

MINUTES – TOWN OF ALLEGANY PUBLIC HEARING AND REGULAR BOARD MEETING – TUESDAY, AUGUST 21, 2012 7:00 PM SENIOR CENTER

PRESENT WERE: Supervisor Hare Councilman Koebelin
Councilman O’Dell Councilman Hitchcock
Councilman Allen Attorney W. Tuttle
Comptroller C. Hemphill Town Clerk M. Peck

Also present: F.Defiore, H.Larson, D.Sue, C.Sue, J.Dzuroff, Atty. C.Malcom, K.Sheen, J.Mostacato, Esq., townspeople and news media.

Salute to the Flag at 7:00 opened the meeting.

Supervisor Hare – addressed the audience regarding a change request from Everpower in their Aug. 3, 2012 letter to the Town: they have requested additional time, but they would also like to add three new conditions of payment that don’t currently exist in the present agreement, and all three conditions must be met to Everpower’s satisfaction before the \$500,000.00 escrow payment would be released to the Town.

#147-MOTION TO TABLE HOST AGREEMENT CHANGE REQUEST BY ALLEGANY WIND LLC

Motion by Hare to table the Host Agreement change request from Allegany Wind LLC which is due Oct. 15, 2012. 2nd by Koebelin. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#148-MOTION TO DENY ESCROW AGREEMENT EXTENSION BY ALLEGANY WIND LLC

Motion by Hare to deny the request from Allegany Wind LLC to extend the \$500,000.00 Escrow Agreement payment to the Town. 2nd by O’Dell. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

Public Hearing on the Proposed Local Law establishing Height limits for Wind Energy Conversion Systems. This was opened at 7:11 pm.

1. Edward Burns – (Son-in-law of Doris Kelly) – supports the 497 foot height limit. Would like to see the rotor diameter no larger than 328 feet.
2. Patricia Miller – Route 16 S. – spoke about diameter and height of turbines. Would like them to stay as small as possible.
3. Mary Burns – (Doris Kelly’s Daughter) – compared proposed wind turbine size to 747 jets size, truck size, and still the turbines are larger.
4. Kathy Boser – Chipmonk Rd. – supports the height limit. Would like the board to rescind the permit extension.
5. Barbara Dyskant- Jollytown Rd., Hinsdale – anti-wind.

#149-MOTION TO CLOSE PUBLIC HEARING ON PROPOSED LOCAL LAW #1 OF 2012

Motion by Hare to close the Public Hearing on the Proposed Local Law #1 of 2012 regarding wind turbine height limits. 2nd by Hitchcock. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#150-MOTION TO ISSUE NEGATIVE DECLARATION FOR LOCAL LAW #1 OF 2012

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Motion by Hare **WHEREAS**, the Town Board of the Town of Allegany has considered adopting a Local Law establishing a height limit for Wind Energy Conversion Systems in the Town of Allegany, New York; and

WHEREAS, the proposed action has been designated an Unlisted Action pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Town board has duly considered the proposed Local Law, the Environmental Assessment form, the criteria for determining significance set forth in 6 N.Y.C.R.R. Sec. 617.7© of the SEQRA regulations, the administrative record, the draft Negative Declaration, and such other information deemed appropriate; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; and

NOW, THEREFORE, BE IT RESOLVED by the town Board of the Town of Allegany that:

1. The proposed Local Law will not result in any large and important impacts and, therefore, it is an action which will not have a significant adverse impact on the environment.
2. The attached negative declaration, incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.
3. This resolution is effective immediately.

PASSED AND ADOPTED this 21st day of August, 2012 by the Town board of the Town of Allegany. 2nd by Koebelin. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. **CARRIED**.

#151-MOTION TO ADOPT LOCAL LAW #1 OF 2012 FOR THE TOWN OF ALLEGANY

Motion by Hare **WHEREAS**, the Town Board of the Town of Allegany has considered and evaluated a proposed Local law establishing a height limit for Wind Energy Conversion Systems in the Town of Allegany; and

WHEREAS, the Town Board acting as Lead Agency under the State Environmental Quality Review Act (“SEQRA”) has performed the required environmental review and has issued a Negative Declaration for the proposed Local Law; and

WHEREAS, the Town Planning Board reviewed and recommended approval of the proposed Local Law; and

WHEREAS, the Town board referred the proposed local law to the Cattaraugus County Planning Board, in accordance with the General Municipal law; and

WHEREAS, the Cattaraugus County Planning Board responded that the proposed local law presents no significant countywide or inter-community impact; and

WHEREAS, the Town Board called for a public hearing on the proposed Local Law, which was properly noticed to the public; and

WHEREAS, in accordance with its public notice, the Town board conducted the public hearing on August 21, 2012, where all interested parties were allowed to address the proposed Local Law;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Allegany that:

1. The attached Local law No. 1 of 2012 is adopted in its entirety.
2. The Local Law shall be effective upon its filing with the Secretary of State pursuant to the Municipal Home Rule Law.

