

Hamlin Planning Board *Minutes*  
Monday, December 7, 2009  
7:30pm

The regular scheduled meeting of the Hamlin Planning Board was called to order by the Chairperson Linda Morey at 7:30pm at the Hamlin Court House located at 1658 Lake Road, Hamlin. The location of the fire exits and AED was explained for those present.

Present: Ron Breslawski, Tom Jensen, Dave Martin, Linda Morey, Mark Reeves and Peter Tonery.

Excused: Judy Hazen

Chairperson Linda Morey gave the Board's condolences to Judy Hazen for the passing of her mother.

Also present: Town Engineer J.P. Schepp, Support Boards Attorney Charles Welch, Town Board Liaison Dave Rose, Supervisor elect Peter Terry, Highway Superintendent Tom Ingraham, Building Inspector Lee Nettin, Conservation Board members Jeanine Klopp, Nick Kramer, Jason Baxter and Ed Evans, Court Clerk Patience McPherson and residents Diane Grimm, Paul and Dot Lapinski, Dave Lucas, Tony Callari, Kevin Sullivan, James Burch, Megan Higgins, Jeff Hammond, Troy Nesbitt, John and Linda DeRue, Art and Carol McFarlane, Frank DeLapa, Renee Cliff, Dean Brightly, Joe Brightly, Barbara and Ron Brown, Ted and Kathy Habgood, Pat Dorney, Sue Ritzenthaler Camp, Jim Camp, Rich Maier, Dave Matt and James Beehler.

A motion was made by Ron Breslawski, seconded by Tom Jensen to approve the minutes from the November 2, 2009 meeting as recorded. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried, minutes approved.

*The Clerk read the Proof of Publication*

**PUBLIC HEARING**  
**SPECIAL USE PERMIT**  
**MET TOWER**

**175 COOK ROAD**

Ron Breslawski excused himself from the meeting for this proposal.

Jeff Hammond from Iberdrola Renewables was present representing Skip Brennan seeking a renewal of the Special Use Permit for the MET Tower located at 175 Cook Road. Mr. Hammond explained that there were two MET towers. The Redman Road tower has been removed. They are requesting an extension of one year for the remaining tower located at 175 Cook Road to continue to collect wind data and gather as much information as possible. There is no wind application at this time for the town. All the

information that was requested has been provided except the disc containing the wind data. Mr. Brennan is sick but will mail the Cook Road data disc tomorrow to the Board. He noted that the data is not for public release. The \$6500.00 bond has been revised per the Building Inspector. A copy of the NYS Wind Code of Conduct has been supplied.

Chairperson Linda Morey stated that this would be a 9 month extension due to the maximum a tower can be up is 4 years per Town Code. She noted that Mr. Brennan is aware of this. She also stated that Mr. Brennan was aware that the Cook Road data disc needed to be submitted at tonight's meeting.

At this time Chairperson Linda Morey opened the Public Hearing and asked if there was anyone present to speak for or against this proposal.

Dorothy Lapinski of 417 Redman Road stated that Iberdrola was issued two Special Use Permits for MET towers. One tower on Redman Road and one on Cook Road both for a maximum of 3 years. Both towers remained up after the 3 years and both towers were in violation. It appears that Iberdrola has no respect for our town laws and do as they please. They ignore our laws and she is opposed to renewing this Special Use Permit.

Dave Lucas 1288 Moscow Road read an Albany Times Union article from Nov. 12, 2009. He respectfully objects to extending the MET tower Special Use Permit.

Tony Callari of 676 Cook Road stated that he was at the November 2 meeting and it seemed like the Town Board was surprised by the MET tower request. He spoke to the Building Inspector on November 18 and he was fully aware that they were seeking a renewal. Why was he aware of it and not the Board. He also requests that the renewal not be honored.

Kathy Habgood of 142 Cook Road also requested that the Board not honor this renewal request. The Cook Road tower should have been the first to come down due to its location. Per several Aviation Specialist, the DEC and the Rochester Birding Association, no wind turbines should be located within 5 miles of the lake. The Cook Road tower is located ½ mile from the lake.

Art McFarland of 1873 Redman Road stated that the more information on any subject helps provide a better judgment. The other complaints are immaterial. The tower isn't hurting anyone.

Jerry Borkholder of 391 Morton Road stated that he agrees that more is better. So 2 towers would provide more information therefore he doesn't understand why they would remove one tower and limit the data. He asked that this be explained. He is also opposed to the request.

