

Township of Lake

Huron County, Michigan

Regular Meeting of the Lake Township Board of Trustees and Joint Meeting with Lake Township Planning Commission July 20, 2009

The joint meeting of the Lake Township Board held at the American Legion Hall, 4995 N. Caseville Road, Caseville, Michigan was called to order by Supervisor Smith at 6:10 P.M. Present were Township Board members Smith, Fischer, McCallum, Hyzer and Hartsell; Township Planning Commission members Colletta, Lalley and Ehrlich; Geppert absent, and DTE Representatives Matt Wagner, Mike Serafin and Grady Nance. There were approximately 40 people in attendance.

Supervisor Smith went into Old Business and asked DTE to talk about the economic benefits of wind development.

Mike Serafin of DTE referred to Pg. 3 of their comments to the Lake Township Wind Zoning Ordinance dated June 24, 2009 (*available at the Township website www.laketownship.net*) indicating that they based their estimates on revenue using standards 40% more restrictive than the current standards used by Huron County and based upon that claim stated that the personal property tax base in Lake Township could be \$120,000,000 as compared to \$500,000 with the proposed draft ordinance.

Matt Wagner read from Pg. 6 of DTE's comments and followed up by stating that he believes a series of meetings are needed and should be set up with a task force to discuss areas of common ground between DTE and the ordinance, administrative items such as the application process, insurance requirements, fees, costs and financial controls; safety references, standards and consultant requirements, design, operation, maintenance, enforcement, penalties, complaint filing, spacing, lighting, flicker, and noise issues and real estate values. It was his suggestion that noise issues not be talked about right away.

Wagner agreed that the ordinance should reference compliance to U.S. Fish & Wildlife guidelines as long as the ordinance does not limit that compliance to outdated guidelines; DTE agrees with the rights of property owner's to waive setbacks. Wagner stated that the special land use permit should be valid for life, setbacks from roads and nonparticipating properties are too excessive and should be one to 1-1/2 times the turbine height, setbacks from residences should be 800 to 1,300 feet in combination with well developed noise standards, setbacks from rivers and Rush Lake should be changed to reflect current USFWS guidelines and stated that Applied Ecological Services believes 200 meters is sufficient. Wagner also stated that wind turbine spacing should be three rotor diameters or 800 to 1,000 feet and wind turbine height should be 400 feet or greater. Wagner commented that the complaint filing should be objective and limited to those persons that could be affected from a location standpoint and there needs to be a reasonable time frame for responding to complaints. The lighting regulations need to allow minimum FAA lighting and be consistent with communication towers; the ordinance should allow surety bonds rather than cash on deposit, the amount of

insurance per wind turbine should be reduced, and the overlay area should be expanded to include more sections of the township. Wagner asked for the elimination of subjective phrases and clearer definitions and asked whether the Township is interested in extending dialogue in these areas.

Mike Serafin commented that DTE wants to help develop an ordinance that works for DTE and Lake Township.

Lou Colletta, Planning Commission Chairman, stated that the Planning Commission has spent more than two years trying to develop this ordinance and based upon Wagner's comments, it would seem as though DTE wants a complete rewriting of the ordinance. Colletta stated he would like to see what DTE can do with the existing ordinance rather than rewrite the entire ordinance. Colletta asked DTE representatives what setbacks would be appropriate for them.

Wagner suggested that setbacks be driven on what the studies reveal and indicated that DTE will begin pre-construction studies this Wednesday. Serafin stated that noise doesn't lend itself to standards and should be related to decibel levels at the receptor.

The complaint aspects of the ordinance were discussed. Colletta mentioned that Huron County is now working on complaint procedures but Lake Township's ordinance covers that aspect and asked why the County and DTE didn't look at that beforehand. Wagner commented that he couldn't speak for the County but has seen other complaint resolution programs that he feels establish more legitimacy to the complaint process and stated that according to Lake Township's ordinance, any complaint is valid and anyone can make a complaint. Colletta commented that everyone is different and can be affected differently, that he may have a legitimate complaint yet Wagner may not agree. He stated that he believes the complaint process in the ordinance is good at this point.

Colletta commented on the overlay area for wind turbine location and stated that the recommendation came from the Huron County Planning and Zoning Director, Russ Lundberg. Serafin stated they will have wind turbines in Chandler Township south of Kinde Road and would like to see Sections 31 through 33 included in the overlay. Wagner stated they are not looking to install turbines in non agricultural areas, but would just like to see the number of agricultural sections increased. Colletta stated that the purpose of the overlay is to prevent a scattering around the entire township and protect the golf course, the Rush Lake area, and the State Park by clustering turbines in the southeast corner.

