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PUBLIC HEARING REGARDING
SPECIAL USE PERMIT FOR A MET TOWER
LOCATED NORTHEAST OF WEST YATES CENTER ROAD AND
ROUTE 269 IN THE TOWN OF YATES

Transcript of Public Hearing held at 8 South Main
Street, Lyndonville, New York 14098, on Thursday, July
13, 2017, at 7:00 p.m.

REPORTED BY: DOREEN M. SHARICK, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, New York 14020

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APPEARANCES:

YATES TOWN BOARD:

JAMES SIMON, SUPERVISOR

MICHELLE HARLING, TOWN CLERK

BRADLEY W. BENTLEY, COUNCILMAN

WES BRADLEY, COUNCILMAN

JOHN RIGGI, COUNCILMAN

JAMES WHIPPLE, COUNCILMAN

ANDREW MEIER, TOWN ATTORNEY

ALSO PRESENT:

TAYLOR QUARLES, LIGHTHOUSE WIND, LLC

1
2 SUPERVISOR SIMON: The Public Hearing
3 is embedded in the Town Board meeting. So
4 I'm not going to close the Town Board
5 meeting at this time.

6 And I'd like to start out with just a
7 couple of grounds rules. Okay. First of
8 all, the Public Hearing tonight, just to set
9 the stage, it's been brought up by a couple
10 of comments so far, this is not a night that
11 we're going to vote. This is a night for us
12 simply to listen as a Town Board to your
13 questions and concerns and the information
14 you have to share with us. The Board will
15 not make a decision tonight. Someone
16 alluded to a vote tonight. That's not
17 taking place tonight.

18 Also, the MET Tower Application process
19 involves, obviously, a public hearing and
20 then analysis of the information by the
21 Board and after that, there would be roughly
22 62 days from the final Public Hearing for
23 the Board to make a decision about any MET
24 Tower Special Use Application Permit so just
25 to set the stage for that.

1
2 And this is a Public Hearing as it says
3 in the description for we'll call to order,
4 now it's 7:32, for Special Use Permit
5 Application of Lighthouse Wind LLC for a MET
6 Tower to be located on a parcel of land
7 Northeast of West Yates Center Road and
8 Route 269 in the Town of Yates.

9 We do have a stenographer and the
10 transcription will be taking place through
11 her and the official minutes will be
12 produced there.

13 We do require three minutes maximum.
14 We will try to keep time on this phase to
15 the best of our ability. We really
16 encourage -- this happened a little bit also
17 during the privilege of the floor, you're
18 not speaking to each other. You're speaking
19 to us so please refer all of your comments
20 to us.

21 The stenographer has asked that you
22 come forward just forward of the front set
23 of chairs to speak and that you clearly
24 state your name and where you're from. And
25 if we don't know you, we may ask you to

1
2 spell your last name, just to make sure the
3 stenographer has it correct.

4 So each person when you're recognized,
5 you have one time to speak. Come forward,
6 your three minutes, you know, name, where
7 you're from and then your three minutes.
8 Your comments and your insights, your
9 information, your questions, should all be
10 based on the MET Tower Application.

11 And you can some how -- if you make an
12 extrapolation to the wind project or things
13 like that, as long as it pertains to the MET
14 Tower Application, that's fine, but we are
15 not discussing necessarily the merits of the
16 project at this time. That's a whole
17 another process down the road should it take
18 place, but if your comment is related to the
19 how the MET Tower applies or doesn't apply
20 to any portion of the project, then we'll
21 try to accommodate that, but keep in mind
22 you have three minutes. So try to focus
23 your comments on the Met Tower Application
24 itself.

25 I think that's it. Okay. So we will

1
2 begin. Who would like to start us off?

3 Okay.

4 MS. DUDLEY: Susan Dudley,
5 Lyndonville, Lakeshore Road. We already
6 have four MET Towers in place in the project
7 area. And according to the original plan,
8 the majority of the project is in Somerset.
9 So I'm curious as to why it's necessary at
10 this point to erect another MET Tower in
11 Yates. I'd also like to know if this is the
12 only Met Tower going up or will there be
13 more and if yes, when do they plan to do
14 those? Will we be back here two months from
15 now doing this again? That's it.

