Bridge is being repaired by Erie County September 15 - 19, 2008

STAFF REPORTS:

Building/Zoning: written report filed for the month of August, as well as report on violation status of numerous properties.

Police: Written report filed with the Board for department activities for August.

Main St. Special Coordinator- Written report filed with Village Board.

DPW- Supt. Hoeh reported on department activities as well as filed a written report.

RESOLUTIONS & MOTIONS:

- **Trustee Mercurio** moved that the **Mayor** be authorized to sign an Inter-municipal Agreement with the Town of Aurora relative to the collection of refuse. Seconded by **Trustee Scheer**, and passed unanimously.

UNFINISHED BUSINESS

- **NYS Environment Review Act (SEQRA)** review on Aurora Ice Association application, continued: **Trustee Weberg** offered a motion that a *Resolution for Determination of Non-significance pursuant to SEQRA* be issued. Seconded by **Trustee Biggs**.

Discussion:

Trustee Kasprzak: Commented that the Village Board should listen to the recommendation of the Planning Commission, which was to declare a positive declaration.

Mayor Crook: Stated that this Board considered all the environmental issues and conducted the “hard look” after the initial recommendation by the SEQRA Committee.

Trustee Weberg: Commented that even with the issuance of a negative declaration, the applicant has numerous steps they have to go through, and permits and approvals.

Trustee Mercurio: Stated that he has kids, likes the temporary rink, but still thinks that the size of the building calls for a positive declaration.

Trustee Scheer: Stated that he still has unanswered questions.

Trustee Kasprzak: Stated that this is a big project and it needs to be looked at by experts- this board does not want to see it fail.

There were no further comments on the **RESOLUTION** as follows:

RESOLUTION #2008.09.15.01

DATED: September 15, 2008

Resolution for Determination of
Non-significance pursuant to
State Environmental Quality Review Act (SEQRA)
Negative Declaration

WHEREAS, the Aurora Ice Association, Inc., hereinafter referred to as ‘Applicant’ on March 19, 2007 had filed a Full Environmental Assessment Form with the Village of East Aurora Board with a proposed Development Plan for the construction of an indoor ice rink with two separate ice surfaces with accessory amenities including pro shop and concession incidental to its primary use at 41 Riley Street in the Village of East Aurora, New York. A copy of the proposed Development Plan filed on March 19, 2007 together with a copy of the revised Development Plan presented to the Village of East Aurora Planning Commission, at the request of that Commission, on August 14, 2007 and filed with the Village Board on or about that date are included by reference and made a part hereof; and

WHEREAS, the Village Board referred the application to the Village of East Aurora Planning Commission and received back from such Commission a list of its concerns and recommendations with regards to SEQRA determination together with its statement of no recommendation and reasons therefore, with regards to approval of the Development Plan. A copy of the Planning Commission report is included by reference and made a part hereof; and

WHEREAS, the Village Board referred the application to all involved agencies required to be notified pursuant to the State Environmental Quality Review Act mandates, Copies of notices forwarded and responses with stated concerns, including, but not limited to, the responses of the County of Erie, and NYSDEC are included by reference and made a part hereof; and

WHEREAS, the Village Board declared lead agency without objection from any of the above referred involved agencies or any other interested parties and/or agencies; and

WHEREAS, the Village Board established a SEQRA Review Committee which, upon review and consideration of the application and related documents, forwarded to the Village Board a list of its concerns and its recommendations with regards to SEQRA determination. Copy of that list of concerns and recommendations are included by reference and made a part hereof; and

WHEREAS, the Village Board held a public hearing on the application which was properly noticed to the public, and whereat the Village Board heard and considered comments from the public, testimony and written materials submitted by the applicant, and the comments, testimony and written materials submitted both for and against the application by the public. The minutes of the public hearing are included by reference and made a part hereof; and

