

At 6:00pm, April 13, 2010, the Farmington Supervisor called to order the Workshop to discuss Wind Energy Producing Devices and asked the Director of Development to open the session by presenting an overview of the proposed legislation.

PRESENT: Theodore Fafinski – Supervisor
Peter Ingalsbe – Councilman
Timothy P. Mickelsen – Councilman
Michael Casale – Councilman
Steven M. Holtz - Councilman
Michelle Finley – Town Clerk

Also present were: **Ron Brand** – Director of Planning & Development, **Jeff Graff**-Town Attorney, **Floyd Kofahl**-Code Enforcement Officer and **Fred Schuhle**- Daily Messenger.

Ron Brand stated that last year the board enacted a moratorium on wind energy and that moratorium ends in June of this year and in reviewing the documentation on wind energy and all the information that is out there they have decided to draft two local laws for the Town Board's consideration, one is an On-site-use Wind Energy Systems Local Law which is primarily for on-site-use consumption and the other is Wind Energy Farm Local Law. He added that along with himself the Town Attorney, Code Enforcement Officer, and the Town Operations Committee have reviewed the two proposed local laws. Ron Brand asked that the Town Board review the draft local laws and follow up before the next meeting with any comments so they can put it in final form to submit to the Ontario County Planning Board for them to review at their May meeting that would allow the board to take action at their May 25 Town Board Meeting to receive public comment and still have time at the first meeting in June if needed to make changes and then take action to adopt at their June 22nd meeting to satisfy the moratorium requirements if not then they would have to pass another local law to pass the moratorium.

Ron Brand gave the following background on the two proposed local laws:

On-site-use Wind Energy Systems Local Law

- This legislation pertains to those wind energy generating systems designed not to generate electricity for sale to the utility grid. It is intended for small wind energy systems to meet personal needs.
- On-site-use Wind Energy Systems are specially permitted uses in the A-80, (do not need to add RR-80 since it is allowed in the A-80), RS-25, R-I-15, (not the R-1-10 and R-2), GB, LI and GI Districts.
- Section 184.2 is a new sub-section. Contains a list of standards and criteria for issuing a Special Use Permit.
- Section 84.2.12. Decommissioning requiring maintenance bond.
- Section 84.2.15. sets forth Site Plan Review and Approval criteria.
- Section 84.2.16. sets forth compliance with Uniform Building Code.
- Section 84.2.17. sets forth compliance with state, local and national electric codes.
- Insurance standards to be maintained with liability coverage.
- Fees will need to be established for this Special Permitted Use.
- Definitions of Terms Used will need to be added to Section 10, Article II of Chapter 165.

- On-site-use Wind Energy Systems are considered to be Accessory Uses.
- Zoning Schedule I needs to be amended to include reference to §165-84.2. Onsite-use Wind Energy Systems.

Wind Energy Farm Local Law

- This local law recognizes that while the Town's topography may not be conducive for the location of several large utility-scale wind energy projects, there is limited wind resource for development of commercial wind energy generating systems.
- A floating zone district which should be located east of County Road 8 and within either the A-80 and/or RR-80 Districts.
- Once a site has one year of wind data it can become eligible for formal rezoning.
- Once an application is made, if it is considered by the Town Board then a coordinated review under SEQR will be required before an action.
- Protection of municipal boundary (500 feet).
- Certificate of need for the Wind Energy Farm System from the New York State Public Service Commission, a criteria to be met before rezoning.
- Minimum lot size of one acre for each tower, plus meeting the setbacks set forth under the Site Plan Criteria.
- An extensive listing of considerations as part of the formal rezoning process.
- Decommissioning process and posting of bond.
- Site Plan Review/Approval Requirements and Criteria.
- Compliance with Uniform Building Code and National Electric Code.
- Insurance requirements in consultation with the Town's insurer to cover damage or injury which may result from failures.
- Fees.
- Maintenance and Inspections.
- Definitions of terms added to §165-10 of Town Code.

Councilman Ingalsbe referred to the draft local law pertaining to Wind Energy Farm District regulations Section 4 (C) (3) entitled Location-Permitted. He wanted to draw attention that the current draft zoning map does not have RR80s east of County Road 8 and when you look at paragraph three it talks about that wind energy farms should not be located on property located west of County Road 8. This wording would allow someone with property west of County Road 8 to come in even though it is highly unlikely. Jeff Graff replied that the applicant would have to convince the Board to rezone it wherever they put it and he added that this was an area he had a number of changes because as they were pointing out as it is written with the Board approving the rezoning in the future as oppose to creation of a new district where the Board would be actually setting the boundaries. This Board would have to act to approve of the requested zoning change because its Town Law that the Board can not bind itself or future Town Boards. It is put in there so that it can only be located within the A80 or RR80 districts. If a future Board wanted to let it to go to a General Business District they can do it as long as it compliance with the Comprehensive Plan. Jeff Graff stated that the way it is written now it is a basic guideline for future boards.

