

**SPECIAL TOWN BOARD MEETING  
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The Town Supervisor called a Special Meeting of the Town Board of the Town of Prattsburgh to order on Monday, April 21, 2008 at 7:00 P.M. at the Town Hall, 19 North Main Street, Prattsburgh, N.Y. After the Pledge of Allegiance was said, Supervisor McConnell stated that we would move immediately to an alternate location for this meeting in order to accommodate the large group that is in attendance. That location is the Prattsburgh Fire hall located at 17 Allis Street in the Town of Prattsburgh.

The meeting was re-opened at 7:10 P.M. at the Fire Hall. Supervisor McConnell said that this Public Meeting has been scheduled in order to hear a presentation from UPC. After the presentation, the Town Board will take action.

**PRESENT:** Supervisor J. Harold McConnell, Councilwoman Quigley, Councilwoman Bottoni, Councilman Kula, Councilman Shick, and Town Clerk Pamela Kula. Town Attorney John Leyden was available via speakerphone. In attendance from UPC were Brian Cocca, Chris Swartley, Jon Johnson, and UPC Attorney Kevin Bernstein.

**ALSO PRESENT** and welcomed by the Supervisor were many members of the Public.

UPC's Brian Cocca made a presentation that included a brief history of the wind farm project. He mentioned the economic benefits of this project to the Town, including the Host Community Agreement, and he thanked the board for allowing him to speak. Brian stated that they are close to construction and need to secure easements from some property owners in regards to burying cable for transmission lines. Mr. Cocca stated that UPC, along with the Town of Prattsburgh recognizes the benefit of underground transmission lines. He mentioned that on July 10, 2007 the Town gave them the right to use Town Right of Ways in order to bury the cable. However, individual property owners own the property underneath the right of way, and as a result, UPC needs to acquire permission from them also. Brian said that the cable would not interfere with the property owner's use and enjoyment of their property. He said that although they have acquired easements from some property owners, that they still need permission from 8 more owners. Brian said that UPC is asking the Town Board to do whatever it has in their power to initiate the eminent domain process, while they will work concurrently to acquire permission from the 8 remaining property owners. At this time he closed his presentation and said he was open to questions from the Town Board.

The Town Board asked questions and discussed with Brian several issues including, but not limited to, width of the easements, the Pilot agreement, benefit to the people of Prattsburgh in regards to seizing the property, settlement of the pending lawsuits, energy production, etc. Members of the board stated that they think the property owners involved should be given an opportunity to address the Board and UPC said that they had sent certified letters to the 8 landowners requesting them to attend this meeting and that none of them are here. The Board asked UPC what their plans are if the board doesn't pass this resolution. Attorney Bernstein stated that they are at a critical juncture and need to begin connecting all the dots, so they would need to take a serious look at whether they want to continue on with this project. The UPC representatives said that they did what

the Town wanted them to do to bury all transmission lines and that they have tried their hardest to accomplish this, and that they will continue to try to get the property owner's permission. Members of the town board stated that they don't want to let a project of this magnitude go by the wayside because of a few people.

Councilman Shick read the following statement: "Before we vote, I would like Mr. Harold McConnell, Town Supervisor, to recuse himself from voting in the event of a tie. Mr. McConnell has acted as an agent of UPC by brokering a land deal on at least one occasion that I am aware of. This constitutes a conflict of interest under the New York State Code of Ethics and may violate one or more General Municipal Laws. Likewise, Mr. David Hall, our Deputy Supervisor, should also recuse himself because Mr. Hall has immediate family that will benefit from this decision. While Mr. Hall's father's contract is with Ecogen, this condemnation today will set a precedent, since Ecogen has similar problems with easements to connect the substation".

Supervisor McConnell replied that he did take a purchase offer from UPC and gave it to a broker in Naples, so he was not involved in the negotiations. After the sale, the broker in Naples gave him part of the commission. Harold said that he has never had any monetary or other consideration from UPC in the 7 years he has dealt with them. Harold said that he has spoken with the Association of Towns, and also with the Town Attorney, who both said that there is no problem with him voting on this issue. Supervisor McConnell said that he would not recuse himself from voting.

