

**DRAFT  
MEETING MINUTES  
FOR  
YATES COUNTY PLANNING BOARD MEETING  
October 22, 2009**

**PRESENT:** Shawna Bonshak, County Planner; County Planning Board- Judy Wiltberger, Dave Christiansen, Kevin North, James Ritter, Sandra King, Charles Mitchell, John Sawers, Ronald Rubin, Donald House; Fran Dumas; Press- LouJane Johns, Peg Anderson, Amanda Folts; #2009-56- Margaret Dunn, Vince Johnson, Sande Johnson, Kathy Johnstone, Thor Vandehei, Bill Hickey

**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 September 24, 2009 meeting. All in favor.

Correction Under 2009-51 first paragraph Mr. Rubin stated and *then there was some discussion as to what would be done and currently it has been determined that I include* there were some words missing there or something. Want to bring that to your attention. Not sure what it is suppose to say. It was decided that line would be deleted from the minutes. All in favor.

**GML 239 REFERRALS:**

**2009-54 – Town of Jerusalem.** *Site Plan Review for Applicant, Harbor View Town Homes, LLC, to construct two five-unit townhomes, an 18' x 20' shed and a 24' x 30' clubhouse.*

PB member asked if the plans show Mill Street in the new position. Mrs. Bonshak says yes. Mr. Skeet asked if the clubhouse would have electric and water. Mrs. Bonshak will find out from the town. She stated Soil and Water does have very significant concerns about these plans. Her recommendation will be that they look at everything Rick Ayers detailed because the developer left quite a bit out in reference to sediment and erosion control. Particularly because of where it is, virtually right on the water.

Ms. King asks at what stage does the town do the part two of the environmental assessment form.

Mrs. Bonshak states the Town declared themselves lead agency. They will be doing that. The paperwork came this week and they will be holding a public hearing regarding the EAF in November.

Ms. King asks if a decision can be made on this without the part 2 completed. Mrs. Bonshak says it is generally recommended that they wait to make a decision until they get that.

Ms. King made a motion to set this aside until they receive the completed application. Mrs. Bonshak stated they should do that and in the meantime address the Soil & Water letter. Mr. Ritter stated there is a motion to table it until they have a full EAF and making contact with Soil & Water. Seconded. All in favor.

Mr. Skeet asked will the septic plan will be part of the part 2 or 3 because there was a question of where they were going to put it as there was discussion about the applicant buying an additional parcel.

Mrs. Bonshak said, or he was going to put it across the street, she will talk with Elaine to see where it is going. Ms. King requested also maybe more specifics on Mr. Skeet's question on the clubhouse, to what that is exactly going to involve, have utilities and sanitary facilities and that type of thing.

Mrs. Bonshak – said you asked about dining/restaurant, we'll find out. Motion is to table the application and we will relook at it once we receive the full Environmental Impact statement, details on the clubhouse including utilities, sanitary facilities, and recommending they address all of the comments in the memo from Soil & Water.

Ms. King made motion/Seconded by Mr. Mitchell - all in favor of that motion then. Aye. Any against – no.

**2009-55 - Town of Jerusalem.** *Area Variance for Applicant, H. William Francisco, at 210 West Lake Road, to add an additional deck area of 8' x 15' on the east side of existing deck thus encroaching on the required fifteen (15) foot front yard setback from the mean high-water mark.*

PB member asks if applicant is getting too close to the water with the deck. Mrs. Bonshak says it's in the mean high-water which is not permitted so a variance is needed. Ms. King asks if this was an existing deck prior to the change in the mean high-water mark by the state. Mr. Rubin says he believes it is supposed to be 15 feet from the mean high-water mark, he's requesting 8 feet so it's a 7 foot variance. Mr. Ritter says to let the Town of Jerusalem decide because of not knowing what they are allowing or not allowing. Ms. King asks, on cover page #5 is a description to further encroachment on the front yard setback, is it already non-conforming? Mr. Skeet says on the diagram it shows the existing one as being legal. The newer would be illegal.

