

PUBLIC HEARINGS
And
TOWN BOARD MEETING MINUTES
MARCH 12, 2008
7:00 P.M.

The Town Board of the Town of Enfield held two public hearings before the regular monthly Town Board meeting, Wednesday, March 12, 2008 at the Enfield Community Building, 182 Enfield Main Road, Ithaca, New York. Supervisor Podufalski opened the public hearings by leading the assemblage in the Pledge of Allegiance to the Flag.

Present: Frank Podufalski, Supervisor, Town Councilperson Stephanie Gaynor, Town Councilperson Robert Harvey, Town Councilperson Roy Barriere, Town Councilperson Herb Masser, Jr and Town Clerk Alice Laue.

PUBLIC HEARINGS:

The public hearing in regards to a resolution repealing Local Law #2 of the year 2007 – “To Establish Standards of Conduct for Municipal Officers and Employees of the Town of Enfield Code of Ethics” and Local Law #3 of the year 2007 “Utility Scale Wind Energy Conversion Systems Law of the Town of Enfield” was opened to the public at 7:00 p.m. Members of the public spoke for and against the repealing of these two laws. It was requested that the minutes note that all wishing to speak at this public hearing were not able to speak. This public hearing was closed at 7:40 p.m.

The second public hearing on the Better Housing Rehabilitation grant was opened to the public immediately following the closing of the first public hearing. Supervisor Podufalski introduced Charles Baldwin, Construction Manager for Better Housing, who spoke about the grant Enfield is applying for:

Grant would be in the amount of \$400,000, fifteen houses would be rehabilitated at \$25,000.00 per house, and names on 2006 grant list would be first ones to be considered, Recipients have to live in rehabilitated house for five years after work is done, recipients have criteria they have to meet, and recipients are picked by an Over-site Committee which is appointed by the Town Board. Town won't know if they received grant until September 2008. Public Hearing closed at 7:55 p.m.

REGULAR TOWN BOARD MEETING:

The regular Town Board meeting was held at 8:00 p.m. on Wednesday, March 12, 2008 with Supervisor Podufalski presiding. Town Board members present at the public hearings were also present at the Town Board meeting.

Approval of the 2/13/2008 regular Town Board Meeting Minutes:

Motion was made by Councilperson Barriere, seconded by Supervisor Podufalski that the Town Board approve for adoption the 2/13/2008 regular Town Board meeting minutes.

Discussion: none

Vote: Councilperson Barriere aye, Councilperson Harvey aye, Councilperson Gaynor aye, Councilperson Masser aye, Supervisor Podufalski aye. Motion carried.

Correspondence:

Schedule of NY State Property Tax Relief meetings being held.

Tompkins County Administrations – Grant approval in the amount of \$300.00 part of 2007 Community Celebrations Grant Program for Remembering the Women’s Christian Temperance Union in Enfield. Grant applied for by Town Historian Sue Thompson.

Haefele TV Inc. notice of price increase as of 4/1/2008. Rate increased to \$44.95 a month. United Court System letter to Justice Poole advising her of grant rewarded under the Justice Court Assistance Program.

Bishop Sheen Housing Foundation letter in regards to availability of funds for housing and access to houses programs.

COMMITTEE/BOARD REPORTS:

Tompkins County Board of Representative Greg Stevenson reported:

Board of Elections choose ballot marking devices as voting machines of choice for the county.

County administrator advised legislation on a little of the governor’s budget which is subject to changes. Potential negative impact for Tompkins County in budget from around five hundred thousand to one million dollars in fiscal year 2009. Proposed reductions for Tompkins County – \$200,000 reduction to Department of Social Services, elimination of States 50 percent share of expenses for Youth Detention, \$100,000 decrease in aid to TC3, \$43,000 loss to highway funding, elimination of aid for tri annual assessment process.

Legislator Joseph resigned to work for Office of State Parks and Recreation.

Code Enforcement: Code Officer Alan Teeter presented and reviewed monthly code report.

Enfield Community Council: Vice President Ann Rider reported on what the Community Council provides: Youth Programs in Enfield for youths ages four to teenagers. Summer Camp which is going to be held at the Enfield Elementary School July 7 – August 15, 2008, Harvest Festival in September.