16 SUPERVISOR SIMON: Okay. Thank you.

17 MR. QUARLES: Thank you. Good
18 evening. My name is Taylor Quarles
19 representing Lighthouse Wind LLC and the
20 Application before the Town. I appreciate
21 the opportunity to speak. Just going to
22 share a few details that are mostly already
23 in the Application, but hopefully, might
24 answer any questions.

25 The Application tonight is for a

1
2 temporary Meteorological Tower. We are
3 happy to stipulate to its temporary nature
4 in the final application or the final
5 approval. The action has the full support
6 of the landowner on which it's being placed.
7 We plan on being in full coordination with
8 Mercy Flight and insuring that they approve
9 of the safety measures we will take with
10 this tower both in terms of providing a
11 location and other safety measures which,
12 also, of course, we have no problem placing
13 in the final permit conditions.

14 The multiple courts and the DEC in
15 their handbook and in other publications
16 have stated very clearly that meteorological
17 towers are type two actions thus causing no
18 adverse environmental impact and I think
19 that also circles back to its temporary
20 nature.

21 This is the last MET Tower we plan on
22 applying for at this project either in
23 Somerset or Yates. Why do we need this MET
24 Tower? Typically, when analyzing the wind
25 resource in an area, it's important to have

1
2 one meteorological tower, which is in place
3 for a longer period of time. In the case of
4 this area, that Meteorological Tower has
5 been installed since I believe 2014 and is
6 in Somerset.

7 Additional Meteorological Towers after
8 that point are not required to be in place
9 for that same duration of time, but are
10 instead placed geographically to insure that
11 the measurements are gathering different
12 topography and ground conditions and other
13 factors such as distance from the lake or
14 distance from other obstructions of wind.

15 So I can assure you that the specific
16 location for this tower was chosen by a
17 meteorologist for those very reasons.

18 As I've included in the permit, we will
19 have the decommissioning bond in place,
20 which will be more than enough to take down
21 the tower in several years time, when
22 necessary. And would certainly have that in
23 place before the tower is installed.

24 And then one final point and maybe just
25 a clarification, per the agreement between

1
2 Lighthouse Wind LLC and the Town, and the
3 tolling agreement, it states that the matter
4 would be voted on by the Town within 62 days
5 of the commencement of a public hearing. So
6 wanted to point that out. Thank you.

7 SUPERVISOR SIMON: Do you mind if I
8 ask you a question for clarification?

9 MR. QUARLES: Sure.

10 SUPERVISOR SIMON: We've had a review
11 of that tolling agreement is not the
12 interpretation of special counsel and we
13 never heard back that that was the
14 interpretation of your special counsel. So
15 I dispute that. So the normal course of
16 events is that after the close of the Public
17 Hearing, there are 62 days for the Town
18 Board to make a decision.

19 MR. QUARLES: I'm not a lawyer. I was
20 just reading from the agreement so certainly
21 I don't --

22 SUPERVISOR SIMON: And you're saying
23 the agreement says what? Well, we can
24 address that later, not right now. I'm not
25 cross examining you.

1
2 MR. QUARLES: Number three states the
3 Town Board will decide on the application
4 within 62 days of the commencement of the
5 public hearing. I certainly -- I'm not --
6 like I said, I'm not a lawyer. I was just
7 reading from the agreement and comparing
8 that to a statement earlier. I will leave
9 the minutia of that --

10 MR. BRADLEY: You're both saying the
11 same thing so.

12 MR. QUARLES: Leave the minutia of
13 that to the lawyers. Thank you.

14 MS. DOUGHERTY: Ruth Dougherty, 11219
15 Lakeshore Road. My question is, without a
16 definite decision on the turbine heights,
17 how can they explain why yet another 200
18 foot MET TOWER will give data, any usable
19 data on the wind? So short question.

20 SUPERVISOR SIMON: Okay. I think I
21 saw a hand here. Yes.

22 MS. EVANS: Kathy Evans, 10639 West
23 Lakeshore Road. I'm wondering how the MET
24 Tower fits into the area's Comprehensive
25 Plans. Should we wait until the surveys are

1
2 in and a new plan is formulated? If the
3 majority of the Town is against the
4 industrial wind turbines, there's no reason
5 to even have a MET Tower because whatever
6 data it collects won't be needed. I'm
7 concerned this isn't the direction our Town
8 wants to go.

