

Town of Enfield Wind Farm Advisory Committee Meeting –
February 2, 2016 - Enfield Community Building

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PRESENT: Peter Bardaglio, Councilperson Mike Carpenter, Martha Fischer, Marcus Gingrich, Jude Lemke, Rob Tesori, Councilperson Michael Miles, Mimi Mehaffey

ABSENT: Charles Elrod, Marguerite Wells

STAFF: Sue Thompson/Wind Farm Advisory Recording Secretary

Michael Miles called the meeting to order at 7:05 p.m. and lead the assemblage in the Pledge of Allegiance to the Flag.

Michael Miles stated he would change the meeting agenda to discuss Wind Farm Advisory Committee alternate memberships. Mike Carpenter read the Resolution 2016-32, which forms an Enfield Wind Farm Advisory Committee (WFAC). Peter Bardaglio, Black Oak Wind Farm (BOWF) president came to replace Marguerite Wells on the WFAC. Peter Bardaglio stated that Marguerite Wells had resigned from the committee and asked him to sit in for her membership. Michael Miles informed the committee he had not received a formal resignation from Marguerite Wells. It was decided that the committee needs a representative from the BOWF and Peter Bardaglio is willing to serve on the committee Michael Miles will request to the Town Board that Peter Bardaglio replace Marguerite Wells on the committee.

Jude Lemke introduced herself as a member of the WFAC as she was not in attendance at the first meeting. Peter Bardaglio introduced himself as president and a representative for the Black Oak Windfarm. Mimi Mehaffey was asked to sit in on the committee meeting since Charlie Elrod was not in attendance. Michael Miles will check with Charlie Elrod about his membership on the committee since he has missed two meetings.

Michael Carpenter thought the committee needs more alternates from the BOWF. The committee feels more alternates are needed on the committee to be representative of both pro and con wind farm. It was suggested that perhaps Tompkins County Legislature could recommend someone. Michael Miles will inform the Town Board of the request for more alternate members.

Michael Miles asked Peter Bardaglio if he could answer questions 1-5 on the agenda as a representative from the BOWF. Peter Bardaglio answered yes and proceeded to answer the following questions:

1. Good Neighbor Agreement

a. What is the effect of this agreement if only one spouse signed? Peter Bardaglio answered it was still a viable agreement.

b. If a party signed the agreement but subsequently asked to be released from the agreement will BOWF honor that request? Peter Bardaglio answered no they cannot be released from the agreement.

2. What is the difference between a participant and non-participant? Peter Bardaglio answered a participant is a person who has signed an agreement/lease and a non-participant is one who has not signed an agreement/lease.

Michael Carpenter restated the conversation from January 27 WFAD regarding participant and non-participant. He suggested the lawyers involved in the BOWF legal documents on both sides; need to meet to define certain phrases in the documents.

An audience member made reference to the October 14, 2015 Town Board meeting where Marguerite Wells made the statement “The wind farm would like to share the wealth, but it is not necessary for anyone to sign a contract to receive \$500 per year.” The statement was not a true statement. It was agreed it was not an accurate statement but was later corrected.

3. Will BOWF agree to waive the confidentiality provisions in the various lease agreements on a limited basis to allow these landowners to speak out? (Sections 4.07(g) and 4.13 in particular of the Peter DiStefano agreement or similar provisions in other contracts). Peter Bardaglio answered no the BOWF will not waive the confidentiality provisions in leases. He stated that BOWF has a fiduciary responsibility to its investors to ensure that all legal contracts and agreements are enforced. He also noted that BOWF investors will not see any returns for the first ten years of the wind farm's operation.

Jude Lemke stated she did not think the BOWF should be speaking freely about people who have leases, cashing checks, and reneging on contracts. She felt Richie Teeter was not there to defend himself. Mimi Mehaffey thought since contract holders can't speak for themselves the committee should speak for them. Michael Carpenter thought the committee needed to know about the details of the leases and contracts and what is occurring with them. He thought Richie Teeter probably did think he was in his rights for “breach” of contract.

Peter Bardaglio repeated that BOWF has a fiduciary responsibility to its investors to enforce all legal contracts and agreements. Mike Carpenter responded that both he and Michael Miles have responsibility to represent all community members and to find ways to help everyone. He wondered if the BOWF could possible go back to their investors regarding changes on the health and safety issues. Peter Bardaglio felt that the Town Board had signed off at the EIS saying the health and safety issues were approved, this was a vested contract.

Michael Carpenter discussed the history of what the wind farm was when it first came on the horizon as “new” in Tompkins County and the Town of Enfield. At the time the concerns of health and safety were not voiced. He felt the Town needs to re-address the noise, health and safety issues of the wind farm and its law.

