

LAKE TOWNSHIP PLANNING COMMISSION

Unapproved Minutes

April 22, 2009

The meeting of the Lake Township Planning Commission was called to order at 7:05 PM by Chairman Colletta. Members Gerry Geppert, Rich Ehrlich, Tim Lalley and Dale Hartsell present with Mary Johnson as recording secretary along with approximately 30 guests including Susan Topp, Attorney. The meeting was held at Sleeper State Park Outdoor Center, 6435 State Park Road, Caseville, MI.

Susan Topp, Attorney, was present to discuss zoning issues in regard to wind developments and review of a draft wind ordinance for Lake Township. She started her presentation by stating she was asked to come here today by the Lake Township Planning Commission. She stated she was not for or against wind turbines but here to address the most frequently asked question that is proposed to her, "Where to place wind turbines?"

She went on with her presentation as recorded and attached to these minutes, including the following comments from her presentation:

Siting Issues:

Where are we going to put the wind turbines?

There are two questions to ask when thinking about siting issues

- 1) Where is the wind?
- 2) What are the issues associated with those areas?

Michigan Wind Map

Areas in the red and purple are the areas where the strongest winds are, along the shorelines of Michigan.

Industrial turbines – three bladed wind turbines, they spin slower and need the strongest winds to operate. Some of the other designs of turbines look similar to roof vents; they have up to five blades and spin faster. We are looking at lower heights for turbines in this township because our wind speeds allow them to work as efficiently as higher turbines would in other areas.

Class 3 areas, like the Thumb, are being targeted for wind energy. Away from the shoreline in Michigan is in discussion to get good producible wind.

As far as exclusions, in forested areas, it was not clear which forested areas were excluded and which were not.

Issues with large turbines:

Setback and tower height – a 400' tower is comparable to a 40 story building.

Shadow flicker is when the sun is behind the blade and reflecting down toward the ground, it is like turning the lights on and off. What can we do to alleviate this conflict? Through setbacks and shutting the turbines down during certain times when the flicker is a problem.

If a setback is made strictly by the height of the turbine, neighbors will not be protected from negative effects.

Low frequency noise cannot be kept out of the home, it is noise you can feel, more than hear, like a helicopter hum. There are health studies that are documented that this interferes with sleep, the thought process and overall well-being. The turbines cannot be put so close as to interfere with one's well-being. A 55 decibel sound level is too loud. Both types of noise need to be regulated in an ordinance and a noise study using modeling should be done in order to predict how noise will travel across the terrain. Noise levels should never be more than 5 db (A) above ambient to avoid problems. A setback needs to be tied to noise. A 1,300 setback at a minimum is very questionable. Any studies should be prepared by an independent qualified professional.

Turbines over 200 feet must comply with FAA guidelines requiring lighting. If there were 30 to 40 on a wind farm, in a nighttime sky that might have a negative effect on the visual character, especially if there is tourism in the area.

The reason that property values are hotly contested right now is because wind turbine farms are so new. The wind industry says there is no affect on property value, but there are no market studies in Michigan. In other communities where people are bothered by wind turbines, they couldn't sell their homes. In some cases the wind turbine owner purchased the home so the studies do not reflect a decrease in value and in many other cases the homes are still for sale.

Ms. Topp also recommended underground wiring as a requirement.

The rest of the presentation was regarding the Michigan Zoning and DLEG siting guidelines and the power point slides of the presentation can be found attached to these minutes along with the slides referencing litigation and the Draft of the Lake Township Ordinance as presented by Susan Topp, Attorney.

(The power point slides and draft ordinance are available at http://www.laketownship.net/wind_newpage.htm)

Chairman Colletta opened the meeting to the floor for public comments or questions to Susan Topp.

Public Comments:

Questions were asked about Ms. Topp's qualifications, whether she was trained in sound and whether she was unbiased. Ms. Topp responded that she is not with the industry; she is an environmental attorney and has been assisting Townships in writing wind ordinances since 2003. She stated she is not an acoustical engineer and that the recommendations on noise were made by engineers based on studies from property owners. She stated she began her presentation by saying "I am not for or against wind turbines."

She was asked about the size of the turbines in California. Ms. Topp replied that they are 200' high with a much higher rpm, are densely placed and 20 years old.

Ms. Topp was asked about studies done on wind turbines proximity to schools and whether there have been any negative reports or adverse affects to children. Ms. Topp replied that she is not aware of any studies on schools or school children, but that she is aware of a moratorium on wind turbines in Maine due to infrasound. Ms. Topp was asked how long is enough time for a study to be done and she replied that it should be over a period of years, not months, and the majority of problems appear to be mostly at night when residents are trying to sleep.

