

DRAFT
MEETING MINUTES
FOR
YATES COUNTY PLANNING BOARD MEETING
September 24, 2009

PRESENT: Yates County Legislators-Taylor Fitch, Richard Willson, Douglas Paddock; Sarah Purdy, County Administrator; Shawna Bonshak, County Planner; County Planning Board- Marilyn Scharf, Judy Wiltberger, Dave Christiansen, Jerry Stape, Kevin North, James Ritter, Sandra King, Charles Mitchell, John Sawers, Ronald Rubin, Donald House; #2009-41- Michael Schrouder; Press- LouJane Johns, Peg Anderson, Amanda Folts; #2009-45- Daniel Spitzer, James FitzGibbons, Vince Johnson, John Grabski, Deb Koop, Brad Jones, Dave Farrey.

CALL TO ORDER: The meeting was called to order at 7:00 p.m.

APPROVAL OF MINUTES:

Motion made and seconded to approve the minutes of the August 27, 2009 meeting. All in favor.

GML 239 REFERRALS:

2009-41 - Village of Penn Yan. *Site Plan review for applicant Michael S. Schrouder at 267 Lake Street to amend approved site plan by adding additional signage and sales items to current carwash business. (Referral from 8/27/09 meeting - continued to 9/24/09 meeting per applicant request).*

Mr. Schrouder said he used to have a raft, like the floats for the lake, out front of the car wash. Mr. Lyons came and did a fire inspection said can't do it until he goes through a procedure. He would like to do that and his dealer's license is almost complete except for being able to park two to three cars for sale as retail on the car wash property. The cars would be out back not in the traffic flow on the Hicks Street curb. They will not be there in the winter. No new signage other than a registered vehicle repair shop sign which has to go on the back of the building not out front. The floats are 10 x 10. Will only be out between June – September.

Ms. King made a motion to approve his application. There is no county wide impact and it is something that should be dealt with by the village of Penn Yan.

Mr.Christiansen motioned to second.

Ms. Wiltberger; I'm concerned that we are setting a precedence for people to start businesses along sidewalks on Lake St. The raft is pretty ugly out there and it sets a precedent that if someone wants to stick barrels out or something like that on an ongoing basis, I'm concerned about the precedence we are setting in terms of allowing another business to take place on that location.

2009-45 - Town of Italy. *Applicant, Ecogen, proposes to construct industrial wind turbine towers in two (2) wind energy incentive zones in the Town of Italy.*

Mr. Mitchell said what we do in the Town of Italy will set a precedent for other Yates County Towns as they consider wind energy. So I think we need to keep that in mind. Secondly, there is too much data here. It would be virtually impossible for any of us to read all this in two weeks. Even if we had more time to read this, would we understand what we had read? I know I don't understand what I have read. If this application came to a vote tonight I would have to abstain. Lastly, I would recommend that we table the application until we can retain an expert and have time to hear and consider their recommendations.

Mr. Mitchell makes a motion to table the application until an expert can be hired to help the Board sort through the application. Ms. King motioned to second.

Mr. Ritter agrees they should listen to some attending, not dismiss them, but says not to make a decision tonight and if we pass this motion then Mrs. Bonshak will have to talk with the Legislature about hiring an expert.

Mrs. Bonshak will discuss it with her committee about the budget.

Ms. King states she agrees with the information being overwhelming, extremely technical. This is something very serious and needs someone to interpret all this data. Someone neutral.

Mr. Rubin asks if there is a committee or a group that could consider this on a county level, rather than each individual town considering this in the county. It would be better for the county to look at it and develop a program that would be consistent.

Mrs. Bonshak said that possibly form a task force to look at it a come up with some model ordinance that the towns could adopt.

Mrs. Bonshak said there are time restrictions the town will be able to act without their recommendation. It is 30 days from when the full statement was received which was the first or second Friday of this month.