Lalley asked Wagner when the USFWS guidelines are expected to be completed. Wagner thought by October 25th. Wagner stated that the 2003 guidelines do not reference a three mile or five mile setback. McCallum commented that the three mile and five mile recommendations are from the Region 3, or Great Lakes region of the USWFS. Wagner commented that officials at Region 3 recognize that one size does not fit all.

Lalley asked whether DTE representatives were familiar with the CRS Report for Congress prepared by Jeff Logan and Stan Kaplan (*Wind Power in the United States: Technology, Economic, and Policy Issues, June 20, 2008, Jeffrey Logan and Stan Mark Kaplan, Specialists in Energy Policy Resources, Science, and Industry Division*) wherein they recommend a one kilometer setback from an occupied residence. Lalley asked whether DTE was comfortable with the County's setback of 1,000 feet in light of the current complaints and asked what DTE would feel is a safe setback. Wagner responded that DTE is looking at 1,320 feet in their preliminary work but that noise levels need to be looked at. Lalley asked whether DTE was comfortable with the County's noise levels at 55 dBA and that the World Health Organization recommends sound levels should be less than 30dBA during sleeping periods for children. Wagner agreed that noise is the biggest debate. Serafin commented that his refrigerator runs at 47 decibels and that we live in a world that generates noise. Lalley stated that the jury is still out and the science is not in, so how can the Planning Commission develop an ordinance? Serafin commented that noise levels can be affected by the terrain, landscape and buffers and that the 1,320 feet is a noise and safety aspect. Lalley asked whether 1,300 feet is safe enough and Serafin stated it is.

Lalley commented that the one year moratorium was good, that the planning commission has learned a lot based upon the two existing wind developments in the County and that the County is now learning a lot, that another complaint was filed this week and that maybe the County's ordinance is not a good ordinance and if DTE is going to adhere to 50 dBA, they are possibly setting themselves up for complaints, also. Serafin commented that they will learn a lot when the County's study is done and then be able to have more meaningful dialogue. Wagner stated that there is time to talk about these issues.

Lalley questioned the financial issue stating that increased setbacks will not make as much money. Nance replied that they are not making money anyway. Lalley stated that the Township needs to decide what is more important, the revenue or whether it is ethical to do something that may be potentially harmful to people. Nance replied that when looking at how much can be built with the ordinance the key is to look at it section by section and ask whether we need all the regulation as exists in the ordinance. He stated DTE recognizes the geography, the wildlife issues and that Lake Township is not like a typical township with 36 square miles.

Colletta asked for comments on DTE's objections to the technique of the property protection aspect of the ordinance. Wagner commented that the length of time the value stands for the property owner is excessive considering that other factors may come into play that could impact value. Lalley asked whether DTE stands by the REPP study Wagner provided. Wagner stated he has found no significant changes and would agree with the study. Serafin commented that they would look at each on an individual basis to determine whether there were possibly other reasons. He stated a lot of houses are not selling today, an owner may not want to pay the broker fee or may not want to make necessary repairs in order to sell.

Colletta asked for comments from the Township Board members. Smith commented that the ordinance is too restrictive as far as the one mile setback from the nearest road. He also commented that he doesn't know much about the noise and that he has been to Elkton and didn't notice much noise. He also stated he has been to Wisconsin and the main problem there was that a majority of the farmers that don't like them around Eden is because it was taking too long to get them done. Also, the village board let them put them too close to roads and too close to houses. He stated that he hasn't seen anyone with health problems yet, the only people with problems that he saw were 80 – 85 years old and their problems are just part of getting old. He talked to one person in Wisconsin who was having problems with their TV antenna.

Fischer commented that she doesn't like the requirement for resident's contracts to be provided to the Township.

Hyzer had no comment.

Hartsell commented on the setbacks. He stated the County's are too close, yet the draft ordinance is too far. He also stated that higher turbines are better since there would be less, and that the property protection plan is a good thing but perhaps it needs to be worded better.

McCallum commented on the noise and health aspects, the problems coming to light in Ubyly and the complaints filed and stated that if one person in Lake Township suffers harm because of lack of good regulations in our ordinance, that is one person too many. McCallum asked whether DTE representatives were familiar with the report issued by the Acoustic Ecology Institute - *AIE Special Report: Wind Energy Noise Impacts, January 6, 2009* (they were not) and recommended that they review it as it presented information in an unbiased format.

Ehrlich asked DTE representatives whether different wind turbines produce different levels of noise. Nance replied that the blade design is the key. Lalley asked whether noise is a sign of inefficiency. Nance again replied that it is the blade design and stated there are new technologies that may alleviate some of the noise problems.

