

Special Town Board Meeting
January 16, 2007

A Special Town Board Meeting was held in the Hamlin Town Hall located at 1658 Lake Rd., Hamlin, New York. The meeting was called to order at 7 pm by Supervisor Dennis Roach. The location of the fire exits and defibrillator was explained for those present.

Present: Supervisor Dennis Roach, Councilperson Michael Marchetti, Councilperson Paul Rath, and Councilperson David Rose. Absent was Councilperson George Todd

Also present: Conservation Bd. Members Craig Goodrich, Tom Breslawski, Planning Bd. Members Judy Hazen and Tom Jensen, Zoning Bd. Members Jerry Hoffman, Wind Tower Committee Members Ed Evans, Linda DeRue, Edward Haight, Art McFarlane, Mark Reeves, Glen Quetschenbach, Jerry Borkholder, David Lukas, Andrew Simpson, Residents, Paul Lapinski, Troy and Tricia Nesbitt, Nancy Jennejahn, Lloyd Lochner, Austin Warner, Don and Sandy Nichols, Renee Cliff, Dot Lapinski, Chris Shevlin, Tim Smith, Ed and Judy Doan, Dan Bills, Charlie and Ann Yockel, Bill Ingham, Phil Foes, Carol McFarlane, Norman Campany, Robert McFarlane, Beck Schafer, Diane Grimm, Tom Collins, Richard DeCarlas, several non legible signatures.

Supervisor Roach stated that in November, three members of the Town Board, Dave, Mike and I, had the opportunity to attend the Genesee-Finger Lakes Region Local Government Workshop. We attended a presentation entitled, "Key Issues in Local Regulation of Wind Energy Development," presented by Daniel Spitzer.

We were all impressed by Mr. Spitzer's professional knowledge, balanced approach and obvious "in the best interest of the Town" approach. He represents the Town and the Town's desires. He does not represent wind tower developers. I invited Mr. Spitzer to advise the Town Board regarding wind energy development and the options available to the Town of Hamlin. He graciously agreed to make a presentation to the Town Board. It turns out that this is a double benefit as not only will Town Board have the option to hear his presentation, but as importantly, our newly established Wind Tower Committee, which is being tasked to determine whether Wind Towers will be in the best interest of the Town, will also have this opportunity.

In recognition of Mr. Spitzer's long trip to get here and the fact that the Wind Tower Committee is anxious to get to work, I am limiting questions tonight to Mr. Spitzer to just the Town Board. If additional consultation is desired by the committee; we will coordinate with Mr. Spitzer for another time.

I'm sure Mr. Spitzer will provide some of his credentials. I think it is sufficient to say that I've heard from two unassociated Town Engineers, that Mr. Spitzer is the best in the State in what he does. With my appreciation for traveling here from Buffalo on a cold, wintry night Supervisor Roach introduced Mr. Daniel Spitzer.

PRESENTATION BY DANIEL SPITZER, ESQ.

Mr. Spitzer introduced his partner Jill Yonkers and gave an overview of his background. He stated he does not represent any town with wind energy in the area. It is his job to find out the interests, the values and dreams of the community and to make them come about with the regulations. He stated he is not a wind advocate. I am currently involved in 16 wind projects. I do what communities want to do. I am here tonight to educate you as you start the journey, which I must say you need to do. It doesn't matter whether you are for or against them. You must not stand on the sidelines. This is not an issue that a community can fail to take action on. We saw this happen on other issues such as telcom and landfills. You need to be proactive in your land use policies. He mentioned the State credits and Federal grants which is driving these wind energy programs. There was a point when the interest died off due to the discontinuance of credits and grants but with the extensions the interest has risen.

Regardless of your feelings the formation of this committee is the right step. If you choose to regulate in my opinion you have two choices, no and maybe. It is very important that your choices are not, no or yes. Yes, means it is, an as of right use and with site plan approval it could mean that only a building permit is necessary. They are generally allowed in. If these facilities are allowed in whether you are for or against, these large scale wind farms will change the character of the community with the visual impact for a generation. You can try to ban or regulate. Try to ban is still a legal issue of importance and concern. Most people think that windmills are utilities and that they fall under the zoning laws but this has not gone through the courts yet. Utilities are different creatures, which are allowed to be considered under relaxed zoning standards, if they are considered essential public services. Several sample issues were explained. Will wind get the same consideration?

New York is the windiest resource state east of the Mississippi. No court has answered the question if wind would be considered an essential public utility. It will be more difficult for the wind companies to say they have to be in a particular spot. There are so many places in this state where they could go. All they generally need to be is near a power line that feeds into the grid and near a good wind source. The ban side is not definite. If you don't want them I urge you have a definition on wind energy conversion systems and state that use is not allowed in the community. They would then have to get a use variance to prove they have to be there. What is the community value system?

The other half that I want to talk about is maybe. If you chose to allow wind towers it is my opinion you do so under a regulated ordinance that recognizes they are indeed power plants and to have an impact on your community. I mentioned visual. If you have a community view shed that is particular important to you, that is something to look at. I realize everyone has a view shed that is important to them. A sample was given about Albion and a historical view shed. Shadow flicker, the turning of the turbine, was also explained. A study would come up with some of these answers for your regulations. Another is the noise. Just how noisy are they? Technology has improved, but they are not a quiet machine up close. GE model 1.5 machines produce 104 decibels at the engine and that is louder than a jet engine.

