

November 12, 2007

**Alexander Town Board Regular Meeting & Public Hearing
Alexander Town Hall 6:00 p.m.**

Present: Supervisor Ruth Hulshoff
Town Board: Joseph Higley, Emma Jean Grant, William Hirsch
Absent: William Franz
H' way Supt: Tom Lowe
Town Clerk: Laura Schmieder
Guests: Attorney David DiMatteo, Lisa Perez; Town officials and residents

The meeting was called to order at 6:00 p.m. by Supervisor Hulshoff. The Pledge of Allegiance was recited and a moment of silence for our servicemen and women.

On motion by Councilperson Grant, seconded by Councilperson Hirsch, and carried, to approve the minutes of the October 9, 2007 regular Town Board meeting, and the October 16, 2007 Budget workshop meeting. 4 – Yes 0 – No Motion carried

Code/Zoning Enforcement Officer Karl Bender asked the Board to consider making a few changes to the Zoning/Building Permit fee schedule: Zoning Permit for Commercial building; Inspection permit for a re-roof; and permit for new windows when changing sizes (not replacement windows). After much discussion, the Town Board acted on the first request and wants to wait until next month to address the other two.

RES. NO. 67: ZONING PERMIT:COMMERCIAL (fee schedule)

On motion by Councilperson Higley, seconded by Councilperson Grant, and carried, to change the fee for a Zoning Permit for building a Commercial structure from \$1. per square foot to 25 cents per square foot, effective immediately. 4 – Yes 0 – No Motion carried

Supervisor Hulshoff opened the Public Hearing for the 2008 Town of Alexander Budget and the 2008 Fire Contract at 7:00 p.m.

REPORTS

Building Committee:

a. ceiling in the Museum reported to have wet areas after a rain, will investigate

Highway Supt:

- a. 2006/07 Snow and Ice update
- b. First snow last Tuesday, a few problems with the trucks
- c. Shared Services meeting with school and village representatives. Discussed:
 - joint fuel farm
 - grant for facility for school, town and village
 - next meeting at the end of November
- d. Mr. Lowe asked the Board if he should pursue a loader purchase. If so, he needs to get the information out for bids. Discussion as to specifications.

RES. NO. 68: LOADER BIDS TO BE PREPARED

On motion by Councilperson Higley, seconded by Councilperson Hirsch, and carried, to authorize the Highway Superintendent to seek bids for a loader comparable to the one we have in size and capabilities, and to advertise this bid so as to be able to open bids and award the bid at the next regular Town Board meeting on December 10, 2007. 4 – Yes 0 – No Motion carried

Attorney DiMatteo provided the Board members with the following documents:

- Part II of the Full Environmental Assessment Form
- Negative Declaration

Attorney DiMatteo read the following Notice of Public Hearing which was published on October 25, 2007:

A PROPOSED LOCAL LAW AMENDING THE TOWN OF ALEXANDER ZONING LAW

NOTICE IS HEREBY GIVEN, that a public hearing regarding proposed local law entitled, "Amending the Town of Alexander Zoning Law" will be held on the 12th day of November 2007 at 7:30 p.m. at the Town Offices, located at 3350 Church Street, in the Town of Alexander, New York.

The Town of Alexander has determined that a comprehensive local law regulating the development of wind tower installations is necessary to protect the interests of the Town and its residents. This local law establishes a permissive and discretionary framework for the establishment of wind energy conversion facilities in the Town of Alexander, along with adding various definitions, and amends fence requirements.

THIS PUBLIC HEARING IS BEING HELD TO HEAR ALL INTERESTED PARTIES AND CITIZENS FOR OR AGAINST THE ADOPTION OF SAID LOCAL LAW

PLEASE TAKE FURTHER NOTICE that the environmental significance of the proposed project will be reviewed at said public hearing.

A copy of the proposed local law is also available for review at the Town Clerk's Office during regular business hours.

By order of the Town Board,

LAURA SCHMIEDER
TOWN CLERK

Attorney DiMatteo read the Genesee County Planning Board Zoning Referral Notice of Final Action. They approved the text amendments at their September 13, 2007 meeting.

