





# L'Anse Sentinel

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## Speaker brings expertise on wind and zoning

### Address 'Summit Lake Wind Project' proposed by RES

by Melissa Newland

Friends of the Land of the Keweenaw (FOLK) hosted a meeting Feb. 1, 2018 at the American Legion in L'Anse from 6:30-8 p.m. concerning the development of wind turbines proposed by Renewable Energy Systems Americas Inc. (RES Americas), out of Broomfield, CO.

The meeting was put together after RES proposed the construction of approximately 100 or more wind turbines in L'Anse Township on Weyerhaeuser property combining a total of 26,000 acres of land. RES Wind Energy has proposed to erect the turbines in the most remote portions of Baraga and Marquette Counties.

RES refers to the Baraga County portion of their plan as the "Summit Lake Wind Project," which stretches from Herman to the McCormick Wilderness.

RES intends to construct wind turbines on the two highest natural points in the State of Michigan: Mount Arvon and Mount Curwood. Both of these peaks, located in rugged forest lands, are very popular with tourists and home to many different types of wildlife.

The Marquette County portion of the RES wind project will impact the Yellow Dog Plains from ridges south of the Huron Mountain Club to remote lands north of the McCormick Wilderness.

Approximately 80-100 people attended the meeting to hear guest speaker Kevon Martis talk about what a Township can do legally to restrict wind turbines from being placed in the proposed areas and what repercussions wind turbines can have in an area.

Planning Commission Board member Catherine Andrews, also a member of FOLK, introduced Martis.

"When we got the proposal of this project, we figured we had a big learning curve. We

**"I am very pleased with the expertise Kevon Martis brought to the meeting. He emphasized the legal authority Michigan Townships are granted under the Michigan Zoning Enabling Act and presented documentation on the history of wind energy in the state."**

**--Catherine Andrews**

did not know too much about wind turbines up here in the UP so we started doing some research. As part of that research, I met Kevon and he agreed to come up here at his own expense to talk to the public and give his presentation, which he has given in many states. He is a wealth of knowledge and he would like to share some of that knowledge with us today about wind turbines," said Andrews.

Martis is the Executive Director of the Interstate Informed Citizens' Coalition (IICC) of Blissfield, MI and

Senior Policy Fellow of the Energy and Environment Legal Institute in Washington, D.C. (voluntary positions).

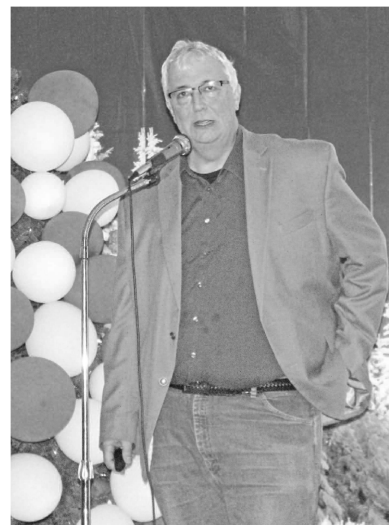
Martis is also the former vice-chairman of the Riga Township Planning Commission in Lenawee County, MI and is the senior policy analyst for the IICC.

IICC is a non-profit corporation dedicated to raising public awareness of the potential impacts from the construction of industrial wind turbines. It is a biparti-

history with wind energy development in the UP. His experience with wind energy land use issues began in 2008 when he was a planning com-

missioner in his home township in Southeast Michigan.

"I am not a lawyer and I am not offering you legal advice. Dealing with wind



**KNOWLEDGE SHARED--Kevon Martis was the guest speaker at the L'Anse American Legion Thursday, Feb. 1, 2018. He spoke about what effects wind turbines can have in an area and what a township can do to restrict companies from placing turbines in the pristine wilderness of the UP.**

energy zoning ordinances is very specialized and there are a lot of very good, local municipal attorneys, but we found out that a lot of local municipal attorneys in rural communities do not really deal with many profound or complicated land use issues, and so we have several attorneys that we have worked with across the state that we recommend. My ties to the fossil fuel industry are that I am a remodeling contractor; which means we install a lot of shingles and shingles are filled with asphalt. That is my only tie to the fossil fuel industry. I donate my time, and I am here to talk about land use issues," said Martis.

