

Town of Enfield
Regular Town Board Meeting
Enfield Community Building
Wednesday, February 8, 2017
6:30 p.m.

Present: Town Supervisor Ann Rider, Town Councilperson Mike Carpenter, Town Councilperson Henry Hansteen, Town Councilperson Beth McGee, Town Highway Superintendent Buddy Rollins, Town Clerk Alice Linton, Town Attorney Guy Krogh arrived at 7:30 p.m. Excused: Town Councilperson Virginia Bryant

Supervisor Rider led the assemblage in the Pledge of Allegiance to the Flag at 6:35 p.m.

Privilege of the Floor:

Marguerite Wells of Enfield gave an update on the Black Oak Wind Farm (BOWF). On February 7, 2017 she e-mailed Town Board members updated versions of 7 plans. She also sent a certified survey map that showed the location of turbine #2 was 181' from the property line on the Gunning property. She stated NYSEG has many sub-stations on leased land and BOWF has valid leases with landowners. Concerning crossing Rich Teeter's driveway, there is access to turbine #4 on property owned by John Rancich. Their engineers are working on construction plans. Although BayWa may or may not still be considering purchasing the project, BOWF will need to sell the project at some point because of federal tax law. The wind farm would always be monitored 24/7.

Councilperson Hansteen asked if the turbine on Donny Gunning's property is 181' from the property line, would the height of the turbine need to be changed? Marguerite Wells responded none of the turbines have been purchased yet, so a shorter turbine might be substituted for that site. Site drawings will be submitted before BOWF asks for application approval.

Councilperson Hansteen asked if all the turbines might be smaller. Marguerite Wells responded BOWF is not sure at this point - they are still evaluating.

Mimi Mehaffey of Enfield stated she attended the last Enfield Planning Board meeting and has concerns about the proposed store on Mecklenburg Road. There is a dark stretch of road in that area, and she is concerned people will be walking along the road at night. She asked the Town Board to encourage the Planning Board to require better lighting.

Dawn Drake of Enfield asked if any Town Board member had reached out to BOWF about the project. She has heard there was discussion regarding BOWF having to reapply for a new permit and questioned if the Town Board has given BOWF a date by which they would have to reapply for a new permit. She asked where the Town Board stands on revising the wind farm law and hopes the Town doesn't spend more money on this project. She also asked where the Town stands on a moratorium for energy projects.

Theresa Guler of Enfield stated she was very disappointed that, although Teets & Son had made a donation to the Enfield Community Council's Fall Festival, they weren't acknowledged in the Town newsletter along with others that donated.

Marcus Gingerich of Enfield stated he hopes the new plans recently submitted by BOWF will be provided for community members to review. Residents may have comments and ideas on the plans.

Consent Agenda: Supervisor Rider asked if anyone would like an item removed from the Consent Agenda. No one requested an item be removed.

Supervisor Rider moved, with a second by Councilperson Carpenter to approve the Consent Agenda as follows:

Minutes of regular meeting of January 11, 2017, special meeting of January 25, 2017

Approval of the audit claims as follows: The Town Board authorizes the supervisor to pay General Fund vouchers #39 to #60 dated February 8, 2017 in the amount of \$12,736.20, Highway Fund vouchers #23 to #39 dated February 8, 2017 in the amount of \$27,190.23 and Fire Protection Fund voucher #61 dated February 8, 2017 in the amount of \$253,817.00.

Resolution #2017-29 Attendance at Association of Towns Training School and Annual Meeting

WHEREAS, the annual Association of Towns Conference will be held February 19-22, 2017; and actual and necessary expenditures are a Town charge under General Municipal Law 77-B Chapter 413 L 1974 which allows the governing board of municipalities to authorize any officer or employee to attend a convention, conference or school conducted for the betterment of such municipality; and

WHEREAS, the Supervisor has included in the 2017 budget the appropriation to attend said conference, now therefore be it

RESOLVED that the Enfield Town Board does hereby grant permission to Ann S. Rider, Supervisor and Beth McGee, Councilperson to attend said conference and be reimbursed for registration, lodging, meals and mileage upon submission of all receipts.

