

MINUTES – TOWN OF ALLEGANY SPECIAL BOARD MEETING – MONDAY AUGUST 29, 2011 7:00 PM SENIOR CENTER—WIND ENERGY OVERLAY DISTRICT

PRESENT WERE: Supervisor Eaton Councilman Jonak
Councilman Sendlakowski Councilman Hitchcock
Councilman Hare Attorney Tuttle
Highway Superintendent Gleason
Town Clerk M. Peck

ALSO PRESENT: Attorney D.Spitzer, Attorney C.Malcom, D.Britton, C.McGraw, K.Sheen,
R.Phillips, H.Larson, F.Defiore, R.Kavanagh, numerous townspeople, new media,
& law enforcement.

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

Supervisor Eaton introduced Attorney Dan Spitzer that represented the Town of Allegany with regards to the Wind Energy Conversion Systems application and project.

Attorney Spitzer gave a short summary of this process that has been taking place. The Planning Board is the Lead Agency in the SEQR process. Mr. Spitzer asked the Town Board if anyone had any specific questions regarding the SEQR. There will be no changes unless the matter goes back to the planning board for determination.

Dave Britton & Cami McGraw – (Conestoga-Rovers) summary of findings statement by the Planning Board.

Cami McGraw – went through the Findings Statement section by section to see if anyone had any questions.

Councilman Hare – question about conditions set by the Planning Board. Again, no change unless back to planning board. Also, if the town acquires broadband in the future, will a wind farm interfere with it?

Attorney Spitzer – advised there should be no interference.

#155-MOTION TO AUTHORIZE THE ISSUANCE OF A FINDINGS STATEMENT RELATIVE TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE ALLEGANY WIND LLC WIND FARM PROJECT

Motion by Eaton WHEREAS, the Town Board of the Town of Allegany (herein the Town Board) has received an application from Allegany Wind LLC for a rezoning to create a Wind Energy Overlay District in which Allegany Wind proposes to construct a wind energy facility, including wind energy generating turbines and related infrastructure (collectively the “Project”); and WHEREAS, the Town Board has received and reviewed a proposed Host Community Agreement with Allegany Wind LLC relative to the Project; and WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43 B of the Consolidated Laws of New York, as amended (“SEQR Act”), and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Town Board is an Involved Agency for purposes of the SEQRA review of the Project; and WHEREAS, the Planning Board of the Town of Allegany (the “Planning Board”) was designated to act as “Lead Agency” with respect to the Project; and WHEREAS, with respect to the Project, the Lead Agency issued an environmental impact statement (the

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“FEIS) prepared with respect to the Project and the members of the Town Board have received and reviewed a copy of the FEIS; and WHEREAS, the members of the Town Board have also received a copy of a statement of findings and decision relative to the FEIS (the “Findings Statement”) , which was adopted by the Planning Board (Lead Agency), and the members of the Town Board have reviewed the Findings Statement; and WHEREAS, The Town Board now desires to adopt the Findings Statement as the Town Board’s written findings statement relative to the Project, as required by Section 617.11© of the Regulations. NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF ALLEGANY AS FOLLOWS: Section 1. Based upon the review of the Project conducted by members of the Town Board, including the review of the public comments made to the Town Board at a public hearing held on the Project, the review of the Findings Statement conducted by the members of the Town Board prior to an during this meeting, the Town Board’s review of correspondence on the Project and attendance at various Planning Board meetings, the Town Board hereby (1) makes the findings and provides the rationale for such findings as set forth in the Findings Statement, which Findings Statement is hereby incorporated into and made a part of this resolution, and is attached hereto as Exhibit A; and (2) adopts the Findings Statement as the Town Board’s written findings statement relative to the Project, as required by Section 617.11)c of the Regulations. Section 2. Based upon the foregoing, the Town Board hereby finds and determines that: A. The Town Board has reviewed the FEIS and has considered the relevant environmental impacts, facts, and conclusions disclosed in the FEIS; B. the town board has weighed and balanced the relevant environmental impacts identified in the FEIS with social economic, and other considerations; C. the Town Board has reviewed the SEQRA Act, the Regulations, the FEIS, and the Findings Statement, and based on said materials, the Town Board finds no compelling reason not to proceed with the Project; D. The requirements of SEQRA have been met with respect to the Project; and E. As set forth in the Findings Statement, consistent with social, economic and other essential considerations, from among the reasonable alternatives available, (1) the Project minimizes adverse environmental impacts to the maximum extent practicable and (2) adverse environmental effects revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable in the FEIS. Section 3. The Town Clerk, assisted by other Town staff and Town Special Counsel, shall distribute this Resolution as required by the SEQRA Regulations. The Town Clerk shall place a copy of this Resolution in the files of the Town that are readily accessible to the public and made available on request. Section 4. This Resolution shall take effect immediately. 2nd by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

Attorney Spitzer next explained about the Host Agreement and the Road Use Agreements.