Supervisor Hulshoff opened the public hearing at 7:30 p.m. There were questions and comments from the attendees:

Q. Will windmills be approved with this local law? Ans: No. Wind energy companies will have to apply for and make agreements with the Town and individual homeowners. We just need to have the zoning in place prior to this.

Q. Has the Town been approached by a wind company for a project? Ans: No.

There is a meeting to be held at GCC on November 19, 2007 with experts in the wind energy field, if anyone is interested in attending.

The wind project in Eagle has 57 windmills in operation, with many more scheduled to be erected next year.

Attorney DiMatteo and the Board then discussed and completed Part II of the Full EAF. On motion by Councilperson Higley, seconded by Councilperson Hirsch, and carried, the Public Hearing for the Zoning Amendment was closed at 8:10 p.m. 4 – Yes 0 – No Motion carried

Planning Board Chairman Kelsey thanked all members of the Planning Board, the Wind Energy Committee and Town Board for putting in many hours to compile the wind energy local law.

The following Negative Declaration was read:

Air, Water, Noise, Waste, Erosion, Drainage, Site Disturbance Effects: The proposed amendment will not create any adverse change in the existing air quality, water quality or noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. Relative to wind energy conversion facilities, any application submitted to the Town of Alexander will be governed and monitored in accordance with the Zoning Law. The law specifically requires the submission of a site plan that includes a survey of the property showing existing features such as contours, buildings, structures, streets, utility easements, rights-of-way, land use, land use district, ownership of surrounding property and vehicular access. The site plan must also show the location of proposed structures, preliminary layout plans of new access roads and transmission lines, anticipated construction schedule, description of operations and a storm water management plan. Any audible noise due to the operation of any part of a wind energy conversion device is not to exceed fifty (50) dBA for any period of time. This level of noise is to be measured from any residence, school, hospital, church, public park or public library unless the project developer has obtained a noise easement. The amendments specifically require the applicant to submit a water study to assess the potential impact upon water sources within five hundred (500) feet of a wind energy conversion facility site, along with a proposed mitigation plan. The law requires a minimum set back distance of five hundred (500) feet from any wellhead or well source to address the preservation of water quality and quantity.

Aesthetics, Agriculture, Archeology, History, Natural or Cultural Resource, Community or Neighborhood Character: The proposed amendments will not adversely affect agricultural, archeological, historical, natural, or cultural resources. It is envisioned that the proposed amendments will improve upon the established community character by limiting where wind energy conversion devices can be constructed. Noise, shadow flicker and electromagnetic interference are all addressed and controlled through this law to minimize these impacts. This law also addresses aesthetics and visual impacts with the requirement of a visual analysis which includes a mitigation analysis prepared by a qualified ecological/aesthetic engineer in a format generally accepted in said profession. The assessment should also include an analysis of the lighting or illumination of the turbines and an assessment of shadowing or other visual effects relating to the level of natural or artificial illumination. The ultimate review and analysis of a project will be comprehensive and will require an Environmental Impact Statement. Maintenance and/or Performance Bond are required, along with the obligation to remove obsolete facilities.

Vegetation, Fish, Wildlife, Significant Habitats, Threatened or Endangered Species: It is not envisioned that the proposed amendments will adversely affect any plant or animal life. The law itself requires that an applicant must submit an avian analysis to assess the potential impact that a proposed wind energy conversion device or facility will have upon bird and bat species. The study must contain a literature survey for threatened and endangered species and any information on critical flyways, along with post-construction monitoring or studies. Shadow flicker is specifically addressed in this law and requires that a shadow flicker map be prepared showing projected annual hours of shadow flicker for all sensitive areas and locations with the project area with a limitation of thirty (30) hours per year and not more than thirty (30) minutes per day mitigation measure. This law will help to minimize the environmental impact of an application on vegetation, fish, wildlife, significant habitats and threatened or endangered species and provide a mechanism to mitigate any impacts. The actual analysis of data will require careful review once an application for a project is submitted.