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

Correspondence: Supervisor Rider stated she received: the spring schedule for TC3 classes that are offered at a reduced rate for government officials, copy of a letter to the editor of the Ithaca Journal from Joe Mareane urging NYS to reduce the amount of programs they put down on the local level that increases property tax, letter from Association of Towns regarding offering consolidation ideas, information on NYSEG's modified plan about a proposed pipeline, notice of drug take-back to be held April 29, information from NYSEG on planning for a storm. She thanked Sue Thompson, Town Historian, for providing her annual report.

County Legislator's Report: Jim Dennis stated he chairs the Industrial Development Agency (IDA) and was at a public hearing in the Town of Newfield regarding a Delaware River Solar project. The IDA is trying to help move solar energy to Tompkins County. There was discussion on benefits of different plans to support solar energy while still bringing benefits to towns and residents. Councilperson Carpenter suggested everyone needs to work together, look at figures, and come up with a plan.

Mr. Dennis feels the governor is backing off on some of his proposed consolidation requirements. He also reported NYSEG is looking at a compressor station and other creative solutions to assist developers and home owners for peak energy times.

Dave McKenna reported at the last meeting of the legislature the Affordable Care Act was discussed. A resolution was passed to support retaining this program in place until there is another plan to replace it. A \$36,000 grant was accepted for police protective equipment.

Highway Superintendent Report: Highway Superintendent Rollins reported he and Norm Smith repaired the heaters in the highway facility. Norm found a person in Syracuse who was familiar with the heaters and discovered several of the modules were still under warranty. They replaced most of the igniters, 8 filters, and serviced the heaters. The man-lift was very useful. A letter was received notifying the Town they were turned down for the grant to replace the culvert pipe on Rothermich Road. The crew is continuing with winter work. So far this has been a bad winter for roads with freezing and thawing - the roads are taking a beating.

Councilperson McGee asked Superintendent Rollins his thoughts on a truck he was looking at.

He replied he was disappointed in the response he received from Town Board members to the e-mail he sent to them regarding the truck. He knows what his budget is and was not asking about that. The truck is a 2005, and if purchased would replace the 1999 truck. The 1999 truck would then be used to replace the 1992 water truck. The 1992 water truck would be sold, but the value is probably less than \$5,000 on that truck. A new truck would cost approximately \$250,000 with a complete set-up. The used truck he is looking at would be in the price range of \$50,000 to \$60,000. This truck has a snow plow, but does not have a spreader to be sold with it, but the Town has an extra spreader that could be used.

Supervisor's Report: Supervisor Rider reported she attended a meeting with Dan Walker and Beth McGee regarding ameliorating highway building envelope problems; attended a TCAD Board of Directors meeting; attended a TCCOG meeting; attended the monthly Energy Roadmap Task Force meeting; attended a committee meeting on Community Choice Aggregation; attended the Tompkins County Health Consortium Board of Director's Meeting; met with Lloyd Shisler regarding lights at the Park and Ride; spoke with NYSEG about lights at the Park and Ride; met with Zachary Snyder regarding cleaning the Community Building and getting him on payroll.

Superintendent Rollins asked about installing a solar light at the Park and Ride. Councilperson Carpenter feels solar lights similar to those at the Enfield School parking lot would be more expensive to purchase, but there would be a long-term savings on electricity. If NYSEG installed lights there would be no charge except a monthly fee for the electricity. Supervisor Rider stated a pole for the light is already there. She will ask TCAT if they would pay for purchasing the lights, or electricity to operate them. Councilperson Carpenter asked if there would be a liability issue if there weren't lights at the Park and Ride. Town Attorney Guy Krogh responded yes, the parking area needs to be reasonably safe - black ice would be a danger. He suggested talking to the Town's insurance company for their recommendations.

Code Enforcement Report: Code Enforcement Officer Alan Teeter reported his Williamson Law Program is up and running so his reports will have a new format. In January there were 4 building permits issued with a total project cost of \$386,376. He will be attending the annual code enforcement meeting with the Tompkins County Assessment Department to hear what their plans are for the year. He spoke with Judge Betty Poole regarding a roof for the entrance to Enfield Town Court. He will meet with her about drawing up plans and then Judge Poole plans to apply for a grant for the project.

