

PUBLIC HEARING
LOCAL LAW GOVERNING WIND ENERGY FACILITIES IN HAMLIN
April 10, 2008

A Public Hearing was held at the St. John Lutheran Church, 1107 Lake Road West Fork Hamlin, New York, for a Local Law Governing Wind Energy Facilities in the Town of Hamlin.

Present: Supervisor Dennis Roach, Councilperson Tom Breslawski, Councilperson Mike Marchetti, Councilperson Paul Rath Recused, Councilperson David Rose.

Also present: Attorney Ken Licht, Conservation Board Members Aaron LaFaro and Mark Reeves, Chairman for the Board of Ethics Richard Marsden. Residents present: Paul Carr, Ted and Kathy Habgood, James and Pam Nesbitt, Jerry Borkholder, Linda DeRue, David Lukas, Cindy Roach, Annie Breslawski, Kim Handley, Dean Brightly, Art and Carol McFarlane, John Collins, Jim Tappin, Marty Howden, Don and Sandy Nichols, Alan Gilbert, Dick Preston, Chris Hess, Matt MacDonald, Diane Grimm, Maureen Viel, Milton Shoup, Pat Nunnery, Melanie Lavacca, Anthony Callari, Mike Costanza, Charlie and Ann Yockel, Herb Cannon, David Martin, Paul W. Rath, Ed Doan, Steven Choi, Gary Gustafson, Carol Chattin, Troy and Tricia Nesbitt, Renee and Dale Cliff, Heather Snyder, Jack and Chris Shevlin, John Cook, Diana Hanley, Nancy Jennejahn, Marion and William Mitchell, Gene Dollard, Dan Shapiro, Linda Rabjohn, Doug and Joan Barstow, Kim Spellan, Herb and Verna Keyes, Denise and Andrew Simpson, Joseph Impellizzeri, Nancy Pierce, Pat Suhr, Mary Crumb, Gary and Patricia Voleshen, Denise and Mike Ezrow, Thomas and Peggy Leverenz, Janine Gaft, Sue Ritzenthaler, Lauren Foos, several other residents whose names were illegible on the sign in sheet.

Supervisor Roach opened the meeting at 7 pm and explained the following changes to the original draft of the Proposed Law:

- A. The original draft of this 27-page Proposed Law was presented by Attorney Jill Yonkers in a public Town Board workshop on November 14, 2007. A public workshop was held between the WTC and Town Board on November 29, 2007 to review the regulations. A four-page list of corrections, questions and concerns, which was generated at the November 29 workshop, was provided to the attorney on December 4, 2007. On January 22, 2008, Attorney Dan Spitzer met in a public workshop session to discuss the changes to the draft. On February 7, 2008, the first public hearing on this local law was conducted. On February 25, 2008, a Special Town Board meeting was conducted at which time the Town Board reached a consensus on minimum setbacks and concurrently changed the acceptable sound pressure level. As a result of the first public hearing and the special town board meeting, the following changes were made to the draft regulations considered on February 7, 2008:

Page 9, H.1.e.(9) – Change 1,000 feet to 1,200 feet in both places.

Page 11, H.1.q. (3) Add “fire department(s) and fire district(s)”

Page 16, M.1. –Change paragraph to read, “The statistical sound pressure level generated by a WECS shall not exceed a 6 dBA increase over ambient measured at the closest exterior wall of any residence existing at

the time of completing the SEQRA review of the application. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.”

Page 16, M.2. –Delete the first sentence.

Page 16, M.5.c.—Change from 1,500 feet to 1,200 feet.

Page 18, P.3. – Changed to require an “irrevocable letter of credit.”

Page 22, Y.4. – Add to Section Y that the type of allowable Small WECS tower can be monopole or other appropriate industry standard.

Page 24, BB. –Change Small WECS fee to \$100 vs. \$200.

Supervisor Roach stated that those were the changes made as a result of the first public hearing on February 7, 2008, and are the primary focus of the April 10, 2008 public hearing.

Supervisor Roach asked the Town Clerk to provide proof of publication.
Supervisor Roach proceeded to explain the Conduct of Public Hearing.

