

**Cattaraugus County Planning Board
August 30, 2018**

PLANNING BOARD MEMBERS PRESENT: Paul Mager, Vice Chairman
Michael Zaprowski, Secretary
Andrea Mellon
Al Ormond
John Sayegh
Mark Smith
Dave McCoy
Tina Abrams

PLANNING BOARD MEMBERS ABSENT: Charles Couture, Chairman
Florence Fuller, Assistant Secretary
Robert Keis
James Valent
Kathy Ellis

PLANNING DEPARTMENT STAFF: Crystal Abers, Director
Paul Bishop, Planner
Patrick McGlew, Development Specialist
Kate O'Stricker, Development Specialist

GUESTS: Ginger Schroder, Town of Farmersville
Eric Miller, Invenergy
Stephanie Milks, Freedom United
Paul Gregory, Developer

Paul Mager, Vice Chairman, called the meeting to order at 7:00 pm.

1.0 APPROVAL OF MINUTES

Mike Zaprowski moved with a second from Mark Smith to approve the minutes of the July 25th, 2018 meeting. Motion was carried.

2.0 NEW BUSINESS

General Municipal Law Section 239 (l) & (m) Referrals

Town of Farmersville - Local Law: Wind Energy Facilities

Discussion of Local Wind Law issues:

Crystal Abers: PILOT Agreement 487 (B): All of the municipalities (taxing jurisdictions) have an option to Opt Out which makes the solar, wind and methane digesters taxable

This allows for a PILOT through the IDA, where the taxing entities figure out a percentage instead of being fully taxed.

Paul Bishop: Reviewed Cattaraugus County Act No: 368-18 with the Board.

Town of Freedom: Did not provide SEQR Full Environmental Assessment Form with their referral for local wind energy law. The Planning Board should have sent it back as an incomplete referral. The County Planning board is now requesting them to rescind the vote on the local law and resubmit a complete referral.

John Sayegh: Asked if it would be appropriate for the Planning Board to pass a resolution supporting Cattaraugus County Act No 368-18 limiting the PILOT from the IDA. John Sayegh made a motion to support the Cattaraugus County Act No. 368-18. Paul Mager seconded the motion: 2 aye, 0 nay, 6 abstained. Motion was not passed.

Presentation from the Floor:

Ginger Schroder: representing citizen groups such as the Old Order Amish, Concerned Citizens of Farmersville and Cattaraugus County. Ms. Schroder presented issues concerning the Farmersville Wind Law and procedural issues: the Board lacks jurisdiction to act on the law due to the incomplete submission: SEQR Full EAF (Parts 1, 2, and 3) are required and Parts 2 and 3 were not submitted.

Ms. Schroder discussed the Wind Law being passed with a proposed project in mind. Freedom of Information Act was performed to get correspondence between Invenergy and the Town of Farmersville Board. It was discussed that there are people on the Board that are financially gaining from the Invenergy Project that have not disclosed that relationship and are participating in drafting the law for the wind company. It is believed that the law is being written by the wind company for the wind company. It is not necessarily being drafted for the health, safety, and welfare of the residents.

The Town of Farmersville answered on the EIS that the wind law has no inter-municipal impact. Ms. Schroder presented the study area visual impact completed by Invenergy and the impact that will be had over a ten mile radius. She discussed that the Cattaraugus County Planning Board are the stewards of the Comprehensive Plan. The diagram shows the municipalities outside of Farmersville that will be visually impacted. Ms. Schroder added that the wind law is highly inconsistent with the Cattaraugus County Comprehensive Plan due to the visual impact to neighboring communities and has an inter-municipal impact on neighboring communities.

Eric Miller: representing Invenergy. discussed that they have over \$1,000,000 into this project and there is community support for the project. There have been 120 lease agreements, largely with farmers. These are people that will have cables, turbines, etc. on their properties and are for the project. Invenergy has talked to the Towns and the Town Boards have been interested in the project. They have been extensively debating

this since January and have done research. There are people who do not want to see the turbines, but they do not represent the whole town. A more way fair way to represent agreement is that there are probably 100's who are supportive and many, many more, maybe 4,000, who are not taking any position at all but are probably interested in the \$7,000,000 coming in the towns per year.

Any project, whether it is a coal plant or a wind farm, have to have a PILOT to happen, like it or not. You will be turning away \$7,000,000 going to schools, fire departments and towns for 50 turbines in the northeast corner of the County.

Comprehensive Plan: Agriculture, Cultural Heritage, Tourism, Rural Culture, Environmental Assets. Invenergy has projects in West Virginia that actually put out tourism books using wind turbines as tourism draws. This area is a heavily farming community that is having a hard time right now and this project will bring in money for farmers and helps keep their business working.