WHEREAS, the Village Board has at numerous Village Board meetings since the date of application heard and considered comments, testimony and written materials submitted for and against the application during a period set aside each Village Board meeting for 'Speakers and Communications.' In several of those meetings public comment and written materials against the application were received and considered from residents who have identified themselves as members of the Residents for Rink Relocation. Such Village residents have stated their concerns both individually and as members of such group. Comments testimony and written materials reviewed and considered at these Village Board Meetings have included, but not been limited to, a letter from the East Aurora Fire Department expressing safety concerns; written materials and comments from Dan Prusinowski expressing major concerns; written materials and comments from William Hanavan expressing safety concerns with regards potential chemicals used in freezing the surfaces. Copies of these minutes of the Village Board meeting, and all written materials received and considered, are included by reference and made a part hereof; and

WHEREAS, the Village Board has at numerous Village Board work sessions since the date of application discussed the application and the comments, testimony and written materials received, for and against this project; written recommendations and comments from David J. Seeger Attorney for the Residents of Rink Relocation; reports and recommendations of involved agencies; and reports and recommendations from the Village Planning Commission and SEQRA Committee. Copies of the minutes of the Village Board work sessions are included by reference and made a part hereof; and

WHEREAS, the Village Board at work sessions on April 14, 2008 and May 5, 2008 particularly discussed the questions set forth in Part II of the Full Environment Assessment Form pursuant to the State Environmental Quality Review Act and proposed appropriate responses thereto, in relation to all comments, testimony, written materials, reports recommendations and project materials received and considered by the Village Board to that date. At the conclusion of such work sessions the Village Board requested the Village Attorney to request further information and

comment from the applicant to assist them in making a reasonable determination whether a Positive Declaration was warranted or necessary as recommended by the Planning Board and SEQRA Committees; and

WHEREAS, the applicant submitted further comment and information as requested by the Village Board with regard to the potential impact and significance of the project. The Village Board then forwarded this additional information received by the applicant to the Engineering Firm retained by the Village Board. A copy of the letter from the Village Attorney requesting additional submission and comments from the applicant; a copy of the reply information received from the applicant; a copy of the comments from the Engineering Firm retained by the Village Board relative to that reply; and a copy of the letter from the engineer of the applicant further commenting thereon are included by reference and made a part hereof; and

WHEREAS, the Village Board at the Village Board meeting held on August 18, 2008 as a continuation of its review relative to the questions set forth in Part II of the Full Environmental Assessment Form pursuant to the State Environmental Review Act discussed comments, testimony, written materials, reports, recommendations and project materials with regards a number of items, including, but not limited to, parking, noise, chemicals, archeological studies, size of structure, and the hydrology evaluation report submitted by applicant and the reply to that evaluation report, with listed concerns, received from the Engineering Firm retained by the Village Board. At the conclusion of the meeting the Village Board requested further information necessary to clarify concerns raised by the above-referenced Engineering Firm and any further on going environmental concerns raised by various Village Board Members. A copy of the minutes of the Village Board meeting of August 18, 2008 are included by reference and made a part hereof; and

WHEREAS, the Village Board at the Village Board work session held on September 2, 2008 reviewed and considered for purposes of clarification the Hydrology evaluation report submitted by the applicant; the initial reply, with listed concerns, from the Engineering Firm retained by the Village Board dated August 15, 2008; the reply by applicant's Engineering Firm dated August 18, 2008; the reply from NYSDEC dated August 28, 2008 confirming the method used to create the technical analysis (of the Hydrology evaluation report) is acceptable and further stating "Therefore the floodplain portion of this project review through the Village's SEQRA process is satisfied", and the subsequent reply by the Engineering Firm retained by the Village Board dated August 28, 2008 stating "Since, NYSDEC is the regulating authority on this process, we have no further comment." Further, at said Village Board work session, while no determination as made as whether the Village Board would issue a Positive Declaration or Negative Declaration as the Village Board continued its process of taking a hard look at all comments, testimony and written materials received, various Village Board members concluded that for them the only remaining environmental impact they deemed sufficiently significant to warrant the issuance of the Positive Declaration pursuant to the State Environmental Quality Review Act is the size of the proposed structure. Copies of all reports and replies relative to the Hydrology evaluation report are included by reference and made a part hereof. A copy of the minutes of the Village board work session of September 2, 2008 are included by reference and made a part hereof.

