

MINUTES – TOWN OF ALLEGANY REGULAR BOARD MEETING THURSDAY, JANUARY 28, 2010 7PM TOWN HALL

PRESENT WERE: Supervisor Eaton Councilman Jonak
Councilman Sendlakowski Councilman Hitchcock
Councilman Hare Hwy Superintendent Gleason
Attorney Tuttle Comptroller C. Hemphill
Town Clerk M. Peck

ALSO PRESENT: H.Larson, R. Kyser, C.Horowitz, R.DiMattio, P&B Carter.

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

#48-MOTION TO APPROVE MINUTES

Motion by Hitchcock to approve the minutes from the Jan 14, 2010 Public Hearing and Regular Board Meeting as written. 2nd by Sendlakowski. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

CORRESPONDENCE

1. Annual Financial Report for 2009 for Town of Allegany Board of Fire Commissioners
2. NYS DEC – Division of Water RE: Water Withdrawing and Reporting
3. Copy of letter from Hwy Supt. To Residents of Family Lane and Knapp Creek
4. Copy of letter from Hwy Supt. To Residents of 3 Carey Hollow addresses regarding driveways

#49-MOTION TO AUTHORIZE SUPERVISOR TO SIGN RELEASE

Motion by Jonak to authorize the Town Supervisor to sign the release for St. George Enterprises, Inc. withdrawal from Exit 24 water line bid. 2nd by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

UNFINISHED BUSINESS

1. Complaint #01 of 2010 (Shively)
2. Complaint #02 Of 2010 (Gattuso) dated 1/25/10
3. St. George Ent. Release for withdrawal of Exit 24 water line bid
4. Wind Energy Overlay district - SEQR
5. Resolution to approve Wind Energy Overlay district
6. Contract for Bona Square Planning Services Escrow
7. Executive Session on Ozzella Property

#50-MOTION TO DECLARE A NEGATIVE DECLARATION

Motion by Eaton that Draft Wind Energy Overlay District, Revised Nov. 6, 2009 will not result in any large and important impact(s) and therefore is one which will not have a significant impact on the environment and therefore a Negative Declaration will be prepared. 2nd by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

#51-MOTION TO ENACT THE WIND ENERGY OVERLAY DISTRICT

Motion by Eaton that the Town Board of the Town of Allegany enact the Wind Energy Overlay Districts as follows:

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Section 1: Section 3.01 of the Town of Allegany Zoning Ordinance II is amended by adding the following at the end of the Section

WE Wind Energy Overlay Zones

Section 2: Section 4.16 is hereby added to the Town of Allegany Zoning Ordinance II to read in its entirety as follows:

Section 4.16 Wind Energy Overlay District

(A) Purpose

The purpose of the Wind Energy Overlay (WE) District is to provide a location for the placement of Commercial Wind Energy Conversion systems (WECS).

(B) Applicability

1. This overlay district shall consist of all properties upon which Commercial WECS are constructed, and all adjoining and other properties granting noise or other setbacks.
2. The requirements in this district for Commercial WECS are in addition to all other requirements for Commercial WECS in this Ordinance.
3. In addition to the Initial Application materials in Section 5.25, the applicant shall provide a map of the proposed overlay district. For any application under review at the time this ordinance is adopted, the applicant shall submit the map within 60 days of the notice of adoption.

Section 3: Section 5.25 (A) of the Town of Allegany Zoning Ordinance II is amended to read in its entirety as follows:

(A) Intent and Purpose

The Town of Allegany recognizes that wind energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce dependence on nonrenewable energy resources and decrease air and water pollution that result from the use of conventional energy sources.

The purpose of these regulations for Commercial Wind Energy Conversion Systems (WECS) is to ensure that development of these facilities will have a minimal impact on adjacent properties and to protect the health, safety and welfare of residents of the Town. Specifically, regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public. Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility sites and access roads, and harm farmlands through improper construction methods. Wind Energy Facilities may present a risk to bird and bat populations if not properly sited. If not properly sited, Wind Energy Facilities may present risks to the property values of adjoining property owners. Wind Energy Facilities are significant sources of noise, which if unregulated,

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can negatively impact adjoining properties. Construction of Wind Energy Facilities can create traffic problems and damage local roads. Wind Energy Facilities can cause electromagnetic interference issues with various types of communications.

Section 4: Section 5.25 (B)(1) of the Town of Allegany Zoning Ordinance II is amended to read in its entirety as follows:

(B) Application Process

- (1)** No commercial WECS shall be constructed, reconstructed, modified, or operated in the **Town of Allegany** except in a Wind Energy Overlay Zone created by the Town Board. Prior to construction of any commercial WECS, the project proponent shall first obtain Special Use Permit and Site Plan approval from the Town of Allegany Planning Board and a Building Permit from the Town's Code Enforcement Officer.

Upon receipt of an application, the Special Use Permit and Site Plan Approval shall be processed by the Planning Board in accordance with this Section. The rezoning request will be referred to the Planning board as required by Section 12.02 of this Ordinance, except that the Town board may wait until the Planning Board has completed its application review, and any variances the Zoning Board of appeals has granted, if required, prior to holding its public hearing. Upon completion of the Special Use Permit and Site Plan and the Town Board shall consider rezoning request. The Town Board and Planning Board may, if they wish, hold joint public hearings.

Section 5: 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 6: Effective Date

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

NEW BUSINESS

#52-MOTION TO SET SPECIAL JOINT MEETING WITH PLANNING BOARD

Motion by Eaton to set a Special Meeting (with Planning Board) on Monday, February 8, 2010 at 7:00 pm at the Senior Center to discuss Noise and Wind energy. 2nd by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

#53-MOTION TO APPOINT DEPUTY REGISTRAR FOR 2010

Motion by Eaton to appoint Joyce Kibler as Deputy Registrar for 2010. 2nd by Jonak. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

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COMMITTEE REPORTS

- Councilman Hare – has been looking into the outdoor wood burners - there is no law in effect at this present time. The DEC is working on outdoor wood burners at this time. There was much discussion between board members regarding this issue and was decided to wait to see what the DEC enacts as it would override Town ordinances made.

From the floor:

- Ron DiMattio – had positive comments on the wind energy issues and noise.
- Ron Kyser – had positive comments regarding outdoor wood burners

#54-MOTION TO ADJOURN TO EXECUTIVE SESSION ON LITIGATION & CONTRACTS

Motion by Eaton to adjourn to executive session to discuss litigation matters and contracts. 2nd by Hare. Jonak-aye, Sendlakowski-aye, Hitchcock-aye, Hare-aye, Eaton-aye. CARRIED.

Regular meeting adjourned at 8:00 pm

#55-MOTION TO ADJOURN EXECUTIVE SESSION AND REGULAR MEETING

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

Executive Session and Regular Meeting adjourned at 8:20 pm

Respectfully submitted,

Mary M. Peck
Town Clerk
2/3/2010