Lalley commented that technology is continually changing and improving like it has done relating to computers and mentioned Resident Jeanne Henry's concern that we may be locking ourselves into a technology that could be obsolete in a year or two. Nance replied that their Monroe plant is 30 years old and they just installed new blades. Lalley asked whether the turbine blades would be replaced as new technologies came out. Serafin stated they would be replaced when they wear out.

Colletta asked how DTE will be able to determine setbacks based on sound if they do not know what wind turbines will be used. Serafin commented that when they decide what turbine will be used, they will do noise studies at each micro siting and

in combination with the entire wind farm at various wind speeds. Nance commented that they will look at the top 12 designs and narrow it down to three or four and then go into micro siting.

Smith asked Colletta whether he had any more questions for DTE at this time. Colletta stated he would like to request a motion from the Planning Commission to postpone their July meeting scheduled for Wednesday, July 22nd. Lalley made a motion to postpone the July 22nd meeting, seconded by Ehrlich. Motion carried. Colletta stated that the next regular meeting of the Planning Commission is scheduled for August 23rd. Wagner asked Colletta about getting together to discuss the issues. Smith suggested the planning commission hold a regular meeting and a working meeting every month. Colletta commented that due to so many unknowns by DTE's admission he would like to request an additional moratorium for six months to a year. Smith stated he would not like a moratorium but to go ahead and work on the ordinance.

Colletta commented that at the June 24th public hearing he omitted an important part of the noticing requirements to notify all property owners within the overlay district and those within 300 feet and indicated that the hearing would have to be rescheduled. Russ Lundberg commented that the notification is only necessary for a rezoning, including the overlay zoning.

Correction: Add:
Motion by Smith to correct the minutes to state that it was his understanding that Lalley stated the Board is unethical and didn't think he could work with us, seconded by Fischer. Motion carried. McCallum opposed.

Lalley commented that he understands that DTE prides itself on public perception and asked whether they are comfortable working with a Township Board consisting of three members who refused to accept a governance pledge provided by the Michigan Townships Association and then read the pledge presented at the June meeting. Smith stated the only reason he didn't agree to sign the pledge is because it wasn't asking the planning commission to sign, also, and that if one board is going to sign it, all boards should. Lalley stated that the pledge sent by the MTA contained only the names of the Township Board members.

Smith opened the DTE/Planning Commission review of the wind ordinance draft to public comments:

Paul Beck stated he did not get a response from DTE at the June 24th public hearing to his question regarding DTE's reason for pushing wind development being for the carbon credits or to benefit the people. Nance commented that it is for the benefit of world climate change and that wind energy is the most economical form of renewable energy and that the Lake Township area of the Thumb has the best wind energy potential in southern Michigan.

Mr. Beck also asked how high electric rates will go up since wind turbines are not as efficient as nuclear or coal and Europeans are discontinuing wind developments and going nuclear. Serafin responded that all electric meters will be billed \$3.00 per month to subsidize the renewable energy program.

Neil Rohner commented that Lalley's statements regarding the governance pledge are just another diversion to magnify the division in Lake Township and is an effort to sidetrack any improvement that could be made on the wind turbine ordinance.

Jeanne Henry commented about the uncertainties involved with wind developments such as noise impacts and stated she has been reading for a year about issues and has concerns that the Township Board has not done enough research and requested that the Township Board, the Planning Commission and DTE do their homework as much as the average citizens are doing.

Pat Przystup commented on the governance pledge and stated that the Township Board should have had an opportunity to review the pledge and discuss it. McCallum responded that all Board members had a copy in their board packets which were available the Friday before the meeting.

Gerry Simmons asked whether anyone on the boards went to the Elkton Wind Festival. She stated she takes a class at a home on Richardson Road and the owner has no complaints about the wind turbines, that wind energy would bring money to the township and cleaner energy.

Dorothy Colletta asked whether the revenue to the Township will increase or decrease after five years. Nance replied that the revenue is a declining amount with a cap at 30%. Mrs. Colletta asked who will pay the taxes and land owner fees if DTE is not making money on the projects. Nance replied that the costs for the REP are set by the State. Mrs. Colletta asked whether it will come from everyone's meter surcharge and Nance replied that it will. Serafin stated that royalties come as a percent of the amount, a portion paid through the surcharge. Mrs. Colletta also added that it will also come from federal subsidies that the taxpayers are paying. Nance replied that the State passed the law about renewal energy and energy efficiency and that property owners can take advantage of credits available by increasing the energy efficiency of their homes.

Lou Colletta commented that Denmark has 6,000 wind turbines that generate 19% of its power but they have not shut down any fossil fuel plants and asked why. Serafin responded that the demand for energy continues to grow and coal plants will not be shut down but renewables will keep one from being built. Nance commented that they still need coal plants when the wind isn't blowing and wind cannot provide all our energy needs.