The primary purpose of tonight’s hearing is to ensure the public has an opportunity to make known to Town Board its comments and opinions on the changes made to proposed local law on Wind Tower Regulations, which were made subsequent to the first public hearing on February 7. We will also listen to your general comments and opinions regarding the entire proposed local law. Just like the first public hearing, we are not here to debate the issue of wind towers and do not intend to enter into any individual debates or arguments. Questions will be limited to those specifically regarding the proposed regulations. The primary purpose of this and any public hearing is to provide the opportunity for the residents to have their comments and opinions, as they pertain to the proposed local law, heard by Town Board.

I want to emphasize some important premises regarding the proposed local law:

1. If the law is passed, absolutely no wind tower is approved. The law is only providing the process and conditions under which an application will be considered.
2. Without the law and the soon-to-be expiring wind tower moratorium, an applicant would only need a height variance and a building permit to construct wind turbines on his or her property.
3. Town Board is not reviewing any project nor do we know of any proposed project. We do know that Iberdrola has obtained land lease agreements and has MET towers in operation. The Board’s intention is to enact laws that will give the Town a voice and control over any proposals, if and when any are made.
4. Our proposed law is not approving any allowable uses. It is establishing an administrative protocol under which applications are reviewed. No rights are being created but significant areas are being declared off-limits by restricting proposed projects to our lowest density zoned area and establishing setbacks, noise levels and other limiting factors that were not in place before the regulations.

We ask each of you to respect the views and opinions of everyone, even if another person’s views and opinions don’t coincide with your own. Even though you have a right to disagree with someone else’s opinion, you do not have the right to silence anyone by shouting, clapping or otherwise being disruptive. Anyone who engages in this action will be asked to refrain from it. If it continues, the person will be asked to leave.

Upon entering the gymnasium you were asked to sign up to speak. If you did not sign up and later, in the meeting, change your mind, I ask that you quietly go to the back of the gym and fill out a sheet. When we've gone through all the previously submitted sheets, I will ask Mr. Hankinson to bring up any additional sheets. When I call your name, please step to the nearest microphone and state your name and address and the organization, if any, which you represent. Each person shall limit his or her remarks to three minutes. A timer will sound at three minutes at which time you will be asked to end your comments. If you were not able to complete your remarks in the first three minutes, we will give you a second opportunity to speak after everyone else has had the opportunity to speak for the first time. All remarks shall be addressed to the Board as a whole and not to any single member, unless in response to a question asked by a specific board member. Only questions specifically regarding the proposed regulations will be considered. Answers to the written questions submitted at the conclusion of the last public hearing have been considered and written responses are available from the Town Clerk. Any person who desires that his or her comments be made a part of the Town's official correspondence shall provide a copy of said remarks to the Town Clerk at the conclusion of the public hearing. Otherwise, the official minutes of the meeting will reflect a summary of the comments and not a verbatim account. Again, I remind you that this is your opportunity to make your comments and opinions known regarding our proposed wind tower regulations. It is not a debate or a cross-examination. If we encounter either of those situations, I will ask that you end your remarks and return to your seat.

One final task before I begin is to officially recognize written correspondence containing opinions and comments that was submitted from people who either chose not to attend or preferred not to speak in front of a large audience. Copies of each correspondence has been provided to each Town Board member for review and will be retained in the record of this public hearing. Correspondence was received from:

Lori D'Agostino, Redman Road
Bert Bowers, Chaumont, NY
Paul Lapinski, Redman Road (2)
Dorothy Lapinski, Redman Road
Mr. & Mrs. Wallace Boyd Morrisville, ME
Wendy Todd, Morrisville, ME
Barbara and Ronald Brown, Church Road
e-mails with links from Troy Nesbitt

The Public Forum was opened at 7:07 p.m.

Gary Gustafson, 5 Summer Haven Drive. Stated he's a licensed engineer in the state of New York. Stated his concerns regarding public safety, feels setbacks should be at 1,700 feet because of frequency, epileptic seizures, ice build up. Does not feel that windmills should be installed in the town of Hamlin.

