

**MINUTES
SPECIAL MEETING
GORHAM TOWN BOARD
MARCH 28, 2007**

The Gorham Town Board held a special meeting on Wednesday, March 28, 2007 at 7:30 PM at the Town Hall, Gorham, NY. Present were Supervisor Calabrese, Councilmembers Lightfoote, Glitch, Busch and Adam-Anderson, Code Enforcement Officer Freida, Jerry Hoover, Allen Martin, Curvin Shirk, David Ringler, John Burnett, John Zimmerman, Stephen Dancause, Janell Dancause, Debbie North, Jeff North, Marin Horst, John Newswanger, Kenneth Newswanger, Jary Newswanger, David Fox, Loren Newswanger, Lloyd North, Michele Cutri-Bynoe and Town Clerk Hollenbeck.

1. Call to Order/Pledge to the Flag:
2. Privilege of the floor: Supervisor Calabrese stated that we do have copies of the proposed draft Wind Energy Law if anyone would like one. It was a little over a year ago that we became aware that many towns around us were in the process of drafting wind energy laws. We felt that it was important to look into it and at that time we adopted a six month moratorium on the installation/placement of wind turbines. A lot of towns around us have had wind energy people contact them about wind energy. We have not had anybody contact anyone on this board about wind energy. We worked on one draft law and determined that we needed another six month moratorium. The Planning Board received the draft and has reviewed it and reviewed other regulations from other municipalities. What we are working with right now is a draft dated February 4, 2007. We will go through this draft tonight and discuss it. Everyone here will have the opportunity to speak. After Privilege of the Floor the Board will go through the ordinance and discuss it. We will have Privilege of the Floor again if there are any other comments. It may take a few meetings to come up with regulations that the people want. Supervisor Calabrese reminded everyone that this is a Democracy that we live in and the majority of the people rule. This is just part of the process. When this Board has a document that we think the public wants, we will probably have an informational meeting before the Public Hearing. If people do not like certain things, they will have an opportunity to comment. Hopefully, when we get to the Public Hearing, a majority of residents will be in agreement with the document put forth.

Jeff North referred to a prepared statement as follows: he is not against alternative energy but he is against the destruction of farmland. He feels it is wrong to place wind turbines and access roads through our prime agricultural land that can never be reclaimed.

Over the years, farmers have worked hard to improve our farmland and increase our productivity. The Town of Gorham can lay claim to some of the best farmland in Ontario County. NYS Ag and Mkts recommends to minimize impacts of normal farming operations by locating structures along field edges and in non-agricultural areas where ever possible. Avoid dividing larger fields into smaller

fields, which are more difficult to farm. He has been told this will protect farmland. Wind turbines and access roads cut through the center of fields in the Town of Fenner, pictures were available.

It is not right that five town officials, tell farmers to give up their rights and destroy their land when they are doing more to reduce dependency on foreign oil than the average person. Farmers across the state are gearing up to increase production of corn and soybeans to satisfy the needs of the ethanol and bio-diesel plants.

The Town of Gorham should support its farmers and let wind energy go where it will have a less negative impact on a community and preserve the whole town. Why should the farmers and land owners destroy their land, never to be reclaimed, for the aesthetics of the east side of the lake. The east side of the lake will do nothing for us.

David Ringler asked if putting up a windmill was industrial or agricultural.

Supervisor Calabrese stated that regardless of whether it is industrial or agricultural, by making regulations now we can prevent Ag and Markets from ruling that it is agricultural. If we have rules and regulations in place, whatever we end up with will trump Ag and Markets, at least we try to. If we have a law in place regulating placement of turbines and then Ag and Markets comes in and says it's a renewable energy source and we're going to allow farmers to put them in, they must still comply with our regulations.

Janell Dancause stated that it may not necessarily be against the windmills, but maybe the companies that build them. They may come in with a beautiful rosy picture to everyone and everyone jumps for it and then they do something entirely different and you have no come back.

Supervisor Calabrese again stated that that is why we are here. We need to have regulations in place before any company approaches our residents to put in any units. We need to have regulations in place so that we can be sure that they are followed.

