

A meeting of the Town Board of the Town of Aurora took place on Monday, December 13, 2010, at 7:00 p.m. in the Town Hall Auditorium, 300 Gleed Avenue, East Aurora, New York.

Members Present:	Jolene M. Jeffe James J. Bach Susan A. Friess James F. Collins Jeffrey T. Harris	Supervisor Councilman Councilwoman Councilman Councilman
Others Present:	Ronald Bennett Bryan Smith David Gunner William Adams Rob Goller	Town Attorney Town Engineer Highway Superintendent Planning Board member Town Historian

Supervisor Jeffe opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the Flag.

The first item on the agenda was a PUBLIC HEARING on Local Law Intro No. 5-2010. This local law adds Wind Energy Conversions Systems to Chapter 116 of the Town Code. The Notice of Public Hearing was published in the East Aurora Advertiser and posted on the Town Clerk's sign board as evidenced by the Affidavits of Publication and Posting.

The Supervisor opened the hearing at 7:03 p.m. and asked if anyone in the audience wished to comment. Hearing no questions or comments, the Supervisor closed the hearing at 7:04 p.m.

Councilwoman Friess moved to approve the minutes of the November 22, 2010 Town Board meeting; seconded by Councilman Harris. Upon a vote being taken: ayes – five noes – none Motion carried.	Action #417 11/22/10 meeting minutes aprvd
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AUDIENCE I: none

UNFINISHED BUSINESS:

Councilman Bach moved to amend the agenda by adding item 5H – Employee Step Increase to unfinished business. Councilman Collins seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.	Action #418 Agenda amended – 1 item added to unfin. business
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Councilman Collins moved to adopt the following Local Law; seconded by Councilwoman Friess:

TOWN OF AURORA

LOCAL LAW 8 -2010

A LOCAL LAW, TO AMEND LOCAL LAW 1-1990 KNOWN AS “THE CODES OF THE TOWN OF AURORA”, ADOPTED BY THE TOWN BOARD OF THE TOWN OF AURORA ON JANUARY 22, 1990, BY AMENDING CHAPTER 55, DOGS AND OTHER ANIMALS, TO CONFORM WITH CURRENT REQUIREMENTS.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF AURORA AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT

This Local Law amends a prior Local Law known as “The Town of Aurora Code” adopted by the Town of Aurora on January 22, 1990, as amended, relating to the administrative, legislative and general legislation of Codes within the Town of Aurora as therein set forth.

SECTION 2. CHAPTER 55, DOGS AND OTHER ANIMALS

This Local Law repeals and rescinds the present Chapter 55 in its entirety and enacts the following replacement Chapter 55:

Section 55-1, Legislative Intent

It is the intention of the Town Board to safeguard the health, safety and welfare of town residents and the public-at-large by providing for the licensing, seizure, disposal and supervision of dogs and other animals.

Section 55-2, Dog Control Officer

The Town Board shall appoint one (1) Dog Control officer, whose salary shall be determined by the Town Board and whose duties and authority are described in New York State Agriculture and Markets Law. The Dog Control Officer’s hours shall be during normal Town business hours.

Section 55-3, Definitions

As used in this chapter, the following terms shall have the meanings indicated:

ALTERED DOG – A dog which has been spayed or neutered.

AT LARGE – Off the premises of the owner.

DANGEROUS DOG –

A. Any dog that, without provocation, approaches in a threatening or terrorizing manner any person, in apparent attitude or attack, upon the streets, sidewalks or any public grounds.

B. Any dog with a know propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

C. Any dog that bites, inflicts injury, assaults or otherwise attacks a human being or other domestic animal without provocation; or

D. Any dog that has been declared to be a dangerous dog after a hearing provided for in this Chapter.

DOG – Both male and female dogs.

DOG CONTROL OFFICER – An individual appointed for the purpose or assisting, within the appointing municipality, with the control of dogs and the enforcement of this Chapter.

IDENTIFICATION TAG – A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

OWNER – means any person who harbors or keeps any dog or other animal.

OWNER OF RECORD – means the person in whose name a dog was last licensed pursuant to this chapter.

PERSON – An individual, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

RESIDENT – An individual who maintains a residence within the Town of Aurora.

ARTICLE II DOG LICENSING AND IMPOUNDMENT

Section 55-4, Rabies Vaccination Required

A. Any person owning, possessing or harboring a dog four (4) months of age or over in the Town of Aurora shall be required to have the dog vaccinated to prevent the spread of rabies, except that a rabies vaccine is not required for a dog whose health would be adversely affected by a rabies vaccination, provided that a written statement, certified by a duly licensed veterinarian, specifying such condition is presented to the Dog Control Officer or the Town Clerk and filed with the Town Clerk's office.

B. Any person owning, possessing or harboring a dog, who fails or refuses to submit the dog for vaccination within ten (10) days after a request by the Dog Control Officer, peace officer, police officer or health officer shall be in violation of this chapter.

Section 55-5, License Requirements

Any person owning, possessing or harboring a dog four (4) months of age or over in the Town of Aurora shall obtain a current license for said dog and shall place and keep on such dog a collar to which shall be securely attached a valid identification tag for that dog, in accordance with the requirements of this chapter.

A. Exemptions

(1) No license is required for any dog under the age of four (4) months and which is not at-large.

Section 55-6, Application for a License

A. Applications for a license or renewal thereof shall be accompanied by a non-refundable license processing fee, the amount of which shall be adopted annually or at any other time as determined by resolution of the Town Board.

(1) A guide dog, hearing dog, service dog, working search dog, war dog, detection dog; police work dog or therapy dog shall be exempt from a license processing fee provided that the owner of the dog provides adequate proof in the form of a training certificate or other documentation deemed appropriate by the Town Clerk or Dog Control Officer.