Committee Reports:

Planning Board: Chairperson Dan Walker reported there were 3 public hearings held February 1. The first public hearing was for a proposed cell tower on Fish Road to primarily provide service in the hamlet area. The tower would be 110' high with a 4' lightning rod on top. The second public hearing was for a 9,000 square foot retail store west of Dandy Mart on Mecklenburg Road. The revised plan is for the driveway to be located towards the top of the rise in the road. The third public hearing was for a 2 megawatt ground mount solar project on Podunk Road by Delaware River Solar. The Planning Board is reviewing that project from the perspective of environmental and visual impacts. He feels the issue of a Payment in Lieu of Taxes (PILOT) question is outside the purview of the Enfield Planning Board.

All 3 of these projects have been submitted to the Tompkins County Planning Department for their review. At the March Planning Board meeting these projects will be reviewed in detail to be sure they are in compliance with the Town's Site Plan Review Law.

Councilperson Carpenter asked about the progress of finding a new member for the Planning Board. Dan Walker responded this should be advertised again and anyone interested should submit a letter of interest to the Enfield Town Clerk. There are positions open for 1 regular member and 2 alternates.

When questioned about decommissioning of solar farms, Dan Walker noted there is nothing in the current Site Plan Review Law that requires decommissioning of any structures. He is looking at adding a decommissioning component to the Site Plan Review Law when it is revised. It would make sense for the landowner, who leases land for a wind farm, to build protection into their leases. Councilperson Carpenter questioned how much liability the Town Board should have for these projects. Councilperson McGee feels it is important to protect the rest of the Town from damages. She suggested putting discussion of a solar farm law on the March agenda for the regular Town Board meeting. Dan Walker questioned if it is advisable to take productive farm land or woods and clear cut to allow solar farms. He stated Delaware River Solar does have a decommissioning component as part of their report and he will ask them what the cost of decommissioning would be.

Town Attorney Guy Krogh suggested cadmium leaks from solar panels in years to come could be environmentally toxic. He recommended a decommissioning plan, as a homeowner's lease would not protect the Town. The solar industry seems to be very dedicated to recycling panels.

Councilperson McGee asked what the Town Board should do to direct the Planning Board to ask for a decommissioning plan. Attorney Krogh responded the Planning Board is the lead agency, and as such would have to determine whether the potential for a moderate or significant impact would require mitigation. So whether it's the sight impacts, the long-term land fill or solid waste impacts if it becomes abandoned, or the potential for environmental contamination once they age out and start leaking - if any of those you believe would trigger even a moderate impact, then that might give you grounds to set forth that condition. This might want to be part of the Town's revised Site Plan Review Law.

Councilperson Carpenter asked if there was a revision to the Site Plan Review Law, if it would be too late to use for the application that is already before the Planning Board. Dan Walker stated it would be too late for the project before the Planning Board now, but Delaware River Solar has already put a decommissioning plan into their document. Councilperson Carpenter suggested a moratorium could be put in place temporarily. Attorney Guy Krogh stated this would need to be done in the form of a law. Notice would need to be given for a public hearing. The Town Board would need to reach a decision on whether the moratorium would be on all renewable energy projects.

Councilperson Carpenter asked Attorney Krogh if the Town of Enfield is behind on laws and newer mandates. Attorney Krogh stated there is a lot more coming, but smaller towns often develop basic laws and later add more to them. The needs of the community need to be balanced with what the cost is, both in terms of what it takes to build it, review it, and get the public to understand and accept it versus the long term cost of the impact. He feels the Town is on the curve, and not behind the curve.

Councilperson McGee mentioned the Town has proposed updates for the wind farm law. She questioned if the Town did a moratorium, what would that moratorium be on - for all renewables, until the wind farm law could be updated and either a site plan review or Town law put in place, or would it be a variation of decommissioning, or about getting the Town's laws in order?

Attorney Krogh felt the Town Board would have to make that legislative decision as to what facilities they would want to put a temporary halt to while decommissioning was considered. He feels the wind law is slightly problematic in that respect since it already has pretty robust decommissioning terms and that might be a model to work with for other decommissioning requirements.

Councilperson McGee questioned if the problems with the wind farm law and lack of a solar farm law were enough, or should there be a moratorium on development.

Supervisor Rider stated if there is a moratorium, the Town Board would need to be actively working on the items or it would be null and void.

