

TOWN OF CONCORD SPECIAL TOWN BOARD MEETING May 19, 2025
RIC Energy Final Scoping Document 9:30 a.m.

MEETING CALLED TO ORDER BY PHILIP DROZD, SUPERVISOR,
at 9:30 a.m.

ROLL CALL: PHILIP DROZD, SUPERVISOR
CLYDE M. DRAKE, COUNCIL MEMBER
KENNETH KASSEL, COUNCIL MEMBER
KIMBERLY S. KRZEMIEN, COUNCIL MEMBER,
via teleconference

EXCUSED: KENNETH D. ZITTEL, COUNCIL MEMBER

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk
BRIAN F. ATTEA, Town Attorney
THOMAS ROBERTS, Town CEO
CALEB E. HENNING, MDA Consulting Engineers
PETER SORGI, Attorney for Applicant/Project Sponsor
JAMES TARAVELLA, RIC Energy

Supervisor Drozd opened the Special Town Board Meeting at 9:30 a.m. The purpose of this meeting is to review the Final Scoping Document for the RIC Energy Solar project. Town Clerk Schweikert had published the Notice in the Springville Journal on May 15, 2025. The Notice was posted on the Town's website and the signboard at the Town Hall on May 9, 2025. Supervisor Drozd then turned the meeting over to Town Engineer Henning.

Town Engineer Henning advised that as a general recap the Town received a letter from the applicant's attorney, Peter Sorgi, which also contained the Draft Scoping Document which initiated this process for scoping of the Environmental Impact Statement (EIS). The Town as Lead Agency is responsible to review the Scoping Document to gather input from the involved agencies and also to provide the public for comments. The Town has done all of those things and MDA Consulting Engineers has taken the Draft Scoping Document and proposed some modifications to it based on the concerns that were brought up during the environmental review process. When the Town declared the positive declaration that was based on the Town's concern as Lead Agency that this project may have an adverse environmental impact on one or more resources. Basically, the whole purpose of the EIS which is going to be prepared here in the future based on this Scoping Document, is to address those concerns; look into those concerns at a deeper level. At the Public Hearing there were no public comments that were brought up to the floor. Town Engineer Henning asked Town Clerk Schweikert and Supervisor Drozd if they had received any written comments; they did not. Town Engineer Henning advised that aside from that, the only public comments that were received were from the Erie County Department of Environment and Planning (EC DEP). EC DEP reiterated some comments that they had made during the SEQRA review process. Town Engineer Henning provided Attorney Sorgi and Mr. Taravella with a copy of that letter. MDA Consulting Engineers went through the Draft Scoping Document and made some recommendations and some modifications to the Document that (1) address Erie County's comments in their letter and (2) address some of the concerns that were brought up during the environmental review. Town Engineer Henning explained that these are a set of redlines for the Town's consideration and the Town can make modifications to these or the Town Board may wish to accept these as recommended. Then the SEQRA process would be that the Lead Agency is to provide the Final Scoping Document back to the Project Sponsor. Attorney Sorgi's office graciously prepared the Draft Scoping Document and then also assisted the Town with all the resources and materials needed to do the initial mailing; to send this Draft Document to all the interested and involved agencies. They had provided copies of the Draft Scoping Document, prepaid envelope so that the Town could get these sent out. The 60 day period will be over on May 26, 2025, so technically the Lead Agency has until May 26, 2025 to provide the Final Scoping Document back to the Applicant Sponsor. Town

Engineer Henning asked Town Attorney Attea to confirm whether or not the Town could provide the Final Document back to the Applicant Sponsor as a Document, or as comments that they could incorporate into the Final Document. Town Engineer Henning had brought multiple copies of this document along; it has not yet been accepted by the Town Board but if the Town Board did not have a problem with it, Town Engineer Henning would like to give a couple copies to Attorney Sorgi and Mr. Taravella. Town Attorney Attea and Supervisor Drozd agreed that that is fine.

Town Engineer Henning said that his idea is to go through these proposed changes. He does not think it will take that long to read them and he can also clarify the reasons behind the comments.

