

Town of Enfield
Special Town Board Meeting
Enfield Community Building
Wednesday, February 15, 2017
6:30 p.m.

Present: Town Supervisor Ann Rider, Town Councilperson Virginia Bryant, Town Councilperson Mike Carpenter, Town Councilperson Henry Hansteen (arrived at 7:15 p.m.), Town Councilperson Beth McGee, Town Clerk Alice Linton.

Supervisor Rider led the assemblage in the Pledge of Allegiance to the Flag at 6:40 p.m.

Privilege of the Floor:

Marguerite Wells of Enfield stated the Black Oak Wind Farm (BOWF) is interested in moving the permitting process along. She received the Board's directive at the end of October that they wanted all the plans complete. It was only the middle of January that she had all of the Town's consultant's feedback. She brought the resultant plans to the Town Board as soon as she could for the February meeting. She appreciates the opportunity to work with the Town Board.

Jolee Carlisle of Enfield thanked the Town Board for their due diligence on the BOWF project for the better part of the past 10 years. She stated she is disappointed in the lack of progress. The Town Board continues to request information from BOWF. She feels when requests are made there is often no response from BOWF and there are no consequences when they don't respond. She would like a definite decision to be made so the Town Board can start working on other matters that need their attention.

Martha Fischer of Enfield presented information on a program supported by Cornell Cooperative Extension of Tompkins County. Energy Navigators help people reach their energy goals. Volunteers complete ten hands-on classes that cover a range of topics in energy efficiency, renewable energy and heating options, as well as incentives, programs and resources that are available to help support saving energy at home. Following the training, volunteers will help other community members reduce their energy use and energy bills, and enjoy safer and more comfortable homes. She urged interested Enfield residents to sign up for the program.

Marcus Gingerich of Enfield stated he appreciated having the newest BOWF plans put on the Town of Enfield website. He will be sending an e-mail with his comments on the plans to Town Board members in the future. He feels some of the plans may have gone backwards from previous documents. He urged the Town Board to be sure the plans are what work for the Town and look out for the best interest of the Town.

Theresa Guler of Enfield asked if the Town would benefit from the new cell tower and solar farms being built in Enfield. She suggested the Town look into a clear span building for sand storage for the highway department. She feels applying for grants is a very good idea if the Town doesn't have money for what is needed.

Supervisor Rider responded that cell towers and solar farms are on private property and are assessed by the Tompkins County Assessment Department. That department will determine what taxes will be paid to the Town.

Jude Lemke of Enfield suggested asking Town Attorney Guy Krogh about the sound standard in a new wind farm law. Before a permit is issued to BOWF she would like the law amended to make sure that the sound limit within the law as applied to BOWF corresponds with the Department of Environmental Conservation guidelines for noise. Day and night need to be looked at separately. She requested that all documents requested to be put on the record by residents with respect to BOWF be forwarded to Attorney Guy Krogh. She requested that LaBella comments be provided on the Town's website as they become available.

Approval of the audit claims: Councilperson Carpenter moved, with a second by Councilperson Bryant to authorize the supervisor to pay General Fund vouchers #62 to #67 dated February 15, 2017 in the amount of \$6,432.22 and Highway Fund voucher #40 dated February 15, 2017 in the amount of \$162.68.

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

New Business:

Worker's Compensation Underwriting Survey - Corrective Action Plan - Supervisor Rider stated a Worker's Compensation Underwriting Survey was conducted by a representative of the NYS Municipal Workers' Compensation Alliance last summer. A written response is to be provided for the implementation of recommendations. At this time Supervisor Rider passed out copies of the report to Town Board members.

Regarding the boiler room at the Enfield Community Building there was a large 4' x 4' area of mold on the sheetrock. A recommendation was made to have a qualified person fix/eliminate the moldy sheetrock in the boiler room. Supervisor Rider has talked to a carpenter and, since the cost of the project is under \$3,000, she will go ahead and have the work done.

Regarding the condensation issue at the highway facility which has an effect on the electrical plugs throughout the garage where water drips down the walls into the plugs, it appears that a better ventilation system is needed to stop the condensation issue. A recommendation was made to have a qualified electrician or engineer look at the problem and provide a remedy to avoid a potential fire or electrocution risk. Councilperson Carpenter stated steps have been taken to begin fixing the problem. There has been a meeting with an engineer and GFI plugs have been installed in some of the outlets.

Councilperson Hansteen arrived at this time.

Regarding the easy access to staff at Enfield Town Hall by the public, it was recommended that some type of barrier be considered in the entrance area for the protection of Town of Enfield employees. Councilperson Carpenter will explore options between the Enfield Town Clerk and a carpenter that will satisfy all involved.