(2) Licenses issued to any such dogs listed in Paragraph A(1) shall be conspicuously marked "guide dog", "hearing dog", "service dog", "working search dog", "war dog", "detection dog", "police work dog" or "therapy dog".

B. Applications for a license or renewal thereof shall be accompanied, in addition to the non-refundable processing fee, by a non-refundable surcharge that will be deposited in the New York State Animal Population Control Fund pursuant to Article 7 of the New York State Agriculture and Markets Law. Such surcharge, the amount of which shall be adopted annually or at any other time as determined by resolution of the Town Board, shall be at least one dollar for altered dogs and three dollars for unaltered dogs in accordance with §110 of the New York State Agriculture and Markets Law.

C. Applications for a license or renewal thereof of a dog identified as unlicensed during an enumeration conducted pursuant to Article 7 of the New York State Agriculture and Markets Law shall pay an additional fee the amount of which shall be adopted annually or at any other time as determined by resolution of the Town Board.

D. An application for a license or renewal shall be in the form prescribed by the Town Clerk and shall provide for the following minimum information:

(1) The name, residence address, mailing address and telephone number of each owner; and

(2) The name, sex, approximate age or year of birth, breed, color, markings and other identifying details of the dog; and

(3) State whether the dog has been spayed or neutered; and

(4) Such other information or documentation deemed necessary by the Town Clerk to effectuate the purpose of this chapter.

E. Rabies certification. The application for a license or renewal shall be accompanied by a statement certified by a licensed veterinarian showing that the dog has received the rabies vaccine; or, in lieu thereof, a statement certified by a licensed veterinarian that because of the dog's age or other reason, the life of the dog would be endangered by the administration of the rabies vaccine.

F. In the case of an altered dog, every application shall be accompanied by a certificate signed by a licensed veterinarian or a sworn affidavit signed by the owner in the form acceptable to the Town Clerk showing that the dog has been spayed or neutered, except that such certificate or affidavit is not required if same is already on file with the Town Clerk. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he or she has examined the dog and found

that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as an altered dog.

G. If any license is issued on an application of a person under eighteen (18) years of age, the owner of record shall be deemed to be the parent or guardian of such person.

Section 55-7, Issuance of License; Identification Tag

A. Upon validation by the Town Clerk or authorized dog control officer, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

B. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license can not be transferred to another dog.

C. Identification Tag

(1) The Town Clerk shall assign identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times.

(2) No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.

(3) Any person wishing to replace a tag previously issued shall pay to the Town Clerk a sum to be determined by resolution of the Town Board for a replacement tag.

Section 55-8, Term of License and Renewals

All licenses issued pursuant to this article, and any renewal thereof, shall expire on the last day of the last month of the period for which they are issued, except that no license or renewal shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. In the event an applicant for a license or renewal presents a statement certified by a licensed veterinarian, in lieu of a rabies certificate, then the license or renewal shall be issued for one (1) year from the date of the statement.

Section 55-9, Change of Ownership; Lost or Stolen Dog; Death

A. Change in owner or address. In the event of a change in ownership of any dog which has been licensed pursuant to this chapter or change of address of the owner of record of any dog, the owner of record shall, within ten (10) days of the change, file with the Town Clerk a written notification of such change. Such owner of record shall be

liable for any violation of this chapter until such filing is made or until the dog is licensed in the name of the new owner.

B. Lost or stolen dog. If any dog which has been licensed is lost or stolen, the owner of record shall, within ten (10) days of discovery of such loss or theft, file with the Town Clerk a written notification of such event. In the case of loss or theft, the owner of record of any such dog shall not be liable for any violation of this Article committed after such report is filed.

C. Death of dog. In the case of the death of a licensed dog, the owner of record shall notify the Town Clerk of the dog's death either before or upon receipt of a dog license renewal notice from the Town Clerk.

Section 55-10, Impoundment Fees

A. The following fees and costs established for impoundment of dogs under §117 of the New York State Agriculture and Markets Law:

(1) For the first impoundment of any dog owned by a person or entity: \$25.00

(2) For the second impoundment of any dog owned by the same person or entity within one year of the first impoundment: \$50.00

(3) For the third impoundment of any dog owned by the same person or entity within one year of the second impoundment: \$75.00

(4) An additional \$25 for each and every additional impoundment within one year of a prior impoundment of any dog owned by the same person or entity so that the total fine for the impoundment of dogs owned by the same person or entity during any one-year period would be \$25 for the first impoundment, \$50 for the second impoundment, \$75 for the third impoundment, \$100 for the fourth impoundment, and so on.

(5) In addition to the fines described herein, the owner or any impounded dog will be required to pay \$20 for each 24 hours or part thereof said dog is impounded.

B. Said owner shall pay all impoundment fees to the Town Clerk and shall produce a receipt for such payment to the Dog Control Officer before such dog shall be released to said owner. In addition to impoundment fees any licensing fees which are required under this code shall be paid to the Town Clerk prior to the release of the dog to its owner.

Section 55-11, Veterinary Care For Impounded Dogs

A. Each dog seized or impounded by the Dog Control Officer of the Town of Aurora, under the authority of the New York State Agriculture and Markets Law, that

requires veterinary treatment for either injuries or sickness shall receive such veterinary care when such care is necessary in the judgment of the Dog Control Officer.

B. The owner of such dog shall pay for said veterinary fees in addition to the impoundment fees upon redemption of the dog or, if said dog is deceased, not later than thirty (30) days after said veterinary care is rendered and the owner notified in writing of such amount.

