



**East Hampton Town Board**  
159 Pantigo Road  
East Hampton, NY 11937

Carole Brennan  
Telephone:

## **Town Board Meeting of July 19, 2018 East Hampton, New York**

### **I. Call to Order**

6:30 PM Meeting called to order on July 19, 2018 at Town Hall Meeting Room, 159 Pantigo Road, East Hampton, NY.

<b>Attendee Name</b>	<b>Organization</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Kathee Burke-Gonzalez	Town of East Hampton	Councilwoman	Present	
David Lys	Town of East Hampton	Councilman	Present	
Sylvia Overby	Town of East Hampton	Councilwoman	Present	
Jeffrey Bragman	Town of East Hampton	Councilman	Present	
Peter Van Scoyoc	Town of East Hampton	Supervisor	Present	
Carole A. Brennan	Town of East Hampton	Town Clerk	Present	
Michael Sendlenski	Town of East Hampton	Town Attorney	Present	

---

**15. Resolution 2018-888**

**Category:** Approvals  
**Sponsors:** Supervisor Peter Van Scoyoc  
**Department:** Town Attorney

**Memorializing Resolution in Support of a Grant of Access and Utility Easement, Lease and Community Benefits Package with Deepwater Wind South Fork LLC and Authorization for Retaining John Wagner of Certilman Balin Adler & Hyman LLP as Outside Counsel for Deepwater Wind South Fork LLC Issues**

WHEREAS, Deepwater Wind South Fork LLC is developing an offshore wind farm in federal waters over 30 miles east of East Hampton, NY (the "Wind Farm") to deliver power to an existing LIPA substation located on Cove Hollow Road in East Hampton;

WHEREAS, the Wind Farm will deliver its output to the substation via an export cable (the "Cable") and Interconnection Facilities (together with the Wind Farm, the Cable, and the substation connection: the "Project"), portions of which are planned to be installed within rights-of-way of certain Town-owned roads and beneath the public beach and parking lot at the end of Beach Lane in Wainscott;

WHEREAS, the Town of East Hampton and the Trustees of the Freeholders and Commonality of the Town of East Hampton each have proprietary interests in the lands which will be impacted by the Project to be installed within rights-of-way of certain Town-owned roads and beneath the public beach and parking lot at the end of Beach Lane in Wainscott; and

WHEREAS, the Town of East Hampton and the Trustees of the Freeholders and Commonality of the Town of East Hampton jointly held a Public Hearing on a proposed Grant of Access and Utility Easement, Lease and Community Benefits Package of Deepwater Wind South Fork LLC, on May 17, 2018 at 6:30 p.m. and heard and took testimony from members of the public regarding the proposal; and

WHEREAS, the Town of East Hampton held the record open for two weeks for the submission of written testimony and the Trustees of the Freeholders and Commonality of

the Town of East Hampton held the record open for 4 weeks for the submission of written testimony; and

WHEREAS, the Town has reviewed all of the testimony in the record and,

WHEREAS, the consideration of the Project is a Type II Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"), 6 NYCRR Part 617.5(c)(35) because the Project is of such a size and scope (design capacity that exceeds 125 kilovolts and extends more than one mile) that it classifies as an electric transmission facility therefore requiring a certificate of environmental compatibility from the Public Service Commission. Actions requiring a certificate of environmental compatibility and public need under Article VII, VII, or X of the Public Service Law are specifically exempt from local environmental review and thus are Type II actions; and

WHEREAS, full environmental review will be undertaken as part of the Public Service Commission review of the Project as the Public Service Commission has its own staff which conducts an in-depth environmental and economic analysis of the application and must find that "the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations including but not limited to, the effect on agricultural lands, wetlands, parklands and river corridors traversed." Public Service law section 126(1)(c); and,

WHEREAS, the Town recognizes that it has limited jurisdiction to locally review the project due to preemption by State and Federal law and that the Town's property-right interest in the grant of the Access and Utility Easement for the landing of the cable at Beach Lane affords the Town the most level of control at the local level; and,

WHEREAS, if the Project were designed to land the cable at another location not controlled by the Town, the Town would lose out on this property-interest based control of the Project; and,

WHEREAS, although the Town's review at the local level is limited by State and Federal preemption, that does not mean that the Town cannot be fully involved in both the Federal and State review of the Project; and,

WHEREAS, the Town recognizes that there are serious and substantial issues with the project that must be addressed and mitigated through the Article VII review; and,