Paul Carr, 25425 Indian Point, Chaumont, NY. Stated he is part of the Wind Advisory Committee in the Town of Lime. Stated he is a professional engineer and professor at Cornell University in Forensic Engineering. He feels that under noise limitations the Town Board needs to define ambient and sound pressure level. He also feels that the Town Board needs to reconsider the property line setback. He feels that 600 feet and 1,200 feet to the residence is inadequate for health and safety reasons. The Town of Lime came up with a setback of 4 times the height of the turbine.

Ted Habgood, 142 Cook Road. Stated that he is not against the wind turbines, but is concerned with the setbacks. He feels that they shouldn't be at 1,200 feet. He'd like to see the evidence of the logic for the 1,200 feet setback.

Kathy Habgood, 142 Cook Road. Mrs. Habgood read from notes she submitted. I want to start out saying that I am the type of person that when I get involved with something, I research it thoroughly and I like to hear testimony for myself regarding statements attributed to people. That is why I called Rick Beyer in Lowville, N.Y. myself Sunday to ask him about the report attributed to him of ice throw near him. He informed me that he measured a piece 8 x 6 inches and 3 inches thick that flew around 400 feet. He said that it was like picking up a brick in weight. Need I remind you that your law would place the rotors 400 feet from the roads so conceivably the ice throw I just referred to could hit a school bus of children or a jogger on the road or anyone else unfortunate enough to be going by. He also told me that when ice develops, it causes a rough surface on the blades and that the sound is magnified 10x. The sound he describes as a 747 that never goes away. He has 3 turbines within 1,100 feet from his home, and has seven around him. He said that one on one side causes a whooshing noise and the one on the other side is a totally different noise so he has the two different sounds all the time they are working. He said the flicker is terrible two months of the year. He stated that he was not against the wind turbines prior to their installation because the wind company had assured him there would not be a noise problem. He also said that it affects his TV reception and cell phone usage.

Eve Kelly lives at the Flatrock Inn in Martinsberg, she said the noise seems to come from the walls vibrating; she also said that it sounds like a 747. She said winter flicker is even worse than summer and that there is also moon flicker. There are five behind the Inn and one across the road 1,050 feet from the residence. Gordon Yancy owns and lives at Flatrock Inn, he also describes the noise as a plane or train that never moves on. His taxes didn't go down, they increased 12%. He emphatically stated not to believe the wind companies lies. That phrase was repeated by almost all of the individuals who spoke to me. Yancy said to be sure to get everything in writing. In the two years the turbines have been up there have been 4 companies involved.

These are stories similar to Wendy Todd's in Maine, and Wayne Danley's and his wife, and Pam Foringer's in Fenner, and Ed Thompson of Meyersdale, PA. Now it seems you board members would have it be repeated here. Supervisor Roach has referred to the many citizens concerned about our safety and welfare as a Special Interest Group, and that he is not going to be swayed by them. Since when does wanting to protect one's home and family from possible harmful health affects and safety issues and personal

rights put them in a such a category? I believe all individuals in this town would fit under your definition as such.

You have received the names of many concerned individuals who thought they would not be immediately impacted by the turbine placement, in that they don't live near open spaces, they have expressed their support for setbacks 1,750 feet from the property line, not the residences. Are they a special interest group? What is their motivation, other than concern for their fellow neighbors, something you members of the board don't seem to share. They have compassion and empathy for what those people who would be placed near these turbines might have to endure. I might add that a few people that said they were for the turbines being here were not in agreement with your setbacks.

My husband and I have visited four wind farms; I personally have interviewed six individuals living with the harmful affects from wind turbines, and read the testimony of several more. Since learning of this issue I have attended almost every Town Board Meeting and all the WTC meetings. In witnessing the lies that wind companies use and hearing of such from the people mentioned above who have experienced them. I am extremely upset that our town is even considering dealing with them. I wish you would listen to these testimonies and not wish the same on your fellow townspeople. I would like to borrow the sentiment from one of our well-respected local collages that says, if you can't be remembered as someone with integrity, with the courage to do the right thing-then you might as well not be remembered at all.

Carol Chattin, 430 Walker Lake Ontario Road. Stated she is not in favor of a wind farm in Hamlin.

Renee Cliff, 730 Redman Road. Stated she feels setbacks should be 1,700 feet. She also feels that the DEC should be the lead agency since they are the experts in such matters.

