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In the Matter of the Application for a Judgment  
Pursuant to Article 78 of the Civil Practice Law  
and Rules and for Declaratory Relief Pursuant to  
CPLR Section 3001 of:

LAWRENCE J. FRIGAULT, CAROL A. FRIGAULT,  
PAUL KIDDER, DEBORAH A. KIDDER, REX A.  
SEAMON, DAWN M. SEAMON, JOHN C.  
WOUDENBERG, PAULA M. WOUDENBERG,  
JOEL G. SAWICKI, LORI E. SAWICKI,  
FREDERICK C. VERTUCCI, JOY L. VERTUCCI,  
TED S. FOX, MICHAEL J. REID, LOUIS M.  
SALAUN, LUCY G. SALAUN, GEORG-ANN F.  
GIGLIOTTI, KELLY A. AUGER, DAVID E.  
YODER, LESLIE P. WEAVER, DANIEL E. MEZIK,  
SHERRY M. MEZIK, WILLIAM J. ZALESKI,  
PATRICIA L. ZALESKI, FLORENCE V. TREEN,  
HOWARD C. MOSS, PATRICIA A. DUCIAUME,  
DOROTHY S. DUCIAUME, E. ALAN SILVER,  
SUSAN J. HUXTABLE, KATHLEEN G. CARNEGIE,  
DANIEL R. SULLIVAN, TERESA W. SULLIVAN,  
and BARBARA H. MEZIK,

Petitioners,

-against-

TOWN OF RICHFIELD PLANNING BOARD,  
MONTICELLO WIND LLC, NORTHEAST WIND  
PROJECTS, LLC, RIDGELINE EASTERN ENERGY  
LLC, ALICE C. ARMSTRONG, KEITH C.  
ARMSTRONG, MARNA M. ARMSTRONG, LOIS A.  
AUGER, WENDY S. MULLIGAN, WAYNE K.  
ARMSTRONG, KAREN A. RUDD, HAROLD T.  
FERGUSON, FAY R. FERGUSON, HAROLD F.  
FERGUSON, JR., HANWINSEL FARMS, INC.,  
HUXTABLE FARM PROPERTIES, LLC, DEBRA J.  
KOSEK, and WILLIAM R. KOSEK, JR.,

Respondents.

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**AFFIDAVIT OF**  
**DAVID S. MERZIG**  
Town Attorney and Attorney  
for the Town of Richfield  
Planning Board

Index No.: 2011-2012  
RJI No.: 2011-0465-M  
Hon. Donald F. Cerio, Jr.

STATE OF NEW YORK            )  
  )  
COUNTY OF OTSEGO            )        ss.:

DAVID S. MERZIG, being duly sworn, deposes and says:

1. I am the Town Attorney for the Town of Richfield Planning Board, one of the respondents in this proceeding. Since 2002, I have been the Town Attorney and the Attorney for the Planning Board.

2. I am fully familiar with the facts and circumstances of this proceeding. I am personally familiar with the matters referred to in this affidavit, both as the Attorney for the Board and because of my personal participation in events preceding this action.

3. This affidavit is submitted in response to representations made by Lawrence J. Frigault in his reply affidavit, and the affidavit of Douglas Zamelis, Esq., the Petitioners attorney. Those affidavits attempt to paint a picture of the Planning Board as acting in secret, hiding or masking its activities, failing to properly notify the public of its activities, and essentially acting as a “tool” of the applicant, Monticello Wind, LLC. That is a false picture.

4. Mr. Frigault claims he first heard of the project on October 5, 2011 (Frigault Reply Affidavit ¶ 7), but by that date the project had already been before the Planning Board for more than a year and the Public Hearing (after appropriate notice) (R-000001866) had been held on September 12, 2011 (A-000001).

5. In his affidavit, Mr. Frigault implies that the publishing of the legal notice in the officially designated newspaper, The Daily Star, was insufficient notice. Mr. Frigault contends that the notice *should* have been printed in the Utica Observer Dispatch, a paper to which he subscribes. He fails to note that there were letters to the editor regarding this project in the Utica Observer Dispatch as early as April of 2011 (*see Exhibit A*). Nor has Mr. Frigault mentioned

other advertisements and notices regarding the Project that appeared in publications in the community as a whole.