C. If such amount is not paid within thirty (30) days after written notification, the Town shall proceed to collect the amount in a civil action in the Town of Aurora Justice Court.

ARTICLE III DOGS-AT-LARGE

Section 55-12, Running at Large Restricted

A. It is a restricted act for a person or entity owning or harboring a dog, whether licensed or not, to permit said dog to run at large within the Town of Aurora, outside the municipal boundaries of the Village of East Aurora, unless said dog is restrained by a chain or leash not exceeding six (6) feet in length.

B. Exceptions

(1) A guide dog actually leading a blind person or a dog being trained as a guide dog.

(2) A hearing dog actually aiding a deaf person or a dog being trained to assist a deaf person.

(3) A police dog in use for police work or a dog being trained as a police dog.

(4) A dog actually engaged in hunting or training for hunting accompanied by its owner or other responsible person, on land with the permission of the owner of the land.

Section 55-13, Penalties for Offenses

Any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine not exceeding \$25 for the first offense, a fine not exceeding \$50 for the second offense and a fine not exceeding \$100 for the third and subsequent offense.

ARTICLE IV DANGEROUS DOGS

Section 55-14, Restricted Acts

A. No person who owns or has control of any dog shall permit or suffer such dog to damage or destroy property of any kind of another person, to attack or bite any person peaceably conducting himself in any place where such person may lawfully be, or to attack, chase, injure or

kill any domestic animal or dog or cat of another person when such animal is in any place where it may lawfully be. For the purpose hereof, when any dog is at large contrary to the provisions of this article and commits any of such acts, the owner or person in control shall be deemed to have permitted or suffered the dog to have committed such act.

B. No person shall keep, suffer or permit to be kept on the premises of the owner or person having control of such dog, any dog which by its continual barking, howling or whining or other frequent or long-continued noise, shall unreasonably disturb the comfort or repose of any other person.

C. No person who owns a dog shall permit the premises, structures or enclosure in which such dog is kept to be unclean or unsanitary.

Section 55-15, Determination of Status as Dangerous Dog

In the event that the Dog Control Officer or law enforcement officer has probable cause to believe that a dog is dangerous, the Dog Control Officer or law enforcement officer may proceed under Article 7 of the New York State Agriculture and Markets Law for a determination by the Justice Court of the Town of Aurora. If the court shall find such dog to be a dangerous dog under the Agriculture and Markets Law or under this Article, the court may impose such restrictions on said dog as are provided for in the Agricultural and Markets Law or as are provided for under this Article.

Section 55-16, Seizure, Impoundment and Disposition

The Dog Control Officer or any law enforcement officer shall seize any dog found to be in violation of the provisions of Article 7 of the New York State Agriculture and Markets Law or in violation of this Article; and such dog shall be impounded, redeemed, euthanized or sold as provided in §118 of the Agriculture and Markets Law; and the owner of such dog shall pay the costs of seizure and impoundment as provided for in this Chapter.

Section 55-17, Confinement for Rabies Determination

The owner of any dog which has attacked or injured another person or animal contrary to the provisions of this Article shall confine such dog for such length of time as may be directed by the Dog Control Officer for the purpose of determining whether such dog is affected by rabies; and if so affected, such dog shall be destroyed (euthanized) under the direction of the Dog Control Officer.

Section 55-18, Confinement of Dangerous Dogs

The owner of any dog which has attacked or injured another person or animal or has been determined to be a dangerous dog as provided herein shall not thereafter permit such dog to be at any place other than on the premises of the owner unless such dog is securely fitted with a

property fitting muzzle of a type which shall not permit such dog to bite another person or animal.

ARTICLE V
PASTORAL ANIMALS

Section 55-19, Trespassing on Private Property

No owner of any horse, cow, pig, hog, goat, lamb or other pastoral animal shall recklessly or knowingly permit such pastoral animal to be upon any private property other than the premises of the owner without the consent of the owner or tenant of said private property.

Section 55-20, Supervision and Control

No owner of any horse, cow, pig, hog, goat, lamb or other pastoral animal shall recklessly or knowingly permit any such pastoral animal to be outside of the boundary lines of said owner's property unless the same shall be subject to the control or supervision of said owner or his agent or employee or a member of his family.

Section 55-21, Penalties for Offenses

Any person violating the provisions of this Article shall, upon conviction thereof, be punished by a fine not to exceed \$25 for the first offense, a fine not to exceed \$50 for the second offense and a fine not to exceed \$100 for the third and each subsequent offense.

ARTICLE VI
ENFORCEMENT AND PENALTIES

Section 55-22, Enforcement

The Dog Control Officer and any NYS law enforcement officer shall be authorized to issue such process as is necessary to bring violations before the court upon being satisfied that the person to whom such process is issued is in fact chargeable with the violation.

Section 55-23, Penalties for Offenses

Penalties, except for those prescribed elsewhere in this Chapter or New York Agriculture and Markets Law, shall be deemed punishable by a fine not exceeding \$250 or confinement in jail not exceeding five (5) days, or by both fine and imprisonment. Each separate offense or misdemeanor, as the case may be, shall constitute a separate violation. The provisions hereof are in addition to the regulations, restrictions, requirements and penalties contained in Article 7 of the New York State Agriculture and Markets Law.

Section 55-24 Amount of Fees or Penalties

The amount of any fees or penalties set forth in this Chapter may be amended by the Town Board from time to time by adoption of a resolution setting forth such fees and/or penalties.

SECTION 3. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York Secretary of State.

Action #419
 Local law 8 of
 2010 – Dogs &
 Other Animals
 – adopted.

Upon a vote being taken: ayes – five noes – none Motion carried.

