



TOWN OF DOVER
126 East Duncan Hill Road
Dover Plains, NY 12522
Tel (845) 832-6111
Fax (845) 832-3188

RYAN COURTIEN
Supervisor

KATIE PALMER-HOUSE
Town Clerk

**TOWN OF DOVER TOWN BOARD
JANUARY 30, 2013 REGULAR TOWN BOARD MEETING**

The Town of Dover Town Board held a regular meeting at 6:30 pm on Wednesday, January 30, 2013 at the Dover Town Hall, 126 East Duncan Hill Road, Dover Plains, NY with the following members present:

Supervisor Ryan Courtien
Councilman Christopher Galayda
Councilman Richard Yeno

Absent: Councilwoman Lorraine Perri-O'Neill
Councilwoman Kaye Surman

**RESOLUTION REGARDING A SPECIAL PERMIT/SITE PLAN APPLICATION
FOR THE PROPOSED CRICKET VALLEY ENERGY PROJECT**

The following Resolution was offered by Councilman Galayda, seconded by Councilman Yeno, to wit:

WHEREAS, Cricket Valley Energy Center, LLC (the “Applicant,” “Owner,” or “Project Sponsor”), proposes to construct the Cricket Valley Energy Center (“the Project”) – a combined cycle natural gas powered 1,000-megawatt (MW) electric generating facility and interconnection substation; and

WHEREAS, the Project is proposed to be located on an approximately 193-acre assemblage of properties with an address at 2241 Route 22 (the “Project Site”) comprising five (5) tax parcels: Grid Nos. 7060-00-493989, 7060-00-610940, 7061-00-465190, 7061-00-580190, and 7061-00-585063; and

WHEREAS, an approximately 38.8-acre portion of a parcel of land located approximately 2.5 miles north of the Project Site is proposed to be used as a temporary construction parking and laydown area and is known as the “Remote Laydown Site” (Grid No. 7062-00-534700); and

WHEREAS, the Project Site is proposed to be located principally within the Industrial/Manufacturing (M) Zoning District; and

WHEREAS, the Town’s Code Enforcement Officer has issued an interpretation (received by the Town Clerk on August 27, 2012) indicating that the proposed use is not one of the categories of uses specifically identified in the Use Table of the Town of Dover Zoning Code (§145-10.B), and is not a prohibited use (§145-10.C); and

WHEREAS, in such cases where the proposed use is not one of the categories of uses specifically identified in the Use Table of the Town of Dover Zoning Code (§145-10.B), and is not a prohibited use (§145-10.C), the proposed use may be allowed by special permit issued by the Town Board (§145-10.B); and

WHEREAS, in reviewing potential special permit uses, the Town Board shall follow the same procedures and standards established for the Planning Board in Article IX of Chapter 145, “Zoning”; and

(continued)

**TOWN OF DOVER TOWN BOARD
JANUARY 30, 2013 REGULAR TOWN BOARD MEETING**

**RESOLUTION REGARDING A SPECIAL PERMIT/SITE PLAN APPLICATION
FOR THE PROPOSED CRICKET VALLEY ENERGY PROJECT (continued)**

WHEREAS, for applications involving a special permit, “site plan review shall be included as an integral part of the special permit approval process, and no separate site plan approval shall be required” (§145-65.A(1)); and

WHEREAS, on August 15, 2012, the Applicant attended a pre-application meeting with the Town’s Code Enforcement Officer and other representatives of the Town including the Town Planner and Town Engineer, where it was determined that the Proposed Project would be considered a “Major” project as defined in Chapter 145; and

WHEREAS, on August 15, 2012, the Applicant attended a preliminary meeting with the Town Board “to determine the information that will need to be submitted in the site plan” as required by §145-62.A; and

WHEREAS, on October 3, 2012, the Applicant submitted a Special Permit/Site Plan (“SP/SP”) application to the Town Clerk, which application was determined sufficiently complete for initiating review and referrals; and

WHEREAS, on October 10, 2012, the Town Board referred the SP/SP application to the Planning Board for its advice and opinion; and

WHEREAS, on October 10, 2012, the Town Board referred the SP/SP application to the Dutchess County Department of Planning and Development for its review pursuant to §239-m of General Municipal Law; and

WHEREAS, on October 10, 2012, the Town Board referred the Site Plan to the Town’s Architectural Review Board pursuant to §37-5.A(1) of Town Code; and

