

# Township of Lake

Huron County, Michigan

April 19, 2010

Regular meeting of the Lake Township Board called to order at 7:30 P.M

Smith, Fischer, McCallum, Hyzer and Hartsell present along with approximately 31 guests. Pledge of allegiance.

**Motion by Smith to recess the meeting until Tuesday, April 20, 2010 at 10:00 A.M.** Smith stated that board members did not receive the agenda or packets until just prior to the meeting. **Motion seconded by Fischer. Hartsell and McCallum opposed. Motion carried.** Meeting recessed at 7:35 P.M.

*(Hartsell and McCallum remained in order to allow Monica Essenmacher, guest speaker in attendance, to talk to residents in attendance about the Port Crescent Hawk Watch program and the impact of wind energy developments in Huron County on migratory birds).*

## **Meeting reconvened at 10:00 A.M., Tuesday, April 20, 2010**

Smith, Fischer, McCallum and Hyzer present. Hartsell absent. 21 guests present.

Presentation by Monica Essenmacher on the impact of wind energy development in Huron County on migratory birds. Ms. Essenmacher is currently conducting a hawk migration study at Port Crescent State Park, the study having begun in 1991 and has been studying birds, herself, since 1979. Ms. Essenmacher urged the Lake Township Board of Trustees to adhere to the recommendations of the U.S. Fish & Wildlife Service as previously provided to the Lake Township Planning Commission, recommending a three (3) mile setback from the shoreline and five (5) miles from Eagle's nests, stressing that the shoreline area is a known migration route for many bird species and also is a huge migration route for hawks from South America. She described the thumb as a funnel, explaining that migrating birds do not like flying over open water, they are not strong enough. She felt that the out-of-state company hired by DTE to conduct avian studies does not have the requisite familiarity with birds of this region to do proper studies in Michigan. She also found it disturbing that a petition supporting wind energy located at a store in Lake Township had misleading information and claimed it was an underhanded way to elicit support for wind turbines in Lake Township. She mentioned that John Deere is getting out of the wind turbine business and the same could happen with DTE which could result in a blight in Huron County of rusting wind turbines. She stressed that if 500 people lease their land and only 50 benefit by having a wind turbine, the rest will have to live with the destruction. *(A packet of information was provided to each board member from Ms. Essenmacher)*

Following Ms. Essenmacher's presentation, Smith informed residents in attendance that they may not comment during the meeting, but only at the end.

**Minutes of March 29 Regular Meeting & Budget Hearing:** Minutes read by McCallum. Fischer wanted the minutes amended to note that Trustee Robert Hyzer said he did listen to the CD provided by Tim Lalley in February. **Motion by Fischer to correct the minutes, seconded by Hyzer. McCallum opposed. Motion carried.**

**Treasurer's Report:** Report read by Fischer. McCallum noted that the Fosters White Sand Shores balance was incorrect and should be \$9,038.58, not \$8,624.12, with interest in the amount of \$5.06. **Motion by Hyzer to accept the Treasurer's Report with corrections, seconded by McCallum. Motion carried.**

**Agenda:** Smith requested the addition of Lenz Canvas quote under old business and McCallum requested the addition of Clerk's Comments under old business. Smith stated the agenda stands as stated.

**Correspondence:** McCallum read correspondence as listed on the agenda. No petitions.

**Old Business:**

**Census:**

McCallum noted that Lou Colletta requested the board include the 2010 Census on the agenda due to the news article reflecting only a 30% participation rate in Lake Township and his concern that Lake Township will lose revenue sharing due to the fact that many of its residents were not here on April 1. Smith will look into the matter.

**Seley Fire Protection:**

McCallum read quote from Seley for a fire extinguisher and annual maintenance at the Transfer Station, \$70.00 for the extinguisher, \$13.00 for a cover and \$12.00 annual maintenance. It was noted that the cover is not necessary per Dave Ferris, attendant. **Motion by McCallum to approve the quote, seconded by Smith. Motion carried.**

**Planning Commission Appointment:**

**Motion by Smith to appoint Gordon Krueger to fill the current planning commission vacancy, seconded by Fischer. Hyzer and McCallum opposed. Motion failed.**