Mr. Brand stated that basically what the Board is looking at here is a lot reconfiguration by the time you put a structure on it and the size of the unit the manufacturer recommends for the property. Mr. Mickelsen asked if some of these could be mounted on the roof. Mr. Brand replied that they have said they do not want roof mounted ones unless they can come up with a good reason to allow it. Mr. Brand added that a lot of municipalities that he has looked do not allow roof top mounting. Mr. Kofahl stated that one of the problems with roof top mounting is that any point it can create a negative wind current and end up with roof damage. He added that if the Board allows roof top mounting there will need to be in place to have a structural analysis completed to show it can take the additional weight.

Mr. Ingalsbe referred to the Draft Local Law regarding Wind Energy Farm District Regulations, Section 4 (E) Minimum Lot Size – he asked if one acre was enough for a minimum. Mr. Kofahl replied that it can not be done on one acre and have setback requirements. Mr. Mickelsen asked what would be the minimum acreage required to meet the setback requirements. Mr. Brand replied in researching the wind energy legislation the minimum lot size is one acre per wind turbine that way it would not create a shallowing or shading of wind flows allowing other wind turbines to run efficiently.

Mr. Mickelsen asked about noise ordinance and the concern about measuring the decibels, the enforcement of, and lack of equipment. Mr. Brand replied that there is a standard in the local law that requires a decibel reading of 50 dBa at the property line and as part of the SEQR process having that standard in place you are requiring the applicant to document how they are going to meet that standard, and once the towers are erected and it becomes an issue then professionals can come in and measure with instruments to see whether they comply or not. Mr. Graff stated that in the Site Plan requirements on page 9 requires the applicant to provide detail noise analysis upfront. Mr. Mickelsen asked that if there were a complaint the Town could hire a firm to come in and bill it back to the property owner even though they were not in violation. Mr. Kofahl stated that the CEO shall order in the event of a complaint. Mr. Mickelsen asked Mr. Kofahl how much a decibel reader would cost, Mr. Kofahl replied a couple of hundred dollars.

Mr. Ingalsbe stated that he liked the maximum height of 200 ft in the regulations under the Wind Farm Local Law.

Mr. Holtz asked Mr. Kofahl if this is something he will need additional training in. Mr. Kofahl replied no because with wind energy farms it is pretty clear the way they have it set up with the requirements, there are special inspectors required to inspect prior to building.

Mr. Ingalsbe stated when looking at large wind farm district regulations is there something in there regarding Town and County road damage. They thought there was something pertaining to that but could not locate it at that time. Mr. Kofahl will need to add to include road damage. Mr. Mickelsen asked for them to come up with something that would work for them.

Mr. Mickelsen referred to the Shadow Flicker section on the Wind Energy Farm Systems Local Law. His concern was that if the shadow flicker was longer than 5 minutes per day the owners could obtain agreements from neighbors to have longer durations, if the neighbor sells property would the agreement go with it. Mr. Brand stated it stays with the property. Mr. Fafinski stated that they might want to make it clear that it stays with the property in the local law.

Mr. Casale asked if this had to go in front of County Planning, Mr. Brand replied yes. Mr. Ingalsbe asked Mr. Brand that once we have a final draft and it goes to the County for their review and comments would that be the time to add them to the Town's website for the public to look at. Mr. Brand replied yes. Mr. Brand said he will concentrate more on the Wind Farm Local Law than the On-site one with changes and get them back out to them and if needed they can have another workshop but felt that wouldn't be needed, then send to the County and from there set a public hearing so once you direct a public hearing you can post to the website.

Mr. Mickelsen referred to the section regarding the On-site Wind Energy Local Law that states they could not sell back to utilities. Mr. Brand stated that the purpose is to design a system that meets the owners on-site needs, he referred to page 7 Section 19-Net Metering. Mr. Mickelsen asked what is the benefit to allow to sell back to the utility, Mr. Brand stated that anytime you connect to the utility grid there has to be some kind of connection whether that's overhead or underground. We want underground connections which might be cost prohibitive for the small units.

Mr. Mickelsen referred to the On-site Local Law – page 12, #5-Color. Instead of (i.e. grays) change to (i.e. earthtones).

With no further discussion, the workshop adjourned at 6:53 p.m.

Michelle Finley, Town Clerk