Councilmember Glitch mentioned that we had a similar situation some years ago regarding cell towers. Everyone was concerned with cell towers popping up everywhere. We worked through creating a law with the regulations regarding placement, etc. and it turned out to be almost a non issue. We only have one cell tower in town. We are trying to be ahead of the game with regard to wind mills. The other thing is that the Town of Gorham does not have the best wind for wind farms so it may never be an issue. Those companies are looking to make money and if the wind is not there, it's not going to happen. We are trying to make sure that if it comes, we have regulations in place to protect ourselves.

Concerns regarding stray voltage were expressed.

Debbie North stated that you are comparing apples to oranges (cell towers and windmills). You are inviting something into the community, maybe that's not the correct word, but it is something that has moving parts, etc. She referred to a prepared statement as follows: She is not against alternative energy of any

kind. What she is against is the placement of turbines that will erase our heritage and future in one fell swoop.

The Farmland, Open Space and Resource Conservation Plan adopted in June 2005 has objectives that include "preserve the rural character of the Town", "protect scenic views important to the community", and "retain high-quality farmland for continued agricultural use".

The proposed commercial wind farm law, in its current format, does not protect farmland or go far enough in protecting our rights as landowners. Her first concern is the setbacks. One and one half times the height of a turbine is not far enough to protect us from noise levels and shadow flicker. At distances from ¼ to ½ mile you could hear the repetitive thumping of the rotors. I do not want to feel the effects on a daily basis, or see them stretched out across the horizon.

Mrs. North stated that she wanted to hear the crickets at night, her neighbor's roosters in the morning and wants to see the light of the sunset in her dining room. She does not want the intrusion of whump whump whump and does not want to be reminded of the good old disco days at the Starlighter every evening.

Some have said that this noise is not that bad. For comparison, think about laying in bed at night and hearing the drip drip drip of a faucet. Think about your spouse snoring all night long. These noises are not intrusive, but in time become annoying. You turn the faucet a little tighter or nudge your spouse until they roll over. A wind turbine does not stop, it keeps going whump whump whump. Sleep deprivation can occur at a constant 30 decibel level, and the Town of Gorham thinks 50 decibels at our property line would be just fine. She does not.

A guideline from Cornell University for wind farms recommends a ¼ mile setback to minimize the noise and effects of turbines. A guideline from NYS Energy Research and Development Authority recommends 1500 feet.

In a sample lease agreement obtained from NYSRDA, the wind company will have the right to generate and maintain audible sound levels on and above the leased property up to 65 decibels at 500 meters (1640 feet) from the source of the sound at any or all times of the day or night. This is another reason for enforcing a set back of at least 1500 feet.

Farmers and landowners will be asked to sign leases giving up certain rights. We could not engage in any activity that would interfere with wind speed, direction, or cause decrease in output or efficiency of the wind turbine. For example, we would have to obtain written approval from the wind company before constructing a new barn or silo. The wind company reserves sole and absolute discretion for proposed structures.

Easements from adjoining property owners will also be needed before a turbine can be constructed. Neighbors who sign the easement will be giving up the same rights for their properties.

If you sign the lease as either a landowner or adjoining property owner, you effectively have signed a gag order. The confidentiality agreement that you

have signed will keep you from discussing any terms of the lease or publicly voicing a complaint about the turbines and any negative effects.

Without the cooperation of the farmers and landowners, wind farms in the town of Gorham will not be possible. We need to enforce setbacks of at least 1500 feet from property lines and a distance of 1500 feet between turbines to ensure our safety and quality of life. Our neighbors in Cohocton have had spirited discussions regarding setbacks and have gone with 1500 feet. The Town of Sheldon had a project with 1000 foot setbacks and the residents spoke out. The town board members listened and now the setback is amended to 1500 feet.

Mrs. North challenged our Town Board to make the right choice for Gorham residents and guarantee the safety of our families and protect our farmland. Give us at least 1500 feet setbacks and keep turbines out of our fields or give us no turbines at all.