Enfield Volunteer Fire Company: Art Howser presented and reviewed written report. Over the weekend fire department responded to close to thirty calls and had twenty-two members that supported that effort. Question was asked if over the horrendous weekend if the fire company was open to anyone who needed heat, the elderly and disabled, etc. The response was yes. Fire Department is a site for emergencies. Board of Directors discussing how they can get the word out to the community quicker and effectively but fire department not equipped for a mass emergency.

Facilities Manager: Councilperson Barriere reported: Alarm Tech completed installations mentioned at the February meeting. System connected directly to emergency dispatch.

Ordering a Knock Box (company name) which will be installed upon arrival.

Fuel oil tank and contents in food pantry area needs to be removed, recommended bids be accepted on fuel tank and contents. Question was asked what any legal exposure to the Town might be if someone obtained this fuel and then illegally dumped it. Attorney for the Town to research this and report back to the Town Board. Ace Security bid for changing all outside and inside locks and door at the Town Hall received, bid was in the amount of \$969.00. After door locks are changed, keys will be assigned on an individual bases – non copiable. Water Quality – Reports on water quality need to be submitted to Tompkins County Health Department – Wayne Snyder has been contacted and agreed to take care of this. Local contractors for bids on work needing to be completed contacted, three responded, only one submitted a bid.

Facilities Planning Committee: Councilperson Masser reported: Councilperson Barriere and he attended the Association of Towns conference in New York City and while there talked with State and Federal Government people who are helping rural towns with money for projects. They should interest in the water district idea, Federal Government is willing to put up 75 percent of cost and State Government 12.5 percent. To qualify Town has to be under 10,000 people and have a medium income under \$40,000. USDA sending engineers to look at the Enfield aquifer and if they agree are ready to start the process. State and Federal anxious to help with new buildings and facilities but showed more interest in water district.

Planning Board: Vice-chair Jim McConkey stated the Planning Board wants and is willing to work with the Town Board and hopes to have a construct year.

Tompkins County Council of Government: Supervisor Podufalski reported TCCOG working on a plan to provide shared services as far as health benefits go for all towns in the county. SPCA contract still up in the air.

OLD BUSINESS:

Enfield Volunteer Fire Contract 2008 – There were questions about liability insurance, Town requested three million liability insurance – Fire Company carries two million liability insurance. Supervisor spoke to council and council feels two million would be sufficient. Need a letter from the Town Board stating that the contract be amended to note that the two million liability insurance is sufficient for operations.

Motion made by Councilperson Barriere, seconded by Councilperson Gaynor that the Town Board approves and authorizes the Supervisor to write a letter amending the 2008 Enfield Volunteer Fire Company contract changing the liability insurance from three million to two million dollar liability insurance per event.

Discussion: None

Vote: Councilperson Barriere aye, Councilperson Harvey aye, Councilperson Gaynor aye, Councilperson Masser aye, Supervisor Podufalski aye. Motion carried.

- [1] Enfield Regular Town Board Meeting
- [2] Public Hearing on Repeal of Wind Farm and Ethics Laws of 2007
- [3] Public Hearing on Better Housing Grant

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NEW BUSINESS:

Local Law #1 of the Year 2008 – Repealing Local Law #2 of the Year 2007 and Local Law #3 of the Year 2007. \

Councilperson Masser read and moved the adoption of the following resolution. Resolution was seconded by Supervisor Podufalski.

RESOLUTION NUMBER 13 – 2008

RESOLUTION ADOPTING LOCAL LAW #1 OF 2008

At a Regular Meeting of the Town Board of the Town of Enfield, held in and for the Town of Enfield at the Enfield Community Building on the 12th day of March, 2008, with the following members being present: Frank Podufalski, Supervisor, Robert Harvey, Councilperson, Roy Barriere, Councilperson, Herb Masser, Jr., Stephanie Gaynor, Councilperson; and the following members being absent: none; and the following motion for a Resolution was duly made by motion of Councilperson Masser, and was duly seconded by Supervisor Podufalski and the vote was as follows: Frank Podufalski – aye; Robert Harvey no; Roy Barriere – aye; Herb Masser, Jr., - aye; and Stephanie Gaynor – aye; and the following Resolution therefore passed – 4-1, and was duly adopted:

WHEREAS, the prior Town Board of the Town of Enfield improperly considered and allegedly passed two Local Laws in December, 2007, such laws being: (1) Local Law #2 of 2007, “a local law to establish standards of conduct for municipal officers and employees of the Town of Enfield – Code of Ethics”, as allegedly adopted by the Town Board of the Town of Enfield upon December 12, 2007 (Resolution 2007-37) and filed with the New York State Attorney General’s Office on or about December 20, 2007 (herein, the “Ethics Local Law”); and (2) Local Law #3 of 2007, “Utility Scale Wind Energy Conversion Systems Law of the Town of Enfield, Ithaca, New York”, as allegedly passed by the Town Board of the Town of Enfield upon December 27, 2007 (Resolution 2007-42) and filed with the New York State Attorney General’s Office on or about December 28, 2007 (herein, the “Wind Tower Local Law”); and

WHEREAS, the Wind Tower Local Law was the subject of two or more improper meetings, one being an improperly called December 5, 2007 Special Meeting of the Town Board, which meeting was not called in accord with Town Law by the Supervisor of the Town; and

WHEREAS, any action taken at such improperly or illegally called Special Meeting is invalid; and

WHEREAS, at such December 5, 2007 meeting, the Town Board purported to schedule a Public Hearing to consider the Wind Tower Local Law; and

WHEREAS, the Town Board held a public meeting for such Wind Tower Local Law upon December 5, 2007, which meeting was held upon December 17, 2007, but which meeting could not, by law, constitute a Public Hearing as is required for the passage of a Local Law; and

WHEREAS, the former Town Supervisor (based upon research, attorney input, and conversations with the DEC) and the Planning Board both knew and recognized that an environmental review was mandatory, but the prior Town Board never classified the action under SEQRA, never sent any Notices of Intent to any interested Agencies or Involved Agencies, and failed to conduct any environmental review; and

WHEREAS, an environmental review of the Wind Tower Local Law was mandatory under law, and the action should have been classified as a Type I Action; and

WHEREAS, at the year's-end Special Meeting where the Wind Tower Local Law was allegedly considered and passed, there were material changes made to the Wind Tower Local Law, which changes required, by law, a further Public Hearing and further SEQRA review – neither of which occurred; and

WHEREAS, the Town Board is also concerned with the processes and procedures that surrounded the desperate and speedy passage of the Wind Tower Local Law 4 days before several former Town Board members were scheduled to leave office, especially in light of the numerous and voluminous objections of the citizens of the Town; and

WHEREAS, the Town Board is concerned with the liabilities that may or will arise from an improperly passed local law, but not limited to, the unenforceability of the Wind Tower Local Law, and the potential claims of the Developer of the proposed site; and

WHEREAS, the Town Board has determined that the Wind Tower Local Law was the subject of improper and illegal meetings and was and is not a legal or enforceable local law of the Town of Enfield; and

WHEREAS, the Ethics Local Law was the subject of properly scheduled and held meetings and a Public Hearing, but material changes were made thereto at the Public Hearing and no further Public Hearings was held, had or scheduled to obtain the input of the public as required by law; and

WHEREAS, the Town Board has determined that the Ethics Local Law was and is not a legal or enforceable local law of the Town of Enfield; and

- [1] Enfield Regular Town Board Meeting
[2] Public Hearing on Repeal of Wind Farm and Ethics Laws of 2007
[3] Public Hearing on Better Housing Grant

WHEREAS, the Town Board recognized that the purposes of such local laws have import and should be re-considered with the full public input so that they may, if desired, be properly and lawfully passed, and therefore be and become legally enforceable; and

WHEREAS, Town Counsel recommended the adoption of Local Law #1 of 2008 to repeal the Wind Tower Local Law and the Ethics Local Law, as that would solve the problems of (i) unenforceable Local Laws, (ii) unenforceable Local Laws, and (iii) would permit reconsideration and re-passage of such Local Laws upon such terms and the Town Board deemed appropriate; and

WHEREAS, there was duly presented to the Town Board a proposed Local Law #1 of 2008, which proposed local law was duly filed with the Town Clerk; and

WHEREAS, a Public Hearing was duly noticed and held at the Enfield Community Building 182 Enfield Main Road, being in the Town of Enfield, County of Tompkins and State of New York, on the 12th day of March, 2008, to consider the aforesaid proposed Local Law #1 of 2008, and to hear all persons interested in the subject thereof; and

WHEREAS, after review and discussion of each of the foregoing premises and the proposals set forth or referenced herein, the Town Board of the Town of Enfield hereby