Dan Walker stated the Planning Board has reviewed the Site Plan Review Law that now includes solar recommendations. He will e-mail this draft to Town Board members this week. One recommended change is downsizing commercial buildings from 10,000 square feet to 5,000 square feet to require a site plan review.

Recreation Partnership: Supervisor Rider stated the contract between the Town of Enfield and the Recreation Partnership ends this year. She hopes this contract can be renewed.

Enfield Volunteer Fire Company: Chief Roger Lauper submitted his report showing there were 23 calls in January of which 10 were EMS calls, 1 MVA with injuries, 1 mutual aid given to Mecklenburg, 1 to Trumansburg and 1 to Odessa. There were 4 good intent calls and 4 false alarms. February trainings will include mandatory OSHA training part II, radio training and trucks, SCBA and TIC Camera. There will be a chicken BBQ on February 12.

Facilities Manager: This report will be covered in Old Business.

Comprehensive Plan Writing Committee: Councilperson McGee reported she has received additional edits for the Comprehensive Plan. She is waiting for Dan Walker and Poney Carpenter from the Enfield Planning Board to submit their comments and then a meeting will be scheduled to go over revisions.

Tompkins County Council of Government (TCCOG): A supervisory training is being offered by TC3 for elected officials and planning board members. The county legislators have responded about the governor's new proposal for required shared services plans. The Municipal Courts Task Force is finalizing recommendations. A resolution was passed supporting the Exploration of Community Choice Aggregation and the establishment of a TCOG Community Choice Aggregation Advisory Committee. There was a NYSEG presentation on the Energy Smart Community which they are rolling out first in Tompkins County on the east side of the lake before replicating it in other counties.

Old Business:

Highway Building Problems: Supervisor Rider reported she met with Councilperson McGee and Dan Walker on January 27, 2017. It appears the work plan when building the facility was carried out accurately. There is cold air coming into the building and the highway activities are very moisture laden so there is condensation which runs down the conduits, some of which are inside the inside walls. The building needs a wind barrier on the outside, which was not part of the original plan. She understands there is a need to take siding off the outside of the building on 3 sides, remove the wet insulation, add rigid foam insulation and put the siding back on. Councilperson McGee reported there doesn't appear to be a problem of water pooling on the floor of the building except by the bay doors.

Councilperson Carpenter asked about the floor drain and if there was a pitch so water would flow into the tank. Dan Walker stated he would normally put a 1% sloop on a floor drain, but he didn't know if this drain had that slope, as it was not listed in the plans.

Dan Walker is to get names of 3 contractors that could give estimates to remove the siding and help solve the air infiltration problem.

Councilperson Carpenter asked what insulation would be used and where it would be placed.

Dan Walker stated the next step would be an air handling system and/or dehumidification system.

Councilperson Carpenter stated he has done a survey of other metal buildings used for the same purpose, and the problem with the highway facility is filling the space with moisture. He feels moisture needs to be taken out of the building. The sand stored in the building needs to come out and trucks shouldn't be brought in to be washed. Since they can't be washed outside legally, a wash bay is needed.

Councilperson McGee looked into the possibility of closing off one end of the building to add a wash bay, but that is where the shop area is set up and would probably not work well.

Councilperson Hansteen asked if water sits in the drain trench. Norm Smith, who has been working on the heaters in the building with Highway Superintendent Rollins stated there doesn't seem to be any water, although there is a little mud.

Councilperson McGee questioned how to move forward. How could the Town pay for a wash bay? Councilperson Carpenter feels there is a building envelope problem. He asked how much money can be spent. Supervisor Rider asked if the amount needed to be spent shouldn't be figured first. She stated she has not looked at the money situation and has done no research. Councilperson Carpenter feels the Board needs to determine if they can do one project this year, and another next year. The problem needs to be looked at as a whole - what needs to be done, how much it will cost, and how much money is available.

Councilperson McGee suggested figuring the price to remediate everything, figuring the cost, and putting it forward for a bond and putting it out to the public for a vote.

Town Attorney Guy Krogh suggested projects could be put out for bid and see how different pieces would come in. That process would take some time. Another way would be to set up a reserve fund right away and then if it takes 2 or 3 years to get to the last piece, there may be enough in reserves to take care of it and not have to go to bond. He suggested there might be grant funds available. One way to approach the need would be the environmental issue of the possibility that salt is going into streams.