**Lake Township Zoning Ordinance for Wind Energy:**

**Motion by Smith to reject the wind ordinance draft for the reason that it is too restrictive, seconded by Fischer. Roll call vote: Three ayes. McCallum opposed to rejection.**

**Lenz Canvas:**

**Motion by Smith to approve quote provided by Lenz Canvas for a cover at the Transfer Station for \$550.00 which will cover from the building to the compactor, seconded by Fischer. Motion carried.**

**Ordinance Confirming Establishment of a Planning Commission with Zoning Authority:**

**Motion by McCallum to table until the section pertaining to Capital Improvement Projects could be added. No second. Motion failed.**

**Motion by Smith to adopt the ordinance as prepared, seconded by Fischer. Roll call vote: Three ayes. McCallum opposed.**

**Clerk's Comments:**

McCallum read prepared written comments regarding board packets, public comment opportunity on the agenda and the township's public participation policy adopted in June of 2009 insofar as correspondence requirements and encouraged the board to show the community that they have the ability to work together for the good of the community by reinstating the opportunity for public comments on agenda items prior to business being conducted and eliminating the requirement for correspondence to be received one week in advance, and show the public that the board has the ability to run the township with openness and transparency. Smith suggested waiting until Hartsell was present before making any motion.

**Motion by McCallum to reinstitute the opportunity for public comments prior to the Township Board conducting its business under "Old" and "New" Business, and also eliminate the need for correspondence to be received one week in advance of a meeting. No second. Motion failed. (McCallum's comments attached hereto).**

Fischer believes there is a precedent set as far as the agenda.

*Smith called for a brief minute recess at 8:25 P.M.*

**New Business:**

**Road Work:**

Smith read his proposed 2010 road work which included \$60,004 for Conkey Road, \$3,431.03 for stone on Arbutus Road, \$6,862.05 for stone on Captains Drive, \$7,596.96 for stone on Sand Road west of Champagne Road, \$4,882.23 for stone on Yax Road, and also mentioned the

Corrected  
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replacement of five tubes under Conkey, Dufty, McCormick and Etzler Roads, for a total cost of \$104,200. **Motion by Smith to approve \$104,200 for the above road work, seconded by Fischer. Roll call vote: Three ayes. McCallum opposed.** Smith indicated the Road Foreman will look at the condition of Dufty Road.

**Assessor's Contract:**

Smith noted that the contract is the same as last year's contract. McCallum questioned the use of the Apex software and land divisions. **Motion by Fischer to approve the contract, seconded by Hyzer. Motion carried. McCallum opposed.**

**CAFPA Steering Committee:**

Smith explained that Caseville and Lake Townships are forming a committee to review how fire services to the City of Caseville will be handled by CAFPA. Smith has two volunteers, Len Pilato and Bob Scott, and needs one more. No appointments will be made until next month.

**Public comments:**

Mary Wojtysaik asked whether someone could give her a more concrete answer of why there is so much antagonism among the township board, who the planning commission candidate was and why he was turned down and also commented that the board should allow more participation, that the participation seems restrictive. Smith suggested Mary come meet with him at the Township Hall. McCallum stated she was unaware of the planning commission appointment until just prior to the meeting when learning about the new member from a township resident. She stated that she felt she did not know enough about the candidate to approve the selection and asked Hyzer if he would like to elaborate on his reason for not approving the candidate. Hyzer stated he has known Mr. Krueger for many years but didn't think he was the right candidate for the job.

McCallum stated as far as the antagonism among the board, there is a lot of back room politics, decisions made by certain board members prior to meetings, the inappropriate removal of two members of the planning commission in order to create a new planning commission favorable to the current board members rather than allowing planning commission terms to expire as provided by law, and the current board's curtailment of public participation at meetings.

Bob Siver stated that the Open Meetings Act is a floor not a ceiling and also felt that township board members who left the previous night owe others an apology. He stated that Dorothy Fischer considers the residents ancillary figures in the affairs of the township. He stated the rescheduling of the meeting is an insult to Trustee Hartsell since he was not available and to the citizens.

Lou Colletta wanted to know why Gary Bauer of DTE was here this morning and not last night and also stated that Hyzer recused himself from the ZBA as far as the DTE MET tower and feels that both he and Fischer should have recused themselves from voting on the draft wind ordinance. He stated that on a petty issue Smith wanted to wait for Hartsell to vote, yet on the wind ordinance they went ahead and voted without Hartsell.

