

Graziano - aye
LoManto - aye
Butcher - aye

***A MOTION was made by Angelo Graziano, seconded by Keith Butcher to accept all department head reports as given.

Adopted: **Ardillo** - aye
Tessey - aye
Graziano - aye
LoManto - aye
Butcher - aye

***A MOTION was made by Sarah LoManto, seconded by Westley Tessey, WHEREAS General Vouchers #119 – 136 totaling \$5,274.19, General Prepays #30 – 36 totaling \$13,984.35; Highway Vouchers #151 – 168 totaling \$14,541.56, Highway Prepays #15 -16 totaling \$18,631.75; Ball Hill Abstract #10 totaling \$35,424.64; Ball Hill Abstract #11 - \$6,375.26 were submitted, reviewed and approved for payment.

Adopted: **Ardillo** - aye
Tessey - aye
Graziano - aye
LoManto - aye
Butcher - aye

***A MOTION was made by Sarah LoManto, seconded by Angelo Graziano to modify the 2016 budget by decreasing line A1990.4 Contingent Account \$100.00 and increasing line A1670.4 Central Mailing Contractual \$100.00.

Adopted: **Ardillo** - aye
Tessey - aye
Graziano - aye
LoManto - aye
Butcher - aye

***A MOTION was made by Keith Butcher, seconded by Angelo Graziano to modify the 2016 budget by decreasing DA5130.41 Machinery Fuel \$4,000.00 and increasing DA5130.4 Machinery contractual \$4,000.00.

Adopted: **Ardillo** - aye
Tessey - aye
Graziano - aye
LoManto - aye
Butcher - aye

Town Attorney, Don Michalak explained that Dan Spitzer, Special Counsel is absent due to the weather between here and Buffalo, the skyway is closed, and they are considering closing the NYS thruway. He summarized the local laws before the board.

***A MOTION was made by Keith Butcher and seconded by Angelo Graziano as follows

Tessey - aye
LoManto - aye
Butcher - aye

The complete text of said local law being as follows

LOCAL LAW NO. 3 OF 2016
OF THE TOWN OF VILLENOVA

**A LOCAL LAW PROVIDING FOR THE
ADMINISTRATION AND ENFORCEMENT OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE
IN THE TOWN OF VILLENOVA**

Be in enacted by the Town Board of the town of Villenova as follows:

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS

In this local law:

“Building Permit” shall mean a permit issued pursuant to section 4 of this local law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Certificate of Occupancy” and “Certificate of Compliance” shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Compliance Order” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of

section 3 of this local law.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Town” shall mean the Town of Villenova.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy and Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy and Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy and Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy and Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Supervisor with approval of the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Supervisor with approval of the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed the Supervisor with approval of the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town.

SECTION 4. BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction,

enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) a description of the proposed work;

(2) the tax map number and the street address of the premises where the work is to be performed;

(3) the occupancy classification of any affected building or structure;

(4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable

requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

(1) work site prior to the issuance of a Building Permit;

(2) footing and foundation;

- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for

issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by regular mail, and either registered mail or certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by regular mail, and either registered mail or certified mail.; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. Certificates of Occupancy and Certificates of Compliance

(a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a [Certificate of Occupancy / Certificate of Compliance]. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance,

shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(2) flood hazard certifications.

(c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name, address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary

Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the following procedures: the procedures stated in the property maintenance code.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance, or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation

and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, Certificates of Occupancy and Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and

(9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the

activities of this Town relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

SECTION 15: VIOLATIONS

(a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by _____ [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other

notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

SECTION 16: FEES

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

SECTION 17. INTERMUNICIPAL AGREEMENTS

The Town Board of this Town may, by resolution, authorize the Town Supervisor of this

Town to enter into an agreement, in the name of this Town , with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

SECTION 18. PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 19. REPEAL OF PRIOR LOCAL LAW

Local Law No. 5 of 2006 is hereby repealed and replaced with this local law.

SECTION 20. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

***A MOTION was made by Sarah LoManto and seconded by Keith Butcher as follows

**SEQR Resolution
for Local Law Introduction No. 4 of 2016**

WHEREAS, the Short Environmental Assessment Form (EAF) has been previously filed and a public hearing has been held regarding the proposed local law, including environmental considerations, NOW upon review of the proposed action, the Short Environmental Assessment Form, and the SEQRA considerations with respect to proposed Local Law Introduction No. 4 of 2016, it is reasonably determined that the proposed action is an **Unlisted** action, and **will not** result in a significant environmental impact, and that a **Negative Declaration** is made.

ROLL CALL:

Adopted: Ardillo - aye
Graziano - aye
Tessey - aye
LoManto - aye
Butcher - aye

***A MOTION was made by Angelo Graziano and seconded by Westley Tessey as follow:

**Enactment of
Local Law No. 4 of 2016**

WHEREAS a public hearing was previously held, including SEQRA considerations, at the Town Hall, 1094 Butcher Rd., South Dayton, New York, to consider the advisability of enacting proposed Local Law Introduction No. 4 of 2016, and notice having been duly published

and posted, and

WHEREAS the final form of the proposed Local Law has been upon the desks of the Town Board members at least seven calendar days before passage, and

WHEREAS the Town Board has made a [Negative](#) SEQR determination, therefore,

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF VILLENNOVA AS follows

THAT THE PROPOSED LOCAL LAW INTRODUCTION **NO. 4** OF THE YEAR **2016** **PRINT NO. 2** BE ENACTED AS PRESENTED TO THE BOARD.

BE IT FURTHER RESOLVED:

1. That this local law be assigned the following number: Local Law No. **4** of **2016**
2. That the complete text be [included in](#) the minutes.
3. That the Town Clerk publish and post the local law or an abstract within 10 days or as otherwise required by law.
4. That the Town Clerk certify and file the Local Law as required by law.

ROLL CALL:

Adopted: **Ardillo** - **aye**
Graziano - **aye**
Tessey - **aye**
LoManto - **aye**
Butcher - **aye**

The complete text of said local law being [as follows](#)

LOCAL LAW NO. **4** OF **2016**
OF THE TOWN OF VILLENNOVA

**A LOCAL LAW PROVIDING FOR THE
CONTINUATION OF THE CURRENT ZONING PROVISIONS
IN THE TOWN OF VILLENNOVA
REGARDING INOPERATIVE OR UNLICENSED VEHICLES
IN LIEU OF THE PROVISIONS OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

Be in enacted by the Town Board of the town of Villenova as follows:

WHEREAS, the new provisions of the International Property Maintenance Code as adopted by Property Maintenance Code of New York State allows no inoperative or unlicensed vehicles, and

WHEREAS a municipality may by local law opt out of this provision, to the extent provided therein,

THEREFORE be it enacted that such optional local power be exercised to continue the current provisions applicable in the Town of Villenova with respect to such motor vehicles, [including Town of Villenova Zoning Local Law sections 202, 620, 622 and 622, and sections 401, 402 and 403, as amended by Local Law No. 3 of 2008.](#)

***A MOTION was made by Angelo Graziano and seconded by Keith Butcher as follows

**SEQR Resolution
for Local Law Introduction No. 5 of 2016**

WHEREAS, the Short Environmental Assessment Form (EAF) has been previously filed and a public hearing has been held regarding the proposed local law, including environmental considerations, NOW upon review of the proposed action, the Short Environmental Assessment Form, and the SEQRA considerations with respect to proposed Local Law Introduction No. 5 of 2016, it is reasonably determined that the proposed action is an **Unlisted** action, and **will not** result in a significant environmental impact, and that a **Negative Declaration** is made.

ROLL CALL:

Adopted:	Ardillo	-	aye
	Graziano	-	aye
	Tessey	-	aye
	LoManto	-	aye
	Butcher	-	aye

*** A MOTION was made by Angelo Graziano and seconded by Westley Tessey as follows

**Enactment of
Local Law No. 5 of 2016**

WHEREAS a public hearing was previously held, including SEQRA considerations, at the Town Hall, 1094 Butcher Rd., South Dayton, New York, to consider the advisability of enacting proposed Local Law Introduction No. 5 of 2016, and notice having been duly published and posted, and

WHEREAS the final form of the proposed Local Law has been upon the desks of the Town Board members at least seven calendar days before passage, and

WHEREAS the Town Board has made a **Negative** SEQR determination, therefore,

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF VILLENova AS follows

THAT THE PROPOSED LOCAL LAW INTRODUCTION **NO. 5** OF THE YEAR **2016**
PRINT NO. 3 BE ENACTED AS PRESENTED TO THE BOARD.

BE IT FURTHER RESOLVED:

1. That this local law be assigned the following number: Local Law No. 5 of 2016
2. That the complete text be **included in** the minutes.
3. That the Town Clerk publish and post the local law or an abstract within 10 days or as otherwise required by law.
4. That the Town Clerk certify and file the Local Law as required by law.

