

Special Enfield Town Board Wind Farm Advisory Committee Meeting –
February 9, 2016 - Enfield Community Building

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PRESENT: Peter Bardaglio, Councilperson Mike Carpenter, Charlies Elrod, Martha Fischer, Marcus Gingrich, Jude Lemke, Rob Tesori, Councilperson Michael Miles,

STAFF: Sue Thompson/Wind Farm Advisory Recording Secretary

OTHER IN ATTENDANCE (Audience): Henry Hansteen, Enfield Councilperson; Alice Linton, Town Clerk; Mimi Mehaffey, Alternate Wind Farm Advisory Committee

NOTE:

Wind Farm Advisory Committee will be referred to as the Committee within the minutes. Black Oak Wind Farm – BOWF. Environmental Impact Statement – EIS.

Michael Miles called the meeting to order at 7:00 p.m. and lead the assemblage in the Pledge of Allegiance to the Flag.

Michael Miles announced that Peter Bardaglio will sit in on the Committee meeting tonight. He will be recommended to be appointed to the Committee at the Town Board Meeting, February 10. Julie Schroeder will also be recommended to be appointed as alternate to the Committee on February 10.

Michael Miles reminded the audience to keep all comments until the end of the meeting during the Privilege of the Floor.

Charles Elrod introduced himself as a member of the WFAC as he was not in attendance at the first meetings.

Approval of Minutes (2-2-16)

Corrections suggested to February 2, 2016 minutes:

Page 5 - 2nd paragraph – add Michael Miles name to statement “reading research regarding theoretical ice throws.”

Martha Fischer requested the Committee accept the following changes which Peter Bardaglio sent the Committee on February 6 in an e-mail:

p. 2: "He stated the BOWF is about legal process and that legal contracts have been signed, they are fiduciaries to the Board. He stated that there are investors who have invested heavily in the BOWF and will have no returns for 10 years or more."

Should read: "He stated that BOWF has a fiduciary responsibility to its investors to ensure that all legal contracts and agreements are enforced. He also noted that BOWF investors will not see any returns for the first ten years of the wind farm's operation."

p. 2: "Peter Bardaglio stated as a corporation you have a responsibility to the people, law and contracts it deals with."

Should read: "Peter Bardaglio repeated that BOWF has a fiduciary responsibility to its investors to enforce all legal contracts and agreements."

p. 3: "Peter Bardaglio answered that it is not clear who handles the monitoring, that is one of the responsibilities of this committee. Michael Carpenter pointed out the monitoring is in the EIS in a larger scope and handled on a smaller scope. Peter Bardaglio said the Lab of Ornithology at Cornell University will monitor the bird patterns at the site."

Should read: "Peter Bardaglio answered that one of the potential responsibilities of this committee might be to monitor noise levels on a regular basis...Peter Bardaglio said that Cornell would be doing research at the wind farm and that the Lab of Ornithology was interested in monitoring bird patterns at the site."

p. 3: "Peter Bardaglio answered that there are degrees of moving wind turbines, they involve environmental issues. There was lots of time and money put into the SEQRA process to decide where to put the turbines."

Should read: "Peter Bardaglio answered that moving the site of wind turbines is a very complex process that involves environmental, technical, and legal factors. BOWF has invested a great deal of time, money, and energy into the siting of the turbines."

p. 3: "Will all the turbines be included? Peter Bardaglio stated potentially some of the turbines not all, at least one will be included."

Should read: "Will all the sites of all the turbines be included on the revised map submitted with the draft Supplemental EIS? Peter Bardaglio said yes -- we may be moving some of the sites but not all of them. The locations will all be identified on the map."

p. 3: "Peter Bardaglio stated GE engineers said that issues around sound with this turbine are no different than the others; they are more advanced in their technology. Mimi Mehaffey asked that since they are higher what does it look like regarding catching more wind, produce more noise, what are the issues? Peter Bardaglio stated they can't say specifically that this is the noise issue with this turbine or this is the flicker issue with this turbine until they know where they are placed."

Should read: "Peter Bardaglio stated GE engineers said that issues around sound with the larger turbine are not different than with the original one; both kinds of turbines represented the most advanced technology available...Peter Bardaglio said that the draft Supplemental EIS would assess any noise and flicker issues regarding the new turbine sites."

p. 4: "Peter Bardaglio thought he could provide a report on the wind turbines."

