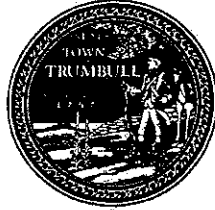


Timothy M. Herbst
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TOWN OF TRUMBULL CONNECTICUT

Timothy M. Herbst, First Selectman
Testimony before the Committee on Energy and Technology

March 18, 2010

Good afternoon Chairman Fonfara, Chairman Nardello and Members of the Committee:

My name is Timothy M. Herbst. I currently serve as the First Selectman of the Town of Trumbull. I am here today on behalf of the people of Trumbull and most especially the residents of Nichols to voice my support for Bill 461. I would also like to recommend to the Committee that additional changes be made to this important legislation. Before I became First Selectman of the Town of Trumbull, I served for 11 years on the Trumbull Planning & Zoning Commission, the last four as its Chairman. My duty then and my duty now as First Selectman is to protect the public health, safety and welfare of my fellow citizens.

I have also had previous experiences with the regulatory and approval process of the Connecticut Siting Council. It appears that again, the residents of Trumbull will be dealing with an application before the Connecticut Siting Council.

Recently, the Town of Trumbull has been made aware that a private entity will be submitting a petition for declaratory ruling to the Connecticut Siting Council for approval of the construction and operation of a combined Fuel Cell/Turbo Expander Energy System. I have had the opportunity to meet with and confer with our Director of Public Works, Deputy Director of Public Works, Town Engineer and Fire Marshal. After considerable deliberation with respect to the safety issues associated with this proposal, the adoption of this bill by the Connecticut General Assembly is necessary. One of the provisions of the proposed legislation requires that the Siting Council can consider safety issues prior to issuing a certificate for a facility. This is an important first step, but I urge the Committee and the Connecticut General Assembly not to stop there.

The Connecticut Supreme Court recently opined that with local land use applications, residents, abutters and aggrieved parties are entitled to substantive fundamental fairness with respect to the deliberation and adjudication of proposals before local land use agencies. At the local level, residents are able to appear before local land use bodies to speak either for or against a proposed use of land. They are able to present evidence, cross examine witnesses and build a thorough administrative record. This allows residents the ability to appeal a local land use agency's decision to the Connecticut Superior Court if they so choose. There are public notice requirements that are also met at the local level.

I ask this committee and every member of the Connecticut General Assembly this question. If we have procedures in place at the local level that allow for public participation and public examination of a proposed use of land, then why are we not holding the Connecticut Siting Council to the same standard?

The Connecticut Siting Council is an appointed authority. It does not answer to the people. It answers to the government that created it and in large measure appoints its members. The decisions of the Connecticut Siting Council are sometimes made without even a public hearing.

The use that is being proposed in Trumbull would be on Huntington Turnpike, Connecticut Route 108, a main artery of the Town. In addition, Saint Joseph's High School is located in the immediate vicinity of the proposed project. There are approximately 850 students who attend St. Joseph's High School and with faculty, there are over 900 people at this location during the week. This proposed fuel cell facility would consist of fuel cell units which would, to my understanding, provide power to chemical reactions using natural gas under high pressure as a fuel source. It is my understanding that the natural gas utilizes methane. Methane is extremely flammable and gas air mixtures are explosive. In light of the recent Power Plant explosion in Middletown, which resulted in six deaths, it is abundantly clear that the Connecticut General Assembly needs to take action to change the laws that apply to the Connecticut Siting Council. Four principles should guide the Connecticut General Assembly in making changes to the laws that govern the power and authority of the Connecticut Siting Council:

1. Public Safety
2. Public Notice
3. Public Hearings
4. Public Input

As the law is currently written, there are instances where these types of facilities can be approved and located in certain residential areas without notice and without a public hearing. This is unconscionable. Residents, homeowners and taxpayers in many instances have to live everyday with the decisions of the Connecticut Siting Council. If people have to live with and suffer with the consequences of a decision made by the

Connecticut Siting Council, then they should also have a seat at the table when these applications are being considered and decisions are being made.

Nothing less should be acceptable. Fundamental fairness not only requires it, but sound public policy should dictate it. I want to thank the committee for allowing me the opportunity to testify this afternoon. I urge the committee to act quickly on Bill 461 and I urge you to consider further revisions to this law in the interests of protecting the very people we serve.

Thank you.