A proper setback will make turbine placement extremely difficult in the Town of Gorham and she thinks that is a GOOD thing.

If this Town Board feels that the turbines are such a positive thing for the town, then I recommend you all sell your homes and move out into the preferred wind zone. I am sure you will sleep well at night knowing that you have placed a GIANT outside your door and at its feet there's a sign – DANGER HIGH VOLTAGE KEEP OUT!

Lloyd North stated that he is against the destruction of farmland and giving up our rights to place wind turbines. The rural character of the Town of Gorham is due to the hard work of the farmers and homeowners. I don't know why we have to protect the east side of the Town and not our side over here. I don't understand your thinking. One thing I do know is I don't want to hear the groan of the turbines 24 hours a day, 365 days a year. I don't want to have to get up and work on my farm and see and hear the whsh whsh every day of my life. I don't want to see it in the Town of Gorham in the farm land. When you put the pads in for the turbines, you will never reclaim that land. I don't want my thoughts disturbed by the sound and sights of the turbines. Agricultural is one of the most risky jobs there is, we are working around machinery all day, . If you are going to save the east side, save our side and let's do the honorable thing and let's save us all and make sure that we all have decent lives and don't have to get up and listen to this whsh whsh forever.....

Supervisor Calabrese again informed the audience that we have not made any decisions, we have jotted down on paper what other communities have. We can make this read that there will be no wind farms in Gorham if that is what the people want. We need to get the input and need to discuss this. We have not made any decisions.

Lively discussion continued. It was apparent that some in attendance did not understand that the Town does not have any regulations in mind at the moment other than protecting the residents. Some in the audience think that the Town is trying to get windmills in here and take away their land. This is

absolutely not true. They are trying to do what is best for the Town as a whole and prepare for the possibility of windmills. The Town is not trying to get windmill farms brought in. If a company wants to put in a windmill farm, they will not contact the Town, they will contact the landowners. It is ultimately up to the property owners whether or not windmills can be placed. If the Town has no regulation, then they could be placed anywhere. The Town is trying to put together regulations to protect everyone. The comments from the residents are very necessary and very welcome so that the Town Board has an idea how they feel about windmills and what they want.

Councilmember Lightfoote stated that we are not trying to put anything on to anyone. We are trying to gather input from people, discuss it and try to come up with a document that addresses the concerns of the residents. Residents seem to be under the assumption that the Town has this all figured out and the regulations have been made. That is not true, we are looking at everything, as we are required to do, which is part of the process.

Discussion continued, heated at times. Board members tried to let those in the audience know that their comments are very important and will certainly be taken into consideration and that the Board has not already decided on regulations. They need input from the residents and welcome it.

Privilege of the floor was closed.

3. Water District Extension #12, Spring Hill Subdivision
 - a. Resolution Approving order of public hearing. On the motion by Councilmember Adam-Anderson, seconded by Councilmember Lightfoote, the following resolution was adopted. Motion carried unanimously. (5-0). **036-2007**

**RESOLUTION OF THE TOWN BOARD OF
THE TOWN OF GORHAM
APPROVING ORDER OF
PUBLIC HEARING**

WHEREAS, the Town Board deems it to be in the best interests of the residents of the Town of Gorham to pursue the creation of Water District Extension #12, Spring Hill Subdivision, pursuant to a Map, Plan and Report made by McMahon LaRue Associates, P.C., dated April 12, 2006 and revised January 5, 2007, and filed with the Town Clerk on March 27, 2007, (See Exhibit 1 attached hereto and made a part hereof.)

NOW, THEREFORE, BE IT RESOLVED

That the Order Calling for Public Hearing, attached hereto, shall be signed by the members of the Town Board of the Town of Gorham and published, posted and entered into the Minutes in accordance with the Town Law and the Town Clerk and/or Counsel to the Town are hereby authorized to take any and all further measures necessary to comply with the Town Law in preparation for the final adoption of the aforementioned water district creation.