Helps with rural culture because it will remain rural agricultural after turbines are installed and cannot be turned into rural residential.

In these ways, the Town was correct in checking the box that the law is consistent with the Comprehensive Plan.

The viewshed map is very preliminary, not a final map and is a conservative representation that shows where people will possibly see a wind turbine. This map assumes that there are no trees anywhere. It is color coded and if you see a tip of a turbine, that is a view. Need to also factor in vegetation. If you are ten miles from the turbines, you may see the tips of the turbines, but they are very small. It is very premature to base this on the viewshed map.

Comprehensive EIS is being done for New York State, which is a part of Article 10. It is an exhaustive process. This map is one of the first steps taken in the EIS process. It is only fair to let this kind of process play out before decisions are made prematurely and it is important to look at the full economic development of these projects.

All the towns are looking for is a project consistent with the comprehensive plan and the freedom to make their own choices because it is a local issue.

Stephanie Milks: Freedom United. Comments made about Freedom residents wanting turbines - six people will have 54% of the turbines on their land. One person has eight turbines on his property in Freedom with an additional three on property he owns in Arcade. That does not appear to be 90% of the town that wants the turbines. If this is something that more people wanted, wouldn't they be more wide spread? Freedom public hearing, all participants spoke out against the turbines with serious and legitimate concerns. One did speak in favor and he does have financial benefit in the project. There is video for verification. Other issues brought up by Ms. Milks Include:

- Town Supervisor has a brother in Centerville with a lease on his property.
- Planning Board chairman has a turbine at his residence as does his children.
- Board meeting minutes state that a meeting was held with Invenergy to see what they needed to do to accommodate the commercial scale turbine.
- The town board and planning board are not taking concerns into account.
- Residents have asked for a property value guarantee agreement with Invenergy, but the town is refusing to do that. However, Invenergy repeatedly states that the project will not affect property value so there is no reason to not provide the Property Value Guarantee insurance plan.
- Proposed Law March 20th 2018 was sent to County Planning Board, but the public hearing was not held until March 26th.

Setback Issues: with a condensed population that includes 1,399 taxable parcels and 2,400 population, homes are fairly close together. The only way to fit that number of turbines in was to make the setback at 1.1X, which is 643 feet from a non-participant property. There are concerns about property right infringements, safety zone of 1,200 feet which is how far back from the residence the turbine has to be. Why safety zone is not extended past property lines as well. Ice throw, fires, blade breaks, oil in the cell area, 600 feet tall lightning rod. Residents will lose the use of pieces of their property. There has to be a way to protect the resident's property rights, the town's property rights, property values and protect when blades fall out. One of Invenergy blades fell on an Orangeville Project where there were hunters nearby. Further setbacks are needed with flicker and noise issues and property values, property right infringement.

Eric Miller: Invenergy. Stated that the numbers that were stated by Stephanie Milks are taken out of context, he disagrees with all of them and the New York State EIS will do a thorough review and have professional people weigh them carefully.

Kathy Kellogg: Farmersville resident. PILOTS are a solution to keep from having to tax land owners who host the turbine. Has witnessed Town Board meetings and watched deliberations of the wind law.

- Ms. Kellogg witnessed the Town Supervisor say "if we don't pass the law, the County will get the money. We want the money."
- There is no good, hard factual information coming out the of these meeting for people to make informed opinions.
- The Board defers to Mr. Miller and his employees for questions, but town's people are not allowed to pose questions. Town residents do not feel they should be branded as the wind production community.
- It is discouraging doing land use planning. Will try to petition for zoning so residents have a say of what comes into the Town.
- Looking at the board minutes shows that many of the people with leases are influencing the process.
- Windmills are not a tourist draw.

STAFF RECOMMENDATION: The Board was not able to consider the referral due to it being incomplete in that it was lacking Parts 2 and 3 of the Full Environmental Assessment Form. It will be sent back to the Town as an incomplete referral.

City of Olean - Use Variance - 1603 Main St.

Paul Bishop reported:

There was no justification provided for the use variance (four part test).

STAFF RECOMMENDATION: Referral received with no justification provided for the use variance (four part test). Sent back to the City as an incomplete referral.

Town of Allegany - Site Plan Review - 3139 Route 417

Paul Gregory (the developer) discussed the site plan for the future Harbor Freight store.

