

Town of Enfield
Special Town Board Meeting Minutes
Enfield Community Building
Wednesday, April 6, 2016
7:00 p.m.

Present: Town Supervisor Ann Rider, Town Councilperson Mike Carpenter, Town Councilperson Henry Hansteen, Town Councilperson Michael Miles, Town Clerk Alice Linton. Excused: Town Councilperson Virginia Bryant

Supervisor Rider opened the special town board meeting at 7:00 p.m. by leading the assemblage in the Pledge of Allegiance to the Flag.

Supervisor Rider asked for a moment of silence for Ronald V. Updike, retired Enfield Highway Superintendent, who passed away on April 1, 2016.

Acceptance of Paint Bid on Enfield Town Hall:

Supervisor Rider stated she was asked to check on references for Wright Bros. She got a recommendation from David Allen, a landscaper in Mecklenburg. Two years ago Wright Bros. painted the Mecklenburg Methodist Church, they painted the entrance building at Grove Cemetery in Trumansburg, and they painted David Allen's house. Their quality of work is outstanding.

She also checked references on First General. She contacted Jerry Willard from the First Ward Action Counsel in the Binghamton area and they were very pleased with First General's work.

Councilperson Bryant checked three references for Marchuska Bros. and everyone was very satisfied with their work.

Councilperson Carpenter remarked that Wright Bros. turned in the lowest bid and they are local.

Councilperson Carpenter moved, with a second by Councilperson Hansteen to accept the bid of Wright Bros.

Vote: Councilperson Carpenter aye, Councilperson Hansteen aye, Councilperson Miles aye, Supervisor Rider aye. Councilperson Bryant excused. Carried

Black Oak Wind Farm Discussion:

Supervisor Rider stated she has received a copy of a draft Road Use Agreement in relation to the Black Oak Wind Farm from the town's attorney Guy Krogh. She will get copies to board members so it can be discussed at the April 13, 2016 regular town board meeting.

Councilperson Carpenter stated the Wind Farm Committee will try to get all reports to the town board before their meeting on April 13. He questioned what format the reports should be in and what the town board will be doing with them. Will they be filed with the town clerk as official comments, or will the board make a decision based on them and give a group comment.

Councilperson Carpenter stated the town board may want to ask Black Oak Wind Farm to do something so the DSEIS is more to the town board's liking. There are things he would want to add, subtract and include. The timing is tight. If the town board makes comments as a whole, they would

have to be submitted at the next meeting. The committee's reports could be submitted as a whole, and can be used as comments.

Supervisor Rider stated she is hearing some members of the town board may want to make comments during this period. She feels it is the job of the town board to gather comments from the public.

Councilperson Hansteen asked if there were key issues to be addressed.

Councilperson Carpenter stated he does have key issues. The more concise, detailed and accurate the comments are, the easier it will be for Black Oak Wind Farm to keep the process moving. He feels the comments can be better addressed if they are presented as a whole.

Councilperson Hansteen questioned if it would be possible to get the entire town board to agree.

Councilperson Carpenter feels all board members have similar concerns - they want Black Oak Wind Farm to be built, but without negative impacts on residents. The town board needs to represent the population and needs to look to mitigate issues or compromise. Everyone agrees there will be some effects on residents that live close to the wind turbines. Board members can state what is important to them, and then a paper could be written stating what areas are significant and should be looked into for mitigation.

Marguerite Wells of the Black Oak Wind Farm stated it is her understanding that the town board does not make comments on the DSEIS. They are the receivers of comments. Their job is to look at the comments and say here are the things that we need to see addressed. The next step, the Final Findings Statement, is the point at which the town board says these are the ways Black Oak will address issues. These are the conditions under which the project can go forward.

Councilperson Miles suggested it is the intent of the Wind Farm Committee to sum up the work of what they've learned through their written reports. Not everyone will agree, but there will be an appendix where opinions of everyone will be given.

Councilperson Carpenter stated he would like to figure out a way for the Black Oak Wind Farm to happen. He would also like to figure out a way for the people who live close to the wind farm to have some way they can continue to live their lives in a way that they don't lose significantly from the wind farm. The wind farm will have to function as a wind farm. Residents will need to find a way to live there or find another home and not lose financially. They should at least be offered a choice.

Councilperson Hansteen stated that is a concern he has. One plan he thought of would be homeowners get their houses appraised, the next tax period they get a credit on their tax bill for the appraisal. If they can't live in the area, they put their house on the market and after a year they take the highest bid and Black Oak Wind Farm pays the difference between their appraisal and the highest offer they receive. The idea didn't seem to be popular.

