

The special meeting of the Villenova Town Board, held October 30, 2019 at The Hamlet United Methodist Church, Route 83 South Dayton NY was called to order by Supervisor Park at 7:00PM after the Pledge to the Flag.

**Present:**           **Yvonne Park**           - **Supervisor**  
                   **Keith Butcher**       - **Councilmember**  
                   **Nathan Palmer**       - **Councilmember**  
                   **Donald Chase**       - **Councilmember**

**Absent:**           **Sarah LoManto**       - **Councilmember**

**Others Present:**  
                   **Chuck Malcolm**       - **Special Counsel**  
                   **Donald Michalak**   - **Town Attorney**

**Recording Secretary:**  
                   **Julie Goodway**       - **Town Clerk**

Immediately upon completion of roll call the meeting was turned over to special counsel – Chuck Malcolm;

He states there are three pending resolutions before the board, copies have been supplied and are on the Ball Hill Wind website. As a recap procedurally where things stand with respect to review of this project. In 2018 Ball Hill presented an application to the town board to amend their (the “Boards”) approvals for the wind energy facilities, principally asking for an increase in the height, adding underground lines where previously they were overhead lines and minor adjustments to the location of a couple of the turbines. In addition as part of the request was an increase of the setbacks of the wind facility law. That matter was reviewed extensively by the board in 2018 and culminated in a negative declaration of significance under SEQRA, which determined there were no significant adverse environmental impacts relating to the project. If you recall the town board’s decision at that time was that the amendments actually mitigated impacts further, while it’s true that the taller turbines would increase project visibility by a certain percentage the removal of the above ground genti lines would have an overall positive visual impact with respect to the project changes as well of the undergrounding of the genti lines would avoid or minimize impacts to wetlands. That decision was challenged by an article 78 proceeding and Justice Dillon issued a decision that there were a couple of impacts the judge found were not discussed in the record. The board obviously disagreed with that analysis and has appealed that determination but none the less the board in July adopted a resolution determining to complete the SEQRA process anew to address those impacts and more that the judge identified in his decision. In July of this year the town board issued a positive declaration of significance in light of the decision of the McGraw matter. That positive declaration determined that scoping would not be conducted because under the SEQRA regulation scoping is not required for a supplemental and the board adopted as the scope for the supplemental the issues identified in the decision by Justice Dillon. The applicant was directed to complete a draft supplemental environmental impact statement with respect to those issues, the applicant did that and also addressed all the potential impacts with respect to the project not just the issues addressed in the court’s decision. That draft environmental impact statement was subjected to public comment and a public hearing was held on that statement, there were public comments received and compiled, responded to and addressed in the final supplemental environmental impact statement that this board issued earlier this month. By law when you issue the final environmental impact statement a 10 day period has to elapse before the board can take any further action and make their SEQRA findings. That period has elapsed, this special meeting was called for the purpose of considering the SEQRA finding statement with respect to this project following the issuance of the supplemental final environmental impact statement so this is part of the amended application and part of going back and doing everything over again. There are essentially four items for discussion and deliberation. There are the SEQRA findings, the amendment to the special use permit application, the local law to amend the text of the wind energy facilities law, and there is the local law that amends the wind overlay map. All these decisions were previously made by the town board last year pursuant after the negative declaration was issued. Today we are going through the SEQRA process again and addressing those issues referenced by the court decision, those same determinations are pending before this board now. The first document is the SEQRA, this has to be completed before a decision can be made with respect to the amended application and the SEQRA regulations also allow you to combine your SEQRA finding with the determination. Before the board is a proposed resolution about the SEQRA findings and a decision with respect the Ball Hill Wind Energy Project. This document discusses the project changes that were part of the 2018 amended application, it analyzes the impacts taking into account the record material that was developed by the town board as part of the supplemental draft environmental impact statement and the final supplemental environmental impact statement, the resolution notes the procedural history that the public comment was held we’ve gone through the process from July until now, certifies that SEQRA has been complied with, with respect to this decision, directs the town staff to disseminate these SEQRA findings to other involved agencies which is a requirement once it’s adopted; provides that the statement of findings will be on the website, which they have already been added; with that with respect to the SEQRA findings and decision a motion would be in order to adopt the resolution as drafted;

\*\*\***A MOTION** was made by Nathan Palmer, seconded by Keith Butcher **Adopting SEQRA Findings and**

