

## **Enfield Town Planning Board**

Meeting Minutes  
Wednesday, January 3, 2007

Meeting was called to order at 7:15 pm.

Members present included Virginia Bryant, Jim McConkey, Doug Willis, Calvin Rothermich and Rich Neno.

Others present: Ron Clark and John Rancich

Excused: Deb Teeter and Ann Chaffee

As Deb Teeter was out of town, Judy Neno kindly agreed to take the minutes of this meeting.

.Ron Clark was present to discuss the noise ordinance and John Rancich attended to answer any questions the board might currently have with respect to his wind farm project.

Rich Neno made a motion, seconded by Doug Willis that the minutes of the December 6, 2006 Planning Board Meeting be accepted as read. Motion passed unanimously.

Jim McConkey indicated that he was a bit confused about the Planning Board terms of appointment. It appears that it's a difference of opinion – when you're appointed to take over the term of an individual who has resigned/left the Board, do you just serve out the remaining time in that person's term, or are you appointed for a full seven-year term?. It would seem to make sense that the individual filling a vacated seat would finish out that particular 'seat's' existing term length. Virginia Bryant indicated that she never knew whose term she was filling in when she came back on. Rich Neno indicated that the staggered terms exist to help ensure continuity.

Doug Willis wondered if the Town was mandated to have a planning board. Rich Neno indicated that after a meeting at the school – rather than zoning, it was decided to get a planning board going. John Rancich noted that he was on the Town's first planning board. It is now a State requirement; that's why Caroline and Newfield are having a heck of a time.

John Rancich came to the meeting to see if Planning Board Members had any questions themselves or if they've had any questions from the town regarding his plans for a wind farm. John got "shuffled" to the planning board by the Town Supervisor. Initially, John came to the Planning Board because Ron Clark had requested that he obtain a permit for a temporary MET tower. John has received the permit and came to tonight's meeting to see if there are any questions about the temporary tower that's been installed. Doug Willis indicated that the permit was granted on the basis that he follow the requirements of the federal law. Doug was concerned about the guy wires on the tower and having no lights on the tower. Doug indicated that if we get a foot of snow, snowmobilers are going to ride into an unmarked cable.

Virginia Bryant noted that since the tower is less than 200 feet in height, John isn't required to have a light on the tower. However, she also expressed concern about the unmarked guy wires. John Rancich

assured the Board Members that he would quickly make sure the wires were properly marked so as not to be hazards. Jim McConkey had some questions about having the wind generating facility operated by the town. John stated that he hasn't figured everything out yet regarding if and/or how he wants the town to participate. There are several possible scenarios involving the Town to a greater or lesser degree:

- Receive benefits through payments in lieu of taxes
- participate as a partner and share in the profits

As he is still in the planning stages regarding his 'business plan' and potential beneficiaries, besides himself (the Town, the County, other entities); more information will be forthcoming

Calvin Rothermich said that he (John Rancich) was quoted in saying the town was included. John stated that he would rather not see his operation taxed and would rather see the Town as a partner. Jim McConkey said that the cost of financing a fairly large array of windmills is so prohibitively expensive that multinational corporations often buy up or take over independent wind farms due to financial failures on the local level. From what he's read, the profits leave the town and then often go abroad to some place like Sweden. John agreed, and stated that this is what he's hoping to avoid by having a community-based project. He has no doubt that banks and investors will be involved in assisting him with the project's financing.

With a project of this size, John stated, you (the owner) get a production tax credit from the federal government. He explained that this is something he is very sensitive about and endeavoring to manage appropriately however the ownership vehicle evolves. These credits are not salable like regular tax credits – so the entity that owns and operates the wind farm has to use the tax credits themselves. If the town and county participate – one of our partners might be someone like Borg Warner who could be 'in the business plan's mix' for 1 percent of the profits and 90 percent of the tax deduction credits. This is just a 'for instance/example'... "a lot is still stuff spinning in my head", John added.