Councilperson Carpenter has talked with the Town of Danby and they strongly recommended hiring a planner to apply for grants. Supervisor Rider questioned how the Town would pay the salary of a planner. Councilperson Carpenter felt the expense might be offset by funds coming into the Town from grants.

Councilperson Hansteen asked if a separate wash bay could be built just to wash trucks. Dan Walker stated the original plans called for another cold storage bay, so there would be room at the end of the building for another bay to be built. Councilperson McGee stated she would want input from the highway superintendent before making any decisions.

Dan Walker reminded the Town Board CHIPS money is essential for road maintenance. Councilperson McGee stated she will call Municipal Solutions for information on funding and bond rates. Supervisor Rider will research job descriptions for a town planner. A 5% increase in the A Fund would equal about \$25,000.

Supervisor Rider stated she believed Superintendent Rollins reported last month about electrical repairs. Councilperson Carpenter understood that GFI breakers were put in some outlets, but could not be put in all. The voucher to pay for that work was approved at this meeting.

Wind Farm Law Advisory Report: Supervisor Rider stated in December the Town Board was presented with a report from the Wind Farm Advisory Committee. This report focused on issues that the committee felt were most critical, since a full blown revision could take a long time. The committee recommended a revised wind farm law. The red lined version of the draft revised wind farm law will be put on the Town's website.

Councilperson McGee stated she spoke with Jay Franklin, of the Tompkins County Assessment Office about whether the Town having a wind law that requires a PILOT would impact the Town's ability to have a PILOT for solar installations, as he had mentioned some confusion about that. After she clarified for him that the Town's wind law states that the Town reserves the right to require a PILOT, he stated that it would not impact taxation regarding solar. He was looking to see what he would do about assessment of solar farms with the Town's opt out situation. Jay Franklin felt that by opting out of the solar/wind farm energy systems they would be fully taxable for Town purposes. So his reading would be that in addition to the

fully taxable status of the installation, the Town could enter into a PILOT for other reasons. He deferred to the Town's Attorney, Guy Krogh to translate that. Attorney Krogh responded the Town did opt out and they can't distinguish between commercial or residential wind or solar. It's either all in or all out. This opens the door for a PILOT and it allows the Town to have assessment options. A problem arises when someone puts solar on their house and the Town isn't notified. Can someone then go back and ask for a PILOT once it's constructed. What he sees now that exemptions are getting complicated is a lot of problems because people don't fully understand how these exemptions work. He would encourage the Town to do a stand-alone law so all exemptions would be in one place so when New York State changes something you know where to go. As far as the PILOTS, you can have them regardless of whether or not you have the exemption. By having the exemption in place, it forces them to come to your door because otherwise they're paying full tax and if they didn't have these types of boons they might not exist. At this time, residential solar doesn't add much to the value of a home, but that can change in the future.

Councilperson Carpenter asked if BOWF was current on their escrow account obligation to the Town. Supervisor Rider stated no, they were not current. They were sent a letter January 16, 2017 asking for \$7,773.41. They also owe \$15,000 as required in their agreement with the Town, but that wasn't put in the letter.

Councilperson Carpenter asked if there was a process to get the plans BOWF just submitted available to the public on the website. Councilperson McGee will forward these plans to the Enfield Town Clerk so they can be posted on the Town's website. She had looked the plans over originally and had many concerns for each plan. Now revised plans have been submitted based on LaBella's comments, and without the concerns of Town Board members being included because Town Board members haven't gone over them because BOWF hasn't paid their bill. Now she has to spend more hours rereading the new plans, seeing if they have incorporated or changed any of the things she had concerns about, and seeing if they incorporated LaBella's concerns. She questioned why BOWF would change them so Town Board members have to go through them all again to give BOWF their concerns.

Councilperson Carpenter understood the items in a resolution presented by then Councilperson Michael Miles at the October 26, 2016 Town Board meeting were to be provided by BOWF to the Town Board. The Town Board would then provide them to LaBella to make comments once BOWF got current with their payment. They went to LaBella anyway and apparently what happened then was after LaBella made comments, LaBella went back and forth with BOWF, changed things without any Town Board input into the process and now BOWF is saying here they are, they are done, without the realization that the Town Board wanted to have input.