6. The Daily Star is, in fact, the duly designated daily newspaper for the Town of Richfield for the publication of legal notices as set forth by Town Law §64(11) in that it is published within the County of Otsego where the Town is actually located, rather than in a neighboring County. This fact is not contested.

7. Mr. Frigault states that “the Planning Board seemed to be in a tremendous hurry to approve the project...” (Frigault Reply Affidavit, ¶ 22) This statement cannot be reconciled with the fact that the application for the project was filed on March 14, 2011 (R-1), approximately six (6) months prior to the public hearing on the matter (A-000001) and more than 7 months before the first time Mr. Frigault attended a Planning Board meeting.

8. Even prior to the submission of the formal application, there had been informal public discussions with the Planning Board regarding the project. (Planning Board Minutes of February 14, 2011, R-0000001849). This had been an ongoing project over a long period of time, and Mr. Frigault’s “impression” is factually and demonstrably incorrect.

9. The duly advertised Public Hearing was held on September 12, 2011 and everyone at that meeting was given the opportunity to speak on the record. (A-000001-A-0000028) Mr. Frigault is correct that at several of the meetings, the Chair stated that the while the public had the right to attend, they did not have the right to simply speak whenever they wished to or question the Board members or the applicant at will. Public comments also were received after the public hearing at the following Planning Board meetings, but the Planning Board insisted that comments be made at the appropriate time. The only exception that I am aware of was the final, November 22, 2011 meeting, when the public comment period had

concluded and it was time for the Planning Board members to vote. The Planning Board accepted written comments throughout the entire review process

10. The Open Meetings Law allows any person to attend Board meetings, but it does not give the right of persons attending to inject themselves into the meeting itself by speaking or debating with the Board. (Open Meetings Law §103, *DeSantis v. City of Jamestown*, 193 Misc. 2d 197, 747 NYS 2d 906[2002]).

11. The Planning Board took reasonable measures to ensure that order was preserved at the November 14 and 22, 2011 meetings. This Court can obtain some sense of the difficult circumstances under which the Planning Board was working from television coverage of several Planning Board meetings. The station filmed portions of meetings and broadcast news reports with video clips. The newscasts accurately depict the layout of Town Hall and the proximity and demeanor of the both the Board and the audience attending those meetings. The internet link <http://www.wktv.com/news/local/Richfield-Town-Board-delays-vote-on-construction-of-wind-turbines-133857368.html>, shows portions of the meeting of November 14, 2011. (A 'google' search of the terms 'wktv, richfield, turbine, meeting' will provide results with a link to this video, as well as to another referred to below.)

12. It shows that the Planning Board members sat on one side of a long table facing the public, while the Board's Attorney and the Board's independent Engineering Consultant were seated across from the Board as the project was discussed (*see also*, still shots from the video, Grant Affidavit Exhibits A&B).

13. The video tape of the meeting accurately shows that Petitioners' attorney was sitting within arms reach of me and no more than 6-8 feet away from the table at which the Board was sitting. Mr. Frigault actually admits that he was in either "the first or second row"

(Frigault Reply Affidavit, ¶ 19) during the meetings. The news video shows that such a position would place him within 6-8 feet of the Board.

14. Mr. Zamelis' proximity to me indicates that he was able to hear the proceedings. I could hear the Board's proceedings; there is no accuracy to the charge of "secretive" discussions by the Board.

15. There were transcripts made of cassette recordings taken by the Clerk from six (6) Planning Board meetings. (The tapes made a part of the record in Volume X, (A-000001-A-00000295). Because of the poor quality of the town tape recorder, the Planning Board had specifically determined that the tapes were not to be used as an official minutes. (Board minutes, attached as **Exhibit B**) However, the Board has continued to use the recorder and the recordings covers meetings at which Mr. Frigault states that he attended. The tape recorder was located at the end of the table at which the Board was convened. While the sound quality of these tapes is poor they, nevertheless demonstrate that the Board was conducting its business at normal conversational levels and not the "hushed" tones alleged by the Petitioners.