Susan Ritzenthaler Camp of 6360 Shore Acres stated that she is opposed to the application due to Iberdrola ignoring that the towers needed to be taken down and left them up after the deadline.

Mr. Hammond stated that CPV actually took out the permits for the MET towers so Iberdrola was not aware of the deadline of 3 years for the towers.

Ms. Camp stated then that shows a poorly run operation.

Jerry Borkholder questioned if 2 towers gather more information. Mr. Hammond stated yes. Mr. Borkholder then questioned why they removed one tower. Mr. Hammond stated that he didn't know that answer but would research it and get back to Mr. Borkholder. Mr. Borkholder questioned why the people with the answers are never at the meetings.

Paul Lapinski of 417 Redman Road submitted this statement

12/7/09

I am opposed to the Town of Hamlin extending the special use permit for the MET tower on Cook Road for the following reasons, first Iberdrola has been in violation of this permit for at least three months by not submitting an application for an extension to the town of Hamlin before their permit expired, second it is my opinion that by being in violation of this permit Iberdrola's actions go against the Code of Conduct that they signed with the New York State Attorney General. Is this the type of company the town wants to do business with? Third we all know that the primary use of this tower is to determine if the wind in this area is suitable for a future industrial wind site. The location of this Met tower is in the LWRP which calls for light industry, A industrial wind turbine site does certainly not fit in the light industry category and they certainly not agricultural, again this tower would be gathering information for equipment that does not belong in this area. Last but not least the Department of Environmental

Conservation recommends that industrial wind turbines be sited 5 miles from the lake and 2 miles from migratory bird paths, this MET tower is less than a mile from the lake so if this special use permit is granted it will gathering information for a area that is right in the middle of a recognized migratory bird path and goes against the DEC's recommendations. So for all the above reasons I urge that the Planning Board denies extending this permit.

I am submitting a copy of my statement to the clerk so it will be entered in tonites minutes as stated.

Thank you  
Paul Lapinski

Jim Burch of 175 Cook Road stated that he is one of the landlords for the MET tower and Iberdrola Renewables have been model tenants. They have paid their rent on time and notified them if they needed to come on the property. They have conducted themselves like a Class A operation.

Barbara Brown of 2370 Church Road has a problem with the data not being presented. She is opposed to the request.

Ted Habgood of 142 Cook Road would like to respectfully ask that the Board deny the request to renew the MET tower due to the tower being in violation, the history of the company and not sharing of the data.

John Cook of 1610 Monroe Orleans County Line Road also respectfully requests that the Board deny the request for the extension. There is a pattern of not keeping promises. They originally stated that they only needed 6 months to 3 years tops to collect data and now they are requesting longer. They are in violation.

Ms. Dorney of 476 Morton Road also requests that the Board deny the request by Iberdrola. She believes that this is just an attempt for them to keep their foot in the door. She would like to see Hamlin remain a rural community.

Dave Lucas questioned how often the data was collected. Mr. Hammond stated that it is taken continually. Wind does vary year to year. Seasonal wind also varies. More data would provide more accurate data.

Dave Lucas questioned the bond. Mr. Hammond stated that the bond is still active. Chairperson Linda Morey stated that the bond hasn't expired yet. The new bond is waiting for a date. Building Inspector Lee Nettin clarified that the bond is in place if the company is in default of removing the tower. Iberdrola has been working towards the renewal of the tower. The bond is not the town's to keep. The town would have to remove the tower and return the remaining funds to the company.

Dean Brightly of Redman Road stated that he was the landlord for the Redman Road tower that has been removed. His experience with Iberdrola was excellent. They paid on time, they notified him if they were coming on the property and they removed the tower and returned the property to its original state. There were no problems. The tower is just collecting data. If the potential is good then he feels we should look into it. He has faith that the members of the Board want what's best for all of the residents of Hamlin.

The question was asked if the data was needed to make a decision.

Jerry Borkholder stated that he was confused. If they need more data then why was one tower removed. Chairperson Linda Morey explained that was what the company requested.

Troy Nesbitt of 52 Cook Road read the May Kendall Planning Board meeting minutes that Skip Brennan was present at

## **Kendall Minutes For Reference:**

NEW BUSINESS: Paul opened by stating that a representative from Iberdrola Renewables wind energy systems had contacted Supervisor Gillman, who invited him to an informational exchange with himself, Assessor Massey, Larry Gursslin, and Paul Gray last week. Skip Brennan's attendance tonight was not planned and not on the agenda.