Community Plans, Use of Land or Natural Resources: The proposed amendments are in keeping with the community plans as they will provide a tool to effectuate change in the community that is in keeping with the overall plan for the Town by efficiently and effectively regulating applications for wind energy conversion devices or facilities. The ability to prevent the encroachment of this type of influence within the Town will help to preserve property values with the set back requirement of 1.5 times the overall height of the structure, measured from the highest vertical point of the wind turbine when the blade is in vertical position perpendicular to its base, from the edge of the right-of-way of any public road; any non-wind energy conversion facility structure; above ground telecommunications or electric utilities; or from the

property line of any owner who is not a participant in the project unless waived by a written easement recorded in the Genesee County Clerk's Office and if a variance is granted by the Zoning Board of Appeals. A minimum of 1,500 feet is required from the nearest off-site wind energy conversion facility participant's residence measured from the exterior walls of the residence unless waived in writing, in the form of an easement, that is recorded in the Genesee County Clerk's Office, by the owners of such structure and an area variance is granted by the Zoning Board of Appeals. Both of these requirements provide additional layers of protection to land use and property values.

Growth, Subsequent Development, etc: The 2007 Amendments to the Town's Zoning Law will not induce any significant or adverse growth or subsequent development. It will help to maintain and preserve the rural agricultural character of the Town while achieving some economic growth in areas that are suitable and improve upon the established community character of the affected area. Without this law, it would be impossible to maintain and preserve the rural agricultural character of the Town that does not have any other way to regulate wind energy conversion facilities. This law will specifically achieve some economic growth in areas that are suitable with proper mitigation measures. The amendments to the Zoning Law have been carefully constructed to make sure they will help carry out the Town's future planning goals.

Long Term, Short Term, Cumulative, or Other Effects: The amendments will not have any significant adverse long term, short term, cumulative, or other environmental effects. These types of environmental effects will be addressed on a case by case basis through the required submission of a draft environmental impact statement.

Public Health and Safety: The Town of Alexander amendments to the Zoning Law will not have an adverse impact on public health. The law strives to protect the health, welfare, safety, peace and tranquility of the residents of the Town of Alexander by providing the regulations and requirements for wind energy devices. The special use permit regulations require Town Board's approval of a site plan before the applicant can obtain a special use permit to operate a wind energy conversion device. This law further guarantees the removal of a device once it is not longer functional. If any device is found to be in violation of any provision, term or requirement of an approved site plan or the local law, the special use permit will not be renewed. This law provides requirements and regulations for wind energy conversion devices. The actual application for the same will have their own examination and analysis of all of the above issues.

Critical Environmental Area: The Town of Alexander does not have any identified Critical Environmental Areas as designated in 6 NYCRR, subdivision 617.14(g).

The following resolution was made:

RES. NO. 69: 2007 AMENDMENTS TO ALEXANDER ZONING LAW

The Town Board of the Town of Alexander met at a regular Town Board meeting at the Town Offices located at 3350 Church Street in the Village of Alexander, New York on the 12th day of November 2007 commencing at 6:00 p.m., and thereafter a public hearing was held at 7:30 p.m. at which time and place the following members were:

Present: Supervisor Ruth Hulshoff
Council Member Emma Jean Grant
Council Member Joseph Higley
Council Member William Hirsch
Absent: Council Member William Franz

WHEREAS, all Town Board Members, having due notice of said meeting, and that pursuant to Section 94 of the Public Officers Law (Public Meetings Law), said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, the Town Board of the Town of Alexander is considering a proposed local law that amends the Town of Alexander Zoning Law, a copy of said law is attached hereto as **Exhibit A**; and

WHEREAS, the Town Board of the Town of Alexander sought lead agency status and scheduled a public hearing, by resolution dated August 13, 2007, a copy of said resolution is attached hereto as **Exhibit B**, and under the State Environmental Quality Review Act, also known as SEQRA, advised all other involved/interested agencies, copy of said notifications are attached hereto as **Exhibit C**, of the proposed local law as follows:

1. Mary Pat Hancock, Genesee County Legislature
2. A.D. Berwanger, Wyoming County Board of Supervisors
3. James Duval, Director, Genesee County Planning Department
4. Donn Branton, Genesee County Agricultural & Farmland Protection Board
5. Patrick Hooker, Commissioner, NYS Department of Agriculture & Markets
6. Michael Saviola, NYS Department of Agriculture & Markets
7. Commissioner, Department of Environmental Conservation, Albany
8. Commissioner, Department of Environmental Conservation, Buffalo
9. Ruth Hulshoff, Supervisor, Town of Alexander
10. David Kelsey, Chairman, Town of Alexander Planning Board
11. Richard Scharlau, Mayor, Village of Alexander
12. Jerome Scharlau, Chairman, Village of Alexander Planning Board; and

WHEREAS, the Town Board of the Town of Alexander received no responses to their notification seeking lead agency status; and

WHEREAS, pursuant to section 239-l and m of the General Municipal Law, said local law with all supporting documents were submitted to the Genesee County Planning Board, which determined at its September 13, 2007 meeting that *given the correction to be made in regards to the original Section 618 (H)(1), the proposed zoning text amendments should not post any significant, adverse environmental impacts*, a copy of said response is attached hereto as **Exhibit D**, along with the correction to said section; and

WHEREAS, pursuant to Town Law §264, written notice was provided to the following:

1. Debbie Douglas, Clerk, Town of Bethany
2. Teresa Morasco, Clerk, Town of Batavia
3. Andrea Davis, Clerk, Town of Pembroke
4. Teresa Burkhardt, Clerk, Town of Darien
5. Kathleen Koch, Clerk, Town of Attica
6. Cheryl Strathearn, Clerk, Town of Middlebury
7. Judith Brown, Clerk, Town of Bennington
8. Vera Antonucci, Clerk, Village of Alexander
9. Carolyn Pratt, Clerk, Genesee County Legislature
10. Cheryl Ketchum, Clerk, Wyoming County Board of Supervisors

WHEREAS, a Notice of Public hearing was duly advertised in the Batavia Daily, the official newspaper of said Town, on or about the 25th day of October 2007 advising that a public hearing would be held on the 12th day of November 2007 at 7:30 p.m., a copy of said affidavit is attached hereto as **Exhibit E**; and

WHEREAS, pursuant to, and in accordance with, the provision of Section 617.6 (Initial Review of Actions and Establishing Lead Agency) of the New York State Environmental Quality Review Regulations (6NYCRR part 617), the Town Board of the Town of Alexander as lead agency has reviewed the proposed local law and all supporting documents and has taken a “hard look” at all potential adverse environmental impacts pursuant to SEQRA by completing Part I and Part II of a Full EAF, a copy of said EAF is attached hereto as **Exhibit F**; and

WHEREAS, the Town Board, as lead agency, hereby finds and determines that:

1. it has considered the proposed local law, reviewed the full environmental assessment form, reviewed the criteria set forth in 6 NYCRR section of 617.7©, thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental impacts and their magnitude in connection with said law; and
2. the proposed local law will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant impact on the environment; and
3. the reasons supporting this determination are set forth in the negative declaration determination of non-significance with respect to this law, a copy of said negative declaration is attached hereto as **Exhibit G**; and

WHEREAS, the Town Board, as lead agency, with reference to the above-described local law, hereby:

1. adopts a negative declaration pursuant to 6 NYCRR section 617.7 with respect to said law; and
2. authorized the Supervisor of the Town of Alexander to sign a negative declaration determination of non-significance with respect to the proposed law; and
3. authorized the Town Clerk of the Town of Alexander to forward a copy of said negative declaration determination of non-significance to all involved and/or interest agencies.