16. Parenthetically, Petitioners' attorney references a television report and criticizes comments that I made to the reporter. Regardless of the fact that such comments were highly edited from a much longer discussion, neither my comments to the reporter nor Mr. Zamelis' observations have any probative value to the Court. Nevertheless, by viewing this report, the Court will be able to assess, in an objective fashion, the demeanor and physical proximity between the members of the Board and those attending the meeting. Mr. Owen Grant has also downloaded still shots taken from this news report and attached them to his affidavit. These still shots demonstrate these points as well.

17. Mr. Frigault accurately states that the audience was emotionally charged at more than one of the meetings. As can be seen from the video clip, those who opposed the application were not passive, quiet observers, but were attempting to sway the board to their position by aggressively expressing their opposition to the project, both verbally and non-verbally.

18. This then leads to the non-record "testimony" of Mr. Frigault, Attorney Zamelis, and others regarding the meeting of November 22, 2011, when the Town Hall was over-occupied prior to the commencement of the meeting. While I believe that the record is sufficient to address the underlying issues before the Court, the narratives given the Court—claiming to represent the inner thoughts, fears, and impressions of the affiants—should be addressed.

19. When it was brought to our attention that the legally posted limit for occupancy of the Town Hall had been exceeded, I would not let the meeting commence. I told the Board Chair, Mr. Urtz, and the audience that, for safety reasons, the meeting should not commence so long as there was an over-occupancy of the building. Members of the audience were shouting out that the meeting should be adjourned, and it was suggested that the appropriate Code Officer be contacted.

20. Shortly thereafter, a State Trooper from the Richfield Springs Barracks arrived and asked to talk with me. He had had an opportunity to observe the demeanor of many of those in the audience, and he expressed to me his concern about crowd control. He immediately called his Supervisor and then placed a call to the Otsego County Sheriff's Office asking for backup.

21. Contrary to the speculation of Mr. Frigault regarding the nature of my discussions with the State Trooper, we were not "figuring out how to forcibly remove enough people so that the meeting could continue." Instead, the Trooper made it clear to me that he was concerned about public safety and crowd control.

22. It is also accurate that tension was high and that the opponents of the project were shouting at the Board members that they needed to "listen to the people" and just adjourn the meeting. It had been rumored earlier in the day that it was the plan of the opponents of the project to "pack" the building and then demand that the meeting be adjourned. The rumors proved to be accurate.

23. With the number of attendees exceeding the legal capacity of the building, the Board and I discussed its options with the Trooper. I was adamant that the meeting could not commence unless either the number of people in the building was reduced below the maximum occupancy level or a new venue was selected.

24. Cythia Andella, one of the Board members, who was also a member of the Trinity Reformed Church, stated that she believed that their community room on the ground floor of the Church would easily accommodate the attendees. (The church is approximately 3 blocks from the Town Hall.)

25. She obtained permission to use that facility by telephone. At that point, at the request of the Chair, Don Urtz, I advised the audience that the meeting would be held at the church, and asked if everyone knew where it was located. I noted that the Church is directly on Main Street (State Route 20). There was general acknowledgement and the audience streamed out of the Town Hall. The television cameras and reporters also followed.

26. Even though it was now well past the advertised meeting time, I wanted to make sure that a notification was left advising any latecomer of the change of venue, and directed the Town Clerk to prepare a sign as to where the meeting was continuing. A copy of that sign is a made part of the record. (R0000002530)

27. During the transition to the church community room, two Otsego County Deputy Sheriffs arrived. Their presence, as well as the much larger meeting room, seemed to diffuse some of the heightened emotions displayed at Town Hall.

28. It should be noted that at this point, the Planning Board meeting had still never been started. So at approximately 7:55 p.m. (A-000258), the Chair called the meeting to order, the Clerk called the roll and the actual meeting began. I had a preliminary statement put into the record regarding where the meeting was being held, and the steps made in the transition from the Town Hall. (A-000257, A-000258).

