

# **Presentation Cohocton Public Hearing Windmill Local Law #2 by Paul E. Gettys**

October 24, 2006  
29 Wayland Street  
North Cohocton, NY 14808

Cohocton Town Board  
Cohocton, NY

RE: Public Hearing on Cohocton Windmill Local Law #2 – October 24, 2006

Gentlemen:

I had planned on starting with comments on the proposed law itself, but due to the time constraints I will save these comments till last.

Instead I will make comments on the performance of the Board itself during the development of the Industrial Windmill project.

· About three or four years ago I stopped into Mr. Zigenfus's office in Atlanta for a short discussion. I was curious what had happened in the Town in the past in regards to past businesses and the topic of the need to develop new enterprises came up. He indicated that he was in the process of developing a wind power project. I expressed my concern that we should be selective in what type of businesses the Town should be attempting to develop. I never heard anymore at the Town meetings so I assumed the project fell through.

Given what happened in Springwater when the project was made public in its infancy, I can understand why UPC wanted it to be developed in secret. I assume this is the reason why the leases read that the land owners were not to divulge any information about the project. I do not fault either UPC or the leaseholders as they were only trying to protect their interests. However, I feel you Councilmen had an obligation to divulge this information to the public, as you should be responsible to us not UPC. Not to do so indicates an arrogance that you felt you know better than we what is good for us and the Town.

Mr. Zigenfus posted an April 2, 2002 article in this issue of the Valley News. Certainly an article posted four and one-half years ago does not constitute keeping the Town's citizens notified and up to date. I attended monthly Board meetings for more than a year before UPC made the project public, and I never heard a word about the project.

· Mr. Hunt has been a strong proponent of the UPC project, becoming an leader in YES and writing articles in the Valley News in support of the project and criticizing those against the project. He indicated that he had this right as a citizen of the Town, which I certainly concur with. However, this behavior seems very inappropriate for a Councilman who should have an open mind. If you felt that your rights as a citizen overshadowed your responsibilities as a Councilman, you should have resigned.

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- Mr. Dyckman ran for office during this period when the UPC project was being developed. Being he was a leaseholder, he should have known that he would not be able to participate in any debate or vote in regards to this project. As this project is certainly one if not the most important issue ever to face this Town, he should have withdrawn from the race or least informed the voters of his conflict of interest. By not doing so he has become a lame duck Councilman.
- Give the solid backing of the project by Mr. Zigenfus and Mr. Hunt; we the citizens should have been able to look to Mr. Wise and Mr. LeVesque to question the project and the proposed laws. Instead you gentlemen have rubber stamped all proposals put forth by Mr. Zigenfus and Mr. Hunt. These actions do not serve the Town well.

The initial Pilot program indicated that the Town would receive about \$160,000 per year and the school district about \$600,000.

- We have requested figures on the new program and have been told that this information is confidential. This leads me to believe that the Towns share will be even less than \$160,000 and this information will not be divulged until after Local Law No. 2 is approved so as not to interfere with support for it passage.
- A number of people have questioned if the State will not simply reduce their payments to the school by a like amount so the school will be right back as if there were no project. As there have been no responses to these comments one can only assume that this is correct.

On October 11, 2006 Tom Golisano and Keith Pittman from Empire Wind Energy LLC made a presentation at the Cohocton School to those interested citizens of the Town who were willing to attend. Unfortunately only one of you Councilmen felt it was worth your time to attend. Their program indicated that they could develop a project which would bring the same amount of money into the Town with fewer and shorter towers or could develop a more extensive project which would bring more money into the Town. They even talked about eventual ownership by the Town. I spoke to Mr. Pittman at a meeting on October 19, 2006 and no one from the Town Board had called him to set up a presentation or even thank them for coming out to our Town. I can not think of any honorable reason why a six month moratorium should not be invoked and discussions initiated with Empire. The deal UPC is proposing can be obtained from any number of wind developers if Empire does not perform as advertised.

In my opinion there have been several violations of the sun shine law where all Town Board meetings are to be made Public.

- For the two plus years where the project was kept secret from the Public there were obviously meetings with both UPC and the Board itself.
- During the discussions of the subject law, the Town Planning Board had open discussions and votes on points of the proposed law. The Board had neither discussions nor votes on the individual points, which would lead one to believe that once again there were non-public meetings.

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Mr. Hunt, when people were criticizing his actions, indicated that he would not change and it was up to the public to express their dissatisfaction at the next election.

- I feel it is the responsibility of all voters to do so if they feel the Board has not properly fulfilled their obligations.

- It is my understanding that the Board has put a resolution on the November ballot that their term be increased from two to four years. Given their actions during the development of this project, I feel that their term of office should be shortened to one year or a mechanism be installed where they can be recalled. I am retired now, but when I was still working my boss did not reward me for an inferior performance.

I would now like to discuss a number of points within the proposed Law itself.

1. There is nothing within the Law which limits the number of towers that can be construction within the Town or even a minimum spacing.

2. The maximum allowable height was 500 feet both in Law No. 1 and Law No.2. Why was this necessary when a 1.5 kw turbine was proposed? I believe the actual height was less than 400 feet. When it was increased to 2.0 kw the height was increased to 403 feet. Now at 2.5 kw the proposed height is 430 feet. Obviously UPC knew then that larger turbines would be proposed and given there is still 70 feet left, it can only be assumed that turbines larger than 2.5 kw will be used on future projects.

3. The maximum noise level at the property lines is set at 50 dba. There were discussions within the Planning Board to limit it to 35 dba at an existing house. This would have been in line with the DEC suggestion that the noise be restricted to no more than 6 dba above the ambient level. Unfortunately it was voted down by the Planning Board and not even considered by the Town Board.

4. The minimum set back to any dwelling is 1500 feet and the minimum set back to any property line is the height of the tower plus 100 feet or 530 feet for a 2.5 kw turbine. This means that the developer has taken away development rights from the adjacent landowner for the difference of 970 feet. This will amount to over 20 acres of land whose owners will have forfeited their development rights. It should be noted that General Electric who manufactures these units suggests that the minimum set back to a property line be over 800 ft.

5. There were discussions of developing a paragraph (assurance) which would protect the adjacent landowners who property values dropped as a result of this project. This was not done as it was felt by both Boards that it would be too difficult to write a requirement which could have been enforced. Cohocton Wind Watch volunteered to write this or pay for the expertise to do so. Neither Board accepted this offer. This will force the adjacent landowners to bring individual lawsuits. This was very generous of the Board to provide this protection for UPC. Too bad they are not as thoughtful of the Town of Cohocton Citizens.

6. A number of people expressed concern that there were no requirements within the law requiring the windmill developer to indemnify and hold harmless the Town from all

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lawsuits arising from this project. UPC volunteered to do so for the leaseholders. However, the Town Board did not include this. Already we have to pay for the cost of one lawsuit. There certainly will be more. This is certainly very generous of the Board to bear costs which should be UPC's.

I believe the whole procedure in which these laws were developed was flawed. UPC provided a sample law which was used to develop Law No. 1 and paid for the Lawyers that wrote the modifications to develop Law No. 2. The Town hired neither technical nor legal expertise to assist in the development of these laws. Then we wonder why laws were developed which protect the windmill developer, but neither the Town nor its citizens.

In summary I believe the Town Board has done a great disservice to the Town in the development of this and future projects and the citizens of this Town will have to pay for their folly for years to come.

Very truly yours,

Paul E. Gettys