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Councilwoman Friess moved to adopt the following dog licensing fees to take effect January 1, 2011:

DOG LICENSING FEE SCHEDULE

Fee Type	Local Fee	NYS Surcharge	Total
Spayed	9.00	1.00	10.00
Neutered	9.00	1.00	10.00
Unspayed	15.00	3.00	18.00
Unneutered	15.00	3.00	18.00
Guide/Service/Therapy	-0-	-0-	-0-
Enumeration	5.00	n/a	5.00
Tag replacement	3.00	n/a	3.00

Councilman Bach seconded the motion. Upon a vote being taken:
 ayes – five noes – none Motion carried.

Action #420
 Dog license
 fees adopted

Quotes for a 4-wheel drive Cub Cadet Volunteer model utility vehicle were received from:

Saville's Outdoor Power Equipment 3906 N. Buffalo Rd., Orchard Park, NY	\$6600.00
Alden Automotive 13151 Broadway, Alden, NY	\$7419.00
Hodgson Pool Sales, Inc. 5831 Seneca St., Elma, NY	\$7451.33

Councilman Bach moved to approve the purchase of a Cub Cadet Volunteer model utility vehicle from Saville's Outdoor Power Equipment, 3906 N. Buffalo Road, Orchard Park, NY, in the amount of \$6600.00. This vehicle is to be purchased after January 1, 2011 and payment will be disbursed from the 2011 budget – line A7110.210. Councilwoman Friess seconded the motion. Upon a vote being taken:
 ayes – five noes – none Motion carried.

Action #421
 Approval to
 purchase Cub
 Cadet utility
 vehicle in 2011
 approved.

Councilman Collins moved to table the quotes received (April 2010) for the repair of the incinerator chimney at 300 Glead Avenue. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #422
Chimney repair
at Glead tabled

Town Engineer Bryan Smith noted that when the pressure reducing valves (PRV's) were being repaired/replaced in Water Improvement Area 7, more parts were needed than originally anticipated and quoted. At the October 12, 2010 meeting the Town Board approved the repair of the PRV's for an amount not to exceed \$12,212.85 (Action #348).

Action #423
Increase in
amount to
repair WIA 7
PRV's
approved.

Councilman Harris moved to approve an increase to the not-to-exceed amount for the repair/replacement of pressure reducing valves in Water Improvement Area 7 to \$13,000.00. Councilman Collins seconded the motion. Upon a vote being taken: ayes - five noes – none Motion carried.

Councilman Bach moved to approve the Step Increase for Highway Employee James Walczyk from Working Crew Chief step 5 to Working Crew Chief step 6 at a rate of \$25.14 per hour effective November 2, 2010. Councilman Collins seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #424
Highway - J.
Walczyk step
increase
approved.

NEW BUSINESS:

Councilman Harris moved to amend the agenda by adding items 6P – Knox Farm State Park closing and 6Q – Glead HVAC repair to New Business. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #425
Agenda
amended – two
items added to
new business.

On September 30, 2010, the Aurora Highway Department was cited for violating the New York State Department of Environmental Conservation (NYSDEC) law – prohibited open burning. Highway Superintendent Gunner waived his right to a hearing and agreed to pay the \$500 fine.

Councilwoman Friess moved to approve the following budget transfer to cover the cost of the NYSDEC fine for an open burning violation:

From: DB1910 Highway Unallocated Insurance \$500
To: DB 1930 Highway Judgments & Claims \$500

Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #426
Budget transfer
to cover
NYSDEC fine
aprvd.

Planning Board Chairman Don Owens attended a Marcellus Shale Development Environmental Conference on Friday, December 3, 2010 in Buffalo, NY. The program was sponsored by the NYS Society for Professional Engineers. Mr. Owens attended the seminar to gain information on “geo-fracking” and to obtain credits to satisfy the 4 hour requirement for planning board members. The cost was \$125.

Action #427
Reimbursement
of seminar fee
aprvd for
Planning Brd
chairman

Councilman Bach moved to approve reimbursing \$125 to Planning Board Chairman Don Owens for the registration fee for the Marcellus Shale Development Environmental Conference he attended on 12/3/10. The \$125 will be disbursed from B8020.404 Planning Board Expense and Travel. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Residents of the Village of East Aurora and the Town who reside on Beech Road are served by a village waterline. A property owner on the Town side of Beech Road is requesting to become an out-of-district water customer to the Village in order to receive municipal water.

Councilman Collins moved to approve the request from Michael Farrell, to become an out-of-district water customer to the Village of East Aurora for the property at 221 Beech Road. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #428
M. Farrell
approved to
become OOD
water customer
to VEA at 221
Beech Road.

At their December meeting the Planning Board reviewed the Site Plan application from Tim Sonner, owner of Tri-County Tool Rental, as agent for Bev Stewart and Janet Howell. Mr. Sonner is proposing to construct a 6900sf commercial building on the property known as SBL#176.00-4-1.11 Olean Road. The Planning Board voted to recommend the proposal with the following conditions: 1) fire protection service (fire hydrants) be located on the plan; and 2) Storm Water Prevention Plan (SWPPP) paperwork be completed to the satisfaction of the Town. The Planning Board also recommended the petitioner address the comments from Greg Keyser, Engineering representative to the Board. These comments include: 1) applicant submit a SWPPP in accordance with Chapter 96 of the Town Code; 2) applicant consult with appropriate regulatory agencies with regard to wetlands on the property; 3) appropriate building elevation drawings be submitted with detailed measurements; and 4) applicant submit drawings and other information regarding the proposed lighted sign located along Olean Road.