Ms. Topp was asked about real estate values and whether the data produced can be slanted and if DTE is going to produce a study does she recommend that we get the raw data to submit to another expert to validate the information. Ms. Topp replied that we do not have good data in Michigan, it is hotly debated, and you should require a study be done by an independent. If you have reason to believe there is something a miss, have another person look at it and say, "yes" this is good data, this is bad data. She stated not everyone is out to snow the community.

Matt Wagner stated, let's use reason together to get this work done.

There was discussion about the use of IBA; Matt Wagner stated that the IBA means a specific name that means a specific thing and caution should be used when applying this to any documents of any kind. Susan Topp agreed and suggested that something to this effect should be put into the ordinance.

Matt Wagner continued, stating that the federal guideline draft concerning the Bald Eagle from 2003 has changed from the five miles to three miles for the setback from the nests.

Tim Lalley commented that Matt seems to be the only one 'privy' to any of this new information, none of the rest of us have seen any of this new information, we are using information and recommendations given to us from prior meetings and documents.

Matt stated that he has been sharing this information all along, it has been changing rapidly.

Lou Colletta wanted to know where the new information was, he continued that the draft ordinance as presented would be out on the website in a few days.

Susan Topp restated that the first part of her presentation was a general preview of wind turbine issues and the second half of the presentation was on the specific language of the Lake Township Ordinance.

There was question about other townships and if they have similar or the same ordinances that were just presented. Susan Topp stated that Huron County has an ordinance, seven or nine townships have their own or adopted versions of county or state ordinances.

Lou Colletta motioned for a 20 minute break @ 9:00 p.m., seconded by Tim Lalley. All ayes, motion carried.

The meeting resumed at 9:20 p.m.

Lou Colletta motioned to accept the minutes of March 25, 2009 with the corrections as read below:

Pg. 3, sixth paragraph: Nance replied that Kelterborn is incorrect. DTE must purchase one-half of the required new renewable energy from 3rd parties. This half may come from anywhere in the state

Pg. 4, last paragraph: Nance stated it is DTE's intent to build up to half of their renewable energy themselves in Huron County, that they already have 1% and will need 9% more, *half of which* they will have to do through a request for proposal...

Lou Colletta motioned to accept the minutes after the corrections, seconded by Rich Ehrlich. All ayes - motion carried.

Agenda: Lou Colletta requested the following additions to the agenda:

Kim and Mike Depner's application for selling produce at their roadside stand.

The Lake Township board would like to add four more members to the Planning Commission.

Exclusion of Zoning Administrator bringing in site plans for the R-1 district for review.

Proposed lot coverage to be increased from 25% to 35%.

Proposed roof height to be increased from 28' to 35'.

Colletta asked whether there were any other additions to the agenda?

Motion by Dale Hartsell to approve the additions to the agenda, seconded by Tim Lalley. All ayes - motion carried.

No Correspondence

No Site Plan Reviews

Lou Colletta stated we are going to forego the Wind Ordinance and move on since this topic has been previously discussed.

Motion by Dale Hartsell to table the lighting, mining and excavating, seconded by Tim Lalley. All ayes - motion carried.

Lou Colletta stated that after checking with several other communities, he would recommend that the Depner's apply for a special use permit and suggested sending a letter to the Depner's as to that recommendation. Motion by Ehrlich to send them

a letter with that recommendation, seconded by Geppert. All ayes - motion carried.

Lou Colletta stated that at present the allowable building height is at 28' in R1 and R2 and 35' in Ag. He stated that the Township Board is requesting the height be amended to 35' for all districts.

Tim Lalley expressed that there were 39 permits and out of that only four requested a height variance. There was only one variance granted for 29.6' since he has been on the zoning board of appeals. He continued that ordinances were made for a reason, changing this would take the protection away from the public and this allows the building of a house 35' tall on lots that are small. This does not preclude that someone cannot get a house built at 35', because most of the variance appeals for height variances go through.

He continues that we need to be thinking more long term, just because people can do something does not mean we should let them do it. He states that we should be concentrating on conserving.

There was a comment that builders don't want to work in Lake Township one of the reasons being that the builders claim it takes too long to get a building permit.

Gerry Geppert stated that the first thing he had a problem with is that this whole township board was a committee for change and it seems that everything is going back to the way it was. We have a lot of complaints about the green house on the lake, about the height of it.

Lou Colletta moved on to lot coverage. Huron County mandates 25% coverage in residential property and 15% in Ag. Caseville goes to 35%, but that is the only other Township that has a 35% lot coverage. He stated he looked at 80 site plans and there were only 10 where people asked for a variance that concerned lot coverage. He stated they are building very big houses out there and do not have room for septic. He stated he can see on a lot over 50' wide allowing over 25%, but lots less than 50' wide should remain at 25%.

