

Town of Enfield Wind Farm Advisory Committee Meeting –
January 27, 2016 - Enfield Community Building

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PRESENT: Councilperson Michael Miles, Councilperson Mike Carpenter, Marguerite Wells, Martha Fischer, Marcus Gingrich, Rob Tesori, Mimi Mehaffey

ABSENT: Charles Elrod, Jude Lemke

STAFF: Sue Thompson/Wind Farm Advisory Recording Secretary

OTHERS IN ATTENDANCE: Alan Teeter/Code Enforcement, Henry Hansteen, Enfield Councilperson (Audience)

Michael Miles called the meeting to order at 7:00 p.m and lead the assemblage in the Pledge of Allegiance to the Flag.

Michael Miles gave a brief introduction to the wind farm in Enfield. He stated there are two primary goals that the Enfield Town Board introduced in the Resolution 2016-32, which forms a Enfield Wind Farm Advisory Committee. The first goal is to look into the science of wind turbines and make advisory recommendations to the Town Board concerning any potential needed updates to the local wind farm law and other town processes and procedures. The second goal is to gather more information on the Black Oak Wind Farm (BOWF) to try to find common ground among residents.

He reminded everyone that the committee is only an advisory committee and has no power to make actual decisions regarding the law. The role of the concerned public regarding the wind farm helped create the committee.

Michael Miles stated that a Wind Advisory Committee information page has been placed on the town web site. It is located under “Departments” on the front page. Agendas, minutes and other wind farm documents will be placed on this site. He reminded everyone to sign up on the web page to receive notification of meetings, and other events in Enfield.

Each member of the committee gave a short introduction of themselves. Michael Miles stated that Charles Elrod and Jude Lemke, additional members of the committee, were not in attendance. Mimi Mehaffey, is attending in the capacity of an alternate member. The Committee discussed “Ground Rules” for their meetings. They all agreed being respectful and listening should go without saying for both committee members and the audience. It was decided a formal agenda and what issues to discuss was a good idea. There was discussion on how the Town Board would receive information from the Committee. It was decided the Committee would have a formal statement made on any recommendations regarding the wind farm and the law.

Martha Fischer asked if Michael Miles and Mike Carpenter, as liaisons of the Town Board, were they official members of the Committee. Mike Carpenter answered yes, they are both formal members of the Committee. Mike Carpenter stated he had lots of ideas and information on the wind farm topic such as: science of wind turbines, current wind law and if there should be an update, BOWF operating under current Town law,

will updates affect BOWF. He stated that he has been conferring with Guy Krogh, Enfield Town Attorney, regarding the BOWF and wind law. It was recommended that the Committee needs to understand the legal aspects of the wind law.

Michael Miles will use “Doodle” to poll dates and times for future meetings. Meeting dates will be posted on the town website, Ithaca Journal Events and Town Clerks office, along with sending e-mail to Committee members.

Michael Miles will continue to serve as Chairperson for the Committee. Mimi Mehaffey accepted the nomination to serve as Vice Chairperson for the Committee.

Committee members stated they do not want their e-mail and phone numbers posted on the town website. The committee asked Sue Thompson, Enfield webmaster, to create a Committee e-mail for the public to send comments and messages to.

Goals and Work Items

- Have members research wind farm issues?
- Goals – how we get to a solution including the needs of both parties (neighbors and BOWF)
- Marguerite Wells, BOWF, will be contact regarding suggested solutions and if they are possible regarding the BOWF
- Mike Carpenter discussed how he and Michael Miles are representatives of the “whole” Enfield population.
- Mimi Mehaffey stated she felt the wind law encompasses not only the BOWF but the health and safety of the people in the town.
- Rob Tesori suggested that the decisions the Town of Enfield make regarding wind law could be a model to other municipalities. It could be a legal precedent.
- There is no wind farm regulatory.
- Article 10¹ of the Power New York Act states that 25 mw and larger electrical energy sites the state has jurisdiction; below 25 mw Enfield is the lead jurisdiction. The wind farm is below 25 mw.

