

## Drilling and Democracy: Caroline Board Grapples with Resolution

by Sue Smith-Heavenrich

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When you kick a hornet's nest, you rile up the hornets. That's what Town of Caroline Councilman Peter Hoyt told listeners of WCHU's Wednesday morning radio show. "I think drilling is inevitable," he said, "but the comments [from the previous night's board meeting] give me pause. It never occurred to me that I might have a conflict of interest."

What Hoyt was referring to was a jam-packed town board meeting Tuesday night, June 14. Nearly 250 people filled the main hall of the Brooktondale Community Center, standing three deep against the back wall and spilling into the entryway. Most were there to protest a resolution Hoyt and council member Linda Adams introduced – a resolution that, if passed, would prevent the town from taking a stand to encourage or limit gas drilling within the town limits.

And that, say some residents, stifles democracy. Before Town Supervisor Don Barber gaveled the meeting open, a small crowd gathered outside carrying signs that read "No ban on bans!" and "Don't Frack with Democracy".

"I'm here to support democracy," said Laurie Roe, holding a sign that said "Democracy means listening to your neighbors". Roe fears that the council's resolution has the potential to silence citizens and quash local democracy.

Sara Hess, who lives in Ithaca said, "I'm here to protect my water." She lives downstream from Caroline and gets her drinking water from Six Mile Creek – where runoff from the fields and streams in Caroline eventually ends up. At the other end of the drive, two members of the Tompkins County Landowners coalition set up an information table stacked high with handouts about lease issues.

With emotions running high, and expecting a large turnout, the town board moved its meeting from the town hall to the larger community center only one day prior to the meeting. They also set aside a couple hours for public comments on the agenda, hoping to end the meeting at 10pm. But with 46 speakers signed up, they extended the meeting until 10:30pm.

### **Proposed Resolution**

Adams and Hoyt presented what they call a "neutral drilling" resolution to the town board at last month's meeting. Their purpose, they told the June 14 gathering, was to clarify the role of the town regarding gas development based on the state's current Environmental Conservation Law. As they understand it, the state has taken all regulation of drilling and left the towns with limited powers, such as jurisdiction over local roads and property taxes.

In addition to not attempting to facilitate or delay drilling, the "Caroline Neutral Resolution" states that the town will exercise its fiduciary responsibility to protect its investments in local roads, primarily through road use agreements, and protect local water supplies under authority of the Stormwater Law.

Despite the efforts of citizens to collect signatures on a drilling ban, both Hoyt and Adams feel that the town cannot enact such a ban. "New York State statute preempts local regulation of natural resource mining activities," Adams explained last Tuesday evening. She, Hoyt and town attorney Guy Krogh all raised the argument that the mandate prohibiting "regulation" also

prohibits “bans”, and to ban drilling activity – whether through zoning or other means – would likely result in a lawsuit against the town.

### **Giving Democracy Short Shrift**

Bill Podulka, chairman of ROUSE (Residents Opposing Unsafe Shale-Gas Extraction) called for the council to withdraw the resolution because it is premature and stifles democracy. “We ask that our town board listen to the people with open ears,” he said, referring to a “frack ban” petition that his group plans to present at the next meeting.

During the evening, a number of speakers expressed concern about ethics violations and conflict of interest, citing the Supreme Court decision released just the day before. On Monday the justices had declared that states do have the right to require elected public officials to recuse themselves from voting on or advocating for – or against – any issue in which they appear to have a personal conflict.

“I’m concerned that some people could take away the rights of landowners,” said Councilman Peter Hoyt, who co-authored the questionable resolution. He admitted that he leased his land – “It’s only 15 acres, and it wasn’t much money,” he said in a phone interview the night before. “Just \$3,000 – and they can’t even drill on my land.” Hoyt’s lease prohibits surface activities.

It’s not the amount that has folks all a-twitter. It’s the principle of the thing. People want assurance that their elected representatives are not financially beholden to corporate interests.

Despite numerous requests to withdraw the proposed resolution, the council tabled it until the July meeting.