Skip introduced himself and outlined his company's interest in developing wind energy in the area. He states there are 2 MET towers in Hamlin; the one closer to the lake giving the best results, thus they are seeking to expand locations along the lake. Iberdrola is the largest owner/operator of wind generating systems in the world. Their biggest question in Kendall is the setbacks from homes and roads. The company has its own setback standards for "fall down zone": 1200ft from homes and 101% of tower height from roads. The towers are most likely going to buckle as they fall and almost never fall flat. They seek to install 2-meg towers, 465 ft tall being most optimal. Mr. Brennan states that Town of Kendall's regulations would only allow 3 towers. The wind farm in Pike is not Iberdrola's. He states they have 195 units operating at Maple Ridge in Tug Hill area. Six to seven years ago, units were installed in Madison; they now seek more units. The "overhang rule" would allow adjoining landowners sign on with them and the property setback is waived, thus allowing more units to be installed. The company's overhang standard is 145ft. for both "participating and non-participating owners". He showed a preliminary map, but stated he will return with revised maps. Cell towers have a 110% fall zone.

Power lines would be buried, including under roads. The final run to the grid would be 3 lines on new poles. Skip clarified that Iberdrola Renewables is a separate entity from the parent company that owns National Grid and NYSE. Energy derived here would most likely serve this part of the state and release 35 kilovolts; sources to the east could then be directed downstate. The process takes about 2 years. A minimal amount of reactive energy is required to start up and keep the control system running. Paul explained the procedure in Kendall, stating that no overlay district has been created. This board and the town board would consider all the facts before applying the overlay.

Life of the machines is about 20 years. This is no short-term relationship between Iberdrola and the Town. They would prefer more than 10 towers in total. It would be decided in 2010 if the project is viable. They would need sufficient signees. Engineering design in 2012 and construction completed by 2013. Money for decommissioning would be held in escrow; most likely would retrofit with newer technology. The average energy production expected is 30-35% here; if less than 28% it is not economical. A 100 meter tower is best choice.

Payment would be in lieu of taxes. The going rate in New York State in the pilot program is \$8,000 per megawatt per turbine; shared with school, county, and town. Twenty-five to 27 turbines would produce 50 meg. Town of Hamlin is currently in a state of flux with concern to wind energy. Iberdrola would like to cross over town lines to achieve the total number of units desired. His question to this board is to determine if there is room for negotiations in the

current ordinance. Paul states it would require revisiting the wind energy law. Tom informed Skip of the LWRP which was adopted by Carlton, Yates and Kendall, and suggested he read it. Tom moved to table discussion until direction is received from the Town Board - seconded by Joyce. Paul stated we need a better technical understanding. He also states that no minutes were taken in the informational session held with the Supervisor last week, as it was not a public meeting. All in favor. Discussion tabled. Mr. Brennan departed.

Paul Lapinski stated that the land owners have a good relationship with Iberdrola and that's fine but his personal relationship with them is different. They don't go any place where there is a confrontation and that appears to be true tonight.

Ed Evans from 979 Hamlin Center Road stated that he would like to give his opinion from the educators view. He has been addressing classes at RIT. He has given a couple of successful talks on wind energy and they all begin under the MET tower located at Cook Road. He respectfully requests that the Board grant the extension.

Jerry Borkholder stated that he is an educator also and he has given many speeches on the negatives of wind turbines and he fears that Hamlin's leadership has "green" glasses on. It's a problem that the data is not being provided.

Dave Lucas questioned if Iberdrola has agreed to abide by DEC regulations regarding wind towers. Chairperson Linda Morey stated they are only discussing the MET tower proposal tonight.

Jack Shevlin of 768 Redman Road questioned the data being proprietary. Chairperson Linda Morey stated yes it belongs to their company. Mr. Shevlin stated that he thought that was part of the agreement that they provide the data to the town. Chairperson Linda Morey stated that they only share the data with the Town Board from the Redman Road tower per the original motion.

Having no further public input Chairperson Linda Morey closed the Public Hearing.

Chairperson Linda Morey stated that she has no problem with the tower staying up. There have been no issues with the tower. However, the original motion stated that the Cook Road data needed to be provided and that has been disregarded. It was not submitted with the application per the motion.

Mark Reeves suggested tabling the decision until the data is received. There is no excuse for the data not being provided.

Tom Jensen stated that he agrees. They need to provide the data from Cook Road.

Peter Tonerly stated that the public made several good points. One question was why one tower was removed if more data is needed. He assumes that the Redman Road data wasn't viable. The Board can't answer that. He agrees that the data needs to be provided.

Dave Martin questioned when the data would be provided. Mr. Hammond stated that it would be mailed tomorrow.