Regarding safety in the courtroom, there are many chairs that are not locked together, thus it is possible to use a chair as a weapon. A recommendation was made to secure the chairs together to avoid injury to anyone in the courtroom under heated or serious circumstances. Supervisor Rider has purchased zip ties to secure chairs together in groups of 3. Councilperson McGee stated Judge Poole has expressed concern to her about people entering the courtroom at a door behind her while court is in session. It was agreed that the door behind the Justice could be locked during court hours and anyone coming to court would use the side, handicap accessible entrance door.

Regarding the window in the courtroom next to the wheelchair ramp that has clear access into the courtroom, it was recommended to have some type of window covering to avoid an outsider from creating potentially dangerous conditions for the people inside the courtroom. A shade will be installed to cover that window.

Regarding the storage area in an upper mezzanine level at the highway facility, a recommendation was made to have a Load Limit sign installed. Code Enforcement Officer Alan Teeter will determine what the load limit is and Councilperson Carpenter will make a sign that can be installed.

Regarding the new Park and Ride that was created across the street from the Enfield Town Hall there is no lighting in the lot. To avoid slips and falls and possible criminal activity it was recommended that some type of adequate lighting be added. Supervisor Rider stated NYSEG would put up a dawn to dusk light

array for free, but there would be a monthly charge for electricity. She agreed to look into the option of solar lighting.

Regarding the portable welding cart in the highway facility it was recommended that there be a steel plate between the 2 tanks that should extend at least 6" higher than the tallest tank on the cart. Supervisor Rider stated this recommendation has been completed.

Regarding the Safety Data Sheet Binder at the highway facility it was recommended that a binder be created as soon as possible as MSDS's are no longer being used/issued. Highway Superintendent Buddy Rollins is working to complete this recommendation.

Regarding the training for Global Harmonization and Hazwoper, Powerpoints have been sent via e-mail to the Enfield Town Clerk. A recommendation was made to finish the required training and maintain annual training for the mandatory topics of: Workplace Violence, Sexual Harassment, Bloodborne Pathogen and RTK/Global Harmonization. Supervisor Rider will add the Powerpoints to 2017 training.

Office of State Comptroller (OSC) Audit of Purchasing - Corrective Action Plan - Supervisor Rider stated an audit was done during the summer of 2016 by the OSC. An entrance meeting was held prior to the audit. The auditors decided to focus on procurement in the Town. The auditors commented on the thoroughness of Town minutes and the ease of accessibility on the Town's website. They returned in November for an exit interview and the final report was released to the Town Board in December of 2016. Supervisor Rider wrote a response to the draft audit and then the final audit was released to the public in January of 2017. The next step is the Town needs to respond with a corrective action plan.

Supervisor Rider stated it was recommended the Town put services of the Town lawyer out to bid. Supervisor Rider stated the Town plans to do that for 2018, as there is already a signed contract for 2017. A new fuel supplier was chosen for the Town as they verbally agreed to match state bid prices. Supervisor Rider did not check the bills for that price, but will do so at least 4 times in 2017. That documentation will be attached to the payment voucher. Councilperson Carpenter had mentioned a "best value resolution" which might cover the issue of purchasing higher quality sand at a price higher than state contract.

Supervisor Rider stated someone from Excellus health insurance will help put out a RFP for health insurance. At the Association of Towns annual meeting that Supervisor Rider will be attending she will ask other towns how they put their insurance out to bid.

Councilperson Bryant stated she feels getting information from other towns is a good beginning.

Councilperson Carpenter felt a "best value resolution" could cover several items of concern.

Councilperson McGee felt some items might not be a problem if they were well documented in Town minutes. Any financial issue might be highlighted in the minutes. Also, supporting documentation should be attached to vouchers for payment.

Supervisor Rider stated she will put these responses together and run them by the Town Board before submittal to the OSC. The Town Board has 90 days to respond to the audit.

List of Items Needed to Vote on BOWF Wind Energy Permit - Councilperson McGee suggested there be a discussion of what a letter or list is to achieve - what is the goal. She asked if a payment had been received from BOWF to bring their escrow account up-to-date. Supervisor Rider replied no, the escrow account was not current. Councilperson McGee added that there was \$2,542 of vouchers just approved to be added to the amount owed. Councilperson McGee suggested developing a letter, with a time limit, of what the bare minimum would be required from BOWF before beginning to review the application.

Councilperson Carpenter suggested the current permit application should be considered null and void if the requested items are not received by the deadline.

