

Town of Enfield  
Special Town Board Meeting Minutes  
Enfield Community Building  
Wednesday, September 28, 2016  
6:30 p.m.

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

Supervisor Rider lead the assemblage in the Pledge of Allegiance to the Flag at 6:30 p.m.

**Privilege of the Floor:**

John Rancich of Enfield stated he is a proponent of the Black Oak Wind Farm (BOWF). He feels that over the past years BOWF has satisfied everything the town board wanted. Nearly 100 people have invested close to three million dollars in BOWF because they believe it is the right thing to do. He believes it is the right thing to do for our energy programs, tax base and schools.

Rob Tesori of Enfield stated he was surprised the BOWF was on the agenda for this meeting. At the last regular town board meeting a motion was passed to table BOWF Plans until the next regular meeting. BOWF still owes a large sum of money to the town and he feels that debt should be satisfied before the town continues work. He also feels the five Plans regarding BOWF should be discussed as a whole and not individually. He asked the town board to take the time to be sure everything is done correctly.

Jude Lemke of Enfield filed with the town clerk, this evening, a petition for a 90 day moratorium so the town board can collect data and documents required under the law and have time to read all material. There were over 170 signatures collected in 2 days. She asked that nothing happens until BOWF is current on their escrow account. She asked that BOWF comply with the law by having the consent of all land owners involved to build the project they are trying to build, and provide the town with full copies of all leases. They need to prove to the town that they have the right to build the wind farm before any permits are issued.

Dawn Drake of Enfield stated she is a concerned resident and feels BOWF has not filed a complete application with the town. It is hearsay on where turbines and the sub-station will be located. She feels BOWF needs to bring their escrow account current. She feels this project shouldn't be rushed through and the town may be setting itself up for multiple lawsuits.

Valerie Rockney of the Town of Ithaca feels it is important to find a way to work together. The future is coming and it is important to use wind and solar and insulate houses.

Ray Stiefel of the Town of Ithaca stated he is a proponent of solar and wind energy but is bothered that people in the area of BOWF don't have a choice. The value of homes should not be compromised. Renewables are the future, but shouldn't compromise homes, lives and children. The future belongs to the children and they have to have a sustainable energy source.

Melynda Tesori of Enfield stated she is not against green - she composts and recycles. Not being able to use a portion of her property is not fair. The BOWF is not fair to the community.

Sue Shults of Enfield found a letter on Facebook from Marguerite Wells to the Enfield Town Board that was sent last Saturday. She read the letter to the public so they would be aware of the contents.

Marcus Gingerich of Enfield stated his property is very close to the proposed BOWF turbines. He doesn't understand why discussion of the BOWF is on the agenda, as they still owe the town a large sum of money. Also, based on the letter Sue Shults just read, he would like to see it in writing from the BOWF that they will pay to defend the town if a lawsuit is brought by residents. He has a lot of comments on the two BOWF Plans on the agenda and feels there are a lot of questions still to be answered.

Susan Multer of the Town of Ithaca stated more electricity from wind, water and solar means less from coal, oil or gas. She feels this project is an opportunity for Enfield to be a leader.

Phil Wright of Enfield stated the current BOWF proposal would move turbines away from his home. He would still like the Department of Environmental Conservation, US Wildlife and the Attorney General's Office to do an investigation.

Tammy Alling of Enfield stated at the last regular town board meeting a motion was passed to address BOWF Plans at the next regular meeting, but they are on the agenda for this special meeting. She is concerned about the number of fire calls that could result from the BOWF, and noted there is no viable water supply in the area of the proposed turbines. She questioned where the safety concerns and comments of residents have gone and feels that Enfield is already on the map. Safety of the town is in the town board's hands.

Mimi Mehaffey of Enfield asked who wrote the five BOWF Plans. She would like experts to look at them and make sure the town is protected. This costs money and the town has less because the BOWF owes thousands of dollars to the town. If BOWF is given a permit, the town will have no leg to stand on. She asked that no permit be issued until every detail is worked out.

Ron Riddle of Enfield stated when he first heard about the BOWF he thought it would be great because of the green energy. But the plans changed and there were to be three turbines in his vicinity. He looked further into wind farms and found disturbing information on health issues. BOWF has now gone back to their original plan, but he is tired of the BOWF trying to bully the town board. He had more signatures to add to the petition requesting a moratorium.