Peter Tonery agreed that he thought that the data was suppose to be available also but it was determined to be proprietary by the town attorney and doesn't fall under a FOIL request.

Tom Jensen stated that the data is proprietary until a decision is made by Iberdrola.

A motion was made by Mark Reeves, seconded by Dave Martin to table the decision until the January meeting. No additional Public Hearing is necessary in January but the Cook Road data needs to be provided. Members polled Jensen abstain, Martin aye, Morey no, Reeves aye, Tonery aye. Motion defeated.

A motion was made by Linda Morey, seconded by Tom Jensen to deny the request for a 9 month extension for the MET tower located at 175 Cook Road. Members polled Jensen aye, Martin no, Morey aye, Reeves aye, Tonery aye. Motion carried to deny proposal.

Ron Breslawski returned to the meeting.

#### **WILLIAM DRYER AND OTHER LANDS SUBDIVISION 1369 WALKER LAKE ONTARIO ROAD**

William Tower was present seeking Mylar re-signing for the William Dryer and Other Lands Subdivision located at 1369 Walker Lake Ontario Road. There are no changes to the plan. They just ran out of time to file. Town Engineer J.P. Schepp had no concerns.

A motion was made by Tom Jensen, seconded by Dave Martin to grant Mylar re-signing to William Tower for the William Dryer and Other Lands Subdivision located at 1369 Walker Lake Ontario Road. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

#### **MOSLEY SUBDIVISION 564 HAMLIN CLARKSON T.L. ROAD**

Dave Matt from Schultz Associates was present representing Joanne Mosley seeking Mylar re-signing for the Mosley Subdivision located at 564 Hamlin Clarkson T.L. Road. Mr. Matt stated that there are no changes to the plan. They just ran out of time to file the subdivision. Town Engineer J.P. Schepp has no concerns.

A motion was made by Dave Martin, seconded by Tom Jensen to grant Mylar re-signing to Joanne Mosley for the Mosley Subdivision located at 564 Hamlin Clarkson T.L. Road. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

**HAMLIN MEADOWS SUBDIVISION  
LOTS 102 AND 118  
ROOSEVELT HIGHWAY**

James Beehler was present representing Beehler Construction seeking Simple Subdivision approval for Lots 102 and 118 of the Hamlin Meadows Subdivision located on Roosevelt Highway. Right of way concerns were discussed. Town Engineer J.P. Schepp stated that they received a letter from the Attorney regarding the right-of-way never being filed so there are no issues. Tom Jensen stated that they are just subdividing off the footprint of the house and the property will remain part of the Homeowners Association. Mr. Beehler agreed.

A motion was made by Dave Martin, seconded by Ron Breslawski to grant Simple Subdivision approval to Beehler Construction for Lot 102 of the Hamlin Meadows Subdivision as presented. The Board waives the need for a Public Hearing per Town Code 125-74 B (10). Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

A motion was made by Tom Jensen, seconded by Peter Tonery to grant Simple Subdivision approval the Beehler Construction for Lot 118 of the Hamlin Meadows Subdivision as presented. The Board waives the need for a Public Hearing per Town Code 125-74 B (10). Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

**KETCHUM CORNERS SUBDIVISION  
SECTION 3 LOT 5  
KETCHUM ROAD**

Rich Maier from Maier Land Surveying was present representing Madeline Monno seeking Simple Subdivision approval for the Ketchum Corners Subdivision Section 3 Lot 5 located on Ketchum Road. Mr. Maier explained that he made the changes to the lot numbers per the Town Engineer's memo. The larger 35 acre lot is now Lot 2 and the smaller lot being divided off is now Lot 3. Chairperson Linda Morey questioned if there were any drainage issues. Mr. Maier stated no. Mr. Maier explained that the owner is just dividing the lot to sell it. The lot is not approved for building. Building Inspector Lee Nettin stated that the Route number for Walker Lake Ontario Road is incorrect and should be corrected on the map. Attorney Welch stated that the Board would need a more complete proposal in the future for this subdivision. Mr. Maier agreed.