Jack Shevlin, 768 Redman Road. Stated his concerns regarding the questions that have been asked by residents regarding the wind towers that have not been answered by the Town Board. He also feels the setbacks are a concern and that the Town Board has not finished all the research that they could have done regarding setbacks. Submitted a petition of 728 residents who feel that the setbacks should be 1,700 feet, and also a wind tower accident report (most accidents were recorded in Europe).

John Cook, 1610 Monroe Orleans Countyline Road. Stated he is concerned about setbacks for wind towers being 1,200 feet from his house. He feels it is unsafe for his family. He also feels that the Town would not be saving any money in electric costs.

James Nesbitt, 3952 Brick Schoolhouse Road. Stated his concerns regarding what will happen to the rural character of Hamlin if wind towers are allowed.

Diana Hanley, 3976 Brick Schoolhouse Road. Stated her concerns regarding the rural character of Hamlin. Feels that the farmers have become greedy and that the Town Board has the farmer's mentality because they are willing to allow the town to become industrial by putting up the turbines.

Pam Nesbitt, 3952 Brick Schoolhouse Road. Stated her concerns that Hamlin stay rural. Also wants the setbacks to be 1,700 feet.

Dan Shapiro 495 Lake Road. Stated his concerns regarding setbacks being 1,700 feet.

Linda DeRue, 317 Redman Road. Stated her support of the 1,700-foot setback.

Kim Spellan, 382 Morton Road. Stated her concerns regarding setbacks at 1,700 feet. Feels the Town Board is being intimidated by the landowners.

Andy Simpson, 1246 Moscow Road. Stated his concerns regarding the rural character of the town of Hamlin. Feels the wind turbines will make the town more industrial. He also feels the sound law is flawed and that the Town Board should look to creating a new law that protects the people of Hamlin.

Jerry Borkholder, 391 Morton Road. Read from notes he submitted:

It saddens me to now that anything any of us say here tonight will not be listened to. It saddens me to know that our Town Board has already made up its mind and that 1,200 feet is it. In conversations with more than one Town Board member these facts have been made quite clear to me and should be to you as well. The knowledge they possess regarding wind energy is shallow at best and they as a Board should not be charged with writing any law of this significance without a much greater understanding of this issue. Let me share some examples of why I feel this way.

Supervisor Roach claims that 38 of 29 issues contained in the Wind Tower Report were included in the new proposed law and on this point he is correct, but remember, be warned, watch his "wording". He uses the term "issues" instead of "recommendations". When an issue is accepted, but the recommendations are not there, I think it is fair to say that our Committee was not listened to.

The one remaining issue is that of "stray voltage" which Supervisor Roach claims to be a non-issue and therefore was not dealt with. Had he spent his time in research perhaps he would have recommended better laws. It is a known fact that stray voltage is an issue where long power lines serve rural homes and farms. But let me make this real for our Supervisor. In Lincoln Township in Wisconsin a man by the name of Russ Allen filed suit against the wind tower developer because stray voltage was harming his cows. In 2003 a jury awarded Allen \$750,000.00 in economic damages and 1 million dollars for annoyance, inconvenience and loss of use and enjoyment of his property. Several others have also sued. When one has not done the research it certainly shows. I personally am intrigued by our Town Boards apparent lack of research, and they are writing the laws, not me.

Supervisor Roach also raised another intriguing question. How did the issues not dealt with by the Wind Tower Committee find their way into the proposed draft? If the Wind Tower Committee didn't deal with them and there is no record that the Town Board ever did, then who wrote them and how did they get in there and when did the Town Board discuss them? The only answer would seem to be somewhat outside of what is generally accepted as proper.

Let me now deal with the issue of setbacks as described by Supervisor Roach and provide a more accurate picture of what actually happened. Remember that I have the video to draw on and obviously he had only his selective memory. When we as a Wind Tower Committee arrived at our 2640' setback it was after intense research culminating in compromises. I for one wanted to go with the setbacks being used in Germany, France, England and Spain (Iberdrola's homeland) which is at least 1 mile. Note they all started with much shorter distances, similar to Hamlin's proposed laws, but ultimately went to the 1 mile to totally mitigate all negatives. In addition the Minority report wanted 1700' so you can see 2640' was indeed a compromise. The first draft proposal was 1,000' totally ignoring any input from the Wind Tower Committee. The Town Board continued to ignore our recommendations when they compromised at 1200'. These numbers aren't even close to the Minority Committee Report of 1700'. Once again our Supervisor is attempting to prove something that apparently makes sense only to him, since he has claimed many times that he has followed our recommendations!

