

Minutes of a Public Hearing held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York Monday, May 30, 2001, at 2:15 p.m.

**Present:**

Robert Kozakiewicz,	Supervisor
Edward Densieski,	Councilman
James Lull,	Councilman
Christopher Kent,	Councilman
Philip Cardinale,	Councilman

**Also Present:**

Barbara Grattan,	Town Clerk
Dawn Thomas, Esq.,	Town Attorney

Supervisor Kozakiewicz: "Let the record reflect that the time of 2:15 p.m. has arrived. Barbara, would you please read the affidavit of publishing and posting?"

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York, on May 30, 2001, at 2:00 p.m. regarding the question of whether \$4,000,000 serial bonds, and bond anticipation notes issued in anticipation thereof should hereafter be issued by the Town of Riverhead to pay the cost of the reconstruction of the Suffolk Theater."

Supervisor Kozakiewicz: "As I understand the purpose of the public hearing, it's not to address the question of really the issuance of the \$4,000,000 in bonds, but whether they should be taxable. Because we are anticipating that this particular arrangement would result in an agreement with Riverhead Theater Corp., RTC, which is a not-for-profit corporation and that they would be the substantial user of the facility, we need to explore or hear from the public the question of whether the bonds, should they be issued, whether they should be taxable or not taxable. And the purpose of the hearing is limited to that particular scope, the question of taxability or non-taxability of the bonds. Saying that, is there anybody who would like to address the Board during this particular public hearing? Mr. Pike?"

Robert Pike: "Hi, Robert Pike, member of the Board of Directors

of the Riverhead Theater Corporation. Yes, this is a fairly technical compliance question under the Tax Equality and Fiscal Responsibility Act or TEFRA as it's known, and I thought it might be appropriate just to put into the record the basic legal status of the Riverhead Theater Corporation.

We are a New York State not-for-profit corporation and I will hand in our filing receipt with the Secretary of State which has received a determination letter qualifying as a 501C3 corporation under the IRS code and I will hand in a copy of the determination letter.

In addition, we are registered in the State of New York as a charitable organization for fund raising purposes. You have previously in your records multiple copies of the business plan which takes our basic corporation charter and purposes and explains in even greater detail how we would do that. It also incorporates the agreement between the Town and the RTC which requires us to do a number of charitable things such as providing the theater to community groups and local production organizations in the community, basically for free or on an as cost- a marginal cost basis. And I can guarantee you that these purposes are charitable in nature in their entirety. And if there are any other questions, I'd be happy to answer them."

Supervisor Kozakiewicz: "Okay. Anybody else who would like to address the Board concerning the TEFRA hearing as referred to earlier?"

Councilman Cardinale: "Do we have an opinion of counsel on this?"

Supervisor Kozakiewicz: "I believe that Wilke Farr will be giving us an opinion."

Councilman Cardinale: "Thank you."

Supervisor Kozakiewicz: "I understand they're the ones who raised the question of need for this particular hearing and indicated that in order to be in compliance with this particular aspect of the federal, we must conduct this hearing in order to hear interested people on this particular question. Anybody else? If not, not seeing anybody's hands move, the time of 2:19 having arrived, close the

public hearing."

Public Hearing closed: 2:19 p.m.

Supervisor Kozakiewicz: "We have one coming up at 3:00 for those of you who want to stick around."

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Public Hearing opened: 3:12 p.m.

Supervisor Kozakiewicz: "All right. We're ready; we're going to burn the CD. Let the time- let the record reflect that the time is 3:12 p.m. and, Barbara, would you please read the affidavit of publishing and posting for purposes of this hearing?"

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York, on Monday, May 30, 2001, at 3:00 p.m. regarding the consideration of the Draft Environmental Impact Statement prepared in support of the special permit petition of William Dries, et al, to allow for the construction of two restaurants totaling 528 seats upon property located at County Route 58, Riverhead."

Supervisor Kozakiewicz: "Rick Hanley, please."

Richard Hanley: "Yes, good afternoon. As the Clerk announced, the special permit petition of William Dries and Anthony Speccio (phonetic), I hope I'm getting the pronunciations correct, would allow the construction of two 20,000 square foot restaurants. This would occur in terms of a positive recommendation by the Planning Board and the Town Board on property that exists presently within both Tanger I and Tanger II, in between those two sites. There's a wooded parcel there.