## Decision for the Ball Hill Wind Energy Project

**WHEREAS**, following the July 10, 2019 resolution of the Town Board of the Town of Villenova (the “Town Board”), Ball Hill Wind Energy LLC (Ball Hill”) submitted a draft supplemental environmental impact statement (“SDEIS”) for the Ball Hill Wind Energy Project (the “Project”); and

**WHEREAS**, the Town Board determined that the SDEIS was adequate for public review and was therefore accepted for such purpose; and

**WHEREAS**, the Town Board filed and circulated the notice of completion, established a public comment period, and determined to hold a public hearing with respect to the SDEIS, all of which has been completed’ and

**WHEREAS**, the Town Board has considered public comments received, has reviewed and analyzed the supplemental final environmental impact statement (“SFEIS”) for the Project and issued the SDEIS;

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

1. This resolution is adopted by the Town Board without prejudice to its position in litigation and/or on appeal in McGraw et al. v. Town Board of the Town of Villenova et al.; Index EK12018001343 (the “McGraw matter”). The rationale set forth in the Town Board’s July 10, 2019 resolution concerning the Project is hereby incorporated by reference. The Town Board has appealed the order and judgment in the McGraw matter. In the event that the order and/or judgment of Supreme Court, Chautauqua County is reversed, with the litigation being finally concluded, this resolution shall be deemed rescinded because the Negative Declaration previously issued by the Town Board will remain in full force and effect pursuant to the Town Board’s July 10, 2019 resolution. Moreover, the 2018 determinations with respect to the Project will remain in full force and effect.
2. The attached Statement of Findings and decision, including the certifications required by 6 N.Y.C.R.R. § 617.11(d), which is incorporated and made part of this resolution, is adopted.
3. As set forth in the Statement of Findings and Decision, the Town Board hereby grants Ball Hill’s application for a modification of its special use permit, subject to the following conditions:
  - (1) All prior conditions set forth in the original special use permit remain in full force and effect and are incorporated herein by reference, and (2) all mitigation measures as described in the FEIS, SFEIS, and the SEQRA Findings and Decision for the Project are incorporated herein by reference. The Town Board reviewed the criteria for Wind Energy Facilities set forth in the Villenova Wind Energy Facilities Law and determined that they have been met, and the application should therefore be approved, for the reasons set forth in the Statement of Findings and Decision, which is incorporated herein by reference. The application materials and the SFEIS are incorporated herein by reference.
4. Town staff and/or its special counsel are directed to prepare, file and distribute the Statement of Findings and Decision as required under SEQRA, including without limitation:
  - a. to display the Statement of Findings on the Project website at [www.ballhillwind.com](http://www.ballhillwind.com); and
  - b. to place a copy of the Statement of Findings and Decision on file at the Town of Villenova Town Hall located at 1094 Butcher Rd, South Dayton, NY 14138, and the Town of Hanover Town Offices located at 68 Hanover Street, Silver Creek, NY 14136
5. This resolution shall take effect immediately upon adoption and shall remain in effect except as set forth in paragraph 1 of this resolution.

**ROLL CALL -**

<b>Yvonne Park</b>	<b>- aye</b>
<b>Nathan Palmer</b>	<b>- aye</b>
<b>Keith Butcher</b>	<b>- aye</b>
<b>Donald Chase</b>	<b>- aye</b>

**MOTION CARRIED**

*Do to the length of the statement of findings (186 pages), a copy will be attached at the end of the minutes.*

Special Counsel Malcolm continued; with respect to the next matter before the board; Local Law #2 of 2019, text amendment to the town’s wind energy facilities law; a change of the law was requested as a part of the amended application increasing the setbacks and increasing the permissible tower height; the SEQRA is done, the board is in a position to act on this; the resolution spells out procedural history, the fact SEQRA has been completed and that a decision is in order if the board chooses to make such a determination; with that a motion would be in order to adopt the resolution to adopt Local Law No. 2 of 2019 as presented,

**\*\*\*A MOTION** was made by Keith Butcher, seconded by Donald Chase

**WHEREAS**, the Town Board of the Town of Villenova (the “Town Board”) has completed the State Environmental Quality Review Act (“SEQRA”) process anew, following the decision of *McGraw et al. v. Town Board of the Town of Villenova et al.*; Index No. EK12018001343 (the “*McGraw* matter”); and