Supervisor Rider stated she didn't think that was the way to proceed. She felt each plan had to be put to a vote.

Councilperson Carpenter stated Attorney Guy Krogh has indicated if a list of requested items was provided to him, he could give feedback and help prepare a resolution. Councilperson Carpenter stated on November 23, 2016 a letter was sent to BOWF listing items that needed to be provided. To his knowledge the only response has been updated plans. He suggested BOWF could be given a list of required items with a deadline for them to be provided. If they don't meet the deadline, the permit application could be cancelled and BOWF could be invited to apply again at a future time. He would like the Town Board to make a list of required items and send the list to Guy Krogh for his input.

Councilperson McGee stated two of the items requested were letters from property owners stating the project could go forward and those two points were basically verbally dismissed by BOWF at last week's meeting during privilege of the floor.

Councilperson Hansteen would like information on the location of the turbine on Donny Gunning's property and whether NYSEG will allow a sub-station to be built on leased land.

Councilperson McGee would like to make it clear that the deadline is firm and if information is incomplete, the application will be denied. The law has been in place a long time. The letter sent to BOWF needs to be clear that submitting items received by the deadline does not guarantee approval of them.

Councilperson Hansteen questioned the distance to property lines for proposed wind turbines. Supervisor Rider stated a survey had been provided. Councilperson Carpenter stated during privilege of the floor Marguerite Wells stated BOWF may have to change to a different turbine to get the distance correct. That change would likely need to be approved by the Town Board.

Marguerite Wells responded that documents in the survey show setbacks comply and site plans would show how they will comply. The turbine will be a given number of feet from the property line. She is not asking to change turbines. The site plans will show what turbine will be used and how tall it will be and how far it will be from property lines. She stated site plans are being drawn up now.

Donny Gunning asked for permission from Marguerite Wells to address the situation of the proposed turbine for his property. Marguerite Wells gave him permission to address the situation. Donny Gunning presented a letter as follows:

Letter from Donald and Karen Gunning, 68 Weatherby Road, Trumansburg, NY dated November 9, 2016.
Dear Town Board members: We are writing to confirm for the town that our contract with Black Oak Wind Farm, LLC provides that the turbine to be built on our property is required to be placed in an exact location and cannot be moved more than 2 meters in any one direction without our express consent. The coordinates of the location of the turbine are N 877434.09, E 796326.79. We have no intention of granting Black Oak Wind Farm, LLC permission to move that turbine more than 2 meters in any direction nor are we obligated under our contract to do so. Sincerely, Donald Gunning and Karen Gunning.

Supervisor Rider asked if the letter satisfied the item on the list requesting a letter from the Gunnings. Councilperson McGee felt it satisfied that a letter was received, but it doesn't answer the question if the turbine can go where it is.

Councilperson Carpenter felt the letter satisfies the request for a letter, but not the intent which was to know for sure if the turbine going on the Gunning property can legally, within the confines of the Enfield Wind

Law, go where it shows on his property. He then questioned if the sub-station could go on Rich Teeter's property.

Councilperson McGee feels the letter from Don and Karen Gunning needs to be used in the review process to see if a turbine can be placed on the Gunning property.

Marguerite Wells stated the letter from the Gunnings has been provided, but it is up to BOWF to show, in their site plans, where the turbine will go and how it will comply with Town law.

Peter Bardaglio, President of BOWF stated it is obvious there is no other solution to meet the lease requirements, except to put a smaller turbine on the Gunning property. He feels the SEQR process will show a smaller turbine will have less impact than a larger turbine. BOWF is in negotiations with NYSEG regarding the sub-station. He feels the Town Board should be looking at the plans submitted by BOWF in response to the recommendations by the engineering firm.

At this time, 8:15, Councilperson Bryant was excused and left the meeting.

Councilperson McGee stated she is not comfortable just being told what NYSEG says. She would like documentation from NYSEG, on their letterhead, with a signature. This is the work of the Town Board.

Peter Bardaglio responded a letter will be coming from the chief legal counsel of the corporation that oversees this area of NYSEG.

Councilperson McGee also would want a letter from Rich Teeter stating permission has been given for a right-of-way for feeder lines to run under his property, which is not part of the leased land, and for the access road leading to the sub-station. The community needs to know these things can go, legally, where BOWF proposes for them to go. Also, there is a question about the acreage of the land required for the sub-station. This is a big project and she wants to know the size of the sub-station.