Town Engineer Henning turned to **Page 4**; these are changes requested by Erie County. **Paragraph 2.1.1.** there is just an addition that the draft DEIS should include noting which parcels are enrolled in the Erie County Agricultural District Program.

Paragraph 2.1.2. Specifying that the draft DEIS will include soil types and soil ratings in response to the EC DEP comment letter.

Page 5, Paragraph 2.2.4. Suggesting the addition of the line: "The DEIS shall contain as appropriate, but not be limited to description of relevant Federal, State, and Local permits and reviews, such as a decommissioning plan, SPDES General Permit for Stormwater Discharges from Construction Activity, and other permits related to water quality and wetlands.

Town Engineer Henning noted that the meatier stuff is on the next page, under Impact on Agricultural Resources. Most of these are actually describing in a little more detail the concerns that the Lead Agency had when the Positive Declaration was made.

Page 6, Paragraph 3.1.1. He thinks that the first sentence about "clarify County Agricultural District enrollment status of the parcel on which the project is being proposed as well as all parcels abutting the project site" was in response to EC DEP comment letter.

Under Paragraph 3.1.1. Existing Conditions Town Engineer Henning noted that this is a further description of the existing conditions: "The Town has also recognized the importance of agricultural land for use by active farming operations. The Town has noted that the proposed action is located on a parcel that is among the best agricultural parcels within the Town of Concord. It should be recognized that the subject parcel is currently actively farmed to raise crops. Because various documents use slightly different nomenclatures to refer to soils or farmland that are well suited to raising crops, the DEIS shall provide a comparison of Land and Soil Classification by the NYS Land Classification System to that of the USDA." Town Engineer Henning noted that this is basically saying that Erie County and NYS Department of Agricultural and the USDA which is more of a national organization, use different terminology to refer to important farmland soils. This would be asking that the applicant provide a description and comparison between those soils so that the Lead Agency can say where one agency is saying prime farm soils, what is that in USDA terms and how does Erie County use that. Erie County has a Farm and Agricultural Land Protection Plan and they provided this map where all the agricultural soils were rated with a slightly different rating system using the parcel size and soil quality. To help the Lead Agency understand how important this farmland is relative to other farmland, this is an important distinction that should be made. "The DEIS shall provide a detailed documentation related to the NYS Classification System. The DEIS shall provide a more detailed analysis of the definition of "prime soils" and "soils of statewide importance" as defined by the USDA. The purpose of this is to allow the Town to compare various planning documents with an understanding of how they use different terminology to refer to agricultural resources. For instance, Part 2 of the FFAF refers to soil classifications by the NYS Land Classification System. The Erie County Agricultural and Farmland Protection Plan refers to prime farmland and farmland of statewide importance." This is asking for more information relating to an existing condition.

Moving to Paragraph 3.1.2. Potential Impacts. Town Engineer Henning added to the first paragraph as it relates to soils. "These potential impacts are related to farmland and agricultural resources. The Town recognizes that comment letter provided by EC DEP dated June 28, 2024. The comment letter highlights the need to preserve statewide important and prime farmland soils in relation to solar development as stated in the following documents: The Town of Concord 2021 Comprehensive Plan, the Erie County Agricultural and Farmland Protection Plan, the Erie County Community Climate Action Plan, the Buffalo and Erie County Local Food Action Plan, and the Erie-Niagara Framework for Regional Growth." These documents are also referred to again in the April 9, 2025 EC DEP letter that was received for the scoping.

