

TOWN BOARD MEETING

Town of Westfield
April 2nd, 2008

7:25pm Public Hearing - Proposed Met Tower / McCray Property

7:30pm Town Board Meeting

1. Minutes - March 5th, 2008 / Public Hearing
 - March 5th, 2008 / Town Board Meeting
 - March 20th, 2008 / Public Hearing
 - March 20th, 2008 / Special Meeting of the Town Board
2. Monthly Reports - Supervisor's Monthly Report
 - Town Clerk's Monthly Report
 - Dog Warden's Report
 - Fire Dept. Monthly Report
 - Historian's Monthly Report
 - Town Court Report
3. Highway
4. Code Enforcement
5. Barcelona Harbor (Closed)
6. Public Comment

ANNOUNCEMENTS

- Lakefront Plan Presentation 5/6/2008 - Zebro's @ 7pm
- Army Corps of Engineers Fishway Project 4/21/2008 - Eason Hal @ 7pm

OLD BUSINESS

- Tractor Bid results
- Fuels Bid results

NEW BUSINESS

- Met Tower SUP Application
- Resolution #13 - Negative Declaration (Proposed Met Tower / McCray Property)
- Resolution #14 - Issuance of SUP (Met Tower / McCray Property)
- Resolution #15 - Authorization to Sign Escrow Agreement (Met Tower / McCray)
- Resolution #16 - Authorization to Sign Escrow Agreement (Wind Project Review)
- Resolution #17 - Request to NYS DOT for Speed Study on Route 5
- Resolution #18 - NYS Small Cities Grant Application
- Resolution #19 - Authorization to Sign Contract (Landscaping of Town Pier & Lake Area Property)
- Budget Resolution #2 of 2008
- Resignation of James Dahlberg from the Board of Assessment Review
- Westfield Historian attendance at NYS Historian Conference (17-19 April 2008)
- Set date for SUP Public Hearing (Eclectic Art Gallery & Sales, W. Main)
- Bid (Oil & Stone)

Audit of Bills

Executive Session - (Pending Litigation)

Resolutions for Town Board Meeting (4/2/2008):

Resolution No. 13 of 2008
Negative Declaration
Proposed Met Tower / McCray

WHEREAS, Babcock & Brown Renewable Holdings, Inc. has applied for a Special Use Permit allowing it to erect a 197' radio communications/meteorological tower on property belonging to Terry McCray, designated as tax map parcel Section 21, Block 1, Lot 15.2, located in the Residential- Agricultural (R-A) District at the intersection of Highway 76 (Sherman Road) and Nettle Hill Road, and

WHEREAS, the proposed use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a short Environmental Assessment Form, and

WHEREAS, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed use, and

WHEREAS, the Board has determined that the proposed use will not have a significant environmental impact,

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby adopts the applicant's proposed answers to Part II of the Environmental Assessment Form, issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to sign Part III of the Environmental Assessment Form accordingly.

Resolution No. 14 of 2008
Issuance of SUP for Met Tower Construction / McCray Property

WHEREAS, Babcock & Brown Renewable Holdings, Inc. (hereinafter, the “Applicant”) submitted an application on or around March 3, 2008, requesting permission to construct and operate a 197’ radio communications/meteorological tower on a parcel of land located at the intersection of Highway 76 (Sherman Road) and Nettle Hill Road, Westfield, designated as tax map parcel Section 21, Block 1, Lot 15.2, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and public hearing, and

WHEREAS, the Town submitted a zoning referral to the Chautauqua County Planning Department pursuant to Section 239-m of the General Municipal Law, and was advised by letter dated March 19, 2008, that the proposed action was of local option, and

WHEREAS, the Town of Westfield Planning Board reviewed the application during a meeting held March 20, 2008, and recommended approval of the application with qualifications, and

WHEREAS, the Town Board has heard those wishing to be heard at a public hearing held April 2, 2008, has considered all the facts and papers before it, and finds justification to approve the application subject to the conditions hereinafter set out, now

THEREFORE, BE IT RESOLVED, that the application of Babcock & Brown Renewable Holdings, Inc. to operate a radio communications/meteorological tower and the structures and equipment appurtenant thereto on the parcel of land located at the intersection of Highway 76 (Sherman Road) and Nettle Hill Road, Westfield (the “Facility”), be and hereby is authorized and approved subject to the following conditions:

1. All development and construction on the Facility site shall comply with the site plans and specifications submitted with the application, except as hereinafter modified.
2. The tower and any equipment attached thereto shall not exceed 197’ in total height, so that the tower need not be lighted or marked under current regulations.
3. The Applicant shall remove the tower and equipment if the Facility becomes obsolete or ceases to be used for its intended purpose for a period of six (6) consecutive months. Prior to construction of any part of the Facility, the Applicant shall deposit with the Town the sum of \$5,000, which the Town shall hold in escrow to secure the removal of the Facility.
4. The permit shall be valid until April 1, 2011, unless modified or renewed, and shall expire automatically if the Facility is not operational by April 1, 2009.
5. The terms, conditions, and requirements of this permit bind and obligate the Applicant, its successors, and assigns.
6. The permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town of Westfield Town Board, which shall not be unreasonably withheld.
7. This permit shall become effective after the Applicant approves each and every provision hereof and agrees to be bound by all of the terms herein contained.

