



## **MINUTES OF THE REGULATORY PROGRAMS COMMITTEE MEETING November 9 and 10, 2016**

The Committee meeting convened at approximately 1:30 p.m. on Wednesday, November 9, 2016.

### **Regulatory Programs Committee Members Present**

Arthur Lussi, John Ernst, Barbara Rice, Daniel Wilt, and Sandi Allen.

### **Other Members and Designees Present**

Robert Stegemann, William Thomas, Karen Feldman, Bradley Austin, Chad Dawson, and Sherman Craig.

### **Agency Staff Present**

Terry Martino, James Townsend, Richard Weber, Colleen Parker, Shaun LaLonde, Suzanne McSherry, Virginia Yamrick, Thomas Saehrig, Jennifer McAleese, Sarah Reynolds, and Elizabeth Phillips.

### **Approval of Draft Committee Minutes for October 2016**

A motion to approve the draft committee minutes was made by Mr. Wilt and was seconded by Ms. Rice. All were in favor.

### **Deputy Director Report**

Mr. Weber reviewed the Deputy Director Report provided to the Board in the monthly mailing packet.

### **Project** (S. Reynolds)

P2014-0053, LS Marina, LLC  
Town of Harrietstown, Franklin County  
Hamlet Land Use Area

Applicants appealed Agency staff's August 2016 Request for Additional Information. Mr. Lussi provided background information on the appeal of the project including the record before the Committee. Mr. Craig confirmed that three comment letters were received. He then introduced Thomas Ulasewicz, authorized representative for the applicant.

Mr. Ulasewicz provided argument on behalf of the applicant. Ms. Reynolds presented the response on behalf of staff.

Ms. Reynolds stated that in conversations held with the applicant since the Agency's receipt of the appeal, the applicant has agreed to respond to questions 4 and 12 a and 12 c.

Mr. Dawson asked if the applicant has agreed to provide the requested information, then why is the appeal/action on the agenda. Mr. Lussi explained the appeal process. Ms. Reynolds added that because there is no written agreement between the applicant and the Agency regarding the responses to staff's request for information but the appeal is in writing, the Agency has to deny or approve the appeal request before moving forward with the project.

Mr. Ulasewicz stated that engineers for the applicant met with the Agency staff engineer and a better understanding of the stormwater management plan has been established. Mr. Dawson asked Mr. Ulasewicz if he and his clients were standing by their appeal. Mr. Ulasewicz responded that he believed the questions can be answered.

Mr. Townsend stated that the discussions between staff and the applicant continued until late the day before the scheduled Agency meeting and therefore the item was kept on the agenda. He suggested a motion be made which reflects the acknowledgment of information for 12 a and c will be provided at a future date.

Mr. Dawson suggested the appeal be denied based on the fact that the Board was not privy to the discussions between the applicant and the staff where the alleged agreements transpired.

Ms. Feldman asked if denial of the applicant's appeal would change the agreements that seem to be in place now. Mr. Ulasewicz responded that he would prefer that the Board recognize the agreements that have occurred between the applicant and the Agency. Mr. Lussi responded that because the Board was not privy to said agreements, said agreements cannot be considered by the Board. Mr. Ulasewicz noted that the Board was privy to the agreements as he discussed them in his presentation.

Mr. Lussi called for a motion to deny the appeal based on agreement to provide the requested information between the applicant and staff. Mr. Wilt made the motion and Mr. Ernst seconded. All were in favor.

**Project** (V. Yamrick)

P2014-0138, LLC/New Cingular Wireless PCS, LLC  
Town of Putnam, Washington County  
Low Intensity Use Land Use Area

The project is briefly described as a subdivision into sites by lease and a major public utility use involving authorization for the installation of two 85-foot tall telecommunications towers to be concealed as simulated pine trees.

Ms. Yamrick reviewed the project proposal. She noted 8 public comment letters were received. She reviewed proposed permit conditions and conclusions of law.

Mr. Dawson asked if the adjoining landowner visibility concerns were addressed. Ms. Yamrick responded affirmatively.