"The Town identified concern over a large portion of the soils on the project site being disturbed by the construction activities. The DEIS shall include a cut/fill analysis of the entire project site. It shall further quantify how much soil is being cut and how that soil is being handled. A map that identifies the depth of soil being removed across the whole site would be helpful for understanding the impact of the regrading of the project site." Town Engineer Henning noted that the concern here is that the Applicant's proposed grading does involve cutting an amount of soil out in order to grade the soil and prepare for the solar panels. Whenever you talk about farmland, the soil makeup and the structure of that soil is important. What is being asked is for more information about how the soil is being cut, what is being done with that soil and there will be more information as he reads on. "The DEIS shall specify whether the soil is being stockpiled onsite or hauled away. It further shall identify the location and extent of any proposed onsite stockpile locations. As stated in the NYSDAM Guidelines for Solar Energy Projects, proposed topsoil piles should be shown on the project drawings. The DEIS shall discuss the impact of the proposed earthwork to the future viability and quality of the site to be returned to agricultural use once the project is decommissioned. The DEIS shall revise the decommissioning estimate to account for the cost of regrading the site and placing this soil back. The DEIS shall include discussion of the potential for soils across the project site to become compacted and shall provide examples from at least three other solar projects that have been constructed to demonstrate the level of disturbance and compaction that will likely occur at this site as a result of construction activities. The DEIS shall revise the decommissioning estimate to account for the cost of decompaction of the site." Town Engineer Henning noted that this is a very significant issue with agricultural land. If you know much about current practices of crop farming, this is something that even farmers on fields that have just been farm fields for quite some time are very concerned about compaction; they are changing the way that they do tillage these days and they are basically getting on and off as soon as they can to try to keep that soil from being compacted. You can imagine that a construction project where you have paths where materials are being hauled back and forth to do things, like construct a solar panel array, will cause the soil to become compacted. The Town needs to make sure that the project is going to mitigate that impact. "The Town recognized that the project is situated in the middle of an active agricultural field. The remaining portions of agricultural field are of far less value because of the reduced size, the irregular shape, and the more limited access." Town Engineer Henning advised that this was brought up during the environmental review and essentially, Town Engineer Henning would recommend that the DEIS include a discussion of other solar sites and the likelihood that the remaining farmland will be actively farmed after this project is constructed. The concern here is that the remaining land available for farming will probably not be farmed because it is not as accessible, it's not as contiguous so it is not as valuable for farming. These portions are unlikely to be as desirable for farming. The DEIS shall include a discussion of other solar sites and the likelihood that the remaining farmland will be actively farmed after this project is constructed." Town Engineer Henning continued with the last sentence of 3.1.2. This sentence used to read: "The DEIS will address that the action is consistent with the Town zoning maximum for impacts to farmland and will not inhibit access to other portions of the parcel." Town Engineer Henning thinks that it should not say "and will not inhibit access to other portions of the parcel." He thinks that the presence of the project in this location does create more difficult access and should at least be discussed further in the DEIS. Town Attorney Attea had a question on this particular change. Understanding the purpose of this Scoping Document, wouldn't it be appropriate that that portion of the sentence remain in and that the Town would want the Scoping Document to reflect whether or not it does inhibit access; there is the opportunity

that it may not prohibit; it may inhibit but the Applicant would certainly have the opportunity to provide to the Town the information to determine whether it is true or not so that the Board could better understand that. Town Engineer Henning noted that he understands Town Attorney Attea's line of reasoning and he does not think it substantially changes the DEIS and Town Attorney Attea agreed. Town Attorney Attea does not think it is a major point; it was indicated in Attorney Sorgi's originally Draft; they are already indicating that that information is something they would already provide so he does not think there is any harm in leaving that in there. Town Attorney Attea asked the Board if they felt differently; everyone was satisfied. Town Engineer Henning noted that he will note on his copy of the document to "leave" this wording in.