Vince Johnson, Officer of the Finger Lakes Preservation Association. Formerly a member of both the Town's Zoning Commission and the Planning Board ZBA. Helped write the original 2005 Town of Italy Comprehensive Plan and Comprehensive Zoning Law adopted in 2006. At the time the town received the Ecogen application, zoning was in place. He stated in 2006 he spoke with the [YC Planning] Board on the subject urging their support for that proposal. In the development of the comprehensive plan and zoning code the guiding principle was to try to protect and preserve the beautiful hills of Italy, its viewsheds and quiet little character. The original town of Italy survey conducted by the zoning commission verified the majority support for this principle as far back as 2004. Due to this support the zoning commission even recommended the adoption of a special level of protection for the hills and viewsheds with specific scenic protection overlay districts as identified and suggested in the 1998 county planning document, Yates County Looking Ahead. Worth noting that the larger of the two current Town of Italy incentive zones are squarely on top of what was the Emerson Road City corridor and city protection district. It is important to note that on two separate surveys on this subject in addition to numerous hearings going back to the original comp plan and zoning law through the revision to ban wind towers in the town and even in the hearings associated with the recent revision of the comp plan and zoning code from the two industrial incentive wind zones in every case the majority of the residents and/or tax payers have spoken at these hearings indicating that they did not approve of investor wind development in the town or the steps the town board has recently favored. In the most recent hearing on the Ecogen application held on Saturday, September 19, more 80% of those Town of Italy property owners and/or residents that spoke indicated that they did not favor the project in Italy. In addition to the normal newspaper announcement notices and coverage on radio station WYLF AM850, on the day before. It should be noted this hearing was heavily publicized with two separate announcements mailed to every taxpayer entity in the township using Yates County Real Property Tax taxpayer list. Everybody knows about it. Normally wind developers tend to develop wind farms in communities that want them, yet in spite of survey and hearing input dating all the way back to 2004, Ecogen continued to pursue this project in Italy and in so doing clearly established its own hardship in respect to the money and resources it has spent to try to bring this project to fruition in the town. You might be asking yourself why the Italy town board would consider approving and fostering such a project. A project clearly rejected by the majority of the residents and property owners over the several year period. The answer lies in the constant threats of litigation made by the developer. Litigations which the town could not afford to defend itself from and which lead the Italy town board to give in to the developers demands. While the Italy town board focused on its fiscal and fiduciary responsibilities to avoid a potential bankruptcy situation in the town. It did so at the exclusion of its health and well being respects towards the residents. Article 1 of the current Town of Italy zoning code requires the reviewing or to protect the health and well being of its residents.

There is now clear scientific evidence that the setbacks utilized in the town's local law #5 would not protect any of its residents that live on farms surrounding the incentive zones on the steep slopes

below them and any hamlet and valley at their base from a negative impact of both low frequency and impulsive noise which the Ecogen towers will produce. My colleagues and fellow Italy residents who are here will discuss this in further detail with you later in this meeting.