Councilperson McGee provided a list of items she would like to see required. She feels Town Board members did not have an opportunity to go over plans with comments provided by LaBella before they were given to BOWF. BOWF then provided updated plans before the Town Board met as a group to go through their concerns. She would like this review to be at a special Town Board meeting so the regular Town Board meetings can be used for other Town Board business. By having separate meetings it would be very clear how much of the Town Board's time is spent on BOWF issues.

Councilperson Carpenter stated he recalled there was a resolution passed to not talk about BOWF issues until BOWF brings their escrow account current.

Councilperson McGee stated she feels the BOWF application is the same as before, which is very out-dated. Most of the names in the original application have now changed. The scoping documents used to back up the value of the project are now over 10 years old.

Supervisor Rider asked what SPDES (State Pollutant Discharge Elimination System) was on Councilperson McGee's list. Dan Walker stated this would be for storm water. Supervisor Rider asked if that wasn't SWPPP (Storm Water Pollution Prevention Plan). Dan Walker explained NYS has a general permit for construction activities that disturb more than one acre of land and the impacts of sediment control need to be addressed along with storm water management.

Councilperson Carpenter stated he was concerned Supervisor Rider does not understand all the issues about this matter and needs to get up to speed.

Supervisor Rider stated Councilperson Carpenter was out of order.

Councilperson Carpenter stated he was doing his job as a Town Board member and meetings should be conducted better. Part of his job is to do a thorough evaluation of this project.

Councilperson McGee recalled there was a list of deficiencies provided by community members. The Town Board was going to consult with their attorneys on how to proceed and she felt this was a good guide. Some items have been provided, but may not have been approved. A letter was to be sent giving a deadline for items to be received from BOWF and if all items were provided, the Town Board was going to review them. If items were not all provided, BOWF would need to go back and regroup.

Marguerite Wells stated BOWF has incorporated LaBella's comments into their most recent documents, but not the Town Board's. The Community Dispute Resolution Plan will require more Town Board input than that provided by LaBella. She stated BOWF has just now been able to figure out the amount owed the Town of Enfield so they can get a check to the Town. She was surprised how much money had been spent in the last 2 months.

Councilperson McGee stated the Town doesn't have to spend this money. The money would not be spent if the BOWF project did not exist. The Board resolution also stated that other documents may be required if deemed necessary.

Councilperson McGee stated the first time she saw the letter of what was discussed in the October 26, 2016 closed session was at this meeting so she is not comfortable saying the list is completely compiled until she has a chance to review the closed session information. She would like to see a detailed description and drawing of how the project will be built now if it receives a permit.

Marguerite Wells stated it would not be a different turbine model from what was presented previously.

Councilperson Carpenter is not sure changes between turbines is open-ended and BOWF may not be able to change back again. He wants to be sure everything is done correctly and legally.

Marguerite Wells suggested asking Attorney Guy Krogh if a change would be permitted. BOWF would not be using a different turbine than one of the two approved previously.

Supervisor Rider recommended all Town Board members read lawyer's opinions carefully before voting.

Councilperson McGee stated she feels she is reading all documents presented very carefully.

Councilperson Carpenter stated he plans to talk to Attorney Krogh and see how to proceed with a resolution and bring it to the next Town Board meeting. His goal is to tell BOWF they need to bring items, that need to be current, to the Board and give them a time ending date.

Councilperson Hansteen stated he presented other Town Board members with a copy of a Residential Property Value Guarantee Agreement from the Town of Hammond for their information. He made some changes and deleted some things. This is something he would like to see as part of the Community Dispute Resolution Agreement.

Supervisor Rider asked if the Town Board would like Attorney Guy Krogh to be present at the March Town Board meeting. Board members agreed he should be asked to be present.

Councilperson McGee asked about the January 6, 2017 letter sent to BOWF demanding their escrow account to be brought current by January 31, 2017 or the Town Board could consult their attorney to bring further action. Supervisor Rider asked Marguerite Wells when the account would be brought current. Marguerite Wells stated she didn't have a date, but would pay as soon as she could.

Councilperson Hansteen stated he would like a discussion with Attorney Krogh at the next meeting regarding the BOWF Developer's Agreement and payment of FOIL fees by BOWF.

Motion for LaBella comments on BOWF Plans to be put on the Town of Enfield website:

Councilperson McGee moved, with a second by Councilperson Hansteen to put LaBella comments on the BOWF plans on the Town website.

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

Supervisor Rider stated there would be no privilege of the floor at this time as this was a special meeting.

Adjournment: Supervisor Rider moved, with a second by Councilperson Hansteen to adjourn at 8:53 p.m.

Respectfully submitted,

Alice Linton, Enfield Town Clerk