ROLL CALL:

Adopted: Ardillo - **aye**
Graziano - **aye**
Tessey - **aye**
LoManto - **aye**
Butcher - **aye**

The complete text of said local law being [as follows](#)

LOCAL LAW NO. 5 OF 2016
OF THE TOWN OF VILLENOVA

**A LOCAL LAW TO REPEAL THE PROVISIONS OF THE ZONING LOCAL LAW
OF THE TOWN OF VILLENOVA REGARDING TRANSITION DISTRICTS**

Be it enacted by the Town Board of the Town of Villenova as follows:

Section 1. Authority

This local law is adopted pursuant to the authority granted to the Town of Villenova in Section 10 of the New York Municipal Home Rule Law, as well as pursuant to its other and general powers and authority.

§2. Purpose

Whereas the boundaries of the transition districts as established by the zoning map are less than clearly defined, and whereas after study and review an amendment altering and more clearly defining the transition district boundaries has not been identified, and whereas the transition districts have not been utilized and there are no pending applications with regard to the transition districts, and whereas the town board therefore believes it would be in the best interest of the town, the purpose of this local law is to eliminate the transition district as a separate zoning classification. [This is without prejudice to such district or similar district being reestablished in the future if and when and where appropriate.](#)

§3. Repeal of Section 402 Transition Districts

Section 402 Transition Districts of the Zoning Local Law of the Town of Villenova is hereby repealed in its entirety, and such lands previously so designated are reclassified as ARI Agriculture and Residential.

§4 Amendment of Section 301 Creation and Enumeration of Districts

Section 301 Creation and Enumeration of Districts of the Zoning Local Law of the Town of Villenova is hereby amended to read as follows:

For the purpose and provisions of this Local Law, the municipality is hereby divided into the following types of districts:

Agriculture and Residential	(ARI)
Industrial Park (Floating)	(IP)

§3. Amendment of Section 403 Zoning Map

The “zoning district map of the Town of Villenova, New York; dated, Sept. 11, 1997,” which map accompanies and is made part of the Zoning Local Law of the Town of Villenova is hereby amended by eliminating there from the designation of 402 Transition Districts.

§4. Repeal of local law 2014-1

Local law number 1 of 2014 which made amendments to the transition district boundaries is hereby repealed.

§5. Severability

If any clause, sentence, paragraph, section or article of this local law shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

§6. Effective Date

This local law shall take effect upon its filing with the office of the New York Secretary of State.

Attorney Michalak explained that also before the board tonight is a resolution regarding local laws # 6 & 7, he summarized approval of the Ball Hill Wind Project steps 1 – 9 listed in the resolutions Local Law #6 & 7 of 2016.

Angelo Graziano, councilmember states he felt snowballed last week, with the studies presented, he hasn't seen the project from the beginning and wants a chance to look at the FEIS, the Host Community Agreement, and wishes to make a motion to table Local Law 6 & 7 for 10 days, **Butcher** states the FEIS have been here at the hall, the board was told they were here, although, **Graziano** stated he didn't know they were here at the hall. **Graziano** continued and asked why his copies weren't sent directly to his house, as some of the projects other documents were, as he requested be done. He states everything he has asked for has been pushed aside, he's tired of getting pushed aside, he is making a motion to table this for 10 days to go through this and he wants a copy of the complete host agreement, not a draft, **Ardillo** responded with you have the agreement, the whole board does, after another interruption from the public in attendance, **Supervisor Ardillo** reminded everyone that this isn't a public hearing and to please hold back outburst or questions you have, thank you.

Angelo Graziano still wishes to make a motion to table this: he has asked for a mailer to go out to all residents regarding the wind tower development, there's two ways to look at this, either you're for it or against it. You either want the wind mills and the money, the new plow truck or you want your health, home and the environment, you want one or the other, we should get a chance to go through that book, go through comments. He claimed nothing every came in front of the board, **Ardillo and LoManto** stated there were a couple of times they reviewed letters that had come into the clerks' office, she provided them to them for review after board meetings.

Ardillo went on to say that everything that has been received, as far as comments, has been gone through and tallied, to date those tallies are: 66 letters from residents supporting, 6 letters from residents against, 8 from non residents against and 2 unsigned in support. **Graziano** asked if of the 66 supporting, were they the cards prewritten by RES, **Ardillo** estimated about 40 of them

were on the cards.

Graziano again made a motion to table, **Ardillo** asked if anybody wanted to second that motion; **Tessey** inquired about the special use permit, **Mark Sweeney** addressed the special use permit, that document is a resolution of the statement of findings, that all conditions have been met, the host community agreement ironed out, Jim Pippin, the town's consultant, has seen all these documents, and signed off, that all requirements have been met, and the application is complete, the special use permit is basically the authority to build the thing, and the conditions that are relevant to the construction, all were contained in the final impact statement, there is nothing new in there, no changes, this is consistent with other projects that have been done. **Tessey** asked if Mark Sweeney was with RES, to which he replied yes, **Tessey** asked if anyone from Haley & Aldrich was present, and there were none in attendance. It was explained the special use permit is not the applicants document, it is the town's, town clerk Goodway added that this document came about in the beginning of this process, in 08 or before, as a result of the town deciding that this was a huge responsibility for the local code enforcement officer to review and grant a special use permit as is typically done with normal projects, it was written into the towns local law that a project of this size come before the board so that experts can be consulted with. **Tessey** was not aware of the history.

Ardillo; back to the matter at hand, does anybody want to second Angelo's motion to table, without a second, there is not motion.

Tessey had further questions regarding the host community agreement and special use permit, as he understands, the town can expect that RES will sell this project off at some point, he asked Mark Sweeney if he understands that correctly, if that happens, or RES can't keep it's bill up, what happens to these agreements, Mark Sweeney states that anyone that takes over this project, be it by foreclosure or acquisition by another company, they are bound by the terms and conditions in our "contract". They essentially step into the shoes of RES and would be obligated to the same payments to the town, tax payments. Wes wanted to get into things further. **Michalak** intervened to give a summary of the process of adopting a resolution. First someone makes a motion, someone seconds it, then it's up for discussion, after discussion the comment period is closed and a vote takes place to adopt or not adopt the resolution.

***A MOTION was made by Westley Tessey, seconded by Angelo Graziano to open this up for discussion prior to making a resolution regarding the wind tower project.

there was some discussion regarding the process of approving the project, and if those in attendance could speak or express their feelings in regards to the wind project

***A MOTION was made by Keith Butcher, seconded by Westley Tessey, the Town of Villenova Board does hereby, resolve to adopt Local Law No. 6 of 2016, increasing the maximum height of wind turbines, adopting Local Law No. 7 of 2016 creating a wind overlay district, approving Ball Hill Wind Energy, LLC's amended application for a special use permit and host community agreement, the Ball Hill Wind Energy Project, and stating the Board's intention for use of the revenues from the Ball Hill Wind Energy Project;

**RESOLUTION OF THE
TOWN OF VILLENOVA TOWN BOARD ADOPTING LOCAL
LAW NO. 6 of 2016, INCREASING THE MAXIMUM HEIGHT
OF WIND TURBINES, ADOPTING LOCAL LAW NO. 7 of 2016
CREATING A WIND OVERLAY DISTRICT, APPROVING**

**BALL HILL WIND ENERGY, LLC's AMENDED
APPLICATION FOR A SPECIAL USE PERMIT AND A HOST
COMMUNITY AGREEMENT THE BALL HILL WIND
ENERGY PROJECT, AND STATING THE BOARD'S
INTENTION FOR USE OF REVENUES FROM THE BALL
HILL WIND ENERGY PROJECT**

WHEREAS, development of the Ball Hill Wind Energy Project began in or about May, 2008 with an applications filed in the Towns of Villenova for a Special Use Permit and creation of a Wind Overlay Zoning District under the Town of Villenova Wind Energy Facilities Law (Local Law No. 1 of 2007), as part of a proposal to build wind energy facilities in the Towns of Villenova and Hanover in Chautauqua County, New York including wind energy facilities producing approximately 100 MW of clean, renewable energy including, without limitation, access roads, electrical collection system, laydown areas, operations and maintenance areas, electrical transmission system, a substation and switchyard and other utility related infrastructure ("Project"); and

WHEREAS, the Town Board of the Town of Villenova, acting as Lead Agency, pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617) ("SEQRA") accepted the Project's application as complete and issued a Positive Declaration of Environmental Significance on June 23, 2008; and

WHEREAS, as a result a Draft Environmental Impact Statement ("DEIS") was prepared for the Project, which was reviewed by the Villenova Town Board and its engineering and legal consultants, was accepted as complete for public review and comment on October 8, 2008; and