29. As also noted in the transcript, Don Urtz, the Board Chair, advised that the Board and the participants should speak up so they could be heard. He also asked for order, but cautioned that if the audience members would not be quiet, that they would be asked to leave. (A-000257)

30. Petitioners suggest that the community meeting room at the Church was not conducive to a Planning Board meeting, but the a television newscast shows what transpired. Instead of relying upon the statements of the Petitioners regarding the layout of the venue, the nature of the Community Room (which had little if any adornment) or where the Board and the public were sitting in relation to each other, the Court should review the video record of the meeting and the still versions of this video recording included in the Grant affidavit (Exhibits A&B). The reporters from WKTV recorded a panoramic view of the community room meeting at the Church (*see*, Grant Affidavit, Exhibit B), and as noted above, the broadcast was preserved on the website <http://media.wktv.com/designvideo/bimVidPlayer.swf?i=134363808>. The initial scenes in the news clip show the portion of the meeting at Town Hall (*see also*, Grant



Affidavit, Exhibits A). The second portion of the clip shows the meeting in the church community room (*see also*, Grant Affidavit, Exhibit B).

31. This video and the still shots (Grant affidavit, Exhibit A&B) clearly show a typical meeting, with the Board sitting at a table. The five Board members were sitting behind a table facing the audience; the public was facing the board; and the public was seated on folding chairs arranged in semi-circular rows. In fact, despite the size of the community room, the members of the public in the first row along the sides and in front of the table where the board members sat were no more than six feet from the Board itself, and about three feet behind me. At the Town Hall as the video still shots (Grant Affidavit, Exhibit A) show, the Board's seating arrangements were the same and the public was even closer to the Board.

32. The video also clearly shows that church the community room was not a "sanctuary" or "place of worship." The videos and still shots show no religious symbols, altars or other evidence of a worship space. This was simply a large open meeting area that appeared to be equipped with an adjacent kitchen and food service equipment.

33. After the meeting commenced, however, there were comments and shouted statements such as: "Why are you selling us out?"; and "You are not listening to the people!".

34. Shortly thereafter, one man, who was unknown to me, began aggressively and angrily shouting at the Chair. The Chair asked him to stop shouting or he would be asked to leave. He was asked again if he would keep quiet, and he stated: "I don't think so!" At that point, one of the Sheriff's deputies intervened and escorted the individual from the room. (A-000270, 000271).

35. After that incident, the room quieted and calmed markedly and the members of the audience that had earlier been shouting out and making aggressive statements towards the

Board stopped, and the Board finally proceeded with its meeting. Ultimately, the Board voted on the special use permit, and it was passed by a vote of 3 in favor and 2 against.

36. After the meeting, I spoke to the Town Clerk and directed her to return to Town Hall and to retrieve the notice that had been taped to the inside of the window to the entryway of Town Hall. The note was stored in her office and included in the Record of Proceedings.

37. It was clear to me that based upon the statements of Mr. Zamelis and other attendees of the meeting that, regardless of the outcome, it was highly likely that the Board's actions would be challenged and reviewed by the Courts.

38. The Petition challenges the manner in which the location of the meeting was changed, but only one of the 34 Petitioners, Deborah Kidder, claims that the change of venue had any impact on them.

39. Even if Petitioner Kidder, as she states in her affidavit, arrived at the Town Hall more than an hour and ten minutes after the meeting was scheduled to begin and did not see the sign on the door directing her to the new location, while unfortunate, does not void the validity of the meeting itself or that the venue had to be changed because of safety concerns.

40. The decision to move the meeting was made, and reasonable steps were taken, under the circumstances, to notify latecomers of the new location. That notice was placed on the door of the Town Hall, and it was thereafter retrieved and has been memorialized and shown to this Court. Even Ms. Kidder does not claim that she was in any way prejudiced in this action, even if she did not see the sign and attend the meeting. Also, in this regard I note that on October 2011, she had submitted written comments on the Project. (R.000001936).

41. None of the other Petitioners has stated that the change of venue confused them, or that they were unable to find the church or that they were not allowed to view the proceedings or were separated from the actions of this the board.