9 SUPERVISOR SIMON: Thank you. I had
10 over here. Yes, go ahead.

11 MS. HELLERT: Cynthia Hellert, Pratt
12 Lane, Lyndonville. Apex erected a MET Tower
13 on the Bane property, which is located on
14 Marshall Road on July 2nd, 2015. To this
15 day, it is my understanding that no data
16 collected from that tower has been shared
17 with stakeholders in this Township and entry
18 on the Lighthouse Wind Blog on July 2, 2015,
19 quotes Senior Project Manager, Dan
20 Fitzgerald, we are now able to research and
21 obtain the necessary -- the data necessary
22 for more thorough stakeholder review and
23 comment. Two years later, Apex wishes to
24 erect another tower in the Town of Yates,
25 but where is the data gathered over the past

1
2 two years? Now, we are told that the data
3 that is collected is proprietary.

4 In my opinion, Apex has been deceitful
5 from the moment they stepped foot in this
6 Town. As a taxpayer in this Town, I am
7 requesting that this Town Board demand of
8 Apex a complete review of data obtained from
9 the Bane MET Tower before any consideration
10 is given to erecting another. Thank you.

11 SUPERVISOR SIMON: Thank you.

12 MS. FISK: This is something
13 different. I might have misunderstood.
14 Linda Fisk, 1186 North Lyndonville Road,
15 Lyndonville, New York. She said part of the
16 revitalization program, that has nothing to
17 do with the MET Tower or windmills. The
18 revitalization program is a whole different
19 program. The Shelby, Ridgeway, Yates,
20 that's the Revitalization Program.

21 SUPERVISOR SIMON: Are you talking
22 about the Comprehensive Plan?

23 MS. FISK: Pardon me?

24 SUPERVISOR SIMON: Are you talking
25 about the Comprehensive plan?

1
2 MS. FISK: Yes. I mean like that
3 doesn't have anything to do with the
4 windmills doing anything for the Village of
5 Lyndonville or the North Pole or whatever.
6 They are not even involved in that program.

7 SUPERVISOR SIMON: Thank you. In the
8 back, Paul.

9 MR. LAURICELLA: Paul Lauricella, Town
10 of Yates, Route 18. And in our last
11 election, a majority of the taxpayers in
12 this Town went out of their way to elect
13 board members that promised to keep all
14 phases of this project from gaining footing.
15 I urge the Board to vote no on this MET
16 Tower Application and let the chips fall
17 where they may. Now is not the time to
18 compromise your principles. Thank you.

19 SUPERVISOR SIMON: Thank you.

20 MR. HOFFMAN: Jim Hoffman, 8737 Lake,
21 Town of Somerset. Thank you for allowing me
22 to speak here tonight. I think this is an
23 area wide issue and therefore, I'm sneaking
24 across municipal lines to give you my
25 thoughts.

1
2 In summary, the proposed MET Tower
3 presents significant threat to wildlife and
4 humans, underlining humans, and I'll get to
5 that a little later.

6 Further, the application as presented
7 lacks significant detail. I'll get to that
8 later.

9 And until these items are properly
10 addressed, no permit should be issued. If
11 possible, the Public Hearing should remain
12 open.

13 Tower design, it is the worse possible
14 design as it relates to wildlife and human
15 activity. It's a lattice guide wire
16 construction and the birds can perch on it
17 and they can run into it and so can other
18 things like airplanes and spray planes.

19 I have some references here and I have
20 a handout. U. S. Fish and Wildlife Service
21 strongly recommended a while ago that Apex
22 carefully consider the potential affect of
23 Lighthouse Wind Project design on a
24 construction operation of wildlife and
25 migratory birds. Apex has failed to do

1
2 this.

3 The proposed design with guide wires is
4 the worst possible on bird and bats.
5 Studies have shown fatalities are the
6 result. This is because of the tubular
7 design construction and I have in my package
8 a statement from the Arizona Game and Fish
9 Department, and the U. S. Department of
10 Interior, and the Scottish National Heritage
11 letter, all indicating that this lattice
12 tower design is the worst design that could
13 be picked. It's time to move into the 21st
14 Century and come up with another design. So
15 they should go back to the planning board --
16 or the drawing board.