### **RESOLUTION**

**WHEREAS**, Windfarm Prattsburgh, LLC (the "Company") has determined to construct, build, operate and maintain a wind powered generating facility (the "Facility") within the Town of Prattsburgh, New York (the "Town");

**WHEREAS**, part of the Facility requires the construction and placement of certain wires and conduit for the Project's electrical collection system to allow the Facility to be connected to the New York State bulk electric transmission system;

**WHEREAS**, the Town is requiring that such wiring and conduit for the collector system be placed underground;

**WHEREAS**, the Company is willing to locate such underground conduit and wires as required by the Town within the area of established rights of way of the Town roads and property owners who own land adjacent to the Town highways and to the centerline of such highways;

**WHEREAS**, the Town previously passed a unanimous resolution, dated July 10, 2007, wherein it resolved that, as permitted under Town Law Section 64, the Town granted the necessary easement(s) to the Company within the Town highway rights of way to accomplish the above providing the same shall not interfere with the Town's use of its rights of way or injure or damage any existing utilities located within said rights of way;

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**WHEREAS**, in order for the Company to place said wiring and conduits underground, even in the Town's right of way and even with the Town's easement(s), the Company must still obtain easements from adjacent landowners;

**WHEREAS**, the Company has used its best efforts to obtain such consents and easements, but has been unable to reach agreement with all landowners;

**WHEREAS**, in order for the Company to move forward with placing such wires and conduits underground per the Town's previous resolution, the Town must obtain such easements by commencing appropriate condemnation proceedings for the necessary easements under the Eminent Domain Procedure Law ("EDPL");

**WHEREAS**, in connection with the Project, the Steuben County Industrial Development Agency ("SCIDA") has, as lead agency under the State Environmental Quality Review Act ("SEQRA"), completed the environmental review of the Project, including the routing of the electrical collection system's wires and conduits that are the subject of this Resolution, by issuing a Findings Statement on May 30, 2007, as supplemented by the Company with its submission to SCIDA on December 14, 2007 and accepted by SCIDA on December 20, 2007;

**WHEREAS**, the Town hereby adopts the Findings made by SCIDA in connection with the aforesaid environmental review in order to comply with SEQRA for this Resolution and no further action need be action under SEQRA;

**NOW, THEREFORE, UPON MOTION** of Councilwoman Bottoni and seconded by Councilwoman Quigley, it is

**RESOLVED**, that the Town Board authorizes the commencement of condemnation proceedings under the EDPL against the landowners (and any successors and assigns) identified in Exhibit A to this resolution for the purpose of obtaining the remaining easements necessary for the Company to construct, install, operate, maintain, repair and replace conduit and electrical lines within the rights of way along, within and across the following roads within the Town of Prattsburgh:

Rosey Hill Road  
Gay Road  
Cook School Road  
Davis Road  
Fisher Road  
Dillenbeck Road  
Block School Road  
Mattoon Road

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**RESOLVED**, that this resolution shall also authorize the commencement of condemnation proceedings against any other property along the aforementioned roads for the purpose of obtaining the remaining easements necessary for the Company to construct, install, operate, maintain, repair and replace conduit and electrical lines within the rights of way if the Company can show to the Town Supervisor's satisfaction that best efforts have failed to obtain an agreement with such additional landowners;

**RESOLVED**, that the Town Supervisor is authorized to sign all notices, pleadings and other documents necessary under the EDPL to implement this Resolution;

**RESOLVED**, that any permanent easement obtained through condemnation shall be no more than is reasonably necessary for the installation, operation and maintenance of the wires and conduits needed for the electrical collection system and shall be contained solely within the Town road right of way; and

**RESOLVED**, that the form and content of said notices, pleadings and other documents that the Supervisor is authorized to sign as set forth herein shall be approved by the Town attorney.

This resolution was duly adopted by a majority vote of the Town Board of the Town of Prattsburgh as follows:

J. Harold McConnell, Supervisor	Voting Aye
Sharon Quigley, Councilperson	Voting Aye
Steven Kula, Councilperson	Voting Nay
Stacey Bottoni, Councilperson	Voting Aye
Charles Shick, Councilperson	Voting Nay

**EXHIBIT A TO RESOLUTION OF TOWN OF PRATTSBURGH TOWN BOARD OF  
APRIL 21, 2008**

Iocono, Ronald & Janet 30 Chancellorsville Circle Middleton, DE 19709	033.00-01-030.000	Parcel address: 11164 Rosey Hill Rd. Book: 1941 Page: 246
McKinney, Robert G. 198 Parkview Drive Rochester, NY 14625	020.00-01-006.000	Parcel address: 11608 Block School Book: 992 Page: 00202
Reppert, Donald R. 43 Red Ridge Levittown, PA 19056-2325	008.00-01-008.000	Parcel address: 6569 Fisher Road Book: 2035 Page: 301
Messner, Raymond C. c/o 1057 Tanyard Road Deptford, NJ 08096	009.00-01-003.100	Parcel address: 6637 Fisher Road Book: 1980 Page: 265