John Schenne, Engineer for Tri County Tool Renter, submitted Part 1 of the SEQR Short Environmental Assessment Form (SEAF) for the proposed project. The Town Board as Lead Agency completed Part 2 of the SEAF.

Councilman Collins moved to issue a negative declaration with regard to SEQR for the site plan proposal from Tim Sonner/Tri-County Tool Rental to construct a commercial building at SBL#176.00-4-1.11 Olean Road, noting that the proposed action will not result in any significant adverse environmental impacts. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #429
Neg Dec
issued for
Tri-County
Tool site plan
review
(Olean Road)

Town Engineer Bryan Smith stated that the Tri-County Tool project is in Water District 6 and that the closest fire hydrants are 1,000 to 2,000 feet away from the property. He will contact the Erie County Water Authority to see about installing more fire hydrants in that area.

Councilman Harris moved to approve the Site Plan submitted by Tim Sonner/Tri-County Tool Rental for a 6,900sf commercial building for SBL#176.00-4-1.11 Olean Road. Councilman Collins seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #430
Site plan for
Tri-County
Tool for new
building on
Olean aprvd

Councilwoman Friess moved to authorize the Supervisor to sign the 2011 Erie County Department of Senior Services Transportation and Escort Services (Going Places Van) Contract. Councilman Bach seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #431
Supv. auth to
sign EC van
contract

Three companies, Warning Electric, Penn Power Systems and Cummins Northeast, were asked to provide a quote to repair the emergency generator at 300 Gleed Avenue. Only one, Penn Power Systems, provided a quote.

Councilwoman Friess moved to approve the quote from Penn Power Systems, 350 Bailey Avenue, Buffalo, NY to repair the 15kw Generac generator at 300 Gleed Avenue for an amount not to exceed \$2,089.06. Funds will be disbursed from ER1621.422. Councilman Collins seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #432
Quote from Penn Power Syst. to repair Gleed generator approved.

Councilman Bach moved to approve the quote from Susquehanna Sheet Metal Erection Service, Inc., 4177 Rosedale Avenue, Eden, NY, in the amount of \$1,158.00 to furnish, deliver, unload and install four (4) urinal screens, two (2) panels and one (1) pilaster repair for bathrooms at 300 Gleed. Funds will be disbursed from ER1621.422. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #433
Repair to Gleed bathrooms approved.

Councilman Collins moved to table the replacement of the lighting in the warehouse at 300 Gleed in order to do a more in depth study of how the lighting should be set up (in sections, on timers, etc). Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #434
Gleed Whse lighting repair tabled.

Councilman Harris moved approve the request from Judy Reischuck, Bookkeeper/Assistant to Supervisor, authorizing the transfer of town funds in accordance with New York State mandates. This authorization will cover transfers within funds as needed to close the books for 2010. Councilman Collins seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #435
Bookkeeper authorized to transfer end of year funds.

Councilman Harris moved to approve the hiring of Paige Anderson, 20 Center Ridge Road, East Aurora, as a part time lifeguard for the EAST program (coach) at a rate of \$7.50 per hour. Councilman Bach seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #436
P. Anderson hired as PT lifeguard.

Councilwoman Friess moved to table from Highway Superintendent Gunner's request to solicit bids for a new pick-up truck until more generic specs are in place. The bid specs can not be proprietary. Councilman Collins seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #437
Pick-up truck bid tabled.

Councilman Bach moved to table Highway Superintendent Gunner's request to change an employee's title to Assistant Working Crew Chief. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #438
Request to change highway emp title to asst wkg crew chief tabled

Councilman Collins moved to designate December 31, 2010 as the official 2011 New Years Holiday for Town employees. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none
Motion carried.

Action #439
12/31/10 official 2011 New Year holiday

Councilwoman Friess moved to authorize the Supervisor to send a letter to Mark Thomas, at the NYS Office of Parks, Recreation and Historic Preservation, requesting that the state consider entering into a memorandum of understanding with the Town of Aurora and Village of East Aurora regarding the town and village plowing certain parking lots and driveways to allow access to Knox Farm State Park for winter activities. Councilman Bach seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #440
Supv auth to
sent letter to
State re:
plowing at
Knox Farm
State Park

Supervisor Jeffe moved to authorize the repair of HVAC unit #10 at 300 Glead and to accept the quote of \$695.20 from Allied Mechanical Inc., 1111 Niagara Street, Buffalo, NY to perform the work. Councilman Bach seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #441
Glead HVAC
(unit #10)
repair aprvd

Note: HVAC unit #10 controls the heat in the BOCES first floor class rooms.

SEQR for the Wind Energy Conversion System Law was sent to municipalities and entities that may have interest in the process. The Town of Elma was the only respondent, asking to be notified if there was to be a coordinated review.

Action #442
Neg dec
issued for
WECS law

The Town Board reviewed Part 2 of the SEQR Full Environmental Assessment Form and as a result of the review determined that there will not be significant environmental impact if the WECS law is adopted.

Councilwoman Friess moved that a negative declaration will be prepared for the enactment of a Non-Commercial Wind Energy Conversion Local Law in the Town of Aurora. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Councilwoman Friess moved to adopt the following local law; seconded by Councilman Bach:

TOWN OF AURORA
LOCAL LAW 9 -2010

A LOCAL LAW, TO AMEND LOCAL LAW 1-1990 KNOWN AS “THE CODES OF THE TOWN OF AURORA”, ADOPTED BY THE TOWN BOARD OF THE TOWN OF AURORA ON JANUARY 22, 1990, TO ENERGY CONVERSION SYSTEMS TO BE INCLUDED IN CHAPTER 116 OF SAID CODES.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF AURORA AS FOLLOWS:

SECTION 1. SECTION 116-40(1): PURPOSE AND INTENT

The purpose of these regulations for Small Wind Energy Conversion System (SWECS) is to:

- A. Protect and enhance the town’s physical and visual environment.
- B. Protect and enhance the health, safety and welfare of residents of the Town of Aurora.
- C. Provide standards for the effective and efficient placement, construction, modification, and maintenance of SMALL WIND ENERGY CONVERSION SYSTEMS, which are designed and used to reduce on-site consumption of utility power.