17 I've also attached here a Wind Action
18 Group Editorial from April, identifying six
19 human failures associated with aircraft
20 collisions with wind -- MET Towers, not wind
21 towers, MET Towers. There are four
22 applications for wind towers, but these are
23 six directly associated with aircraft,
24 mainly, agricultural spray units running
25 into towers. And my attachment here shows

1
2 the details of every one and they are
3 documented very well and the FAA is
4 reporting them officially.

5 Now, there's also a new regulation
6 called the FAA Extension Safety and Security
7 Act of 2016, which deals with structures --

8 SUPERVISOR SIMON: Jim, we're at three
9 minutes now.

10 MR. HOFFMAN: Pardon?

11 SUPERVISOR SIMON: We're at three
12 minutes now. So can you submit the rest of
13 your information for the record, please?
14 Thank you.

15 MR. HOFFMAN: But I would like to make
16 this one point that you just cut me off
17 here. There is a new regulation out 2016
18 talking about visual problems with shorter
19 towers.

20 SUPERVISOR SIMON: Okay. We will take
21 a look.

22 MR. HOFFMAN: I would like to do that.

23 SUPERVISOR SIMON: Thank you.

24 MR. HOFFMAN: Actually, I'd like to
25 give that to you.

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SUPERVISOR SIMON: That's okay.

MR. HOFFMAN: Sorry.

SUPERVISOR SIMON: Thank you.

MR. HOFFMAN: I exceeded my time.

Thank you.

SUPERVISOR SIMON: Thank you. Okay.

Next, go ahead.

MS. BANE: Donna Bane, 1167 Marshall Road, Lyndonville. Since I have been coming to the board meetings in the last couple years, one of the biggest complaint is, not to approve anything until they get all the data. So a MET Tower was approved to go on my property. It's a temporary structure. And I don't understand what the big deal in the delay is of having another MET Tower to get the data that these people so desperately need. And I would urge the Board to approve this application for the MET Tower, so that we can move forward for the betterment of our Town. Thank you.

SUPERVISOR SIMON: Thank you. Okay.

In the back.

MS. RIGGI: Dawn Riggi, 10640

1
2 Lakeshore Road, Yates. First, I'd like to
3 thank the Board for providing an open
4 hearing so that we have the opportunity to
5 share our thoughts with you. I encourage
6 the Board to deny this application from Apex
7 for an additional MET Tower. The basic fact
8 here is they want MET Towers to help them
9 better place industrial turbines in excess
10 of 600 feet in our beautiful community.
11 What Apex is clearly ignoring is that this
12 project is not wanted by the great majority
13 of our community. Why would we willingly do
14 anything to help them with an unwanted
15 project?

16 We were told a few years ago at a
17 public meeting in Somerset by Project
18 Manager Dan Fitzgerald, that Apex would not
19 place a project where it was not wanted.
20 That was clearly a lie. How else would you
21 explain the fact that Apex has ignored five
22 different surveys, two town elections and
23 the resolutions passed by three counties and
24 two town boards?

25 I'd also like to point out the

1
2 following organizations that have come out
3 in opposition or expressed concerns
4 regarding the siting of this project in
5 Yates and Somerset: The American Bird
6 Conservancy, U. S. Fish and Wildlife
7 Service, the Orleans County Federation of
8 Sportsmen's Club, the Great Lakes Seaway
9 Trail, the Hawk Migration Association of
10 North America, the Niagara County Board of
11 Health, the Genesee Orleans Board of Health,
12 the Rochester Birding Association, the
13 Genesee Valley Audubon Society, the
14 Federation of Monroe County
15 Environmentalists Save The River, the Nature
16 Conservancy, the Niagara Chamber of
17 Commerce, the Western New York Delegation of
18 the New York State Senate and House.

19 It is time for Apex to acknowledge
20 their mistake. They chose an area that is
21 too populated, an area rich in wildlife,
22 natural scenic beauty and tourism, a place
23 too close to the Niagara Falls Air Reserve
24 Station and a place in the middle of one of
25 the largest migratory bird fly ways in

1
2 North America. It is time to heed the
3 concerns expressed by so many. It is not
4 time to build another MET Tower. It is time
5 to leave.