#156-MOTION TO AUTHORIZE THE EXECUTION OF A HOST COMMUNITY AGREEMENT AND RELATED AGREEMENTS RELATIVE TO THE ALLEGANY WIND LLC WIND FARM PROJECT

Motion by Eaton WHEREAS, the Town board of the Town of Allegany (herein the “Town Board”) has received an application from Allegany Wind LLC for a rezoning to create a Wind Energy Overlay District in which Allegany Wind proposes to construct a wind energy facility, including wind energy generating turbines and related infrastructure (collectively the “Project”); and WHEREAS, the Town board has received and reviewed a proposed Host Community Agreement and related agreements with Allegany Wind LLC relative to the Project; and WHEREAS, The Planning Board of the Town of Allegany (the “Planning Board”) was designated to act as “Lead Agency” with respect to the Project; and WHEREAS, with respect to the Project, the Lead Agency issued an environmental impact statement (the

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“FEIS”) prepared with respect to the Project and the members of the Town Board have received and reviewed a copy of the FEIS; and WHEREAS, the members of the Town Board received a copy of a statement of findings and decision relative to the FEIS (the “Findings Statement”), which was adopted by the Planning Board (Lead Agency), and the members of the Town Board have reviewed the Findings Statement; and WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43 B of the Consolidated Laws of New York, as amended (“SEQR Act”), and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Town Board, an Involved Agency, conducted the requisite environmental review and issued a Findings Statement for the Project pursuant to SEQRA; and WHEREAS, the Host Community Agreement and the related agreements provide a mechanism to confirm the fund Allegany Wind LLC’s commitments under SEQRA and the Town permits. NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN BOARD OF THE TOWN OF ALLEGANY AS FOLLOWS: 1. The Host Community Agreement, attached as Exhibit A and incorporated herein, is hereby approved, and the Town Supervisor is directed to execute the Host Community Agreement. 2. The Road Bond amount is hereby set at \$638,074.76. 3. The Escrow Agreement, attached as Exhibit B and incorporated herein, for the payment of the initial \$500,000.00 payment is hereby approved, and the Town Supervisor is directed to execute the Escrow Agreement. 4. The Town accepts the \$10,000.00 amount for the mitigation of impacts to historic and cultural properties in accordance with the Planning Board condition. 5. This Resolution shall take effect immediately. 2nd by Jonak. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

#157-MOTION TO ADOPT ORDINANCE #1 OF 2011, CREATING A WIND ENERGY OVERLAY DISTRICT IN THE TOWN OF ALLEGANY

Motion by Eaton **WHEREAS**, the Town Board of the Town of Allegany (herein the “Town Board”) has received an application from Allegany Wind LLC for a rezoning to create a Wind Energy Overlay District in which Allegany Wind proposed to construct a wind energy facility, including wind energy generating turbines and related infrastructure (collectively the “Project”); and **WHEREAS**, pursuant to the Town of Allegany Zoning Ordinance II and Town Law Section 130, the Town Board held a public hearing jointly with the Town of Allegany Planning Board (the “Planning Board”) on the rezoning application; and **WHEREAS**, the Town Board referred the application to the Cattaraugus County Planning Board pursuant to General Municipal Law Section 239-m, and the County Planning Board recommended approval of the application; and **WHEREAS**, the Town Board referred the rezoning application to the Planning Board, pursuant to Zoning Ordinance II, and the Planning Board recommended approval of the rezoning application; and **WHEREAS**, the Planning Board was designated to act as “Lead Agency” with respect to the Project; and **WHEREAS**, with respect to the Project, the Lead Agency issued an environmental impact statement (the “FEIS”) prepared with respect to the Project and the members of the Town Board have received and reviewed a copy of the FEIS; and **WHEREAS**, members of the Town Board have also received a copy of a statement of findings and decision relative to the FEIS (the “Findings Statement”), which was adopted by the Planning Board (Lead Agency), and the members of the Town Board have reviewed the Findings Statement; and **WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43 B of the Consolidated Laws of New York, as amended (“SEQR Act”), and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Town Board, an Involved Agency, conducted the requisite environmental review and issued a findings Statement for the Project pursuant to SEQRA; and NOW, THEREFORE, BE IT RESOLVED

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BY THE MEMBERS OF TOWN BOARD OF THE TOWN OF ALLEGANY AS FOLLOWS: 1. Ordinance #1 of 2011, creating the Wind Energy Overlay District in the Town of Allegany, a copy of which is attached hereto as Exhibit A and is incorporated into this Resolution, is hereby adopted. 2. This Resolution shall take effect immediately. 2nd by Sendlakowski. DISCUSSION:

Councilman Hare – mentioned that down the road, if a “spin-off” of this project for additional wind turbines wanted to be constructed, then that issue will need to be addressed on its own as a separate project process. The properties in the wind energy overlay district are strictly those that have wind turbines, or structures on them for this current project.

Roll Call Vote: Jonak-aye, Sendlakowski-aye, Hitchcock-nay, Hare-aye, Eaton-aye. CARRIED.

This Resolution shall become effective ten (10) days after publication in the designated Town Newspaper (Olean Times Herald).

#158-MOTION TO ADJOURN MEETING

Motion by Jonak to adjourn meeting. 2nd by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

Meeting adjourned at 8:03 PM

Respectfully submitted,

Mary M. Peck, Town Clerk
9/02/11