

Black Oak Wind Farm Final SEIS – SEQR Process & Timeframes – May 26, 2016

| Action | Responsible Party | Status/Timeframe |
|---|---------------------------|--|
| Receipt of all comments (verbal & written) | Town of Enfield | Complete |
| Compilation of written comments and distribution to Town Board & BOWF/ H&A | LaBella | Complete |
| Preparation of initial draft of Final SEIS <ul style="list-style-type: none"> • Read/review comment record • Identify “substantive” comments • Categorize comments into issues needing response • Initiate any additional technical studies • Prepare responses to comments (“responsiveness summary”) • Prepare initial draft of FSEIS | BOWF/ H&A | Not initiated/ No projected schedule |
| Review of initial draft of Final SEIS <ul style="list-style-type: none"> • Read/review comment record • Read/review H&A draft • Confirm “substantive” comments & comment categories | LaBella | <i>(Note: LaBella has reviewed approximately one-half of the written comment record and begun categorizing substantive comments)</i> |
| Re-write and preparation of draft of Final SEIS ready for review and edit by Town Board | LaBella | |
| Review and edit of Final SEIS by Town Board | LaBella & Town Board | |
| Review of Final SEIS by Harris Beach prior to public release | Harris Beach | |
| Town Board accepts and issues Final SEIS and circulation to Involved Agencies <i>(Town Board Vote)</i> | Town Board | |
| Time period for Agencies and Public to consider Final SEIS before Statement of Findings is issued. The time period must be at least 10 days after issuance of Final SEIS & less than 30 days (unless extended) <i>Note this is not a public comment period.</i> | | |
| Statement of Findings preparation | Harris Beach & Town Board | <i>Note: prepared during time period above</i> |
| Acceptance of Statement of Findings by Town Board <i>(Town Board Vote)</i> | Town Board & Harris Beach | |
| Town Board decision on approval of Wind Farm application <i>(Town Board Vote)</i> | Town Board | <i>(Has an application been made?)</i> |

Please leave at front
of room for public to review.
Thank you!

TOWN OF ENFIELD
LOCAL LAW # ___ FOR THE YEAR 2016
A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED
IN GENERAL MUNICIPAL LAW §3-C

Be it enacted by the Town Board of the Town of Enfield as follows:

Section 1. Legislative Intent: It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Enfield pursuant to General Municipal Law §3-c, and to allow the Town of Enfield to adopt a budget for the fiscal year beginning January 1, 2017 and ending December 31, 2017 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority: This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a local law approved by vote of at least sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override: The Town Board of the Town of Enfield, County of Tompkins is hereby authorized to adopt a budget for the fiscal year 2017 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability: If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date: This local law shall take effect immediately upon filing with the Secretary of State.

Resolution # _____-2016

PUBLIC HEARING ON 2% TAX OVERRIDE LAW

WHEREAS, New York State has instituted a law that local municipalities should not adopt a budget increasing property taxes more than 2% and

WHEREAS, the cost of employees benefits is increasing and the Highway Superintendent has concerns about culvert and bridge replacement, vehicle replacement, cold storage and salt storage facilities and

WHEREAS, it is unknown at this time what our 2017 budget will look like, therefore be it

RESOLVED that a local law be passed allowing there to be more than a 2% increase in local property taxes and that a public hearing on the matter be scheduled for Wednesday, July 13, 2016 at 6:30 PM for the purpose of the public to comment on the attached draft Local Law #2-2016 for the purpose of being acted upon by the Enfield Town Board. The Town Clerk is directed to do the mandatory public notices as required in MHRL§20.

RESOLUTION #2016 _____

DECLARATION OF FUTURE INTENT RELATIVE TO MORATORIA AND ANY FUTURE AMENDMENTS OR UPDATES TO WIND FARM LOCAL LAW

WHEREAS, like all local laws, particularly zoning and land use local laws, codes, and ordinances, the law, industry, safety protocols, engineering, and materials sciences are always changing, such that all laws need periodic review and updating, and the wind law, having been principally drafted in 2008 as based upon the then more robust laws in effect in other towns within New York State, is no exception and it is due for updating and amendments; and

WHEREAS, the Town formed a committee expressly to examine such potential updates and amendments; and

WHEREAS, a dispute and concern has arisen as to whether any such updates or amendments shall, or shall not, apply retroactively to the pending Black Oak Wind Farm developer(s) or project, and such question, as well as any proffered answers, involves potentially complex issues of constitutional, property, regulatory and other law, such that it is important for the Town Board to make its initial intent known, as such intent should help guide the development and implementation processes for any updates and amendments to such local law; and

WHEREAS, in consideration of such legal issues some people proffer what is proposed as a solution, the same being a moratorium prohibiting development of wind towers and related facilities until such law is updated and amended, but in the legislative judgment of the Town Board such a proffered solution does not solve or diminish the issues, but potentially or actually adds to the legal issues and complexities presented, and again it is important for the Town Board to make its initial intent known in respect of moratoria; and

WHEREAS, upon due consideration and deliberation thereupon by the Town Board of the Town of Enfield, and as now determined in the legislative judgment and capacity of the Town Board, BE IT RESOLVED AS FOLLOWS:

1. The Town Board declares its intent that future amendments to the wind farm local law would generally not be retroactively applied to the existing developer and project.
2. The Town Board has no current intent to entertain or adopt a moratorium upon wind farm or tower development given an adequate local law, a robust SEQRA review process, and in consideration of many other factors duly informing such legislative judgments.