PASSED AND ADOPTED by the Town Board of the Town of Allegany on August 21, 2012. 2nd by Hitchcock. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

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#152-MOTION NOT TO PURSUE NOISE STUDY WITH WENDEL, BUT TO PURSUE OTHER OPTIONS

Motion by Hare not to pursue noise study with Wendel, but to pursue other options for noise issue studies. 2nd by Koebelin. Koebelin-aye, O’Dell-aye, Hitchcock-nay, Allen-nay, Hare-aye.
CARRIED.

AUDITED CLAIMS

| | | | |
|---------|-------------|--------|-------------|
| Gen A | \$76,341.09 | Hwy DA | \$ 9,595.39 |
| Gen B | \$ 4,142.72 | Hwy DB | \$76,022.89 |
| Sp Dist | \$57,982.93 | | |

MONTHLY REPORTS

| | |
|---------------|--------------------|
| Town Clerk | Building & Zoning |
| Highway Dept. | Recreation & Parks |

Town Justice D.Porter – report for July 2012 – amount of check \$7001.06.

Town Justice A. Spears – report for July 2012 – amount of check \$4480.00.

#153-MOTION TO APPROVE MINUTES

Motion by Koebelin to approve the minutes from the July 17, 2012 Regular Town Board Meeting as written. 2nd by O’Dell. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye.
CARRIED.

CORRESPONDENCE

1. Letter from Congressman T. Reed regarding efforts to complete infrastructure projects in our area (i.e. Route 219 and Interstate 86)
2. NYS ORPS – Certificate of Final State Equalization Rate : 100.00
3. Catt. Co DPW – letter to NYS DOT regarding speed limit study for Carey Hollow Rd.
4. NYS DOT – letter to Catt Co. DPW regarding speed limit study for Carey Hollow Rd.
5. Catt. Co Treasurer’s Office – sales tax receipts for the last 3 years.(by quarter)
6. Town of Allegany Planning Board minutes from 7/9/12 meeting.
7. Letter from City of Olean to Village of Allegany regarding the 2011-12 sewer bill
8. Association of Towns – notice of dues for 2013
9. Copy of 8/3/12 letter to planning board from EDR representing Everpower
10. Letter dated 8/14/12 from Town Planning Board recommending 497’ windmill height limit
11. Letter dated 8/14/12 from Planning Board to Ben Brazell of EDR.

NEW BUSINESS

1. Letter from Everpower dated 8/3/12 requesting contract changes.
2. Village of Allegany – Shared Highway Services Contract. (Attorney Tuttle) ****TABLE****
3. Austin Security, Inc. – Central Office Monitoring Contract
4. Proposal from Wendel regarding WECS Ordinance assessment. (dated 8/1/12)
5. Approval of B.A.N. for new plow truck.

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#154-MOTION TO AUTHORIZE SUPERVISOR TO SIGN CENTRAL OFFICE MONITORING CONTRACT

Motion by Hare to authorize the Town to enter into a contract with Austin Security, Inc. for the Central Office Monitoring contract for \$25.95 payable quarterly effective September 2012. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#155-MOTION TO AUTHORIZE APPROVAL OF A B.A.N. FOR NEW PLOW TRUCK

Motion by Hare to authorize approval of a B.A.N. for a new plow truck that is to be delivered next week. The rates and bank will be determined when it is determined which is the best rate. 2nd by O'Dell. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

UNFINISHED BUSINESS

- Vote on height limits for Wind Energy Conversion Systems

OTHER BUSINESS

- 2013 budget requests sent to Department Heads
- Setting salary of new highway superintendent *****TABLE*****
- BC/BS notice to NYS Insurance Dept. (15.8% inc)

COMMITTEE REPORTS

Supervisor Hare: advised the public that a state auditor has been here and is verifying the risk assessment of the Town. He will be back and let the board know if a full-fledged audit will be performed.

Comptroller Hemphill: advised the board regarding the sewer bill from the City of Olean. The cost went up a little due to increased flow.

From the Floor:

Persons that are employed by Shults Sales & Leasing addressed the board regarding the automobile sales that have been going on at the Wal-Mart/BJ's parking lots lately. The gentlemen advised that the out of town car dealers make it difficult for local automobile sales businesses to sell any cars.

Supervisor Hare: advised that the Town has a Peddler's Permit that has been on the books for many, many years. At this time there is nothing that can be done about it. Will check into the issue of where the sales tax generated is reported for these sales.

Frank DeFiore – advised that they have met with the Village on the new web-site coming up. It is going well. Will keep advised.

#156-MOTION TO ADJOURN MEETING

Motion by Koebelin to adjourn the meeting. 2nd by O'Dell. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

Meeting adjourned at 8:21 pm

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Respectfully submitted,

Mary M. Peck, Town Clerk
8/22/12