¹ New York State recently adopted the Power New York Act, which includes Article X, legislation establishing a state-level process for permitting electrical generation facilities of 25 MW and larger capacity. Under Article X, utility scale wind farms are now sited and permitted by a state siting commission, rather than by local municipalities. However, the state siting commission may defer to local ordinances, or it may overrule local requirements it considers to place an unreasonable burden on the applicant; so it remains incumbent upon municipalities to establish zoning and/or planning ordinances that balance wind energy’s clean electricity generation potential with the public health, safety, welfare concerns that may be involved. Furthermore, residential scale wind turbines, and wind farms of less than 25 MW, will still fall under local municipal control. This section is intended to provide local officials with the information and tools needed to create meaningful and reasonable zoning and planning documents for wind energy facilities.
http://www.law.pace.edu/sites/default/files/PECC/Permitting%20and%20appendix%20B_TOP30AUG11.pdf

- Set backs – why they are set .

Work Items

Mike Carpenter stated that when he became a board member he voted yes for the final Environmental Impact Statement (EIS) and Finding Statement. He had not done his research on the whole project. He was not aware of issues with the neighboring properties of the BOWF. He feels it is important to learn both sides of the wind farm location. Renewal energy should be kept in mind. Different sides of large wind facilities should be looked at. Currents projects BOWF. Wind law update or not – property lines – setbacks. Health and Safety issues – noise. How are the noise levels issued. Can residents live near the wind farm or sell their property. Do they lose value on their property.

Martha Fischer stated noise issues where important. The health of residents and low frequency sounds needs to be researched.

Marcus Gingrich agreed with Mike Carpenter regarding health and safety issues. Where does the local law stand regarding flickerings. Why and how are distances – setbacks chosen? How is sound measured? How are setbacks monitored to make sure they are correctly set in the field?

Rob Tesori agreed both health and safety are important. Land usage for non-participating members should be addressed. Does the wind farm cause restrictions on adjoining resident's property usage?

Marguerite Wells stated she wants to work with the Committee regarding the wind farm. Mimi Mehaffey questioned what stages the BOWF is at for permits and EIS. Would like an updated report on the specs of the substation, placement of the windmills, and setbacks. The Committee needs to look at wind farms in general.

Marguerite Wells reported the BOWF has not submitted any of the updated reports yet. They are hopeful to submit an update to the Town Board on February 10. The EIS will be an update not a complete resubmission of the EIS. The town engineers will review the EIS for completeness. The public comment period is 30 days. There will be a public hearing where all comments are pulled together and the BOWF and Town Board will respond. LaBella Associates is the engineering firm retained by the Town of Enfield for the Black Oak Wind Farm Project.

Mimi Mehaffey feels that height restrictions need to be incorporated in the wind farm law. She stated maybe the height of the windmills are too big for the size of the town. What does the town gain, lose, risk regarding the wind farm? What kind of information – scientific studies, cost benefit analysis are available and who puts these reports out. Are they done by the manufacturing section regarding windfarms? How long have the studies been out.

Mimi Mehaffey stated she feels the reduction of fossil fuel needs to be addressed in the town.

Martha Fischer stated her research states that few places in New York State are good locations for wind farms. Can wind farm be used as a reduction to reducing fossil fuels? Michael Miles reported the town is now working on a solar law.

Rob Tesori asked Marguerite Wells about fact finding in reference to 4.07 and 4.13 in the leases of the contract holders where it says you can't speak out against the BOWF. Does the 30 day comment period include them also? He would like to hear both the good and bad. We have to make informed decisions about these setbacks. He asked if Marguerite would be able to come up with some kind of document where the contract holders can comment on whatever they feel about. Marguerite stated she will find out how the participants can participate in any fact finding.

