

Town of Enfield
Special Town Board Meeting Minutes
Enfield Community Building
Wednesday, May 25, 2016
6:30 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 6:30 p.m. by leading the assemblage in the Pledge of Allegiance to the Flag.

Resolution For Extension of Time to Complete Final Supplemental Environmental Impact Statement (FSEIS):

Councilperson Hansteen moved, with a second by Councilperson Carpenter to adopt Resolution #2016-50.

Resolution #2016-50 New York State Environmental Quality Review Act (SEQRA) Extension

WHEREAS, a predecessor-in-interest of Black Oak Wind, LLC (the "Project Sponsor") filed a site plan application with the Town Board of the Town of Enfield (the "Town Board") pursuant to the Town of Enfield's Wind Energy Facilities Local Law #1 of 2009 for the development of a seven (7) turbine wind-powered generating facility (the "Project"); and

WHEREAS, on June 9, 2010, the Town Board passed a resolution accepting its role as Lead Agency pursuant to the New York State Environmental Quality Review Act and its implementing regulations at 6 NYCRR Part 617 (collectively referred to as "SEQRA"); and

WHEREAS, after preparation of both draft and final environmental impact statements, on December 14, 2015, the Town Board issued a Findings Statement for the Project pursuant to SEQRA; and

WHEREAS, on June 24, 2015, the Town Board received a submission from the Project Sponsor outlining two (2) minor modifications to the Project; and

WHEREAS, on July 8, 2015, the Town Board determined that a supplemental environmental impact statement or modified findings statement was not required for the modifications submitted on June 24, 2015; and

WHEREAS, the Project Sponsor further proposes to potentially re-locate two (2) of the approved wind turbines to 2 of 3 proposed locations, as well as relocate a substation, add a new permanent wind measurement tower just south of Turbine 4, and relocate approximately 8,400 linear feet of buried collection line but, except as noted, the Project would otherwise remain as consisting of seven (7) wind turbines generating 16.1 megawatts (MW) of electricity utilizing the GE 2.3-107 model wind turbines; and

WHEREAS, the Project Sponsor prepared a Draft Supplemental Environmental Impact Statement ("DSEIS") assessing the potential significant adverse environmental impacts associated with the proposed modifications to the Project as summarized above; and

WHEREAS, on March 9, 2016, the Town Board passed a resolution accepting the DSEIS as complete; and

WHEREAS, the public comment period for the DSEIS expired on April 22, 2016; and

WHEREAS, the Town Board is now required to prepare a final SEIS for the Project (“FSEIS”).

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF ENFIELD AS FOLLOWS:

Section 1. Pursuant to Section 617.9(a)(5)(ii) of the SEQRA regulations, the Town Board determines that additional time is necessary to prepare the FSEIS adequately, and therefore is extending the timeframe to complete the FSEIS to July 15, 2016.

Section 2. The Town Board further directs that notice of this resolution shall be filed and circulated to the extent required by any applicable ordinance, statute or regulation.

Section 3. This Resolution shall take effect immediately upon adoption.

Discussion: Councilperson Carpenter questioned if the extension to July 15, 2016 would be adequate time to complete the FSEIS. Supervisor Rider stated there could be additional extensions of time.

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

Finalization of Road Use Agreement Details with Black Oak Wind Farm: Planning Board Chair Dan Walker reported he talked with Highway Superintendent Buddy Rollins about the proposed Road Use Agreement. Superintendent Rollins preferred the longer version that was prepared by town attorney Guy Krogh. Dan Walker had come up with a shorter version of a Road Use Agreement, but the appendix of that version could take several months to prepare.

Councilperson Miles felt the longer version prepared by Guy Krogh would be more protective of the town. Councilperson Carpenter stated he feels the town board should start work on a Road Use Law. Supervisor Rider agreed that a law is needed.

Supervisor Rider stated she will have the Road Use Agreement on the June regular town board agenda. Councilperson Carpenter suggested putting the draft Road Use Agreement on the town website.

Dan Walker questioned if a penalty clause should be added. Councilperson Carpenter questioned if deconstruction of the wind turbines should be part of the Road Use Agreement. Dan Walker stated that should be part of the Decommissioning Agreement.

Finalization of Decommissioning Agreement Regarding Black Oak Wind Farm: Councilperson Miles agreed to work on a formula of national cost increase markers to be used in the Decommissioning Agreement. Even though the Decommissioning Agreement can be updated yearly as to amounts held in escrow or a bond, a marker is a good idea in case a future town board fails to do an annual update.

Councilperson Carpenter would like the decommissioning process to be clearly defined. He wants to ensure that sufficient funds would always be available to cover decommissioning and to cover road repairs. He would also like something included that would help residents clean up chemical residue from properties after there was a turbine fire.

Supervisor Rider wants to make sure all concerns of town board members are addressed before a final Decommissioning Agreement is produced. She will put the Decommissioning Agreement on the agenda for June, but probably not as an action item.

Discussion of Gingerich Letter: Supervisor Rider asked Code Enforcement Officer Alan Teeter to explain to the town board what concerns he has regarding issues raised in a recent letter he received from Marcus Gingerich. Code Officer Teeter stated issues raised in the letter included excavation of the Met tower foundation, excavation of the Turbine 4 foundation, and excavation of a wind farm access road. There was concern that these excavations could be in violation of the Town of Enfield Wind Farm Law and possibly the Department of Environmental Conservation's SEQR regulations. He would like input from the town board on how to proceed.

Councilperson Carpenter feels that since a resident has raised concerns, and since there appear to be gray areas, this will take some sorting out. Supervisor Rider stated the DEC verbally told her there were no infringements, but she will go back to the DEC to get a written response.

Code Officer Teeter stated that although the DEC determined there were no violations, he could enforce the local law. He has procedures he follows for regular construction, but the wind farm law raises different issues.

Councilperson Carpenter doubted if the Black Oak Wind Farm and the Town of Enfield had an understanding not to start work before permits were issued. He feels the town should use common sense if a town law is violated. He is not sure anyone would benefit if the town pays an attorney to look into this. The Town of Enfield Wind Farm Law is not clear.

Councilperson Hansteen doesn't feel the town attorney needs to be involved unless more excavating is begun.

Councilperson Carpenter thanked Mr. Gingerich for bringing his concerns forward, but doesn't feel the town should pay legal fees since Black Oak Wind Farm has stopped doing work on-site.

SEQR Process and Timeframes: Supervisor Rider stated LaBella has started to categorize comments that were received during the public comment period. The Black Oak Wind Farm and their engineering firm will then prepare an initial draft of a Final SEIS. LaBella will review the initial draft of the Final SEIS and then re-write and prepare a draft of the Final SEIS to be reviewed and edited by the town board. Once a Final SEIS is issued it will be circulated to Involved Agencies by the town board. Harris Beach and the town board will then prepare a Statement of Findings.

The town board would vote between the review and edit of the Final SEIS and the issuance of the Final SEIS.

Adjournment: Supervisor Rider moved to adjourn at 8:35 p.m. with a second by Councilperson Carpenter. Motion carried.

Respectfully submitted,

Alice Linton, Enfield Town Clerk