WHEREAS, on October 10, 2012, the Town Board set a public hearing on the SP/SP application for November 14, 2012; and

WHEREAS, on November 14, 2012, at the duly noticed public hearing one (1) member of the public addressed the Town Board and the Town Board determined to continue the public hearing until November 28, 2012; and

WHEREAS, on November 28, 2012, at the continued public hearing no members of the public addressed the Town Board and the Town Board closed the public hearing; and

WHEREAS, on December 12, 2012, at a regularly scheduled meeting of the Town Board the Town Board members discussed the SP/SP application and, in particular, potential visual, noise, and air quality issues pertaining to the application; and

WHEREAS, on December 18, 2012, the Town Board received a report from the Planning Board that provides the Planning Board’s input on the Proposed Project’s compliance with the Special Permit standards of §145-63.B of Town Code and the Site Plan criteria of §145-65.D of Town Code; and

(continued)

**TOWN OF DOVER TOWN BOARD
JANUARY 30, 2013 REGULAR TOWN BOARD MEETING**

**RESOLUTION REGARDING A SPECIAL PERMIT/SITE PLAN APPLICATION
FOR THE PROPOSED CRICKET VALLEY ENERGY PROJECT (continued)**

WHEREAS, the New York State Department of Environmental Conservation (“NYSDEC”), by virtue of a Decision by the Commissioner, declared itself to be the Lead Agency for the SEQRA review of the Proposed Project pursuant to the provisions of 6 NYCRR Part 617.6(b)(5); and

WHEREAS, given the Town Board’s authority to issue a Special Permit/Site Plan approval for the Proposed Project, the Town Board would act as an “Involved Agency” in SEQRA review and must issue its own SEQRA Findings Statement for the Proposed Project; and

WHEREAS, NYSDEC issued a SEQRA Findings Statement on or about September 26, 2012; and

WHEREAS, the Town Board issued a SEQRA Findings Statement on January 30, 2013; and

WHEREAS, the Town Board’s SEQRA Findings Statement contains a detailed description of the Proposed Project specifically the Proposed Project’s conformance with the Special Permit standards contained in §145-63.B; and

WHEREAS, the Town Board’s SEQRA Findings Statement concludes that the Proposed Project would substantively meet the Special Permit standards and would not have an adverse effect on the environment or the Town’s community character provided that certain mitigation measures are implemented; and

WHEREAS, the conclusions contained within the SEQRA Findings Statement regarding the Special Permit criteria are hereby incorporated by reference; and

WHEREAS, based upon the Town Board’s review and the review conducted on behalf of the Town Board by the Town Planning Consultant and Town Engineering Consultant, as well as input received from the Town Planning Board, the Town Board confirms that the Proposed Project would meet the site plan criteria contained in §145-65.D; and

WHEREAS, the Town Board feels it necessary to identify certain Conditions of Approval to further protect the environment, the community character, and the community facilities and services of the Town of Dover, which Conditions of Approval are enumerated below:

- The Owner and/or Owner’s Operator shall prepare and file detailed drawings for a Building Permit satisfactory to the Town’s Building Inspector and Town’s Engineering Consultant.
- The Owner and/or Owner’s Operator shall continue to process its pending application with the Town of Dover Architectural Review Board.
- The Owner and/or Owner’s Operator shall prepare a Construction Noise Management Plan and shall provide same to the Town of Dover for its review. The Construction Noise Management Plan shall identify the means that the Owner and/or Owner’s Operator intend to take to minimize construction related noise to the maximum extent practicable.
- Upon issuance of a Building Permit, the Owner and/or Owner’s Operator shall schedule a pre-construction meeting with the Town’s Building Inspector and Town’s Engineering Consultant to establish an appropriate

(continued)

**TOWN OF DOVER TOWN BOARD
JANUARY 30, 2013 REGULAR TOWN BOARD MEETING**

**RESOLUTION REGARDING A SPECIAL PERMIT/SITE PLAN APPLICATION
FOR THE PROPOSED CRICKET VALLEY ENERGY PROJECT (continued)**

schedule of site inspections and an appropriate protocol for communications. The Owner and/or Owner's Operator shall identify anticipated schedules for large haul events that may affect traffic on New York State Route 22 and/or local Town of Dover roads. The Town of Dover shall be kept informed of any such events a minimum of 12 hours in advance.