Mike Carpenter asked Marguerite Wells what the difference between participant and non-participant was. Difference on how the wind farm acts to these people whether they are participants or not. How the wind farm acts with people who sign the neighbor agreement and doesn't sign the neighbor agreement. Why as a town board member he wouldn't ignore both the neighbor agreements and the fact if you are a participant of the wind farm it basically says some of these restrictions don't apply to you anymore. Why we allow someone who is involved as a participant to site a wind generator closer to something than what the wind law would allow to be. It would make significant difference between participant and non-participant.

Marguerite Wells answered that she was not clear if people who sign the good neighbor agreement are participants or not. Lease holders are participants. As part of their leases if can choose to waive the set backs and waive noise restrictions that is what is to be paid as a participants.

Mike Carpenter stated that Guy Krogh, Enfield Town Attorney, indicated that he felt the lease holders could not waive any provision of the wind law legally.

The current wind law does have provisions to waive setbacks. None of the participants have waived anything.

Michael Miles feels that noise is one of the issues to address involving the audible and technical issues. Martha Fischer asked if LaBella Associates was doing their own sound analysis. Marguerite Wells answered they have a consultant who does the analysis and LaBella Associates review it. Michael Miles stated that the Town Board members are allowed to ask questions on any part of the document.

Mike Carpenter read part of the Wind Farm Agreement #2 Easement. Easement and Covenants – A. Noises . Owner grants to BOWF a noise easement for the right and privilege to generate and maintain audible wind turbine noise levels on and above the property with accordance with the law of the Town of Enfield. What does that mean?

Marguerite Wells stated the intent is that they are not asking above the privileges of what the law allows. They are going to be compliant with the law they are not asking for waivers of the law.

The Committee decided to put the Wind Farm Agreement on their agenda for another meeting time.

Mike Carpenter stated that when BOWF submits their report to the Town Board it sets a time line in place. It gives time for determination and responds for both the public and Town Board. Marguerite Wells stated that no immediate response is due until March if report is submitted in February.

Mike Carpenter suggested the committee submit a goals statement to Town Board by March.

Mike Carpenter suggested the Committee submit suggestions before the EIS report is given to the Town Board. Marguerite Wells stated that they should be new suggestions that have not been submitted before.

Mike Carpenter stated he did not see in any of documentation how noise would be monitored in the future. Who would be responsible for the monitoring. Marguerite Wells stated she will look into the monitoring.

Mike Carpenter reported he has been talking to residents near the BOWF area. He asked them what they can't live with and what they can live with. There is concern of the value of property. He pointed out that the BOWF has spent a long time and money in the project. He wondered what the possibilities are for moving the windmills to other locations.

Michael Miles stated "Bulleted Items" could be:

- Noise – wind mills
- Noise – substation
- Set backs
- Set backs and population
- Need to find a common ground
- Are smaller wind turbine towers possible
- Ecological aspects related to set backs

“Home Work”

- Bring research info to next meeting
- Creditable sources are needed
- Send links and documents to Michael Miles
- Documents/research info could be put on website for residents
- Michael Mile will send out new “Doodle” poll for next meeting. Possibility of Tuesday at 7 pm.

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Martha Fischer asked if “outside” experts could be invited to the meeting to present topics such as sound levels. It was suggested the visit should be discussed at the Committee meeting. Michael Miles reminded the Committee that they could not pay for presentations that the presenter would have to be on a voluntary basis. Mike Carpenter informed the Committee that a mediator was available if they thought one was needed for any of the meetings.

Privilege of the Floor

Michael Miles open the floor for comments.

Becky Sims, Black Oak Road. Stated she was annoyed how the Committee was formed. A lack of transparency is a problem. Communication needs to be better BOWF and the Town. Timber management in the area is poorly managed, clear cutting is not good. Economic injustice/social justice or fairness - people do not have the finances to invest in the wind farm. She wondered if there was a chance for money or shares in the BOWF and if that would change residents views. There are no direct personal benefits. Mike Carpenter asked how they could include Becky in the process. He invited Becky Sims to continue to attend the meetings, and continue to voice comments and suggestions. He suggested that residents should attend Town Board meetings to be up-to-date on events in Enfield.