WHEREAS, the Village Board upon taking a hard look at all comments, testimony, written materials, reports, recommendations, has completed Part II of the Environmental Assessment

Form and made a determination a Positive Declaration is neither warranted or necessary and that a Negative Declaration of Non-Significance of environmental impacts of this project be issued.

NOW, THEREFORE, BE IT

RESOLVED, by the Village Board a Negative Declaration, for this stated project be issued effective immediately. The Negative Declaration attached is included by reference and made a part of this Resolution.

Vote: Trustee McDonnell	Aye	Trustee Mercurio	Nay
Trustee Scheer	Nay	Trustee Biggs	Aye
Trustee Weberg	Aye	Trustee Kasprzak	Nay
Mayor Crook	Aye		

RESOLUTION ADOPTED

State Environmental Quality Review
NEGATIVE DECLARATION
 Notice of Determination of Non-Significance

Date: September 15, 2008

This notice is issued pursuant to part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The East Aurora Village Board of Trustees as lead agency has determined that the proposed action described below will not have a significant environmental impact and a Draft Impact Statement will not be prepared.

Name of Action: Aurora Ice Association, Inc. Twin Ice Rink Facility

SEQR Status: Unlisted

Conditional Negative Declaration: No

Description of Action:

The Aurora Ice Association, Inc. ("Project Sponsor") is a domestic not-for-profit corporation which proposes to construct a 68,000± square feet structure on 3.37± acres site in the Village of East Aurora which is in part owned and in part leased by the Project Sponsor. The structure will house two ice rinks to be utilized for recreational and athletic purposes, as well as accessory and related uses within the structure (i.e., locker room, spectator seating).

Location: 41 and VL Riley Street, Village of East Aurora, Town of Aurora, County of Erie and State of New York (in proximity to NYS Route 20A).

Reasons Supporting this Determination:

The Project Sponsor filed its application for Development Plan Approval on or about March 19, 2007. During the Lead Agency's environmental review of the action, the Lead Agency identified the following relevant areas of potential environmental concern (*in italics*) with a reasoned elaboration following which provides the reasons supporting the issuance of this Negative Declaration:

1. *Flooding of Tannery Brook* – A hydrological study has been completed by Nussbaumer and Clarke, Inc. Engineers and Surveyors. The conclusion on page 3 states “The analysis suggests a very small (0.03 foot maximum, or about one-third of an inch) increase in the flood elevation up to the downstream side of Church Street as a result of the future encroachment at the Aurora Ice Arena site.” Also, on page 2, the Table 2 Summary of HEC-RAS result lists 0.00 ft increase at the site and downstream and 0.02 feet increase just above the Riley Street Bridge. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact on Tannery Brook as it relates to potential flooding.
2. *Archeological Concerns* – The Project site has been previously disturbed by cement / aggregate plant and later an unoccupied condominium project. Nonetheless, a Phase I Archeological Study was completed in June of 1999 by Miller & Associates Archeological Consultants during the SEQR process for the previously approved condo project on the Riley Street site. The Archeological report recommendations on page ii state: “No prehistoric artifactual materials were recovered. Such historic materials as were observed was detritus from the cement manufacturing process, gravel, pieces of concrete, etc. The structures in the project area are not associated with any historic event or person, do not appear to be architecturally significant, and are in various states of deterioration and as a result, do not appear to be eligible for inclusion on the State or National Registers of Historic Places. For these reasons a finding of No Effect is recommended as regards to Historic Properties.” Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact on archeological resources.
3. *Storage of Chemicals* -- The storage of chemicals will be limited. The rink will need to have as many as nine 4.6 gallon cylinders of propane for the two ice resurfacers. Two tanks are mounted on each resurfacer, and the other tanks are spares. They are similar in size to those used on RV’s or backyard gas grills. The rink will also store a small amount of ordinary cleaning supplies. The chemicals used for the ice refrigeration system are not stored on site, but are wholly contained in the equipment and any leaks are very rare. The chiller compressor will use non-CFC Freon, and the piping system under the ice will contain either a salt brine or antifreeze. None of these chemicals are considered hazardous, and employees that operate the system will be trained and familiar with the associated MSDS information sheets. In refrigeration systems of this size, Ammonia-type compressors are frequently used because they are more efficient to operate, however, we anticipate using the non-toxic Freon-type system. The Project Sponsor has represented that the storage of chemicals will be done in a manner which adheres to all local, state and federal regulations and laws. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to storage of chemicals.
4. *Size of the Structure* – The size of the structure is necessary to house the rinks and related accessory uses. The size of the structure is consistent with the size of many surrounding structures including Fisher Price, a retail strip plaza and numerous buildings on Main Street near Riley Street. Therefore, it is the finding of

the Lead Agency that the Action will not have a significant environmental impact relative to the size of the structure.