Martis commented that this was a different kind of land use talk than he has ever had before because up until this project was proposed, essentially all wind development in the state has been proposed on agricultural ground/mixed-use agriculture, such as in Lower Michigan.

He said this is the first project in Michigan that is proposed in what is essentially a wilderness area. Martis had to adjust his regular talk in order to cover this unusual circumstance.

"Here in the Summit Lake Project, there is something different and unique for the

#### Wind

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# Citizens gain knowledge about RES project

## Wind

*Continued from page 1*

State of Michigan. There is a lot of forestry land and seasonal human habitation in the area, and a lot of people have camps in the proposed project area," commented Martis.

He stated there would not be the same quantity of human impacts here that there might be in a rural township with a couple thousand people; but, this project will bring a dramatic change to the natural environment and the human beings that share it with nature.

"As much as people worry about birds and wind turbine effect, bats are the ones who are really at risk here. It will also impact the wildlife as far as the noise of the turbines and the roads in these pristine wilderness areas will have to be widened," said Martis.

Martis told the audience that the Township and its voting population are free to protect these rural regions in any way they see fit, as long as there is a rationale relationship to protecting health, safety and welfare.

"You can put low noise limits in, you can limit turbine density, height limits, and large setbacks to property lines, lakes, rivers, Great Lakes shorelines or landmarks, such as Mount Curwood and Mount Arvon," said Martis. "Honestly, you are probably perfectly justified in just drawing circles around your most precious scenic areas and say you do not choose to have wind development there. There should not be more that is needed to be known other than it is a cherished wilderness area, such as Mount Arvon and Mount Curwood. I am trying to be unbiased, but my thinking is, are these companies going to be allowed to put one on Mount Rushmore?"

A township is not legally allowed to ban these types of energy systems in the area. However, the Township is able to set an ordinance outlining specific parameters, such as height, density, noise, decibel limits, distance setbacks, etc., needed in order to be able to place wind turbines in the Township.

Ultimately, the goal of the ordinance is to make certain that the township board, or the voter, has the last word on where these wind turbines can be placed and on other

restrictions concerning them.

"If someone tells the Township they have an exclusionary ordinance, I would just say laugh at that statement, honestly. Some companies will come in and say they will sue you for excluding them from building these tur-

ward. He stated that L'Anse Township does not have to amend that ordinance if they do not want to.

Martis gave information concerning the Michigan Zoning Enabling Act, which gives a Township the power to regulate land use stating, "A

energy development can be submitted or acted upon.

"That is reasonable and I would recommend it. Take a time out and think about what you want to do. You are fully within your rights to do that," said Martis. "However, do not fall into the trap of believing

uses," said Martis.

Martis went on to explain how expensive wind energy is in Michigan compared to wind energy from other states. Windy areas, like Iowa, are very high wind resources. He pointed out that looking at the Michigan

works in a parasite-host relationship with conventional generators, is not likely to reduce costs. In fact with new generators, like the ones being constructed in the UP, they are likely to drive up the operating costs of those generators by reducing how often they run. The wind turbines will also not be producing energy all of the time, so there will have to be a supplemental source of power to back it up. If it was going to reduce your electrical bill, these companies would be telling you that all day long because that is a selling point."

When does any developer have the vested interest in a Township zoning ordinance and when is it too late to turn back?

Martis explained that a private contract between private parties does not obligate a Township board to do anything because the Township is the government.

"These companies need to beg the Township and ask them for the zoning changes they need, they cannot demand them. It does not matter if a company has a private contract with a landowner to erect a wind turbine on the landowner's property, it is ultimately up to the Township," reported Martis.

Martis stated the case law is clear. Two things have to have been satisfied for the developer to have a vested interest.

"They have to have been issued a building permit to build a building or a commercial structure and they actually have to have commenced construction, substantial exterior construction.

"Even moving walls inside the building under that permit is not enough; the company has to start digging on the outside. Case law shows that even up to that point, before you start digging outside, the Township can change their zoning. Until they start digging holes in your ground, they are not grandfathered into your ordinance," said Martis.