NOW ON MOTION OF Councilperson Higley, which has been duly seconded by Councilperson Grant, with a vote of 4 Ayes and 0 Nays, be it

RESOLVED, that after careful and deliberate review, the Town Board of the Town of Alexander has determined that the proposed local law will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant impact on the environment and hereby adopts a negative declaration determination of non-significance, authorizes the Supervisor of the Town of Alexander to sign said negative declaration and authorizes the Town Clerk of the Town of Alexander to forward a copy of said negative declaration to:

1. Mary Pat Hancock, Genesee County Legislature
2. A.D. Berwanger, Wyoming County Board of Supervisors
3. James Duval, Director, Genesee County Planning Department
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9. Ruth Hulshoff, Supervisor, Town of Alexander
10. David Kelsey, Chairman, Town of Alexander Planning Board
11. Richard Scharlau, Mayor, Village of Alexander
12. Jerome Scharlau, Chairman, Village of Alexander Planning Board; and

NOW ON MOTION OF Councilperson Hirsch, which has been duly seconded by Councilperson Grant, with a vote of 4 Ayes and 0 Nays, be it

RESOLVED, that the Town Board of the Town of Alexander feels it is in the best interests of the Town of Alexander to adopt Local Law No. 3 of 2007, entitled “2007 Amendments to the Town of Alexander Zoning Law;” and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is directed to enter said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

Quorum present: Yes No
Dated: November 12, 2007

REPORTS – con't

Town Clerk:

- a. signed a lease contract with Duplicating Consultants for the LD127 Lanier Copier for 60 months at a lower rate than the previous contract
- b. heat was turned on in Clerk's office on October 29th
- c. Town Clerk's office will be closed on November 22 and 23 for the Thanksgiving holiday

Monthly reports for Town Justice, Supervisor Financial, and Senior Citizens were read and filed.

OLD BUSINESS

Salt Barn Update: Still trying to set up a meeting with Town Engineer

Ambulance contract meeting update: this will be discussed at the 11/15/07 GAM meeting

On motion by Councilperson Higley, seconded by Councilperson Hirsch, and carried, the public hearing for the 2008 Alexander Town Budget and the 2008 Fire Contract was closed at 8:15 p.m. 4 – Yes
0 – No Motion carried

NEW BUSINESS:

RES. NO. 70: FIRE CONTRACT FOR 2008

On motion by Councilperson Grant, seconded by Councilperson Hirsch, and carried, to approve the Fire Contract with the Alexander Fire Department for 2008 as presented. 4 – Yes 0 – No Motion carried

RES. NO. 71: ALEXANDER TOWN BUDGET FOR 2008

On motion by Councilperson Grant, seconded by Councilperson Hirsch, and carried, to approve the 2008 Town of Alexander Budget as presented. 4 – Yes 0 – No Motion carried

RES. NO. 72: CHANGE OF HOURS AT TRANSFER STATION

On motion by Councilperson Higley, seconded by Councilperson Grant, and carried, to continue with summer hours at the Transfer Station until further notice. The hours of operation will continue as follows:
Wednesdays from 5:00 – 8:00 pm
Saturdays from 8:00am – 1:00 pm
4 – Yes 0 – No Motion carried

On motion by Councilperson Higley, seconded by Councilperson Grant, and carried to pay the bills on Abstract #11 as follows:

General Fund A	Vouchers 229 – 253	\$ 5,224.80
General Fund B	Vouchers 67 - 73	4,174.15
Highway Fund B	Vouchers 217 – 237	12,673.71

On motion by Councilperson Higley, seconded by Councilperson Grant and carried, the meeting was adjourned at 9:50 p.m.

Respectfully submitted:

Laura Schmieder
Town Clerk

Planning Board meeting: November 26, 2007

Town Board meeting: December 10, 2007

November 12, 2007

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(a complete copy of the Negative Declaration and the Local Law are available for review in the Town Clerk's office during regular hours-too lengthy to print here)

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RESOLVED, that the Town Board of the Town of Alexander feels it is in the best interests of the Town of Alexander to adopt **Local Law No. 3 of 2007, entitled "2007 Amendments to the Town of Alexander Zoning Law;"** and be it

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