RESOLVED, that the Town Board of the Town of Enfield hereby adopts and enacts Local Law #1 of 2008, reading in entirety as follows:

**TOWN OF ENFIELD, TOMPKINS COUNTY, NEW YORK
LOCAL LAW NUMBER 1 OF 2008**

**A LOCAL LAW REPEALING
LOCAL LAW #2 OF 2007 AND LOCAL LAW #3 OF 2007**

SECTION 1: TITLE and APPLICABILITY – The Town of Enfield hereby adopts this Local Law, to be known as “Local Law Number 1 of 2008”. This Local Law shall apply only within the Town of Enfield, and hereby repeals any prior Town Board declaration, determination or resolution inconsistent herewith.

SECTION 2: PURPOSE – The purpose of Local Law Number 1 of 2008 is to repeal the following Local Laws of the Town of Enfield: (1) Local Law #2 of 2007, “a local law to establish standards of conduct for municipal officers and employees of the Town of Enfield – Code of Ethics”, as allegedly adopted by the Town Board of the Town of Enfield upon December 12, 2007 (Resolution 2007-37) and filed with the New York

State Attorney General's Office on or about December 20, 2007; and (2) Local Law #3 of 2007, "Utility Scale Wind Energy Conversion Systems Law of the Town of Enfield, Ithaca, New York", as allegedly passed by the Town Board of the Town of Enfield upon December 27, 2007 (Resolution 2007-42) and filed with the New York State Attorney General's Office on or about December 28, 2007.

SECTION 3: REPEAL OF PRIOR LOCAL LAWS – The following Local Laws of the Town of Enfield be and hereby are repealed in their entirety: (1) Local Law #2 of 2007, "a local law to establish standard of conduct for municipal officers and employees of the Town of Enfield – Code of Ethics", as allegedly adopted by the Town Board of the Town of Enfield upon December 12, 2007 (Resolution 2007-37) and filed with the New York State Attorney General's Office on or about December 20, 2007; and (2) Local Law #3 of 2007, "Utility Scale Wind Energy Conversion Systems Law of the Town of Enfield, Ithaca, New York", as allegedly passed by the Town Board of the Town of Enfield upon December 27, 2007 (Resolution 2007-42) and filed with the New York State Attorney General's Office on or about December 28, 2007. Accordingly, such Local Laws shall be and remain unenforceable, and shall have no force or effect in law, equity or admiralty.

SECTION 4: CONSTRUCTION AND SAVINGS CLAUSE – The interpretation and enforcement of this Local Law shall be based upon the purposes sought by, through, and under this Local Law, and not by any date or factual or numerical reference that is technically incorrect and which does not materially affect the import of this Local Law. Thus, in the event of any ambiguity, it is the stated legislative intent of the Town Board of the Town of Enfield that the Local Laws passed in December 2007 and commonly known as the Wind Tower Law (or USWECS Law) and the Ethics Law (or Code of Ethics) be and be deemed repealed and of no force and effect, without regard to whether any date of any meeting or any numerical designation relative to such law is incorrect. If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Local Law shall be adjudged invalid or unenforceable by any court of other tribunal of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, paragraph, subdivision or clause of this Local, Law. Any such invalidity shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such order or judgment shall have been rendered.

SECTION 5: EFFECTIVE DATE – This Local Law shall be immediately effective.

RESOLVED, that the Ethics Advisory Board, and/or any similarly named or functioning committee or entity formed under, pursuant to, in furtherance of, or in relation to the Ethics Local Law, be and is hereby disbanded; and it is further

RESOLVED, that in accord with #21 of the Municipal Home Rule Law, the final adopted copy of this Local Law shall be presented to the Supervisor for approval; and it is further

RESOLVED, that upon such approval by the Supervisor (or other approval occurring pursuant to said #21 of the Municipal Home Rule Law), and within 20 days after the final adoption of this Local Law, the Town Clerk shall file a certified copy of this Local Law, together with the required Certifications, in the Office of the Town Clerk and with the New York State Secretary of State as required by Municipal Home Rule Law #27. Said filing may be made by delivery to the State Records and Law Bureau, Department of State, 41 State Street, Albany, New York 12231.

SEQRA: Type II Action

Discussion:

Vote: Councilperson Barriere aye, Councilperson Gaynor aye, Councilperson Harvey no, Councilperson Masser aye, Supervisor Podufalski. Resolution carried – vote four ayes and one no.

