

**TOWN OF NORTH HARMONY  
SEQR AND PUBLIC HEARING  
LOCAL LAW #3-2009 ADULT ENTERTAINMENT  
LOCAL LAW #2-2009 WIND ENERGY**

**TUESDAY 5/26/09 7:00 PM**

<b>SALLY P. CARLSON, SUPERVISOR</b>	<b>PRESENT</b>
<b>RALPH WHITNEY, COUNCILMAN</b>	<b>PRESENT</b>
<b>ART THOMAS, COUNCILMAN</b>	<b>PRESENT</b>
<b>FRANK STOW, COUNCILMAN</b>	<b>PRESENT</b>
<b>DICK SENA, COUNCILMAN</b>	<b>PRESENT</b>

**OTHERS PRESENT:** Don McCord, Planning Consultant; Dave Stapleton, Attorney, Nancy Thomas, Town Clerk

**LOCAL LAW NO. 3-2009 ADULT ENTERTAINMENT**

**Mrs. Carlson opened the hearing at 7:00 PM.**

**Mr. Stapleton** said the Adult Entertainment SEQR form was prepared and the requested change on the boundaries of the district was incorporated on page 2. He read for the record **Part 1 – Project Information, Location of Action: Class I Adult Uses shall be permitted in C-1 Commercial Districts. Class II Adult Uses shall be permitted in the Adult Use Overlay District. The boundaries of said district shall parallel the south side of County Route 18 in depth of 500 feet from the centerline between Havercamp Road and Stebbins Road.**

**Mrs. Thomas** requested that this Local Law be designated as Local Law No. 3-2009 because the Cold War Veterans Exemption Law has been designated as Local Law 1-2009 and the Wind Energy as Local Law 2-2009.

**Mr. Stapleton** said he would take care of that at the time of filing with the State. He said there had been a Planning Board Public meeting in May, 2009, for open discussion with the public. Mr. Stapleton reviewed the full EAF SEQR and noted that many portions of the application do not apply because there are no specific projects in mind.

**ITEMS ADDRESSED PART 1 – PROJECT INFORMATION:**

**A. Site Description**

- 10. Yes –areas in question are commercial and agricultural and some of those activities may exist.**
- 15. Addition of Prendergast Creek**
- 18. Noted that there is an operating farm on the north side of CR-18 but should pose no impact on the SEQR process.**

**Mrs. Carlson** asked Mr. McCord if the application had been referred to County Planning for review and recommendation.

**Mr. McCord** said he was not sure.

**Mrs. Thomas** said she did not believe it had been to Planning. She said she would contact Doug Jacobs to determine this and if not, she would forward it.

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**Mrs. Carlson asked if there were any comments on environmental impact of the SEQR.**

**Mr. Stow** said if there are any parking lots involved they would require storm water run off plans.

**Mrs. Carlson** said that would be addressed in the building permit. Mrs. Carlson said she could not see any significant environmental impact.

### MOTION #84 OF 2009

MR. WHITNEY MOTIONED FOR A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT ON THE SEQR FOR LOCAL LAW NO. 3-2009 GOVERNING ADULT ENTERTAINMENT IN THE TOWN OF NORTH HARMONY. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

**Mr. Stapleton** asked the board if they wished to ask any questions about the language in the Adult Entertainment Law. He asked for the record, if they wanted to consider what has been done as the Public Hearing on that Law.

The board members had no questions and agreed to consider the Public Hearing portion of the law satisfied. They asked that the law be reviewed by County Planning prior to adoption.

### MOTION #85 OF 2009

MR. STOW MOTIONED THAT LOCAL LAW NO. 3-2009 GOVERNING ADULT ENTERTAINMENT IN THE TOWN OF NORTH HARMONY BE FORWARDED TO COUNTY PLANNING FOR REVIEW AND RECOMMENDATION. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

## LOCAL LAW NO. 2-2009 WIND ENERGY FACILITIES

**Mr. Stapleton** said the town has already been through the Public Hearing and SEQR application on Wind Energy. He said there were some modifications to that law that should be clarified.

**Mrs. Thomas** said there were some language and Section numbering corrections made that did not affect the intent of the law.

- **Page 4. - Sec. 690.03 Definitions – SMALL WIND ENERGY CONVERSION SYSTEMS – 100 kW changed to 25 kW**
- **Page 4. – Sec. 690.03 Definitions – UTILITY SCALE WIND ENERGY CONVERSION SYSTEM – 100 kW changed to 25 kW**
- **Page 5. – Sec. 690.03 Definitions – Addition of WIND OVERLAY DISTRICT – a district which encompasses all or part of an underlying district and that establishes requirements for Utility Scale Wind Energy Conversion Facilities.**
- **Page 6. – Sec. 690.06 – Creation of Wind Overlay District changed to Wind Overlay District Rules**
- **Page 7. – Sec. 690.07 – Application for Utility-Scale Wind Energy Conversion Systems and Wind Overlay District (added to Title)**

**Mr. Sena** asked for clarification on page 8. (9.) He asked if the 500' notification should be changed to include a larger area for large WECS. **Mrs. Thomas** said that generally on larger projects she notifies property owners in a broader area. **Mr. McCord** also noted that for a large project usually the wind energy company will put up a measurement tower for many months which would alert property owners of intent of action.