Councilperson Carpenter feels BOWF hasn't given the Town information they requested and they have not been clear, concise and up-front. There was a letter sent in November with conditions BOWF was requested to meet. He feels the Town Board has a right to ask for information on Rich Teeter's property and Donny Gunning's property, and wants to make it clear to BOWF if they are unwilling to provide that information to the Town Board, the Town Board is at a point where they would like to expire their application and say they would need to reapply in the future because they were not willing to comply with the things that were asked for. He feels BOWF has not responded to a significant portion of what was requested. This has been rather confusing for the Town Board. First BOWF did their original SEQR review, then they came back and said they wanted to change and move things and then after a few months they decided they wanted to go back to the original SEQR and use the original locations. The supplemental SEQR became mute at that point. He questioned if BOWF can now change back to the supplemental SEQR again. What rights does the Town Board have to make BOWF come forth with the information needed in order to see if this is a viable project. He questioned that if there is no location for the sub-station, BOWF does not have a viable plan under the SEQR they have approved already. Previously it appeared that NYSEG would not put the sub-station on leased property. During the public comment period at this meeting, Marguerite Wells stated NYSEG could put a sub-station on leased land. He would like to get a letter from NYSEG saying they would be willing to put the sub-station on leased land. Then a letter would

need to be received from Rich Teeter saying this would be allowed and it would be in keeping with his original contract.

Attorney Guy Krogh feels this is a complex process. A SEQR doesn't actually approve anything. If by issuing a findings statement and approving that, you've made a declaration that if they comply with certain requirements based on the plan that was reviewed in that EIS process, if they satisfy the conditions of the findings statement, then that would support the conclusion that the potential impacts have been remediated to the reasonable extent capable under the circumstances. The reason they would come back for a supplemental was they had a plan change. Sometimes a change in the plan does not trigger a supplemental review - it's minor. Sometimes it does. Here, he thinks, changing the location of the sub-station would trigger a supplemental review. For whatever reason it was withdrawn, there is no supplemental and nothing for them to go back to. To start another supplemental review would require more permit changes - they would have to amend their permit application.

Attorney Krogh heard the question as: is there a point at which the Town Board can just say here's the drop dead date - whatever you've given the Town Board will be the final document, and if it's sufficient it's sufficient and if it's not it's not. But at some point the Board will have to pick a time to go forward with a permit review and make the determination as to whether the plans, as submitted, comply with the SEQR, comply with the permitting requirements of the local law. As far as the question of the confidentially given the nature of the lease, given the nature of the sub-station, some of these things the Town Board probably can require them to produce. Other things are, as in any large project, unknown. The plans will have to minimally satisfy the requirements of SEQR and the requirements of the local law. If they don't, either because they're not complete yet, or they fail, then that's the basis upon which the Town Board can deny a permit.

Attorney Krogh reviewed that Board members have comments on some of the documents that they last saw, and now there's an updated set of documents, and the Board is not sure the extent to which the Board's comments may still apply, so there will be some legwork to go through another set of documents. At some point the Town Board will communicate to LaBella or to BOWF what additional shortfalls, or data, is needed. It may not be a shortfall, it just may be a hole in the data. The Town Board can give a reasonable amount of time to provide that information and on the appointed date the application is closed and it will be reviewed under the local law and the SEQR. It's not technically the Town's duty to provide guidance to a developer on how to navigate a local law, but SEQR does envision a cooperative process. He feels a list should be produced of what are the data gaps, what are the shortfalls, and maybe where will your major facilities be located and say we want everything submitted by a reasonable date in the future. He would rely on input from LaBella, because having worked in this field they would know what would be a reasonable drop dead date.