- Site of former Desoto Motel - 2.5 acres at West State and Desoto Road
- Building 16,020 sq. ft. commercial building with second building in back
- 91 parking spaces on site
- No variances required
- Will be Increasing green space on the site
- Working with planning board on drainage and lighting plans
- Impervious surface area will go down on the site
- Working with neighboring houses to mitigate any issues with lighting
- Rough estimate of employees may be 10-20, full time and some part time
- Brings in jobs, tax revenue
- Places the building along West State with parking in the back which follows the Comprehensive Plan

Additional Information:

- TAX MAP NO'(S): 94.061-3-6
- SEQR: Unlisted Action - Short EAF Submitted
- AG DATA STATEMENT: N.A.
- FLOODPLAIN: No
- WETLANDS: No
- ARCHAEOLOGICAL SENSITIVE AREA: Yes
- PUBLIC HEARING: To be held September 10, 2018 at 7:00 PM at the Allegany Town Hall

STAFF RECOMMENDATION: The proposed action has no significant county-wide or inter-municipal impact.

Dave McCoy moved with a second from Mike Zaprowski to accept the staff recommendation. John Sayegh abstained. Motion was carried.

Village of Ellicottville - Special Use Permit - 37 Mill St.

Paul Bishop reported:

- The applicant wishes to establish a mix of retail/office spaces and two accessory apartments.
- Referred to this Board due to the site's location within 500' of the Town/Village boundary.
- The existing building consists of a two bedroom second floor apartment, a first floor show room, office and manufacturing shop. They would like to renovate part of the shop area into a 4 bedroom apartment. The remaining area would be divided into two office/retail areas. As part of that renovation they would like to add a 12'x 24' covered deck on the right side of the building and a 10'x18' covered patio on the left side.
- Adequate parking is provided.

Additional Information:

- TAX MAP NO'(S): 55.036-2-16.1
- SEQR: Unlisted Action - Short EAF submitted
- AG DATA STATEMENT: N.A.
- FLOODPLAIN: No
- WETLANDS: No
- ARCHAEOLOGICAL SENSITIVE AREA: No
- PUBLIC HEARING: To be held September 11th at 5:30 PM in the Ellicottville Town Hall

STAFF RECOMMENDATION: The proposed action has no significant county-wide or inter-municipal impact.

John Sayegh moved with a second from Andrea Mellon to accept the staff recommendation. Motion was carried.

Environmental Reviews: None

Intergovernmental Reviews

Paul Bishop reported that the County received Intergovernmental Review STW #18.16. Received, reviewed, no comment.

3.0 OLD BUSINESS

None

REPORTS / OTHER BUSINESS

Chairman's Report – None

Department Reports

Director's Report

Crystal Abers reported:

The census has identified 4,200 points that the state did not have. We are waiting to hear what to do next.

Comprehensive Plan Implementation (Goals Referenced)

Community Revitalization (Goal #6)

- Nothing new

County Trails: (Goal #8)

- ARC GIS Mapping and Signage Project Application was submitted today. Final October 5th

Land Bank: (Goal #6)

- Currently the land bank has 31 properties (2017=9 and 2018=22)
- Demoed: 6 of 7 demos completed - Toad Hollow only one left
- In next few weeks we will be transferring: all seven for side lots
- Two rehabs will be sold with scope of work
- Three parcels will be sold for buyer to demo
- 2018 Demos: 11
- 2018 Rehabs: 6
- Zombie Training September 6th

ARC Community Development: (Goal #4)

- Nothing new to report

OTHER:

For the Census the Planning Board usually serves as the Complete Count Committee. Mr. Bishop asked if the Planning Board will do it again for 2020.

There will be an Agriculture Municipal Planning Session on Tuesday, September 25th in North Collins in the morning and Agriculture Preservation Tools at the Roycroft in East Aurora in the evening.

STW Report

Nothing new to report

Members Forum

Patrick McGlew: Legislators approved a resolution to support the application for the Ag and Farmland Protection Plan Update.

Dave McCoy: Review of Projects - some are easy to wrap our arms around and the staff recommendation is helpful. Larger projects, such as wind projects, are so complicated that it is hard to get an accurate view of the project itself from the couple people that are at the meeting. It would be helpful to have the referrals available for review before the meetings. Paul Bishop agreed and will send out information on larger projects to the Board members before the meeting.

Mark Smith: Public service commission sends out packets to the town supervisor of the affected municipalities and neighboring towns

John Sayegh: Presented a new HVAC program at JCC on the Olean campus: The program is \$1200 with an EPA certification to handle refrigerants. The JCC Foundation is offering \$300 scholarships. Program starts on the Olean Campus September 18th. There are 12 spots in the program.

5.0 CORRESPONDENCE AND UPCOMING MEETINGS / EVENTS

(attached to the back of the agenda)

6.0 NEXT MEETING

The next meeting of the Cattaraugus County Planning Board will be held on October 25th, 2018 at 7:00 pm at the County Center in Little Valley.

7.0 ADJOURNMENT

Dave McCoy moved to adjourn the meeting at 8:10 pm.