

# Town of Allegany Planning Board Meeting Minutes

March 21, 2011 at 7:00 P.M. in the Allegany Senior Center

**Present:**

Bob Phillips, Chairman  
Peter Hellier  
Rick Kavanagh  
Frank DeFiore  
Helen Larson

**APPROVED**

**Also Present:**

Carol Horowitz, Town Planner; Daniel Spitzer, Esq., Charles Malcolm, Esq., Hodgson Russ Associates; Camie McGraw, CRA; Ben Brazell, EDR; Kevin Sheen, EverPower; Robert Docherty, Craig Marlatt, Ross Wilson & Associates; John Perkins, Jaker Eng., Peter Kolisnyk, Ecosystem; Robert Blood, Lauer-Manguso & Associates, Architects; Philip Winger, St. Bonaventure University; Mike Giardini, Jason Crisafulli, Kinley Corp; Patrick Eaton, Supervisor; townspeople

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Chairman Phillips opened the meeting with the Pledge to the Flag at 7:00PM.

*Mr. Hellier made a motion to approve the minutes of February 14, 2011, with the correction of the spelling of "Hellier." 2<sup>nd</sup> by Mr. DeFiore. Ayes all. Carried.*

**OLD BUSINESS:**

**Bonaventure Square Site Plan (#04-11)**

Robert Blood presented a revised Site Plan for Bonaventure Square, which he distributed to the Planning Board. The District Energy facility has been moved to abut Castle Drive, where it is further from homes. Adjustments were made to the hotel location and pedestrian plaza. Additional parking is proposed to be placed in front of the apartment building. Facade materials will be brick and masonry to complement the buildings on the St. Bonaventure campus. Roofs will be metallic tile which will simulate tile roofs. Roofs will be pitched, not flat. They are proposing an 8 foot high fence all along the perimeter of the site. They might want to soften this with plantings, but these would have to be within the road right-of-way, so this will require discussion with the Highway Superintendent.

Mr. Blood stated that the current site plan has 524 parking spaces on site. He pointed out the bioswales, which are a part of the stormwater management system. They will be planted with native plants and will have a natural look. The sizing of the bioswales will be determined after additional soils testing.

Craig Marlatt presented a rendering of the District Energy Plant. He stated that the architectural design would be similar to the other buildings on site, except that this building will have a flat roof, because it is easier to provide sound dampening with a flat roof.

Mr. Hellier suggested that the District Energy Plant should be moved to the other side of the parking lot. Mr. Marlatt stated that they could do that.

Mr. Marlatt stated that the purpose of the District Energy Plant is to provide space heating and cooling to the buildings on site. Waste heat would be used to generate some electricity for the sportsplex. The purpose is to keep costs down. However, the facility will still be connected to the grid.

Ms. Horowitz referenced the memo report provided by Conestoga Rovers & Associates (CRA), on behalf of the Planning Board, regarding the air quality and noise analyses that RWDI had conducted on the District Energy Plant. She stated that she had provided a copy of that report to Mr. Marlatt.

Mr. Philips said that all of CRA's concerns must be addressed.

Peter Kolisnyk said that CRA's memo provided a roadmap of what constitutes best practices. At this point there are many layers of design of the plant that are up in the air. They will now take it to the next level of design. There is technology out there to mitigate noise. CRA's report presents a road map to comply with as they go through the design process.

Mr. Marlatt distributed an email from Woodie VanWhy, National Fuel Gas, regarding a facility similar to their proposed District Energy Plant.

Ms. Horowitz stated that the Planning Board must conduct SEQR review on the District Energy Plant. She asked for authorization to send letters to all agencies that had been contacted for the Board's original SEQR review of the project.

***Mr. DeFiore made a motion to authorize Ms. Horowitz, Town Planner, to send SEQR letters on the District Energy Plant to the agencies. Second by Mr. Hellier. Ayes all. Carried.***

Ms. Horowitz noted that after the February Planning Board meeting, she had sent a letter to Mr. Marlatt listing the site plan application items were incomplete.

Mr. Marlatt stated that they are working on the engineering of the site and will provide the missing items as soon as possible.

### **Allegany Wind LLC: FEIS**

Mr. Philips reported that the Town Board had opted to keep the standard for noise at no more than a 3 dBA increase within 2500 feet of a turbine. There are no restrictions at 3 decibels beyond 2500 feet in terms of noise. Residents beyond 2500 feet have no protection in the law at all. He would like the Planning Board to establish a 40 dBA limit beyond 2500 feet that would apply to the entire town. That way the entire town would be protected. Mr. Philips asked for comments from Mr. Spitzer.