Paragraph 3.1.3. Mitigation Measures. Town Engineer Henning noted that the original Draft Scoping Document said "Means to mitigate impacts to agriculture (future and surrounding) will be discussed." Town Engineer Henning would like the Town Board to consider adding some other potential mitigation; specific mitigation measures. He read his addition to this Paragraph. "The DEIS shall include but not be limited to discussing the following mitigation measures: 1) grading the entire site to establish the final soil profile prior to construction of the solar panel arrays. This would eliminate the need to stockpile soil onsite for regrading when the project is decommissioned. Additionally, a more detailed discussion of the sequence of the earthwork operations would be helpful." Town Engineer Henning said the suggestion here is rather than to strip down to the proposed grade, stockpile that soil and plan on putting it back 30 years later, let's grade the site now and not need these stockpiles. Attorney Sorgi stated that the plan does not show stockpiles. Town Engineer Henning responded that that is part of the problem. Attorney Sorgi said that Henning just said they should not have stockpiles and they don't have stockpiles; what is he missing? Town Engineer Henning said correct but the plans show a significant amount of material being cut from the site, about 2,000 cubic yards. The question is, is that being removed? Or stockpiled on site? Mr. Taravella answered that all soil will be on site. Town Engineer Henning responded that it must be stockpiled somewhere. Mr. Taravella said, "or used in the cut fill analysis." Attorney Sorgi noted that this should be in the cut fill analysis; Town Engineer Henning advised that the cut/fill analysis was incomplete. Council Member Kassel said that topsoil can't leave the site; Attorney Sorgi noted that they did not say it was going to leave the site. Town Attorney Attea told Attorney Sorgi that this could be addressed; apparently there is a little ambiguity there and a slight misunderstanding that can be properly addressed. Attorney Sorgi said there is zero ambiguity; the plan says exactly what they are doing. Town Attorney Attea noted that clearly the interpretation from a couple of people on the Town's side is different so Attorney Sorgi will have the opportunity to provide more detail. Town Attorney Attea questioned Attorney Sorgi; in an effort to provide the information that will allow you to finalize your Scoping Document, why does this always have to be so adversarial? The Town is getting a little more detail here. Attorney Sorgi noted that the adversarial started with having a Positive Declaration for reasons that Town Attorney Attea and Town Engineer Henning won't admit but we both know were kind of ludicrous; the adversarial part started there. All this stuff, the Applicant had site plan reviews and engineer comment letters... Town Attorney Attea interrupted Attorney Sorgi and stated that the Board is going to move forward for the purpose of this particular meeting. Town Engineer Henning stated that for clarification purposes, during the engineering review, he had asked for a cut/fill analysis and the Applicant responded in their response table, which was well organized; there was a table with the comment and then their response. Their response said a preliminary cut/fill analysis results in 2,000 cubic yards of cut, of excess cut. Where is that cut going? Town Attorney Attea noted that that is a perfectly appropriate question and that this will be a benefit to the Applicant to be able to expound upon that and provide an explanation. Attorney Sorgi said alright. Town Engineer Henning continued. "2) Performing numerous soil borings across the site to establish the existing soil profile and developing a plan to maintain or restore that same soil profile upon decommissioning." The idea is recognizing that there may be a top soil layer that is some thickness that, if it is not put back in that same thickness across the site, the field is not going to be the same. This is just asking that mitigation measures such as gathering additional information now so that the Town knows what the field was like. Attorney Sorgi stated again that that is above and beyond... Town Attorney Attea interrupted and advised Town Engineer Henning to continue. "3) Consider reduced spacing of the solar panels to reduce the area required by the project." Town Engineer