WHEREAS, written and oral comments were received on the DEIS and the Project from interested and involved Agencies and the public at a public hearing held on October 30, 2008 in the Town of Villenova; and

WHEREAS, on or about August 2011, the Project development continued at the same project location with layout and equipment changes that were included in amended applications submitted to the Villenova Town Board for creation of a Wind Overlay Zoning District and Special Use Permit, and included a request to modify the maximum height restriction in the Town's Wind Law; and

WHEREAS, the Villenova Town Board accepted the amended application submitted to it as complete on February 8, 2012 and ordered that a Supplemental DEIS ("SDEIS") be prepared analyzing potential impacts as required under its Wind Energy Facilities Law and SEQRA, and adopted a scope of impacts to be analyzed in said SDEIS; and

WHEREAS, development of the Project continued at the same location with a revised layout and new equipment that were included in second amended applications submitted to the Hanover and Villenova Town Boards respectively in May 2012,

including a request to increase the maximum height restrictions under the Villenova and Hanover Town Laws; and

WHEREAS, the Villenova Town Board and Villenova Town Board both accepted the respective second amended applications for the Project as complete on May 23, 2012 and the Villenova Town Board further ordered the preparation of the SDEIS taking into account the new project layout, different turbine technology and the increased height of the WECS; and

WHEREAS, the SDEIS, analyzing all impacts identified in the Villenova Town Board's resolution dated February 8, 2012 as well as any impacts resulting from the additional height necessary to accommodate the Project's technology as stated in its resolution dated May 23, 2012, was prepared and submitted for the Town Board's engineering and legal consultants' review; and

WHEREAS, on October 16, 2015, the Villenova Town Board further adopted a resolution continuing its review of the pending applications as SEQRA Lead Agency, recognizing the continued development of the Project by Ball Hill Wind Energy, LLC, and directing the finalization of the SDEIS to address any layout or equipment changes for the Project at the original Project location and the resulting potential environmental impacts; and

WHEREAS, on January 27, 2016, the Villenova Town Board accepted the SDEIS submitted by Ball Hill Wind Energy, LLC as complete for public review, opened a 47 day public comment period and, on March 2, 2016, held a public hearing in the Town of Villenova on the SDEIS; and

WHEREAS, on September 19, 2016, Ball Hill Wind Energy, LLC submitted an amended application for a Special Use Permit, creation of a Wind Overlay District and a request to increase the maximum height of the WECS to 495' to the Villenova Town Board ("Villenova Amended Application"); and

WHEREAS, on September 28, 2016, the Villenova Town Board accepted the Villenova Amended Application as complete to continue its review of the Project and held a public hearing on October 13, 2016 to hear all comments on the Villenova Amended Application and the proposed local laws to create a Wind Overlay District and to increase the maximum height of the WECS to 495'; and

WHEREAS, on November 22, 2016 the Villenova Town Board, based on the recommendation of Haley and Aldrich, Inc., the Town's engineering consultant, issued the Final Environmental Impact Statement; and

WHEREAS, on December 6, 2016, the Villenova Town Board issued its Statement of Findings for the Project under the SEQRA regulations; and

NOW, THEREFORE, be it hereby resolved by the Town Board of the Town of Villenova as follows:

1. The Town Board has reviewed the Amended Application in accordance with the Town of Villenova Wind Energy Facilities Law (Local Law No. 1 of 2007) and determines that the standards for the creation of a Wind Overlay Zone and issuance of a Special Use Permit have been satisfied, for the reasons stated in the Statement of Findings, and
2. Local Law No 6 of 2016 amending the Town of Villenova Wind Energy Facilities Law (Local Law No. 1 of 2007), to increase the maximum allowable height of Wind Energy Conversion Systems. attached hereto and made a part hereof, is hereby adopted; and
3. Local Law No 7 of 2016 amending the Town of Villenova Official Map to reflect the Wind Overlay Zone for the Project, attached hereto and made a part hereof is hereby adopted.
4. The Special Use Permit for the Project is hereby approved and issued with conditions, including all mitigation requirements in the FEIS and Statement of Findings. A copy of the Special Use Permit is attached hereto and incorporated herein; and
5. The Host Community Agreement Between the Town of Villenova and Ball Hill Wind Energy, LLC is approved and the Supervisor is directed to execute the Agreement; and
6. It is the intent of the Town Board that no less than sixty percent (60%) of revenues received under the Host Community Agreement shall be used to reduce the real property tax levy in the General and Highway Funds.
7. Ball Hill Wind Energy, LLC, is directed to notify any other Involved or Interested Agencies, as required, of the Board's determinations; and
8. The Town's Special Counsel shall notify the County Planning Board of the determinations of the Town Board as required by General Municipal Law § 239-m(6).
9. This Resolution is effective immediately, however the Town Clerk shall not file Local Law No. 6 of 2016 and Local Law No. 7 of 2016 with the Secretary of State until the payment required by Section 4.1 of the HCA has been received.

Westley Tessey, councilmember states; “ This is a very volatile subject, he became acquainted with it right after the recent township elections, the project seemed to pick up speed with the new

administration. I questioned this, how come after this new administration windmills seemed to be a hot item. I was advised that after January 1st, monies were released for the project. There have been volumes, upon volumes of information being handed out to the board in this project, to say I have read it all would not be correct, I have however read enough to understand the complexity of this project and the impact on our Township. Through this project the town has used an independent engineering firm as well as legal counsel, because no one on the board or the administration is versed enough in the technology to understand the entire project. I was told that both these entities, as well as our town attorney, while working on this project, were being paid by the project applicant, RES, with no cost to the township. At first I was leery as this seemed kind of like the fox watching the hen house. I have to say that our meetings on the project have been very professional, I believe that they have not misled or provided false information to this administration. I didn't know they were hired back in 2007 or 2008, they were hired independently by the town, they weren't recommended by RES or Noble's, or Duke and it was the Town's choice to hire them. I inquired as to whether the town selected these representatives or they were recommended by the wind mill company, I was told the town on its own selected, without influence these representatives. I discovered the town requested the wind tower company establish an escrow account to reimburse these representatives at no cost to the township. It was observed in one of the public hearing comments, this project was costing the town an enormous amount of money, after looking into that concern, I believe it is inaccurate, correct me if I am wrong, the town hasn't had to spend any money, on attorney fees or engineering fees regarding this project." **Ardillo** responded, "That is correct." *Tessey continued* "Now if this project should not go through, does the town owe any monies back to anybody?" **Ardillo** "no." *Tessey* "I asked if this project has met all required laws as applicable and was told it had. The engineering firm and town attorney both advised this board that all required laws had been met, and also we were advised this is the first step in a tier of many steps. With us approving tonight, does not mean windmills are going up in Villenova, I was surprised to know that Arkwright can't start building yet, they have not had final approval and I thought they had. It is also my understanding that should this project proceed with approval from the town board, the wind turbine project is still not a go, there are other agencies that must grant their approval. I have township residents with questions about safety, I bought these up in township meetings and received what I feel are knowledgeable answers from agencies involved in this project." He asked if this book (referring to the FEIS) was available to the public, to which Supervisor **Ardillo** responded yes. "If anyone wants to read the comments they are available. What it all comes down to is three major concerns of those commenting, animals, birds bats, and the environment. I asked these agencies, and I was hoping someone from the agencies could be here, but someone from RES is, what I really want to know before we vote on this, is if there is any proof that you have that these pose a danger to the public?" "Light flicker being harmful to residents, epilepsy, these are things people have bought to me, and as far as I know the explanations, these aren't harmful to residents. I most certainly don't want to vote for anything that will be harmful to residents." *Tessey* asked RES representative, Mark Sweeney if he thought they were harmful, **Sweeney** responded by, "In those books we've gone into detail about how those things have been analyzed, using the state of Massachusetts study as an example, the state of Mass has done a study on sound and all those things and in each one of those instances we've identified, not only given an answer but identified information relative to rebuke studies in Mass, to give answers to what they are saying." *Tessey* "The threat to eagles and migratory birds, the reason I bring this up is that I have had numerous calls from township residents about these concerns, and I understand about the bats, I believe there is one letter in here that was written that says there were something like 500,000 bats killed and I notice we talked about the speed on the turbines being 3.5 mph, where they determine bats fly and I also took notice in there where they can't take timberlands or wetlands or destruction of that property," **Sweeney** responded "Correct, there have been numerous studies about those concerns, basic requirements are, number one, there is

monitoring that is going to be done, we (RES) are working closely with DEC, and US Fish and Wildlife, to develop what they call bird and bat conservation strategies, the DEC has to issue the permits that are necessary in order for us (RES) to operate, those permits, we've given the basics of what those permits are going to be, and the mitigation that is required in these documents (FEIS), the final documents will be issued by the DEC as they consult with the US Fish and Wildlife." **Tessey** "I think that's another big misconception that they, they being the people he's talking to seem to think, once this board does or does not approve this, it's a done deal, but the DEC and everybody still has to put their stamp of approval on it." **Sweeney** "Correct, the DEC is going to be issuing wetland permits that are necessary for us (RES) to construct the project they are also most likely going to be issuing an incidental take permit, that will mainly be for the Northern Long Eared Bat because of the white nose syndrome that has occurred, we've gone to great lengths with the DEC and US Fish and Wildlife to demonstrate to them the variety of mitigation measures, including reducing the cut in speeds of the turbines, certain times of the year, and by doing this we are mitigating the potential impact on those species, so we've had numerous meeting with them to go over the specifics and that will all be boiled down and put into the permit, when it's issued." **Tessey** "One of the other things is decibels, and it's all covered in here (FEIS), I just wanted to make sure it's available to everybody, noise is one thing that is bought up all the time, also the safety of the residents should one of those towers collapse, that's where the setbacks come into play" **Sweeney** "the setbacks are set up and the host community agreement also calls for us (RES) to have insurance that indemnifies the town, naming the town as additional insured, it insures that we have adequate insurance to provide for recovery for anyone that is potentially injured"