Beverly Gingerich of Enfield read an article on the Shirley Wind Farm in Brown County, Wisconsin. Some residents had been experiencing health issues. When the turbines were shut down for part of a week for maintenance, residents found their health issues decreased dramatically. Effects of the turbines can sometimes be noticed up to 4 miles away.

Maria Ortiz of Enfield feels this project will be a catastrophe. It has disturbed the town to the point where residents can't be friends with each other. She feels the supervisor should help build confidence among the tax payers she serves.

Marguerite Wells of Enfield, project manager of the BOWF, addressed a few of the issues raised. BOWF will pay the amount they owe promptly once a true tally of expenses is presented to them. There are two separate permits to be issued - a wind energy permit which is general and a specific building permit. A petition with 400 signatures has previously been presented to the town of those who support BOWF. She feels fire calls will be no great burden to the fire department. The proposed neighbor compensation plan was submitted to try and solve problems and come forward with a

compromise plan. Funds for this plan could be obtained from volunteer donations, and possible town money, to provide a way for people to leave without taking a giant financial hit. If the town board doesn't like the plan, she encouraged them to discuss it with BOWF.

Jolee Carlisle of Enfield stated she is not sure where the turbines are going. She is for green energy, but doesn't feel turbines should be near homes. She doesn't want to leave her land, but is concerned she will be forced to if there are problems. She suggested investors could put the turbines in their backyards.

### **Black Oak Wind Farm Discussion:**

Supervisor Rider stated she called this meeting so the board could see the budget before she presented it to the town clerk, and to talk about Black Oak Wind Farm Plans. Since the first two Plans were presented at the last meeting, they were put on the agenda. She asked for thoughts from town board members on how to proceed. She has consulted with Frank Pavia of Harris Beach, town attorney for wind farm matters, and understands there are two parts to the final wind farm approval process. The first part is to approve a wind energy permit and the second is to approve a building permit. She stated the Findings of Fact have already been accepted and five Plans will need to be approved.

Councilperson Carpenter stated the Town of Enfield Wind Energy Law requires the application to be completed before issuing the wind energy permit. He went over several points of the Enfield Wind Energy Law that he feels haven't been complied with yet. One requirement, under Article III, Section 1, A2, is a listing of all people, with name and address, that will have a turbine on their property. If the applicant is not the owner, there is to be a letter or other written document that confirms use of property is authorized, or copy of a lease or agreement. There is one owner who says he did not agree to a sub-station on his property. LaBella has been asked to respond to the Landscaping Plan and Invasive Species Plan, but he has not had a chance to read their responsive document yet as he just received it. The complaint resolution process still needs work. The Fire Protection Plan found in Article III, Section 1, C5, has not been shown to comply with the Tompkins County All-Hazards Mitigation Plan. He would like to see a letter saying the Fire Protection Plan complies with the Town of Enfield Wind Law.

Supervisor Rider questioned if Councilperson Carpenter was worried about the lease with Rich Teeter. Councilperson Carpenter feels he doesn't know if Rich Teeter is required to put the sub-station on his land.

Councilperson Carpenter mentioned the wind law, Article III, Section 2, I states if a positive declaration of environmental significance has been issued at the completion of the SEQRA review process and an EIS prepared, the Town shall issue a Statement of Findings, which statement may also serve as the Town's decision on the application. Article III, Section 2, J states upon receipt of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board shall issue its determination upon the application within 30 days. He feels the town can only issue something based on a complete application, and he doesn't believe a complete application has been filed.

The next paragraph, Section 3 concerns issuance or denial of wind energy permits. He feels this says the town will issue a wind energy permit and then hand everything over to the Code Officer. The Code Officer will look at the issues and codes he looks at as a building inspector. He doesn't

deal with issues of the wind farm law. He doesn't feel the Code Officer should have to determine if all the pre-construction issues of the local law have been met.

Councilperson Carpenter stated he feels it is important to understand the intent of those who wrote the Enfield Wind Law. He read town resolution #2009-10 in which the wind law was adopted. That town board stated the law was a basic idea to start with and believed many items would be reviewed at the time of application and during the SEQRA review process.

Supervisor Rider stated all board members received a proposed dispute resolution plan - Community Outreach and Resolution Plan.

Councilperson Carpenter feels this Community Outreach and Resolution Plan is almost irrelevant in saying how the town board will resolve problems.