Mr. Christiansen makes a motion that it pertains to the town of Jerusalem and it's up to their determination. Ms. King seconds. All in favor.

**2009-56 – Town of Italy.** *Town of Italy Town Board proposes to establish a moratorium on the submission and processing of applications for and construction of industrial wind turbines within the Town of Italy pending reevaluation of the standards set forth in Local Law No. 5 of 2009.*

Mr. Christiansen asks what specifically are we being asked to determine here to review. Just the fact that they want to file a moratorium? Ms. King wants to know how often can the town file and do a moratorium. Her understanding is a moratorium is supposed to be put in place for 6 months while someone works on the law. This isn't the first moratorium that Italy has done on this topic is it? Mrs. Bonshak says this is a separate law, a new moratorium. Generally, they are only supposed to be for six months but this is in response to the amendment to the comprehensive plan. It is really a separate moratorium. You can't attach it to the other moratoriums that they've had.

Ms. King asks if you wanted to just make a minor change in a moratorium you can continue on this process month after month. Mr. Mitchell says any time you extend a moratorium you are leaving yourself wide open to a lawsuit. And they are well aware of that. Ms. King says that is what she is asking because she had heard this has been going on, moratoriums after moratoriums, so why they are doing it again.

**Mrs. Bonshak** stated they generally are only for six months and if they are extended their needs to be a good reason.

**Margaret Dunn** - The reason for the moratorium is the fact that there are issues. The residents of the town brought up an issue with some of the things that were in the law. The application itself had some issues where originally it was our understanding that there was very little development on steep slopes. It turns out that about half the developments are on steep slopes. A moratorium allows us the time. That an

industry can't come in and just bring in another application and then we're caught in that law. So the six months is the starting point. According to our attorney, in any other time that you can extend them. Like you said, we have to have just cause for it. Yes we were taken to court when we were developing the zoning law itself because of the moratorium. But we prevailed with that. But the purpose for this is to give the town the opportunity to review the law, get feedback from residents. Because originally when we went with the incentive law, the residents wanted to see the incentive zone in the town. If it was a case that more people have become informed and they don't like the idea or what the case is. But it is the town's desire that we review this. That is what we need the moratorium for. Either to tweak the law to make the significant changes or possibly to repeal it. But that decision hasn't been made. That's the purpose for the moratorium.

Mr. Mitchell makes a motion to approve. Mr. Snyder seconds. All in favor.

**2009-57** – **Town of Middlesex.** *Site Plan review for Applicant, Steven Robeson, at 712 East Lake Road, to construct a single family home in the LR (Lake-Residential) District.*

Ms. King asks if this is coming up because it is so close to the county road. Mrs. Bonshak says when we look at exempting minor subdivision from coming to us this application would be an example of something we may not need to review. Middlesex changed their ordinance and are sending all their site-plans to the planning board in the town, so therefore they are coming to us. They're expending hours on their planning board meetings now. PB member asks that it's not because it is close to the lake or on a slope, just because that's their regulation they way they are doing it now. Mrs. Bonshak says they are thinking about changing that back to having the code enforcement officer review the majority unless it's in the lake district. Mr. Ritter states it's not really a subdivision, or anything, just anybody that wants a house. Mrs. Bonshak stated there are some exemption agreements in place in the town for certain things. So this is something that may need to be added. PB member states he believes this is the only town that does that as far as a single family. That's up to your code enforcement officer, unless you are subdividing land to get that lot to build it on.

Mr. Mitchell makes a motion we determine this application has only implications for the Town of Middlesex. No countywide impact. Seconded by Mr. Christansen. All in favor.

**2009-58** - **Town of Middlesex.** *Site Plan review for Applicant, Vincent Pigula, at 198 East Lake Road, to construct a tram system for lake access.*

Mrs. Bonshak states they have a new tram law. He bought the piece of property that has an old tram on it that couldn't be used. He wanted to build a new one and in the mean time there was a moratorium on trams and they've come up with an ordinance on trams and regulating trams, it wasn't a replacement in kind, it had to be up to code. So he was pretty upset he had to file to bring it up to code.