Judy Wojcik, a resident in attendance, asked a question regarding, once these towers are put up and someone has a desire to put a building within the 500' thing, we just suffer right, you guys don't move your tower, Sweeney replied, that the setbacks and placement of towers are set at the time of the permit, and if someone subsequently decides on their own that they are willing going to build a structure closer than the law allows, that is fine, because the way the law works, it restricts the placement of the wind energy turbine, not another structure, Wojcik, so if I build before your towers are up that wouldn't change anything? Sweeney "with the way it works, at the time of the permit being issued if we are in compliance, we are in compliance with the law, you can build a house on your land wherever you choose, you're not going to invalidate the project by building your house closer, because you are making that decision based on after the decision is made that the project is in compliance. Wojcik, "so is tonight the night the permit happening?" Sweeney "if they vote on a resolution and approve the motion then we get a permit." Tessey, "that's a permit to advance to the next step, not a permit to start building windmills?" Sweeney, "correct, we can't start construction on the turbines until we receive permits from other agencies. Wojcik "I understand".

Tessey "There is also a concern about our roads, and their use by these gigantic construction vehicles, our community host agreement which we have here reveals that the town has in effect an agreement between the windmill company to build new roads, repair or construction to either as existing or better than existing conditions that we have. Attorney Spitzer was very straight forward about these windmills stating, they will be changing the landscape of Villenova forever and ever, and he means forever, these 495' behemoths will be hovering over our township therefore creating a different environment than any of us in the area are use to, also there has been confusion about notification to the public for meeting about these towers, I have to say the township did publish its notice in the Observer as required and I believe any resident with enough interest in the Town had to know about these meetings, wouldn't it have been nice if all the town residents had received notice, not just those in the wind overlay zone, yes, it probably would have been. I am not for or against the wind turbines. When I took the oath of offices I promised I

would respect and represent the people of the Villenova Township and place my personal feelings second to those of its residents, I've been told by the town supervisor, who I have the utmost respect for, that without this project it will be very difficult for Villenova as a township to survive. Tax increases will be on the horizon and none of us can afford to be taxed more than we already are. This board was able to stay below the tax cap last year and most residents were rewarded with a rebate check from the state of New York, I as a member of this board want this trend to continue, to save our residents as much money as we can. Several residents seemed to think that these windmills will eliminate taxes right from the start, that's not true. Our highway department looks like a mash unit. We need a comprehensive plan moving into the future to make this department viable, we have good people working there, who need a good workplace and good equipment. I've asked that a referendum be made by this board, that under the first year under the wind tower agreement a genuine, honest effort be made and put in writing, that it is our intent that 60% of the wind turbine money be directed to lowering taxes, and 40% to the highway department. Otherwise what benefits do our residents receive other than those that are in line for royalties from this project, which by the way, I agree with the Town Supervisor, we see eye to eye on that, there is no reason people can't use their land and collect fees." So basically that is my feeling on the matter.

Supervisor Ardillo thanked Westley for his statement, and remarked that he covered everything that he had intended on covering. Butcher also thanked him for his input.

Supervisor Ardillo asked for a roll call vote, (the motion had been made earlier)

Roll Call	- Rich Ardillo	- aye
	- Keith Butcher	- aye
	- Wes Tessey	- aye
	- Ang Graziano	- nope (nay)
	- Sarah LoManto	- abstain

Motion carried with 3 ayes

PASSED AND ADOPTED by the Town Board of the Town of Villenova on the 14th day of December, 2016

text of local law #6 & 7 of 2016:

LOCAL LAW
INTRODUCTION NO. 6 OF 2016
OF THE TOWN OF VILLENOVA

A LOCAL LAW TO AMEND SECTION 690.09(A)(13) OF THE ZONING LOCAL LAW OF THE TOWN OF VILLENOVA TO INCREASE THE MAXIMUM HEIGHT OF ANY WIND ENERGY CONVERSION SYSTEM ("WECS") COMMONLY KNOWN AS A "WIND TURBINE" OR "WINDMILL"

Be it enacted by the Town Board of the Town of Villenova as follows:

Section 1. Amendment of Section 690.09(A)(13) of Article VI-A, Wind Energy Facilities, of the Zoning Local Law of the Town of Villenova.

Section 690.09(A)(13) is amended to read

13. The maximum Total Height of any WECS shall be 495 feet.

§ 2. Effective Date.

This local law shall take effect upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

LOCAL LAW
INTRODUCTION NO. 7 OF 2016
OF THE TOWN OF VILLENNOVA
Print No. 1

**A LOCAL LAW TO AMEND THE ZONING MAP OF THE TOWN OF VILLENNOVA TO
CREATE A WIND OVERLAY DISTRICT**

Be it enacted by the Town Board of the Town of Villenova as follows:

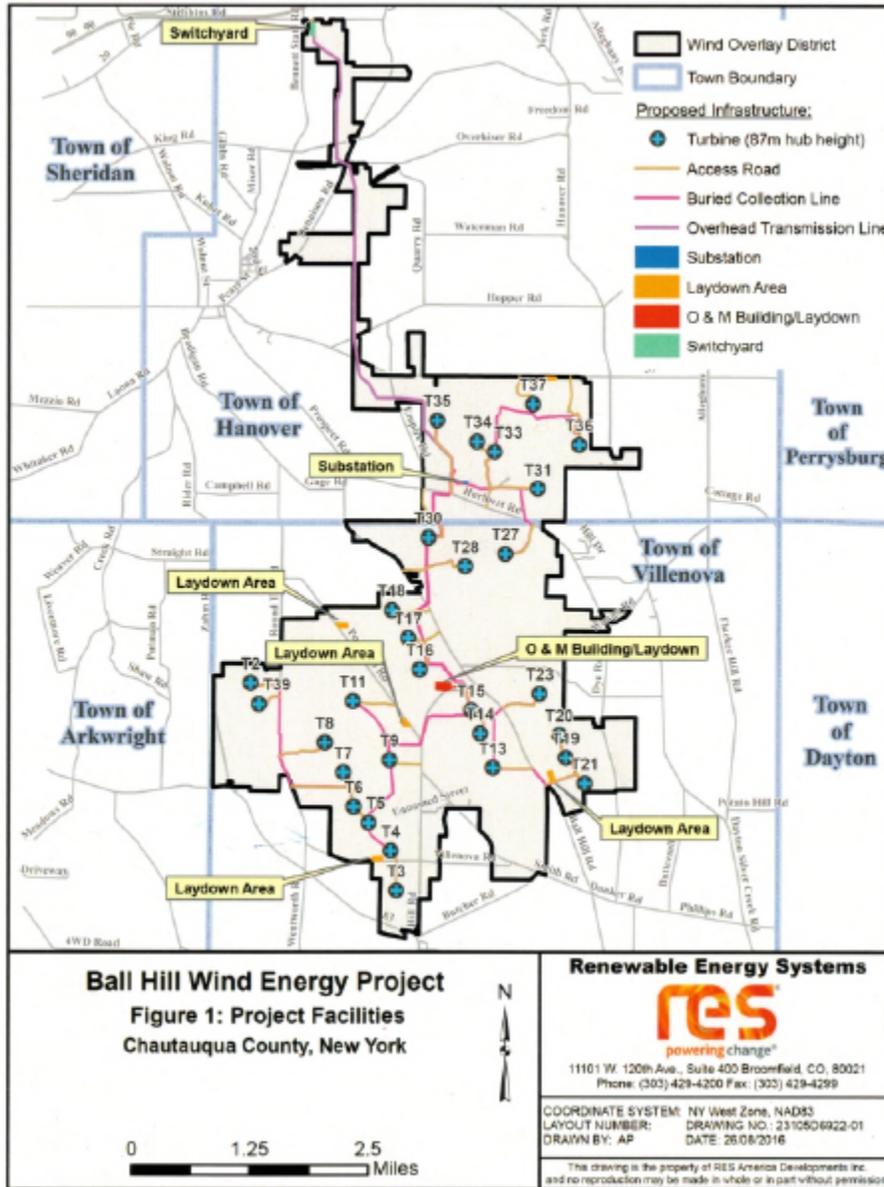
Section 1. Section 301 of the Zoning Law of the Town of Villenova is amended by adding Wind Overlay District (Floating) (WOD), which may be defined and established by a separate map that shall be considered part of the Zoning District Map under Section 302, with the same force and effect as if set forth thereon, as an enumerated district.