Martha Fischer would like to recommend to the Board: 1. EIS be done addressed by sound engineers for ultra-low noise only human auto levels were done. 2. There is not enough research on ultra-low noise effect on human health.

4. Who is responsible for monitoring noise in the future once the turbines and substation have been built? Michael Carpenter said there is nothing in the EIS for on-going noise monitoring. If noise monitoring was done and things were found that were out of ERS compliance how is it handled? Peter Bardaglio answered that one of the potential responsibilities of this committee might be to monitor noise levels on a regular basis...Peter Bardaglio said that Cornell would be doing research at the wind farm and that the Lab of Ornithology was interested in monitoring bird patterns at the site.

5. What are the possibilities for moving the location of the wind turbines? Peter Bardaglio answered that moving the site of wind turbines is a very complex process that involves environmental, technical, and legal factors. BOWF has invested a great deal of time, money, and energy into the siting of the turbines.

Audience member asked if the final site plan would be included in the draft Supplemental EIS submitted to the Board in February. Peter Bardaglio answered yes; it will have a site plan submitted with the EIS. Will all the sites of all the turbines be included on the revised map submitted with the draft Supplemental EIS? Peter Bardaglio said yes -- we may be moving some of the sites but not all of them. The locations will all be identified on the map.

Mimi Mehaffey asked if the new study will include redoing sound monitoring for the 2.3 megawatt wind turbine towers since they are higher than the original ones at 1.7 megawatts. Peter Bardaglio stated GE engineers said that issues around sound with the larger turbine are not different than with the original one; both kinds of turbines represented the most advanced technology available...Peter Bardaglio said that the draft Supplemental EIS would assess any noise and flicker issues regarding the new turbine sites.

Audience member asked if the substation placement will be in the draft supplemental EIS is it in a revised migratory bird path. Is the bird study going to be reviewed as well? Peter Bardaglio answered it was not clear where the substation would be going yet.

Mike Carpenter stated the answer to noise levels will still not be definitive. There are lots of factors effecting noise levels, noise monitoring in the future is important and it will be difficult. There is a wind law in place in the town but it has not been kept up to date with current significant noise levels issues. Are we going to leave our wind laws in place or change them? He hopes this is one of the issues we could comprise/negotiate with the BOWF. It was stated that the noise level of 24 hour constant noise is different than an occasional noise. They need to establish a base line for monitoring of low frequency noise level.

It was suggested to have an expert come in to talk to the committee regarding noise. Jude Lemke asked if there was a budget for experts. Michael Miles answered no; they had to come in on a voluntary basis. It was suggested to gather more article on noise levels on human health for the committee to read before an expert came in to talk to them.

Michael Miles announced that an e-mail has been set up for the wind advisory committee – windadvisory@townofenfield.org. He would like to set up a site for the committee at Trello.com. They would be able to post all articles/research for the committee and public to read. The committee agreed that this would be a good idea. Michael Miles will be the point person for the site.

Discussion went back to the noise levels and how frequency sound – ultra sound – sound pressure is measured. It was suggested the School of Engineering at Cornell University could be asked if someone could give a presentation to the committee on sound/noise. Michael Carpenter will check with the school for a speaker.

Martha Fischer will ask for a speaker from the Lab of Ornithology to present issues on DBA, DBC and sound pressure.

Rob Tesori asked if the BOWF could provide a more technical report on the specs of the wind turbines. He wonders if there was a suppression system in the turbines. He was concerned regarding any fires that might occur with the turbines. Peter Bardaglio said he would look into sharing the wind turbine specs with the committee but that he would have to consult with Marguerite.

Jude Lemke reported she had spoken with the Enfield Volunteer Fire Company regarding fires and the wind turbines. The fire chief stated the fire company would only be able to work with grass fires they would need additional help with wood/forest fires. He stated any fires on the wind turbines are handled by the BOWF. Peter Bardaglio said he was uncertain whether BOWF had consulted with the fire company about managing any fires at the site. [Note: the fire plan is included in the final EIS approved by the Town Board.]

Rob Tesori asked what the responsibility of the BOWF was if there is a fire and it burns houses and woods down. Michael Carpenter answered that this was an issue on the decision of where to site turbines and setbacks of the turbines. Does each wind turbine need to be addressed individually? These are all decisions that need to be addressed. Martha Fischer will ask the Fire Chief to come present the position of the fire company with the BOWF.

Peter Bardaglio stated that if the supplemental EIS was submitted to the Town Board at its February meeting then a public hearing would be set by the Town Board for March. Michael Carpenter stated that the EIS does not have to be submitted at the normally scheduled Town Board meeting but a Special Town Board meeting could be scheduled for that purpose.