Jeanne Henry suggested the board wait to have a real vote when Hartsell is present and stated that two people on the board should not be voting.

Gary Bauer stated that Grady Nance received the agenda the evening before and contacted him because DTE does not attend unless wind energy is on the agenda, so he called Louis Bushey and found out about the meeting being recessed until this morning.

Gerry Geppert mentioned that the Transfer Station needs stone. Smith will have the Road Foreman look at it.

Tim Lalley commented that Grady Nance should have known that wind would be on the April agenda since at the March meeting Smith asked that it be put on the April agenda. Lalley continued reading from a letter submitted by DTE in which it states, "DTE recommends the township adopt a standard for wind turbine noise that recognizes the potential for impacts on the community and minimizes these by placing reasonably protective limits." Lalley stated that Matt Wagner of DTE has consistently omitted the following World Health Organization guidelines which state:

For the primary prevention of subclinical adverse health effects related to night noise in the population, it is recommended that the population should not be exposed to night noise levels greater than 40 dB during the part of the night when most people are in bed.

Lalley also read from the World Health Organization Night Noise Guidelines for Europe:

It should also be borne in mind that the 1999 guidelines are based on studies carried out up to 1995. Important new studies have become available since then, together with new insights into normal and disturbed sleep. Comparing the above statement with the recommendations, it is clear that new information has made more precise statements possible. The thresholds are now known to be lower than 45 dB for a number of effects.

Lalley further stated that Matt Wagner recommended the planning commission look at the Michigan Siting Guidelines for Wind Turbines and stated that the guidelines recommend local officials use property lines as the setback from turbines.

Lalley stated that Matt Wagner also supplied him with property value studies and read from DTE's letter of October 27, 2009 which stated:

DTE does not recommend property protection criteria specific to wind development. This recommendation is based on information showing that changes in property values are not significant before and after wind turbines are installed.

Lalley stated that he and others worked for three years on the current draft ordinance and if the board is going to throw it out and draft a new ordinance, that a property value protection plan is important. Lalley stated that a woman in attendance stated that only 30 homes would be affected –

Yvonne Bushey interrupted Lalley to state “in the viewshed”.

Lalley continued stating that to throw out a property value protection plan for those who will be affected is mean spirited and the board needs to look out for the health, safety and welfare of the entire township.

Charlie Henry stated he was bothered by the entire proceedings, stating that the wind ordinance vote was the most significant vote that has been before this board and one board member was not present to cast his vote, that member being Mr. Hartsell who also sits on the current planning commission and the previous planning commission and he should have had the opportunity to defend his previous support for this wind ordinance, something that has divided the township for two years, and that Hartsell has more knowledge than three members of the board. Henry stated it is irresponsible to not allow Mr. Hartsell the opportunity to vote. He also stated that Dorothy Fischer and Robert Hyzer cast votes that in his view and the perceived view of many township voters are illegal based upon their conflict of interest and stated Fischer's and Hyzer's votes should not be included.

Clay Kelterborn stated that the Census is serious, it is revenue for the township. He also asked about ditching along the roads and suggested Smith talk to the Road Foreman about that. He further stated that insofar as public comments, when he was on the board the meetings were more liberal and open and he let the people talk. He stated that Smith, as chairman, sets the tone for the meetings and what he doesn't like is how Smith subjects himself to Dorothy Fischer and Yvonne Bushey telling him what to do. He further stated that he is appalled by the Treasurer's reports and recommended increasing her budget for education and a deputy to see to it that her reports get fixed inasmuch as the Treasurer is handling millions of taxpayer dollars. He also stated that two members on the board have no business voting on a wind ordinance.

McCallum wanted to discuss the problems Smith had with the wind ordinance. She stated that the one mile setback could be waived by any property owner who wishes to sign an agreement with DTE and stated that other developers in the county have obtained agreements with adjacent property owners who do not have

enough land for a wind turbine but are willing to allow a waiver on the required setback.