§ 2. The official map of the Town of Villenova is amended to create a wind overlay zone, as shown on the attached map.

§ 3. Effective Date.

This local law shall take effect upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

Attach Ball Hill Wind Energy Project Figure 1: Project Facilities



The complete text of the Special Use Permit follows:

TOWN OF VILLENOVA Special Use Permit

ISSUED TO: **Ball Hill Wind Energy, LLC**
 DATED: December 14, 2016

THIS SPECIAL USE PERMIT is hereby GRANTED to BALL HILL WIND ENERGY, LLC for the construction and operation of a Wind Energy Facility containing twenty-three (23) Wind Energy Conversion Systems (“WECS”), associated substations, collection and

transmission lines, access roads, operations and maintenance buildings and other utility infrastructure (“Project”) pursuant to a resolution of the Villenova Town Board dated December 14, 2016, which determined that the requirements of the Town of Villenova Local Law No. 1 of 2007, as amended had been met and directed the issuance of this Special Use Permit.

The location of said WECS are set forth on the attached Exhibit A. All WECS, substations, collection and transmission lines, access roads, operations and maintenance building and other utility infrastructure for the Project are depicted on the plans and drawings in the approved application. The conditions for the Special Use Permit are attached hereto as Exhibit B.

Dated: December 14, 2016

TOWN OF VILLENNOVA
TOWN CLERK

EXHIBIT A TURBINE SITE COORDINATES

TURBINE	TAX MAP ID	UTM Zone 17 NAD27		LONGITUDE	LATITUDE	Elevation
		Easting (m)	Northing (m)			Height of Base
T2	134.00-1-40	650546	4696776	79° 10' 13.6859"	42° 24' 38.2411"	477.24
T3	168.00-1-32	653136	4693322	79° 08' 23.7392"	42° 22' 44.4903"	488.64
T4	168.00-1-49	653016	4693993	79° 08' 28.3423"	42° 23' 06.3193"	500.14
T5	168.00-1-43	652627	4694463	79° 08' 44.8970"	42° 23' 21.8252"	493.72
T6	151.00-2-15	652362	4694726	79° 08' 56.2303"	42° 23' 30.5350"	499.52
T7	151.00-2-20	652169	4695304	79° 09' 04.1172"	42° 23' 49.4014"	487.22
T8	151.00-2-21	651838	4695807	79° 09' 18.1103"	42° 24' 05.9345"	489.14
T9	151.00-2-7.2	652948	4695535	79° 08' 29.8402"	42° 23' 56.3362"	473.28
T11	151.00-2-3.1	652294	4696526	79° 08' 57.4885"	42° 24' 28.9124"	484.8
T13	152.00-1-13	654713	4695453	79° 07' 12.7669"	42° 23' 52.4216"	499.69
T14	152.00-1-12	654476	4696036	79° 07' 22.5539"	42° 24' 11.4822"	516.72
T15	152.00-1-10	654312	4696426	79° 07' 29.3478"	42° 24' 24.2375"	528.52
T16	134.00-2-19	653416	4697086	79° 08' 07.8911"	42° 24' 46.2639"	500.32
T17	134.00-2-18	653209	4697617	79° 08' 16.4337"	42° 25' 03.6181"	500.34
T18	134.00-2-24	652911	4698082	79° 08' 29.0207"	42° 25' 18.8980"	506.44
T19	152.00-2-20	655948	4695663	79° 06' 18.5601"	42° 23' 58.3362"	522.22
T20	152.00-2-5	655824	4696053	79° 06' 23.6011"	42° 24' 11.0635"	517.88
T21	152.00-2-18	656284	4695233	79° 06' 04.2910"	42° 23' 44.1592"	511.96

T23	152.00-2-6	655475	4696738	79° 06' 38.1935"	42° 24' 33.5124"	499
T27	135.00-1-3	654817	4699101	79° 07' 04.6747"	42° 25' 50.5577"	488
T28	135.00-1-6	654141	4698868	79° 07' 34.4684"	42° 25' 43.4920"	488.28
T30	135.00-1-1	653498	4699340	79° 08' 02.1390"	42° 25' 59.2460"	489.44
T39	151.00-1-4.2	650694	4696426	79° 10' 07.5441"	42° 24' 26.7958"	489.28

EXHIBIT B
SPECIAL USE PERMIT CONDITIONS

Ball Hill Wind Farm Project Town of Villenova
Special Use Permit Conditions

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1.0 General Conditions

- 1.1 Ball Hill shall be responsible for acquiring other local, state, or federal permits or authorizations that may be required to construct and operate the Project.
- 1.2 Ball Hill shall submit a copy of such permits and authorizations to the Town.
- 1.3 All representations and commitments made by Ball Hill in the Wind Energy Permit application, in the Draft, Supplemental, and Final Environmental Impact Statement and Statement of Findings are applicable and shall be followed unless otherwise approved by the Towns.
- 1.4 Ball Hill shall comply with all applicable local, county, state and federal laws.
- 1.5 Ball Hill will provide the Town with drawings issued for construction (“Construction Drawings”) for review in accordance with the New York State Uniform Fire Prevention and Building Code (“Building Code”). Where required under applicable statutes and/or regulations, Ball Hill shall provide sealed drawings to the Code Enforcement Officer or the Town Designated Engineer to support issuance of applicable building permits.
- 1.6 Any necessary building permits will be issued upon receipt, review and assessment against applicable code requirements and acceptance of such final plans. This review shall be completed by the Town’s Designated Engineer.
- 1.7 For any construction activity for which a building permit was issued, Ball Hill’s Engineer of Record will supply to the Town Designated Engineer for certification of compliance with applicable standards or codes.

2.0 Town Designated Engineer

- 2.1 Ball Hill shall pay for a professional engineer (P.E.) licensed in the State of New York to be retained by the Town (“Town Designated Engineer”) to accept on behalf of the Town of Villenova, all drawings, reports, and construction documents to assure that appropriate engineering stamps and certifications are in place.
- 2.2 The Town Designated Engineer (also referred to in the EIS as the Town’s Environmental Monitor(s)) will conduct field inspections to ensure full compliance with all applicable permit conditions, codes, and regulations during construction.
- 2.3 The Town Designated Engineer will report to the Town Board and will provide reports upon request to the Town Board and Ball Hill.
- 2.4 After construction, monitoring will be conducted in accordance with the Host Community Agreement between Ball Hill and the Town or applicable permit conditions.

3.0 Ball Hill’s Environmental Monitor

- 3.1 Ball Hill will submit an updated Environmental Monitoring Plan (“EMP”) five (5) days prior to construction. The EMP will contain all permits, permit conditions, and other commitments made by Ball Hill during the permitting processes before local, State and Federal agencies. Such conditions and commitments include, but are not limited to those associated with wetland and stream disturbance, vegetation removal, stormwater management and erosion control, invasive species management and concurrent/post-construction restoration, and agricultural impacts.
- 3.2 Ball Hill shall provide any amendments or revisions to the EMP, to the Town’s Designated Engineer as necessary until construction is complete.
- 3.3 Pursuant to the EMP, Ball Hill will employ dedicated, discipline oriented Quality Technician/Monitor(s) (“Environmental Monitor(s)”), who will have the credentials, knowledge and experience required for understanding the environmental and agricultural requirements as set forth in the permits, permit conditions and approvals for this Project. The EMP shall identify the Environmental Monitor(s) responsible for implementing the EMP on behalf of Ball Hill. Environmental Monitor(s) shall prepare compliance reports per the EMP and submit same to the Town until construction is completed.
- 3.4 It will be the Environmental Monitor’s responsibility to include timely reviews to substantiate compliance with the EMP including such documents as the SWPPP, Ag. & Mkts. Guidelines and any other required environmental program during the construction process. The EMP will be properly posted, updated, monitored and reported, as necessary.