Virginia asked about NYSEG's/NYSERDA's information about this type of thing. John stated that they are more oriented toward homeowners, small users. John understands a great deal of the technical data, and feels strongly that the concept for his wind farm is a solid one. He stated, "I know from 60 days of taking data, that the wind blows, and so far, more than enough to support it (the farm). As far as how much wind we have in August, I don't know about that yet. That's the point of the test tower."

Rich Neno stated that the feedback that he has received to date indicates that as long as the town benefits, then (they have) there should be no problem with it. John Rancich would like to propose an agreement with the town whereby the Town would receive X percent of the profits, or an amount per year (this amount to be re-negotiated at periodic, set intervals as stated in any such agreement) that then gets deposited directly into the town coffers.

Jim McConkey indicated that Tompkins County has become an Empire Zone. He said it makes a difference in the level and/or rate of taxation – this is something new and John should check into it. John stated that he would do so shortly. A potential risk for the town in regards to this wind farm plan might be if John were unable to get the sufficient financing he needs to build and implement his farm. It's possible that a much larger corporation could come forward and "try to do a hostile take-over" or involve the Town in costly lawsuits. John stated that this is a major reason why he has been trying to get the town and county involved in his plans. As long as this (the wind farm) is a business that is community-based, it would be something that would be more difficult for an outside entity to subsume.

Jim thinks this type of development should require a Town ordinance or perhaps an amendment/addendum added within the current Site Plan Review Regulations since Enfield has no zoning. John indicated that the only place that makes sense to do a wind farm is the sight he's got. He's gone to considerable expense with land leases and purchases. Cotton Hanlon land won't be sold and Connecticut Hill land won't be sold. He's working with Senator Clinton regarding the use (lease) of some of the land within these two areas.

Jim noted that Enfield has a valuable location that should be protected from a hostile take over so to speak – if the community-based plan failed, a large public utility could work with the county and make use to their advantage, the laws of eminent domain. John stated that the wind farm is not a public utility – it's called “an independent systems operator.”

The power generated is produced at John's own risk, for his own benefit, unless he includes the town. He's not a public utility because he doesn't sell electricity. He “dumps power into the national grid and then folks ‘purchase’ it, based on bid pricing.” Cornell University is one of the largest power users in the county. If we allowed them to purchase it – because they are green energy conscious, it might be a mutually beneficial arrangement. Jim McConkey stated, correctly, “there are so many imponderables!”

John Rancich asked if there were any plans to repair Black Oak Road. If so, he's wondering if the Town would elect to hold off as the scope of his project would definitely degrade the condition of the road. Doug Willis indicated that it's been put on hold for 20 years – the road needs to be repaired. John's suggestion re: Black Oak Road from his personal point of view – he'd rather see the heavy truck traffic for the windmills' transport/installation, and gravel/cement truck traffic occur first. Thus the road's improvement could take place after any construction damage has happened. John reiterated that he will take care of the guy wires and make sure that they are all marked.

Jim McConkey stated that John has been helpful in sharing his plans and insights tonight. John thanked the Planning Board for the opportunity to speak to them about his plans, which still have many unanswered questions. Ron Clark noted that in some of his classes, they are told to promote wind generation. They haven't been told how to go about it in his classes, that's why he referred John to the planning board. Virginia indicated that perhaps we should read other town's ordinances to get a better understanding of “what's out there.”

Calvin Rothermich then asked, “what's the procedure for a mass gathering?” Ron Clark stated that there's a permit that needs to be completed – it addresses the need for additional security. A permit costs \$250.00. Ron can easily ‘use up’ the \$250.00 when he meets with function operators for setting up the fences alone. It doesn't cover the cost of deputies, the health department inspection, etc. Specifically, this situation seems to pertain to the annual Muse Fest. The Grassroots Festival, held at the T-Burg Fair Grounds, pays the sheriff's department for extra coverage and provides their own security for their event.

The mass gathering permit was approved by the town board before Ron came on board. If they want to change it, the Planning Board should certainly do so and make their recommendations to the Town Board. Ron indicated that the current process hasn't got any teeth, and that a permit should certainly cost more. Ron and Planning Board members discussed making the cost of a mass gathering permit at least \$750.00....(if you raise it high enough, they'll go some place else).