Inter-municipal Services Agreement: Agreement signed in September 2007.

Joint Planning Board/Town Board Meeting: Joint Planning Board and Town Board meeting scheduled for Wednesday, March 19, 2008 at 7:00 p.m. at the Community Building.

Cleanup Week: Tentative date second week of May. Supervisor to talk with Highway Superintendent Miller. More information at next Board meeting.

Assessment Review: Need to set a May date for Assessment Review. Clerk to set a date with the Assessment Office.

Budget Amendment: Resolution Number 14 – 2008 Town of Enfield Budget Amendment No. 4 – Transfer of Appropriations.

WHEREAS, the New York State Comptroller requires all Justice Contractual Expense expenditures to be reported in General Fund account A1110.4,

NOW, THEREFORE BE IT RESOLVED THAT 2008 Budget General Fund accounts A1110.4, A1110.41 and A1110.42 be consolidated to A1110.4 in the amount of \$3750.00.

Resolution moved by Supervisor Podufalski, seconded by Councilperson Gaynor.

Discussion:

Vote: Councilperson Barriere aye, Councilperson Gaynor aye, Councilperson Harvey aye, Councilperson Masser aye, Supervisor Podufalski aye. Resolution carried.

Audit of Claims: Supervisor Podufalski submitted vouchers and bills for payment.

Motion made by

Motion made by Councilperson Barriere, seconded by Supervisor Podufalski that the Town Board of the Town of Enfield authorizes the Supervisor to pay:

General Fund vouchers #58-77 in the amount of \$13,198.02

Highway Fund vouchers #12-20 in the amount of \$8,970.46

Enfield Volunteer Fire Company voucher #3 in the amount of \$50,000.00.

Discussion: None

Vote: Councilperson Barriere aye, Councilperson Gaynor aye, Councilperson Harvey aye, Councilperson Masser aye Supervisor Podufalski aye. Motion carried.

Announcements: Councilperson Barriere asked what the Boards wishes were about the oil fuel tank and contents. Upon Attorney for the Towns written answer to a legal issues an ad advertising the taking of bids on fuel tank and its contents to be placed. Need to set a length of time ad is to be in the Ithaca Journal. Construction bids tabled for now.

Privilege of the Floor: Gary Fisher – Accuracy of Justice expenditures accounting being strictly a .4 is incorrect. Not required, it can be broken down anyway you want, if consolidated public doesn't know where money is going. No requirement by the State to do this.

Marnie Kirchgessner – Town needs to set rules and regulations based on town law #103 and they need to be posted.

Jack Hubbell – Asked the Attorney for the Town if the audit meeting held in January were a quorum wasn't present was a legal meeting. He was answered if public business such as motion, resolutions, etc. weren't conducted yes.

David Dimmick – According to Site Plan Review Local Law 1999 a tower over 100 feet can not be erected. He asked the Supervisor and Code Officers check the height of the wind tower erected on Black Oak Road and see if it complies with the Site Plan Review Law.

Sandra Small asked the Supervisor and any of the Town Board members if they approved the payment of any Fire Company expenditures not in the 2008 contract out of General Funds and was answered no. She asked Councilperson Harvey if he had seen or participated in the creation of Local Law #1 – of the year 2008 prior to this meeting and he answered no, I have not.

Executive Session:

Motion made by Councilperson Barriere, seconded by Councilperson Gaynor that the Town Board moves into Executive Session. Town Board moved into Executive Session at 8:30 p.m.

Motion made by Councilperson Masser, seconded by Councilperson Barriere that the Town Board moves out of Executive Session.

Discussion: none

Vote: Councilperson Barriere aye, Councilperson Gaynor aye, Councilperson Masser aye, Councilperson Harvey left the Executive Session, Supervisor Podufalski aye. Motion carried.

Executive Session closed at 9:00 p.m.

Adjournment:

Motion made by Councilperson Masser, seconded by Councilperson Barriere that the March 12 meeting adjourns.

Discussion: none

Vote: Councilperson Barriere aye, Councilperson Gaynor aye, Councilperson Masser aye, Councilperson Harvey absent, Supervisor Podufalski aye.

Meeting adjourned at 9:05 p.m.

Respectfully submitted,

Alice Laue, Town Clerk