Supervisor Rider stated BOWF presented a Fire and Emergency Preparedness Plan which she sent to county officials. The officials went through the Plan and made additions and corrections. As of September 26, 2016 copies of this Plan was not available to residents.

Councilperson Miles stated he was disappointed tonight, since the intent of his motion at the last town board meeting was to have time to review documents for the next regular meeting. He felt he should have been more specific to include all five proposed Plans instead of just three in that motion. It was also his intent to give BOWF notice to require payment before further discussion of the Plans. He was surprised to see discussion of BOWF items on the Special Town Board Meeting agenda tonight.

Councilperson Bryant stated she was also surprised by this.

Councilperson Miles moved, with a second by Councilperson Carpenter to:

- 1) Direct the Town Supervisor to send an official notice to Black Oak Wind Farm requesting payment for any undisputed outstanding balance plus an additional \$15,000 to replenish the escrow account per its developer agreement with the Town of Enfield. Said notice shall be sent within 5 business days from approval of this motion.
- 2) Stop any further review of the wind permit process by the Town of Enfield for the Black Oak Wind Farm that will incur any additional costs to the town until all outstanding balances plus the additional \$15,000 are paid in full, per part 1 of this motion.
- 3) Costs exempt from part 2 of this motion are future legal costs that may be incurred as a result of Town of Enfield officials seeking advice from its attorneys, specifically Frank Pavia and Guy Krogh.
- 4) This motion shall take effect immediately upon approval by the Town of Enfield board.

Discussion: Supervisor Rider stated she did go through the Harris Beach accounting, and received a communication from LaBella with a separation on their invoices of FOIL (Freedom of Information Law) billings. As of August 30, 2016 the BOWF escrow account was in arrears \$19,526.17. It is still being determined how much BOWF actually owes the town.

Councilperson Miles stated this amount is a significant difference from previous balances. He asked what has been excluded from that amount.

Supervisor Rider stated FOIL has been excluded.

Councilperson Hansteen stated he doesn't believe FOIL matters should be excluded. In the Developer's Agreement it states "any and all reviews by the Town and its engineer and attorneys, the costs and expenses thereof (excluding any outside of Tompkins County travel time), and all other reasonable and necessary expenses of the Town, including, but not limited to the publication, posting, and mailing of notices, shall be conducted or incurred by the Town when appropriate based upon either: (i) the request of the Developer, or (ii) the Town's determination that that Project requires such action, expense or review in order to obtain the Approvals. Such determination of what expenses are reasonable and necessary shall be made by the Town in its sole discretion, but shall not include out of county travel time. Such reviews and expenses, and any money spent in relation thereto, shall be referred to as the "Review Costs"."

He feels a FOIL request regarding BOWF is part of the reviewing of the Project. He doesn't want to pay for these expenses out of his taxes and doesn't believe other town residents want to pay for FOIL review requests if they're directly related to BOWF.

Councilperson Miles believes if the application for the BOWF permit were not in place, these FOIL requests would not exist as they are specific to the FOIL requests for BOWF.

Councilperson Hansteen read an e-mail sent from Guy Krogh, town attorney to Supervisor Ann Rider. Guy Krogh felt the amounts might best be worked out by agreement. Councilperson Hansteen would like the board to consider voting on whether to bill BOWF for FOIL requests relating to the wind farm.

Councilperson Miles amended his original motion to state "for any undisputed outstanding balance".

Supervisor Rider asked to go back to her original understanding that this is a two part permitting process. First a wind energy permit is issued and then a final building permit. She questioned if there wouldn't still be leverage with the building permit to have everything in order.

Councilperson Miles stated his motion addresses financial implications. It does not stop the town board from talking about it, since talking about it does not incur those costs. Costs are incurred when the town board asks LaBella for professional advice that will incur costs. Those costs have been building up and the town has not been reimbursed for them yet. This has been going on for many months, and discussed at most town board meetings. When the account is paid in full, then the town can get expert advice. The Town of Enfield is in an awkward position with this large outstanding balance.

Councilperson Hansteen asked if the wind energy permit is approved, will the town board still have the ability to negotiate the five Plans put forth by BOWF.