At 800 feet it drops down to 50 decibels. 50 decibels is less than I am speaking at. He mentioned the rural area and the impact of low decibels, with the DEC saying 6 decibels is intrusive. What you will need to have is a setback from residences and noise setbacks and a mechanism in place to study it. In the early days they were called down wind turbines and the wind would pass over the turbine and there was a constant thump. The current models of up wind turbines produce low frequency noise. What you want to include in your ordinance is a study required of the manufacturer to show you the low frequency noise from their installation. You want to be able to ask the questions. How far should they be from a property line or how far from someone's house? There is no correct answer to that. There are communities with various setbacks. An example of the geographic make of the land needs to also be looked at for the setbacks.

If you would draw a one thousand foot circle around a tower you would have 72 acres. You would need an access road and you would have to look at the impact on agriculture. The more access roads you need you may need to look at the impact on Wetlands. Some communities require the electrical lines to be underground. There are competing values. If you have good regulations those values are going to be fully studied. This will all be part of the SEQRA study and gives you an enormous power and you get to study it on the applicant's dime. You have the right to hire your own experts.

Mr. Spitzer explained that the New York State Building Codes do not regulate Wind Towers. They are also not in the International Code. New York does have codes for the foundation and electrical that can be applied. A community should take on the responsibility to issue Building Permits to assure that their engineers certify the foundations and they will be safe and won't come down. Since the state does not have standards the town should have their own engineers working on them.

Touching on financial benefits a community does not have the authority to tax. A host community agreement was explained. This allows the community to do more. It is a whole separate negotiation. This is why you will end up with several experts involved and you want to be complete and know what you are getting into. Mr. Spitzer stated he would be happy to help the town with the process. A question asked from the committee was about ice throw. If there is ice on them they won't start up and if they are really cooking there won't be an ice build up. A study is 1 ½ times the height of the tower. Mr. Spitzer was thanked for his presentation.

APPROVAL OF PHEASANT CREEK KENNEL LEASE

Resolution #84 A motion was made by Councilperson Marchetti, seconded by Councilperson Rath to approve the one-year kennel lease agreement with Pheasant Creek Kennels, as written, at a rate of \$3,500 for the year. Members polled, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, and Supervisor Roach aye. Motion carried.

APPROVAL OF WIND TOWER COMMITTEE CHARTER

Resolution #85 A motion was made by Councilperson Marchetti, seconded by Councilperson Rose to approve the Wind Tower Committee Charter

Wind Tower Committee Charter

Mission Statement:

The mission of the Wind Tower Committee is to determine if wind towers are in the overall best interest of the Town of Hamlin and to develop proposed regulations accordingly.

Objectives:

- Determine what constitutes “best interest of the Town.”
- Assess the general Town opinion regarding wind energy.
- Determine how wind towers can contribute to the Town.
- Communicate with and visit other municipalities with wind towers.
- Research and identify benefits associated with wind towers and determine how to optimally maximize and distribute the benefits.
- Research and identify negatives associated with wind towers and determine how to mitigate same.
- Identify impact of wind towers and wind tower construction on infrastructure, e.g., protection of road ways, underground lines, landscaping, wells, etc.
- Develop proposed regulations on wind towers which conform to and reflect the best interests and desires of the Town and submit to Town Board.

Chairperson:

A chairperson will be selected by the committee at the first meeting. The chairperson will:

- Facilitate and conduct the meetings of the committee.
- Schedule additional meetings and form sub-committees as necessary.
- Be a voting member of the committee.
- Be authorized direct liaison with the Town Supervisor.
- Be provided with assets as necessary and affordable to complete assigned committee responsibilities, including access with consultants, engineers and/or attorneys. Town Board approval will be required on all contracted items.
- Follow-up on assigned responsibilities.
- Schedule and develop an agenda for meetings based on member input.

- Prepare a monthly report of the committee's accomplishments, difficulties encountered and recommendations for Town Board.
- Ensure the effectiveness of the meeting by directing discussions to meet mission and objectives.
- Designate a co-chairperson and other "officer" positions as desired, including a recorder.

Meetings:

- Meetings will initially be held monthly, on the third Tuesday of each month starting at 7 p.m. in the Town Hall Board Chambers.
- Special or additional meetings of the committee may be called by the Chairperson upon his/her initiative, or upon the request of at least five (5) members.
- Additional/special meetings must be scheduled with the Town Clerk and publicly announced.
- Meetings will be open to the public. After the initial, organizational meeting, a minimum of one Public Forum will be held at each meeting. The Public Forum may be conducted at the beginning or at the end of each meeting, as desired by the Chairperson.

Quorum:

A quorum for the conduct of business at each meeting shall be a simple majority of the committee members.

Target Completion Date:

December 2007.

Members polled, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, and Supervisor Roach aye. Motion carried.

INTRODUCTION OF THE TOWER COMMITTEE

Supervisor Roach at this time presented to the committee members their charter. He stated their Mission Statement is simple. The Wind Tower Committee is to determine if wind towers is in the overall best interest of the Town of Hamlin. Your achievements will not be as easy. It will be complex, difficult at times frustrating. There will no doubt be heated discussions and hope at the end you will realize you work will have an effect on the Town of Hamlin. Your charter indicates you will have access to consultants and professionals. We appreciate the time and effort you are providing the Town of Hamlin. We look forward to your determination and I extend my best wishes.

Councilperson Rose and Councilperson Marchetti thanked the committee members for volunteering.

PUBLIC HEARING SET

Resolution #86 A motion was made by Councilperson Marchetti, seconded by Councilperson Rose to schedule a public hearing for February 12, 2007 at 7 pm for amending Local Law 125-9B and 125-21A2(1) in regards to condominium. Members polled, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, and Supervisor Roach aye. Motion carried.

ADJOURNMENT

A motion was made Councilperson Marchetti, seconded by Councilperson Rath to adjourn the meeting at 7:45 pm. Motion carried.

Respectfully submitted,

Kathi A. Rickman, RMC/CMC
Hamlin Town Clerk