Henning noted that he has seen this done on other projects where the developer has an initial proposal and it's taking up too much space; one of the ways that they propose lessening the impact of the project was to actually reduce the spacing between the solar panels and what that does, it does have a slight negative impact on shading of the solar panels; they'd be a little bit more shaded at certain times of the day like in the morning and in the evening, but reducing the spacing between the solar panels allows them to get the same 5 megawatt AC to the grid on a reduced footprint. This is a mitigation measure that could be looked at when it comes to trying to reduce the impact to agricultural soils. "4) Discuss/propose specific mitigation measures that may be included in the NYSDAM Guidelines for Solar Energy Projects and how they will mitigate the negative impacts of the project. 5) The decommissioning plan for the project is critical to mitigating or avoiding long term negative impacts. As such, the decommissioning plan and associated cost estimate should be updated to include a more reasonable timeframe for removal of items. Additionally, consideration should be given to using prevailing wage rates for decommissioning. Since the Town would have to perform the decommissioning using the decommissioning bond money if the project owner failed to decommission the project, the work would have to be done at prevailing wage rate." Town Engineer Henning noted that that is his reasoning behind that comment. Attorney Sorgi asked if he could ask a question. Mr. Henning just said that the Town would have to perform the decommissioning. The way that is worded sounds like the Town is going to perform the decommissioning; that's not what happens. They perform the decommissioning and if they don't... Town Engineer Henning said that that sentence could be modified that sentence to say that if the project developer fails to decommission the project, then the Town would have to do it with the bond money. Town Attorney Attea said that that is an appropriate change. Attorney Sorgi said that it is completely inaccurate now. Town Attorney Attea thanked Attorney Sorgi. Attorney Sorgi continued that they had questions; first of all, if the Town is worried about compacting the soil, soil borings and the machinery getting in there do that and secondly there is nothing in any Town Code or any State law that requires that. That is a big expense and a lot more time. There is data from various government sources on soil types; when you say several or numerous, how many? Where? Town Engineer Henning said that that is something to be explored in more detail; the purpose of it would be to document the existing condition so that the Town can verify after the project is done that the soil profile is not permanently damaged? Attorney Sorgi said and if it is; what is the Town going to do once the project is done? What would the Town do? Town Attorney Attea advised Town Engineer Henning that he can move on. Attorney Sorgi said that there is no answer to that question. Town Attorney Attea asked the Board if anyone on the Board think that that would not be of importance or value? Council Member Kassel said that you can't take topsoil off property for any reason. Town Attorney Attea asked with respect to the borings, does the Board think it would be appropriate to understand the impact from an agricultural and environmental standpoint? Supervisor Drozd noted that from his construction background there were projects that had numerous soil borings on to see what happens; common practice. Attorney Sorgi said that these are not needed for the stability; that is for a building and is completely different. Town Attorney Attea told Town Engineer Henning to continue.

Page 8, Aesthetic Resources, Paragraph 3.2.3. Town Engineer Henning noted that this is related to aesthetic resources; the aesthetics of the Town and resources in the Town. This was brought up in the environmental review. One mitigation measure that Town Engineer Henning thinks might be worth discussing in the DEIS is adding earthen berms to the vegetative screening plan to further elevate the vegetation. One of the concerns is that the Applicant is proposing this vegetative visual screen, which is great, but that screen is initially much lower than it will be after a few years because all the trees grow over time. If you add an earthen berm of some height, then that will raise all the plantings immediately. This seems like something to be discussed in these mitigation measures.

Page 8, Impacts on the Community, Paragraph 3.4.2. Town Engineer Henning added the sentence that "the DEIS shall acknowledge that the Town intends for economic development, including green energy projects, to be done in a way that does not adversely impact the environmental features, agricultural economy, and aesthetic/character qualities of the Town." This is basically straight out of the Town's

Comprehensive Plan. The documents that were in the EC DEP comment letter were also added to the list in this paragraph.

Town Engineer Henning stated that that is the extent of his recommendations for the Scoping Document and it can incorporate EC DEP comment letter. He referred to **Page 9, Impact on Community Plans Paragraph 3.4.3. Mitigation Measures**. Town Engineer Henning wanted to read this into the Minutes. This is all proposed by the developer. "The DEIS will address how impacts to community plans shall be mitigated via Project siting and design. This may include design features to reduce Project area and encourage co-location with continued agricultural activities on site; lease revenue for site owner to continue agricultural activities; PILOT tax revenue for Town, County, and school district as well as guaranteed discount on electricity bills for subscribing local farms, businesses, and homes, to allow some financial relief and possible reallocation of funds to pursue local goals. The DEIS shall discuss how this will be managed and measured and what guaranties will be in place to ensure it occurs as described. Potential additional mitigation measures will also include use of pollinator grass / flower seed mix for Project area to expand agricultural pollinator habitat." Town Engineer Henning noted that this is alluding to, and referring to other things that may come up as the project progresses, like a PILOT (Payment in lieu of taxes) and the decommissioning plan, at some point, is going to have to be discussed and accepted by the Town if this project continues; he does think that initial discussion of the decommissioning plan, and how that mitigates potential impacts, is very important. The decommissioning plan is one of the biggest sticking points for most projects because the Town wants some sort of assurance that the project is going to be returned to its original site upon decommissioning and also wants to make sure that the proper monies are being set aside in case the developer does not do it; in case the Town has to step in and do it.