McCallum asked Smith why he does not like the property value protection plan. Smith replied that the real estate market is down, can't give a house away, and the developer would have to make up the difference. McCallum explained that the property value protection plan requires an appraisal and an appraisal is based upon current market conditions, so if home prices are down due to the economy, the appraisal will reflect that. McCallum explained that if a person wishes to sell their home because they cannot live next to a wind turbine, they would obtain an appraisal which is reflective of the market at that time and if their \$100,000 home is only worth \$60,000 because of the wind turbine, the developer would be required to make up the difference. The fact that the housing market is down will be taken into account by the appraisal. McCallum asked who Smith is trying to protect, the developer or the people he works for? Smith stated he is only hearing this from McCallum and about twenty people. He stated the rest of the people he talks to do not care.

Mary Wojtysaik asked what the property protection plan is. McCallum indicated it was a part of the wind draft and will provide her with a copy.

Smith closed the meeting to public comments.

**Payment of Bills:**

McCallum had two additional bills for review by the board. Smith's mileage was turned in on Saturday and would, by board policy, be included in May's bills. The second bill was from Ken Mattingly for work at the Transfer Station with a labor charge of \$25.00 per hour. McCallum stated that this hourly rate was discussed by the board previously and it was too high. Additionally, there are charges itemized on the bill with no receipts. Smith stated the \$30.00 charge with no invoice was for the use of his son's air compressor. **Motion by Fischer to pay both bills, seconded by Hyzer. McCallum opposed. Motion carried.**

**Motion by Fischer to pay bills as presented, seconded by Smith. Motion carried.**

**Motion by Smith to adjourn, seconded by Fischer. Motion carried.** Meeting adjourned at 12:15 P.M.

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Valerie McCallum, Clerk

Approved at a Township Board Meeting held on May 17, 2010.

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Robert Smith, Supervisor

April 20, 2010

Lake Township Board & Residents:

As a courtesy to the board, I began making prepared packets for board members in 2002 in order to facilitate the meetings more effectively by spending less time having to read through routine matters thereby allowing more time for open discussion of business at hand. There is no legal requirement for board packets. The packets only included the agenda, minutes, treasurer's report, CAFPA minutes, zoning administrator's and building inspector's reports and planning commission minutes – those items which the board should be kept informed about but generally require no discussion or action. Those packets, up until last year, did not include correspondence. Correspondence included anything received by the township up to and during the meeting. Again, the main purpose of the packets was to assist the board members in being prepared on routine matters thereby allowing more time for those items which should be discussed openly at a public meeting.

It was only after the May 18, 2009 meeting, wherein I read a letter written by myself and listed on the agenda under correspondence, that this board adopted a Public Participation Policy which included a requirement that all correspondence be included in the board members' packets. At that same meeting, Mr. Smith, with support from other board members, removed the public comment period allocated for comments on agenda items prior to the board making its decisions. As I pointed out at that meeting, by removing the public comment period prior to conducting business, this board has effectively thwarted public participation. Additionally, Mr. Smith has a habit of adding items to the agenda at the meeting, items which are new not only to the public but also some board members, including reading his own written prepared statement last month on the wind ordinance which he refused to provide for the record.

Last month Smith made an attempt to forego reading correspondence received by the township because it was not date stamped, but it was in the board packets. I do not think I was the only person at that meeting who is frustrated with the continual erosion of the public's ability to participate in the governance of their community. The board packets have essentially become an instrument of censorship. A board member has the responsibility of being prepared for a meeting, packet or no packet. It was quite obvious last night that certain board members were very prepared to recess the meeting using the excuse of not having received their packet in advance. Yet **all of the items on the agenda under new and old business were at Mr. Smith's request**, other than some of the letters listed under correspondence and the guest speaker.

As Clerk, I work for the people of the township and not any member of this board, including Mr. Smith. I apologize to the people here that I was unable to prepare the agenda prior to yesterday. Mr. Walt Kloc clued me in last night on how much he and others have come to rely upon my ability to keep this township running and I will continue to do my best to serve our community. In light of that, I would like to show our residents that this board has the ability to work together for the good of our community by reinstating the opportunity for public comments on agenda items prior to business being conducted and eliminating the requirement for correspondence to be received one week prior to the board meeting. I encourage this board to show we have the ability to run this township with the openness and transparency our residents deserve.

Valerie McCallum, Clerk

Clerk's Comments submitted on April 20, 2010