Thor Vandehei; holds a PhD in physics from University of CA, San Diego. Has worked in fields of astrophysics and medical imaging since 2000. Over the last year has researched scientific and technical literature on noise emissions from industrial scaled wind farms. And is here to tell you that this is an issue not to be taken lightly. In property studies wind facilities have serious consequences for those living nearby. The spectrum of all modern wind turbines are significantly slanted toward the low frequency end of the spectrum and produce the majority of their sound energy in the this low frequency sound range. Atmospheric sounds is nearly nonexistent low frequency and long wave lengths allow sound to literally move through and around obstructing obstacles. Enabling these sounds waves to travel very long distances. In addition, low frequency sound is notorious for inducing vibration in windows and other structural elements of homes. You only have to think of heavy construction vehicles passing your homes or deep booming thunder to know what this may do to your home's windows. Wind farms also produce a time bearing _____ and noise at a frequency that corresponds to _____ this is often described as an impulsive noise or amplitude modulation in the literature. Residents living close to wind farms often describe the sound as swish swish or beating noise of the sounds of a distant pile driver. It is important to realize that ambient noise levels often disturb sleep. For example, the United States Environmental Protection Agency has said, "Even getting mild impulsive noises can awaken sleepers". Dr. Christopher _____, a medical doctor with over 30 years of experience specializing in sleep disorders, has said, "there can be no doubt that groups of industrial wind turbines generate sufficient noise to disturb the sleep and impair the health of those living nearby". Just think of the proverbial dripping faucet only this faucet cannot be turned off. In a series of papers starting with the Study Commission for the Swedish Environmental Protection Agency has measured the so called noise dose response curb for wind farm noise. The dose response curb is simply empirical measure of people and noise as a function of sound pressure level and is commonly used to assess and compare impacts due to diverse noise sources. And studies carried out in Sweden and the Netherlands, people's reactions to the wind farm noise, the sounds can be significantly higher than from other more common sources of community noise such as railway, road traffic and air craft noise of an airport, even though these latter sources of noise are at a higher sound pressure. Why this is, is probably related to the unique character of wind farm noise. Railways are intermittent and infrequent, road traffic quiets down at night, and airports usually restrict take off and landing at night. But wind farms can be operational 70 to 80 percent of the time. And the wind typically blows strongest and most steady at night. In addition, the high levels of low frequency of noise and the nature of wind farm noise are both likely to contribute to these factors. In one well documented case a family was forced to abandon their home which was located 3,000 feet from the nearest turbine zone (a wind farm in the UK) because the impulsive noise was so bad they could not sleep in their home. Many families in New York are now beginning to face the same problem. Numerous individuals from Cohocton have addressed our town board about their own personal experience with the noise caused by this industrial wind farm which began operation earlier this year. The descriptions and seriousness of the issues they raise are perfectly consistent with that which is contained in scientific literature in the last half decade, documents from wind farms around the globe. Italy's local law #5 allows the placement of industrial wind turbines as close as 1,375 feet from homes. The standards in this law were directly dictated to Italy town board by the developer Ecogen under the threat of litigation. And as so, the town adversely neglected its responsibility to protect the health and welfare of its citizens. Specifically, Italy town board allowed Ecogen to set the noise standard adopted in Local Law #5 despite the town engineers inability to justify these standards and completely at odds with the scientific literature presented the town during its review. If you have any doubt about the veracity of this claim please listen to the recording at the August 19, 2008 special meeting for a recent transcript provided to see for yourself of what took place when this standard was adopted. At the Italy public hearing on July 11 many people in the audience, that day, requested that the town board hire their own independent noise expert with no financial tie to the wind industry to review Ecogen's application.

Unfortunately, this request was ignored. Because the town board neglected to do so, we hired our own independent noise expert to review Ecogen's application. I strongly implore you to review this expert's report which is contained on the compact disc which is provided to you. Thank you for your time.

Mr. Brad Jones-We have been taxpayers in Town of Italy on three properties since 1958. Currently reside here full time with my wife and our dogs and cats. Would like to thank you very much for tabling this motion and having studied this application and other applications you are absolutely right that it takes hundreds and hundreds of hours to work through them and to reach a fair and honest conclusion. The concerns that I have with regard to the project in Italy and other industrial projects, in addition to what Vince and Thor have mentioned, have to do with property values and tax revenues. Property values around the world, and there is a host of studies, show that industrial wind projects will reduce the property value of those projects within the zone up to a hundred percent. Basically make it unsalable. If you can't sleep in your house it has no value. Properties adjacent to wind farms lose forty to eighty percent of their value. I ask you to consider a brand new wind turbine index study from Wisconsin, dated September 9, it has a lot of new information in it. Forty to Eighty percent it is what they found as reduction in property value. That's two wind farms in Wisconsin. Second issue that concerns me, because this is what I do in my real life, as a consultant in economic development. We have two types of economic development in the Town of Italy. People who live and buy houses, build houses, expand and add to the wealth of the community. And tourism, the people who come into our community, do not want to come to industrial development. Tourists, we know from studies around the world, do not want to come to industrial development. They come to the Town of Italy because it is beautiful, quiet and the vast majority of it looks like it did about a hundred years ago. One of the other things I want to mention is the overall impact of a project. This wind energy incentive zone is 2,000 acres, 3,000 acres something like that. But that's just the zone on which the turbines reside. These turbines impact another 8 to 10 to 12 thousand acres around them. So it's pretty easy to do the math. Our average acreage in Italy is \$2,400 per acre. If we lose 50% of 10,000 acres. Our county tax bill is going to look a lot different than it has in the past. But the impact doesn't stop at the town line. Frank Duserick, Supervisor of Naples wanted to be here tonight. He has to be away at conference. He's very concerned about the impact that the Cohocton project, and the proposed Prattsburgh project, and the proposed Italy project, are already having on property values in the Town of Naples even before they're built. Then again that's consistent with what we see in the rest of world. If you ask our local realtors, who are not very busy these days, who have been told by their attorneys they must notify prospective buyers about the wind farms, are now losing sale after sale after sale. One other point I'm not sure the board is aware of. The Town of Italy has taken no action with regard to the application they have already asked you to review. That doesn't sound to be very efficient use of your time. In fact, because the developer once again failed to make the proper notifications to make all the information in their application available to people of the town. They extended the hearing once again. As of today the material was to suppose to be there on Monday, still is not in their libraries so we can look at it. So we're going to expect that this may be another twenty, thirty, forty days before they're even able to act on the application. And my sense, based on the discussion with the town attorney two days ago, is that the town board will reject the application for the project. Mr. Spitzer and his friends have been coming to every town meeting pushing, pushing, pushing, begging, pleading you must do this now. Why do they need it now. It's been seven years. They need it now, because I am part of slate of three republicans running for the town board. I expect to be the next town supervisor. We will, in our first meeting in January, put a moratorium together to give us time to bring in a special counsel to restore the comprehensive plan in the Town of Italy. I really appreciate you giving us the opportunity to speak.