42. None of the Petitioners has claimed prejudice or feelings of religious intimidation by their attendance at the changed hearing venue.

43. In short, this change allowed the meeting to move forward in a safe place without any prejudice to either the applicant, the board, or members of the public who wished to attend this public meeting.

44. The Petitioners also make vague references to "bias" by the Board. Petitioners suggest that the Board was prejudiced in favor of the applicant and against the project opponents. Yet, they do not show this Court one shred of evidence that actual bias existed.

45. The Planning Board was intentionally subjected to highly inflammatory comments by the opponents of the project. Petitioners urged the public to "fight" the project. Often the anger engendered by the opponents was expressed against the members of the Planning Board.

46. As counsel to the Planning Board, I was in the position of having to address the Board members' concerns, and often guide them when they were faced with a large, hostile crowd. The television footage of the November 14 meeting shows project opponents waving signs, and individuals claiming that the Board members were "betraying" them and the community as a whole.

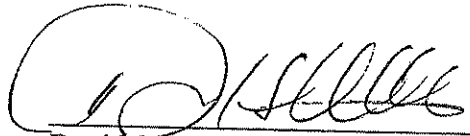
47. Petitioners have relied on innuendo and matters not in the record because the Record of Proceedings clearly shows that for a time period of over more than a year, the Board fully, carefully -- with the assistance of an independent, and nationally known engineering firm -

- and rationally reviewed this project within the context of the Town's zoning law, and the State Environmental Quality Review Act.

48. The Petitioners claim that the Board was biased against them, but there is not one word in their Petition or any affidavit that addresses the fact that 40% of the Board voted against the project. The actual vote belies the allegation of bias.

49. The project review conducted by the Planning Board in this case was a difficult task, performed by an unpaid, volunteer, citizen board. The job was made even more difficult by the highly contentious tactics used by the Petitioners to incite divisions in a "small town" environment. The Planning Board took not just a "hard look," but a very hard look at this project. Despite tremendous pressure from a small group of opponents, the Planning Board did their job and voted 3-2 in favor of issuing the Special Permit.

50. The Court should affirm the decision in all respects.



David S. Merzig  
KEHOE & MERZIG, PC  
Attorney for Respondent  
Town of Richfield Planning Board  
Office and Post Office Address  
8-12 Dietz Street, Suite 202  
Oneonta, New York 13820  
(607) 432-4242

Sworn to before me this  
22nd day of March, 2012



Notary Public

MARIA S. FAULKNER  
Notary Public, State of New York  
No. 01FA6099990  
Residing in Delaware County  
My Commission Expires 10/6/ 15

**EXHIBIT A**

Subject: Observer-Dispatch Document  
From: NewsBank -- service provider for Observer-Dispatch Archives  
(uticaod@newsbank.com)  
To: merzig@kehoemerziglaw.com;  
Date: Monday, March 19, 2012 3:23 PM

## Observer-Dispatch (Utica, NY)

### Observer-Dispatch (Utica, NY)

April 21, 2011

#### **Richfield Spa board must be straight on wind power**

Section: Letters

Page: 11A

Estimated printed pages: 1

Article Text:

There are more than just a couple of land owners that are not happy about windmills. "Please don't tell anyone we were here, but if you do, please tell them how honest we were with you. We want you to be with us. We don't need you anymore, we can go around you. You probably won't be able to see them or hear them. You might see them and you might be able to hear them all the time."

These are just a few of the things I have been told by North Wind and Power. Richfield Springs does not have any laws regulating windmills and does not plan on passing any, if my understanding of a letter written by North Wind and Power is correct. Ask them a question and they will hem and haw and then change the subject. Noise, vibrations, TV interference are setbacks, not health and quality-of-life issues. Their easement contracts are confidential, so neighbors can't find out how "honest" they are with each other. When I started asking questions about the windmill project in Richfield Springs, I was told the meeting was over.