5. *Noise*– Documentation was provided by Thomas L. Hagner, who has a BS in Industrial Engineering and has more than 20 years experience in commercial real estate development and its affect on proximate properties. Mr. Hagner’s report concluded that the Action “will not have meaningful noise impacts on neighboring properties”. Moreover, the Lead Agency takes notice that one of the past uses of the subject property was as a concrete / aggregates plant and the current surrounding uses include a railroad track, a bar with outdoor patio, numerous retail uses as well as Fisher Price. Moreover, the site is proximately located to NYS Route 20A. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to noise.
6. *Odor* – The only known odor would be the garbage in a dumpster, which will be emptied on a regular basis. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to odor.
7. *Possibility of Train Derailment* – The Project Sponsor submitted a report entitled Railroad Accident Rates for Use in Transportation Risk Analysis (Paper No. 04-2341) presented at the 83rd Annual Meeting of the Transportation Research Board, Washington, DC, January 14, 2004, “The 2003 freight train accident rate is 4.25 accidents per million train miles”. Therefore, for an accident to occur within 600 feet of the rink, the probability is 0.000000425 per year or once in every 2,352,941 years. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to the possibility of train derailment.
8. *Impact on Growth, Community and Neighborhood* – It is the finding of the Lead Agency that the proposed Action and location thereof constitutes “in-fill development” which, as opposed to sprawl, contributes positively to the growth, community and neighborhood. Moreover, the proposed use is one that will serve as a valuable recreational and athletic facility which is currently not in the community and will benefit local businesses. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to impact on growth, community and neighborhood
9. *Public Safety* – The Project Sponsor shall comply with all local, state and federal regulations and laws as they relate to Public Safety. It is also the finding of the Lead Agency that fire and police services are located nearby in the Village and that the site is easily accessible to all emergency vehicles. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to public safety.
10. *Parking* – Parking complies with the Village Code. Moreover, a study done by the GBNRTC reported that there would be no significant impact on traffic to Main St. from the rink. The dedicated parking spaces for a maximum number of 4 teams on the ice at any given time plus spectators are adequate and more than other facilities in the village. Moreover, on-street parking is available, especially on Main Street, and the utilization thereof is consistent with the Project Sponsor’s representation that the proposed Action will act as a draw to local businesses. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to parking.

11. *Site* – The proposed use does not require any variances therefore it is lawfully compliant with the site. Moreover, the structure will be close to Riley Street and have pedestrian access via sidewalks, similar to most of the existing proximate structures and the Village Comprehensive Plan which encourages that new construction be done in a manner consistent with the Village setting. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to the site.
12. *Water Detention*-- The storm water run-off will be handled by a water detention system that will be installed on AIA owned property and will be large enough to detain stormwater to flow into the creek at a rate no greater than before development. The design of this detention system will require a State Pollutant Discharge Elimination System permit issued by the New York State Department of Environmental Conservation. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to water detention.
13. *Relocation of Sewer Line* – Erie County Sewer District has agreed to allow the sewer main that bisects the site to be re-routed around the proposed building to accommodate the proposed construction. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to the relocation of the sewer line.
14. *Aesthetics* – The design of the structure and site have been prepared to be consistent with surrounding architectural styles and village site design, such as the location of the structure near the street. Moreover, the proposed structure is an improvement from the cement / aggregate plant and partially completed condominium development which previously were located at the Project Site. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to aesthetics.
15. *Traffic* – A Study conducted by the Greater Buffalo-Niagara Regional Transportation Council concluded that, “Existing level of service of all intersections analyzed in the study area indicate no deficiencies either currently or with additional rink traffic added onto the roadway network.” Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to traffic.
16. *Community / Economic Impacts* – It is well documented that the athletic, recreational and economic impacts of this Action are positive, including without limitation an increase in business for the surrounding Main Street retail, hotel and restaurant uses, as well as a positive environment for children and families to experience. In fact, the opposition to this Action has been relative to location of the use, not the benefits thereof. Therefore, it is the finding of the Lead Agency that the Action will not have a significant environmental impact relative to community / economic impacts.