Martis stated that if anyone is interested in the Riga Township Wind Energy Ordinance, the public can find it at [rigatownship.com](http://rigatownship.com) under Wind Energy Zoning.

RES Senior Development Manager Mason V. Sorenson was also present at the meeting and stated he was there to hear some of the communities concerns.

Sorenson invited everyone to an open house hosted by RES on Feb. 21, 2018 at the L'Anse American Legion from 6-8 p.m. to hear another side of the story.

He stated RES will have more information at its open house and said, "We're hoping that you all will come back and hear another side of the story, we are not quite as evil as Mr. Martis suggests. We would like for everyone to keep an open mind," said Sorenson.

Martis commented, "I did not say you or RES were evil, Mr. Sorenson."



**CONCERNED CROWD**—Approximately 80-100 people filled the L'Anse American Legion to hear Kevon Martis speak about wind turbines and the effects

they can have on wilderness, including widening of roads in pristine forested areas and the negative effects it can have on avian and bat populations.

bines and you must have the township ordinance rewritten. Threats of litigation are common, actual litigation is rare. Retain a good land use attorney and they will put you in a strong position," said Martis.

There is a multistep test for whether or not an ordinance is exclusionary and, therefore, illegal. First, it has to effectively ban the use; secondly, there is a demonstrated need in the community for that use; third, the use is appropriate for the location; and fourth that the use is lawful.

One point in particular Martis made at the meeting was that in his reading of the L'Anse Township Zoning Ordinance, it states that wind turbines are not allowed to be built on forestry ground, but only conservation and recreational ground.

He stated virtually all of the turbines proposed through L'Anse Township are proposed for forestry ground, which means RES needs a zoning amendment to take place for this project to go for-

ward. He stated that L'Anse Township does not have to amend that ordinance if they do not want to.

Martis explained, "zoning limits are that the Township's regulations have to have a rational relationship to protecting health, safety and welfare. If the Township has a reasonable regulation that is designed to protect health, safety and welfare, those regulations are virtually unassailable in court. So I say if a proposed development of any type cannot help protect health, safety and welfare, it should not be permitted."

He stated that if there is Township zoning, which L'Anse Township does have, and if the Township wants to take time to think about whether or not it wants these wind turbines in the area, the Township has the right under the Common Law of the U.S. to adopt a moratorium for six months to a year and a half.

The Township can then revisit its zoning ordinance at its leisure, and during that time no permits for wind

that you are developing a wind energy zoning ordinance for just one particular developer. A wind energy zoning ordinance will apply to any developer who comes in the future. RES will get the project approval and then will seek to find other people to take the project over, either post construction or preconstruction."

Martis stated that RES had two projects which were approved in Lower Michigan and have been constructed, and then sold by RES to other companies.

"The wind industry and their advocates want to make this discussion of wind energy development for your community a question about revenue for your community, about how great green energy is, how noble it is, how wonderful it is for the environment, etc. As a zoning official, you need to remember your only concern is how to safely and appropriately site 50, 60 and now 70 story tall noisy structures into your community in a way that does not conflict with neighboring land

map, there are not very many high wind resources here.

"Renewable energy sources, such as solar and wind, only produce power intermittently, which means consumers and businesses cannot depend on them to provide reliable power all the time. As a result, power companies still have to generate electricity at coal, gas, nuclear or hydroelectric facilities to provide consumers with power when renewable sources aren't producing," said Martis.

"So why are wind energy companies wanting to come here?" asked Martis. "Despite RES successfully selling two wind projects in the much windier thumb, the folks there have essentially rejected all future wind development, so RES and other companies are now spreading all across the state into very low wind resource areas, and the price of wind energy, we believe, will continue to rise because of that. In my mind, they are looking for wind-naïve communities that have not been through what the people in Lower Michigan have been, and they are hoping to find people who do not know their rights under the Michigan Zoning Enabling Act to regulate land use, including utility scale wind development, in the way they see fit," said Martis.

"Is this project going to save you money on your utility bill or is it going to go up or stay the same?" asked Martis. "All I can say to that is all my contacts in the regulatory regime in the State of Michigan feel as I do, that wind generation, because it