On the motion by Councilmember Adam-Anderson, seconded by Councilmember Lightfoote the following Order Calling Public Hearing was adopted. Motion carried unanimously. (5-0). **037-2007**

b. Resolution Order Calling Public Hearing

At a regular meeting of the Town Board of the Town of Gorham, in the County of Ontario, New York, held at the Town Hall of the Town of Gorham on March 28, 2007.

PRESENT:

- Town of Gorham
- Richard M. Calabrese, Supervisor
- William Glitch, Councilperson
- Frederick Lightfoote, Councilperson
- Allyson Adam-Anderson, Councilperson
- Anthony Busch, Councilperson

_____X

In the Matter

ORDER CALLING PUBLIC HEARING

of the

Creation of Water District Extension #12, Spring Hill Subdivision in the Town of Gorham in the County of Ontario, New York.

_____X

WHEREAS, previously hereto a map, plan and report entitled "Engineer's Report of Proposed Public Water Supply Improvements at SpringHill Subdivision" last dated January 5, 2007, has been prepared by McMahon LaRue Associates, P.C., in such manner and in such detail as has heretofore been determined by the Town Board of the Town of Gorham, New York to be in full compliance with the law and relating to the creation of Water District Extension #12, SpringHill Subdivision , to be known and designated as Water District Extension #12, SpringHill Subdivision ; and

WHEREAS, such map, plan and report has been duly filed in the office of the Town Clerk of the Town of Gorham, New York, and is available for public inspection thereat; and

WHEREAS, the boundaries of the proposed water district are set forth in Exhibit 1, attached hereto and made a part hereof; and

WHEREAS, the improvements proposed consist of the construction and maintenance of distribution mains with associated appurtenances to serve said water district, in accordance with the aforementioned map, plan and report now on

file in the office of the Town Clerk of said Town; and

WHEREAS, the cost of installing these improvements will be borne wholly by the Developer. No debt or cost will be incurred by the Town of Gorham or future property owners within Water District Extension #12, SpringHill Subdivision for the installation of these improvements.

The initial estimated hook-up fees are \$175.00 per meter. Any hook up fees to be charged shall be determined on an annual basis by the Town Board.

NOW, THEREFORE, be it **ORDERED**, that a meeting of the Town Board of the Town of Gorham will be held at the Gorham Town Hall, 4736 South Street, Gorham, New York, on May 9, 2007, at 7:30 p.m. on said day, to consider creation of said water district including the environmental significance thereof and to hear all persons interested in the subject thereof, concerning the same, and for such other and further action on the part of said Town Board, with relation to the premises; and

BE IT FURTHER ORDERED, that this Order Calling for a Public Hearing shall be published and posted as required by law.

- c. Resolution regarding Lead Agency – SEQR

On the motion by Councilmember Busch, seconded by Councilmember Lightfoote, the following resolution regarding Lead Agency in the SEQR process for the Water District Extension for Spring Hill Subdivision was adopted. Motion carried unanimously (5-0) **038-2007**

RESOLUTION REGARDING THE ESTABLISHMENT OF LEAD AGENCY FOR THE WATER DISTRICT EXTENSION #12, SPRING HILL SUBDIVISION BY THE TOWN BOARD OF THE TOWN OF GORHAM

WHEREAS, the Gorham Town Board (hereinafter referred to as Town Board) is in the process of establishing Water District Extension #12, Spring Hill Subdivision (hereinafter referred to as District); and

WHEREAS, the following agencies are involved agencies, pursuant to Part 617 of the SEQR Regulations, in the formation of the District:

- Town Board;
- New York State Department of Health.

WHEREAS, the Town Board is prepared to be the Lead Agency for all environmental review of the proposed District pursuant to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board does hereby establish itself as the designated Lead Agency under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED, that the Town Board directs the Town Clerk to notify all involved agencies identified in this Resolution that the Town Board has determined that it shall be the Lead Agency for the proposed District and that this determination will be effective 30 days from the date such notice is given. Such

notice must be accompanied by either Part 1 of the Environmental Assessment Form or a Draft Environmental Impact Statement.