6 SUPERVISOR SIMON: Thank you. In the
7 back.

8 MR. BARTH: Sullivan Barth, 11430
9 Sunnycrest Lane. Good evening, Board
10 Members. I have a few concerns regarding
11 the installation of the MET Tower at West
12 Yates Center and 269. My first concern is
13 regarding the responsibility for the MET
14 Tower. If by any chance the tower collapses
15 and injures people or damages property, will
16 Apex cover the cost? Would the cost of the
17 damage fall on the person harmed, the
18 landowner of the property where the tower
19 resides, the Town or Apex?

20 Second, MET Towers are temporary
21 measurement structures. Do we have a
22 guarantee that Apex will dismantle the tower
23 in the timeline proposed or will they
24 attempt to keep it up for longer?

25 Third, MET Towers are frequently built

1
2 to the hub height, which is the point of
3 which the arms on the turbine rotate about.
4 The proposed MET Tower is half the height of
5 the hub point of the Lighthouse Wind
6 turbines. Would this really provide useful
7 data for wind turbines of this height? And
8 will this provide any beneficial data not
9 already collected by the MET Towers in the
10 area?

11 Lastly, will us, the public, have
12 access to all the data collected by the
13 Meteorological Tower or will the pattern of
14 secrecy continue? Thank you.

15 SUPERVISOR SIMON: Yes

16 MR. ROYCE: Steve Royce, from
17 Appleton. I, too, would like to see Apex
18 demonstrate a need for another MET Tower. I
19 suppose that need might be based on some
20 variability of wind from one location
21 another. That need can be demonstrated by
22 showing this Board the data which already
23 exists from the current MET Towers. In
24 other words, releasing that data which is
25 already there. They will claim, of course,

1
2 that's proprietary that is kind of like me
3 buying a car and refusing to tell my
4 neighbor how much it cost. Are there legal
5 decisions which uphold Apex's claims of
6 proprietary information? I would urge the
7 Board to consider looking at those.

8 If permitted, I would suggest that the
9 application require substantial fencing of
10 adequate design at the anchor points, not
11 the sloppy haphazard mess of snow fence they
12 used on the two MET Towers currently
13 installed at Somerset. I urge the Board to
14 keep the public hearing open until these
15 matters are resolved to your satisfaction.
16 Thank you.

17 SUPERVISOR SIMON: Thank you.

18 MRS. ROYCE: Maryellen Royce,
19 Appleton. I'm sorry. I spoke at the wrong
20 time. I just want to make one point. It
21 seems that when Mr. Quarles was talking
22 about why would they need a fourth MET
23 Tower? It seems to me it's just an after
24 thought. That they hadn't planned the
25 project well enough to know that they would

1
2 need a fourth MET Tower. What will this say
3 about the quality of the planning that they
4 have for the entire project? It's very
5 concerning.

6 The other thing I wanted to say is
7 they're clear about why they want the MET
8 Tower. They want to gather more data so
9 they can get more funders. So if you say
10 yes to the MET Tower, then you're really
11 essentially saying yes to them moving
12 forward with building the project. So that
13 was my concern. Thank you.

14 SUPERVISOR SIMON: Thank you. Yes.
15 Go ahead.

16 MS. ESPOSITO: Judy Esposito, 10637
17 Lakeshore Road. I'm a taxpayer. I live on
18 the lake. I elected you people as our
19 Board. I'm against the project. You know
20 our wishes. And I wish you would consider
21 what we have been saying right along. We do
22 not want the MET Tower. We do not want the
23 project. You should go with what the
24 majority of your constituents are saying and
25 we are against it.

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SUPERVISOR SIMON: Ralph.

MR. SMITH: Now, Ralph Smith, Lakeshore Road, Lyndonville. I appreciate the counsel of Supervisor Simon to not conflict the application for this special use permit for the MET Tower with anything having to do with the wind project, but obviously, there's a gorilla in the room and you know, despite best efforts, I think people have kind of melted the two together. Although, I know that legally I think that's improper.

I have a question for the Board and that relates to why the Town Board is considering this Special Use Permit when that's normally done by the Planning Board. The Planning Board has held a hearing on a prior MET TOWER. And I wondered what happened among the Town Board to pull that? You know, obviously, it's your authority to do that, but why did you pull that away from the normal activity of the Planning Board? I hope there's nothing mysterious about why that's being done, but it does have to be

1
2 noted.

