

# MINUTES – TOWN OF ALLEGANY REGULAR BOARD MEETING THURSDAY FEBRUARY 24, 2011 7:00 PM SENIOR CENTER

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PRESENT WERE: Supervisor Eaton Councilman Jonak  
Councilman Sendlakowski Councilman Hitchcock  
Councilman Hare Comptroller C. Hemphill  
Town Clerk M. Peck

ABSENT: Attorney Tuttle and Hwy Superintendent Gleason

ALSO PRESENT: D.Spitzer, Esq., C.Horowitz, K.Wilson, C.Marlatt, J.Crisafulli, M.Giardini,  
F.DeFiore, D.Sue, H.Larson, K.Sheen, R.LaForge, J.Dzuroff, and townspeople

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

## #63-MOTION TO APPROVE MINUTES

Motion by Jonak to approve the minutes from the February 10, 2011 regular board meeting as written. 2<sup>nd</sup> by Hitchcock. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

## CORRESPONDENCE

1. Letter from C. Horowitz dated 2/21/11 regarding Gary Abrahams letter to Town Board (2/17)
2. Letter from R.Phillips( PB Chair) regarding amendment of PD Zoning District
3. Letter from Allegany Engine Company regarding installation dinner on 3/5/11.
4. Letter from Orrick regarding 2010 amendments to the local finance law
5. Letter from Catt. Co. HD regarding mosquito spraying: amount \$9028.16.
6. Catt. Co. Dept of Aging – meals on wheels
7. Notice from ARAMARK Education Services, LLC of their application for Liquor License renewal.
8. Allegany Zoning Board of Appeals minutes from 2/7/11 meeting.
9. Planning Board minutes from the 1/10/2011 meeting.
10. Letter from Timothy Los, CEO regarding Envizn Services Platform.

## NEW BUSINESS

### #64-MOTION TO ACCEPT RETIREMENT NOTICE

Motion by Jonak to accept the retirement notice from Joyce Kibler. 2<sup>nd</sup> by Sendlakowski. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

## UNFINISHED BUSINESS

### #65-MOTION TO ESTABLISH A NEGATIVE DECLARATION FOR SEQR (NOISE-WECS)

Motion by Eaton to establish a negative declaration on the SEQR for the proposed ordinance on the amendment to the zoning ordinance II with regards to noise and WECS. 2<sup>nd</sup> by Jonak. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

### #66-MOTION TO ADOPT AMENDMENT TO ZONING ORDINANCE II (NOISE/WECS)

Motion by Eaton that the Town Board adopt the amendment to the Zoning Ordinance II as follows: **Section 1:** Section 2.02 of the Town of Allegany Zoning Ordinance II is amended to add the following definitions:

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A WEIGHTED SOUND PRESSURE LEVEL – The sound pressure level measured in decibels (dBA) and is equal to 20 times the logarithm to the base 10 of the ration of root mean square sound pressure to a reference sound pressure, weighted by frequency bank following standard procedures. The reference sound pressure in air is  $2 * 10^{-5}$  Pascals. The measurement of the sound pressure level may be done according to the American national Standard, Quantities and Procedures for Description and Measurement of Environmental Sound (ANSI/ASA S12.9-1993, parts 1, 2 and 3, Reaffirmed by ANSI April 2008), published by the Acoustical Society of America (ASA) and the American National Standards Institute (ANSI), or other accepted procedures.

PARTICIPATING PROPERTY OWNER – an entity which has entered into a lease, easement, or other contractual arrangement with the applicant for a commercial Wind Energy conversion system (WECS) facility covering land in the Town of Allegany.

NON-PARTICIPATING PROPERTY OWNER – an entity which has not entered into any contractual arrangement with the applicant for a commercial Wind Energy conversion System (WECS) facility covering land in the Town of Allegany.

NOISE SENSITIVE PROPERTY – residences, hospitals, public libraries, schools, and places of worship in the Town of Allegany. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it is regularly used for one of the purposes listed herein in more than an incidental manner.

**Section 2:** Section 5.25(B)(3)(c),(d),(g),(h),(i) and (j) of the Town of Allegany Zoning Ordinance II are amended to in their entirety read as follows:

## **Section 5.25 Commerical Wind Energy Conversion Systems (WECS)**

### **(B) Application Process**

#### **(3) Studies and information required prior to decision on the application**

© Proposed construction plan in sufficient detail to permit evaluation of all potential environmental impacts. Topics covered should include (but are not necessarily limited to) proposed construction schedule, hours of operation; preliminary designation of heavy haul routes; a list of material equipment, and loads to be transported; identification of temporary facilities intended to be constructed. Prior to issuance of building permits for approved projects a detailed construction plan including but not limited to construction schedule, hours of operation; designation of heavy haul routes; a list of material equipment, and loads to be transported; identification of temporary facilities intended to be constructed and contact representative in the field with name and phone number.

(d) Preliminary Erosion and Sediment Control Plan (A draft SWPPP will meet this requirement); with final plans to be submitted prior to issuance of building permits for approved projects.

(g) Visual Assessment, prepared in conformance with the NYSDEC's Program Policy Assessing and Mitigating Visual Impacts, including a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures. The Planning Board shall determine which viewpoints the visual assessment shall, at a minimum, include.