Resolution No. 15 of 2008

Authorization to Sign Escrow Agreement (Met Tower / McCray Property)

WHEREAS, Babcock & Brown Renewable Holdings, Inc. (“BBRH”) has applied to the Town for a Special Use Permit (SUP) authorizing it to construct a meteorological tower on property belonging to Terry McCray, (tax map parcel Section 21, Block 1, Lot 15.2) located in the Residential- Agricultural (R-A) District at the intersection of Highway 76 (Sherman Road) and Nettle Hill Road, and

WHEREAS, if approved, the Town has requested and BBRH has agreed to enter into an escrow agreement to provide for removal of said tower upon SUP expiration, and

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized to finalize and execute an escrow agreement once BBRH submits & has approved an SUP application for a meteorological tower in the Town, upon the final approval of counsel as to form.

Resolution No. 16 of 2008

Authorization to Sign Escrow Agreement (Wind Project Review)

WHEREAS, it is anticipated that Babcock & Brown Renewable Holdings, Inc. (“BBRH”) soon will apply to the Town for a special use permit authorizing it to construct a wind energy generating facility in the Town of Westfield, and

WHEREAS, the construction of the facility will constitute a Type I action under the State Environmental Quality Review Act (“SEQRA”), during the review of which the Town expects to retain outside counsel and one or more consultants for expert assistance, and

WHEREAS, the Town has requested and BBRH has agreed to enter into an escrow agreement to provide for and govern the payment of the fees generated by such outside counsel and consultants, a draft copy of which is attached hereto, and

WHEREAS, it is in the best interest of the Town of Westfield to ensure that its expenses in reviewing the anticipated application are paid by the applicant to the extent permissible, and the draft agreement ensures such payment,

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized to finalize and execute an escrow agreement in substantially the same form as the attached agreement once BBRH submits a special use permit application for a wind energy generating facility in the Town, upon the final approval of counsel as to form.

Resolution No. 17 of 2008

Request to NYS DOT for Speed Study Route 5

WHEREAS, concerns have been expressed to the Town Board in terms of increased traffic and overall safety on Route 5 in the Town of Westfield;

THEREFORE BE IT RESOLVED that the Town Board of the Town of Westfield hereby requests that the NYS Department of Transportation conduct a speed study on Route 5 within Town limits.

Resolution No. 18 of 2008
NYS Small Cities Grant Application

WHEREAS, the Town of Westfield wishes to secure grant funding under the Small Cities Community Development Block Grant (CDBG) Program, administered by the Office for Small Cities; and,

WHEREAS, it is necessary to submit an application for such funding to the Office for Small Cities; and,

WHEREAS, the Town of Westfield conducted the required citizen participation activities, including two public hearings, as well as related public discussion and investigation; and,

WHEREAS, the Town Board, having determined that a single project application for the development of public facilities most clearly carries out community development needs.

NOW THEREFORE BE IT RESOLVED, that the Town of Westfield hereby approves the funding application request for CDBG funding to assist the Town in the repair and refurbishment of its water facilities; and,

BE IT FURTHER RESOLVED, that said application shall not exceed the \$600,000 limit of the CDBG grant regulations; and,

BE IT FURTHER RESOLVED, that pursuant to the development plan prepared by the Town's consulting engineers, Tolman Engineering, the Town commits to carry out the project as set forth therein; and,

BE IT FINALLY RESOLVED, that the Supervisor is authorized to submit all appropriate documentation including the execution of any grant application to the Office for Small Cities, postmarked no later than April 21, 2008.

Resolution No. 19 of 2008
Authorization to Sign Contract (Landscaping of Town Pier & Lake Area Property)

BE IT RESOLVED, that the Town Supervisor be authorized to sign a proposed contract for Landscaping services of Town lake area property upon the advice and review by the Town Attorney.

Budget Resolution No. 2 of 2008
2008 Budget Increase

| Amendment Description | Increase | Decrease |
|-----------------------|----------|----------|
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A Funds

❖ To increase budget to include a Records Mgmt Grant for birth, death and marriage record updates

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|-------------------------|-----------|--------|
| Records Mgmt: Grant Rev | 28.3089.1 | \$2020 |
| Records Mgmt: BDM | 1665.41A | \$2020 |