- 3.5 Pre-construction meetings shall be held between Ball Hill and its contractors, as set forth in the EMP. Ball Hill shall invite appropriate Town officials, and State and/or Federal agency representatives including the Town Supervisor, the Town Designated Engineer, the Town Highway Superintendent, local and county emergency responders, representatives of the New York State Department of Transportation (“NYSDOT”), New York State Public Service Commission (“NYSPSC”), New York State Department of Environmental Conservation (“NYSDEC”), and New York State Department of Agriculture and Markets (“NYSDAM”).

4.0 Agricultural Lands

- 4.1 All disturbed areas shall be restored with subsoil and stockpiled topsoil. Restoration should return each site to pre-construction contours and with native vegetation cover. Appropriate geotextile fabric shall be used to segregate native material from imported material, and different soil layers exposed during excavation (e.g., topsoil from subsoils).
- 4.2 Agricultural lands impacted during construction will be restored per Ag. & Mkts. Guidelines to the extent practicable.
- 4.3 Formal monitoring of areas temporarily or permanently disturbed by construction will occur for two (2) years immediately following completion of initial restoration.
- 4.4 Ball Hill shall continue to coordinate with NYSDAM throughout construction of the Project.
- 4.5 Ball Hill will screen large stones out of topsoil prior to replacement/backfilling of disturbed areas. All stones or rocks 4 inches or greater in diameter shall be removed from the surface of topsoil.
- 4.6 Compaction and rutting by construction vehicles in areas that have not been permitted (e.g., including but not limited to agricultural fields, wetlands) will be avoided. To ensure impacts to disturbed agricultural areas are minimized, Ball Hill shall perform decompaction to a depth of at least 18 inches, if practical and where needed.
- 4.7 All equipment shall be stored on improved areas, including access roads, crane pads and cleared areas for each turbine. Construction activities outside of the improved areas that may cause excessive soil compaction shall not be conducted during periods of high soil moisture or heavy precipitation events.
- 4.8 Ball Hill will install or repair subsurface drain lines and ditch plugs and, where necessary, culverts and water beds to maintain natural drainage patterns pursuant to the SWPPPs and applicable NYSDEC and USACE permit conditions.
- 4.9 All subsurface drainage tiles in agricultural fields that has been disturbed or removed during construction shall be restored to pre-construction working conditions.
- 4.10 Ball Hill will provide the Town’s Designated Engineer with final sealed layout drawings for the underground 34.5kV collection line. The design provided to the Town will indicate installation of underground collection lines to a minimum depth of 36” below existing grade and most generally located at 42” below grade depending upon soil conditions, depth of rock or other unknown subsurface conditions except in agriculture fields where the target burial depth will be a minimum of 48” where practicable. The underground collection lines will have a protective notification cable or layer identifying that a buried cable lies underneath and advising not to proceed without contacting Ball Hill.
- 4.11 The Environmental Monitor(s) shall provide copies of all agricultural reports required under the EMP to the Town’s Designated Engineer.

5.0 Geotechnical Investigations

- 5.1 Site-specific geotechnical investigations shall be conducted by Ball Hill in order to document and assess soil and, if encountered, groundwater conditions at each turbine site and, where required, along access roads. Consideration of site-specific features shall be incorporated into the design of individual WECS foundations. Ball Hill shall provide the Town Designated Engineer with engineering calculations to support the sealed foundation designs based on the results of the site-specific geotechnical investigations.
- 5.2 As part of the site specific geotechnical investigations described in Section 5.1 above, if ground water is encountered, information will be collected relating to depth of ground water at such locations. This information will be provided to the Town's Designated Engineer for use in analyzing any complaints they may receive from residents of the Town relating to residential, commercial or agricultural water supply wells. Mitigation for verified Project related impacts to residential, commercial or agricultural water supply wells, as determined by the Town's Designated Engineer in consultation with Ball Hill, will be implemented and paid for by Ball Hill through the Complaint Resolution Procedure.

6.0 Stormwater Pollution Prevention Plan (SWPPP)

- 6.1 Ball Hill shall develop and implement site specific Stormwater Pollution Prevention Plan(s) ("SWPPP") prepared and certified by a licensed/certified professional that meets all the requirements of the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-02-01). Ball Hill shall file a Notice of Intent (NOI) for the SWPPP to the NYSDEC, as required.
- 6.2 Copies of the SWPPP(s), NOI(s), and any amendments to the SWPPP(s) will be submitted to the Town's Designated Engineer no later than five (5) business days before the start of any construction.
- 6.3 The following set forth specific standards that shall be complied with as part of the construction component of the Project and incorporated as part of the SWPPP:
- 6.3.1 Concrete trucks will not be allowed to rinse on site except lined wash out containment areas, approved by the Town's Designated Engineer. Concrete placement will be monitored through the EMP to ensure that these operations will comply with the applicable environmental standards.
- 6.3.2 All spills occurring as a result of the Project shall be remediated to meet existing State and Federal clean-up criteria, including site restoration. An appropriate spill management plan shall be incorporated into the SWPPP.
- 6.3.3 The SWPPP shall address any groundwater that is pumped out of an excavation and shall describe how it will be controlled with respect to disposal.
- 6.3.4 Existing site drainage will not be affected by excavation and grading. Adequate drainage will be provided for each Site.
- 6.3.5 Erosion potential will be assessed at each WECS site. Erosion control shall incorporate measures that limit the time trenches and excavations remain open to the atmosphere and limit the exposure period for stockpiled material.
- 6.3.6 Unless otherwise directed by NYSDAM, all stockpiles that remain in place for more than 48 hours shall be stabilized to prevent dust from blowing off and protection from precipitation.
- 6.3.7 Runoff from trenches, excavations and stockpiles shall be limited. Runoff shall be contained in an appropriate area, and sediment shall be removed from runoff prior to release. All runoff released to storm drains/ditches shall meet state regulated discharge criteria.
- 6.3.8 Topsoil shall be segregated using appropriate means including, but not limited to, geotextile fabrics. Runoff from topsoil stockpiles shall be managed using appropriate measures such as silt barriers or hay bales in accordance with the SWPPP. The effectiveness of these measures shall be monitored and evaluated, and, where observed to be deficient, additional protection measures shall be adopted.

6.3.9 All cleared vegetation shall be chipped, and, where possible, re-used on site or disposed at an appropriate facility. Ball Hill will coordinate with landowners to chip or dispose of stumps as needed.

6.4 A copy of any Notice of Termination of Stormwater Discharge Associated with Construction Activity (“NOT”) associated with the approved SWPPP, and filed with the NYSDEC shall be provided to the Town’s Designated Engineer.

7.0 Water Resources and Wetlands

7.1 Culvert specifications shall be of sufficient size to maintain adequate flow at all stream crossings. Stream flows shall be calculated prior to designing culvert sizes, and shall include all high and low flow stream conditions. Culvert design and specifications shall be in accordance with NYSDEC and USACE permit requirements.

7.2 Ball Hill will coordinate with the appropriate regulatory agencies with regard to the stream crossing requirements and shall provide the Town Designated Engineer with specific stream crossing details 10 days before the start of construction for said crossings.

7.3 At a minimum, trench plugs shall be used in all trenches at wetland crossings, or in other locations determined by Ball Hill and the Town Designated Engineer to be appropriate.

7.4 The manager of any New York State or private fish hatchery(ies) shall be notified of any spills required to be reported under NYSDEC regulations within two miles of the fish hatchery.

7.5 The managers of New York State and private fish hatcheries within a 10 mile radius of the project will be invited to pre-construction meetings.

7.6 Active measures including reseeded or replanting of native species will be used to restore wetlands impacted by construction activities. Specific revegetation measures, including invasive species controls, will be required in the wetland permits that will be issued by the NYSDEC and United States Army Corp of Engineers (USACE) for the Project. A copy of the approved Invasive Species Management Plan shall be included in the EMP.

7.7 The wetland mitigation site shall be constructed concurrently with the project construction, if permitted by NYSDEC and USACE.

8.0 General Construction

8.1 Construction activities shall be permitted from 6 am to 8 pm, unless approved by the Town’s Highway Superintendent or Town Supervisor. Requests for work during other times must be made in writing.

8.2 A construction schedule shall be provided to the Town prior to the start of construction, identifying the anticipated construction initiation and completion dates. Ball Hill shall submit any updated schedules to the Town.

8.3 All work areas shall be cleaned up at the end of each work day to the extent practicable.

8.4 Ball Hill contractors shall employ best management practices to minimize fugitive dust from construction activities. These can include, but are not limited to, ensuring all excavations and stockpiles are appropriately stabilized (e.g. through the use of hydroseeding, mulch or spraying exposed areas with water) when appropriate based on prevailing weather conditions. Such stabilization will be conducted in accordance with Ag. & Mkts Guidelines or NYSDEC policies, as appropriate.