Additional questions and comments (people did not identify themselves for questions):

- Resident asked if John Rancich still owned the BOWF. Marguerite answered he was an investor in BOWF.
- During the comment period regarding the EIS can they ask questions on how some of the noise testing was done.
 - Yes can comment during the public session or at the committee level regarding noise testing.
- Can residents have their own environments study done on issues.
- Need more sense of community
- What do Enfield residents benefit from the wind farm.
 - BOWF “payment in lieu of taxes” to the town – PILOT system
 - Enfield will be paid a total of \$45,000
- Safety issues how is the town protecting is resident?
- How do resident ask questions and concerns regarding the EIS? Where can they access the EIS?
 - There will be a public hearing allowing for public concerns
 - Comments and concerns can be sent to Committee or presented to Committee before each meeting.
 - A Committee e-mail will be set up for comments and concerns and placed on the Town web site.
 - Questions and concerns will be recorded in the Committee minutes.

- EIS can be accessed through Enfield town website, Tompkins County Community Library, BOWF website, Enfield Town Clerk's office.
- 25 – 30 local regional regulatory organizations will also receive copies of the EIS for comment. This is because of the permitting jurisdictions.
- It is suggested to read the beginning “draft” EIS then Final EIS and then the Supplemental EIS. Supplement are only changes to the EIS.
- LaBella wrote the final EIS.
- Is a moratorium necessary for the wind farm law? Michael Carpenter answered we don't need one right now.

Henry Hansteen, South VanDorn Road, questioned the statement in the Resolution adopting Local Law #1 of 2009 regarding setbacks –

“The NYSERDA data cited by the Tompkins County Department of Planning in support of greater setbacks is, at best, equivocal. The Tompkins County Department of Planning failed to explain its rationale for suggesting a different setback, other than general supposition about needs for greater community support. Further, the setbacks set forth in the proposed Local Law are within the range suggested by NYSERDA, and the Tompkins County Department of Planning seems to have ignored those portions and provisions of the proposed Local Law that signify that the requirements of such Local Law are minimum requirements such that the setback, among other requirements, may be increased to mitigate potential adverse impacts during the application, permitting, and future SEQRA review processes”

Does the wind farm law have a section regarding increased setback increase?

Mike Carpenter responded that during his conversation with Guy Krogh, Town Attorney, the answer to changes could be found in the Local Law Number 1 of 2009 Wind Energy Facilities Local Law on page 11 section 3. This section gives the town the right to do something different than what the law says. It gives the town the right to ask for larger setbacks if the reasons is regarding health and safety.

SECTION 3: ISSUANCE OR DENIAL OF WIND ENERGY PERMITS - Upon completion of the review process, the Town Board shall, upon consideration of the standards contained in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditional approval, or denial fully stated. If approved, the Town Board will direct the Town Clerk to issue a Wind Energy Permit upon satisfaction of all conditions for said Permit, and will further direct the building inspector to issue a building permit upon demonstrated compliance with the Uniform Fire Prevention and Building Code, the applicable energy codes, other applicable codes, and other pre-construction conditions of this Local Law. The decision of the Town Board shall be promptly filed in the Office of the Town Clerk and a copy shall be promptly mailed by the Town Clerk to the Applicant by first class mail

Would changing setbacks result in the town being sued? It is complicated, lots of legal precedent. The precedent is what the courts will follow. If the Town of Enfield decides a change is for the public good, health, safety and financial welfare (public wheel) they have to have all the studies and information to back the change up. Having all the back up information you are less likely to lose the judgement.

Michael Miles adjourned the meeting at 9:20 p.m.

Respectfully submitted, Sue Thompson, Recording Secretary