Jim Fitzgibbons. I live in Branchport, Yates County Branchport, not Italy. But I am concerned. I've examined the matter of wind farms for the past several years. My own conclusion is they are not appropriate for our region. The region being the Finger Lakes, this area, Yates County in particular. I see that the costs in the threats far out way any benefit they will get from this. Wind energy is low density

and very unpredictable by nature. Their cost will be as been cited here, property values, threats to tourism. I have a deep concern about the affect of noise on health and safety. No, I am not from Italy, but I am in Jerusalem who is studying the matter of wind, looking at submitting a draft of regulation. And I see the Italy event perhaps being the camel getting its nose in the tent of Yates County. I fear that is forcing the whole area. Thank you.

Dave Perry, Chair of the Planning Board in Italy. I think you're very wise to table this decision although I am very much for freeing up our land owners to take advantage of programs like these. And this project had the possibilities to tripling our town's tax base ideally reducing our taxes to zero. The citizens clearly are not convinced after three public hearings which the town is still very undecided. We have an election coming up shortly where I think the will of the town will be much more clear. I don't think we have anything to lose to research this, wait and make sure we are making the right decision. So thank you for tabling this tonight, I think you very wise to do so.

Daniel Spitzer, from Hodgson Russ, I represent Ecogen. I am happy to answer any questions that the board has tonight or after you conduct your review. Let me see if I can correct some of comments. Mostly which are very sincere opinions about people on a very difficult subject. My client agrees that we are not obviously people who are quite conflicted over whether this is right for their town or not. And contrary to the vile statement that was made at the public hearing by some folks this past weekend, that town board literally deserves the thanks of everyone in this county. Because whether you agree or not, and no they haven't taken any action, Mr. Jones, in fact it would be illegal for them to take action before this board acted. So they haven't taken any action one way or the other. But they spent eight months studying that law and change in the plan. Eight months going over it line by line, arguing about it, debating it. We heard one gentleman say that they did what my client told them to, which actually is I told them to. You can judge his veracity by looking at the comments in my environmental review which I provided to your client several months ago at Mr. Brockman's request. And seeing what the town adopted is actually is far stricter than what was originally requested. You were also told that you receive an independent study tonight from a noise expert. A noise expert who helped edit one of the leading anti wind journals, who frequently appears against wind around the country and is now trying to make a living from selling as a consultant in nuisance cases. So let's talk about some of these other things. In terms of property values, I have not seen studies that the gentleman referred to. They haven't been included in the record to my knowledge of the town. I can tell you that Bard college did a study in New York. Bard is the only independent study that I am aware of. It may not affect the property values but it diminishes the number of people who will likely want to move into a house if they have to be near wind turbines. Many tonight agree with that. But if you look at the study it notes that properties decline in New York. And if you go in and talk to some of the assessors, the assessor in Italy raised the values considerably of the properties that we bought. And you can look that up as fact, just look at what the last assessment did after our application with them. It's conclusion that there was no evidence of towns and property values. If you talk to some of the supervisors where there already, they believe property values have gone up simply because of the lowering of taxes. There are other people that will say the opposite of the markets smaller. I don't personally believe that and I do a lot of tax assessment work. I work on appraisals, mostly the appraisals on the net were performed by wind companies. Not surprisingly, people that spoke before me take those with more than a grain of salt. You can do so as you wish. But I don't think there has been enough sales yet of before and after wind turbines to judge sales where wind farms announced. So I think that probably Mr. Jones is correct when the market availability is an issue. But otherwise I don't think you will find any studies in New York. In terms of Cohocton. Cohocton has a problem because its turbines aren't working correctly. We are not proposing the same turbines. We have been adopting tougher standards. With it also said, we're going to require a study in this environment, in this area. There is no model statute I've ever seen that says you should do it any other way. If you look at the Minnesota study, which summarized a lot of the health reports that were referred to. They conclude that you should do a very careful study of this specific set up and then set values according to the community values. The last part, of course, is the hard part and genuine and serious agreement as to