SECTION 2. SECTION 116-40(2): DEFINITIONS

AGRICULTURAL OR FARM OPERATIONS: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation.

AGRICULTURAL DISTRICT: A district set up under Article 25AA of the New York State Agricultural and Markets Law to conserve, protect and encourage development and improvement of agricultural lands.

AMBIENT SOUND LEVEL: Ambient sound level is the sound from all sources other than the particular sound of interest; also known as the background sound level. The ambient sound measurement (A-weighted sound level) is taken where the offending sound cannot be heard, or with the sound source shut-off. The ambient sound level, rarely found to be constant over time, can be quite variable. The ambient sound level is considered to be the level that is exceeded 90% of the time when a sound measurement is taken.

EAF: Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 17 of Title 6 of the New York Codes, Rules and Regulations.

ENVIRONMENT: Environment includes, but is not limited to, land, air, noise, water, flora, fauna, threatened and endangered species and critical habitat areas, agricultural resources, aesthetic resources, historical and archaeological resources, open space and recreational areas.

FALL-DOWN ZONE: The area surrounding the tower described as one and a half times the total height of the tower measured from its base radially.

SEQRA: The New York State Environmental Quality Review Act, Article eight of the Environmental Conservation Law, and its implementing regulation in Title 6 of New York Codes, Rules and Regulations, Part 617.

SITE: The parcel of land where a proposed wind turbine is to be located. The Site can be publicly or privately owned by an individual or groups of individuals controlling a single property.

SMALL WIND ENERGY CONVERSION SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20 kW, a maximum total height of 100 feet and which is intended to primarily reduce on-site consumption of utility power.

TOTAL HEIGHT (maximum overall height): The height of the SWECS as measured from ground elevation to the top of the tip of the blade in the vertical position.

TOWER: The support structure, including guyed, monopole and lattice types, upon which a wind turbine and other mechanical devices are mounted.

TOWER HEIGHT: The height above grade of the uppermost portion of the tower, excluding the length of any axial rotating turbine blades.

TURBINE: The parts of the SWECS including the blades, generator and tail.

WIND ENERGY CONVERSION SYSTEM (WECS): A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”).

WIND ENERGY FACILITY (WEF): Any part of a SWECS or wind measurement tower, including all related infrastructure, electrical systems and substations, access roads, and accessory structures included therein.

WIND MEASUREMENT TOWER: A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE: Any piece of electricity-generating equipment that converts wind energy into electrical energy through the use of airfoils, rotating turbine blades, or similar devices to capture the wind.

SECTION 3. SECTION 116-40(3): PERMITTED USE

Small Wind Energy Systems shall be a permitted use in all zoning classifications, subject to a Site Plan Review and approval by the Town of Aurora Town Board and the issuance of a SWECS permit by the Town of Aurora Building Department as set forth in Section 65 of the Town of Aurora Code.

SECTION 4. SECTION 116-40(4): REQUIREMENTS FOR APPLICATION

All applicants for a SWECS permit shall submit an application, including applicable fees, to the Town Building Department. Applicants shall provide all of the following documentation to the Town Building Department before the application is considered complete and ready for review and processing. Upon determination by the Building Inspector/Code Enforcement Officer that all standards/requirements have been met, a complete copy of the documentation will be given to the Aurora Town Clerk for distribution to the Town Board, Town Engineer and Town Attorney.

In the event that the Building Inspector/Code Enforcement Officer determines that the standards are not met, the application will be forwarded to the Zoning Board of Appeals for consideration of a variance. The Zoning Board of Appeals determination will be forwarded to the Town Board.

Upon receipt of the application for a wind energy conversion system, the Town Board shall forward the documentation to the Town Planning Board for site plan review and for the Planning Board's overall recommendation. Upon receipt of the Planning Board's recommendation, the Town Board will call a public hearing on the Application.

The Town Board will render a final decision on the application for a wind energy conversion system.

A SWECS application shall include:

- (1) A completed SWECS Permit Application Form.
- (2) A completed Site Plan Review Application Form.
- (3) A Full Environmental Assessment Form with completed Part 1, a visual addendum, and such other part requiring completion by the applicant.
- (4) Compliance with General Municipal Law Section 239-m if applicable.
- (5) A copy of a Certified Property Survey that also shows:
 - (a) The proposed location of the SWECS tower.
 - (b) The radius of the fall down zone around the SWECS tower.
- (6) A Site Plan in form and content acceptable to the Town Board, prepared to scale and in sufficient detail and accuracy, showing at a minimum:
 - (a) The proposed location of the SWECS, together with guy wires and guy anchors.
 - (b) The maximum height of the proposed tower, including blades in vertical position.
 - (c) A detail of tower type (monopole, guyed, freestanding or other).
 - (d) The color or colors of the SWECS tower.
 - (e) The location, type and intensity of any lighting on the SWECS tower.

(f) A contour/topography map of the property and adjacent parcels of sufficient scale as to clearly indicate appropriate drainage and erosion impact on- and off-site as well as jurisdictional wetlands.

(g) The location of all structures on the property and all structures on any adjacent property within 500 feet of the property lines, together with the distance of these structures to the SWECS tower and the distance of the SWECS tower from all property lines and public roads or rights-of-way.