Town Engineer Henning asked if there were any questions. Attorney Sorgi asked if he could ask a question; Town Attorney Attea said sure. Attorney Sorgi referred to Page 7, the paragraph "The DEIS shall include discussion of the potential for soils across the project site to become compacted and shall provide examples from at least three other solar projects that have been constructed to demonstrate the level of disturbance and compaction that will likely occur at this site as a result of construction activities." This is saying that the Applicant needs to find three examples of soil projects that have been decommissioned and explain the level of disturbance and compaction? Town Engineer Henning replied that the reference to demonstrate the level of disturbance and compaction is really looking at example projects that have been constructed, have gone through the construction phase. There are some unlisted videos but the Town of Ashford undertook a solar project and they posted links to these YouTube videos that were a drone flyover. It wasn't by someone trying to slam the project; it was just the progress of the solar project. There were two of these drone flyovers. That is one example that he can see where you look at a project being constructed and it's very clear that the disturbance is much greater than a lot of Applicants or developers will essentially lead you on to believe. The use of these H piles for foundations, does mean that there is a lot less digging going on to put in the foundations for these racks but when you look at the level of disturbance, just go to a project under construction, and there are most likely heavy tracks that have been driven on between the solar panel arrays. His reasoning for asking for that is just to have the Applicant demonstrate from other projects, the level of disturbance and compaction that will probably occur during construction. Town Attorney Attea had made some notes for this particular question and had questions for Town Engineer Henning. Town Attorney Attea said, objectively, it certainly would be possible that the variation from one project to another based on location, soils, topography and everything else, might impact the relevance of the information that the Applicant would provide and it would strike him that it is at least possible that through all the other information being requested, the Applicant would have the opportunity to cover those concerns. He objectively, looking at that particular paragraph, would have some questions; certainly there could be some value if they could provide some information; it would appear to him from the other information that is being requesting that that may provide the backup information and documentation that the Town might be seeking as a concern; and might carry more value than examples of other projects that have been completed. Town Engineer Henning said that that is a good point. The other thing is that the Town can just assume that the Applicant would have to do the mitigation for this; and