**WHEREAS**, Ball Hill Energy LLC (“Ball Hill”)’s application to modify the Project Special Use Permit, the Wind Energy Facility Law of the Town of Villenova, and the Wind Overlay District created for the Ball Hill Wind Energy Project (the “Project”) was properly referred to the County of Chautauqua Planning Board for a recommendation, which has been received and considered by the Town Board; and

**WHEREAS**, the Town Board held the required public hearing on Ball Hill’s application, including the supplemental draft environmental impact statement, special use permit amendment request, a local law to amend the wind energy facilities law, and a local law to amend the Wind Overlay District for the Project; and

**WHEREAS**, the Town Board has issued a SEQRA Statement of Findings and Decision with respect to the Project;

**NOW THEREFORE BE IT RESOLVED** BY THE Town Board of the Town of Villenova as follows:

1. The Town Board hereby adopts Local Law No. 2 of 2019, which is attached hereto and incorporated herein by reference, for the reasons set forth in the Town Board’s SEQRA Statement of Finding and Decision, adopted on October 30, 2019.

2. This Resolution Shall be effective immediately upon adoption.

**ROLL CALL -**

<b>Yvonne Park</b>	<b>- aye</b>
<b>Nathan Palmer</b>	<b>- aye</b>
<b>Keith Butcher</b>	<b>- aye</b>
<b>Donald Chase</b>	<b>- aye</b>

**MOTION CARRIED**

LOCAL LAW NO. 2 OF 2019  
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 AND REQUIRED SETBACK 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** Section 690.07(A)(5)(h) of Article VI-A, Wind Energy Facilities, of the Zoning Local Law of the Town of Villenova is amended to read

(h) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:

- (i) One and a half times the tower height radius.
- (ii) Five-hundred ninety-nine foot radius.
- (iii) One-thousand two-hundred foot radius.

**Section 2.** Section 690.09(A)(13) of Article VI-A, Wind Energy Facilities, of the Zoning Local Law of the Town of Villenova is amended to read

- 13. The maximum Total Height of any WECS shall be 599 feet.

**Section 3.** Section 690.12(E) of Article VI-A, Wind Energy Facilities, of the Zoning Local Law of the Town of Villenova) is amended to read

- 1. 599 feet from the nearest Site boundary property line, except the setback shall be 599 feet where the boundary is with state, county, town, or village-owned property.
- 2. 599 feet from the nearest public road.
- 3. 1,000 feet from the nearest off-Site residence existing at the time of application, measured from the exterior of such residence.
- 4. 100 feet from state-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.
- 5. 500 feet from gas wells, unless waived in writing by the property owner and well owner.

**§ 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.

Special Counsel continued with the next resolution before the board to adopt, Local Law #3 of 2019, a law that provides for minor adjustments to the already approved wind overlay district to accommodate the project modifications. The first page recounts the procedural history notes that SEQRA has been completed. This local law essentially amends the map and the amended map is affixed to the back of the local law,

**\*\*\*A MOTION** was made by Yvonne Park, seconded by Nathan Palmer

**WHEREAS**, the Town Board of the Town of Villenova (the "Town Board") has completed the State Environmental Quality Review Act ("SEQRA") process anew, following the decision of *McGraw et al. v. Town Board of the Town of Villenova et al.*; Index No. EK12018001343 (the "*McGraw* matter"); and

**WHEREAS**, Ball Hill Energy LLC ("Ball Hill")'s application to modify the Project Special Use Permit, the Wind Energy facility Law of the Town of Villenova, and the Wind Overlay District created for the Ball Hill Wind Energy Project (the "Project") was properly referred to the County of Chautauqua Planning Board for a recommendation, which has been received and considered by the Town Board; and

**WHEREAS**, the Town Board held the required public hearing on Ball Hill's application, including the supplemental draft environmental impact statement, special use permit amendment request, a local law to amend the wind energy facilities law, and a local law to amend the Wind Overlay District for the Project; and

**WHEREAS**, the Town Board has issued a SEQRA Statement of Findings and Decision with respect to the Project;

**NOW THEREFORE BE IT RESOLVED** by the Town Board of the Town of Villenova as follows:

1. The Town Board hereby adopts Local Law No. 3 of 2019, which is attached hereto and incorporated herein by reference, for the reasons set forth in the Town Board’s SEQRA Statement of Findings and Decision, adopted on October 30, 2019.
2. This Resolution shall be effective immediately upon adoption.