Mr. Spitzer stated that as a SEQR condition, the Planning Board has the authority to significantly tighten the level of protection over the local law. The Chair's proposal is perfectly reasonable to impose. There

will be a public hearing on the project. At that time the public can weigh in on whether they agree or not with the proposal. This is a level of protection that is greater than the current law.

Mr. DeFiore stated that the Town Board decided to keep the standard the same. If we keep it at 3 dBA increase then we would have a different standard in different places.

Mr. Philips stated that CRA had advised that the 40 dBA standard is more enforceable.

Ms. Larson asked if the Planning Board could do this? Would we be changing the law?

Mr. Spitzer stated that the Board has the authority and that this is not a change in the law. It is an additional level of protection.

Mr. Philips explained how he reached the 40dBA proposal. He looked at the noise study that CRA had done to look at the difference between the Hessler and James reports. The CRA study showed a sound level of 37 dBA on the ridgetops; I added 3 dBA to that figure, and that is 40 dBA.

Mr. Hellier asked what happens if the applicant cannot meet the 40 dBA.

Mr. Spitzer stated that the applicant could apply to the ZBA for a variance.

Mr. Hellier asked if the 40 dBA was defensible.

Mr. Spitzer said that according to Gordon Reusing, CRA, 40 dBA is a reasonable standard so what Bob is suggesting is defensible. He is proposing making the standard tighter, and that would be the toughest standard in New York State. You can change the standard after the public hearing. You are not committing yourselves at this point. You are only giving direction to the applicant for the FEIS. You can change this at any time up to the issuance of the statement of findings.

***Mr. Philips made a motion to use a maximum project sound level of 40dBA as a mitigation measure for all areas of the Town outside of the 2500 foot distance from turbines, with the FEIS to show the project's compliance with this potential standard. Seconded by Mr. Hellier. Ayes all. Carried.***

Mr. Philips stated that EverPower had provided more draft sections of the FEIS for the Board's review. Mr. Spitzer reminded the Board that Camie McGraw, CRA, had extensively reviewed these sections, rejecting many of them multiple times, before they were released for review by the Planning Board.

The Board members discussed these draft sections and did not request any changes to them:

- Section 4.1 Description of Proposed Action
- Section 4.2 Geology, Soils, and Topography
- Section 4.4 Biological Resources
- Section 4.5 Climate and Air Quality
- Section 4.10 Socioeconomics
- Section 4.14 Land Use and Zoning
- Section 4.15 Unavoidable Adverse Impacts
- Section 4.18 Miscellaneous
- Appendix E Visual Resources Technical Memorandum

- Appendix G Breeding Bird Survey map and Existing Disturbed Areas Map
- Appendix J Existing Disturbance and Constraints Photo Log
- Appendix M CRA 12/10/10 Memo re Habitat Fragmentation

Ms. McGraw suggested that the Board defer review of Appendix K Supplemental Sound Information (CRA 2/27/10 memo and Hessler Associates 11/9/10 letter), because this appendix was intended to support the sound section of the FEIS, which has not yet been provided.

The Board reviewed the following revised sections, and determined that their comments had been adequately addressed:

- Sections 1-3 (p 2, 4, 5, 10-11; no changes to section 3 requested or made)
- Section 4.3 Water Resources (p 10)
- Section 4.6 Visual and Aesthetic Resources (pp 6, 8-9, 17-19, 21, 22)
- Section 4.9 Traffic and Transportation (new and revised comments)
- Section 4.17 Cumulative Impacts (p 3-4)
- Appendix A Decommissioning (p 1- revised to make clearer what needs to be removed)
- Appendix B Spill Prevention Plan (question of secondary containment)

Mr. Spitzer stated that the only section that has not been provided for the Board's review is the sound section, and the applicants have indicated that this will be provided for next month's meeting. Therefore the Board potentially could set the public hearing at next month's meeting.

Mr. Hellier asked how the 40 dBA would be measured. Mr. Spitzer stated that this would be spelled out in the statement of findings and the permit, if one is to be issued.

Mr. Philips noted that the Special Use Permit application is still not complete because not all of the permissions from property owners has been received. If the application remains incomplete the Board will not set the public hearing.

***Mr. Hellier made a motion to adjourn at 9:30pm. 2<sup>nd</sup> by Mr. Kavanagh. Ayes all. Carried.***

Respectfully submitted,

Carol Horowitz  
Town Planner