(h) The names and mailing addresses of all adjacent landowners within 1000 feet of any boundary of the site on which the SWECS is proposed to be located.

(i) The location, nature and extent of any proposed fencing and landscaping or screening to be constructed around or in conjunction with the SWECS tower.

(j) The location and nature of any utility easements and access roads proposed or existing in connection with the SWECS tower.

(k) Building elevations of accessory structures and buildings immediately adjacent to the proposed SWECS tower and related facilities.

(l) Evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the system.

(m) Turbine Information: Specific information on the type, size, height, rotor material, rated power output, and performance safety and noise characteristics of the SWECS.

(n) Written notice that the electrical utility service provider has been informed, and permit requested, as required, to connect to the public grid, adhering to all guidelines set forth by the utility service provider.

(o) Signage of a minimum of 1-foot by 2-feet in size indicating the potential of electric shock located at a height of five feet above the surrounding ground surface clearly visible and secured on the base of the tower.

(p) Manufacturer's specifications and certification on manual and automatic over speed controls built into SWEC and on-site certification by a qualified installer.

(q) Certified sound rating data covering the SWEC sound producing features, including the overall sound pressure levels measured with an A-weighted scale throughout the operating range of design wind speed. The

report shall include low frequency, infrasound, pure tone, and repetitive impulsive sound.

(r) The location of noise sensitive receptors (i.e., hospitals, libraries, schools, places of worship, parks and recreational facilities or other sensitive receptors identified by the Town Planning Board) within 2500 feet of the proposed SWEC location.

(s) Proof of the current and reasonably anticipated on-site electricity demand of the applicant.

SECTION 5. SECTION 116-40(5): EXEMPTIONS

The following are exempt from the requirements of this article:

(1) No permit or other approval shall be required under this Chapter for SWECS utilized solely for farm operations in a county-adopted, State certified agricultural district, as long as the facility (SWECS) is set back at least one and one half times its total height from a property line, and does not exceed 100 feet in total height. Towers over 100 feet in total height utilized solely for agricultural operations in a county-adopted, State certified Agricultural district shall apply for a permit in accordance with this section, but shall not require a height variance. Prior to the construction of a SWECS under this exemption, the property owner of a designated agent shall submit a sketch plan or building permit application to the Town of Aurora Code Enforcement Officer and Building Inspector to demonstrate compliance with the setback requirements.

(2) Existing SWECS towers may be repaired and maintained without restriction.

SECTION 6. SECTION 116-40(6): STANDARDS AND PROCEDURE

(1) No Wind Energy Conversion System other than a Small Wind Energy Conversion System (SWECS), as defined herein, shall be constructed, reconstructed, modified, operated or replaced in the Town of Aurora

(2) All SWECS shall require a Site Plan Review, reviewed by the Town of Aurora Planning Board and applicable criteria from this chapter to assist in the approval process deemed appropriate by this chapter.

(3) Structural Safety: The applicant shall provide a certificate from a qualified licensed Professional Engineer certifying that the tower and its foundation meet applicable structural safety standards, including but not limited to, wind loading and seismic effects due to soil conditions. The Town Board or Town Planning

Board may request renewed safety certification from the applicant every five (5) years, unless the Town Board has reasonable grounds to believe the tower is in unsafe condition, in which event such a request may be made on a more frequent basis

(4) The Town Board and/or Town Planning Board may request reasonable additional information, including but not limited to, any visual and aesthetic information it deems appropriate on a case-by-case basis. Such additional information may include, among other things, a Professionally Engineered Wind Study, enhanced landscaping plans, line-of-sight drawings and/or visual simulations from neighboring viewpoints, microwave interference, etc.

(5) The Town Board or Town Planning Board shall require that SWECS towers be set back a sufficient distance from adjacent property lines and/or structures, and public roadways to safeguard the general public and/or adjacent property from damage in the event of tower failure or falling debris, which distance shall take into account the fall-down zone of any tower and/or antenna. Guy wires erected must adhere to Code-approved setback standards as well as fencing requirements.

(6) The “Fall-Down Zone” will not be located closer to any property line equal to one and a half times the Total Height and a minimum of 500 feet from existing structures not owned by the applicant. Notwithstanding the limitations contained herein, the Town Board can set a different fall-down zone upon receipt of information from the applicant or adjoining property owners which demonstrates the safety of the general public or adjacent property is protected.

(7) Each SWECS Tower shall be located a minimum of:

(a) 500 feet from the nearest public road

(b) 500 feet from the nearest off-site residence at the time of application, measured from the exterior of such residence.

(c) One and one half times the Total Height of the SWECS from any on-site non-SWECS structure or any above ground facilities or utilities.

(d) 1000 feet from federal or state-identified wetlands, to protect bird and bat populations. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land uses, and other factors that influence the flight patterns of resident birds.

(e) SWECS shall not be located in the front yard of a site. Front yard is defined in Aurora Town Code Chapter 116-4. Definitions.