**ROLL CALL -**

<b>Yvonne Park</b>	<b>- aye</b>
<b>Nathan Palmer</b>	<b>- aye</b>
<b>Keith Butcher</b>	<b>- aye</b>
<b>Donald Chase</b>	<b>- aye</b>

**MOTION CARRIED**

**LOCAL LAW NO. 3 OF 2019  
OF THE TOWN OF VILLENOVA**

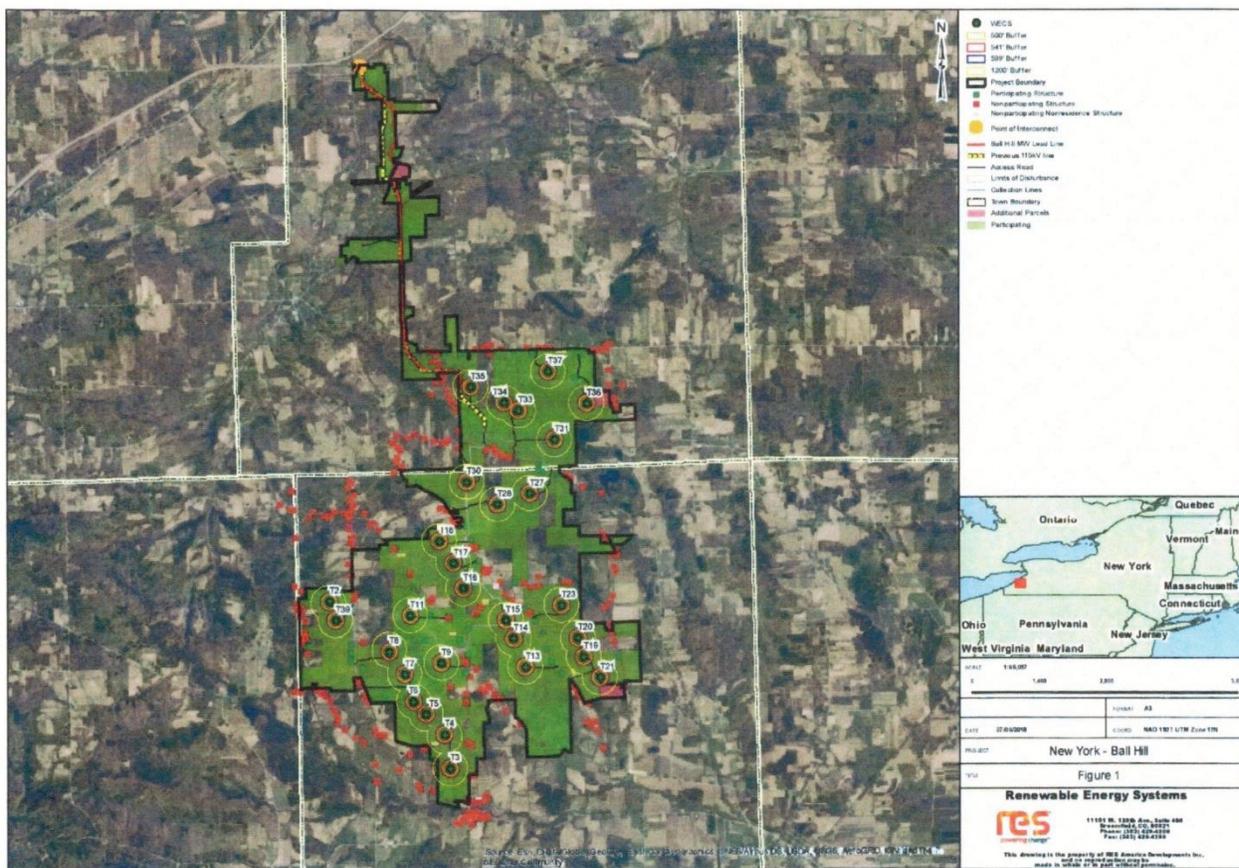
**A LOCAL LAW TO AMEND THE ZONING MAP OF THE TOWN OF VILLENOV TO  
CREATE A WIND OVERLAY DISTRICT**

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

Section 1. The official map of the Town of Villenova is amended to amend the wind overlay zone, As shown on the attached map.

Section 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.



**Special Counsel was excused from the remainder of the meeting.**

A brief discussion regarding the quotes received for the new computer systems ensued. Due to the time sensitivity of the matter,

\*\*\*A MOTION was made by Nathan Palmer, seconded by Keith Butcher to accept the quote from Network Consulting Group of WNY at a cost not to exceed \$1,513.99; this includes the purchase of 2 new computers with windows 10, 1 monitor, data transfer and any/all necessary cables to install the systems.