RESOLUTION #2016-_____

**APPROVING ROAD USE AGREEMENT AND GENERAL ROADWAY RESTORATIVE PLAN
IN COORDINATION WITH TOMPKINS COUNTY**

WHEREAS, the Town's Wind Farm law requires as part of the permit review process that adequate roadway protection and restoration obligations be met by the developer to restore, replace, or otherwise ensure the viability of public highways used, affected, or altered during the project construction phase (and future construction phases), and the requirements therefor are set forth in Article IV § 16 and address traffic, road condition, roadway impacts, roadway remediation and like issues by regulating, specifically, traffic routes, traffic controls, and roadway remediation; and

WHEREAS, the SEQRA EIS and, as applicable the SEIS (once and if adopted), have implemented a mitigation plan more specifically requiring a road use agreement to securitize and define the roadway obligations of the developer so as to protect the Town's roadway infrastructure, guarantee its maintenance and restoration, and to otherwise effect mitigation of potential roadway impacts; and

WHEREAS, a road use agreement (RUA) has been developed in a draft but now near-final form, and the same addresses obligations of developer for various types of roadway charges and restoration obligations as based upon the current condition and structural integrity of the roadway, the need to upgrade or change the road, the need for ongoing maintenance during project construction phases, and the need to repair and restore and resurfacing or rebuild of the base and subbase of the roadway; and

WHEREAS, part of the highway system to be utilized by the developer includes Tompkins County public highways, and the Town has endeavored to coordinate with the County, to the extent possible (given that the County has a road use law and the Town does not), to ensure that the roadways are built and restored in one coordinated process to ensure proper oversight, save costs, and minimize disruption to road usage; and

WHEREAS, the town attorney and special town counsel for the wind farm SEQRA review have reviewed the RUA as drafted and have generally approved the same; and

WHEREAS, subject to minor amendments to calculate the roadway reconstruction costs payable by the developer, the county, and town relative to a whole-road reconstruction and resurfacing at project completion in accord with the roadway plan developed by the County, to be implemented by and for the Town, among and along with other goals, through the RUA, and all with the town's costs not to exceed \$ _____, the Town Board wishes to move forward and approve the RUA; and

WHEREAS, upon due consideration and deliberation thereupon by the Town Board of the Town of Enfield, BE IT RESOLVED AS FOLLOWS:

1. The RUA as submitted to this meeting be and hereby is approved and adopted in its general form.
2. The Town Supervisor be and hereby is authorized to sign and execute the same by, for, in the name of, and on behalf of the Town, once and after the final changes are made to the form of such agreement to implement the developer-county-town restoration plan in language and a form as approved by the town attorney and the Town Highway Superintendent.

RESOLUTION #2016 _____

TOWN OF ENFIELD RESOLUTION ESTABLISHING AMOUNT AND TERMS OF DECOMMISSIONING BONDS AND OTHER SECURITY FOR FUTURE PERFORMANCE OF DECOMMISSIONING AND REMMOVAL OBLIGATIONS OF DEVELOPER

WHEREAS, the Town's Wind Farm law requires a decommissioning bond, or equivalent security as approved by the Town Board, to be determined in amount for each tower in relation to each permit, but not less than \$125,000 per tower as delineated in Article I § 1(10) and Article VI §§ 1(D through F); and

WHEREAS, a permit application and review are in progress and while no permits have issued to erect towers, it is necessary to attend to many details, including decommissioning costs and securitization of the developer's obligation to decommission and deconstruct towers and facilities upon obsolescence, loss, closure, and other like circumstances; and

WHEREAS, the general form of a decommissioning bond, written as a surety bond guaranteeing developer's performance, has been generally, but not specifically, reviewed and approved by the town attorney pursuant to said Articles I, § 1(10) and IV, §§ 1(D),(E), and (F) of the local law; and

WHEREAS, engineering estimates, duly reviewed by the Town, establish a cost per tower for decommissioning and deconstruction, and such amount of \$ _____ be and hereby is established as the gross initial decommissioning amount that developer shall duly guarantee or securitize in a manner as approved by the Town, with such amount to be applied severally in proportional allotments to each tower; and

WHEREAS, the developer has proposed a plan whereby it may, in the future, displace bonds with cash deposits (and pledged accounts) and, subject to approval of the same at such future time as substituted security is proposed, and the approval of the terms and amounts thereof by the Town Board per Article VI § 1, it is agreed in principal that the developer may replace the initial bonds with a cash escrow or similar pledge accounts in the amount of \$850,000.00 (or \$125,000.00 per tower, whichever is greater) to securitize the decommissioning obligations of developer; and

WHEREAS, upon due consideration and deliberation thereupon by the Town Board of the Town of Enfield, BE IT RESOLVED AS FOLLOWS:

1. The amount of \$ _____ be and hereby is set and approved as the gross project decommissioning cost, and a proportionate amount must be securitized by surety bond for each tower permit issued. Such amount is subject to change over the life of the tower and facilities as periodic reviews of the decommissioning costs may hereafter occur under the local law.
2. Subject to the approval of the Town Board as to the terms and amounts of such escrow or other pledge, the developer may substitute cash or cash-based accounts in lieu of, and in replacement of, surety bonds, upon such schedule and at such times as developer may elect. For this purpose the sum of \$850,000 (or \$125,000 per tower, whichever is greater) be and is hereby set as the initial cash or depository pledge amount to securitize the future decommissioning costs and removal obligations of the developer. Such amount is subject to change over the life of the tower and facilities as periodic reviews of the decommissioning costs may hereafter occur under the local law.