Town Attorney Attea agreed. Town Engineer Henning continued that instead of downplaying it and providing examples of nice, tidy sites and say that this is how the site will look; the Applicant can assume that they will have to mitigate decompaction across the whole entire site. Town Attorney Attea stated that he did have those questions on that paragraph and thinks the questions raised by the Applicant are appropriate there only because when he looks at, in totality, everything else that is being requested through the changes and the original Scoping Document itself, the Town would have enough tangential information to cover the concerns raised in that paragraph. Town Engineer Henning asked if the consideration is removing that paragraph from the recommendation. Town Attorney Attea did not think it needed to be removed; he won't get the verbiage as he's sitting here right now but he doesn't know that three examples of other projects would have value but feels it is appropriate to ask the question "to demonstrate the level of disturbance and compaction that will likely occur." To the extent that the Town is not getting this information, the question is appropriate. Town Engineer Henning asked if the Town wanted the DEIS to address the likelihood of compaction happening during construction and to account for decompaction efforts; Town Attorney Attea agreed and thinks it would be appropriate to ask for more information from the Applicant and that would carry value but he is not sure of the overall value or relevance of asking for the Applicant to give other historical projects as comparison. Town Engineer Henning said that that sentence could be revised to say that "The DEIS shall include discussion of the potential for soils across the project site to be compacted and to demonstrate the level of disturbance and compaction that will likely occur at this site as a result of construction activities." Town Attorney Attea thought that that would be an appropriate amendment; and remove the requirement of the three example projects. Attorney Sorgi said he didn't know how they would do that; demonstrate the level of compaction that is going to occur; and what is the baseline? Is it a fertile field or is it a field that has been farmed? What is the baseline? Town Attorney Attea responded that his client is going to understand the equipment that is going to be brought in. Town Engineer Henning noted that the New York State Department of Agriculture and Markets (NYSDAM) requirements that talk about decompaction don't say that a lower level of decompaction is allowed if you only lightly drive on the site. They are just saying that the site is likely going to become impacted so therefore as part of decommissioning, you need to do decompaction. The DEC has had documents available online from back into the 1990s about how to do that; he thinks that this is something that needs to be discussed in the Draft Environmental Statement and accounted for in the decommissioning plan. Town Attorney Attea said that that is fair. Attorney Sorgi noted that their application said that they are going to follow NYSDAM requirements so if you want them to follow them, and they are stating in the application that they are following them, obviously it's a condition, how can there be a potential of adverse impact if they are going to follow them. Town Engineer Henning noted that he does not believe the decommissioning plan currently has any reference to the compaction efforts as far as costs or sequencing. Mr. Taravella said that there were general notes on the drawing that they were going to follow NYSDAM requirements. Town Engineer Henning responded that it should then be included in the decommissioning costs. Mr. Taravella replied that they were never asked to do that; we would've happily put it in there. Attorney Sorgi advised that it doesn't say that in our Code to put that in the decommissioning costs; just making stuff up here; there's a Town Code. Attorney Sorgi asked again what the baseline is, that was never answered. Is the baseline the compaction rate? Soil that has never been walked upon? Soil that has been trafficked by farm equipment? What is the baseline? The Applicant can't go from A to B without knowing A. Town Attorney Attea noted that the project is going to create some compaction and your decommissioning plan should involve based on the standards being referenced some efforts to mitigate and decompaction so the Applicant can expound on that to address this concern. Town Engineer Henning thinks this is totally appropriate for the EIS to be addressing that concern. Attorney Sorgi asked why it is a concern if their plan states that they will have to, by law, follow the requirements of NYSDAM. How is it a concern any more if they are saying they are following it? Town Engineer Henning said that the Applicant said on the plan that they are following them but your decommissioning plan is not consistent with that. The decommissioning plan and associated cost estimate of all the itemized pieces of work that need to be done during decommissioning does not include that. Town Attorney Attea added that this is an opportunity for the Applicant to expound upon that and provide more detail. Attorney

Sorgi noted that it is already in the plan but alright; making up more fees to review this stuff so sure; doesn't make any sense.

Town Engineer Henning continued that he had a couple of notes about suggested modifications. His suggestion is, after reading the written regulations and Attorney Sorgi's letter was that the Lead Agency needs to provide the Applicant/developer with the Final Scoping Document. That is the way it reads. He doesn't know if there is leeway to provide the Applicant the red-lined documents and ask the Applicant to finalize the Scoping Document or whether the Town wants to just provide the Applicant with the Final Scoping Document as discussed. Town Attorney Attea stated that if the Town Board agrees that your recommended changes are appropriate then the Town can draft what the Town would indicate as the Lead Agency would be the Final Scoping Document and send it to Attorney Sorgi for his review with his client. The Town can agree upon that Final Scoping Document and move forward. Town Engineer Henning advised that the official deadline for this Final Scoping Document is Memorial Day; his plan would be to try to have the Final Scoping Document out the door mid-week before Memorial Day; Town Attorney Attea said that that is okay. Town Attorney Attea advised Supervisor Drozd that if the Town Board is ready to proceed there can be a motion made at this meeting to approve the recommended changes subject to the amendments that were discussed at today's meeting and if it was approved in this Special Town Board Meeting, Town Attorney Attea and Town Engineer Henning will work on the final changes and get the Final Scoping Document over to Attorney Sorgi. Supervisor Drozd asked the Board if anyone wanted to make a motion approving Town Attorney Attea's verbiage. Motion made by Council Member Krzemien, seconded by Council Member Kassel, to approve the recommended changes to the Scoping Document subject to the amendments discussed in this Special Town Board Meeting. Council Members Drake, Krzemien & Kassel; Supervisor Drozd, voting aye. Council Member Zittel, excused.

Motion by Council Member Drake, seconded by Council Member Kassel, and passed unanimously, to adjourn the meeting at 10:15 a.m. Town Attorney Attea thanked Attorney Sorgi for his comments.



Darlene G. Schweikert
Town Clerk