4. Moratorium 3rd Wind Farms

a. Town Clerk Hollenbeck explained that the action taken on February 28, 2007 to adopt the 3rd Moratorium on Windfarms needs to be rescinded. The application was referred to the Ontario County Planning Board, their determination was made on March 14, 2007. Citing lack of potential countywide or intermunicipal impact, a motion was made to abstain from making a formal recommendation. Local board may take action. The Town Board needs to rescind the resolution made on 2/28/07 adopting LL#1 and then make a new motion to adopt LL#1-2007.

On the motion by Councilmember Adam-Anderson, seconded by Councilmember Busch, Resolution #027-2007 adopted on February 28, 2007 to adopt Local Law #1-2007 was rescinded. Motion carried unanimously. (5-0)

039-2007

On the motion by Councilmember Adam-Anderson, seconded by Councilmember Busch, the following resolution was adopted regarding Local Law #1-2007, 3rd Moratorium on Wind Farms. Supervisor Calabrese, Councilmembers Adam-Anderson and Busch voted YES; Councilmembers Glitch and Lightfoote voted NO. (3-2)

040-2007

RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF GORHAM OF LOCAL LAW NO. 1 OF 2007 ENTITLED "A LOCAL LAW ESTABLISHING A THIRD MORATORIUM ON WIND FARMS"

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Gorham for a public hearing to be held by said Town Board on February 28, 2007, at 7:00 p.m. at Gorham Town Hall, 4736 South Street, Gorham, New York, to hear all interested parties on a proposed Local Law entitled, "A Local Law Establishing a Third Moratorium on Wind Farms"; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Gorham, on February 18, 2007 and other notices required to be given by law were properly served, posted or given; and

WHEREAS, said public hearing was duly held on February 28, 2007, at 7:00 p.m. at the Gorham Town Hall, 4736 South Street, Gorham, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, the Town Board of the Town of Gorham, after due deliberation, finds it in the best interest of the Town of Gorham to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Gorham hereby adopts said Local Law No. 1 of 2007, entitled "A Local Law

Establishing a Third Moratorium on Wind Farms", a copy of which is attached hereto and made a part of this resolution, 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 in the Local Law Book of the Town of Gorham, and to give due notice of the adoption of said local law to the Secretary of State of New York.

5. Other

a. Jerry Hoover, request to place storage shed at Highway Garage for Marcus Whitman Youth Soccer. Mr. Hoover informed the Board that he is involved with the Marcus Whitman Youth Soccer, a self funded organization. They have use of many of the fields in the District. They have an 11 member board and all share duties throughout the year. For several years we have had one person in charge of equipment storage. We have balls, cones, flags, etc. it ends up being about 25-30 bags of equipment. Usually one Board member takes care of the equipment and stores it in his garage, etc. We would like to purchase a storage shed and are asking if it could be placed on the property at the Highway Garage. Jerry has talked to Kelly Ayers who has indicated that he has no problem with placement near the Highway Garage. Jerry stated that the shed would be accessed only a couple of times a year and only by a couple of people, Board members. They are insured.

On the motion by Councilmember Busch, seconded by Councilmember Glitch authorization is granted to the Marcus Whitman Youth Soccer Group to place a storage shed on Town property after signature of a lease agreement and further authorization by the Highway Superintendent regarding placement. Motion carried unanimously. (5-0). **041-2007**

b. Ontario County Soil and Water Conservation District – Request for support for reimbursement of legal expenses for the Watershed Inspector with regard to recent litigation.

c. Wind Energy Discussion - Boardmembers reviewed Draft Local Law dated February 4, 2007.

Councilmember Glitch mentioned that because of our current height limitation of 35 feet, that may prevent an individual from having a personal windmill. He is not sure if fifty feet is adequate. It was discussed that some places allow up to 100 feet for non commercial. If the height limit is 35 feet, probably no one would be able to put one up for personal use. If at 35 feet it may be prohibitive.