where those should be. But to suggest that these people have at the Town of Italy town board did not do its job. This town should be proud of the precedent they set in terms of the strong evaluation after they rejected what was done in Steuben County and did their own study. They said they have not approved anything, they have not, contrary to what has been said, signed off on anything. They have not been bribed by anybody. They are making independent decisions based on their own study. I know there are people here who would prefer that they simply turn into generalized public opposition. Those of you, who in the planning field know, that's illegal to make a decision solely based on generalized public opposition. You have to base it on a record based on facts. And the developer, they just said well the people don't want it and said no. Well it certainly makes for a successful lawsuit. And they haven't made any decision. In terms of other clear scientific evidence, I would respectfully disagree I am certainly not as smart as the gentleman with the astrophysics degree. I didn't even have enough sense to go to San Diego to school. So, he's a lot smarter than I am. But to suggest that the noise in that clear cut, or that clear scientific evidence showed that what we have literally done is wrong. In fact, every single court in this country that has reviewed this subject has rejected the claims that he made tonight; without exception. Now, they are not all crooked. Sorry. The fact is, that there are sincere disagreements about what are the proper noise levels. The town board, the county planning board and other elected officials, now or in the future, need to make determinations as they see fit. I urge you tonight to take what few facts that were actually suggested rather than the insults of the Italy Town board. The community has and will speak in the elections. The community has the right to do so as always where they should be decided. As you know in New York State the legislature is proposing an article 10which takes approval authority away from all localities and just put it at the state level. The advantage of home rule is really exhibited in Italy. Eight months to look at the law, still running, taking their time going through the application. I urge you to think about the facts, a few of you that you want to do. Not the insults, not the evidence that has been rejected. Come to your own conclusions, as to whether or not you feel the Town of Italy's application is in the best interest of the community. I can tell you that wind has achieved its goals. It has clearly provided clean renewable power in this state. At one point earlier this year it was providing 7% of the state's total energy needs. It does sell a fraction of the cost of, when you consider the subsidies of other resources, the communities that have allowed it in do get financial benefits as was mentioned. Certainly measuring benefits versus impact is part of what a town board should do. If you go to those communities, ask those people there. I think you'll find in terms rather than finding high incidence of problems and health problems, you'll find a high incidence of people complaining who sued before the project was ever built. And the strong correlation in that regard, Cohocton being an exception. And you'll find, that in fact Dr. Vandenberg has been leading people on low frequency noise and said the amount of wind turbines cause virtually no low frequency noise. You'll find that the standards that have been looked at have been adopted. When you really look at them and really look at what they say they don't say what the survey you have been to claim they say. And no one is going to suggest, when I work for municipalities, and the first thing I tell municipalities, and those of you may have heard me speak at various Planning conferences, the first thing I tell communities, these will change your communities. It certainly has visibility impacts. I once had a gentleman on a public service commission ask me how we're going to mitigate them. I asked him what do you want me to do? They're tall, they're visible. No question when the gentleman, the first speaker, talks about the impact on the scenic zones. He's absolutely correct. That's one of the few factual points that people agree on. These things do have visual impacts. That's the town board's job to determine whether or not to change its comp plan and whether or not to do so. You upheld that review. Right now these folks are challenging it in court. Their request for injunction was denied. But the courts deciding whether or not they took a hard look. And perhaps before your next meeting, or whenever you have this review, the court will have made a decision. But I would respectfully ask that as you make your own decision you do what the resolution says. And you do so based on the facts not allegations, not what horrible people developers are. I've watched you all tonight, the first time I've had the pleasure of meeting some of you, you all seem to understand this issue very well. I think you know what your task is ahead of you. I thank you for the opportunity to respond to the information presented.