Should read: "Peter Bardaglio said he would look into sharing the wind turbine specs with the committee but that he would have to consult with Marguerite."

p. 4: "Peter Bardaglio said that the BOWF had not spoken with the fire company regarding fires."

Should read: "Peter Bardaglio said he was uncertain whether BOWF had consulted with the fire company about managing any fires at the site." Note: the fire plan is included in the final EIS approved by the Town Board.

p. 4: "It was noted that the Tompkins County Legislature would be presenting a resolution in support of the BOWF and encouraging the Town of Enfield to accept all permits from the BOWF."

Should read: "It was noted that the Tompkins County Legislature would be considering a resolution in support of BOWF and would encourage the Town of Enfield to move forward with the project in a timely manner."

p. 5: "Peter Bardaglio answered he thought they would probably not change wind turbines at this time."

Should read: "Peter Bardaglio answered BOWF would not be changing wind turbines at this point and that vertical axis turbines were not appropriate for this project."

p. 6: "She also pointed out the fact that even with a signed neighbor agreement of \$500 a year for 25 years that is the equivalent average return expectations for a person who invested \$9,00 for getting back only \$12,500, Peter is not lying it's not a good way to get your investment back."

Should read: "She also pointed out that a signed neighbor agreement of \$500 a year for 45 years is the equivalent of the average return projected for a persons who invested \$9,000 in BOWF."

p. 6: "Peter Bardaglio commented about the changes with investors and the FCC regulations. The BOWF was hoping to provide more opportunities for small investors but the regulations were not changed."

Should read: "Peter Bardaglio commented about changes in the SEC laws that would provide more opportunities for small investors. BOWF was unable to take advantage of these new laws because the SEC had not yet implemented the regulations necessary to implement these changes."

There was discussion if the Committee minutes were an actual transcript of the meetings or if they were a general transcript of the meetings. It was decided they were a general transcript of the meetings. Technical information regarding research on windfarms is being placed on the Trello.com web site.

Page 4, 4th paragraph - change suppression system to fire suppression system

Peter Bardaglio stated that he spoke with Marguerite Wells regarding communication with the Enfield fire company; she said yes she had spoken to the fire chief. He also noted that the fire plan is in the final EIS.

Motion was made by Martha Fischer and seconded by Charles Elrod to approve the February 2, 2016 minutes as corrected. Motion passed unanimously.

Old Business

Michael Miles reminded everyone of the windadvisory@townofenfield.org e-mail to send articles/research/comments/suggestions to and the <https://trello.com/enfieldwindfarmadvisorycommittee> site for research articles, laws, and minutes of the Committee.

Advisory Committee Membership

Peter Bardaglio and Julie Schroeder will be recommended to the Town Board to be appointed as members to the Committee

Update on Technical Experts

Martha Fischer reported she spoke with Roger Lauper of the Enfield Fire Company regarding the wind turbines. He agreed to come speak to the Committee regarding the Fire Company and the wind turbines. Martha Fischer will contact him regarding the next meeting date. She is still looking for an “acoustic noise” expert for the Committee.

Michael Carpenter suggested reading the acoustic report in the EIS Located at www.blackoakwindny.com/EIS - Appendices – Appendix K. Noise Report: Acoustic Modeling Report – February 19, 2016. Tech Environmental, Inc. Waltham, MA 02451.

Charles Elrod asked if Jonathan Rogers from the Georgia Institute of Technology could be contacted using “Skype” to speak with the Committee. It was stated that the Jonathan Rogers article “A method for defining wind turbine setback standard” can be located on the trello.com site. Charles Elrod will contact Johnathan Rogers regarding speaking with the Committee. Michael Miles will look into setting up a computer for using “Skype” at the meeting.

Jude Lemke suggested contacting Howard Graham as evidence regarding wind turbine noise. He is a participant with wind turbines on his property. It was asked if this was anecdotal evidence. Comment was made that the committee could bring “all numbers” of anecdotal evidence in. Peter Bardaglio suggested contacting Cooperative Extension to arrange for a field trip to the Howard Wind Farm in Steuben County. He will share the contact with Michael Miles It was reminded that participants to other wind farm experiences could submit comments to the Committee through e-mail.