Councilperson Carpenter stated this is a little complicated since where BOWF wants the sub-station is on a piece of land that had a lease to put the sub-station on, but the lease also required that the person who owned the land could not say anything about anything to do with the project. So when they changed back to the original EIS, basically BOWF said they were going to put the sub-station on his land. The owner can't say, yes they are going to put it on my land. His lawyer can't say anything either because he's not allowed to speak either. The local wind law does allow the Town Board to look at contracts between homeowners and BOWF. It also allows the Town Board to understand clearly where everything is going. Right now the EIS says it's going on Rich Teeter's land. The Town Board's understanding is it cannot go on Rich Teeter's land as a leased project because of NYSEG, and it can't go on Rich Teeter's purchased land because his contract doesn't require him to sell the land. So the Town Board felt it was in a bind. So the Board asked for something to say it will go on Rich Teeter's land and it's ok to be on Rich Teeter's land. The response the Town Board received was Marguerite Wells coming before the Town Board and saying BOWF just found out from NYSEG that they do put sub-stations on leased land so they are sure something will work out. In Councilperson Carpenter's opinion that is not an answer to what was asked for.

Supervisor Rider stated the Town has hired a technical advisor. She questioned how much more can a Town Board require than what the technical advisor says meets SEQR requirements. Attorney Krogh stated a technical advisor's advice should be given weight, and it may be somewhat unwise to ignore the technical expertise of someone you've hired as your technical advisor, but it is only advice.

Councilperson McGee feels it isn't ignoring professional technical advice to have questions and want clarification. This is, when it's starting to be built, one of the largest heavy industrial projects in Tompkins County and she feels it would be irresponsible not to read carefully, ask questions, and get clarification before voting.

Councilperson Hansteen feels BOWF needs to bring their escrow account current before any more money is spent. Supervisor Rider stated she doesn't feel legal review of these documents would be chargeable to the BOWF escrow.

Attorney Krogh stated review of documents would be chargeable to BOWF. Councilperson McGee felt documents could be given to Attorney Krogh to help figure out the dilemma the Town Board is in. Attorney Krogh suggested the Town Board could get together a list of everything they felt was needed and then as a Board decide how to get that information and determine how long they will wait for the information. On a determined date the Town Board will start the permit review and the door will close.

Councilperson Hansteen again brought up the issue of the BOWF escrow account. Attorney Krogh suggested if the money is required by a certain date and is not paid, that's the date the door closes. Councilperson Hansteen continued that if BOWF brings their escrow account current, the Town Board needs to know that NYSEG is ok with leased land or that Rich Teeter will sell the land. He is also a little confused about what to do about the turbine on Donny Gunning's land in that it's too close for a 2.3 megawatt turbine and Marguerite Wells said they might just put a smaller one there and then it would be in compliance with the law. Councilperson Carpenter feels it might be in compliance with the law, but it wouldn't be in compliance with the amendment to the SEQR review that they did and the EIS that they did. Attorney Krogh commented if you reduce the impacts it may not trigger a supplemental review but the question is some of the older, smaller turbines are more likely to produce a thump. The newer ones aren't as likely to do that, so you'd have to look at the impacts of that turbine. However, if it's the same model and it actually reduces the impacts it may not trigger a supplemental. It doesn't change the fact that they still have to mitigate the impacts.

Councilperson McGee questioned why Marguerite Wells commented that she doesn't know where residents got their information from, that it's not outside the limits of the law as far as setback, then why would she suggest they may have to put a smaller turbine there. Councilperson Hansteen commented Marguerite Wells said it was 181' from the property line which was too close for the 23 megawatt turbine. Councilperson McGee then would think their only choice would be, to work within the law, to put a smaller turbine there.

Jude Lemke was recognized by Supervisor Rider and stated she had a study done, using the coordinates in Donny Gunning's contract and it's not 181', it's 158' from the Tesori's property line. So the best thing they could do is put in a 1.7 megawatt turbine, but her study - which she shared with the Town Board - shows 158' which wouldn't allow a 1.7 megawatt turbine.

Councilperson McGee asked if the Town Board should just wait for BOWF to figure out the legal issues with property owners they have leases with. They can't provide documentation to show this is viable, so is it up to the Town Board to just wait for the information. She asked Attorney Krogh what documents he would like to see. He replied seeing the leases for the two properties in question would be good, but he understands they aren't available to the Town Board yet. Councilperson McGee stated Marguerite Wells did send a full copy of Donny Gunning's lease so that is available.

Councilperson Carpenter feels a very complete list needs to be compiled and referenced back to the Town wind law. He will compile his version of a list.