The Richfield Town Board needs to set the record straight. Is it stepping aside for North-Wind and Power, or is it stepping up for the residents and taxpayers of their town? Electric rates will most likely go up for all Richfield residents when they sell their electric to NYSEG and NYSEG passes that cost on to the consumer.  
MIKE REID Richfield Springs

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Record Number: 8663ef6d968f137d65c7fd9a7bee33a9

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**EXHIBIT B**

TOWN BOARD MEETING  
April 18, 2011 Page 1 of 3

The regular meeting of the Richfield Town Board was held on Monday, April 18, 2011, at the Richfield Town Hall. The meeting was called to order at 6:00 PM by Supervisor Domion. Other Board members in attendance were Ames, Bond, and Petersen.

Motion to approve minutes of March 21, 2011, by Petersen, second by Bond. Ames - yes, Bond - yes, Domion - yes, Petersen - yes.

The Supervisor presented the financial reports. No money needs to be moved. Motion to pay claims as presented by Bond, second by Petersen. Ames - yes, Bond - yes, Domion - yes, Petersen - yes.

DA Highway	\$ 6,840.75
DB Highway	\$ 2,879.15
General A,B,SL,SF	\$ 6,023.11
Trust & Agency	\$ 647.80
Total	\$16,390.81

The Board received two sealed bids for natural gas. NYSEG Solutions bid as follows: Index Rate, NYMEX Settle Price plus \$0.199 per therm(\$1.99 per DTH); 12 Month Fixed Price, \$0.7115 per therm (\$7.115 per DTH). Empire Natural Gas Corporation bid Indicative Fixed Price: 7.126 per DTH, Index Rate, NYMEX settlement plus, \$2.202 per DTH. The Board will review the bids later during the meeting.

The Highway Superintendent was unable to attend, but left a report that 2010 CHIPS money in the amount of \$65,489.03 should be received on Wednesday, April 20<sup>th</sup>. He asked the Board to approve advertising of paving bids for Town roads. Motion by Ames, second by Domion, to advertise for the paving of Town roads. Ames - yes, Bond - yes, Domion - yes, Petersen - yes.

The Clerk asked the Board to reconsider the taping of minutes. A number of years ago the Board voted to require taping of the minutes, and the tapes would be considered the "official" minutes. The state considers the written minutes of the clerk as the official minutes, and there is always a problem with the quality of the recordings. Motion by Petersen, second by Ames that taping minutes will no longer be required and tapes will no longer be considered official. Minutes may be taped at the discretion of the clerk, or if a Board members wants a particular meeting taped. The clerk has permission to appropriately destroy the old tapes. Ames - yes, Bond - yes, Domion - yes, Petersen - yes. The clerk distributed copies of the March fire report. Dog licenses are ahead of last year, the new licensing by the Town is working well. The clerk asked the Board to consider a dog-census through mailings to Town residents. The clerk will provide more information to the Board next month.

Assessor Woodrow reported that the Tentative Assessment Roll has been completed and will be available May 1, 2011. The Board of Assessment Review will meet on May 24, 2011 from 1:00PM to 3:00PM, and 6:30PM to 8:30PM as required by State law.



## TOWN BOARD MEETING

April 18, 2011 Page 2 of 3

The Assessor attended a course on Agricultural Exemptions last week. Windmills on property in an Ag district are not considered a change of use. Complaints have been received again on the condition of the Coletti property at the intersection of County Highway 25A and U S Highway 20. Mr. Coletti appears to be selling various vehicles without a Special Use Permit. This issue has been addressed before, and Mr. Coletti insists he is not conducting a business. At this time the Town has no local law or ordinance to cover this situation. Both the Assessor and Planning Board Chairman suggested that the Town consider passing a local law regulating the sale of vehicles. Chairman Urtz may contact our attorney about this matter. Assessor Woodrow attended a seminar on rural issues, that was geared towards government officials working with the agricultural community.

Planning Board Chairman Urtz reported that SEQR letters for the Monticello Hills project will soon be going out to involved agencies. It is in the best interest of the Town to hire a consultant to represent the Town's interest in the project. We have received a proposal for services from CHA that Attorney Merzig has reviewed and is satisfied with. Motion by Ames, second by Petersen to hire CHA as our consulting firm for the Monticello Hills project. Ames - yes, Bond - yes, Domion - yes, Petersen - yes.