Peter Bardaglio stated that comparisons of wind turbines should be with the turbines being the same models. Marcus Gingrich asked if there was anyone using the “X” model wind turbines now. Peter Bardaglio stated GE was eager to get these models up. They were giving them a price break because it was close enough to their training campus and would be able to train using the turbines and work with the faculty at Cornell University research studies. It was requested to have more specifications on the new wind turbines. Peter Bardaglio will request GE to come and present information to the Committee on the wind turbines including specs.

Rob Tesori asked about the placement and size of the area with a substation. Peter Bardaglio replied that there are all kinds of rules and regulations for placement of a substation; the actual substation does not take up 4 to 5 acres. Michael Miles asked if the “footprint” of the actual amount of space for the substation will be in the Supplemental EIS. Peter Bardaglio replied yes and that the substation was not going to be on the originally indicated site. NYSEG will be asked to come and present information to the Committee on a substation.

Update on Supplemental Draft EIS

Peter Bardaglio did not think the Draft Supplemental EIS would be submitted to the Town Board on February 10. He said there would be a map in the EIS showing all the sites of the wind turbines and substation.

New Business

Review of Enfield’s Current Wind Law

Michael Miles stated the Committee had two purposes. One charge is finding common ground regarding town residents and the BOWF. Since the Supplemental EIS has not been submitted the Committee will wait discussion of common ground. The second charge is looking at the town wind law for corrections/changes the Committee would like to make.

Page 1 – Article I – General Statement and Definitions Section 2. Take out wording of “non-polluting”.

Page 2 -3 – Section 4: Definitions – Residence. Jude Lemke state she thought that “seasonal residents” should be included in the definition. It was also wondered why buildings such as “hunting, camps, ...schools or other buildings used for educational purposes” were not included in the definition of Residence. It was commented that perhaps the statement “off the grid” be added also. There was discussion of setbacks with Residence definition but it was suggested to move this discussion to another section. They are talking about the residence not the resident. Setbacks should include all of the buildings. Defined term could be added to list of definitions.

Page 3 – Section 4: Definitions – Local Law. Local Law Number ___ of 2008, should be Local Law Number 1 of 2009.

Page 6 – Article II – Permits – Section 2 Permits required; Transfer; Modifications – E. Facility Modifications. Jude Lemke pointed out you shouldn’t be allowed to modify without being in full compliance except for repairs and maintenance. If you have repairs and maintenance you don’t have to comply with the statue if you are making real modifications to the project you should have to comply with the law.

It only talks about wind turbines should include substation also.

Does modification refer to new WTG (Wind Turbine Generators) and substation? Does this comply with reference on page 5 Section I part B #2 – “No modifications or alterations to such Wind Energy Facility shall be permitted except in compliance with this Local Law”? What is the difference between WEF (Wind Energy Facility; includes substations in definition) and WTG needs more clarification? Needs more clarification regarding repairs and maintenance, it needs a better list. Does model need to be added into section with types and height? Conflict between modifications B2 and E.

Page 6 Outer boundaries’ need more definition.

Page 6 – Article III – Permits and Permitting Process – A. Application Contents - #2 and 3. Marcus Gingrich asked if the 500 foot boundaries need to be extended. He also stated he felt it was not clear as to who sends out notices to property owners. There is a possible communication issue.

Page 6 – Sue Thompson suggested that all references to 500’ be changed to spelling out to feet/foot. Other references to units of measurement in Law should also be spelled out instead of using “hatch marks”.

Page 7 –the wording “licensed surveyors/engineer” be added as a requirement for set of plot and/or site plans?

Page 7 – Article III – Permits and Permitting Process - #6. Plot Plans. Martha Fischer asked if the difference between plot and site could be clarified. She felt that “plot” and “site” were being mixed up. Martha Fischer stated she used the maps in the Supplemental EIS referring to plot/site plans.

Page 9 – under Article III – Permits and Permitting Process – Section 1: Application Requirements – C. Environmental Studies - Recommended including types of structures and the dimensions. It was noted that there is an overlap in #6 and #7 and #12. Jude Lemke will submit a “markup” copy of suggested changes for this section.

Page 8 - #8 – Landscaping Plan - Jude Lemke asked if there should be more details required on restoring the area. Mike Carpenter said that sediment and storm water control /restoring the area is addressed in the SEQR (New York State Environmental Quality Review Act) under State Law and SWPPP (Storm Water Pollution Prevention Plan).