3 Also, with respect to the existing MET
4 Towers, do they pose any direct danger so
5 far for the two or three or four that have
6 been erected in the Town and have been up
7 for a couple years. Have we had any
8 collisions with aircraft or have they fallen
9 on anybody or has anybody been harmed
10 directly by any of the MET Towers? Thank
11 you.

12 SUPERVISOR SIMON: Thank you. In the
13 back, I can't see who it is, but I see a
14 hand.

15 MS. KREMER: Kate Kremer, 11433
16 Sunnycrest Lane. Thank you to the Town
17 Board for your diligence in reviewing all
18 the comments and the information about the
19 MET Tower. All of these towers have some
20 visual impact even a 200 foot tower as
21 opposed to a 600 foot tower. Even a 200
22 foot tower has some visual impact on this
23 agricultural region.

24 I know it was mentioned earlier that
25 the property on which the tower would

1
2 reside, that the property owners have agreed
3 to having the tower there and I just ask the
4 Board, were there any agreements with the
5 neighbors, neighboring residences who will
6 have this in their visual -- their sight for
7 however many years it will be up.

8 The second issue I want to bring up as
9 a number of people have, is that in our bird
10 migration region, the cumulative affect of
11 these nearly 200 foot towers, it will cause
12 some harm to the neotropical birds that pass
13 through our area seasonally.

14 These birds -- a lot of people don't
15 realize that these birds migrate at night
16 time and they use our region as a stopover
17 point. They don't just fly over, but they
18 land here so they are landing and they are
19 taking off and so these towers will pose
20 some risk to them. And this is a conclusion
21 that was made in a U. S. Fish and Wildlife
22 Service report that was made last summer.
23 They were largely talking about industrial
24 wind projects, but they did say that these
25 towers, even smaller towers that are in our

1
2 area, do have affects on these birds.

3 Currently, there are three of these
4 towers in the Town of Somerset and one in
5 the Town of Yates. And now, we are talking
6 about a fifth. So I ask, has there been an
7 Environmental Impact Statement done that
8 talks about mitigation? It was already
9 discussed earlier in terms of the type of
10 towers that's used that would be of less
11 harm to birds and also looking at the
12 cumulative affect of these now five towers
13 in our migratory region.

14 And then I bring up what others have
15 brought up, that the additional burden, we
16 have visual burden of these towers, the
17 migratory birds burden, but also the
18 additional burden that the towers bring us
19 one step closer to an industrial wind
20 project that the citizens of Yates
21 overwhelmingly oppose. Thank you.

22 SUPERVISOR SIMON: Thank you. Okay.
23 More comments in the back.

24 MR. SEEKINS: Name is Seekins. First
25 name is Dennis. I'm at 37 Maple Avenue.

1
2 Approve the tower. Have the turbines.

3 SUPERVISOR SIMON: Thank you.

4 MS. GEORGETTE STOCKMAN: Georgette
5 Stockman, 10742 Lakeshore Road in
6 Lyndonville. More questions really to add,
7 what electronic impulses will be generated
8 or received by the MET Tower? And how far
9 away will this MET Tower be from the nearest
10 inhabited structure? Thank you.

11 SUPERVISOR SIMON: Thank you.

12 MS. SMITH: Anne Smith, 11081
13 Lakeshore Road. A lot of my questions have
14 already been asked so, but do we know what
15 the decommission plan is before the second
16 tower is approved? And what is the time
17 limit for the second MET Tower? Is it one
18 year, two years, three years? Could Apex be
19 asked to remove the first tower before the
20 second tower is approved?

21 I also have that other question about
22 the MET Towers. Most of the -- some of them
23 have been up for three years. We have not
24 received any information regarding these MET
25 Towers that collect all this data. Has

1
2 anyone on this Town Board received any
3 information on what they have collected? I
4 guess I ask, what is Apex -- you know,
5 what's the big secret? What are they
6 holding back? Why don't we as a Town Board
7 and as taxpayers know exactly what these MET
8 Towers are collecting before we approve the
9 second tower? It doesn't make any sense to
10 me at all. Thank you.