- The Town's Building Inspector and/or Engineering Consultant may review and approve minor changes to the approved site plan. However, any modification to the overall limits of disturbance or modifications that may be visible from public rights-of-way (not including the Metro-North Railroad line) shall be reviewed and approved by the Town Board.
- The Owner and/or Owner's Operator shall prepare a site landscape plan consistent with the recommendations of the Planning Board (dated December 17, 2012) and shall provide same to the Town of Dover for its review. Implementation of the site landscape plan at the entrance to the Project Site from Route 22 shall be substantially completed within the first six (6) months of initiation of construction activity. Any final landscaping at the entrance to the Project Site shall be installed prior to issuance of a Certificate of Occupancy.
- The Owner and/or Owner's Operator shall restore any areas used for construction parking (e.g., on the former Rasco property and the Remote Laydown Site) as soon as possible following the point where such temporary parking is no longer needed.
- The Owner and/or Owner's Operator shall provide to the Town copies of all reports to NYSDEC pertaining to the SPDES General Permit for Construction Activity.
- The Owner and/or Owner's Operator shall provide to the Town copies of all manifests for hazardous waste removed from the Project Site.
- Prior to receiving a Building Permit, the Owner and/or Owner's Operator shall develop a more specific response protocol for emergency services response to the more reactive or hazardous materials to be used or stored on site. These protocol would form the basis of required annual training with the J.H. Ketcham Hose Company.
- Upon completion of construction, the Owner and/or Owner's Operator shall donate the extraction equipment for confined spaces rescue to the J.H. Ketcham Hose Company.
- The Owner and/or Owner's Operator shall file and process an application to merge lots located between New York State Route 22 and the Metro-North Railroad tracks (Chapter 125 of Town Code).
- The Owner and/or Owner's Operator shall file and process an application for an Erosion and Sediment Control Permit (Chapter 65 of Town Code).
- The Owner and/or Owner's Operator shall file and process an application for a Blasting Permit (Chapter 69 of Town Code).
- The Owner and/or Owner's Operator shall file and process an application for a Fire Prevention Permit (Chapter 77 of Town Code).
- The Owner and/or Owner's Operator shall file and process an application with the Dutchess County Department of Health for the public potable water and sanitary sewer systems on site.
- The Owner and/or Owner's Operator shall file and process an application with the NYSDEC for a SPDES General Permit for Construction Activity.

(continued)

**TOWN OF DOVER TOWN BOARD
JANUARY 30, 2013 REGULAR TOWN BOARD MEETING**

**RESOLUTION REGARDING A SPECIAL PERMIT/SITE PLAN APPLICATION
FOR THE PROPOSED CRICKET VALLEY ENERGY PROJECT (continued)**

- The Owner and/or Owner’s Operator shall file and process an application with the New York State Department of Transportation for a Highway Work Permit for modifications to New York State Route 22 at the Project Site and Remote Laydown Site.
- The Owner and/or Owner’s Operator shall distribute a notice to all property owners within one (1) mile radius of the chimney locations during the construction period when cranes are erecting the proposed chimneys. Notice shall indicate that property owners within the one (1) mile radius may request a site-specific evaluation of potential visibility of the proposed chimneys and may request appropriate mitigation through planting of trees on the property owner’s property. The Owner and/or Owner’s Operator shall make all best and good faith efforts to install additional trees to minimize visibility of the proposed chimneys.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Dover hereby affirms that all procedural steps for the approval of a Special Permit use, with an integrated site plan review, have been met (including the procedural steps of SEQRA); and

BE IT FURTHER RESOLVED, that the Town Board hereby grants approval for the Proposed Project subject to satisfactory demonstration of compliance with the Conditions of Approval enumerated herein; and

BE IT FURTHER RESOLVED, that the Applicant shall not initiate any construction activity on the project site until a Building Permit application (together with appropriate fees) has been submitted to the Town Building Inspector and approved.

The question of the adoption of the foregoing Resolution was duly put to a vote which resulted as follows:

Supervisor Courtien	Voting <u>Aye</u>
Councilman Galayda	Voting <u>Aye</u>
Councilwoman Perri-O’Neill	Voting <u>Absent</u>
Councilwoman Surman	Voting <u>Absent</u>
Councilman Yeno	Voting <u>Aye</u>

The Resolution was thereupon adopted on January 30, 2013.