- (8) The applicant must comply with all applicable state and federal regulations, including FAA regulations.
- (9) Towers shall be constructed to provide one or more of the following means of access control:
 - 1) Tower climbing apparatus located no closer than 12 feet from the ground.
 - 2) A locked anti-climb device installed on the tower.
 - 3) A locked, protective fence at least 6 feet in height that encloses the tower and guy wires.
- (10) Only one SWECS per legal lot shall be allowed.
- (11) No SWECS tower shall contain any signage, other than electrical shock warning, or advertising of any kind.
- (12) No person operating a SWECS shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance or to take necessary precautions cause, suffer, allow, or permit unnecessary emissions from said SWECS source of sound that may cause noise to adjacent properties. This policy specifies that the Ambient Sound Level, measured at the property line upon which the SWECS facility is located shall not be increased by more than 3 decibels weighted for the "A" scale [dBA] due to the operation of the SWECS.
- (13) In order to reduce visual impact, the SWECS:
 - (a) Shall be painted a non-reflective, unobtrusive color that blends the system with the surrounding landscaping.
 - (b) Be designed and located in a manner that will minimize adverse visual impacts from public view areas (e.g., public parks, public roads, public trail, public playgrounds).
- (14) Intermittent shadow or flutter shadow shall not be cast on any adjacent residence more than a total of ten (10) minutes a day.
- (15) Exterior lighting on any SWECS shall not be allowed unless mandated by the Federal Aviation Administration.
- (16) All structures which may be charged with lightning will be grounded according to New York State adopted National Electric Code. Whenever possible, all wiring associated with a SWECS shall be installed underground within the "Fall-Down Zone".

(17) All SWECS shall be operated in such a fashion as to minimize disruptive electromagnetic interference as is evident in television, microwave and radio reception/transmission. If it is determined that a SWECS is causing electromagnetic interference, the operator shall immediately take the necessary corrective action to eliminate the interference including relocation or removal of SWECS tower.

(18) Erosion control and sedimentation will be addressed by the Town Planning Board after a review of the soil conditions at the proposed site. The Town Planning Board recommendations will be managed by the property owner in a manner consistent with all applicable State and Federal laws and regulations.

(19) Removal of SWECS tower: The property owner shall agree to remove the tower, if said tower, ceases to be used for its intended purpose for twelve (12) consecutive months.

SECTION 7. SECTION 116-40(7): PERMIT AND RELATED FEES

(1) Permit fees pertaining to SWECS tower permit or building permit issues pursuant to this section are listed in Schedule A annexed hereto and may be changed from time to time by resolution adopted by the Town Board.

(2) All fees associated with the engineering, wind measurement statistics or any special testing and/or inspections, are the sole responsibility of the project sponsor.

SECTION 8 ENFORCEMENT, PENALTIES AND REMEDIES FOR VIOLATIONS

A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this local law.

B. Any person owning, controlling, or managing any building, structure or land who shall undertake a small wind energy conversion system in violation of this Local Law or in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$350 or to imprisonment for a period of not more than six months, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of \$350 for each violation and each week said violation continues shall be deemed a separate violation.

Section 9: SEVERABILITY.

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local

Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 10 EFFECTIVE DATE

This Local Law shall take effect immediately upon the adoption by the Town of Aurora Town Board and filing with the New York Secretary of State.

Upon a vote being taken: ayes – five noes – none Motion carried.

Action #443
Local Law 9 of
2010 – Wind
Energy
Conversion
Systems -
aprvd

COMMUNICATIONS – The following communications were received by the Board and filed:

- Town Clerk – November 2010 report
- Tax Receiver – November 2010 report
- Assessor - November 2010 report
- Building Department - November 2010 report
- Recreation Director - November 2010 report
- Senior Center Director - November 2010 report
- DCO – October and November 2010 reports
- Work Requisitions - November 2010 report
- Supervisor's November 2010 report

AUDIENCE II

Bill Patterson, Grover Road, stated he is opposed to spending more money to operate Glead – the Town should move there. We're not in the rental business.

BUSINESS FROM BOARD MEMBERS AND STAFF:

Councilman Harris stated there is too much paper being used and suggested possibly using lap top computers for meetings.

Councilman Bach stated he had attended a meeting in Wales regarding hydro-fracking.

Supervisor Jeffe noted: 1) the NYS auditor is still working at Town Hall; 2) the police advisory committee met recently; and 3) she and several employees met to go over changes to the ODA code that will be presented at the next work session.

Highway Superintendent Gunner stated the Town's full size road snow blower was lent to the Town of Cheektowaga to aid them in removing snow from the recent storm. In return, Cheektowaga will be helping Aurora with road paving this summer.

The December 1, 2010 Abstract of Claims, consisting of vouchers numbered 2224 to 2233, was presented to the Board for audit and authorization of payment from the following funds:

General	\$16,412.07
Highway	80.00
Special Districts	<u>50,496.29</u>
Grand Total Abstract	\$66,988.36

The December 13, 2010 Abstract of Claims, consisting of vouchers numbered 2234 to 2237, was presented to the Board for audit and authorization of payment from the following funds:

General	\$155,957.80
Part Town	855.92
Highway	55,303.59
Enterprise/Glead	5,342.27

Special Districts	<u>59,782.04</u>
Grand Total Abstract	\$277,241.62

Councilwoman Friess moved to approve the December 1 and December 13, 2010 Abstracts of Claims as presented and to authorize payment of same; seconded by Councilman Bach. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #444
12/1 & 12/13/10
Abstracts of
Claims aprvd

Councilman Collins moved to enter into executive session to discuss the CSEA union contract and a particular employee's performance with no action being taken during the session; seconded by Councilman Harris. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #445
Board enters
executive session

Councilman Collins moved to come out of executive session and return to regular session; seconded by Councilwoman Friess. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #446
Board comes out
of exec session
and resumes
regular meeting

Councilwoman Friess moved to authorize the Supervisor to sign the agreement by and between the Town of Aurora and CSEA, Local 1000 AFSCME, AFL-CIO, effective January 1, 2011 through December 31, 2013. Councilman Collins Seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #447
Supervisor auth
to sign 2011-13
CSEA contract.

Councilman Collins moved to adjourn; seconded by Councilwoman Friess. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #448
Meeting
adjourned.

Martha L. Librock
Town Clerk