Dale Hartsell commented that 35% would be fine with him.

Lou Colletta stated that we have to adhere to the Master Plan.

Lou Colletta stated that the Township recommended four more people be added to the planning commission.

Tim Lalley said at first he was against adding new members but now he thinks it is a great idea. They are four people that seem to be hand picked and wishes the people were on the board now. This wind ordinance is in need of more people on the board and the sooner they get on board, the better in order to get them up to date on the issue.

Dale Hartsell stated the more minds on the board, the better the board will be able to handle the situation.

Lou Colletta commented that the addition of four more people is like sticking a hand in his pocket and taking money out of it. For \$50 - \$60 a person or \$280 a month, will the people of the Township accept that?

Lou Colletta commented on the issue of site plan review. He stated that with the new zoning ordinance, Arnie, the zoning administrator, often had questions, especially in the R-1 district, and it was a situation where the more people reviewing the plans, the better, but he stated he feels Arnie is comfortable with the ordinances at this point and he is sure that if he has questions, Arnie will bring them to the planning commission.

Bob Smith stated that when he was on the zoning administrator for the Village of Caseville, it was his job at the Village to change the ordinances and write up the variances.

Bob McClean commented that it would go back to aesthetics, if you have a person on the shore going up 35', you just took away the view of other residents. He said we should maintain some control and hold back, using the board for variances.

Walt Kloc stated that he sees nothing wrong with the 35' height requirement, "I just don't care for the crackerjack homes that are going up around here." The 35' height keeps snow off of the roofs, and the people across the street from the lake cannot see the lake anyway. Keeping the height at 28' may just be making the Township money by requiring variances. We should be able to have what other people have been entitled to in the past.

Louis Bushey, Chairman of the ZBA and Board of Review, stated that the reason there were only four that went higher is because they knew they couldn't without all the trouble of going to the Zoning Board.

Yvonne Bushey stated that someone mentioned they came in for their variance but did not get their full variance to 35". It is always 29.5 or lower. She commented that we should be compatible with our neighbors and communities.

Valerie McCallum stated that some people should read chapter 18, where it references lots and house sizes were based on proportion.

Bob Smith commented that if the lot is smaller, the house can go up to 35'.

Frank Konke stated that people are wanting to build houses with 9' basements, 9' ceilings and 9' roofs, and how do we accommodate?

Louis Bushey stated that people that build their houses now have to stay 3' above the watermark.

Clay Kelterborn stated that when you start looking at height and failing septic, we look at larger homes, at installing sewers, there is more at play here than aesthetics.

Lou Colletta stated to Bob Smith that he heard he was willing to compromise between 25% and 35% on lot coverage.

Bob Smith replied, yes you want 25%, I want 35%, let's compromise at 30%.

Lou Colletta stated that he would still hold fast regarding the 50' lot sizes, including all lots in R-1.

Frank Konke stated that some residents want to put in decks, are they included in lot coverage or are they an addition?

Valerie McCallum stated that there is another way to do it, do it by square footage of the lot size and the square footage of the house to make sure there is room for the well and the septic.

Bob Smith stated that he can see 25%, but when you get down around Philp Park, you're looking at properties with some depth.

Back to the issue of adding four new Planning Commission Board Members:

Bob McClean thinks it is too much of a jump; they should be brought on to the board after this wind turbine ordinance is closed.

Tim Lalley stated that we have been accused of hiding things and being too closed, this is why he welcomes the additional people that the Supervisor has chosen. I personally think it is a good idea to bring them on and share all the information we have been going over for almost two years now.

Lou Colletta recommends Tory and Arnie review site plans, so the board would not have to deal with site plans anymore.

Bob Siver stated the Septic System Study Group is being resurrected; the next meeting is May 4, 2009 at 10:00 a.m. and stated for anyone to please come to the next meeting if you are interested.

A question was asked if the board was going to put our recommendations in the paper for public hearings, Lou Colletta responded, "yes".

Tim Lalley stated all he wanted to state was why all the emphasis was on creating power, why not concentrate on conserving power?

Lou Colletta asked when the board would like to have the public meeting on recommendations made on tonight's items.

Tim Lalley made motion to have the public meeting at the next regular meeting, seconded by Lou Colletta. All ayes - motion carried.

Motion by Dale Hartsell to adjourn, seconded by Tim Lalley. All ayes - motion carried. Meeting adjourned at 11:00 p.m.

Respectfully Submitted by:

Mary E. Johnson
Recording Secretary