### Old Business

The Board discussed how Bakers Beach will operate for the 2011 season. The operating permit needs to be filed with the Department of Health thirty days before the opening of the beach. The Supervisor will file the permit on the assumption that we will be open. It was suggested that the beach be open Friday, Saturday, and Sunday through June, daily after July 4<sup>th</sup>. The beach may only be opened for picnicking during the week, swimming on weekends, depending on the personnel we are able to hire. The following pay rates were approved by the Board: senior lifeguard/manager - \$12.00/hr; manager, not certified life guard - \$10.00/hr; senior lifeguard with mowing duties - \$10.00/hr; senior lifeguard with no mowing duties - \$9.00/hr; junior lifeguard - \$8.00/hr. We have had some letters of interest and Supervisor Domion will contact those applicants. A sixteen year old may work under the supervision of an adult(18years or older). Pavilion reservations rates are the same as last year, groups up to fifty people - \$30.00, groups greater than fifty and up to one hundred - \$60.00. Town residents will not be charged for day use of the beach but will need to pay pavilion rates if they wish to reserve the space. Non-residents will be charged \$5.00 for day use, or may purchase a season pass for \$20.00.

Councilwoman Petersen asked if the \$500.00 agreed upon last year to clean up/paint the bathrooms is still available. It is. She also reported that there are two low spots in the picnic area that need fill. We will see if we can get DEC to do it when they clean up from the winter plowing. The lawn mower should go one more season, but whoever mows there should be trained on using the mower. The Town has heard nothing more from an individual that earlier asked about installing boat rental docks at the beach that he would take care of and the Town would receive a portion of the proceeds.

TOWN BOARD MEETING  
April 18, 2011 Page 3 of 3

We are still withholding payment of the Air Temp contract until we are work out with the company what the maintenance agreement covers, and if the work was actually done as stated in the contract. Air Temp has been contacted, we are waiting to hear from them.

An issue has come up with the Cornerstone telephone company. We are not happy with the service and will look into the contract to see if we can get out and go back to Verizon.

New Business

Letters have been received from Rod Sluyter and Kathryn Faber expressing an interest in some type of memorial at Bakers Beach for Wayne King, Don McKay, and Gretchen Lindenmayer. All three members of our community passed away within the last year. Suggestions have included tree/shrub/flower plantings and memorial benches. All members of the Board were in agreement that this is a thoughtful and generous offer to remember these individuals. Supervisor Domion will send a letter to both Rod Sluyter and Kathryn Faber to thank them and offer direction from the Town when a final decision has been made.

The Town has received a check in the amount of \$1,729.05 from NYMIR, it is a return of capitalization for the third year of our insurance coverage.

Patrick Doyle from Northwind & Power briefly updated the Board on the Monticello Hills Project. The company has submitted a bid to NYSERDA to sell green energy produced by the proposed wind turbines.

Motion by Bond, second by Petersen to accept the NYSEG Solutions natural gas bid and go with the Index Rate, NYMEX Settle Price plus, at \$0.199 per therm (\$1.99 per DTH). The Town has the option of converting to the fixed price if it becomes cheaper at a later time. Ames - yes, Bond - yes, Domion - yes, Petersen - yes.

Motion by Bond, second by Petersen to accept the "Cost Recovery Escrow Agreement By and Between Monticello Hills LLC and the Town of Richfield." The agreement has been reviewed by Attorney Merzig and has his approval. Ames - yes, Bond - yes, Domion - yes, Petersen - yes.

Councilwoman Petersen asked the Board to consider sponsoring the movie "Gasland." After some discussion the Board decided that they need to remain neutral on the drilling controversy. Councilwoman Petersen will contact Otsego 2000 and ask them to sponsor and set up a showing.

Public Comment

Suzanna Schneider asked the Board to set up some kind of phone message announcement to let people know when the beach is open. The Board will work on it.

Motion to adjourn at 7:50 PM by Bond, second by Petersen, unanimous.

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Monica Harris, Clerk