Question for Mr. Spitzer from Ron Rubin; Based on the material that I did go through I think we certainly need to look at alternative energy sources and we are fooling ourselves if we think that something like this doesn't need to happen. I am just interested, when I looked at the projects that this company has been involved with obviously in other parts of the United States. Could you share with us just what led them to look at our area. Share specifically upstate New York and then down to the Town of Italy.

Mr. Spitzer – It's specifically the Town of Italy. Whenever a developer is interested in the wind, the first thing they do is put up test towers which measure the wind velocity in the area. The Town of Italy has wind speeds that significantly exceed similar areas in the state. The Town of Italy also has, some would say it's a blessing, I suppose these folks would say it's a curse, but there's already significant transmission capacity in the town so it doesn't require a transmission line to get to the substation in the Italy/Prattsburgh project and there would not be a transmission line and its capacity on that line to handle the project. So you have the ability for some of the best, the higher the wind speed the greater the efficiency the blades can produce energy at. The higher the percentage of wind efficiency and how fast the wind speeds, it also means that frankly there were less environmental impacts. The higher wind speeds that are there means it is already noisy. Although there was sincere disagreement about what the ambient noise is. Obviously the turbines don't turn when there is no wind. And there was already the right environmental situation for these wind turbines.

Comment- I guess what struck me was the size of the project as compared to others in other parts of the country. It is much smaller. Are we to take from that this might be the first of several projects that this company or other companies might be thinking of in our area?

Mr. Spitzer – The town thought about that greatly when it did its wind incentive zones. It created two zones because they wanted to think about what areas of town they wanted to be in regardless of where Ecogen wanted. There was another company, First Wind, that was already prospecting around and obviously other companies could always come in and sign leases. The town made its determination on where wind towers can go based on where it wanted wind towers potentially at the maximum build out in the town and not anywhere else. So the town did think about that considerably when they created the two zones. They didn't say yes of course, but they said nowhere but and so they gave that a lot of thought. So when other wind applicants come in, sure, they can always ask the town for rezoning. They can ask the Town Zoning Board of Appeals for a variance. I would respectfully suggest that one of the reasons that the town at least considered changing its mind is b/c of litigation. I don't know because I wasn't involved in any of the litigation. If you look at the standard for public utility use variance its very frankly difficult to turn down. Much easier As you know use variances are normally virtually impossible to get. Public utilities has a very different standard and there may have been some concern, I won't speak for the town board what their motives were, that can end up with a project being awarded by ZBA or court without any benefits. Where you would get through the rezoning process and through its own process in particular that the town put in place. I say to you that no other company would be interested. I am certainly not going to tell you that Pattern has no other leases other than what we have. We have actually bought most of the land. We hope to buy most of the land where our turbines are going and there are no plans by Pattern in the near future for any more turbines. In fact, as we have gone through with the review of the project as the town asked us to do certain things, move away from slopes, reduce the number of variance requests. We've actually reduced the number of towers so there are now only 17 in the Town of Italy.

PB Member asked what decibels are these proposed towers, what would the wind decibel, noise decibels be.

Mr Spitzer – Below the turbine, they produce about 107 decibels. As you move further away its decreases due to distance, due various reasons. In terms of the Town of Italy law, and the terms of this application, the application shows that at offsite property lines and at offsite residences, the various towers would produce less than 50 decibels. It would be 45 decibels at offsite residences (I'm probably getting this backwards). In the model we submitted we have not requested any noise variances. The

model shows our towers would perform at less than that. I think the average is about 47 at the property line and about 43 at the houses. It's not far under the limits of the town.

PB Member asks how will that compare to ambient noise.

Mr. Spitzer – It depends on how you measure the ambient noise. Mr. James insists that the ambient noise can be zero at the ground even when the wind is turning. The rest of the industry thinks there is a fall off but it can't be zero when the wind is turning an 8 ½ meter per second, which is the minimum of the blades. In terms of the way its ambient in a particular area, there's studies that show that they actually have heard of low ambient noises that were used in the study compared to other communities. I would respectfully disagree that there's 22 decibels at anybody's house when the wind is blowing strong enough for a turbine to turn.