- **Page 13. – Sec. 690.10 – (E.) 20 feet changed to 30 feet**

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- Page 15. – Sec. 690.12 Setbacks for Utility Scale Wind Energy Conversion Systems –(E.) (3.) 1,000 feet changed to A minimum of three times the maximum total height of the WECS
- Page 16. – Sec. 690.15 – Abatement – (A.) Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property *(addition)* as required by the decommissioning plan in 690.07 (10.) (f.) of this Local Law.
- Page 18. – Sec. 690.21 – Permitted Areas for Small WECS – (1.) Small Wind energy systems may be permitted in any zoning district(s) upland of New York State Route 394 except for the R-1 and R-5 districts *(addition)* upon issuance of a Special Use Permit.
- Page 19. – Sec. 690.23 – Small WECS Development Standards – (1.) A system shall be located on a lot a minimum of ½ acre changed to one acre
- Page 19. – Sec. 690.23 – Small WECS Development Standards – (4.) (a.) 80 feet or less on parcels *(addition)* upland of New York State Route 394 that are one or more acres.
- Page 19. – Sec. 690.23 – (4.) (b.) 150 feet or less on parcels *(addition)* upland of New York State Route 394 that are five or more acres.
- Page 19. – Sec. 690.23 – (5.) 100 kW changed to 25 kW
- Page 19. – Sec. 690.23 – (7.) (a.) Shall not project *(addition)* more than 40 feet above the top of the highest natural point on ridgelines.
- Page 19. – Sec. 690.23 – (7.) (b.) *(corrected to read)* Shall be screened to the maximum extent feasible by natural vegetation, landforms, or other means to minimize potentially significant adverse visual impacts on neighboring residential areas and public viewing areas.
- Page 19. – Sec. 690.23 – (11.) generator *(deleted from second sentence)*
- Page 20. – Sec. 690.24 – (A.) (1.) Setback requirements. A Small WECS tower shall not be located closer to a property line than *(changed)* one times the Total Height of the WECS.

*There was discussion of small WECS on the lake side of Route 394. It was determined that towers would not be viewed favorably because of height and decided that if technology becomes available for roof mounted units that could be addressed in zoning at that time.*

**Mr. Sena** questioned Sec. 690.23 (2.) which allows only one small WECS per legal lot. He asked if the number allowed should be based on acreage. He asked how this would affect Mr. Wiemer's application to put up two towers.

**Mrs. Thomas** said Mr. Wiemer had been granted a Special Permit for two small WECS, but has only constructed one at this time. She said she believes that there is a time limit of one year on a Special Permit grant by the Zoning Board of Appeals.

**Mr. Stapleton** said it is a simple matter to legally divide a large lot into more lots to cover that contingency.

**Mr. Stow** asked if that could be interpreted to allow someone to put up a tower on every acre of their land.

**Mr. Stapleton** said he believes that typically zoning interprets whatever is on the deed as one parcel. He also noted that that the intent of the Zoning Law is not to exclude people and that is why there is a Zoning Board of Appeals.

**Mr. McCord** said the intent of the Planning Board was to limit it to one lot and it has to be at least one acre.

**Mrs. Thomas** said in the AR District one acre is a minimum legal lot size and in the AG District two acres is a minimum legal lot size.

**Mr. McCord** said the language does allow a loop hole, however these systems have a 16-25 year payback, so theoretically he does not feel there will be a large number of people trying to utilize that loop hole. Mr. McCord said Sec. 690.04 (E.) Exemptions; covers the question Mr. Sena posed about agricultural

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operations (i.e. mechanical WECS to draw ground water). He suggested that the law should be developed as close as possible to where you want it from a practical standpoint and then let it stand on its own for 6 months. He said applicants can apply for variance requests and if it is noted that a large number of requests are received under a law, then you should consider revisiting and perfecting it for the community.

**Mr. Sena** said he has issues with Sec. 690.23 (15.) in regard to the ridgeline. He said the 250' radius portion is an impossible criterion to meet unless it is in the middle of an empty field.

**Mr. McCord** said he had spoken to Small WECS manufacturers about that particular item. He said Planning Boards are not engineers so they need some kind of verification from wind developers that their towers, especially those with guy wires systems take into account buildings, light structures, etc. He said this is the standard for Small and Utility-scale WECS. He said in researching the Law he could not find any basis to justify a change in the law and could not recommend it. He said it is not about the tower falling down and hitting something. He said in the past some towers were constructed of aluminum and when wind comes across the plain and reaches an obstacle that creates an obstruction it can cause the wind currents to go up and can create an atmosphere of turbulence which can cause the small WECS to become unstable.

**Mr. Stapleton** asked if there is a concern that during high winds pieces of the system could fall off.

**Mr. McCord** said yes, that is a concern and that this dissipates above 30 feet. He said the language allows for the applicant to bring forth the manufacturers data saying that this is structurally sound.

**Mr. Sena** said these companies have their reputations at stake and have been installing these units for 30 years and guaranteeing them for 30 years. He said they are not going to put up a sub-standard structure.

*There was further general discussion on the topic.*

### MOTION #86 OF 2009

MR. WHITNEY MOTIONED TO ADOPT LOCAL LAW NO. 2-2009 GOVERNING WIND ENERGY FACILITIES IN THE TOWN OF NORTH HARMONY AND TO AMEND THE ZONING LAW TO REFLECT ITS INCLUSION. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

### MOTION #87 OF 2009

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. SENA, THE HEARING WAS ADJOURNED AT 8:20 PM.

*Nancy Thomas  
Town Clerk*