Page 5 – Article II – Permits – B. #1 - Jude Lemke questioned the decommissioning of the wind farm law. This is addressed in Article II – Permits page 5 – B. #1. Decommissioning is also addressed under Article VI – Operation, Permit Revocation, Abatement, violations page 18.

Page 8 #11 – Complaint Resolution Plan. - This section is not asking for anything specific very nebulous in what they are asking for. They need to ask for the actual complaint to be resolved.

Page 9 – under Article III – Permits C. Environmental Studies – Does a soil study – erosion technical report with more details need to be added. Mike Carpenter said he felt that the regulations were already kept in line with the NYS laws. It was suggested may need to specific that they need to keep in line with the NYS laws.

Page 9 – under Article III – Permits C. #2 – It is felt the distance stated of 2,000 feet may need to be lengthened. There were questions on how the noise levels were addressed. It was very basic and they may want to address it more. It was noted that on Page 14 – Section 17 noise levels are addressed.

Jude Lemke asked if the engineer report on ice throws in the EIS should they be required for environmental studies. Mike Carpenter said standards are listed on Page 12 Article IV – Standards for Wind Energy Facilities. It was felt this report was not necessary to go in application process. The ice throw engineer report is needed somewhere in the law.

Page 9 – Section 2 – Application Review – C. Environmental Studies #3 Shadow Flicker Study. Marcus Gingrich felt this statement was open ended needs for definition on how flicker affects residences/residents. Rob Tesori asked if any studies on “full moon” flickering were done. Comments were seen on the Full Moon flickering. Asked if there should be a better definition for “shadow flickering/all flickering” and what is included.

Page 10 - #5 – Fire Protection Plan – should there be a reference to a “no fly zone for life flight” referring to helicopter emergency response. It was stated it was a good question for Roger Lauper, Enfield Fire Company.

Page 10 – 11 – Section 2: Application Review – F. Jude Lemke questioned who sends notices out regarding public hearings. She felt the Town Board should be communicating more with the residents in the area of the BOWF. She stated that the Town Clerk said the town did not send out notices for the public hearing. The Black Oak Wind Farm sent out notices.

Peter Bardaglio stated the section they are looking at now is just requirements for the application. It has nothing to do with communicating with anyone; it’s about just submitting the application.

Jude Lemke thought it should state clearly who sends notices out. The question was asked if the notice be sent by Certified Mail. This would prove the notice was sent out. Would this create an additional expense? It was pointed out that the section reads “the Town Law of the State of New York, notice of such public hearing shall be given by first class mail”. You have to comply with state law and the local law.

Page 11 – Section 3 – Issuance or Denial of Wind Energy Permits. It was suggested this section needs clarification. Mike Carpenter read part of the section “review process, the Town Board shall, upon consideration of the standards contained in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditional approval, or denial fully stated.”

It should be made clear if the town can override the standards of the law. It needs clarification and what you would be basing it on. Peter Bardaglio stated that their attorney interpreted this section differently.

Page 12 – Section 4: Approval Limitations; Easements affecting Town Property – A. Wind Flow. The wording “cut down surrounding trees” should this be referenced as removal of all vegetation?

What are turbine easements? How are easements addressed?

Page 12 Section 5 – Visual Impact Mitigation – “reasonable uniformity” should it be more specific? Does it refer to “similar” in reference to the overall size, geometry, and rotational speeds?

Page 13 Section 10 – Wildlife – Does this section need to be more specific in listing endangered species or protected species. Does the word “rare” need to be taken out?

Page 14 – 15 – Section 17 - 18: Sound Levels – A. Sound Levels and Noise and Setbacks will need to address changes at a future meeting. Changes will be based on Committee research.

Michael Miles will send out a new “Doodle Poll” for the next meeting date and time.

Privilege of the Floor

Art Godwin – 96 Woodward Road – He thanked the Committee for their respectful tone. He would like to see the town move towards a safe energy environment.

Dawn Drake – 105 Griffin Road – Agreed with a safe energy environment. What the wind turbine placement re-examined in the EIS. She is concerned with the substation being placed in the middle of the wetlands. She feels solar is better for the environment.

Members of the Committee thanked the community for their participation and comments regarding the wind farm situation.

Michael Miles adjourned the meeting at 9:00 p.m.

Respectfully submitted, Sue Thompson, Recording Secretary