Reducing the shadow flutter from 10 minutes per day to 5 minutes per day was briefly discussed. The Planning Board had recommended reducing to five minutes. The Planning Board also recommended reducing the maximum height from 400 feet to 300 feet.

Setback from a boundary line of one and one half times the height of a windmill was briefly discussed. Many thought it was not far enough. Also one and a

half times the height between structures. The setback itself may eliminate many possible windmills.

Councilmember Busch stated his concerns, he has read a lot of correspondence, information, articles, etc. it is obviously an emerging technology. It is not really established. Wind turbines and what they are, there are all sorts of advancements being made, some require less wind, less large rotors, less height. We are trying to put together an amendment that will regulate at least what due process one would go through if one wishes to apply for something like that. That is very difficult. Right now there are windmills out there that are very noisy, high flutter. The newer ones may not have those issues. His main concern is that we certainly have in place something that guides any development like this that the majority of the people in the town believe in. And that we basically say what you cannot do and what due process you have to go through to do something. It may be very illusive as to what wind technology may end up. Much of the documentation talks of a 20-25 year payback and a 10% per year operating cost. Someone going out to put in a \$50,000 windmill will take a long time to get that back. I don't feel there will be a big rush to put them in. We need to have something on the books that guides, so that you don't get a situation where someone can come in and bypass rules and regulations that don't exist.

Mr. Freida mentioned that the maps that have been shown at various meetings are available to anyone. They can be obtained off the internet. The ones that we have show where the wind is at a certain level. If you make an adequate setback in the regulation it will eliminate a lot of properties from having windmills. Also, just for example, say a Town has a zone where windmills are allowed and a windmill company approaches a property owner and asks them to sign a lease, if they don't want one, all they have to do is say no. Don't sign the lease. There will be no imminent domain of property, it is up to each individual property owner to say yes or no.

Since people seem to not want wind farms in several areas of town, do we prohibit them altogether or is there an area where they would be acceptable?

Councilmember Glitch stated that one of the things he struggles with frequently, is the individual rights of people and their property and doing what they want to do with their own property. If we say no wind towers, in some way we are taking away some property owner's rights. If they are not allowed, the property owner cannot decide for himself whether he wants a tower or not. People should be able to decide for themselves what they want, within reason. It is a very difficult thing to balance.

Jerry Hoover stated that the communities that do not have any regulations in place are hurt when a developer comes in. I think you are absolutely doing the right thing by putting regulations in. You are not inviting these things, you are telling people that we are going to control them if they try to come in here. That is the right thing to do is get the regulations in place before it happens. There is a

community directly south of us that is openly discussing with at least two companies the very real possibility of putting wind mills in, and they want them. Very likely it will happen in a community nearby. Mr. Hoover asked that any regulations considered do not allow use of eminent domain to take over someone's property, that should be definitely prohibited.

Board members discussed at length the draft and made various suggested changes. Distance of blades above finished grade to be a minimum of 15 feet; if an application comes to the Town, everyone within a two mile radius should be notified, site plan review to be required, setbacks of 1500 feet from property lines, structures, etc.

d. Watershed Inspector – Legal Expenses. Correspondence of March 20, 2007 from Thomas DeRue requests support from participating municipalities in reimbursement of legal expenses to the Watershed Inspector for the summons brought on by Timothy and Diane McMullen.

After a brief discussion, Councilmember Adam-Anderson moved to support payment of legal expenses for the Watershed Inspector, George Barden , with regard to the summons by Timothy and Diane McMullen. Councilmember Busch seconded the motion that carried unanimously. (5-0). **042-2007**

e. Open House – Town Hall. Work is nearly complete on the addition and renovations. We would like to schedule an open house on June 9th from 1-3 PM. Supervisor Calabrese will get a newsletter out so that all residents will be informed.

6. Privilege of the floor: Residents spoke again expressing their thoughts that windmills and farms don't mix.

7. Adjournment: On the motion of Councilmember Busch, seconded by Councilmember Glitch, the meeting was adjourned at 9:38 PM.

Respectfully submitted,

Nancy Hollenbeck
Town Clerk