Mr. Lussi asked if noise would be an associated concern of the project proposal. Ms. Yamrick responded that the applicant agreed to relocate the generators associated with the towers to the north side of the compound so that noise issues would be minimized.

Additional landowner concerns regarding impacts from the proposed driveway were addressed by the applicant agreeing to install a culvert to direct stormwater flows.

Ms. Feldman noted that two towers were proposed for this project however only one tower is currently planned to be built at this time. She noted that there are wetlands on the site and asked if they would be impacted by the construction. Ms. Yamrick responded that the wetlands will not be impacted by the project. Ms. Rice asked if there was a time limit on approving the construction of the second tower. Ms. Yamrick referred to the permit condition allowing four years to substantially undertake the project which is satisfied by the construction of the first tower.

Mr. Wilt made a motion for approval and Ms. Rice seconded. All were in favor.

**Project** (C. Parker)

P2016-0081, NYS Power Authority and NYS DEC  
Town of North Elba, Essex County  
State Administrative Land Use Area

The project involves construction of a Biomass District Heating System to service the Ray Brook State Office complex.

Ms. Parker presented an overview of the project proposed. She also discussed the 814 review process which mirrors the review process applied to private land proposals. She then discussed the conditions of the order.

Mr. Craig asked if a change to the diameter was considered instead of a change in height. Ms. Parker stated that a change in diameter was considered but noted that certain choices existed based on color.

Mr. Ernst noted that the economics of the project will result in savings. Mr. Kelleher responded that demand of local pellets will be stimulated.

Ms. Martino stated that the goal is to have both operating systems and that currently the Agency uses propane. She added that this is a model project. Mr. Stegemann stated the project has a demonstration value and is an impetus as a renewable resource.

Ms. Feldman asked whether a stormwater management plan was done. Mr. LaLonde responded that due to the small size of the project area, less than an acre in size, a completed stormwater management plan was not required, but standard measures for erosion and sediment control were proposed.

Mr. Lussi discussed the different State land classifications in the project and stated it would be helpful to include definitions of the impacted areas. Ms. Parker responded that a map would be attached to the order and further definitions would be included in the order. Ms. Feldman asked if a sign would be utilized for the project. Ms. Parker responded that a small sign would be used on the front of the building.

Mr. Lussi called for a motion to approve the project. Mr. Wilt moved and Mr. Ernst seconded. All were in favor.

**Project** (V. Yamrick)

St. Lawrence Seaway RSA Cellular Partnership dba  
Verizon  
Town of Fine, St. Lawrence County  
Resource Management Land Use Area

The proposed project is a subdivision into sites by lease and a major public utility use involving installation of a new 80 ft. tall monopine telecommunications tower to be concealed as a simulated pine tree.

Mr. Craig asked about the artificial branching to be used. Ms. Yamrick stated the applicant agreed to reduce the branching at the top of the tower by 5 ft. The overall height of the antennae/tower will remain the same but the visibility will be reduced with staff's request of reduction of branching.

Mr. Criag asked to see a photo without simulation. The photo was passed around to the Board by staff.

Mr. Lussi noted that the tower unconcealed is substantially less visible without the branching included. Mr. Weber responded that it is difficult to simulate the distinction between concealed and unconcealed proposals. He believes the concealed approach

would be less apparent. Mr. Lussi suggested constructing the tower without branching and then determine if branches are needed for concealment. Mr. Craig stated that the policy may need to be reviewed if branching makes the tower more visible. Mr. Weber noted that a number of towers have been approved without concealment and the decision is case specific.

Ms. Rice noted there seem to be a lot of towers located in a small area. She asked if any of the existing towers had room for additional antennae. Ms. Yamrick responded that the existing tower would have to extend to 200 ft. for coverage needed. Ms. Yamrick added that the current proposal will allow for towers to be located closer together at a lower height and provide greater service to a portion of Route 3 which does not have coverage now.

Mr. Lussi called for a motion. Ms. Rice moved for approval with branching at 5 ft. Ms. Allen seconded. All were in favor.

#### **Old Business**

None

#### **New Business**

None

The meeting was adjourned at approximately 12:00 p.m.