(h) Noise analysis. A Noise Analysis shall be furnished which shall include the following:

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i. A description of the project's noise-producing features, including the range of noise levels expected, and the tonal and frequency characteristics expected. The noise report shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.

ii. A sound survey and report, prepared by a qualified professional, that analyzes the daytime and nighttime existing ambient (background) sound level ( including projected seasonal variations), including but not limited to separate measurements of low frequency and A-weighted sound pressure levels across a range of wind speeds (including near cut-in). the study shall take into account turbulence, distance from the turbines, and wind direction. The measured A-weighted sound pressure levels shall be reported as L90 one-hour averages. The study documents noise levels at property lines and at the nearest residence not on the Site ( if access to the nearest residence is not available, the Town Board may modify this requirement)

iii. The Analysis shall include expected noise impacts from both construction and operation, and include all ancillary facilities including any substations, in accordance with the requirements of subparagraph iii above.

iv. A description of the project's proposed noise-control features, including specific measures proposed to protect workers, and specific measures proposed to mitigate noise impacts consistent with the requirements of this ordinance.

v. Manufacturers' noise design and field testing data for turbine models proposed to be constructed, if available. Preference is given to tests from existing facilities. Nothing in this paragraph shall be read as limiting the Town's right to enter into a non-disclosure agreement to protect proprietary data.

- (i) A preliminary geotechnical report shall be furnished which shall, at a minimum, address the following in sufficient detail to allow an environmental review of the potential impacts: Soils and geologic characteristics of the site; an assessment of the soil suitability for construction of the proposed WECS; slope stability information, and preliminary grading plan. In addition, prior to the issuance of Building Permits to approved projects, reports shall be delivered to the Town covering the following:
- i. Soils and geologic characteristics of the site based on on-site sampling and testing, to provide an assessment of the soil suitability for construction of the proposed WECS.
  - ii. Foundation design criteria for all proposed structures.
  - iii. Slope stability analysis.
  - iv. Grading criteria for ground preparation, cuts and fills, soil compaction.

(j) Information sufficient to evaluate safety impacts including potential ice throw, tower failure, or blade throw.

(p) Utility of NYISO notification: Utility or NYISO interconnection data including details of any physical improvements required to create an interconnection between the electric grid and the proposed WECS.

**Section 4.** the first line of Section 5.25 (F), and subsections (1), (3), and (4) of the Town of Allegany Zoning Ordinance II are amended to read in their entirety as follows:

## **Section 5.25 Commercial Wind Energy Conversion Systems (WECS) (F) Certifications**

The applicant shall provide the following certifications and studies as part of an application for Building Permit.

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- (1) Certification of structural components: The foundation, tower and compatibility of the tower with the rotor and rotor-related equipment shall be certified in writing by a structural engineer registered in New York. The engineer shall certify compliance with good engineering practices and compliance with the appropriate provisions of the Building Code that have been adopted in New York State. This shall be provided prior to the issuance of the Building Permit.
- (3) Certification of electrical system: The electrical system shall be certified in writing by an electrical engineer registered in New York. The engineer shall certify compliance with good engineering practices and with the appropriate provisions of the Electric Code that have been adopted by New York State. This shall be provided prior to the issuance of the Building Permit.
- (4) Certification of rotor overspeed control: the rotor overspeed control system shall be certified in writing by a mechanical engineer registered in New York State. The engineer shall certify compliance with good engineering practices. This shall be provided prior to the issuance of the Building Permit.

**Section 5:** Sections 5.25 (L&M) of the Town of Allegany Zoning Ordinance II are amended to read in their entirety as follows:

## **Section 5.25 Commercial Wind Energy Conversion systems (WECS)**

### **(L) Planning Board Action**

The Planning board may grant the Special Use Permit and site Plan, deny the Special Use Permit and site Plan, or grant the Special Use Permit and Site Plan with written stated conditions. Denial of the Special Use Permit and Site Plan shall be by written decision based upon substantial evidence submitted to the Board. Upon issuance of the Special Use Permit and Site Plan, the applicant shall obtain a building permit for each tower.

### **(M) Amendments to Approval**

Any changes or alterations to the wind energy conversion system, after approval of the Special Use Permit and Site Plan, shall require amendment to the Special Use Permit and Site Plan, except for site Plan changes (including movement of turbines, roads or other ancillary improvements) where there are 1) no new properties involved that were not previously part of the Project; 2) no impacts on wetlands or wetland buffers; 3) no violation of the noise and physical setback requirements of this Section; and 4) no more than a 10% increase in the length of any access road. Such amendment shall be subject to all the requirements of this section.

### **Section 6: Severability**

Should any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### **Section 7: Effective Date**

This Ordinance shall be effective upon its filing with the Town Clerk after adoption by the Town Board. 2<sup>nd</sup> by Jonak. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

### OTHER BUSINESS

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Bonaventure Square Project: their request to amend the Planned Development Zoning District. The Engineer is to send updated drawings of their request to the Town Clerk's Office. A Public Hearing will need to be set for this.

## #67-MOTION TO SET PUBLIC HEARING

Motion by Eaton to set a Public Hearing on Thursday, March 24, 2011 at 7:00 pm at the Town Hall to amend the PD Zoning District for the clock tower height and pitched roofs for the Bonaventure Square Project. 2<sup>nd</sup> by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

## COMMITTEE REPORTS

From the floor -- nothing from the floor

## #68-MOTION TO ADJOURN MEETING

Motion by Hitchcock to adjourn the meeting. 2<sup>nd</sup> by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

Meeting adjourned at 7:53 pm

Respectfully submitted,

Mary M. Peck, Town Clerk  
2/25/11