Mr. Ritter- That's why we need to get someone to help us out. We don't want to get into a discussion here.

PB Member- one thing in this CD we were sent to listen to. I believe it was at the last board meeting Italy had that they were arguing over 45 and 50 decibels at the line.

Mr. Spitzer – At the property line and the offsite residence, the goal generally of noise is to protect people who have not signed onto the project. In other words, if you chose to be part of the project you paid. It's at the offsite property line and at the offsite residences. They voted 3 to 2 to accept the law. So there was agreement on a minimum. There was no agreement, however, as to whether Ecogen would be allowed to build at the level suggested because they haven't acted on the application. All they've established is a minimum.

PB Member asked has the technology reached the point where once the turbine is constructed or erected and improvements come along, are they able to upgrade the wind turbines.

Mr. Spitzer – It really depends on the company, the turbine manufacturer warranties the life. In Cohocton they seem to be upgrading all the blades and the thing hasn't even started. They've replaced all the engines. I mean, Clipper has sort of if you go to or you go to Cohocton, you go to Maine, seems like Clipper is redoing everything before they even before they've got the paint dry. In terms of other engines, GE turbines, and others of those which have a much longer lasting, if you will, record of performance. They say they can be repowered and up powered and changed but I am not aware that there are any turbines in the New York at least that have been done, we haven't been up long enough to make it worthwhile. The companies generally talk about a twenty year life of the turbine when they use to do depreciation. That would be time when we generally look at it. There is certainly no reason why you could not rip out gears and replace a similar engine or more efficient engine. One of the differences, for example, that has gone on a GE model. They've learned to dampen the sound in different ways, they're constantly upgrading their models. Simmons has done the same thing. They also change blade length as the efficiency changes. So there's a constant sort of upgrade is going on. So I think the answer is yes. That doesn't mean, however, that it will happen. This town law was very carefully written that you cannot make any changes that change any of the parameters, noise, size so on without going back through town review.

Vince Johnson- I live on the north slope about 1400 feet from the proposed project. If you come to my house sometime when the wind is blowing out of the southwest you find you can grab a feather from here to hit the deck. There is actually no wind and yet the wind is blowing like mad out of the south west. There are other people in this room that can verify this for you. That's kind of the response of the ambient noise created by the wind of the wind turbines. This is not the case when you are in a sheltered hill environment and actually that is pointed out in the initial DGEIS document. Second point I want to make is we've had some conjecture back and forth I guess about the noise issue. OK, let's get back to it. If you go into the original generic impact statement, you will find 325 Italy Turnpike- my house. You will find the results of Ecogen's noise study conducted by a non scientist. If you read the bar charts you will see they like to use as the actual background noise a 120 to 21 which other consultants like to use in the 23 to 25 range. If you look at the Ecogen implication in the charts by my address you see a projected noise level of 40 dba. And this is a direct answer to your question. If you also look at the New

York State environmental DEC noise guidelines you will seethat says whenever you increase the ambient noise by more than 15 dba it's described as "intolerable". Now I would submit to you that 2:00 a.m. in the morning when we're trying to sleep at night in the summer time with our windows open, we don't have air conditioning. And the windows face the southwest and the turbines are spinning we are going to have an intolerable situation. Now, that's factual.

Public- I assume you're going to get back in touch with the town and see if they're really going to move that quickly. Because if they are not there's no reason for you to have a special meeting.

PB Member- We can't set anything until we find out what is going to happen.

2009-46 - Village of Penn Yan. *Area variance (rear/front setbacks) for applicants, Stephen & Louise Bouchard at 223 Walnut Street, Penn Yan, to construct an addition to their existing pool house.*

PB Member asked why the garage couldn't be built to the north where there is more room. Mr. Bouchard would like to save that section of yard space for his children to play in and prefers to be out back where there is nothing. Set back is 30 feet, he is asking 12. He is the last house on a dead end street so it is safe for backing out onto the road.

Mr. Rubin motioned to approve the application. Seconded by Ms. King.

2009-47 - Village of Penn Yan. *Front yard parking variance for applicant, St. Michael's Church at 210 Keuka Street, Penn Yan, to expand existing parking and driveway.*

The requirements set forth that they need a formal site plan for parking in the front yard. They want to bypass that so the variance is to not have to do a site plan. It's permitted but a formality.