It was noted that the Tompkins County Legislature would be considering a resolution in support of the BOWF and would encouraging the Town of Enfield to move forward with the project in a timely manner. [Note: resolution was made on January 29, 2016 by the Planning, Development, and Environmental Quality Committee of the Tompkins County Legislature the Tompkins County Legislature to vote on the resolution February 4, 2016].

Michael Miles asked if there was any information regarding “ice throws” and wind turbines. Marcus Gingrich stated he will send the research he has read regarding the theoretical ice throws. He has read reports from Switzerland regarding “ice throws”.

Jude Lemke shared a web site for concerned residents on the BOWF – www.blackoakwindfarmconcerns.com. Sue Thompson will place this as a link on the Wind Advisory Committee Town webpage.

Marcus Gingrich will send Michael Miles a link regarding NYSER (New York State Energy Research and Development Authority) recommendations for setbacks. Michael Carpenter will send Michael Miles a link for the International setback recommendations.

He stated the Tompkins County Planning Department advised the Town Board back in 2008 to have longer setbacks referring to the report by the NYSER Tool Kit in 2008. The Town Board responded they did not think they needed the setbacks recommended and based their decision from the same report. NYSER has a more current reference for setbacks now. Michael Miles will have references to laws on the Trello.com website.

Rob Tesori asked if the BOWF would be open to different types of wind turbines to use. He said he had received information regarding the vertical access wind turbines. Peter Bardaglio answered BOWF would not be changing wind turbines at this point and that vertical axis turbines were not appropriate for this project."

Michael Miles explained that the Wind Advisory Committee would be advertised from now on, as a Special Town Board meeting of the Wind Advisory Committee. The law reads that if 3 or more town board members are at a meeting place it has to be advertised as board meeting. Because of the possible attendance of additional board members they decided just to advertise the meetings as "Special Town Board Meetings".

Corrections to January 27, Wind Advisory Committee Minutes

Page 6 Privilege of the Floor. Marguerite answered he was an investor in BOWF should say "Marguerite Wells answered he owns 40% of Enfield Energy and is one of many investors in the wind farm".

Page 2, 3rd paragraph Mimi Mehaffey accepted the nomination should say "agreed to serve as Vice Chairperson for the Committee."

Page 2, Goals and Work Items, there is no wind farm regulatory should read "regulatory commission".

Page 8, 2nd paragraph (public wheel) should read (public well) [Sue's Note – the general good: the public weal – dictionary.com]

Motion was made by Martha Fischer and seconded by Michael Carpenter to approve the January 27 minutes as corrected. Motion passed to approve minutes unanimously.

Property Values was requested to be added to "Work Items" list.

Michael Miles closed the regular meeting and opened the meeting up for public comments. He reminded the audience to keep the topics to wind farm topics and to 3 minute comments.

Ryan Sherry – 86 Griffin Road – Thanked the Town Board and Committee for the work they are doing. He was concerned about transparency issues regarding the plans for the BOWF. He feels the Board needs all the information they can get to make an informative decision regarding the wind farm. The health and safety is a great concern. He feels his environment is questioned. He wants to make sure that everyone has enough time to study the draft EIS before a decision is made. Michael Miles reminded everyone to let the committee know if the transparency is not working. Martha Fischer reminded everyone it's important to attend meetings.

Becky Sims – Black Oak Road – Stated that Marguerite Wells responded independently to her question of last week regarding providing residents, who could not afford to invest, and who are living close to the wind farm, shares of BOWF. She wanted to share what Marguerite Wells sent her. Marguerite Wells stated it was illegal and impossible for the wind farm to provide shares to residents. She also pointed out that a signed neighbor agreement of \$500 a year for 45 years is the equivalent of the average return projected for a persons who invested \$9,000 in BOWF.

Becky Sims offered to arrange a “field trip” to a wind farm, possibly the “Howard Wind Farm – Steuben”. This trip might give people more of an idea on what to expect with a farm. Michael Miles stated that the best time to observe a wind farm is in the winter because of the wind currents.

Peter Bardaglio commented about changes in the SEC laws that would provide more opportunities for small investors. BOWF was unable to take advantage of these new laws because the SEC had not yet implemented the regulations necessary to implement these changes.

Audience member asked why Peter Bardaglio invested in the wind farm. He answered that he believes in the wind farm and is hoping to leave something for the future of his children and grandchildren.

Dawn Drake - Griffin Road - feels the BOWF is being underhanded regarding meetings being held. She referred to a meeting for Thursday afternoon in Ithaca. She was informed that the meeting was a regularly scheduled Tompkins County Legislature meeting and the BOWF had nothing to do with the scheduling or the agenda of the meeting. The Legislature schedules can be found on the Tompkins County web site.

Michael Miles adjourned the meeting at 9:00 p.m.

Respectfully submitted, Sue Thompson, Recording Secretary