For further information:

Contact Person: Clark Crook, Mayor of Village of East Aurora
Address: 571 Main Street, East Aurora, New York 14052
Telephone Number: 716.652.6000

- **New Fire Rescue: Trustee Mercurio** moved that the bid received from Pierce Manufacturing in the amount of \$543,265.00 be accepted. Seconded by **Trustee Scheer**, and passed unanimously.
- **Status/report East Fillmore Bridge:** Mayor Crook reported that RFP's are due from Engineers on 9/26; DPW cleared brush to improve visibility around bridge; the 3 ton limit is being enforced-school & Waste Management notified. This issue will be on the work-session agenda for 10/6.
- **NYSDOT Alternative design for block from South Grove to Walnut: Trustee Weberg** moved to authorize the Mayor to send correspondence to the NYSDOT advising them that the East Aurora Fire Department accepts the design changes offered by the NYSDOT. Seconded by **Trustee Mercurio**.

Discussion:

Trustee Scheer: still concerned about the loss of parking.

Trustee McDonnell: stated he is disappointed in the Fire Department because they "capitulated".

Captain Craig Thrasher: Stated that the terms "compromise" and "capitulation" are not what has taken place: the village brought this together when they arranged to get pre-emptive lights for all 7 lights (FD had only requested 2 lights; this is what made the plan work).

Trustee Weberg: Said that pre-emptive lights were key to this and if they address the safety issues brought up by the Fire Department, then they are a great asset.

Trustee Kasprzak: parking will always be an issue.

Fire Chief, Roger LeBlanc: the fire department got involved in this issue for one reason only – SAFETY- not parking. The department is appreciative that the NYSDOT listened to their concerns and made the changes. He said this issue has divided the community, and the issue is now resolved.

There was no further discussion. Motion was passed with only **Trustees McDonnell** and **Scheer** voting against

NEW BUSINESS:

- **Development Plan referrals: Trustee McDonnell** moved to refer the following Development plans to the planning commission for their review and recommendation:
Rerob, LLC, 56 Hamburg Street
CVS, Main & Olean
Seconded by **Trustee Kasprzak** and passed unanimously.
- **Temporary Use Permit: Trustee Kasprzak** moved to approved the application for EA High School for Homecoming parade on October 3rd. Seconded by **Trustee Weberg** and passed unanimously.

- **SEQRA Lead Agency: Trustee Kasprzak** moved that the Village declare lead agency status regarding the Powerhouse Development Plan submitted by the Roycroft Campus Corporation. Seconded by **Trustee Weberg**, and passed unanimously.
- **New Skid-steer loader: Trustee Kasprzak** moved to authorize the purchase of a new skid steer loader with attachments for \$33,738.00, and approved the trade in of the old skid steer with attachments in the amount of \$26,800, for a total village cost of \$6,938.00. Seconded by **Trustee Mercurio**, and passed unanimously.
- **Back Yard “Bash” request for October 3rd:** The Board discussed the request submitted by Grant Hamilton, but could not approve because it lacked details. Administrator will contact Mr. Hamilton and discuss information that is needed.
- **CDBG Public Hearing: Trustee Mercurio** moved to schedule a public hearing regarding the use of Community Development Block Grant Funds for October 20th at 7:00pm. Seconded by **Trustee Biggs**, and passed unanimously.

Adjournment: Trustee Mercurio moved to adjourn the meeting at 8:55pm. Seconded by **Trustee Scheer** and **passed** with all Trustees voting in favor.

Respectfully submitted,

Kimberly D. Reichert
Village Administrator
Clerk-Treasurer