8.5 The components of the Project (e.g., wind tower, substation, access roads etc.) shall be maintained in a neat and orderly fashion, and painted parts shall be maintained in good condition (e.g. no significant rust).

8.6 If blasting becomes necessary, a site specific blasting plan will be prepared and submitted to the Town’s Designated Engineer and copied to the Chautauqua County Emergency Response providers, and the Chautauqua County Health Department, as needed, for their review and approval. The blasting plan will include, at a minimum, the requirements as set forth in OSHA Standard 1910.109 and other applicable New York State Standards.

9.0 General Road Requirements

9.1 The use of seasonal use highways by Ball Hill or its contractors in the off season shall be solely

Ball Hill's responsibility for the maintenance of said highways including, but not limited to, snowplowing.

- 9.2 Appropriate geotextile fabrics shall be used under all access roads. The geotextile fabric shall extend to the width of the widest portion of the access roads. Where roads are reduced in width, only the geotextile fabric that is uncovered shall be removed, while the remaining geotextile fabric under the remaining portions of the access roads shall remain in place except in agricultural fields where all fabric within 24" of finished grade shall be removed.
- 9.3 Applicable Permits for the use of state and county roads shall be obtained from the NYSDOT and Chautauqua County, prior to construction affecting roads within the respective jurisdictions.
- 9.4 Best management practices and/or landowner requirements shall be followed for access roads constructed for the Project.
- 9.5 Gravel access roads will be designed to bear the weight of truck traffic transporting concrete, gravel and turbine components to the Project Site. The required gravel road base will be constructed using site specific geotechnical information taking into consideration the intended load-bearing and turning requirements of construction traffic and equipment delivery vehicles. The access roads constructed by Ball Hill shall be designed and maintained throughout the life of the Project such that they can accommodate emergency vehicles.
- 9.6 During construction or right-of-way maintenance, all ditches shall be kept clear of debris from the Project, including, but not limited to spoils, cleared brush and refuse.
- 9.7 In accordance with its NYSDOT permits and in consultation with the Town Highway Superintendent, Ball Hill agrees to install and maintain adequate signage including but not limited to road speed limits, one way directional arrows and other forms of warning signage during the construction period.
- 9.8 All emergency contact information shall be provided to the Town prior to, during and following construction.

10.0 Traffic

- 10.1 Pursuant to the Host Community Agreement entered into between Ball Hill and the Town, Ball Hill shall submit a traffic routing plan for the delivery and construction activities associated with Project related construction activities.
- 10.2 Ball Hill agrees to comply with the following to minimize impacts on traffic:
 - 10.2.1 Delivery vehicle and construction vehicle traffic shall avoid periods of school bus activity to the extent practicable. Confirmation of school bus pickup/drop-off hours shall be obtained from all affected school districts prior to construction.
 - 10.2.2 Haul routes shall avoid densely occupied and traveled areas to the extent possible.
 - 10.2.3 Construction and transport vehicles shall only travel approved haul routes.
 - 10.2.4 Vehicle parking areas will be provided, and shuttles will be used to transport workers.
 - 10.2.5 Street sweepers shall remove mud resulting from Ball Hill's construction activities from local roads, if necessary.
 - 10.2.6 If necessary, the Environmental Monitor(s) will advise construction personnel that the travel speeds of vehicles shall be reduced to minimize or avoid fugitive dust emissions.

11.0 Public Rights of Way

- 11.1 All work performed in the Public Rights of Way ("PROWs"), including access road entrance construction and utility installation, shall be completed in accordance with the appropriate Town, County, or State permits, specifications, and requirements. Detailed and sealed construction drawings, prepared by a Professional Engineer in the State of New York, shall be prepared and submitted for review and approval to the appropriate agencies.
- 11.2 No construction work shall commence in PROWs until appropriate permits, including necessary building permits, are obtained and the Host Community Agreement and the EMP are in place and/or executed.

12.0 Emergency Coordination and Response & Health and Safety

- 12.1 A Health and Safety Plan and Emergency Response Plan shall be prepared by Ball Hill and will be kept updated and fully implemented throughout construction and operation of the Project. Both Plans shall be submitted to the Town and the Town's Designated Engineer and made available to the emergency service providers upon request. Ball Hill will provide updated HSP and ERP to the Town as appropriate.
- 12.2 Emergency responders will be notified weekly of the upcoming construction activities.
- 12.3 Unless otherwise required by the NYSDPS, Ball Hill shall work with landowners to assess safety/fencing issues on a site by site basis. Where a landowner requests deviations from prescribed safety precautions that affect emergency service provider access to the Project Site(s), this request shall be submitted in writing to the Town and Ball Hill. No such deviation can be made, without concurrence from the Town's Engineer and/or Town emergency service providers. To the extent such changes do not affect emergency service provider access, no such approval is required.
- 12.4 Safety orientation meetings shall include vehicle safety concerns, and will be conducted at a minimum on a weekly basis. However, daily safety tailgate meetings with construction workers shall be conducted prior to the start of each new construction day. Job Hazard Analysis shall be considered during daily safety tailgate meetings.
- 12.5 Ball Hill and its contractors will comply with all applicable Occupational Safety and Health Administration ("OSHA") regulations, in addition to all applicable State worker safety regulations.

13.0 Visual

- 13.1 WECSs lighting will meet FAA requirements. No lighting is permitted during the day unless required by the FAA, and red strobes of minimum intensity and duration if allowed by the FAA shall be used.
- 13.2 To the extent changes in FAA Guidelines affect the operation of the Project, Ball Hill shall advise the Town of such changes, if any, as they relate to wind turbine FAA lighting and marking.
- 13.3 To mitigate the visual impacts of the Project on National Register of Historic Places ("NRHP") eligible properties, a mitigation plan will be developed between the New York State Historic Preservation Office ("SHPO") and Ball Hill identifying specific mitigation measures and how they will be implemented. This plan will be part of the memorandum of agreement ("MOA") between Ball Hill and SHPO. Ball Hill shall provide a copy of the executed MOA to the Town, 15 days prior to the start of construction.

14.0 Complaint Resolution

- 14.1 The Complaint Resolution Procedure shall be implemented as set forth in the Application and in accordance with the Villenova Local Law No. 1 of 2007 ("Local Law") and the Host Community Agreement.
- 14.2 The Complaint Resolution Procedure specifically addresses those residences affected by Project impacts including but not limited to shadow flicker, noise, stray voltage, well water impacts and television reception issues. Any such impacts must be verified by the Town's Designated Engineer.
- 14.3 Residences and businesses of the Project that experience shadow flicker above the maximum levels established by the Local Law may lodge a complaint through the Complaint Resolution Procedure. The Town's Designated Engineer shall investigate the shadow flicker experienced at the affected residence or business, once a complaint has been lodged, to verify the complaint. If verified by the Town Designated Engineer, the residence or business shall be offered the opportunity to have appropriate landscaping (e.g., tree groupings), fencing, window treatments or other screens (e.g., reasonable alteration to structure) to mitigate impacts related to shadow flicker.
- 14.4 Residences and businesses of the Project that experience sound pressure levels above the maximum noise levels established by Local Law may lodge a complaint through the Complaint Resolution Procedure. The Town's Designated Engineer shall investigate the noise levels at a residence or business once a complaint has been lodged, in order to verify the complaint. If the

complaint is verified, the affected residence or business shall be offered the opportunity to have appropriate landscaping (e.g., tree line between the offending wind turbine(s) and window(s)), fencing, window treatments or other screens to mitigate noise impacts.

14.5 All residences of the Town shall be informed by mail of the Complaint Resolution Procedure.

15.0 Follow-up Studies and/or Monitoring

15.1 Noise

15.1.1 If resident complaints regarding noise are lodged through the Complaint Resolution Procedure and the Town's Designated Engineer determines that the noise levels in more than three (3) such complaints exceed those set forth in the Local Law, a post-construction noise study shall be prepared and submitted to the Town for review in accordance with the Host Community Agreements between the Town and Ball Hill.

15.2 Avian Bat Study

15.2.1 Ball Hill will perform a post-construction avian/bat mortality study and ensure a protocol has been developed as set forth in the EIS and approved by the NYSDEC. The post-construction study will include avian/bat mortality monitoring during spring and fall migration periods for up to 3 years following construction. The study is designed to identify specific turbines and weather conditions that result in increased collisions and identify potential mitigation measures if substantial mortality occurs. The post-construction mortality results will be compared to the number of estimated collisions presented in the DEIS and radar study passage rates. The protocol shall be approved as part of the NYSDEC wetland permit process.

15.3 TV Reception/Interference

15.3.1 The Ball Hill Project will be engineered to meet New York State Electric and Magnetic Fields (EMF) Standards for a magnetic field strength of 200 milligauss at the edge of the ROW. This will be documented post-construction and submitted to the Towns.