A motion was made by Tom Jensen, seconded by Dave Martin to grant Simple Subdivision approval to Madeline Monno for the Ketchum Corners Subdivision Section 3 Lot 5 located on Ketchum Road with the corrections to the lot numbers and the route

numbers. The Board waives the need for a Public Hearing per Town Code 125-74 B(10). This is a Type II Negative Declaration SEQR determination. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

**GAGNE SUBDIVISION  
3768 BRICK SCHOOLHOUSE ROAD**

Rich Maier from Maier Land Surveying was present representing Becky and David Gagne seeking Simple Subdivision approval for the Gagne Subdivision located at 3768 Brick Schoolhouse Road. Mr. Maier explained that that Mr. and Mrs. Gagne own all three lots and would like to combine two lots and change the lot lines on the other creating a 2 lot subdivision. Town Engineer J.P. Schepp stated that the lot numbers needed to be corrected to Lot 1 and Lot 2 and “not approved for building” needed to be added to Lot 2. Mark Reeves questioned if the swale on the map is Brush Creek. Mr. Maier stated it could be.

A motion was made by Mark Reeves, seconded by Tom Jensen to grant Simple Subdivision approval to Mr. and Mrs. Gagne for the Gagne Subdivision located at 3768 Brick Schoolhouse Road with the corrections mentioned. The Board waives the need for a Public Hearing per Town Code 125-74 B(10). This is a Type II Negative Declaration SEQR determination. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

**CONCEPTUAL SITE PLAN APPROVAL  
ANTHONY BARBARITA  
5711 WAUTOMA BEACH ROAD**

Dave Matt from Schultz Associates was present representing Anthony Barbarita seeking Conceptual Site Plan approval for a single family house located at 5711 Wautoma Beach Road. Mr. Matt explained that the previous owner renovated the existing house without proper approvals, permits and inspections. Mr. Barbarita purchased the property and would like to meet the code and get the necessary approvals to finish the house and eventually live in it. Chairperson Linda Morey questioned the location of the septic system. Mr. Matt stated that they are trying to locate the septic system but the previous owner is still living on the property in his trailer that is parked where they think the septic is located. Mr. Barbarita is trying to have the previous owner removed from the property. The Board questioned the number of bedrooms proposed. Mr. Matt stated 4 bedrooms. Town Engineer J.P. Schepp stated that the septic system is a concern. The location of the utilities needs to be added to the plan and the address needs to be corrected. The plan requires several variances from the Zoning Board. Conservation Board member Jeanine Klopp stated that Craig Goodrich completed the LWRP and gave comments to the Board regarding this proposal.

A motion was made by Tom Jensen, seconded by Dave Martin to grant Conceptual Site Plan approval to Anthony Barbarita for a single family house located at 5711 Wautoma Beach Road and to refer the proposal to the Zoning Board for several variances. A Public Hearing for Preliminary Site Plan approval was scheduled for February 1, 2010 at 7:30pm. This is a Type II Negative Declaration SEQR determination. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Tonery aye. Motion carried.

## **NOMINATIONS**

A motion was made by Dave Martin, seconded by Peter Tonery to nominate Linda Morey as Chairperson of the Planning Board for the 2010 year. Members polled Breslawski aye, Jensen aye, Martin aye, Morey abstain, Reeves aye, Tonery aye. Motion carried.

A motion was made by Tom Jensen, seconded by Mark Reeves to nominate Dave Martin as Vice Chairperson of the Planning Board for the 2010 year. Members polled Breslawski aye, Jensen aye, Martin abstain, Morey aye, Reeves aye, Tonery aye. Motion carried.

## **DISCUSSION**

Town Board Liaison Dave Rose stated that the Board did a super job tonight with the Public Hearing. He mentioned that the Zoning Workshops would begin again in February. He wished everyone a Merry Christmas and a Happy New Year.

Conservation Board member Jeanine Klopp stated that the Conservation Board meeting is Tuesday December 15 at 7:00pm.

Mark Reeves asked Town Engineer J.P. Schepp about a memo they received regarding the Dakota Grill. Mr. Schepp explained the Storm water detention pond memo that they received. He stated that the motion for approval was contingent on Monroe County approvals. There are several issues with the site. The County has requested modifications to the storm water pond. Mr. Schepp has requested a revised map. There is no start date yet.

Chairperson Linda Morey and the Board wished Highway Superintendant Tom Ingraham all the best on his retirement.

The Board wished everyone Happy Holidays.

**ADJOURNMENT**

A motion was made by Mark Reeves, seconded by Peter Tonery to adjourn tonight's meeting barring no further business. Members polled Breslawski aye, Jensen aye, Martin aye, Morey aye, Reeves aye, Peter Tonery aye. Motion carried, meeting adjourned.

Minutes respectively submitted by:

Heather Norman  
Clerk to the Support Boards

**The next scheduled meeting of the Hamlin Planning Board will be held on Monday, January 4, 2010 at 7:30pm. Deadline for all fees is December 21, 2009 at 12:00pm.**