11 SUPERVISOR SIMON: Thank you.

12 MR. FISK: Richard Fisk, Lyndonville,
13 New York, 1186 North Lyndonville Road.

14 I believe that we should have the MET
15 Towers and it should go through. I have
16 kind of looked at the heights of those and
17 they are actually shorter than most other
18 things in the Town. They are shorter than
19 the water tower. They are shorter than the
20 cell tower. And the water tower is pretty
21 tubular so that should really whack a bird
22 or so I would think, but I walked over there
23 and I didn't find any dead birds. I didn't
24 find -- I saw pigeons roosting on the top of
25 it. I looked around. No dead animals and

1
2 no humans either.

3 So both of these towers are higher than
4 a MET Tower. So I don't think there's any
5 danger from them at all. Thank you.

6 SUPERVISOR SIMON: Thank you.

7 MRS. PAULA SIMON: Paula Simon,
8 Millers Road, Lyndonville. When we had the
9 Town Board listening to us for the last MET
10 Tower Application, I submitted to the Board
11 nearly 50 pages of letters that I had with
12 Mr. Quarles, correspondence that I had with
13 a biologist from the U. S. Geological
14 Survey. And in my correspondence with these
15 two individuals, I found out that from the
16 biologist that the audio that they were
17 using on the MET Tower at the Bane property
18 did not -- was not adequate to really find
19 out what kind of bat population is in the
20 area.

21 My comment is, first of all, was the
22 Board able to read the documents that I
23 submitted last time and my concerns? And
24 also, have we found out what kind of audio
25 surveillance is going to be done on this

1
2 current MET Tower to see if maybe they are
3 improving the information that they are
4 going to be getting? That it would be
5 adequate, which is, that would be my main
6 concern. So thank you.

7 SUPERVISOR SIMON: Thank you. Go
8 ahead.

9 MR. BASIL: Mike Basil, 10277
10 Spaulding Lane. I want to thank the Board
11 for taking the time to let us present.
12 Couple things, the word proprietary gets
13 kicked around a lot as a reason to protect
14 this information. But in the legal sense,
15 proprietary is to protect a company from
16 revealing their data to another company that
17 might harm them. In this particular
18 instance, there isn't another company that's
19 competing for this project and the
20 information that's coming is site specific.
21 So it would do no good to anybody else. So
22 that's my first comment.

23 My second comment is, we are now
24 approaching three years of telling the Board
25 and having the community surveyed. The most

1
2 recent survey turned out almost 70 percent
3 opposed and after three years, it's time
4 that we become patriots and stand up against
5 this Article 10 and stand up against Albany,
6 take our position and tell these people no.
7 Thank you.

8 SUPERVISOR SIMON: Thank you. Yes.

9 MRS. LAPORT: Agnes LaPort, Somerset.
10 Western New York is certainly not as windy
11 as Apex would have us believe. The fact
12 that Apex has produced no data to support
13 their existence here and looking at wet maps
14 readily available online, we believe that
15 Apex is here for one purpose. That is to
16 build industrial wind turbines no matter
17 what the data provides. We're submitting to
18 you a wet map of the United States. The
19 average wind speed of the entire country is
20 30 miles per hour. The average wind speed
21 in our area is four and a half miles per
22 hour.

23 Other companies have studied this area
24 and their findings did not support building
25 industrial wind turbines here. Please say

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no to no more MET Towers.

SUPERVISOR SIMON: Others on the public hearing, MET Tower? In the back.

MR. FOX: Yes, my name is Joseph Fox. I live at 9125 Somerset Drive. We have three MET Towers in our Town. I see no negative impact whatsoever. And therefore, I believe you should pass this. You need to understand that you already have to deal with this down the road. The only way you can deal with this down the road is if you have incomplete data. It's the only way they are going to be able to provide complete data is to have this additional MET Tower. Thank you.

supervisor SIMON: Thank you. In the back, sir, go ahead.

MR. BARTH: Roger Barth, Lyndonville, New York. With regard to the comment made by the last gentleman, a portion of what he said is correct. The data may be important, but it's also important to us and to this Board. So why don't they give it before they ask for another MET Tower. Thank you.

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2 SUPERVISOR SIMON: Thank you. Are
3 there questions, comments? Anyone else?
4 Okay. What I'd like to do now is give each
5 Board Member an opportunity to speak and
6 have questions or comments that you'd like
7 to make and start we'll with Wes.