Ms. King made a motion to approve it, with no countywide impact. Mr. Christiansen seconded. All in favor.

2009-48 - Town of Middlesex. *Minor subdivision for applicant, Terrence M. Klee at 350 East Lake Road, Middlesex, to reconfigure existing parcel to create a conforming lot.*

Mr. Mitchell asked if there was a request to build on the lot at this time. Mrs. Bonshak stated no just subdivide and demolish. Mr. Ritter stated he is creating a conforming lot over a non conforming lot. Ms. King stated it is a positive move all the way around.

Mr. Mitchell motioned to approve the application. Ms. King seconded. All in favor.

2009-49 - Town of Middlesex. *Site plan review per demolition request for applicant, Terrence M. Klee at 350 East Lake Road, Middlesex, to demolish vacant outbuildings and construct an access road for demolition purposes.*

Ms. Scharf is a little concerned after all the discussions of erosion making sure that that road that is being put in wouldn't cause erosion.

Mrs. Bonshak said the plan they submitted shows the sediment and erosion control methodology. In addition to site plan approval, the Town also has storm water management and erosion control approval.

Mrs. Bonshak stated Middlesex is pretty strict about this.

Mr. Rubin motioned to approve. Mr. Stape seconded. All in favor.

2009-50 - Village of Penn Yan. *Area variance for signage for applicant, Derrick Podsiadlo (Penn Yan Express Stop) at 210 North Street, Penn Yan, to replace existing signage with new free standing sign, gas pump and building signage.*

Mrs. Bonshak stated this is an application for additional signage. He is asking for two times what is allowed. Because of the nature of the gas station he has a pole sign, the signs on the actual pump count as signage and the building sign. Typical sign scheme, it just needs a variance. New application, new owner. Mr. Mitchell asked if in an R2 district? Mrs. Bonshak stated yes. Ms. Dumas stated it is also adjacent to the historical district. Mr. Ritter stated the Board is only looking at the signage and the village needs to address the use.

Ms. King made a motion to approve to increase the signage that puts an abandoned business back into service that benefits the community, increases the commerce into the village and county. Mr. Christiansen seconds.

Mr. Mitchell wishes to add a suggestion that the village look at the use. A gas station in an R2 district.

Mr. Mitchell said the things been gone for a year and it is a gas station in an R2 district, so the use is no longer valid. Requests the village look at this. Add this as a comment.

Mr. Rubin agrees it should be noted. All in favor.

2009-51 - Town of Jerusalem. *Zoning Map Amendment. Town of Jerusalem proposes to expand the Branchport Service Park District (BSP) to include the former "Mahoney" property to facilitate the shifting of Mill Street and to bring the total property to be included in the Harborview Townhouse project into the BSP District.*

Mr. Rubin stated he had a little background information in connection with the Harborview Townhouse project. There was some discussion as to what would be done with Mill St. Currently it has been determined that I include that in the project and therefore in order for the townhouse regulations to be applicable they would have to add Mill St. to the Branchport Service Park.

Ms. King asked if they would be demolishing or taking Mill St. right out or building where Mill St. is. Mr. Rubin was not quite sure what was decided. It was previously not maintained by the town. Mr. Rubin stated there was a question about the ownership. This will solve this issue and plus now they have someone to maintain it.

Mr. Rubin motioned to approve. Ms. King seconds. All in favor.

2009-52 - Town of Jerusalem. *Correction to Town Zoning Ordinance in reference to rear setback in the R-1 District.*

Mr. Ritter stated this is a formality since we approved it before.

Mr. Mitchell made a motion to approve it. Mr. Stape seconds. All in favor.

2009-53 - Town of Jerusalem. *A Local Law creating a Property Nuisance Abatement Law for the Town of Jerusalem.*

Mr. Rubin stated they must have felt they needed a description down in black and white.

Ms. King made a motion to approve. Mr. Mitchell seconds. All in favor.

COMMUNICATIONS:

The next meeting is scheduled for October 22nd.

OLD BUSINESS:

None.

MEMBER REPORTS:

None.

NEW BUSINESS:

None.

ADJOURN:

A motion was made and seconded to adjourn the meeting.