

RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF TYRE REAFFIRMING THAT THE PROPOSED LAGO RESORT AND CASINO PROJECT IS CLASSIFIED AS A TYPE I ACTION UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT AND REAFFIRMING THAT THE TOWN BOARD FOR THE TOWN OF TYRE IS ESTABLISHED AS LEAD AGENCY

August 20, 2015

WHEREAS, in 2014, Whitetail 414, LLC (“Whitetail”) submitted to the Town Board for the Town of Tyre (the “Town Board”) an application for the creation of a Planned Unit Development (“PUD”) district (the “PUD District Application”) in the Town of Tyre (the “Town”) for the proposed Lago Resort and Casino (formerly the Wilmot Casino and Resort) (the “Project”), together with a proposed Development Plan, a proposed Site Plan, Part 1 of a State Environmental Quality Review Act (“SEQRA”) Full Environmental Assessment Form (“FEAF”), and relevant supporting documentation; and

WHEREAS, the Town Board introduced proposed Local Law No. 3 of 2014 to amend the Town Zoning Map to create the PUD District for the Lago Resort and Casino site if the Development Plan were approved by the Town Board; and

WHEREAS, the Seneca County Department of Health, the Village of Waterloo, the Seneca County Industrial Development Agency, the Town of Seneca Falls, the New York State Department of Environmental Conservation, the New York State Department of Transportation, the New York State Thruway Authority, and the New York State Gaming Commission (collectively the “Involved Agencies,” or individually the “Involved Agency”) are each an “involved agency,” as the term is defined under SEQRA and its implementing regulations set forth at 6 NYCRR Part 617 (the “Regulations”); and

WHEREAS, in 2014, by separate letters to the Involved Agencies, the Town Board transmitted a copy of the FEAF Part 1 received for the Project, requested coordination of the Involved Agencies in the SEQRA process, requested their consents to the Town Board acting as lead agency, and requested their comments on the Project; and

WHEREAS, in 2014, the Involved Agencies concurred with the Town Board establishing itself as lead agency; and

WHEREAS, on May 15, 2014, the Town Board adopted a resolution that classified the Project as a Type I Action, as the term is defined under the Regulations, and that also established the Town Board as lead agency for purposes of a coordinated review under SEQRA for the Project; and

WHEREAS, in 2014, the Town Board referred certain components of the Project to authorized boards and agencies, reviewed the PUD District Application, the proposed Development Plan, the proposed Site Plan, and the potential environmental impacts associated with the Project pursuant SEQRA, concluding on June 12, 2014 that

the Project would not cause any significant adverse environmental impacts, and accordingly issued a negative declaration by resolution dated June 12, 2014; and

WHEREAS, thereafter, by separate resolutions each dated June 12, 2014, the Town Board approved the Development Plan, adopted Local Law No. 3 of 2014 to amend the Town Zoning Map to create a PUD district for the Project, approved the Site Plan and approved the Host Community Agreement (the “June 12, 2014 Approvals”); and

WHEREAS, a proceeding pursuant to Article 78 of the New York Civil Practice Law and Rules was commenced to challenge the June 12, 2014 Approvals, and on July 10, 2015, the Appellate Court annulled the negative declaration and vacated the Site Plan approval and all related resolutions on the ground that the Town Board’s SEQRA review was incomplete because the Town Board did not by resolution formally adopt the “Reasons Supporting the Determination of Significance in Part 3 of the Full Environmental Assessment Form” as part of its negative declaration; and

WHEREAS, as a result of the July 10, 2015 Appellate Court decision, the Town Board must complete its SEQRA review of the Project, and must review the PUD District Application, Development Plan, and Site Plan proposals pending before it; and

WHEREAS, on July 16, 2015, the Town Board received for review and approval from Lago Resort & Casino, LLC, the successor by assignment to Whitetail (“Lago”), copies of the following documents: a PUD District Application and a proposed Development Plan with minor modifications from the initial Development Plan reviewed by the Town Board in 2014; a proposed Site Plan that reflects revisions to the initial Site Plan reviewed by the Town Board in 2014; FEAF Part 1 that was originally submitted to the Town Board in 2014 together with an amended FEAF Part 1 dated July 15, 2015 which reflects the revisions proposed for the Project since the initial FEAF Part 1 was submitted; and any other Project documents identified in the July 16, 2015 transmittal letter from the Lago engineer, BME Associates (the “July 2015 Project Documents”); and

WHEREAS, if the Town Board approves the proposed Development Plan, which decision has not yet been made, the Town Zoning Law requires that the Town Board amend the Town Zoning Map within 10 days of plan approval to establish and define the type and boundaries of the PUD district, and therefore, at its July 16, 2015 meeting, the Town Board introduced proposed Local Law No. 5 of 2015, draft dated July 14, 2015, which would accomplish that zoning change, and, at its August 14, 2015 special meeting, after receiving the recommendations of the Tyre Planning Board, the Tyre Zoning Board of Appeals, and the Seneca County Planning Board, the Town Board approved proposed Local Law No. 5 of 2015, draft dated August 14, 2015, which contains a minor revision to paragraph five of said Local Law No. 5 of 2015 that clarifies the date of the Development Plan under review; and

WHEREAS, at its July 16, 2015 meeting, the Town Board also resolved to communicate to the Involved Agencies, and to “interested agencies” as the term is defined in the Regulations, the Town Board’s intention as SEQRA lead agency to complete the SEQRA review of the Project; and

WHEREAS, by separate letters to the Involved Agencies dated July 20, 2015, the Town Board enclosed copies of the July 2015 Project Documents and stated its continued desire to complete the SEQRA review of the Project, to undertake a coordinated review of the Project under SEQRA with all Involved Agencies, and to continue to act as lead agency for the Project review, requesting that each Involved Agency indicate its continued consent to the Town Board acting as lead agency on or before August 19, 2015 and stating that if no reply was received by that date, the Town Board would consider the Involved Agency to have no objections; and

WHEREAS, to date, the Involved Agencies have either expressly concurred in the Town Board continuing to act as lead agency for the Project review or have not replied, which silence is considered to mean there is no objection to the same; and

WHEREAS, the Town Board continues to desire to comply with the requirements of SEQRA and the Regulations with respect to the Project, including specifically the PUD District Application, the Development Plan, the Site Plan, and proposed Local Law No. 5 of 2015, and a Host Community Agreement;

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. After considering the scope and nature of the components of the Project and the types of actions that constitute a Type I action pursuant to the Regulations, the Town Board hereby reaffirms that the Project is a Type I action under SEQRA; and
2. Based on the concurrences received from the SEQRA Involved Agencies, the Town Board hereby reaffirms its status and role as lead agency for purposes of a coordinated review under SEQRA for the Project.

The adoption of the foregoing Resolution was moved by Councilman _____, seconded by Councilman _____, and duly put to vote, which resulted as follows:

	Yea	Nay	Abstain	Absent
Supervisor Ronald F. McGreevy	[]	[]	[]	[]
Councilman Joseph Delpapa	[]	[]	[]	[]
Councilman James Rogers	[]	[]	[]	[]
Councilman Reginald Aceto	[]	[]	[]	[]
Councilman Thomas Thomson	[]	[]	[]	[]

The Resolution was thereupon duly adopted.

August 20, 2015