However, in addition to this, at the joint workshop with the Town Board and the Wind Tower Committee, Supervisor Roach and Councilman Dave Rose both agreed to the 1700' to a lot line as being a reasonable compromise to the 2640'. This is all on video so it can be easily proven. In addition to this, Attorney Spitzer, at the Town Board workshop suggested, to avoid conflict that the Town Board adopt the 1700'. This too is on video. On this, the single most important recommendation made by our Committee, it was not once considered to be significant.

In closing Supervisor Roach claims that I do not feel wind power would be beneficial to Hamlin and once again he displays a gross lack of understanding, perhaps by design or perhaps through no fault of his own. Let me explain my position. I do consider wind turbines to be potentially beneficial, but to be a responsible citizen I look at both sides and also see the negatives. Unlike our Town Board I am not willing to see wind development at all costs.

When I see that some in our town will be asked to have their rights infringed upon so that others may exercise their rights, then I must stand up, alone if necessary, and object in any way possible. It was the duty of our Wind Tower Committee to first protect the people through our recommendations, thus, our 2640' setback. It is the duty of our Town Board to do the same, but alas they have not. It is their sacred duty to represent all of Hamlin, not a few landowners and certainly not the Developer, as they have apparently chosen to do.

Joseph Impellizzeri, 25 Countryside Drive. He is against wind towers.

Mark Reeves, 3640 Brick Schoolhouse Road. Read from notes he submitted.

After many meetings, reports, accusations, rebuttals, drafts, compromises, and an election where those most vocal opposing wind couldn't even carry the districts where they lived, here we are.

We have and will hear many negatives against turbines.

Health issues—We do have health data regarding Turbines operating in our state.

They are not causing birth defects, not causing deafness, don't poison well water and your pacemakers are safe. As for Shadow Flicker, the Epilepsy Foundation states that turbines aren't fast enough like sun shining through trees.

Folks claim health issues but ask yourself—if turbines caused illness wouldn't you be seeing it every night on CNN?

Wildlife harm—Can a bird or bat fly into a turbine? You bet. Just like they do into barns, cars, homes, power lines and your cat's mouth—no one is calling to ban them.

The Draft law recognizes proper siting as essential to reduce risk to Wildlife.

Noise—I have visited turbine installations in Weathersfield, Fenner, Madison, Tug Hill, and recently in the Town of Eagle where they have just started producing power.

I have walked to many towers and even stood under them and can say the newer the turbine, the quieter.

The Town of Eagle turbines with their new tapered blades, made the older turbines look and sound like they were swinging clubs.

The Draft law mitigates noise through setback and maximum sound level stricter than many Wind Tower laws in NY.

Government subsidies—What do Nuclear, Hydro, Ethanol, Solar, Biomass, Shale oil, Geothermal, Fuel Cells and Wind energy technologies have in common?

They are ALL subsidized by the State and Federal Government.

Those taxes will not go up or down if turbines are built in Hamlin.

It makes strategic sense to encourage multiple point sources for Energy production.

The US economy and safety depends on it, and so do you if you have an electric line running into your house.

Aesthetics—Families settled Hamlin to take advantage of good soil and climate to farm.

Now another business wants to expand in our Town to take advantage of an available resource—wind.

It is also willing to purchase lease agreements from landowners to pursue that business.

If the view over your neighbor's field is valuable to you—then open your wallet and lock up that view by a lease agreement with the owner. You have that option.

In my '08 correspondence with Troy Nesbitt, I stated:

Support of alternative energy sources such as wind is a necessary step to move “toward a more environmentally and economically sustainable way of life”.

Responsible Industrial Wind Energy Development, with **private** Small Wind Energy Systems and other non-polluting technologies –the energy produced will be emission free, displace fossil fuels and will allow our Town's main business—agriculture to co-exist and flourish while saving those lands from future development pressures, for a generation.