Councilperson Carpenter feels the town's wind farm law is faulty, particularly in the area of the wind energy permit being approved. It mixes up the building permit and puts the Code Enforcement Officer in a position of saying ok, but I can't issue the permit until you've done all the things the town board has asked you to do. He's not in a position to say whether BOWF has complied with all the restrictions the town board has asked them to do. That's a town board issue. So the permit is now in the hands of the town board to make the decision. If the town board has already made the decision, in saying ok we'll give you the wind permit and now all you need is the building permit, the town is in an impossible position. It puts the town in a position of having no say anymore in the building permit

decision because the town has given the responsibility of complying with the wind farm conditions to someone who can only approve the building permit who has no say in the conditions that were made by the town in terms of giving the wind energy permit. He feels the best choice is for the town to not approve the wind energy permit until all conditions that the town wind law require have been met. Once those have been completed, the town can issue the wind energy permit.

Councilperson Miles stated the board has an obligation to make sure everything is complete.

Councilperson Bryant stated she would like to see all information submitted together and not piecemeal.

Councilperson Carpenter stated that in addition to the five Plans submitted by BOWF there are other requirements that still need to be met. One is the location of the sub-station.

Councilperson Miles stated he agrees this process goes beyond the five Plans. On April 14, 2010 the town board voted on whether the application was complete according to the wind law. Part of the minutes of that meeting read "Frank Pavia explained the application was originally submitted in December 2009. The application was not determined to be complete at that time. A supplemental submission was made by the applicant that contained additional information and was discussed at the February 10, 2010 town board meeting. The supplemental application was then reviewed. A memorandum was submitted to the board from Harris Beach showing that some studies and information is lacking, but the board has been advised that this information can be submitted at a later date, particularly when a draft Environmental Impact Statement is prepared by the applicant and submitted to the town board for review and assessment. As long as the applicant realizes that more information will be needed at a later date, Harris Beach is prepared to recommend to the town board that the application is substantially complete for purposes of continuing the review under the Wind Law and commencing the SEQRA review process. That recommendation is conditioned upon the fact that those remaining pieces of information would be provided as part of a draft Environmental Impact Statement and as part of the SEQRA review".

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

#### **Black Oak Wind Farm Decommissioning Plan:**

Supervisor Rider moved to accept the BOWF Decommissioning Plan as previously entered in the minutes of the September 14, 2016 regular town board meeting.

There was no second for the motion. Motion failed.

#### **Black Oak Wind Farm Landscaping Plan:**

Supervisor Rider moved to accept the BOWF Landscaping Plan as previously entered in the minutes of the September 14, 2016 regular town board meeting.

There was no second for the motion. Motion failed.

Supervisor Rider moved, with a second by Councilperson Carpenter to approve Resolution #2016-60.

**Resolution #2016-60          Bond Payment**

WHEREAS, the Town of Enfield borrowed funds to construct our highway facility and now needs to pay back the bond, now therefore

BE IT RESOLVED, the bookkeeper is authorized, prior to October 15, 2016, to wire \$17,821.88 for an interest payment to The Depository Trust Company which holds to bond.

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

**2017 Tentative Budget**

Supervisor Rider stated she received the total assessed value for the Town of Enfield. However, she has not figured the tax rate yet for her proposed tentative budget. She has included a 2% salary increase for all positions. She checked with health insurance and those numbers are firm, but property insurance is not firm until she talks with the insurance agent. She based town income on last year's figures, as well as to-date income for this year. She did not include any money for renovations to the interior of town hall, or any of the highway superintendent's machinery requests. State retirement is based on the estimate available on-line.

Councilperson Carpenter asked for the calendar for dates when items are due.

Supervisor Rider responded she has to give the town clerk a tentative budget by September 30. The town clerk has to present the tentative budget to the town board at a regular or special town board meeting to be held on or before October 5. A public hearing needs to be held and the final budget needs to be adopted prior to November 20. The tax cap for this year is .06.

Councilperson Carpenter stated he would like to see a budget either at or below last year's budget level. It would make a statement to the people of the town that would be meaningful.

Supervisor Rider stated the only choice is in salaries. Employees could be asked to pay part of their health insurance, but that is an unpopular idea. Next year the fire contract ends and will need to be renegotiated.

Supervisor Rider presented the tentative 2017 Town of Enfield budget to the town clerk. The town clerk presented the tentative 2017 Town of Enfield budget to the town board.

**Adjournment:** Supervisor Rider moved, with a second by Councilperson Hansteen, to adjourn at 9:08 p.m. Motion carried.

Respectfully submitted,

Alice Linton, Enfield Town Clerk