Mr. Skeet stated he was at the last Middlesex planning meeting and it was taken up largely with this issue. He thinks all the regulations required have now been met. Engineers from the town and his engineers have gotten together and this is pretty much the last step. Ms. King states this is something the town is on top of and involves the town. PB member states all the letters from the DEC and such said as far as they knew said in September they were meeting codes. Sounds like something the town needs to keep control of.

Ms. King makes a motion to send this back to the town, it is involving the town, that the town seems to have control over it. It doesn't seem to have any countywide impact. Seconded by Mr. Mitchell. All in favor.

**COMMUNICATIONS:**

The next two months the meetings are earlier. The next meeting is scheduled for November 12<sup>th</sup>. And in December it is the 10<sup>th</sup>.

### **OLD BUSINESS:**

Mrs. Bonshak did get the municipal wind facility document from the Department of State. This is the most unbiased document she could find for them to review. It is a good overview of the wind turbines.

Mr. Christainsen said after the last meeting he went up to the Cazenovia area. He spoke with people there in the village who lived near the windmills and asked if anybody felt there was a negative impact. And no one said there was. One gentleman that lived there only three years didn't even know the windmills were there. You don't see them from the village but he went up to the site and talked with some folks there. There was no one that said they didn't like them. He stood among six to eight of them that were probably all within a thousand feet. The wind was blowing pretty hard that day, probably 25 to 30 miles an hour. You couldn't hear them, you could hear the wind but you couldn't hear the windmills. The folks around there that had them on their property thought they were great and paying a lot of their taxes in the area. There was one young couple that was building a new house and they were in it, still working on it. He asked if they had any problems sleeping from whirring noise, low decibel thing. They said not at all. And there was probably eight of them within probably a thousand feet of that house. No one seemed to think that they were unsightly. They said people drive up all the time just to look at them. So they're getting some traffic that way. The animals out in the field were laying under them. Geese feeding around the pond. Life was going on as usual. Now they are a little smaller, didn't know the exact size of them. They are large, but not as large as the ones down here he understands. No one said anything negative about them.

Ms. King asks how he happened to go to the people that he talked to. Did he just randomly stop at the houses, these weren't people that were picked out from a group that he was told to go to talk to.

Mr. Christiansen- says no he went up strictly on his own. He could read all that study he got last month, probably didn't know what he read at the end anyway. He felt better about seeing for himself. There was one lady at the farmers market down the street who thinks they are great. She paints them. He just didn't hear anything negative. And standing among them in areas you could see 20 at one time, standing in one spot, and there would be a half a dozen or more right close to you within a couple of football fields. He could never hear them. Like he said, they are a little smaller than the ones being proposed. Maybe a little different style by the looks of it too.

PB member asks if they are generating the energy for the grid. The town isn't getting direct benefit.

Mr. Christiansen is not sure, he thinks when Benton went up there. He attended a couple of Benton's meetings early on when they started looking at them and it seems to him they said the town was getting monies. They bought several dump trucks and things like that. So they were getting funds for the town. And the property owners got a lease fee and percentage of the electricity made. So again nothing negative. He went to Bath and they had a booth down there that had a show. And he talked to some people in Cohocton who have had them there a long time. She gave him a whole bunch of names of town people to call anytime he wanted to go up there. She said he would be hard pressed to find somebody that has got anything to say about them that's negative. You'd be hard pressed to find them. Talking about monies, she said the same thing. That there's a fee they will get no matter what it is. If it is low or high, there is a bottom, and they always get that fee. The town had a budget of \$760,000, they got \$780,000. They bought some new trucks, a grader.