**ROLL CALL -**

<b>Yvonne Park</b>	<b>- aye</b>
<b>Nathan Palmer</b>	<b>- aye</b>
<b>Keith Butcher</b>	<b>- aye</b>

**Donald Chase - aye**

**MOTION CARRIED**

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**Attorney Donald Michalak** discussed the proposed draft of Local Law No. 4 of 2019. The law if passed would increase the senior exemption on the portion of town tax from \$8,000. To \$15,000.

\*\*\***A MOTION** was made by Nathan Palmer, seconded by Keith Butcher to conduct a public hearing on the proposed Local Law No. 4 of 2019; [A LOCAL LAW TO AMEND THE REAL PROPERTY TAX PARTIAL EXEMPTION AUTHORIZED BY SECTION 467 OF THE NEW YORK REAL PROPERTY TAX LAW](#), The public hearing will be conducted during the next regular board meeting, December 11, 2019 at 7:10PM, at the Villenova Town Hall, 1094 Butcher Rd., South Dayton NY, Chautauqua County.

**ROLL CALL -**  
**Yvonne Park - aye**  
**Nathan Palmer - aye**  
**Keith Butcher - aye**  
**Donald Chase - aye**

**MOTION CARRIED**

\*\*\***A MOTION** was made by Yvonne Park, seconded by Keith Butcher WHEREAS the annual audit of the court books was conducted Sept. 16<sup>th</sup>, 2019 at 10AM by Donald Chase and Yvonne Park; they report no findings. All receipts and disbursements agree with records that are computer generated and hand written, ledger style. Duplicate deposit tickets are issued, all receipts are duplicate and accounted for. Bank accounts are reconciled in a timely manner. Monthly reports to the comptroller and board were checked for accuracy and comply with the NYS Comptroller's Office of court reporting.

**ROLL CALL -**  
**Yvonne Park - aye**  
**Nathan Palmer - aye**  
**Keith Butcher - aye**  
**Donald Chase - aye**

**MOTION CARRIED**

\*\*\***A MOTION** was made by Nathan Palmer, seconded by Keith Butcher to adjourn meeting at 6:30PM

**ROLL CALL -**  
**Yvonne Park - aye**  
**Nathan Palmer - aye**  
**Keith Butcher - aye**  
**Donald Chase - aye**

**MOTION CARRIED**

**Respectfully Submitted**  
**Julie Goodway**  
**Villenova Town Clerk**

## TOWN OF VILLENova

TOWN OF VILLENova: Sign in sheet.

	NAME	ADDRESS
1.	JOHN SUSAN GALLEY	1550 RT 83
2.	Linda Hall	Fredonia
3.	Sherrin Bailey	Forestville
4.	Jerry Pack	1664 RT 83 Forestville
5.	Barbara Lidner	Hamlet
6.	Richard N. Wise	Hamlet
7.	Dave Trevitt	9510 SD-SC Rd, Forestville
8.	Billy Eddy	1798 Cass-Hamlet Rd. Forestville
9.	JO WARD	OBSERVER
10.	ROY HARVEY	CHAUTAUQUA VADOTES
11.	Kenn Egan	Marysville
12.	BENNY BOTTEA	1258 RT 83
13.	Jusan Palma	Smith Rd, Forestville
14.	Sara Grayson	Forestville
15.	ALAN CROWELL	S. DAYTON
16.	Mark Twitchell	Fredonia
17.	K. McGraw	S. Dayton

TOWN OF VILLENOVA

- 18. Kayme Crowell Bartlett Hill Rd South
- 19. Henry Crowell Gianatasio Bartlett Hill Rd Dayton  
South Dayton
- 20. BRENDA KUZIORA, South Dayton, N.Y. South Dayton
- 21. Diana Ermet, Forestville, NY
- 22. Susan Buccia Villanova
- 23. Judy Delcap Forestville
- 24. Lynn Bedford Arkwright
- 25. B J Bedford "
- 26. Michael LaFont Forestville NY 14062 9876
- 27. Mary Ellen Dayton Hamlet, NY
- 28. David Dayton Hamlet NY
- 29. John D. Robinson Forestville
- 30. \_\_\_\_\_
- 31. \_\_\_\_\_
- 32. \_\_\_\_\_
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- 34. \_\_\_\_\_
- 35. \_\_\_\_\_
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