Charlie Henry commented about the revenue to the Township and asked whether anyone on the Township Board has looked at the impact of a five percent or ten percent reduction in property values and whether there is a trade off or offset.

Bev Herford stated she is a property owner in Oliver Township and her property values have increased.

Walt Kloc commented that he went to Elkton for windmill days and heard a lot of positive comments such as preservation of agricultural land, patriotism and rights of property owners.

There were no other comments. Smith requested a 15 minute break before continuing with the order of business.

(Meeting resumed at 8:17 P. M.)

Minutes of June 15, 2009 and July 13, 2009 approved upon motion by Hartsell, seconded by Hyzer. Motion carried.

Treasurer's Report approved upon motion by Hyzer, seconded by Hartsell. Motion carried.

Agenda approved with the addition of copy machine under new business upon motion by Hartsell, seconded by Fischer. Motion carried.

Correspondence read.

Public Comments:

Jeanne Williams stated that if the Township Board is unwilling to adopt the MTA governance pledge, then the Board should not spend Lake Township money to send Board members to MTA meetings and educational seminars.

No Petitions.

Old Business (Continued):

Griggs Road: Smith stated the grindings off M-25 are being used on Griggs Road at \$2.50/ton rather than \$110,000 for 10,000 ton of 21A stone and on Dufty Road there will be four inches of grindings and four inches of stone rather than eight inches of stone, saving \$12,000.

Mail Pick Up: Fischer made a motion to allow her to pick up all township mail. McCallum stated that if the Treasurer is going to pick up the mail, then it should be so noted and that the Clerk will not be held responsible for missing mail and/or records. Motion seconded by Hyzer. Motion carried. Hartsell and McCallum opposed.

McCallum recommended that the secretary be bonded if she is going to be opening the mail. **Motion by Fischer to bond secretary**, seconded by Hyzer. Motion carried.

Pinnebog River Watershed. Smith read report provided by Deputy Supervisor, Pat Smith.

Correction: Add under New Business: L-4029 and **Resolution 2009-23 Millage Rate Authorization**, offered by Smith and supported by Fischer. Roll call vote: All ayes.

Septic Committee: Smith asked Yvonne Bushey whether the committee had forwarded their recommendations to the attorney. Bushey confirmed she had.

(DTE Representatives left the meeting at 8:50 P.M.)

New Business:

Wind Energy Resource Zone Board Report: The Township Board and Planning Commission completed the survey requested by the Wind Energy Resource Zone Board in response to their report issued June 2, 2009.

Huron Gas Contract: Motion by Smith to pre-buy propane for the upcoming 2009-10 winter heating season at \$1.669/gallon, seconded by Fischer. Motion carried.

Michigan Heritage Route: Hartsell will make arrangements for a speaker to attend the August meeting to explain the designation.

2009-2010 Budget Amendment: Motion by Smith to move \$900.00 in the Assessor Cost Center to Assessor Salary, seconded by Hartsell. Motion carried.

Bids on removal of Old Store: Smith made a motion to advertise in the paper for bids on removal of the old store to be received by 4 P.M. on August 17th, seconded by Fischer. Motion carried. McCallum opposed.

Copy Machine: McCallum informed the Board that the Township office exceeded the number of copies allowed in the copier contract for the quarter April 1 through June 30 by 1,500 copies and that the Township has never exceeded that rate previously. **McCallum made a motion to have a sign up sheet** for copies made in order to keep track, seconded by Fischer. Motion carried.

Public Comments:

Pat Przystup asked whether a motion has to be made to allow minutes to be transcribed from a tape or video recording. Colletta will check. Mrs. Przystup also commented on the MTA governance pledge stating that it can apply to any board.

Dave Szumlinski asked what happens to tapes, video recordings and notes taken at the meeting after the minutes are transcribed. McCallum responded that the township destroys its tapes, videos and notes upon approval of the minutes.

Gerry Simmons asked when Old Sand Road will be getting stone.

Lisa Konke thanked the Board for allowing her to assist as a temporary secretary while Mary Johnson was off on medical leave.

Colletta asked the Planning Commission members if they would be available for a working meeting with DTE on August 5, 2009 at 7 P.M. **Motion by Ehrlich to schedule a working meeting on August 5th**, seconded by Lalley. Motion carried.

Payment of bills: Motion by Hartsell to pay bills, seconded by Fischer. Motion carried.

Motion by Hyzer to adjourn, seconded by Fischer. Meeting adjourned at 9:30 P.M.

Valerie McCallum, Clerk

Approved at a Township Board meeting held on the 17th day of August, 2009.

Robert T. Smith, Supervisor