Jim made an extra copy of the noise ordinance for Ron – and Virginia reported that she had asked Cathy Valentino, Town of Ithaca Supervisor, why no decibel levels were listed in Ithaca’s ordinance – too many ‘personal interpretations’ and variations about what constitutes noise was the response.

Having an adopted noise ordinance for the Town could help put a stop to “noise” (e.g. MUSE FEST) by a certain hour at any rate –the landowner/event operator can shut the sound stage down, but then when the ‘fans’ go back to their camp ground spots, play their own music, party loudly, etc. that’s when the deputies can take care of it. Sheriffs’ deputies are on patrol at 1, 2, 3 a.m. in the morning and need to be called. The “noise-makers” are given a warning, then the second time they shut them down. The property owner can be fined for it as well. This not a job for Code Enforcement staff.

Ron doesn’t have a decibel meter for Town use. In Ron’s opinion, as a code enforcement officer versus a peace officer, he hasn’t any authority to enforce it – it’s up to law enforcement to handle, Ron has no powers to fine or arrest. They have talked about giving code officers, peace officer status but nothing has happened in that area.

Ron feels the noise ordinance is needed. The issue is to come to some sort of agreement with respect to establishing the proper level – everyone (including those present at this meeting) has a different opinion on levels, time of day/night and types of noise. Ron indicated that the decibel meter isn’t terribly expensive, but said, correctly, “who’s going to enforce it, who’s going to maintain the equipment, who’s going to calibrate it?” It’s for these reasons that the City of Ithaca and Town of Ithaca call the police when a problem is reported.

In Enfield, Ron’s the one who usually gets these calls; he can only say he doesn’t have the authority to do anything. Doug Willis asked how you’d control a football game when folks start jumping up and down and screaming. You can’t keep that noise down –but it usually happens between noon and four p.m. Virginia suggested looking at the time frame(s) within a 24-hour day/night span for limiting noise and stated that perhaps with law enforcement input we could put some decibel limits put into the ordinance.

Ron suggested that we write a draft, send it to the Sheriff’s department and ask for their constructive feedback. The department is trying to get the deputies involved in the local geographic areas were they reside.

Ron indicated that if you set a decibel limit and your motorcycle is breaking it and you’ve also got a farmer on a tractor making more noise – then it’s hard to enforce; do you justify it (the tractor noise) by saying the farmer’s making a living...what about a professional motocross racer who’s practicing? Virginia will go on line and see what other decibel limits are listed for other towns. Jim thought Deb Teeter did a good job re-drafting the noise ordinance we were originally given to review. The only thing that concerned him was the definition of unreasonable noise. The statement of ‘sustained noise’ of 85 decibels or greater begs more refining or questioning.

Calvin Rothermich stated, “if these other townships don’t have a noise ordinance then why are we getting involved? It came to the planning board because a couple of letters were written”. Virginia thought that we should formally ask the town to refer the mass gathering ordinance to the town planning board so we can make recommendations for the Town Board to act on (or not). One recommendation might well be to increase the permit cost in hopes of discouraging the event. The permit does state that they (the event operator) must carry \$500,000-\$1,000,000 of liability insurance. Adding liability to the property owner should also be included.

The Planning Board also felt that a lot of time has been spent dealing with the noise ordinance to address the complaints of a handful of people. Doug Willis doesn't feel that we can come up with any easily interpreted or enforceable set of regulations to cover this area of contention. It would have to be so broad that its ends up being open to a lot of individual discretion, which could be then be left up to a deputy for their citation.

Virginia will email Jean and make a suggestion regarding the mass gathering permit being formally referred to Planning Board for our recommendations.. She'll get on line and see what other towns are doing. Ron thanked the planning board for inviting him and was interested in hearing about what John Rancich had to say.

Virginia thanked Rich for the peanut brittle he shared this evening. She also thanked Judy Neno for taking the minutes of the evening. A motion was made by Calvin Rothermich and seconded by Doug Willis that the meeting be adjourned.

Meeting adjourned at 8:56 p.m.