15.3.2 Where reception signals of TV and other types of signals (e.g., radio, cellular phone, land mobile radio, and personal communication systems) have been determined, pursuant to the Complaint Resolution Procedure to be impacted due to the Project, alternative service shall be offered to the impacted resident(s). Such complaints will be handled as part of the Complaint Resolution Procedure.

15.4 Wildlife

15.4.1 The Environmental Monitors(s) will survey work areas that are suitable for nesting to avoid or minimize impacts to any NYS listed threatened or endangered species. If such species are found nesting in the immediate proximity of a construction area, construction in that area will be delayed until the young have fledged from the nest and monitoring will continue during the initial construction period to ensure the species have not been impacted. Any such pre-construction survey reports shall be provided to the Town's Designated Engineer documenting such habitat assessments.

15.5 Restoration of Disturbed Areas

15.5.1 All areas disturbed due to the Project shall be restored in accordance with the EIS and, as applicable for the wetland areas, the approved Invasive Species Management Plan.

16.0 Decommissioning

16.1 A decommissioning bond/fund shall be established pursuant to the Host Community Agreement to cover all decommissioning costs.

Supervisor Ardillo gave privilege of the floor:

Judy Phillips, "out of respect for this board, I submitted a letter to this town board." The Supervisor acknowledged.

Supervisor Ardillo: is there any other business for tonight?

Yvonne Park "Thank you town board." "I worked on this project since 2005, we've been through five companies, and everything you've been through tonight, with people saying they didn't know about it, we've experienced this

right and left, I've spoke with Julie Goodway our tax collector unpaid taxes have gone up every year since she took office, and I have looked at your 2017 budget and you cannot continue without this project, your taxes are going to be 16 – 17 dollars per thousand. Thank you town board, you've done a great job. In response to Wes Tessey's comments, yes the town interviewed for the engineers, Jim Phippen was our original one, it wasn't provided by the project company either, they were selected by the town board at the time.

Martin Huber, resident, states out of respect for the Town, I have 40 acres of hardwood and open land, I didn't strip that and screw up the environment, out of respect for the environment, and I think these windmills are just devastating, and the investment I put in my property for my retirement, I feel I've lost, there is no way I can regain it. The property values are going to go down, when you figure I'm in the 45 decibel zone, I think it's disgusting what you've done here, I want you to know you really hurt me for life.

John Robinson, resident, states he has property on Round Top and feels the same, my house is 1000' feet off the road, if I wanted to sell lots with frontage, I couldn't do it because of the wind turbines. So that has devalued my property, just that alone. I talked to realtors and they say my property is not going to be worth what it is now. It's going to devalue, lower the value. I'm going to have flicker, I'm sitting right on top of the hill, 360 degrees scenic. I'm going to lose that scenic that I bought that property for. The aesthetics, it's gone, I'm going to have flicker, I'm going to have the scenic gone. The distance from the house is 1000' feet back from property line is a deficit for me also, and the sound. They've said there is no such thing as low infra sound, that's a lie. I don't want to deal with anyone that is lying. If they are lying to me then I have nothing to do with them. Want some studies, here is some more studies that tell you about the sound, the effects of the turbines and what it will do to this community, it will divide it. You want a good video, windfall, see what it did to a real community. A lot of negatives to this, and people are seeing dollar signs, and it's not all about money. It's about freedom, no man left behind, you go in and get that last guy. We got students, we got no child left behind, but when we come to the residents, this guy is getting left behind, I'm getting left behind, and my wife, property is not going to be the same, and we're losing and someone else is gaining money.

Judy Wojcik, in Ontario, they have lots of windmills, you can see them, 15 years now they've been there, so not in my backyard, it's not a valid excuse, now they operate at 30% capacity because that's what the wind is like, so regards of what you would like so your \$7000. potential now is \$2000. a year, it's not going to pay out like you're promising, statistics from Ontario, over those 10 – 15 years, they've lost 30,000 jobs because electric is more expensive in Ontario. Their government shipped their work down to Kentucky because their electric is too expensive in Ontario. The Ontario government that mandated this clean energy, so I am here to say it's not like people are representing, it's a nice dream, clean air, I love it, but why do they have to be 500' tall, why can't we all have our own little windmill and power our own structures? Make money back off our own smaller windmills, not 500' tall, so we get to chose where the power is from and not getting upset over these behemoth industrial scale electrical production facilities.

Bob Gage, resident commented, there are no big dairy farmers left, this is the only thing that's going to keep us going. As far as the noise, you ought to live on 39, semi trailers go by you get use to them after a while.

Nancy Huber, resident, "you've met your legal obligation to notify people, with your postings in the paper. I've lived here two and a half years, it's our family homestead, you have a moral obligation to notify people what was going on, you did ok legally, you did the Observer, which I don't get, I apologize, **Councilperson Graziano** interrupted, with "I asked for mailers, which we had to furnish the name, and three times, they didn't do it. **Huber** "We have friends that own property that are seasonal, they had no idea this was going on. I just think morally what this board has done, by trying to keep it a secret, not notifying the residents with a mailer. **Someone** responded with "The board did nothing in secret." **Wojcik** stated to the board, "you admitted doing this in secret" **Ardillo** responded with "Nothing was a secret, what you are referring to is the SEQRA process." **Huber**, "I'm in the 45 decibel area that will be like the sound of a lawn mower, that's what 45 decibels sound like. Continually." She asked if any of the board that just ayed this, "do you live in the 45 decibel?" **Butcher** responded with "yes," he does. **Huber** "you have no idea what this is going to do to us". "You're going to sit in your homes out of the 45 decibel zone, with no worries, and we'll be stuck with 70 acres of no value land, where the deer are not going to be around, it's going to be devastating." "I know you don't take this seriously anymore because you passed it, you don't really care what we have to say, I just want you to know that I personally will remember this." "I personally will be at Town board meeting."

Tina Graziano, resident thanked Angelo for standing up for the people.

Diana Ermer, resident states, she is very disappointed also. "I sent letters, so I was one of the six." "I don't even know if anyone even looked at the letters." **LoManto** interjected and stated "They were shown every letter that came in, they sat there after a couple board meetings and read them." **Goodway**, town clerk, added "Those letters reviewed are just the ones received at the town hall, any that went directly to them (RES) I don't have." **Sweeney** added "Those were all the letters, the only ones that didn't come directly to the town were from agencies."

***A MOTION was made by Westley Tessey, seconded by Keith Butcher to adjourn meeting at 8:07PM.

Adopted:	Ardillo	- aye
	Tessey	- aye

Butcher - aye
 LoManto - aye
 Graziano - aye

Respectfully Submitted
 Julie Goodway
 Town Clerk

Due to the volatility of the subject matter of this meeting, I felt it necessary to fully document, and make a part of the official record, all conversations that took place.

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SIGN IN SHEET	
TOWN OF VILLENova - SPECIAL HEARING	
NAME	ADDRESS
1 Colleen Goodway	So. dayton Silver Creek Rd Forestville
2 Tina Graziano	Wentworth Rd Forestville
3 Yvonne Park	11664 Rt 83, Forestville
4 Judy Phillips	9850 Silver Ck S Dayton Rd Forestville
5 Jerry Park	11664 Rt 83 Forestville
6 Out Maged	9139 D4 1/2 RD S. DAYTON, N.Y. 14138
7 Don Puett	
8 Nancy Heeko	9800 Zimmo Rd 9619 Round Top
9 MARTIN Huber	11
10 Troy Chyga	9240 Prospect Rd Forestville
11 Alyce Crowell	1542 Cass Rd
12 Howard Crowell	1542 Cass Rd
13 Stephen A Eaton	436 Beverly St Cattaraugus
14 William A Eaton	436 Beverly St Cattaraugus
15 Dan Boyd	455 Boston Post Rd #206 Old Saybrook CT
16 GREG SNOW	1726 STAFFORD RD FORESTVILLE, NY
17 Kristin McCarthy	11345 Broadway Alden NY
BY: JULIE GOODWAY - TOWN CLERK DATE: 12/14/16	

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SIGN IN SHEET	
TOWN OF VILLENova - SPECIAL HEARING	
NAME	ADDRESS
1 John Sueda Sueda	9974 Prospect Rd. Forestville, NY 14062
2 Scott Campbell	9399 Flucker Hill Rd. Forestville
3 Diana Ermer	9200 Round top Rd 14062
4 Judy Wojcik	9981 Prospect Rd Forestville 14062
5 Joe Goodway	9207 South Dayton Silver Creek Rd Forestville NY, 14062
6 Cheryl Sarratt Tunstall	9429 Pope Hill Rd, Forestville NY
7	
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BY: JULIE GOODWAY - TOWN CLERK DATE: 12/14/16	