In its review of the special permit petition, the Town Board identified two potential impacts to either the natural or social environment. One being impacts to roadways and driveways with respect to motor vehicle movements, and the second being to existing commercial areas which presently allow restaurants as permitted uses.

The Board received a draft or a preliminary draft EIS as prepared by Kramer Consulting Group sometime prior to this hearing and by resolution dated 437 of 2001 accepted that draft and sent that out to parties of interest and to involved agencies.

The purpose of the hearing is to invite commentary from the public on the draft EIS in terms of some of the analysis and assessments that were made by Mr. Kramer as well as by Dunn Engineering who did their traffic work."

Supervisor Kozakiewicz: "I have a couple questions. It doesn't look like we have a great audience here today."

Richard Hanley: "I think if you took a vote of the audience it would be in the positive on the special permit."

Supervisor Kozakiewicz: "I would think so. Procedurally we have an open written period until when?"

Richard Hanley: "Normally we give 14 days after the close of the hearing for written comment and that would keep us within the SEQRA time frames."

Supervisor Kozakiewicz: "Very good. Anybody else who would wish to address the Board regarding today's hearing? Ms. Margolin?"

Linda Margolin: "Supervisor Kozakiewicz, members of the Town Board. This draft environmental impact statement was filed I believe in September of last year. There have been no comments on behalf of the Town. There appear to be no members of the public here to be heard. It was always the applicant's position here that while it was not the product of this Board, that there shouldn't have been a declaration for positive impact under SEQRA in the first place and the draft environmental impact statement I think bears that out. That is to say, there are no adverse environmental impacts of any kind that were identified.

At this juncture the procedural alternative is open to the Town Board and it's one that we're strongly urging and that is that the Board now make a negative declaration under SEQRA on the basis of the study that's been done because this will allow the applicant to proceed in a little bit more reasonable time frame. There is an enormous amount of time that's gone by due to the problems that the Town was experiencing with the site plan law and essentially the moratorium that you put in place on processing due to matters involving I think it was Riverhead Center. This application languished for an additional approximately six months beyond where it should have and we would like to see this matter come on for a special permit hearing as quickly as possible.

The applicant has waited a very long time. So that is the alternative consonant with SEQRA that we're urging on the Board today. And I don't think I have anything else to say unless are there any questions that you wish to address to me?"

Barbara Grattan: "State your name, please."

Linda Margolin: "My name is Linda Margolin and the law firm is Bracken, Margolin and Gugliss (phonetic) and we represent the applicants, William Dries and Anthony Specchio."

Supervisor Kozakiewicz: "I have no questions. Anybody else who would like to address the Board? Marty, you have no comments? Okay."

Linda Margolin: "I did want to just mention to the Board that in Mr. Hanley's presentation, I'm not sure he mis-spoke but he talked about two 20,000 square foot restaurants and although the square footage permissible for the site would be approximately 67,000 square feet, the application that's pending is for two 10,000 square foot restaurants for an aggregate total of 20,000 square feet. I'm not sure whether Mr. Hanley said two 20,000 or whatever but I just wanted to verify that. Thank you very much."

Supervisor Kozakiewicz: "He was correct in the other analysis that it would be 528 seats total, right?"

Linda Margolin: "Yes."

Supervisor Kozakiewicz: "Just to make sure that's accurate as well."

Linda Margolin: "That's my understanding."

Richard Hanley: "528 is in the draft EIS."

Linda Margolin: "That's what's in the DEIS."

Supervisor Kozakiewicz: "Okay. Just to make sure. Any other questions? Any comments? If not, I declare the public hearing closed at the time of 3:18 p.m."

Barbara Grattan: "You're not closing it- open for written comment aren't you?"

Supervisor Kozakiewicz: "Written comment would be for two weeks, 14 days, but to hear any public oral comment at this particular hearing today, it's closed. Just to be clear. Yes. Okay. Thank you. Thanks everybody for showing up."

Public Hearing left open  
for written comment

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*Barbara Guttan*  
*Court Clerk*