Mr. Christiansen- There is one thing troubling him a little bit on it. The one in Prattsburgh is talking Steuben County IDA being lead agency. He believes Ecogen has talked with the IDA in Yates County. He feels personally the monies ought to go to the township they're in rather than to the IDA. It is quite complicated how.

Ms. King- That is one of the concerns the Town of Potter had. Was that in the event that we were to have these windmills come into our town which is what we were looking for because we have the highest tax rate in the county. We're looking for something to offset that. Because people aren't able to build houses ..... because of the tax rates. And that was one of the things we talked about and that was a huge concern was keeping the county and the IDA's fingers out of it. Because if the town residents got to look at it, if the town residents have to deal with it, if the town highway department has to maintain highways, everything else. The money should be with the town. And that is something very strongly felt by the planning board and the town board. That it should not go to the county. The town residents should reap the benefits of it. What Dave did took a lot and just randomly pick people you're not being directed to get one side. And that's what Potter planning board committee members went out and did the same thing he did. And they found the same thing. It was an overwhelming consensus in support for this. It just has some people that have louder voices that are coming up with the statistics and such they want to report. Whenever you are going to put a four hundred foot concrete structure that's going to be there for a hundred years it is wise to investigate all sides of the issue. These are permanent, not like a cell tower you can dismantle quickly. Got to look carefully on it. Talking about dismantling, that was one of the concerns that we had in our town and that was one of the things they would have to do was they would have to put bonding or some financial investment in place so in the event that the tower went defunct or the company went defunct there was monies in place to dismantle that and it didn't fall on the responsibility of the town to do that. And that's something we stipulated in our law. That that would have to be in place. And it is part of the law.

Ms. Wiltberger – We have to be careful where we put them. I'm not convinced tourists love windmills. I have been a tourist in windmill territory and being in the tourism business I am not so sure that is the case. That's why I was in favor of the moratorium for those folks. They had enough concern for their town to step back again and look at it again before they .....

Mr. Christiansen- If you look in here, a couple pages in, it says on the back of the second page the national perspective - Obama our president – new energy for the American plan. Ensures that 10% of the electricity comes from renewable sources by 2012. 25% by 2025. So there's the push across the country. As you read down that page, we're trying to work toward less coal burning, less emissions. A Mennonite down in the town of Torrey planning board says the exhaust from one windmill is the energy for the next one. It's a good way to put it. People are against the exhaust from emission from cars, trucks and trains and coal burning plants. Here's a way towards renewable energy.

Ms. King– the problem we run into is just like this is the NIMBY philosophies. Yeah we want this but not in my backyard.

Mr. Christiansen – We are going to have to keep track of this. We don't know how fast things will come back to us. But with everybody working on it we should learn something.

Mr. Skeet - Can we strongly suggest anything coming to us be typed? Some are hand written and are difficult to read. Maybe they could be printed.

Mrs. Bonshak – the referral forms are in word. So no reason why they can't be typed. But we can request that.

Ms. King– You mentioned earlier about revamping what comes here with exceptions. How can we do that, because it seems like the one we got for a single family residence, it ties up our time but more importantly, it ties up the applicant's time to have to wait for it to come to us, for us to make a decision, for us to send it back. When it doesn't affect us.

Mrs. Bonshak – There is an exemption agreement in place with all the municipalities, right now. Maybe at the next meeting or two we can look at that and see what is included.

Mr. Ritter– We sent letters out to them and they filled out what they agreed to and sent back some of them with side lot lines and stuff like that.

Mrs. Bonshak – fences, signs, signage.

Mr. Ritter – and a lot of towns had ideas where they're duplicating services. It's kind of up to them how they want to do it.

Mrs. Bonshak – It's probably about time we looked at it.

Ms. King- Can you gather the information together and get it to us in the next couple of months? We can start looking at it. I hate to have to burn up people's time when they are trying to build a house. That to me is it is costing them money and time.

#### **MEMBER REPORTS:**

None.

#### **NEW BUSINESS:**

None.

#### **ADJOURN:**

A motion was made and seconded to adjourn the meeting.