WHEREAS, the Town will have a full opportunity to be an intervenor in the Public Service Commission Article VII review and may be entitled to receive funding from the Project to aide in the Town's intervention efforts; and

WHEREAS the Town has adopted a goal of meeting 100 percent of community wide electricity consumption with renewable energy sources as the Town recognizes the impact that fossil fuel reliance has on climate change and sea level rise; and,

WHEREAS, the Project, if constructed, would move the Town much closer to achieving this renewable energy goal; and

WHEREAS, Deepwater Wind South Fork LLC, has offered a community benefits package in connection with the Project that at a minimum will provide:

- 1.) Local Economic Benefit: Operations and Maintenance facilities for the project will be based in Montauk providing local resident employment opportunities
- 2.) Ocean Industries Sustainability Program- \$2,000,000 dollar donation
- 3.) Inshore Fisheries Resource Assistance Fund- \$1,000,000 dollar donation
- 4.) Wainscott Infrastructure Improvements: buried utility lines on Beach Lane and Wainscott Main Street (from Wainscott Hollow Rd to Sayre's Path (Approx \$2.5 million dollars) and reimbursemt of a project manager up to \$250,000 dollars
- 5.) Wainscott Water Infrastructure Fund- \$1,000,000 dollar contribution
- 6.) Fisheries Liaison for length of the project
- 7.) Marine Infrastructure Management and Improvement Fund- \$75,000 annually for 20 years (\$1.5 million dollars)
- 8.) Energy Sustainability and Resiliency Fund- \$200,000 contribution

Minimum Community Benefit Value: \$8,450,000 dollars.

WHEREAS, the following environmental organizations are in support of this renewable energy project, and have submitted comments or testimony to that effect, stressing the need for sources of clean, renewable energy, the environmental impacts of continued fossil fuel use, and the ability to identify and mitigate any potential impacts from the wind energy project: Renewable Energy Long Island, the Sierra Club, Group for the East End, Citizens Campaign for the Environment, National Wildlife Federation, Surfrider Foundation, and Defend H2O; and

WHEREAS, the Town finds that entering a Grant of Access and Utility Easement, Lease and Community Benefits Package with Deepwater Wind South Fork LLC is in the best interest of the Town and consistent with the Town's adopted goals of achieving 100% renewable energy usage and preserving as much input as possible through its property-based interests; now therefor be it

RESOLVED, that by adoption of this Resolution the Town of East Hampton states its support for the Town entering a Grant of Access and Utility Easement, Lease and Community Benefits Package with Deepwater Wind South Fork LLC, in order to allow Deepwater to move forward with the substantial and thorough environmental and regulatory review of a 90 megawatt, 15 turbine wind farm to be sited approximately 30 miles east of Montauk; and be it further

RESOLVED, that John Wagner and the firm of Certilman Balin Adler & Hyman LLP are hereby retained by the Town to serve as outside counsel to the Office of the Town Attorney for all issues relating to the Project, including, but not limited to, the drafting and negotiation of the Grant of Access and Utility Easement, Lease and Community Benefits Package with Deepwater Wind South Fork LLC, any proceeding pursuant to Article VII of the Public Service Law and all proceedings before the Federal Bureau of Ocean Energy Management (BOEM) and all other federal, state and local regulatory and environmental review agencies, boards and tribunals; and, be it further

RESOLVED, that Attorney Wagner shall be compensated at the rate of 475 dollars per hour with other firm personnel being billed a reduced rate to be determined in a letter of

engagement to be executed by the Supervisor as approved by the Office of the Town Attorney; in no event shall an amount exceeding \$25,000 dollars be expended without further authorization of the Town Board, and be it further

RESOLVED, that once the Grant of Access and Utility Easement, Lease and Community Benefits Package agreements are drafted and in final form, they will be made publicly available and the Town Board will review the same and give them due consideration.

COMMENTS - Current Meeting:

A motion was made by Councilman Lys, seconded by Councilman Bragman to introduce an amended resolution with basically the same wording except not memorializing the easement. A long discussion between board members followed. The amendment was defeated by a three to two vote against. The original resolution was then voted upon with the same three two vote in favor.

✓ Vote Record - Resolution RES-2018-888						
			Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Adopted						
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Defeated						
<input type="checkbox"/> Tabled						
<input type="checkbox"/> Withdrawn						
	Kathee Burke-Gonzalez	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	David Lys	Voter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Sylvia Overby	Secunder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Jeffrey Bragman	Voter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peter Van Scoyoc	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>