Councilperson Carpenter has talked to investors in the Black Oak Wind Farm about helping residents have the ability to move. They might find a pool of investors that would be willing to purchase the properties and then sell them at a later date.

Councilperson Carpenter spoke to the town's attorney who advised when there is a significant health or safety issue, that is different than a financial issue.

Councilperson Miles feels most of the issues of residents in the area of proposed wind turbines are about health and safety.

Councilperson Carpenter feels if a decision is made based on health issues, it must be only based on peer review of studies of real health issues. In real terms, however, it is less likely at this point to have peer studies because it is very selective on what your sensitivity is. Rather than an ice throw hitting someone, he is more concerned for a mother who can see the wind turbine turning while her children are playing in the yard, because the concern is real. She may feel she needs to call them in as there is ice building on the blades. There are also no studies of someone unable to sleep because of the noise and the loss of sleep due to worrying about being able to work with a lack of sleep. Those are hard things to prove. The town board needs to look at these things and decide if they are real circumstances and how can they be mitigated. The turbines can't be moved. Either the wind farm can't happen, or there needs to be mitigation for the people who live close by. His job is to protect town residents. These turbines are 487' tall and they will be there for 25 years and they will be moving any time the wind is moving.

Councilperson Miles wondered if there could be some kind of binding arbitration, maybe as a last resort after other steps have been gone through. Could a fund be created?

Councilperson Carpenter feels if everyone works together maybe a solution can be found. Black Oak Wind Farm may not have much flexibility.

Supervisor Rider summarized the Wind Farm Committee is getting the written report together to be disseminated to the town board by the end of Monday for discussion on Wednesday.

Councilperson Miles suggested rather than wait for the process to be further along, the town board could present issues so they can be addressed sooner.

Marguerite Wells stated one of the stipulations of town law is a decommissioning bond to take down the turbines. One of the forms that could take is a surety bond. She asked the town board for their thoughts on that form of bond. Once the wind farm has more cash collateral they could hold money in escrow for decommissioning, but they could start with a surety bond to get the process started. She hopes for a response from the board within the next two weeks.

Supervisor Rider stated the Road Use Agreement is a detail left until the end of the SEQRA process, just before permitting. A draft has been prepared by the town's attorney Guy Krogh. She is planning a visit to the Marsh Hill Wind Farm and invited others to go with her. That wind farm appears to be the most similar to the proposed Black Oak Wind Farm.

Councilperson Carpenter stated in relation to the Road Use Agreement, there are 3 or 4 other submittals that need to come from Black Oak Wind Farm as well. He would like to see a list of those items still needed at some point, before a permit is issued.

Councilperson Carpenter read a portion of the Town of Enfield Wind Farm Law, Article V, Section 3, page 17, as it relates to Administrative Appeals. Administrative Appeals are to be made to the town supervisor who may hold one or more public hearings on the appeal. The determination on the appeal will be made by the town supervisor. New York State Town Law, under Section 2-16, states

the majority of board acts as body. The town board, as a group, is the executive head of the town and must function as a body. There is no true executive in town government like the mayor of a city or village. Thus, an individual board member or town supervisor may not unilaterally act on behalf of the town board and each town board member has the same authority as any other board member. In most instances, a simple majority of the town board is necessary for the board to take action. Additionally, the town board may delegate certain responsibilities to the town supervisor. Section 2-17 A refers to the responsibility of a supervisor. As a member of the town board, the supervisor has no more authority than any other individual town board member. They do have more responsibilities. Section 2-17 B refers to delegated authority. In order to keep the town functioning in between town board meetings and address day-to-day issues, the town board may delegate the power and duties of administration and supervision of the town to the supervisor. However, a town board may not abdicate or surrender its basic statutory responsibilities to the supervisor.

After reading this, he feels that part of the wind law is not legal. He feels it might be best for the town board to see if Section 3 of the wind law is legal and decide if it should be kept or struck.

Supervisor Rider will check into this.

Flag Policy:

Supervisor Rider stated the town does not have a flag policy. She determined one should have personnel to carry out the policy. In the latest newsletter she asked for a volunteer to carry out a policy. Anna Long volunteered for this job. Supervisor Rider asked the board if they wanted to make a flag policy. She would want it to be the federal flag policy. All board members were in favor of having a flag policy developed.

Adjournment: Councilperson Hansteen moved, with a second by Supervisor Rider to adjourn at 8:30 p.m.

Vote: Councilperson Carpenter aye, Councilperson Hansteen aye, Councilperson Miles aye, Supervisor Rider aye. Councilperson Bryant excused. Carried

Respectfully submitted,

Alice Linton, Enfield Town Clerk