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**Members Present:**

David Everett, Chairman  
Mitchell Khosrova  
Adrian Ooms  
Robert Leary  
Don Hegeman  
Suzanne Williams  
Mike Hart  
Tal Rappleyea (8:30), Atty.

**Members Absent:**

None

**Public Present:**

Marc Gertsman                      Kimberly Costigan  
Brian Schwab                      Marc Jackson  
Lee Smith

The January 27, 2005 Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00 PM. Mitchell Khosrova moved, and Robert Leary seconded that the amended minutes from the last meeting be accepted. This carried. Mike Hart abstained from the vote as he was absent at the last meeting.

**PS/21- REVIEW OF THE FEIS AND THE PRELIMINARY FINDINGS  
STATEMENT FOR THE PROPOSED PERFORMING ARTS FACILITY ON  
RT. 66- BOARD DISCUSSION**

Chairman Everett reviewed all of the letters and correspondences received by the Board since the last meeting. He reported that both Tal Rappleyea and Ray Jurkowski feel that everything that has been asked to be turned in by the applicant has been done. Engineer Jurkowski requested that additional information about the new proposed hours and limitations, a cover page, and the information received from the archaeologists, including the request for a Springtime Phase 1B (shovel) test, be included in the FEIS.

Atty. Longstreet was asked to discuss the newest proposal regarding the hours of operation. This was documented in the second revised redline changes that was sent to the Board members on January 4. It stated that the tent would be used from 5/15-10/15 for a maximum of five years. There would be no more than three events per week, with the option of a fourth event if it ended prior to 6:00 PM. From Sunday through Thursday performances would conclude no later than 10:30 PM and on Friday and Saturday performances would conclude by 11:00 PM. Atty. Longstreet also stated that the packet of letters regarding the requested archeological tests would be integrated into the FEIS. Because the site plan had been altered slightly since the first one four years ago, the Board requested that the Department of Parks, Recreation and Historic Preservation be contacted to be sure that their opinion on this project was the same as after the first testing that had been done. The applicant's archaeologist also stated that there was no significant impact with the new site plan that would require additional review. The Department of Parks, Recreation and Historic Preservation requested that a Phase 1B test be conducted, but since this can't be done until Spring, they are willing to allow the SEQRA process to continue. The applicant agrees that if there are recommendations

from this test, these will be followed. Our engineer looked at the letters received and agreed that the SEQRA review can continue in the manner described by the State as long as the applicant agrees to have the tests done, and that this would be included in the Findings Statement.

Chairman Everett polled the Board to see if the members felt comfortable moving ahead with the process since the applicant is willing to mitigate anything that might be found from the Phase 1B test. There was some discussion on this, and it was reiterated that the need for additional testing would be put in the Findings Statement. Chairman Everett stated that the Board needs to decide if the FEIS is complete tonight so that movement to the next step can be initiated. Suzanne Williams brought up some inconsistencies in how the FEIS was presented. Atty. Longstreet stated that the correct wording would be in the final copy of the FEIS. Ms. Williams also stated that she wasn't convinced that this is a public recreational facility, and that she isn't sure of what that means. Mitchell Khosrova stated that the hours of operation is the mitigation for noise impact, and 10:30 is too late on Sunday- Thursday. Suzanne Williams stated that not only is it noise impact, but lighting, traffic, etc. Atty. Longstreet stated that 10:00 is doable, but wanted to know if there could be some flexibility or leeway if there was a problem with a performance starting late. The Board was not willing to allow flexibility, but would accept a 10:00 PM conclusion to performances on Sunday-Thursday. Judy Grunberg is willing to accept this condition, though Atty. Longstreet feels that some flexibility is needed. The Board agreed that anyplace it says 10:30 PM, 10:00 PM would need to be substituted. Suzanne Williams commented that there probably would only be one performance a week that would be affected, as most performances would most likely occur on the weekend. Robert Leary wanted to know why five years are needed for the tent, and when does this five year period begin. Chairman Everett stated that the time begins when the building permit is issued. Atty. Longstreet said that the applicant is unsure of how the financing of the permanent facility will go, but they are hoping that they won't need to use the tent the full five years. Chairman Everett wanted to know if the deed restrictions would be in place these five years. Atty. Longstreet stated that the town attorney, Tal Rappleyea, suggested that as part of the agreement that the owner agree to abide by those restrictions discussed before the transfer to not-for-profit status. Mike Hart wanted to know if an escrow account would be set up to be sure that the noise mitigations were being carried out. Chairman Everett stated that the intent was to have a developer's agreement with the Town Board. Atty. Rappleyea has started to create this agreement and it will be discussed at the next meeting. Suzanne Williams was not content that the Army Corps of Engineers were not asked to be part of this project and that a permit should be required from them, and that this should be included in the Findings Statement. Chairman Everett explained that this is not needed as the permit is automatic with the amount of land that will be impacted.

Atty. Longstreet asked the Board to deem the FEIS complete with the changes: 1. a cover sheet to be added 2. the change from 10:30PM to 10:00PM and 3. the archaeological information. The resolution that has been prepared (attached) was reviewed by the

Board. Don Hegeman moved, and Adrian Ooms seconded that the modified resolution be accepted by the Board which deems that the FEIS is complete. This was approved unanimously in a roll call vote.

The preliminary Findings Statement that was prepared jointly by Atty. Rappleyea and Engineer Jurkowski was reviewed by the Board. Based on the discussion, Atty. Rappleyea will prepare a revised copy of the Findings and a resolution to approve it for the next meeting. He will also prepare a resolution on the Special Use Permit and the Area Variance with any conditions, and the Developer's Agreement between the applicant and the Town Board. The proposed restrictions will be reviewed and put into final form.

The Board requested to know what the number of acres that will be conserved under this proposal will be. This is in discussion with the Conservancy at this time. Chairman Everett stated that the Special Use Permit should be approved with conditions, but there are no real impacts with the Area Variance, so that should be approved. Suzanne Williams stated that she felt that the conditions for the Special Use Permit haven't been discussed enough. Chairman Everett stated that most have been addressed in the Findings Statement, which would be transferred to the Special Use Permit. Atty. Longstreet explained that the Variance is needed for the practicality of creating acoustically pleasing sound, as well as providing space for flies above the stage. The impact will be negligible, but the facility wouldn't be able to work as a facility without it. Atty. Longstreet also apologized for any misconceptions that may have been created during tonight's discussion.

The Board also would like to set up an additional workshop meeting to move this project towards completion. That meeting will take place on March 7.

David Everett moved and Suzanne Williams seconded that the meeting be adjourned. This carried and the meeting ended at 10:00 PM.

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David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, ZBA clerk