8 MR. BRADLEY: I'm fine.

9 SUPERVISOR SIMON: Bradley?

10 MR. BENTLEY: I appreciate the input.

11 SUPERVISOR SIMON: Shelly?

12 MRS. HARLING: No.

13 SUPERVISOR SIMON: Andy?

14 MR. MEIER: No.

15 SUPERVISOR SIMON: John?

16 MR. RIGGI: So Mr. Supervisor, I've
17 taken a look and assessed all of the
18 documents that have been submitted so far
19 for the MET Tower. And it's been a while
20 since this has all been submitted. So I
21 thought in order to really get a good idea
22 and get a better understanding of the
23 documents that were submitted, what was in
24 them and just to have a better understanding
25 for myself if this is moving towards a vote.

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2 So I did an assessment on all those.
3 It took quite a bit of time and I came up
4 with a number of questions and a number of
5 concerns that I would like to have the Apex
6 folks take a look at and certainly get back
7 to me. I can't speak for the Board. And I
8 will be giving those -- actually giving
9 these to Taylor immediately following the
10 meeting.

11 SUPERVISOR SIMON: Okay. Thank you.

12 MR. RIGGI: This is for --

13 SUPERVISOR SIMON: For the record.

14 Jim?

15 MR. WHIPPLE: No.

16 SUPERVISOR SIMON: I, too, have
17 concerns about the ability for the public to
18 really get answers and to be able to express
19 their concerns and get the information that
20 they are seeking. So I would entertain a
21 motion to keep the public hearing open until
22 August the 10th, which is the next Board
23 meeting. And do I have a motion?

24 MR. RIGGI: So moved.

25 SUPERVISOR SIMON: Do I have a second?

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I'll second. Any discussion?

MR. BRADLEY: I would be in agreement to keep the public hearing open for one week for letters to be received, but to go beyond that, no need for it.

SUPERVISOR SIMON: Brad?

MR. BENTLEY: I don't see a problem with going that long. It gives people plenty of time, of course.

SUPERVISOR SIMON: To go to the full month, give the public time?

MR. BENTLEY: Yeah.

SUPERVISOR SIMON: And certainly, I'll just comment on that, the written ability for people to submit written questions like Councilman Riggi did is certainly an option and we can discuss with the developer if they would like to reply in writing or not. That can be certainly part of it. That's up to the developer at that point.

SUPERVISOR SIMON: John?

MR. RIGGI: I agree with Brad. It's a very very important issue for us and I think that we need to give as much possible time

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2 not only for the questions to come in, but
3 also for Apex to respond. I think it's only
4 fair.

5 SUPERVISOR SIMON: Okay. Jim?

6 MR. WHIPPLE: I'll support it. I
7 believe we have to check the legal thing on
8 the tolling agreement with what Taylor says
9 is true, then it will not affect whether we
10 leave it open for till whenever, will not
11 affect when we must vote.

12 SUPERVISOR SIMON: So we'll double
13 check on that.

14 MR. WHIPPLE: We have to check on the
15 tolling agreement that's in place.

16 SUPERVISOR SIMON: Okay. All in favor
17 of the motion to keep the public hearing
18 open until August 10th and allow written
19 submissions and further public inputs, all
20 in favor say aye?

21 MR. BENTLEY: Aye.

22 MR. RIGGI: Aye.

23 MR. WHIPPLE: Aye.

24 SUPERVISOR SIMON: Opposed?

25 MR. BRADLEY: Opposed.

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SUPERVISOR SIMON: One opposed.

Motion carries.

And is there a motion to adjourn the meeting and close the Board meeting as well?

MR. BENTLEY: So made.

MR. RIGGI: Second.

SUPERVISOR SIMON: All in favor say aye?

MR. BRADLEY: Aye.

MR. BENTLEY: Aye.

MR. RIGGI: Aye.

MR. WHIPPLE: Aye.

SUPERVISOR SIMON: Opposed? Thank you everybody for coming.

(Proceedings concluded.)

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C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the proceedings of the Town of Yates July Public Hearing Regarding the Special Use Permit for a MET Tower Located Northeast of West Yates Center Road and Route 269 in the Town of Yates, held at 8 South Main Street, Lyndonville, New York 14098, on Thursday, July 13, 2017.

That the transcript herewith is a true, accurate and complete record of my stenotype notes.

-----*Doreen M. Sharick*-----

Doreen M. Sharick,
Notary Public.