LOCAL LAW GOVERNING WIND ENERGY FACILITIES IN THE TOWN OF HAMLIN

Should it be passed? I say yes—it is essential.

Herb Cannon, 956 Redman Road. Stated concerns regarding setbacks and legal liability in connection with his property.

Gary Voleshen, 2 Fencewood Lane. Spoke regarding fossil, hydro and nuclear power.

Patricia Voleshen, 2 Fencewood Lane. Stated she is opposed to Wind Turbines.

David Martin, 775 Lake Road EF. Stated he's a farmer and is questioning the tax structure of the parcel of land that would be approved for building the wind towers. Supervisor Roach stated the Wind Tower is assessed and the Wind Company is responsible for the taxes.

Ed Doan, 1263 Redman Road. Stated he is in favor of the proposal and feels the Town Board should pass the current proposal. He is concerned for the future and who will be responsible for removing the Wind Towers if necessary.

Nick Breslawski 1484 N. Hamlin Road. Stated he is a local farmer and is in favor of the proposal.

Troy Nesbitt, 52 Cook Road. Stated he is representing the Hamlin Preservation Group. He is concerned about setbacks and the safety of residents. Feels that the law is flawed and the Town Board is not protecting the residents of the town.

Tammy Henderson, Redman Road. Stated she wants the Town Board to answer questions that were asked by residents. She would like to be more informed on Wind Towers.

Dick Preston, 2427 Roosevelt Highway. Stated that he would like to see proposed regulations for both small wind turbines and larger wind turbine farms. Supervisor Roach stated that the current proposed regulations do contain language and provisions for the small residential wind towers.

Aaron Lafaro, 8 Fox Hollow Drive. Stated he supports the Wind Towers and urges the Town Board to vote yes for the current proposed resolution.

Matt MacDonald, 43 Cook Road. Stated he is a clinical audiologist. Spoke regarding sound and noise and feels that the proposal should define ambient noise. He also played a recording of nighttime noise.

Sue Ritzenthaler, 6360 Shore Acres. Stated she is against Wind Towers and thinks that the 1,700-foot setback is the minimum setback that should be considered. Wants to know who will determine what the property loss value is and who will pay the difference.

David Lukas, 1288 Moscow Road. Stated that he feels that the Town Board's proposal is giving the wind energy people what they want and not supporting the people of the town. He wants the lead agency to be the DEC and also stated he supports the 1,700 foot setback.

Heather Snyder, 466 Redman Road. Stated she is in favor of the 1700-foot property setbacks. She also feels that if Supervisor Roach has done 1,200 hours of research (referring to an article written in the Hamlin Clarkson Herald April 6, 2008) why haven't the resident's questions been answered.

Supervisor Roach stated that the credit for the 1,200 hours of research was for Mr. Borkholder; the Supervisor was quoting him in the article.

Tricia Nesbitt, 52 Cook Road. Stated her concerns regarding the 1,700-foot setback from residences and not property lines. Feels that 1,200 feet setback is not safe and that the Town Board is supporting the land lease signers.

Tony Callari, 676 Cook Road. Stated his concerns about a proposed wind turbine site. He also spoke regarding the setbacks and feels that they should be 1,700 feet from the property line.

Melanie Lavacca 1304 Moscow Road. Stated she supports the 1700-foot setback.

Supervisor Roach asked if anyone else wanted to speak that hadn't had the opportunity. No one responded.

Supervisor Roach invited Mr. Borkholder back to complete his previous statements.

Supervisor Roach asked Town Board for comments or questions. None were given.

Supervisor Roach directed the Town Board to review and consider the comments and statements that have been made at the public hearings and at the public forums. The Town Board will then hold a Special Town Board Meeting on April 24, 2008 at 7:00 pm in the Town Hall Gym for a decision on the proposed Local Law.

Motion was made by Councilperson Rose, seconded by Councilperson Marchetti to adjourn the Public Hearing regarding the Local Law governing Wind Towers in Hamlin at 8:35 pm.

Members polled: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rose aye, and Supervisor Roach aye. Motion carried.

Respectfully submitted,

Kathi A. Rickman, RMC/CMC
Hamlin Town Clerk