

TOWN OF CLARKSON  
 WORKSHOP LOCAL LAW #1-2010  
 WIND ENERGY FACILITIES LAW  
 March 24, 2010

The Town Board of the Town of Clarkson held a workshop on Wednesday, March 24, 2010 at the Clarkson Town Hall, 3710 Lake Road, Clarkson, NY at 6:00 PM

PRESENT:

Paul Kimball	Supervisor
Christa Filipowicz	Councilperson
Allan Hoy	Councilperson
Patrick Didas	Councilperson
Sheldon Meyers	Councilperson
Sharon Mattison	Town Clerk
Richard Olson	Attorney for the Town

ALSO:

Susan Beck	Wind Generator Committee Chair
Michael Cunningham , Jr.	Wind Generator Committee Member
Juliann Dean	Conservation Board
Stacy Peck	Conservation Board
Ursula Liotta	Building Department Coordinator

Supervisor Kimball opened the meeting and Sharon Mattison, Town Clerk, led all those present in the Pledge of Allegiance. A moment of silence was observed for those serving in the military.

Attorney for the Town Richard Olson explained the importance of adequate environmental review of the proposed local law by the Town in order to protect against future litigation issues. He stated that these laws are subject to SEQRA and considered a Type 1 action with the Town Board as lead agency. Olson briefly described the Town of Hamlin's experience with a similar proposed local law and the findings of New York State Supreme Court with respect to the SEQRA review. Since there is not a current project in front of the Board, making a SEQRA determination by preparing an environmental impact statement was not recommended. By law, environmental impact needs to be considered by a municipality for anything that is not listed as a Type 2 action. Olson stated that prior court cases have listed comparable actions as Type 1 so the Town of Clarkson will do the same.

In every instance, a long form SEQRA application will be required of each homeowner applying for permission to install a wind generator in the Town of Clarkson. Permission for small (not to exceed 35 feet in height) and medium size (greater than 35 feet to 100 feet in height) wind energy conversion systems (WECS) would be granted by the Planning Board (lead agency for small and medium WECS applications) with a Special Use Permit. The process for approval of a large size (greater than 100 feet in height) WECS is more complicated and requires approval of a zoning overlay by the Town Board.

Attorney for the Town Olson listed several potential issues with environmental impact such as lighting/shadow effects, risks to avian species, blade and ice throw, tower toppling or communications problems. Primary concerns of surrounding property owners may include visual impact, noise, interference with wildlife, and safety. Since there are no pending applications or sites to examine, the group stated these issues would be addressed on a case by case basis.

Supervisor Kimball inquired whether the Town would be involved if a transmission line needed to be built as a result of a large WECS installation and Attorney for the Town Olson replied yes, and indicated that the Town has dictated that the transmission line on the property must be underground.

The wind generator committee offered their perspective on the noise issue. Susan Beck stated she personally visited two different WECSs and did not find them to be very noisy, acknowledging that this is very subjective. Councilperson Hoy asked whether there was noise emission data available from the manufacturer, which S. Beck confirmed. Noise studies have been done to unsure no local laws with regard to noise are violated. She stated that persons actually living near the WECSs and having constant exposure to the sound may have a different opinion of the noise level than someone who was briefly visiting the area. Councilperson Meyers inquired whether newer versions of WECSs are quieter than models made years ago, which Attorney for the Town Olson confirmed. S. Beck also stated that multiple turbines would obviously emit more sound than a single one. She pointed out that two individuals in neighboring houses could have differing opinions on whether or not the noise level emitted is tolerable. She affirmed that the low level frequency and repetition of the turbine's operational sound may bother some individuals more than others. S. Beck stated it is possible that those objecting to WECSs may have a lower tolerance level for issues such as noise than those who are in favor of turbines. Olson pointed out that the financial compensation paid to those landowners leasing their property for WECS may reduce their objection to the noise, whereas the next house not being paid may feel more irritation from the same sound.

Attorney for the Town Olson discussed the issue of shadow flicker, which can be a problem depending on where the tower is located relative to the individual. He observed that noise emissions can be modified to an extent by engineering means; however that is not the case with shadow flicker. Again, this would be an issue to be dealt with on a case by case basis.

Regarding taxation, Olson stated the proposed local law contains a provision that the Town of Clarkson opts out of the state law that gives significant tax breaks to the WECS operators, allowing the Town to collect taxes. Olson said wind generator committee member Scott Tantalo could not find any data which shows that property values are lower next to a WECS, so there would not be any assessment breaks for neighbors.

Committee chair Susan Beck expressed her concern that, over the approximate 25 year history of WECS, not many studies have been done that definitively provide reliable data about environmental impact. S. Beck noted that out West, WECS are largely located in unpopulated areas, but in New York State that would not be the case. Olson pointed out that once the WECS are installed, they will remain there indefinitely, making the Town's diligence in approving them a critical issue.

S. Beck stated that the noise levels as set in the Town of Clarkson's proposed local law are typical of other towns' local laws she has examined. Olson suggested the Town buy equipment to measure noise levels, when and if turbines are ever installed in the Town. Supervisor Kimball stated that since the price of natural gas is currently about one-third of its prior cost, the interest in wind energy may have waned slightly because the price for electricity has also dropped, making WECSs less lucrative.

The effect of WECSs on bird life was discussed. S. Beck stated there is some data on this matter, indicating there is not a significant impact. Possible effect of shadow flicker and noise on animal life at ground level was discussed.

Olson stated there have been a couple "fall-over's" recently due to individuals bypassing safety mechanisms, causing the turbine to speed up and lose a blade which in turn causes the tower to collapse. Committee member Michael Cunningham stated that the fallen blade stayed within the 1.5 times height safety zone around the tower. Olson stated he is not aware of any turbine falling over outside of the fall zone.

Blade throw criteria, i.e., how far the blade will fly when it falls off, doesn't show any negative data regarding this issue.

Ice throw was discussed and Attorney for the Town Olson stated it does not appear to be a significant issue according to studies he has seen. He said if there was a specific project in front of the Board, one of the points to be shown would be that the turbines are

monitored by meteorological stations. If a problem did occur, that information would be used to shut the turbine down immediately from off site.

Visual impacts were discussed; in other words, how the towers look, or the esthetics. It was pointed out that any wind farm would be taller than the tree line, or approximately 60 feet high. There is no way to hide them or not see them. It was stated that there are few appropriate or desirable sites on which to build a large WECS which meet the approval criteria in the Town of Clarkson. Most applications would likely be for small WECSs of less than 35 ft.

Attorney for the Town Olson asked whether anyone had any environmental issues or concerns regarding the small WECSs of under 35 feet in height. None were stated. Olson described the dimensions of an example model as having a rotor diameter 16 feet across and sitting 30 feet high at a cost of \$25,000 installed. It was suggested that the State of New York would possibly pay half the cost. WECSs of this size will be controlled on a case by case basis by the Planning Board.

Medium size WECSs of 35 to 100 feet in height would require a minimum lot size of seven acres and will also be controlled on a case by case basis by the Planning Board.

Considering there is currently no Large WECS project before the Board, the group decided that further environmental impact studies with respect to this proposed local law were not necessary at this time.

The meeting was adjourned at 8:07 PM.

Respectfully submitted,

Sharon S. Mattison,  
Town Clerk

APPROVED APRIL 10, 2010